

# Many Kids Called Unfit for Adult Trial: Those Under 15 Often Blind to the Long-Term Results of Their Choices, a Study Says

by Greg Krikorian  
*The Sacramento Bee, March 3, 2003*

1 Thousands of juveniles tried as adults in the United States may be incompetent to stand trial because they are emotionally or intellectually unable to contribute to their own defense, according to a juvenile-justice study to be released today.

2 The study, directed by a University of Massachusetts professor, found that one-third of the eleven- to thirteen-year-olds studied and 20 percent of those fourteen or fifteen years old had levels of reasoning and awareness comparable to those of mentally ill adults judged not competent to stand trial.

3 And in examining 1,400 males and females in four jurisdictions, researchers concluded that age and intelligence—not gender, ethnicity, socioeconomic factors or even prior run-ins with the law—were the most significant factors in determining a youth’s ability to understand the judicial process.

4 “It is a violation of constitutional rights to be a defendant in a criminal proceeding when you are not competent to defend yourself,” said Laurence Steinberg, a Temple University psychology professor and director of the John D. and Catherine T. MacArthur Foundation research network that co-funded the study.

5 “In all likelihood, a large number of juveniles being tried as adults are not competent to stand trial,” Steinberg said.

6 While the study did not address whether any youths were wrongly convicted, Steinberg said, its findings did suggest that “thousands” of juveniles went to adult trial when they should not have because their ability to understand the proceedings was “seriously impaired.”

7 For the study, researchers tested eleven- to twenty-four-year-olds in Los Angeles, Philadelphia, north Florida and northern and eastern Virginia—with half of those studied in juvenile detention and the other half living in the community. The research showed that the performance in reasoning and understanding for youths ages sixteen and seventeen did not differ from those at least eighteen years of age.

8 But the study found that when compared with young adults, children ages eleven to thirteen were more than three times as likely to be found “seriously impaired” in understanding the judicial process and aiding their own defense. Similarly, it found those fourteen or fifteen years old were twice as likely to be “seriously impaired” in such awareness and reasoning.

9 “For example,” the study says, “younger individuals were less likely to recognize the risks inherent in different choices and less likely to think about

the long-term consequences of their choices”—including confessions as opposed to remaining silent during police questioning.

- 10** Study director Thomas Grisso, a clinical psychologist and psychiatry professor at the University of Massachusetts medical school, said the issues of age and maturity manifested themselves in ways well beyond the obvious. Even when young teens understand their immediate circumstances and the judicial proceedings, Grisso said, the research found “there are still questions about their ability to make decisions and grasp the long-range” consequences.
- 11** Government statistics, researchers said, show that 200,000 juveniles each year are tried as adults.
- 12** The report follows a decade of state efforts to make it easier to try children as adults. Between 1992 and 1999, every state except Nebraska passed laws making it easier to for juveniles to be tried as adults, according to the National Center for Juvenile Justice, a private, nonprofit research group. Even though Nebraska passed no new laws on the subject during that seven-year period, it is among the 14 states, and the District of Columbia, that allow prosecutors to file charges against juveniles in criminal court.
- 13** Twenty-three states have no minimum age. Two, Kansas and Vermont, can try ten-year-old children as adults.
- 14** Given the study’s conclusion that large numbers of juveniles may be incompetent or barely competent to stand trial, Grisso and Steinberg said they hope lawmakers nationwide will examine the fairness of the juvenile-justice system.
- 15** However, Kent Scheidegger, legal director of the conservative Criminal Justice Legal Foundation, said the vast majority of teenagers, even young ones, know enough to be tried in adult court. “The notion that teenagers are not capable of understanding what is going on I find not credible in the case of mentally normal teenagers,” he said.

# Supreme Court to Rule on Executing Young Killers

by Adam Liptak

*The New York Times*, January 3, 2005

1 In August, six months after the United States Supreme Court agreed to consider the constitutionality of the juvenile death penalty, Robert Acuna, a high school student from Baytown, Tex., was put on trial for his life. The jury convicted Mr. Acuna of killing two elderly neighbors, James and Joyce Carroll, when he was seventeen, shooting them “execution style,” as prosecutors described it, and stealing their car. At sentencing, when jurors weighed his crime against factors counseling leniency, Mr. Acuna’s youth should have counted in his favor.

