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Why Juveniles Should Not Be Tried as Adults

Michael Bailey

When juveniles are prosecuted as adults, the cause of juvenile crime is ignored and exacerbated, juveniles are denied various constitutional rights, and overly retributive punishments are prescribed.

Adolescence involves character evolution. During this growing period, certain adolescent acts may not remain a part of one's behavioral patterns forever. However, in response to juvenile criminal acts, society develops intense feelings of disgust and hatred toward the individual, which often result in severe punishment. Consequently, society permanently punishes adolescents for what may be transitory actions. The public condemns teenage criminals as degenerate and incapable of repentance, rallying behind the idea that those who commit adult crimes should "do adult time." Rehabilitation is a fundamental component of the juvenile justice system because it can positively influence an adolescent's disposition and, in turn, better society. When juveniles are prosecuted as adults, the cause of juvenile crime is ignored and exacerbated, juveniles are denied various constitutional rights, and overly retributive punishments are prescribed.

The Problem Obscured

United States juvenile justice systems have significant limitations interfering with their ability to function properly. Legislators have held numerous policy debates on the issue of juvenile justice. In one debate, Florida Congressman Bill McCollum stated that "the juvenile justice systems of the

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1 Bailey is a junior from Fort Collins, Colorado, majoring in American studies and economics. He plans to graduate in April 2003 and attend law school the following fall.
nation . . . are broken.” McCollum explained that there is a lack of resources devoted to programs and the systems are overwhelmed. Without sufficient funding it is impossible for states to adequately deal with juvenile offenders. In State of Louisiana v. Tony Ray Ervin, the fifteen-year-old defendant was sentenced to two consecutive nine-year jail sentences because the juvenile facilities were inadequate for the type of correctional treatment that he needed. Ervin was thereby remanded to adult facilities fraught with possible dangers to him. The state sentenced Ervin as an adult because he “was in need of correctional treatment best provided by a custodial environment.” Instead of focusing on the real problem of inappropriate juvenile systems, the state pawned Ervin off as a reprehensible criminal and sent him to jail. Convicting him as an adult relieved the state of any responsibility for its judicial policy shortcomings. However, by incarcerating Ervin with adult felons, the state also subjected him to the possibility of detrimental adult role models and other negative influences.

In another policy debate, Congressman Bobby Scott of the House Judiciary Committee claimed that jailing juveniles as adults increases their likelihood of becoming repeat offenders. Prisons that house both juveniles and adults can be considered “crime schools” because older inmates teach younger ones how to commit crimes and avoid consequences. Scott quotes Senator Birch Byah as saying, “Innocent teenagers emerge from jail streetwise. Even a brief stay in jail, rather than deterring crime, may just make a juvenile more sophisticated and less likely to be caught at his next offense.” Prisons acting as “crime schools” is only one of the many problems afflicting state juvenile justice systems. While states continue to ignore and deny their internal inadequacies, the problem of juvenile crime is exacerbated.

In addition, not only do states have different standards for prosecuting adolescents as adults, but some state courts rely on their own psychological tests of age. In People of the State of Colorado v. Shawn L. Rivera, the juvenile

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1 Chai Feldblum, Moderator Symposium, “Juvenile Justice: Reform after One-Hundred Years,” American Criminal Law Review 37 (Fall 2000): 1418.
2 Ibid.
4 Feldblum, 1418.
5 Qtd. in Feldblum, 1418.
defendant stood trial as an adult because the court determined that he was "more mature than his chronological age indicated." In this case the Colorado court disregarded the defendant’s actual age and assumed the responsibility of determining his maturity for the purpose of trying him as an adult. In contrast, the Washington, D.C., court in Gregory Lucas v. U.S. established that juvenile courts should have exclusive jurisdiction over adolescents accused of criminal acts. Why should this standard be enacted in one state but suspended in another? If maturity is indeed the main consideration in criminal prosecution, it is only logical that nineteen- or twenty-year-old offenders be evaluated and tried as juveniles if their maturity is not reflected in their chronological age. This double standard does not seem to bother the current juvenile justice policymakers, but perhaps it should.

Furthermore, courts can use actions of juvenile defendants as a basis for trying them as adults. In Corey Jermo Conner v. State of Arkansas, the seventeen-year-old defendant endured an intense interrogation in which the police used “good-cop, bad-cop” tactics without any legal representation present. This can be extremely intimidating to youth, especially without an advocate in attendance. Since Conner was physically larger than the detectives and showed no remorse in the face of relentless accusations, the court ruled him competent to stand trial as an adult. Once again the court ignored the juvenile defendant’s actual age and drew their own conclusions about his maturity based upon his actions during questioning. The power of state courts to decide which juveniles should be tried as adults creates an obvious flaw in the justice system by selectively holding some youth to a different standard than others.

