

**MACARTHUR FOUNDATION
RESEARCH NETWORK ON**

Adolescent Development and Juvenile Justice

**Bringing Research to Policy and Practice
in Juvenile Justice**

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A Century of Change in Juvenile Justice

Two strong themes drive the nation's juvenile justice system: the welfare of young offenders and the protection of public safety. Over the past century the pendulum has swung dramatically, emphasizing first one theme, then the other. The tension between them remains strong.

Can these ideas find balance in a juvenile justice system built on sound science and legal scholarship? The MacArthur Research Network on Adolescent Development and Juvenile Justice has made important contributions toward that goal by bringing a developmental perspective to the discussion.

Just over a century ago, in an era of reform, the Illinois legislature created a “children’s court” with jurisdiction over dependent, neglected, and delinquent youth. The court focused not on punishment but on protection, treatment, and rehabilitation – the best interests of the child. The idea caught on quickly, and during the first decades of the 20th century, juvenile courts appeared in nearly every state.

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In the 1980s, however, violent juvenile crime rose steeply, and the public reacted with alarm. Legislators spoke of a new generation of “superpredators.” They called the juvenile justice system soft, ineffective, and out of step, and said high rates of recidivism proved that rehabilitation was a failure.

Youth advocates saw it differently. For decades they had argued that the system was failing to deliver the treatment it had promised: it was confining young people in prison-like facilities with few or no rehabilitative services, while denying them the rights afforded to adult defendants.

The debate offered no middle ground, and in the growing climate of fear virtually every state enacted tough legal reforms. Legislators curtailed the juvenile court’s jurisdiction and its judges’ discretion. They lowered the age at which youths could be tried in adult courts and expanded the range of eligible offenses. Many states increased the severity of penalties available to the juvenile court.

Amid these changes the MacArthur Foundation established the Research Network on Adolescent Development and Juvenile Justice.

A New Perspective

“The question of how society should respond to juvenile crime is far more complex than either youth advocates or defenders of punitive policies originally acknowledged,” says Julia Stasch, Vice President for Human and Community Development at the MacArthur Foundation. The debate, she says, has to balance public safety with the real differences between juveniles and adults. And the solutions need to be both evidence-based and practical.

The network model is well suited to the challenge. MacArthur research networks are long-term, interdisciplinary groups that address significant social problems through intense and ongoing intellectual collaboration – not only among different scientific disciplines but also among researchers, practitioners, and policymakers. The networks develop innovative research methods and quantitative tools; they create public data sets and resources; and they communicate findings and policy implications to others in the field and to the general public.

The Network on Adolescent Development and Juvenile Justice (ADJJ) brought together experts in social science and juvenile law, including researchers, practitioners, defenders, prosecutors, and judges. Network members designed a research program focusing on three broad themes in juvenile justice: competence, culpability, and adolescents’ potential for change. The first two deal with the capabilities and limitations of adolescents, and how these factors *do* or *should* influence the treatment of young offenders. The third deals with public safety as well as juveniles’ welfare; it looks at the factors that lead most adolescents to stop their antisocial behavior and become productive members of society.

Competence: How Do Adolescents Think?

Lionel Tate was 12 years old when he killed a 6-year-old friend while imitating wrestling moves he had seen on TV. Lionel’s mother persuaded him to turn down a plea bargain, and the trial court denied his attorney’s request for a competence evaluation. The boy was tried in criminal court on charges of first-degree murder. The jury found him guilty, and he was sentenced to life in prison – a decision that shocked even the prosecutor and was later overturned.

In a juvenile justice system concerned primarily with rehabilitation, the idea of competence – a person’s ability to understand the trial process, to assist his attorney, and to make decisions about important matters like plea agreements – hadn’t been an issue. But as the system became increasingly punitive, attorneys and youth advocates became concerned about the competence of adolescents to make decisions of enormous import to their lives.

The Network made competence the focus of its first major research project, hoping to provide information that could guide U.S. law and policy toward a more rational, developmentally sensitive perspective on youth. It found that on measures linked to competence, a significant proportion of adolescents age 15 and younger score on a par with adults who have been deemed incompetent to stand trial because of serious mental illness.

“It’s not just that adolescents don’t have the life experience to understand the system,” says Laurence Steinberg, Professor of Psychology at Temple University and Director of the ADJJ Network. “It’s the way they think, and how they use information to make decisions.”