2 Instead, his brooding and volatile adolescent demeanor may have hurt more than helped, and the Houston jury sentenced him to die. “They probably thought that he wasn’t showing remorse,” said Mr. Acuna’s mother, Barbara. Renee Magee, who prosecuted Mr. Acuna, now eighteen, agreed that his behavior at the trial had alienated the jury. “He was very nonchalant,” Ms. Magee said. “He laughed at inappropriate things. He still didn’t quite get the magnitude of everything he did.”

3 Mr. Acuna is the latest person to enter death row for a crime committed before age eighteen. He may also be the last. If the Supreme Court prohibits the execution of sixteen- and seventeen-year-olds in a case it accepted a year ago, involving a Missouri man, the lives of Mr. Acuna and 71 other juvenile offenders on death row will be spared.

4 A central issue before the court, which is expected to rule in the next few months, is whether the plummeting number of such death sentences—there were two last year—lends weight to the argument that putting youths on death row amounts to cruel and unusual punishment. Supporters of the juvenile death penalty argue that the small number proves instead that the system works and that juries are making discerning choices on whom to sentence to death, taking due account of the defendants’ youth and reserving the ultimate punishment for the worst of the worst.

5 But a look at the cases of some of the juvenile offenders now on death row raises questions about how reliable and consistent juries have been in making those decisions. Age can shape every aspect of a capital case. Crimes committed by teenagers are often particularly brutal, attracting great publicity and fierce prosecutions. Adolescents are more likely to confess, and are not adept at navigating the justice system.

6 Jurors’ reactions to teenagers’ demeanor and appearance can be quite varied. The defendants they see have aged an average of two years between the crime and the trial. And jurors may not necessarily accept expert testimony concerning recent research showing that the adolescent brain is not fully developed.

- 7 The Supreme Court in 1988 banned the execution of those under sixteen at the time of their crimes. During arguments in October on whether to move that categorical line to eighteen, Justice Antonin Scalia said the drop in juvenile death sentences was proof that juries could be trusted to sort through and weigh evidence about defendants' youth and culpability. "It doesn't surprise me that the death penalty for sixteen- to eighteen-year-olds is rarely imposed," Justice Scalia said. "I would expect it would be. But it's a question of whether you leave it to the jury to evaluate the person's youth and take that into account or whether you adopt a hard rule."
- 8 Juries in capital cases involving juvenile offenders certainly place great weight on the defendants' youth. The defendants seldom testify, but jurors inspect them closely and draw conclusions from how they look and handle themselves. And the very same factors may cut both ways. Adolescent recklessness may suggest diminished responsibility to some and a terrible danger to others.
- 9 The youth of Christopher Simmons, the defendant whose case is now before the Supreme Court, was such a double-edged sword. Mr. Simmons was seventeen in 1993, when he and a friend robbed, bound and gagged Shirley Crook, forty-six, and pushed her into a river, where she drowned. During Mr. Simmons's sentencing hearing, a Missouri prosecutor scoffed at the notion that Mr. Simmons's age should count as a mitigating factor in his favor. "Seventeen years old," the prosecutor, George McElroy, said. "Isn't that scary? Doesn't that scare you? Mitigating? Quite the contrary, I submit. Quite the contrary."
- 10 Mr. Acuna had a tough-looking buzz cut at the time of the killings, said Tim Carroll, the son of the couple Mr. Acuna killed. At the trial, he looked different. "He appeared as though someone had tried to make him look eight years old all over again," Mr. Carroll said. "His hair was all combed down, almost in little bangs."