PROTECTING CONSTITUTIONAL RIGHTS

Juveniles’ constitutional rights are in danger of being abused. Certain constitutional freedoms like Miranda rights require special consideration when applied to juveniles. While the Constitution allows adults to waive

6 People v. Riven, 968 P2d 1061 CO (1997).
these rights if they choose, certainly before waiving their rights, juveniles should receive advice from a competent, trusted adult instead of an unfamiliar authority figure like a police officer. In State of New Hampshire v. Jason Farrell, the court claimed that an adult need not be present for a juvenile to waive his or her Miranda rights. Miranda rights are a critical component of the Constitution and officials should not hastily encourage adolescents to relinquish them.

In addition, since the court grants adults due process protections regarding rules of evidence as a safeguard against biased and inflammatory prosecution, it should award juveniles no less. In the case of State of Arizona v. Orlander Beasley, the fourteen-year-old defendant was described as a "chronic felony offender." The court used his juvenile record to determine his status for trial as an adult. Paradoxically, this record could not be used as evidence in the trial itself. The State of Arizona denied the juvenile defendant proper due process protection by employing the very evidence prohibited from being used in the court case to determine his status as an adult for the trial. This blatant double standard regarding the uses of evidence is unfair and unconstitutional. In the case of Lucas v. United States, the appellant court found that the trial court erred in admitting certain evidence. Specifically, "the trial court erred in failing suo sponte to caution the jury . . . that it should not consider the contradictory grand jury testimony presented as evidence." In this case the court negligently allowed the jury to be influenced by proscribed evidence. The court again prevented the adolescent defendant from proper due process protection by admitting inappropriate evidence to the trial. When youth are tried, they should be extended due process protection from preliminary hearings throughout the entire process.

Until recently, due process protection for juveniles seemed unnecessary. In his Catholic University Law Review article Thomas Wagman points out that the Supreme Court advanced juvenile procedural due process rights in Kent v. United States: "Prior to this case, society did not consider juveniles 'criminals'; and thus, an assumption existed that they did not need the due

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11 Lucas v. U.S.
process protections afforded to adults." Although juveniles might not have been regarded as criminals, upon standing trial they should be afforded the same rights as adults, including those of due process. Due process protection is predicated on proper rules of evidence. It is critical that juveniles be extended the freedoms and rights the Constitution created for all citizens.

**Rehabilitation in Juvenile Justice**

Juvenile justice systems exist to ascertain and enact what is best for youth. Often this entails rehabilitation, which gives juvenile criminals the opportunity to develop their positive character traits and diminishes their danger to society. In the *In re L. J.*, the District of Columbia Appeals Court commented,

> The theory of the District's Juvenile Court . . . is rooted in the social welfare philosophy rather than the corpus juris. . . . The objectives are to provide measures of guidance and rehabilitation for the child and protection for society, not to fix criminal responsibility, guilt, and punishment.\(^{13}\)

This ruling outlines the juvenile court's defining purpose—to guide and rehabilitate children by providing direction to convicted youth. The Washington, D.C., court stated that sentencing should focus on rehabilitation, while the state should act as a parental figure rather than a prosecutor or judge.\(^{14}\) Furthermore, taking a parental approach would help channel youth in appropriate directions instead of simply punishing them for their mistakes.

States deliberately give harsher sentences to teach adolescents a lesson. President Mark Soler of the Washington, D.C., Youth Law Center points out that adolescents are required by law to be incarcerated separately from adults.\(^{15}\) However, the overwhelmed juvenile justice system lets the adult criminal justice system handle many youth offenders. This causes numerous

\(^{12}\) Matthew Thomas Wagman "Innocence Lost: In the Wake of Green, the Trend is Clear if You are Old Enough to Do the Crime, Then You are Old Enough to Do the Time" Catholic University Law Review 49 (Winter 2000): 649.

\(^{13}\) *In re L. J.*, 546 A2d 429 DC (1988).

\(^{14}\) Ibid.

\(^{15}\) Ibid.
negative effects for convicted juveniles. In *K. L. J. v. State of Oklahoma*, the judge was concerned that state juvenile facilities would be unable to provide the type of treatment that the defendant needed, so the judge sentenced K. L. J. with jail time. In addition, in *State v. Ervin* the courts said, "Lesser sentences than those actually imposed would depreciate the seriousness of the offenses." In this case the state was intent on sending a message to the defendant instead of teaching correct behaviors. Unfortunately, this attitude means more juvenile criminals face the terrible consequence of harsh prison sentences, while the public forgets that rehabilitation is not synonymous with leniency.

Furthermore, when juveniles are incarcerated with adults, they are subject to the detrimental influences of adult criminals. Poor adult role models instill damaging perceptions into adolescents' minds. According to Congressman Scott, although trying more children as adults may reduce the actual time spent in prison, studies indicate that the crime rate increases as a result. With convicted felons as examples, incarcerated juveniles pick up extremely bad habits. Although the courts intend to deter juveniles from crime by imposing harsh punishments, it appears that imposing adult sentences may have the opposite effect. By passing on the responsibility of trying youth to adult courts, juvenile courts are taking the easy way out instead of facing the realities of the situation.

