

Treat children as children

Written by Marian Wright Edelman
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"Most parents have long understood that kids don't have the judgment, the maturity, the impulse control and insight necessary to make complicated lifelong decisions." -- Bryan Stevenson, Equal Justice Initiative

"Don't lose hope. Understand? With hope you can always go on." -- Pope Francis after washing young inmates' feet at the juvenile detention center where he chose to break tradition and celebrate Holy Thursday Mass in one of his first official acts as Pope. The prison's chaplain, Father Gaetano Greco, said the visit would "make them see that their lives are not bound by a mistake, that forgiveness exists, and that they can begin to build their lives again."

Children are not little adults. Adolescents are not the same as adults. We've known this for years. The research showing that their brains are still developing is clear. Although young people act on impulse, they have the ability to positively change and have a productive future.

That's why it's outrageous that in the 21st century we still ignore the consequences of automatically funneling children into the adult criminal justice system against so much research on youth development and juvenile justice best practices. It's bad for public safety and it's bad for the youths and their families.

One of the Children's Defense Fund (CDF)'s earliest research projects was its 1976 report *Children in Adult Jails*, documenting the inhumane, ineffective practice of treating children like adult criminals and housing them side by side in the same prisons. Some states had already begun abolishing this harmful practice decades earlier but others were resisting change or dragging their feet. Judge Justine Wise Polier, who was New York State's first woman judge and presided on New York City's Family Court for 38 years, was then the director of CDF's Juvenile Justice Division housed at the Field Foundation. In the foreword to the 1976 report she chided the states that continued to prosecute children in the adult criminal justice system saying, "[i]t has been over three-quarters of a century since states began to legislate that children should be treated as children."

Nearly forty years later the good news is that there are only two states left that automatically treat all 16- and 17-year-olds like adult criminals. The bad news is that Judge Polier's home

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state, New York, is one of them. North Carolina is the other. It's time for change.

Our society takes adolescent brain development into account in many ways and takes steps to protect children and youths. We don't allow youths to do certain things because we say they are not mature enough to fully appreciate the consequences of their actions. Young people can't see certain movies without an adult until their 17th birthdays and can't see others at all until they turn 18. They can't buy alcohol until their 21st birthdays. In New York young people can't get a tattoo under age 18. The New York City Council recently voted to raise the legal age of buying tobacco products and electronic cigarettes from 18 to 21.

Yet (there is a double standard) the day a young person turns 16 in New York they are automatically treated as adults in the criminal justice system when charged with a crime. This means a 16-year-old can be arrested and spend a night or more in jail locked up with older adults without his or her parent or guardian ever knowing. A young person can spend five long years incarcerated alongside adults before they are old enough to buy a beer. And even younger children—some as young as 13 years old—can be treated as adults in New York State's criminal justice system when charged with murder or other serious or violent offenses and assumed to be criminally responsible, and automatically prosecuted as an adult before they've entered high school, although they are not detained in adult facilities until 16 or in some cases 21.

Charging children and youths as adults and incarcerating them with adults is the opposite of an effective intervention that helps young people turn their lives around and decreases crime. It makes our communities less safe.

Youths processed in adult criminal justice systems are rearrested and re-incarcerated at higher rates than youths processed in the juvenile justice system. Eighty percent of youths released from adult prison reoffend for more serious crimes. Incarcerating youths in adult jails puts them directly in harm's way. They suffer increased rates of physical and sexual abuse and high rates of suicide. Youths in adult facilities are 36 times more likely to commit suicide while incarcerated than those in juvenile facilities. They also are often subject to solitary confinement like adults—16- and 17-year-olds sitting in isolation twenty-three hours a day, for days, weeks, and months at a time. This is cruel and unusual punishment.

Like so many policies in our nation's criminal justice system, youths of color are disproportionately affected and treated as adults. A Black boy born in 2001 has a one in three chance of going to prison in his lifetime and a Latino boy a one in six chance of the same fate. The repercussions of treating youths as adults in the criminal justice system affect communities when young people returning home are denied jobs, educational opportunities, and housing as a result of having a criminal record. Families are torn apart by the immigration consequences of criminal records including deportation. The legacy of an adult criminal record on a child, his or her family, and his or her community is long lasting.

We know how to be smart on crime and provide children and youths age appropriate interventions. Some other states are doing this well. New York has also made important advances for children not yet in the adult system. Governor Andrew Cuomo championed

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juvenile justice reforms with the Close to Home Initiative which acknowledges that youths are best served in their communities where they can earn education credits and stay connected to their families instead of being isolated in facilities many hours away. In other states, advocates for youths in the system have helped reduce the number of children in adult jails and prisons 54 percent since 2000 and 22 percent since 2010 with commitment, hard work, and persistence. But an estimated 250,000 youths are still tried, sentenced, or incarcerated as adults each year.

In his State of the State address on January 8, New York Governor Andrew Cuomo announced a Commission that will help devise a plan to raise the age in New York. The State Legislature should join him in implementing this sensible policy. It's past time to raise the age and for New York and North Carolina to take the next step to treat children and youths as children and youths and protect them from adult criminals. We must never give up on any child until we have tried every means to put them on the path to successful adulthood.

Marian Wright Edelman is President of the Children's Defense Fund whose Leave No Child Behind® mission is to ensure every child a Healthy Start, a Head Start, a Fair Start, a Safe Start and a Moral Start in life and successful passage to adulthood with the help of caring families and communities. For more information go to www.childrensdefense.org.

Mrs. Edelman's Child Watch Column also appears each week on The Huffington Post.