# Kids Are Kids—Until They Commit Crimes

by Marjie Lundstrom  
*The Sacramento Bee*, March 1, 2001

- 1 A week from now, a judge in Florida will decide how old Lionel Tate really is.
- 2 Never mind that he is indisputably twelve at the time of “the incident.” Is he a boy? Or a man?
- 3 It is a vexing question these days for the under-eighteen crowd, the group we routinely write off as “only kids.” It’s why they can’t smoke, or drink, or go to R movies without our OK. It’s why they don’t vote. It’s why they have curfews. It’s why we fret over their Internet access and fuss about driving privileges.
- 4 Hey, they’re only kids.
- 5 That is, until they foul up. Until they commit crimes. And the bigger the crime, the more eager we are to call them adults.
- 6 It’s a glaring inconsistency that’s getting more glaring by the hour as children as young as twelve and thirteen are being charged as adults in America’s courts.
- 7 A California appeals court recently stuck its nose into the quandary of when to charge young offenders as adults, returning that power to judges, not prosecutors.
- 8 Meanwhile, in Texas, a lawmaker has had it. You want to throw the adult book at kids? Fine, says Democratic state Rep. Ron Wilson of Houston.
- 9 Lower the voting age to fourteen.
- 10 And really, in light of things, how wacky is that? Today we are witness to criminal defendants—facing life sentences without parole—who cannot shave, still play with fire trucks and love to act out scenes from television or video games.
- 11 On March 9, Lionel Tate—who was twelve when he savagely beat to death a six-year-old girl—will likely learn if he must spend life in prison after his lawyer unsuccessfully tried to put pro wrestling on trial. Now fourteen and convicted as an adult of first-degree murder, Tate supposedly was imitating his World Wrestling Federation heroes when he pummeled his playmate, less than a third his size.
- 12 Last month in Sacramento, a fifteen-year-old Yuba City youth who reportedly claimed he was mimicking a TV program about little girls who rob a bank was given a 26-years-to-life prison term. Tried as an adult, Thomas A. Preciado was fourteen when he stabbed to death a minimart clerk.
- 13 In April, Court TV will air live daily coverage of the trial of Nathaniel Brazill, now fourteen, charged as an adult with first-degree murder. Brazill was thirteen and already in trouble for throwing water balloons when he returned to his Lake Worth, Fla., middle school and shot to death an English teacher, who would not let him say good-bye to two girls on the final day of classes.

- 14 This is not to say that the boys' crimes were not heinous, or that they should go unpunished. No one's talking about coddling here. But the zeal to corral wildly troubled, ever-younger kids and ram them through the adult system belies everything the juvenile justice system is all about: that kids are different. Their reasoning is not fully developed.
- 15 They are not adults.
- 16 "We've created this image that teenagers are something to be feared," said Dan Macallair of the Center on Juvenile and Criminal Justice in San Francisco.
- 17 This warped vision of America's youth was given an unfortunate boost with the recent arrest of two seemingly "good kids" in the brutal slayings of two Dartmouth College professors. Before they were even arrested, prosecutors had charged the teenagers, sixteen and seventeen, as adults.
- 18 Trouble is, statistics don't bear out the hysteria. While politicians and prosecutors press for hard-line stands against youthful offenders—nearly every state has moved to make it easier to charge kids as adults—juvenile crime is way down.
- 19 The nation's juvenile arrest rate for murder fell 68 percent from 1993 to 1999, hitting its lowest level since 1966, according to the Justice Department. The juvenile arrest rate for violent crime overall fell 36 percent from 1994 to 1999.
- 20 Macallair believes the excitable media have perpetuated and fueled the youth-violence scare of the 1980s. In fact, California voters were so persuaded by tough-on-crime rhetoric they passed Proposition 21 last March, shifting the power from judges to prosecutors in deciding which juveniles to charge as adults in certain crimes.
- 21 Sensibly, the 4th District Court of Appeals in San Diego disagreed, finding that the provision violated the separation-of-powers principle. The San Diego district attorney has vowed to appeal.
- 22 But the fact remains, politics and demagoguery do not make good public policy. Research suggests that adolescents squeezed through the adult system are more likely to come out as violent career criminals than similar kids handled on the juvenile side.
- 23 More lives, lost.
- 24 So what, then, to do about Lionel Tate—a kid who apparently still doesn't understand that "pile-driving" fellow inmates is not a good thing?
- 25 In another week, he will find out who tucks him in at night. And where.

