

Executive Summary

Rethinking the “Juvenile” in Juvenile Justice, a new report by the Wisconsin Council on Children and Families, links for the first time research about adolescent brain development with our treatment of minors in the criminal and juvenile justice systems. This report suggests that applying what we know about adolescents to their treatment will provide more effective and more cost-effective solutions to criminal justice. Policy recommendations are made to address community safety while also taking into account the developmentally appropriate treatment of adolescents in legal trouble.

Under current Wisconsin law, 17-year-olds are treated as adults only for the purpose of criminal prosecution and are legally minors for every other purpose. It is possible for children as young as 10 to be tried in adult courts in Wisconsin. A decade ago, the laws surrounding juvenile justice in Wisconsin were changed to make it easier to try more youth in adult court. Since that time, there has been a significant leap in our understanding of adolescent brain development. We now know that the characteristics of adolescence which make teens more likely to be arrested are part of a developmental stage, rather than a type of adult criminality.

This report explores the national and Wisconsin trend of criminal arrests peaking during adolescence. The vast majority of juvenile arrests are for non-violent crimes, with violent crime arrests accounting for a mere 4 percent of all juvenile arrests nationally. The bulk of juvenile arrests are for much less serious law violations, such as disorderly conduct, curfew violations, and possession of alcohol or drugs. These facts make sense in light of what we now know about the influence of normal brain development on adolescent behavior.

Major findings of this report include:

- Almost 5,000 17-year-olds were admitted to adult jails in 2004.
- From 2003 to 2004, almost three hundred youth 17 years old and younger were admitted to adult prison.
- Arrests for violent crimes in Wisconsin have decreased steadily for the past decade.
- The ability to control behaviors in emotionally charged situations does not develop until late adolescence.

- Adolescence is a distinct period of brain development - decision making is one of the last brain functions to mature in the early 20s.

Within the report is an analysis of the most recent findings on adolescent brain development, along with the practical implications for the justice system. For example, research in the field of adolescent brain development has confirmed that adolescents are more likely to engage in risk-taking behavior and less able to consider long-term consequences of risky behavior than adults. Research in the field of juvenile justice has found that the vast majority of adolescents who commit a crime will not go on to a life of crime.

Analysis of the laws governing the adult and juvenile penal systems highlights that the juvenile system is designed, funded and staffed for community protection, accountability and treatment. The adult system is neither required nor able to provide the same level of rehabilitation and education to its inmates as the juvenile system. A decade of studies around the country have found that children who are tried and incarcerated in the adult system are more likely to recidivate than minors tried and incarcerated in the juvenile system. Researchers have found that “adult crime, adult time” is ineffective public policy.

It is time to take what we now know about adolescents and extend that knowledge to the juvenile justice system. Simply put, we should not impose the adult criminal justice system on Wisconsin's children. By providing developmentally appropriate treatment for youth, we can increase the likelihood that the community will be protected from juvenile crime and that youth will be successful in making more positive choices for their future. To that end, we recommend the following:

1. 17-year-olds should be returned to the original jurisdiction of the juvenile court.
2. The Juvenile Justice Code should be revised such that the juvenile court has presumptive jurisdiction over all youth under 18 years old, and only a juvenile court judge can waive that jurisdiction.
3. Children under 18 should not be placed in adult prisons or jails.