

# More Than Mistakes: The Case Against Trying Children as Adults

**Isabel Tobey** | Opinion

Can you recall the last time you made a mistake? A time when your eagerness led you to act impulsively before considering the outcomes? As children, these mistakes often become a learning experience, a chance for us to grow to become better people. Sometimes, however, what seems like a low-stakes decision becomes a life-altering experience that results in a child being thrust into the legal system.

Children, as young as seven, have been prosecuted as adults, where they will go to facilities and be placed in uncomfortable and unsafe environments surrounded by adult criminals. As of 2019, approximately 53,000 children are tried as adults<sup>1</sup> in the United States.

Adolescents are good at testing their limits and bad at weighing the consequences. During this developmental stage, they are navigating the changes of puberty while developing a sense of identity and their role in society. As a result, young people are more likely to be influenced by peer pressure and take bigger risks around their friends.

The prefrontal cortex is the last part of our brain to fully mature. This area of the brain, located directly behind your forehead, is responsible for controlling the executive functions such as reason, long-range planning, and impulse control.<sup>2</sup> If this part of the brain does not reach its full capacity until age twenty-five, why are we punishing children as if they were adults?

When a child is arrested, 90% waive their Miranda rights simply because they're unaware of what their constitutional rights are.<sup>3</sup> In high-tension situations, such as speaking to law enforcement without the presence of an attorney, they are more likely to respond poorly and incriminate themselves.

It is estimated that on any given day, 4,500 adolescents are housed in adult jails and prisons. In these correctional facilities, children are vulnerable to adults who will physically and sexually take advantage of them. These instances often go unnoticed by prison staff. Additionally, when children are exposed to criminal behavior, as they are in correctional facilities, it becomes

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<sup>1</sup> Marcy Mistrett and Mariana Espinoza, Youth in Adult Courts, Jails, and Prisons

<sup>2</sup> Lana Bandoim, The Anatomy of the Prefrontal Cortex

<sup>3</sup> NPR, Should police be able to interrogate kids alone? A growing number of states say no

normalized, and they begin to mimic what they experienced to others. When young people are exposed to the teachings of the adults around them, they often learn to be a “better criminal”.<sup>4</sup>

Punishing children by placing harsher consequences on them is ineffective and commonly leads to reoffending. A harsh consequence, such as imprisonment, impacts a juvenile's ability to obtain a job or stay in school. These things are so crucial for building relationships and creating a routine that, when disrupted, can result in behaviors that lead to reoffending. A study from the Netherlands found that up to 80% of incarcerated youth were rearrested within three years of their release<sup>5</sup> for those very reasons.

Children learn what they live. A majority of adolescents involved in the judicial system are products of difficult upbringings. In 2012, the Sentencing Project found that 79% of people sentenced to life in prison as juveniles had experienced violence in their homes regularly.<sup>6</sup>

Chronic stress during childhood, such as violence in the home, significantly impairs the prefrontal cortex's ability to function.<sup>7</sup> The release of excessive stress hormones interferes with the development of this region of the brain.<sup>8</sup> When the amygdala, known as the brain's “alarm system,” is constantly on high alert, it can drown out the prefrontal cortex's ability to reason.<sup>9</sup> Lacking a sense of control in a difficult situation can lead to behaviors such as drug addiction, smoking, and drinking alcohol.<sup>10</sup> All of which are status offenses<sup>11</sup> typically committed by juveniles.

Instead of the incarceration of these adolescents, there needs to be a shift to rehabilitation. When trying juveniles in the judicial system, we cannot try them as adults, and we should recognize them for what they are: children. Mistakes made at a young age should not define a person's life. It is important that we don't try children as adults so that we give them a genuine second chance. By helping integrate children back into school and providing support systems, we actively encourage and enable them to move on from those mistakes. As Annette Breaux, an

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<sup>4</sup> Equal Justice Initiative, Children in Adult Prison

<sup>5</sup> Creemers HE, van Logchem EK, Assink M, Asscher JJ. Ramping Up Detention of Young Serious Offenders: A Safer Future?. *Trauma Violence Abuse*. 2023;24(4):2863-2881. doi:10.1177/15248380221119514

<sup>6</sup> Joshua Rovner, Juvenile Life Without Parole: An Overview

<sup>7</sup> Arnsten AF. Stress signalling pathways that impair prefrontal cortex structure and function. *Nat Rev Neurosci*. 2009

<sup>8</sup> Arain M, Haque M, Johal L, et al. Maturation of the adolescent brain. *Neuropsychiatr Dis Treat*. 2013

<sup>9</sup> Ellen Barlow, Under the Hood of the Adolescent Brain, *Harvard Medical School*

<sup>10</sup> Arain M, Haque M, Johal L, et al. Maturation of the adolescent brain. *Neuropsychiatr Dis Treat*. 2013

<sup>11</sup> *Status Offenses*: Acts considered illegal because of the offenders age (For example, underaged drinking)

educational speaker, put it, “Nine times out of ten, the story behind a child's misbehavior won’t make you angry; it will break your heart.”