I affirm. RESOLVED: In the United States, juveniles charged with violent felonies ought to be treated as adults in the criminal justice system.

The resolution posits that children ought to be treated as adults. This doesn’t imply that they need to be treated as the stereotypical adult; just as we have exceptions and relevant considerations when considering the punishment and prosecution of certain adults, those same considerations could apply to children. The difference is those rules would have to apply in the same way they do to adults and thus in the adult justice system. Thus, the affirmative advocates using the adult criminal justice system for the prosecution of all violent felonies, as the negative burden is to defend the juvenile justice system.

Additionally, it’s sufficient to prove that treating juveniles in the adult system is preferable to a juvenile one because any other conception renders affirmation nearly impossible. If the negative gets to pick any distinction in treatment, then it forces the affirmative to prove that there is no relevant distinction between adults and children. This means that the only way the affirmative could ever win was to prove a universal negative, which involves winning terminal defense on every argument the negative makes.

Bernard Reginster[[1]](#footnote-1) writes,

The third and fourth variants might seem to rest on the same meta-ethical principle, namely, that **it cannot be right to say that an action “X is valuable for an agent A” when X is alien to anything A cares or could care about. But the statement “X is valuable for A” is ambiguous. In the case of motivational internalism**, the statement can be paraphrased as follows: “**A has a reason to accept the judgment ‘X is valuable.’ According to motivational internalism, then, A cannot have a reason to accept “X is valuable” unless X serves or furthers a preexisting desire of A**. In the case of ethical naturalism, by contrast, the statement can be paraphrased as follows: X is in A’s best interest, or conducive to A’s happiness or flourishing.” According to this proposal, then, X cannot be in A’s best interest, or contribute to A’s happiness or flourishing, unless X bears an appropriate relationship to A’s nature. It follows that X can be good for A (in the sense required by ethical naturalism) without being good for A (in the sense required by motivational internalism). This is true when, for example, the agent has no desire to fulfill some of the requirements of his own nature.

This leaves us with the internalist strategy of revaluation. The metaethical principle distinctive of this strategy is often called motivational internalism. This is achieved when the will is not subject to determining alien influences. The internalist principle is true because (a) for any moral principle we can ask why it is binding cogently, demonstrating that they have no necessary influence on my will and (b) even principles that bind “implicitly” or “rationally” can be questioned because we can always ask why we ought to be rational, or care about what we universalize, or care about what is impersonally good. This means that the only possible consideration in determining the choice of normative evaluative standards is the absolute freedom of the will from external influence.

Moreover, any coherent conceptions of ethics and value demand a primary concern with the good as conceived of within human desire and will. Friedrich Nietzsche[[2]](#footnote-2) writes:

Secondly, however, and quite separate from the fact that **this hypothesis about the** origin of the **value judgment “good”** is historically untenable, it **suffers from a**n inherent **psychological contradiction. The utility of the unegoistic action is supposed to be the origin of** the **praise** it receives, **and this origin has allegedly been forgotten:—**but how is this forgetting even possible? Could the usefulness of such actionsat some time or other perhaps just have stopped? The opposite is the case: **this utility has** rather **been an everyday experience throughout the ages, and** thus something that **has always been** constantlyre**-emphasized.** Hence, instead of disappearing from consciousness, instead of becoming something forgettable, **it must have pressed itself into the consciousness with ever-increasing clarity.** **How much more sensible is that** contrasting **theory** (which is not therefore closer to the truth—) **which** is advocated, for example, by Herbert Spencer: he **proposes that the idea “good” is essentially the same as the idea “useful”** or “functional,” **so that in judgments about “good”** and “bad” **human** being**s** sum up and **endorse the experiences they have not forgotten** and cannot forget **concerning the useful-functional and the harmful-useless.**\* According to this theory, good is something which has always proved useful, so that it may assert its validity as “valuable in the highest degree,” as “valuable in itself.” This path to an explanation is, as mentioned, also false, but at least the account is inherently sensible and psychologically tenable.