The Network’s competence study showed that young adolescents don’t put facts together and draw conclusions the way adults do. They’re more inclined to go along with authority figures, and they’re less likely to recognize the risks inherent in the choices they face, or to consider the long-term consequences of their legal decisions. (Neuroscientific studies of brain maturation in adolescence are now beginning to reveal the physiological underpinnings of these characteristics.) As a result, juveniles are more apt to accept a plea agreement and to confess to police, regardless of their guilt. Thus the issue of competence has consequences beyond the ability to stand trial.

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Policy implications. The Network's findings suggest courts should consider incompetence claims based on immaturity along with those based on mental illness and disability. But the unique nature of developmental incompetence raises new procedural issues. For one thing, the incidence of incompetence is likely to be much higher among adolescent defendants. If competence is addressed on a case-by-case basis, as it is with adults, the courts will quickly be flooded with petitions for competence evaluations.

In addition, the usual "remedies" for adult incompetence – medication and instruction – won't work for adolescents, who need time for physiological and psychological development. The delay poses serious problems for due process and rehabilitation.

The dilemma calls for systemic change: a juvenile justice system that allows more relaxed, developmentally appropriate standards of competence so that youths can be speedily adjudicated. To justify the looser competence standards, juvenile court proceedings would need to return to the system's original principles: promoting the welfare of young offenders, as well as public safety. Sanctions would necessarily be more lenient than for adult offenders, emphasizing treatment and rehabilitation to help delinquent youths become productive adults.

Culpability: Degrees of Responsibility

When the Supreme Court outlawed the death penalty for juveniles, Justice Kennedy wrote: "Capital punishment must be limited to those offenders who commit 'a narrow category of the most serious crimes' and whose extreme culpability makes them 'the most deserving of execution.'" The differences between youths and adults, Kennedy said, make juveniles less blameworthy and thus ineligible for execution.

The original juvenile justice system was built on the premise that juveniles *lack* criminal responsibility and therefore do not deserve severe punishment. But as serious crime rose and public safety became a greater concern, many Americans came to believe there was no reason to be lenient toward young offenders.

The competence study pointed to significant, age-related changes in individuals' ability to consider the consequences of their actions and in their susceptibility to peer pressure. Around the same time, neuroscientific studies were showing that during adolescence, the regions and systems of the brain that control complex decision-making and long-range planning are still maturing. Mounting evidence suggested that even if a youngster perceived a situation as risky or morally wrong, his ability to act on that perception – and thus his culpability – might be very different from an adult's.

The Network brought in legal scholars to examine the concept of mitigation in criminal law, and began to identify the psychological faculties associated with it. That work led to an article in the *American Psychologist*, "Less Guilty by Reason of Adolescence," that was quoted extensively in the Supreme Court decision and has been widely influential.

Policy implications. The law has long recognized a continuum of culpability and, by extension, a continuum of punishment. By showing that developmental immaturity can

mitigate – but not excuse – criminal responsibility, the Network makes the case for a different level of sanctions for adolescents.

“We’re not talking about excusing adolescents from responsibility for their actions,” Steinberg emphasizes. “But most people agree that the degree of punishment should have something to do with a person’s state of mind at the time of the crime.”

An important policy choice is whether immaturity should be considered on an individual basis, as is the case with most mitigating conditions, or as the basis for treating juveniles as a separate *category* of offenders. The research argues for a categorical approach, since, unlike most other mitigating factors, the capacities associated with adolescence are characteristic of a well-defined group whose development follows a generally predictable course to maturity.

Moreover, other Network studies have shown that unconscious racial stereotyping causes African American adolescents to be seen as more “adult-like,” and thus more blameworthy, than other youths committing the same acts. This can lead to harsher treatment for minorities, including transfer to adult court, and incarceration where others might be diverted to a community program. Treating adolescents as *categorically* less culpable could help address racial disparities in the juvenile justice system.

Risk and Amenability: Changing the Path

Treating juveniles as less culpable than adults requires the system to take a hard look at public safety. Even if most juvenile offenders do not pose a continuing threat, there will still be a small group of long-term recidivists who cause great social harm. Is it possible to identify these youths before they do significant damage? What deflects most young offenders from becoming “career criminals”? And what mix of sanctions and treatments works best?

