

My name is Dr. Dan Davis. I am a board certified forensic psychologist. I have been a forensic psychologist for 37 years. I do the evaluations that recommend to a juvenile court judge as to whether or not a youth should stay in the juvenile justice system or be bound over to the adult court. I have done many of these evaluations, perhaps hundreds over the years. I have done them in the capacity from which I retired as a senior forensic psychologist for an agency that contract with the courts. I have done them privately for both defense and prosecution offices. I have served as a clinical director of the largest residential and community based youth service agency in this area. I have been a psychology supervisor for the Ohio Department of Youth Services and a mental health clinical director for the Ohio Department of Rehabilitation and Correction-the adult prison system.

These evaluations are the hardest that I do. I have recommended that a youth stay in the juvenile system. I have also made the difficult decision that a youth no longer can be safely treated as a juvenile and that the only option is to transfer that youth to the adult courts. These are never easy but now we have good science about this question and can provide that to the courts. It is rightly the case that the decision is that of a judge, not a psychologist. And, I am not saying that no youth should be bound over. As I said, I have made that recommendation. What I will say is that science tells us that Juvenile Courts should be allowed to make that choice because of what we know about human development as well as the effect of Bindover on future crimes and recidivism.

I recall when I worked in the adult prison system being called to consult on the case of a suicidal 17-year-old boy in the adult prison system. He was serving a life sentence for brutally killing his foster mother. Here's the thing about that case. He had been in 28 different foster homes in his life. When the murder happened, he had been in that home less than a day. He didn't even know her. The act that he committed has no justification, no excuse. But one must ask about the life course that brought him to this point and ask what if? Is there still a treatment option for a youth such as this? When courts listen in cases of Bindover, it is that question that is asked.

The gravity of these decisions comes from the fact that there is nothing good about them. Something terrible has happened. An awful crime committed by someone who is chronologically a child, a teen but now faces adult responsibilities and consequences.

What we know is that the human brain does not stop growing until the age of 25. We know that from careful research using MRI's following youth each year from 10 to 26. This has been known since the late 1990's. We can see the brain develop pathways of learning. We can see as the last part of the brain develops connections and hones pathways by eliminating unused neurons. The last part of the brain to develop is the part that holds the highest responsibility. It is that part of us that reasons, that think abstractly, than can plan, have judgment, reflect, control emotions and anticipate consequences. For that reason, when a youth faces a mandatory Bindover or is given a sentence that does not allow for parole review, the person being judged is unfinished, incomplete. We simply know that. It is ironic to me that a person cannot rent a car until they are 25 but long before that can receive a sentence of life.

This is not to deny the terrible, perhaps unforgivable actions that have brought youthful offenders to this turning point. I know that as well. Part of what I must do is to review the crime scene photographs, read the autopsies, listen to the recordings of the witnesses and immerse myself as much as I can in the darkness of the act that brought the youth before the court. That is the only way that one can make a fair decision and not be an advocate for either side. So, I know, only vicariously, the pain that these youth have caused. In some manner, I understand the desire that they suffer the fullest of consequences.

But, I also am a psychologist. I know the research. I know that the majority of youth who commit a violent act as a teen do not repeat that act. We know that there are signs that signal the need for early intervention and that we have the technology, but not the funding, to change and divert those youth. I know that recidivism of youth who commit violent acts is significantly lower than youth who commit early onset property crimes. If it is the case that we should mandatorily incarcerate youthful criminals in the adult system, the research tells us, frankly, that we are locking up the wrong ones.

We know too, in well-designed studies, such as in Florida, that youth who do go into the adult system have a higher rate of violent recidivism than youth who commit the identical crime and are kept in the juvenile system. Youth who are bound over reoffend more often and more quickly. We know that Bindover has different effects depending upon the type of crime committed by the offender. We also know that there is no scientific evidence that the threat of Bindover has any deterrence at all.

We have developed good tools, based in science that can provide judges with evidence-based assessments of risks and probabilities of amenability. They have been developed from carefully designed studies that look at what the research tells us about risk factors for future violence. Of course nothing is perfect. We have come a long way in the past 10 years but it is always difficult to predict something that does not happen very often. Thankfully, violence and recidivism are just that, despite what it seems in the daily news. There is always error. You don't need to tell me that. I'm the one who sits up at night, sleepless and wondering if I made the right call-and the cost if I didn't. But I make those calls because they are done on firm scientific footing with full disclosure of the limitations of our science. Mandatory Bindover denies the judge from what we know-and what we don't.

What we do know is that adolescence is a time of change and dynamism. It is that by definition. I would not want to be defined by how I was as an adolescent-or even when I was 18. I'm not sure that any of us would want that. But now we know that we cannot be defined in those terms because biologically we are very, very different.

We also know that all of us are placed in a developmental trajectory. We do not choose our early environments, our family's wealth, whether we are in the majority or the minority. Years back, I did research on prevalence of mental illness in youth in the juvenile justice system. It was thorough and thoughtful research and the first of its kind in

Ohio. 30 years ago, we identified that one third of the youth in the correctional system had serious mental illnesses. We compared these youth, data point by data point to youth who received community mental health services. They were nearly identical in all ways. With two exceptions: Youth in the correctional system were more aggressive and were also poor and minorities. Simply put, if you were a troubled youth and got into trouble, if you had resources you went into one system. If you did not have resources, if you were a minority, you went into corrections. I'm not sure of all of the data. But, I do know that now, 50% of youth in ODYS have a serious mental illness. They are within a developmental pathway that leads them to greater and greater involvement in the correctional system.

It is a folly to think that a youth chooses to be in that developmental pathway that leads to Bindover. All choices are determined by the context in which we make them. Once, I worked with a youth in residential treatment who wanted to be a physician. He was smart, dedicated and had learning disabilities. His overcrowded and underfunded school did not provide him with the learning opportunities he needed. In my family, two of my children and each of their spouses and two of my nieces are physicians. My son is a psychologist. Clearly, they had a different developmental pathway than the youth that I counseled in residential treatment. I do not know what became of him. I hope he realized his dream in spite of the odds.

We know that youth exposed to trauma have actual physical changes in their brain that make them more likely to be at risk, to have adverse outcomes in their lives in many ways, including crime and violence. This is well documented in the ACES study that tracked outcomes of thousands of people over many years. This research has led to new ways of diagnosing and treating persons exposed to trauma, as have been many of the youth considered for Bindover.

Mandatory Bindover deprives a judge the chance to appreciate these differences. It deprives the judge of the opportunity to learn about the youth, what has been tried, what has not and what we know of the probabilities and challenges unique to that youth. I can tell you that judges do listen, do think deeply about the question. It does not make sense to me to deprive the juvenile justice system of the discretion and thoughtful consideration I have seen in the courts. Similarly, the lack of parole consideration deprives the parole board of the chance to affirm that positive changes have been made. First, it denies an incentive for that offender. Secondly, it does not allow that growth and change can and will happen. The person before the board is not the same as the teenager that entered prison. Lastly, I've done evaluations for parole boards. They too, listen and consider. It also makes no sense to disallow them from engagement in what we know to be the real possibility of change by the offender.

I have chosen to speak with you as a clinician, as a psychologist who has seen both sides. There is a great deal of research that I can cite and will provide if you would desire. But, there is, I think, some value in telling you about that research in the context of the human

choices that are so difficult and at times irreversible. I have tried to understand and learn from them. I hope that my observations will be useful to you in this important decision.

Thank you for your time and consideration.