Thus, all value-judgments that seek to normatively guide action assume foundationally the value of actions which are useful to the expansion of individuals’ own power. This is further warranted and empirically verified by Nietzsche[[3]](#footnote-3) 2 in his analysis of ethical semantics.

So all respect to the good spirits that may govern in these historians of morality! But it’s certainly a pity that they lack the historical spirit itself, that they’ve been left in the lurch by all the good spirits of history! As a group they all think essentially unhistorically, in what is now the traditional manner of philosophers. Of that there is no doubt. **The incompetence of** their **[historians’]** genealogies of morals **reveals itself** at the very beginning, **where the issue is** to determine **the origin** of the idea and **of** the judgment **“good.” “People,”** so **they proclaim, “originally praised unegoistic actions** and called them good from the perspective of those for whom they were done, that is, those for whom such actions were useful. **Later people** forgot how this praise began, and because unegoistic actions had, according to custom, always been praised as good, people then **felt** them as **good—as if they were something inherently good.”** We perceive right away that this initial derivation already contains all the typical characteristics of the idiosyncrasies of English psychologists—we have “usefulness,” “forgetting,” “habit,” and finally “error,” all as the foundation for an evaluation in which the higher man up to this time has taken pride, as if it were a sort of privilege of men generally. This pride is to be humbled, this evaluation of worth emptied of value. Has that been achieved? . . . Now, first of all, it’s obvious to me that from this theory the essential focus for **the origin of the idea “good” has been** sought for and **established in the wrong place: the judgment “good” did not move** here **from those to whom “goodness” was shown!** On the contrary, **it was the “good people” themselves**, that is, the noble, powerful, higher-ranking, and higher-thinking people **who** felt and **set** themselves and **their actions up as good**, that is to say, of the first rank, **in opposition to everything low**, low-minded, **common, and vulgar.** From this pathos of distance **they** first **arrogated to themselves the right to create values,** to stamp out the names for values**.** What did they care about usefulness! Particularly in relation to such a hot pouring out of the highest rank-ordering, **rank-setting judgments of value,** the point of view which considers utility **is as** foreign and **inappropriate as possible.** Here the feeling has reached the very opposite of that low level of warmth which is a condition for that calculating shrewdness, that reckoning by utility—and not just for a moment, not for an exceptional hour, but permanently. **The pathos of nobility** and distance, as mentioned, **the** lasting and **domineering feeling**, something total and fundamental, **of a higher ruling nature** in relation to a lower type, to a “beneath”—**that is the origin of the opposition between “good” and “bad.”** (The right of the master to give names extends so far that we could permit ourselves to grasp the origin of language itself as an expression of the power of the rulers: they say “that is such and such”; they seal every object and event with a sound, and in the process, as it were, take possession of it.) **Given this origin, the word “good” is from the start in no way necessarily tied up with “unegoistic” actions**, as it is in the superstition of those genealogists of morality. Rather, that occurs for the first time with the collapse of aristocratic value judgments, when this entire contrast between “egoistic” and “unegoistic” pressed itself ever more strongly into human awareness—it is, to use my own words, the instinct of the herd which, through this contrast, finally gets its word (and its words). And even then, it still takes a long time until this instinct in the masses becomes master, with the result that moral evaluation gets thoroughly hung up and bogged down on this opposition (as is the case, for example, in modern Europe: today the prejudice that takes “moralistic,” “unegoistic,” and “désintéressé” [disinterested] as equally valuable ideas already governs, with the force of a “fixed idea” and a disease of the brain).

Thus, good actions are those that are consistent with the extension of an agent’s will for their own personal power. Nietzsche[[4]](#footnote-4) 3 explains why taking actions born out of pity function as moral failure within an individual.

