

SOUTHERN JUVENILE DEFENDER CENTER

Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina

ENSURING EXCELLENCE IN JUVENILE DEFENSE AND PROMOTING JUSTICE FOR ALL CHILDREN.

FACT SHEET ON DIFFERENCES BETWEEN ADULT AND JUVENILE OFFENDERS

Decades of Legal History Recognize the Differences between Adults and Youth

Decades of legal precedent have recognized the developmental differences between minors and adults articulated by limiting the scope of a young person's legal entitlement to engage in certain acts. Many activities that have the potential for significant impact on an individual's or society's future legally require sufficient maturity and reasoning. Examples of such activities include the ability to:

- Enter a contract, vote, enlist in the military, obtain a driver's license, purchase alcohol or cigarettes, consent to medical procedures, and consent to marriage.

The first juvenile court was established in 1899 in recognition of the developmental differences juveniles and adults and the greater opportunity for rehabilitation with juveniles.

The Average Adolescent Brain Does Not Fully Develop until After the Age of Twenty

Researchers at UCLA, Harvard Medical School and the National Institute of Mental Health have traced the development of a child's brain to adulthood that provide scientific support to the theories on the limitations of youth's decision-making.ⁱ

- In a process called "myelination" a normal healthy adolescent brain continues to develop during adolescence.
- The brain's maturation process continues through adolescence and is not complete until the mid 20's.
- The area that continues to develop during adolescence is the largest section of the brain, and is responsible for complex thinking. It allows the mind to organize, perform abstract thinking, prioritize, anticipate consequences, control impulses and conform behavior accordingly.
- To compensate for the underdevelopment of the prefrontal cortex, the adolescent brain relies heavily on another area of the brain called the amygdala, which creates a tendency to react on instincts.

Youth 15 and Younger are Much More Likely to be Incompetent to Stand Trial

According to recent research from a study on adolescent's abilities to make competent decisions as defendants.ⁱⁱ

- Juveniles aged 15 and younger are significantly more likely than older adolescents and young adults to be impaired in ways that compromise their ability to serve as competent defendants in a criminal proceeding.
- Approximately one-third of 11- to 13-year-olds, and approximately one-fifth of 14- to 15-year-

olds, are as impaired in capacities relevant to adjudicative competence as are seriously mentally ill adults who would likely be considered incompetent to stand trial by clinicians who perform evaluations for courts.

- Juveniles of below-average intelligence are more likely than juveniles of average intelligence to be impaired in abilities relevant for competence to stand trial. Because a greater proportion of youths in the juvenile justice system than in the community are of below-average intelligence, the risk for incompetence to stand trial is therefore even greater among adolescents who are in the justice system than it is among adolescents in the community.
- Youth ages 11-14 are likely to manifest poorer understanding and reasoning about trials than do older adolescents and adults.

Adolescents are more likely than young adults to make choices that reflect a propensity to comply with authority figures, such as confessing to the police rather than remaining silent or accepting a prosecutor's offer of a plea agreement. In addition, they are less likely recognize the risks inherent in the various choices they face or to consider the long-term, and not merely the immediate, consequences of their legal decisions.

Criminal Prosecution of Youth Does Not Deter Future Criminal Behavior in Adulthoodⁱⁱⁱ

Studies on the likelihood for recidivism show a juvenile offender is less likely to re-offend if sentenced in the juvenile justice system, rather than the adult criminal system.

According to a five-year study of juveniles transferred to criminal court:

- Nearly 50 percent of juvenile offenders transferred to the adult criminal justice system re-offend upon release after they turned 18;
- Compared to 37 percent of the juvenile offenders who re-offend after turning 18 and being released from juvenile delinquency programs, according to the five-year Juvenile Transfer to Criminal Court Study.

Research found that criminal prosecution and/or imprisonment does not deter juvenile crime; that criminal court adjudication takes longer; that criminal court adjudication generally produces higher recidivism rates for most offenders.^{iv}

ⁱ "[Adolescent Brain Development and Legal Culpability](#)" American Bar Association, Criminal Justice Section, Spring 2003.

ⁱⁱ MacArthur Juvenile Competence Study 2003

ⁱⁱⁱ Bishop, D., Frazier, C., Lane, J., and Lanza-Kaduce., L. 2002. Juvenile Transfer to Criminal Court Study: Final Report. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

^{iv} Redding, R. 1999. Examining legal issues: Juvenile offenders in criminal court and adult prison. *Corrections Today*. Available from American Correctional Association