AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY
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Direct File of Juveniles

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Research has demonstrated that the brain continues to develop throughout adolescence and into early adulthood. The frontal lobes, which control planning, reasoning and judgment, develop last. As a result, adolescents use their brains in fundamentally different ways than adults. They are more likely to act on impulse or to be influenced by peers, and less likely to stop, think things through or fully consider the consequences of their actions. The Supreme Court has recognized these biological and developmental differences in a series of recent decisions including Roper v. Simmons (2005), Graham v. Florida (2010) and Miller v. Alabama (2012).

Despite this emerging consensus, 45 states still allow prosecutorial discretion with respect to charging a juvenile suspect as an adult.[1] Such "direct file" statutes allow a juvenile to be transferred or waived into adult court without any independent review of the appropriateness of such decisions. As a result, children as young as eleven have been tried in adult court.

The juvenile justice system developed over 100 years ago specifically to address the differences between juvenile and adult suspects and offenders. The primary focus of the juvenile justice system is rehabilitation. Consistent with this philosophy, research has demonstrated that youthful offenders retained in the juvenile system have lower recidivism rates than those who are transferred to adult correctional facilities. [2]

The AACAP believes that any decisions regarding the transfer of a juvenile suspect to adult court should, at a minimum, involve an independent judicial review. Such a proceeding can consider issues including the child's age and developmental level, cognitive functioning and psychiatric status, family, school and general medical history. Optimally, an independent judicial review would involve assessments by competent mental health professionals with appropriate training and qualifications to work with children and adolescents. Juvenile suspects should be represented by counsel during such hearings. Decisions to try a juvenile as an adult should not be made in the absence of such an independent review process. Specifically, such decisions should not be made arbitrarily by prosecutors. For these reasons, the AACAP opposes statutes which permit or require juvenile suspects to be transferred or waived into adult court without judicial review.

1. *Juvenile Offenders and Victims: National Report Series Bulletin*, September 2011, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

2. *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System, A Report on Recommendations of the Task Force on Community Preventive Services*, Centers for Disease Control, MMWR, Recommendations and Reports, November 30, 2007/56 (RR09);1-11

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