365. The behavior of a higher man is the result of a very complex set of motives: any word such as “pity” betrays nothing of this complexity. The most important factor is the feeling, “who am I? who is the other relative to me?”—Thus the valuing spirit is continually active. 366. To think that the history of all moral phenomena may be simplified, as Schopenhauer thought, —that is to say, that pity is to be found at the root of every moral impulse that has ever existed hitherto, –is to be guilty of a degree of nonsense and ingenuousness worthy only of a thinker who is devoid of all historical instincts and who has miraculously succeeded in evading the strong schooling in history which the Germans, from Herder to Hegel, have undergone. 367. My “pity.” – This is a feeling for which I can find no adequate term: I feel it when I am in the presence of any waste of precious capabilities, as, for instance, when I contemplate Luther: what power and what tasteless problems fit for back woodsmen! (At a time when the brave and light-hearted skepticism of a Montaigne was already possible in France!) Or when I see someone standing below where he might have stood, thanks to the development of a set of perfectly senseless accidents. Or even when, with the thought of man’s destiny in my mind, I contemplate with horror and contempt the whole system of modern European politics, which is creating the circumstances and weaving the fabric of the whole future of mankind. Yes, to what could not “mankind” attain, if--! This is my “pity”; despite the fact that no sufferer yet exists with whom I sympathize in this way. 368. **Pity** is a waste of a feeling, **a moral parasite** which is **injurious to** the **health, “**it cannot possibly be our duty to increase the evil in the world.” **If one does good merely out of pity, it is one’s self** and not one’s neighbor **that one is succoring. Pity does not depend upon maxims, but** upon **emotions. The suffering we see infects us;** pity is an infection. **There is no such thing as egoism which keeps within its bounds and does not exceed them—consequently, the “allowable,” the “morally in different” egoism of which some people speak, does not exist at all.” one is continually promoting the interests of one’s ego at the cost of other people”;** “Living consists in living at the cost of others”—he who has not grasped this fact, has not taken the first step towards truth to himself. 370. The “subject” is a piece of fiction: the ego of which every one speaks when he blames egoism, does not exist at all. 371. Our “ego”—which is not one with the unitary controlling force of our beings!—is really only an imagined synthesis; therefore there can be no “egoistic” actions. 372. Since all instincts are unintelligent, utility cannot represent a standpoint as far as they are concerned**. Every instinct**, when it is active, **sacrifices strength and other instincts into the bargain: in the end it is stemmed, otherwise it would be the end of everything owing to the waste it would bring about. Thus: that which is “unegoistic,” self-sacrificing, and imprudent is nothing in particular**—it is common to all the instincts; they do not consider the welfare of the whole ego (because they simply do not think!), **they act counter to our interests, against the ego**: and often for the ego—innocent in both cases.

Thus, the standard is avoiding pity. Moreover, pity subverts the will and autonomy of an agent beneath that of the weak and wretched, rendering it inconsistent with the respect due to power and goodness. David Cartwright[[5]](#footnote-5) argues:

Here we find the idea that emotional behavior is nonrational and invol- untary. The passions are stormy; they overwhelm us. He appears to adopt the Kantian suggestion that one should act from reason and not from mere inclination. There is, however, a significant departure from Kantian theory. Nietzsche does not conceive of autonomy as implying the denial or suppression of one's emotions. He avoids the separation of reason from emotion, a bifurcation associated with Kant. Nietzsche does not advocate the denial or suppression of our emotions or inclinations as springs or motives of our actions. Rather, he advocates the focusing, controlling, and directing of these forces for specific aims. Like Schopenhauer, Nietzsche thought that **our passions,** desires, needs, and wants **are** thetrue **motors of** our **action**s**.** The problem is that **these** drives and forces **often lack direction**; they are impulsive and steer us blindly. **Reason** or our intellect **is used to direct**, shape, make efficient**, and** provide the means to **satisfy our deepest needs.** Furthermore, Nietzsche considered these drives, passions, and needs as uniquely constituting our personalities. By sifting our passions, refining, and guiding them by our rational abilities, we become more aware of our authentic nature, for reason and passion are both essential to realizing our individual personalities. We have seen that **pity can usurp** agents' **autonomy by placing them under the control of the** persons **pitied.** This was one of the dangers Nietzsche saw in pity. He also detailed a parallel problem for the recipients of pity. **Pity can become a** surreptitous **way through which agents gain control** over recipients whose autonomy is threatened by pitiers**: When we see someone suffer, we** like toexploit this opportunity to **take possession of him; those who** become his benefactors and **pity him**, for example, do this and **call the lust for a new possession "love."'** The autonomy of sufferers is in an especially vulnerable position. **People** usually **suffer because they are unable to relieve their** own **misery.** Suffering is typically a sufficient reason for the agent to do something to relieve it. **When we** lament our woes, **vocalize our misery**, often we are announcing our inability to care for ourselves. **We seek the assistance of others. Pitiers** are more than happy to **give this assistance. Some pitiers**, Nietzsche argued, may actively **seek individuals to pity in order to heighten** their own **feelings of superiority** and/or to gain control of the sufferer**. The pitiers increase their feelings of superiority by doing** for others **things** that **they cannot do for themselves, and then** by **conceiving** of **their actions as virtuous.** They gain control over others by benefiting them. The recipients become indebted to their benefactors and being in their debt is also being subject to their control. The pitier can even accentuate this sense of debt by not allowing recipients to satisfy their desire to repay it, e.g., "you do not owe me a thing." The control can become less subtle, however. The pitiers can even make the recipients completely dependent on their help by engendering within them the idea that they are helpless and need the help of others to live a minimally normal life.