**VINDICTIVE PUNISHMENT**

Laws designed for adults often prescribe overly harsh mandatory punishments for juvenile offenders. As the Colorado Appeals Court claims, "The fixing of prison terms for specific crimes involves a substantial penological judgment and that, as a general matter, is properly within the province of legislatures, not courts." Certainly the courts cannot set mandatory sentences, but that does not make these statutes correct even

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17 *State v. Ervin*.
18 *In re L. J.*
19 Feldblum, 1421.
when they are passed by state legislatures. A North Carolina statute exemplifies this type of incorrect fixed punishment by stating that life imprisonment is mandatory for a first degree sexual assault conviction. However, in “State of North Carolina v. Green [the court] concludes that although the transfer statutes are constitutionally valid . . . the imposition of the mandatory life sentence in this case is cruel or unusual punishment” for juvenile defendants. The imposition of mandatory life imprisonment is not the right way to handle juvenile offenses because it is too punitive. A life tainted by a severely harsh punishment breeds nothing productive, and a mandatory life sentence diminishes a juvenile’s chance to reform and become a productive member of society. Clearly such harsh punishments can be excessive and can easily destroy young lives.

While there are exceptions in specific cases, generally, severe sentences seem to harm convicted adolescents more than they help. Fortunately, some courts have recognized these destructive actions and taken the appropriate steps to correct them. In Florida an appeals court overturned the death sentence for Keith Brennan, a sixteen-year-old convict. The court ruled that Brennan’s rehabilitative potential was not established as part of the penalty phase of the trial. In Ex Parte Burgess, the Alabama court affirmed Roy Burgess, Jr.’s conviction for murder, but reversed the decision on a death sentence and remanded it for resentencing because the court “improperly considered defendant’s juvenile adjunctions to negate mitigating circumstances it found to exist.” Similarly, in the case of People of Colorado v. Joseph Daniel Moya the Colorado Appeals court reduced Moya’s sentence from life without the possibility of parole to life and parole after forty years. Courts are recognizing that excessive punishments are more harmful than helpful. Although courts still want to send the message that crime will be punished, they are beginning to acknowledge that rehabilitation is possible.

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21 Wagman 642.
22 Brennan v. State, 754 So2d 1 (FL 1999).
23 Ex Parte Burgess, 1980810 AL (2000).
24 People v. Moya.
Possible Reforms

Making amends is feasible only if society admits that the problems of the U.S. criminal justice system are real and deserve to be addressed. In the *Connecticut Journal of International Law*, Eric Sentlinger claims that England's laws regarding youth offenders provide a blueprint for ending similar problems faced in the United States. Many citizens of England subscribe to the philosophy that no civilized society holds children accountable like adults and that the "wisdom of protecting young children against the full rigor of criminal law is beyond argument." In crimes at which the public is outraged, England refuses to try juvenile criminals as adults in an attempt to lend legitimacy to their juvenile courts. The United States would benefit from adopting certain parts of England's laws such as the protection from full criminal prosecution. Other possible reforms include Robert Henderson's approach outlined in the *Montana Law Review*. Henderson posits a possible method of combining juvenile and adult punishments to increase rehabilitation. Under this system, a juvenile may undergo rehabilitation in the purview of juvenile courts, yet be sentenced to a punishment of similar length for committing an adult crime.

Juvenile justice policymakers must recognize that juveniles and adults have different needs. Certainly, both deserve the same right to due process of law. Adults and adolescents should have an equal chance for rehabilitation to overcome their crimes, but the processes should differ. Juveniles should be given more opportunities to reform themselves because, according to *In re L. J.*, it is the duty of the courts to give guidance to adolescent criminals and rehabilitate them. Getting this support is extremely difficult because as Henderson states, "many believe that today's juvenile offenders are a new breed of 'super-predators.'" Public sentiment proclaims that society must

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26 Qtd in Sentlinger, 116.
28 *In re L. J.*
29 Henderson, 337.
"get tough" on juvenile crime.\textsuperscript{30} As the public clamors for vengeance and retribution, the courts comply.

\textbf{CONCLUSION}

Courts avoid their governmental responsibility to protect rights by refusing to acknowledge that the juvenile justice system is flawed. The system's shortcomings prevent juvenile offenders from receiving proper protection of their rights and undermine their ability to overcome their mistakes. Courts need to focus on rehabilitation for juveniles, acting in the best interest of the accused youth. While concentrating efforts on rehabilitation, it is also necessary for courts to refrain from unnecessarily harsh sentencing. Vindictive punishments contribute to increased juvenile crime, and overly harsh mandatory punishments impede reform. Possible reforms with rehabilitation tailored to the unique needs of adolescents would enable juvenile justice systems to function more effectively.

Public officials fail to adequately consider the needs of juveniles in their creation and enactment of the juvenile justice system. Adolescents accused of crimes are the victims, whether innocent or not, of an underfunded and unsupported justice system that robs them of second chances. Young criminals face intense negative prejudice from society and the government.

\textsuperscript{30} \textit{Ibid.}