# Startling Finds on Teenage Brains

by Paul Thompson

The Sacramento Bee, Friday, May 25, 2001

- 1 Emotions ran high at the trial of Nathaniel Brazill in West Palm Beach, Fla., two weeks ago. Friends of slain teacher Barry Grunow called for the death penalty, while a growing crowd of demonstrators outside the courthouse wielded hastily written placards reading, “A child is not a man.” Jurors returned with their verdict May 16: Fourteen-year-old Brazill, charged in last May’s shooting of middle-school teacher Grunow, was found guilty of second-degree murder.
- 2 A Florida grand jury had previously ruled that Brazill, who frequently looked dazed during the trial, would be tried as an adult, and if he had been convicted of first-degree murder he would have faced life in prison without parole. But Brazill’s immaturity was evident throughout this incident—from the act itself of Brazill’s shooting a teacher he considered one of his favorites, to his subsequent inability to give a reason for doing so, to the various quizzical looks that came across his face as the verdicts were read.
- 3 In terms of cognitive development, as research on the human brain has shown, Brazill—and any other young teen—is far from adulthood.
- 4 Over the last several years, as school shootings have seemed to occur with disturbing frequency, startling discoveries have emerged about the teenage brain. The White House held a televised conference on adolescent development in May of last year, and a flurry of papers on the teen brain has appeared in top science journals. Reporters and teen advocates ask: Do the studies help explain the impulsive, erratic behavior of teens? The biggest surprise in recent teen-brain research is the finding that a massive loss of brain tissue occurs in the teen years.
- 5 Specifically, my own research group at the University of California, Los Angeles, and our colleagues at the National Institutes of Health have developed technology to map the patterns of brain growth in individual children and teenagers. With repeated brain scans of kids from three to twenty, we pieced together “movies” showing how brains grow and change.
- 6 Some changes make perfect sense: Language systems grow furiously until age twelve and then stop, coinciding with the time when children learn foreign languages fastest. Mathematical brain systems grow little until puberty, corresponding with the observation that kids have difficulty with abstract concepts before then. Basically, the brain is like a puzzle, and growth is fastest in the exact parts the kids need to learn skills at different times. So far, all well and good.
- 7 But what really caught our eye was a massive loss of brain tissue that occurs in the teenage years. The loss was like a wildfire, and you could see it in every teenager. Gray matter, which brain researchers believe supports

all our thinking and emotions, is purged at a rate of 1 percent to 2 percent a year during this period. Stranger still, brain cells and connections are only being lost in the areas controlling impulses, risk-taking, and self-control. These frontal lobes, which inhibit our violent passions, rash actions, and regulate our emotions, are vastly immature throughout the teenage years.

- 8 The implications are tantalizing. Brazill was only thirteen when he committed his crime. He said he made a “stupid mistake,” but prosecutors argued that by bringing a gun to school he planned the crime.
- 9 Does “planning” mean the same thing for a thirteen-year-old, with his diminished capacity for controlling erratic behavior, as it means for an adult? The verdict, in this case, seems to line up with the research. The jurors, by returning a verdict of second-degree murder instead of first, indicated that they believe Brazill’s actions, while not accidental, were not fully thought-out, either.
- 10 Linking this maelstrom of normal brain change with legal or moral accountability is tough: Even though normal teens are experiencing a wildfire of tissue loss in their brains, that does not remove their accountability. What is clear from the research is that the parts of the frontal lobes that inhibit reckless actions restructure themselves with startling speed in the teen years. Given this delicate—and drastic—reshaping of the brain, teens need all the help they can get to steer their development onto the right path.
- 11 While research on brain-tissue loss can help us to understand teens better, it cannot be used to excuse their violent or homicidal behavior. But it can be used as evidence that teenagers are not yet adults, and the legal system shouldn’t treat them as such.

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