Finally, the humiliation brought about by pity functions to destroy both the moral status and respect due to agents, as they become objects of mere inferiority. Cartwright[[6]](#footnote-6) 2 writes:

In addition to being directed towards another's suffering, **pity and compassion** provide incentives for an agent's beneficence and **dispose the agent to help the sufferer** by relieving his or her distress. Thus it appears as if it is a matter of indifference if we describe Joan's feeling for Richard's suffering as either pity or compassion if she apprehends Richard's suffering, feels sorrow for Richard, and is disposed to render aid by relieving his distress. However, there are good reasons for this not being a matter of indifference. **"Pity"** has an emotive significance fundamentally distinct from that of **"**compassion". Informing others that you pity them **is a way of expressing contempt. When I storm out** of the room **after a** heated **quarrel** with a colleague **I slam the door saying "I pity you". I thereby inform him that I regard him as beneath me**: I am superior**.** I offer my hand to a student confined to her wheelchair. "I don't want your pity", she intones. My offer of help is rejected because it is humiliating. My daughter laments her woes to me and I offer misplaced solace; "I pity you, you poor thing". A gentler situation, but still one that suggests something basic — a lack of respect for the object of my pity. **To describe something as "pitiful" is to describe the thing as not good for its kind.** "I pity you, you poor wretch." **"He is pitiful" means "He is a wretch."** Philip Mercer has noted a revealing relationship between pitiers and their objects; **"the use of the word 'pity' in a particular context seems to imply that the speaker is in some way better off than the person who is pitied**. The king pities the subjects; the judge pities the prisoner; the sane man pities the idiot; mankind pities the beasts". 6 The pitier is superior in status to the pitied. We do not pity those we respect or those we judge superior to ourselves —unless we wish to level them by devaluing their status. Then I feel sorry for them. They are miserable, contemptible. By pitying them, I elevate myself. I boost my feelings of self-esteem by lowering them. The same is true when I pity someone who is suffering. I boost my own feelings of self-esteem by exercising my pity; that I am able to relieve this misery emphasizes dramatically my superiority. The sufferer is helped, but helped in order to enhance my feelings of superiority. In these regards, **pity is self-regarding. If we have general duties to respect others, pity incites their violations. If the moral goodness of beneficence is due to a desire to pursue another's well-being, the help rendered out of pity is not morally good. If enhancing one's feelings of self-esteem is worthwhile, boosting them out of pity for others leads to false feelings of self esteem. It is like feeling smarter by associating with idiots.** In reality, **nothing changes which would warrant such enhanced feelings of pride.**

I contend that the juvenile system evokes pity for the juveniles who commit violent felonies.

