

# American Bar Association

## Adult Justice System is the Wrong Answer for Most Juveniles

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The American Bar Association (ABA) does not publish reviews of sociologic and criminologic research projects, but it does have firm policy regarding the transfer of juveniles into the adult justice system.

The ABA believes that underage defendants generally should not be placed in the adult system. Thus, the growing trend by courts to try minors as adults has stirred deep concern within the association.

The association began reviewing this issue in the late 1990s, following a decade in which the policy of transferring juvenile defendants to adult courts increased in almost every state.

In 2001, a report, *Youth in the Criminal Justice System: Guidelines for Policymakers and Practitioners*,<sup>1</sup> outlined the inherent dangers of such a policy.

In February 2002, the ABA House of Delegates passed a resolution based on the report by the Task Force on Youth in the Criminal System of the Criminal Justice Section.

The resolution, which remains the ABA's guiding policy, was founded on seven pillars:

1. that youth are developmentally different from adults, and these differences should be taken into account;
2. that pretrial release or detention decisions regarding youth awaiting trial should reflect their special characteristics;
3. that those young people who are detained or incarcerated should be housed in institutions or facilities separate from adult institutions or facilities at least until they reach the age of 18;
4. that detained or incarcerated youths should be provided programs that address their educational, treatment, health, mental, and vocational needs;
5. that underage defendants should not be allowed to waive right to counsel without consulting a lawyer and without a full inquiry into the youth's capacity to make the choice intelligently, voluntarily, and understandingly;
6. that judges should consider the individual characteristics of the youth during sentencing; and

7. collateral consequences normally attendant to the justice process should not necessarily apply to all youth arrested for crimes committed before age 18.

As the resolution stated, "The ABA opposes, in principle, the trend toward processing more and younger youth as adults in the criminal justice system and urges policymakers at all levels to take the previously mentioned principles into account in developing and implementing policies involving youth under the age of 18."

Many of the report's findings remain relevant today, as they relate to the well-being of juvenile defendants, due process rights, and the safety of greater society.

One key issue is the inherent developmental difference between juveniles and adults. In particular, the Task Force cited the danger of placing juveniles in the same inmate population as adult convicts.

The ABA Task Force found that "young people placed in a jail or other secure facility are more vulnerable to psychological and physical harm than adults, and they are at greater risk for suicide."

Moreover, the Task Force found that young people are less competent to understand their legal rights, and therefore deserve greater scrutiny and protection before waiving their rights to counsel or making incriminating statements.

Finally, the ABA's researchers cited studies showing that juveniles in the adult system have higher recidivism than those tried in the juvenile system. Where juveniles are sent to adult corrections facilities, the long-term well-being of society requires specialized training and transitional services for juvenile inmates.

"A youth committed to the adult system is likely to have few independent living skills," the ABA Task Force noted. "They may never have looked for a job, contacted an employment service, had a job interview, held a job, gotten a driver's license, arranged transportation, had a bank account, rented a room or an apartment, managed a budget, or paid bills. These 'adult' experiences will pose challenges that may predispose them to failure unless good transition services are in place."

The ABA continues its strong interest in areas of the law that affect young people. This year, the ABA Commission on Youth at Risk has targeted several key

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areas where young people often begin the slide from troubled backgrounds into a life of adult crime.

Specifically, the ABA is partnering with youth organizations and government agencies to develop better strategies for responding to status offenses, such as truancy and running away, finding better transition mechanisms for young people who are “aging out” of the foster care system, and addressing the growing problem of young girls engaging in gang violence.

America’s youth are our most important asset—our future is in their hands. Wherever possible, from our earliest treatment of status offenders to the grave decision of trying juveniles as adults, we should invest in hope. In the end, each young person we reclaim is a victory for us all.

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No financial conflict of interest was reported by the author of this paper.

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## References

1. Task Force on Youth in the Criminal Justice System of the American Bar Association Criminal Justice Section. Youth in the criminal justice system: guidelines for policymakers and practitioners, 2001. To order please call the ABA Service Center (800/285-2221) and refer to Product Code 5090082.