First, juvenile confidentiality demonstrates the desire of the court to protect the juvenile from their mistakes. Arthur Blum[[7]](#footnote-7) writes:

**The** recent **movement** among the states **to rescind** the practice of **maintaining juvenile confidentiality represents a split between what is perceived to be good for the child and what is perceived to be good for the community.** 279 This split has occurred because people have lost confidence in the state's ability to rehabilitate juvenile offenders. 280 Treating young lawbreakers with the fatherly "care and solicitude" prescribed by the early reformers 281 is acceptable only if it is successful. If efforts to rehabilitate delinquents are unsuccessful, 282 then a juvenile justice system which refuses to punish delinquents is destined for public obloquy, because society is left with unreformed lawbreakers who can threaten public safety without fear of punishment. 283 **The aim of the juvenile courts in preserving the confidentiality of juvenile records is "to hide youthful errors from the full gaze of the public and bury them in the graveyard of the forgotten past."** 284 **But the phrase "youthful errors" should never describe the murders, rapes, and other serious offenses that juveniles are now committing.** 285 Society will no longer tolerate protecting today's juveniles when society itself feels threatened by these very same juveniles. **The alarming violence that juveniles are committing today** **has forced communities to demand that the state be more concerned with protecting the lives and safety of the public than it is with protecting the identities of juvenile felons.**

Second, avoiding transferring juveniles to the adult system rests upon the cultural notion that juveniles ought to be pitied because they carry childlike characteristics. Donna Bishop[[8]](#footnote-8) argues:

**The** historical **record shows that although judicial waiver was available in nearly all states from the inception of** their **juvenile courts,** in practice **it was used very rarely** (Flicker 1981; Whitebread and Batey 1981; Tanenhaus, forthcoming). **Sparing use of transfer is consistent with** foundational **principles of the juvenile court, according to which juveniles differ from adults in ways that** generally **make criminal processing inappropriate and counterproductive. A fundamental tenet is that adolescents are immature** (Bernard 1992; Scott and Grisso 1997; Feld 1999). **Their lesser capacities for reasoning and moral judgment diminish their culpability and render them undeserving of the full burden of retributive punishments** (Zimring 1981, 1991, 1998; Forst and Blomquist 1991; Scott and Grisso 1997). Moreover, from a purely util- itarian perspective, their limited ability to anticipate and weigh long- term consequences makes it unlikely that threats of criminal sanctions will deter them (Teitelbaum 1991).2 Finally, **cultural conceptions of children and adolescents have traditionally emphasized youths' dependency and vulnerability, characteristics that tend to evoke compassionate responses rather than punitive ones.**

Third, the very creation of the juvenile court presumes a difference in juveniles that makes them akin to neglected children. Jordan Titus[[9]](#footnote-9) writes:

Currently, American states vary in the minimum ages of criminal responsibility before which a person cannot be charged with a crime and jurisdictional ages of juvenile courts. Generally speaking, **children are perceived as needing protection from the consequences of their immaturity rather than as accountable for their actions.** Because notions of guilt and seriousness are dependent on attributes of capacity and responsibility, **“the law perceives the child as ‘innocent’”** (King & Piper, 1995, p. 108**). The creation of the juvenile court** in 1899, distinguishing a child’s offence from an adult’s crime, **reflected a presumed essential difference between the moral and cognitive capacities of juveniles** and those of adults. **Children were considered** *doli incapax*, **incapa- ble of criminal intent because they were incapable of understanding the consequences of their actions.** By definition then, the belief was that “a child cannot commit a crime: they are in the same class as the insane in this respect” (Ryerson, 1978, p. 75). The new juvenile court system embodied a concern with the social rehabilitation of young offenders through reformatory treatment rather than punitive punishment (Platt, 1977). **The *parens patriae* jurisdiction of the juvenile court was designed to socialize delinquent youths into moral citi- zens** (Platt, 1977; Ryerson, 1978), thereby curtailing their potential threat to social stability. As Hendrick (1994) argues, **children were perceived as both vulnerable and in need of adult protection** (the child as victim), **and as impulsive or unsocialized** and in need of adult correction and control (the child as threat). **The character of the neglected child and the delinquent child were deemed alike** (Hendrick, 1994). **Crime and destitution were seen as indelibly linked, and notions of childhood deprivation became fused with notions of chil- dren’s depravity.** Institutional purposes of protection and training were combined toward one goal—to turn a threatening victim into a citizen of the community.

Fourth. The juvenile system was created out of a belief that children ought to be pittied do to their emotional state. Blume 2 explains

To rebut the traditional linkage of a child's moral accountability with the maturation of his deliberative faculties, **philosophers like** Jean-Jacques **Rousseau began arguing that childhood is a period of life that is separate and distinct from adulthood**. 73 **Rousseau insisted that imposing adult standards on children is not only unnatural, but also spoils the child's development. Although Rousseau laid the foundation** for the notion of adolescence in the mid-eighteenth century, **the United States did not recognize his** [\*358] **ideas until the latter part of the nineteenth century**. 75 **At that time, G. Stanley Hall and other** child **psychologists began to argue that children**, regardless of their specious maturity, **were not masters of their thoughts; nor were they responsible for their behavior until they passed through their teenage years.** 76 **Hall's theory** of adolescence **provided a buffer between childhood and** the assumption of **adult responsibility**, 77 [FOOTNOTE INCLUDED Click here to return to the footnote reference.n77. See id. at 82 (**describing adolescence as a period of "storm and stress" from which one emerges mature and civilized). "The youth who go wrong are, in the vast majority of cases, victims of circumstances or of immaturity, and deserving of** both **pity** and hope." Id. (quoting Hall). Hall's views of the injustice of the stigmas that society attaches on its young offenders reflect the views of the early reformers: "Ignorant and cruel public opinion [condemns] all those who have once been detected on the wrong side of the invisible and arbitrary line of rectitude." Id. (quoting Hall). FOOT NOTE ENDED] **which the early reformers used to extend the age of criminal responsibility beyond the traditional ages of seven or ten and into the mid-teens**. 78

1. Bernard Reginster [Professor at Brown] “The Affirmation of Life” pg. 151, 2008. [↑](#footnote-ref-1)
2. Friedrich Nietzsche “On the Genealogy of Morals” translated by Ian Johnston. http://records.viu.ca/~johnstoi/nietzsche/genealogy1.htm [↑](#footnote-ref-2)
3. Ibid 1. [↑](#footnote-ref-3)
4. Friedrich Nietzsche “The Will to Power (Volumes I and II)” Translated by Anthony Ludovici. Digireads.com Publishing, 2010. pg. 140. [↑](#footnote-ref-4)
5. David E. Cartwright “Kant, Schopenhauer, and Nietzsche on the Morality of Pity” Journal of the History of Ideas, Vol. 45, No. 1 (Jan. - Mar., 1984), pp. 83-98. [↑](#footnote-ref-5)
6. David E. Cartwright “Schopenhauer’s Compassion and Nietzsche’s Pity” http://www.schopenhauer.philosophie.uni-mainz.de/Aufsaetze\_Jahrbuch/69\_1988/Cartwright.pdf [↑](#footnote-ref-6)
7. Arthur Blum “Disclosing the Identities of Juvenile Felons: Introducing Accountability to Juvenile Justice” 27 Loy. U. Chi. L.J. 349. Winter 1996. [↑](#footnote-ref-7)
8. Donna Bishop [Associate professor of criminal justice in the College of Criminal Justice at Northeastern University] “Juvenile Offenders in the Adult Criminal Justice System” Crime and Justice, Vol. 27 (2000), pp. 81-167. [↑](#footnote-ref-8)
9. Jordan J. Titus [Jordan J. Titus is an associate professor of sociology at the University of Alaska Fair- banks. Her research focuses on legal constructions of childhood and children’s rights.] “Juvenile Transfers as Ritual Sacrifice: Legally Constructing the Child Scapegoat” Youth Violence and Juvenile Justice, Vol. 3 No. 2, April 2005 [↑](#footnote-ref-9)