Though juvenile courts are routinely called upon to assess a youth’s risk of future violence or his amenability to treatment, they have astonishing little data on which to base their assessments. Nor do they get much feedback on the impact of sanctions. The Network’s largest study, “Pathways to Desistance,” is an effort to fill that gap. Following more than 1,300 serious juvenile offenders from adolescence to adulthood, the study is seeking patterns in how and why some adolescents stop their antisocial activity and others continue offending. The Network is also looking at the impact of different sanctions and treatments on behavior, mental health, psychological development, and the transition into adult roles.

While these studies are not complete, the most striking finding so far is the variability among serious offenders. “You can’t predict the likelihood of future offending very well based on the presenting offense,” says Network member Edward Mulvey, Director of the Law and Psychiatry Program at the University of Pittsburgh. “We generally find the same variability in these kids that we find in groups of high school students.” Two factors that do appear to have some predictive value, Mulvey adds, are substance use and a lack of structure in young people’s lives; both are associated with continued offending.

Policy implications. The Network’s studies make it clear that even serious juvenile offenders, far from being “superpredators,” are remarkably similar to other adolescents, and similarly open to change through intervention.

Even under the harshest systems, juveniles are rarely incarcerated for more than a few years. It would benefit the public as well as the youths, then, to identify and use the interventions that are most effective in returning young offenders to the community with the skills to become productive, law-abiding adults. Individualized assessments will be key to developing appropriate interventions for each youth, particularly those with substance abuse or mental health problems.

Is the American public ready to accept – and pay for – treatment and rehabilitation programs for juvenile offenders?

Is the American public ready to accept – and pay for – treatment and rehabilitation programs for juvenile offenders? Another Network study suggests that it is. The survey examined the value people place on rehabilitation versus incarceration for serious juvenile offenders. It found that the public generally is very willing to pay for programs that promise to reduce crime, and *more* willing to pay for rehabilitation and prevention programs than for longer periods of incarceration.

Moving Knowledge into Practice

Based on the Network’s competence study, Network member Thomas Grisso and his colleagues developed a new protocol for assessing juvenile competence, along with guides for clinicians and legal professionals. Grisso, a Professor of Psychiatry at the University of Massachusetts Medical School and coordinator of its Law and Psychiatry Program, has been traveling the country teaching the protocol to juvenile court judges, lawyers, and forensic psychologists.

Efforts like this – bringing its work to the front lines of reform – have been a part of the Network since its inception. Through articles and books, in workshops and conferences, and by sharing data and training young researchers and seasoned professionals, the Network provides knowledge to inform policy, practice, and public discussions.

“One of the most important things the Network is doing is helping to create a common language for talking about adolescent development in the context of juvenile justice,” says Mary Ann Scali, Deputy Director of the National Juvenile Defender Center. Scali points to the briefs and the decision of the Supreme Court on the death penalty issue, and to the closing arguments of Lee Boyd Malvo’s attorney, Craig Cooley, who used the language of adolescent development to explain why his client was not as culpable as an adult.

It’s not only courtroom practices that are changing. Newspapers in major cities have examined local juvenile justice systems with a new understanding of adolescent development. And Network members have been consulted by legislative staff and juvenile justice leaders working on systemic reform.

Many states are now re-examining the harsh juvenile justice laws of the 1990s, and some are beginning to pass new legislation. For example:

- Arkansas now requires competence evaluations of young adolescents charged with very serious crimes before they can be transferred to adult court.
- Ohio has begun drafting juvenile competence legislation.
- The Louisiana legislature has created a task force to set guidelines for competence evaluations of juveniles.
- Louisiana, Maryland, and Virginia now require that youths have counsel at various stages of juvenile court proceedings.
- Illinois has abolished the statute under which youths charged with selling drugs in school were automatically tried as adults, and is considering other bills that would keep more youths in juvenile, rather than criminal, court.

Amy Holmes Hehn, former Senior Deputy District Attorney of the Juvenile Unit in Portland, Oregon, and a Network member, is one who has worked on legislation regarding juvenile competence. Now, she says, “we’re eagerly awaiting the findings of the ‘Pathways’ research to help us apply that developmental lens to interventions. Given the size of the sample and the length of the study, I expect it to be very useful in thinking about what actually works for young people.”

Network member Robert Schwartz, Executive Director of the Juvenile Law Center in Philadelphia, sees all this as “a sea change that’s brought the idea of adolescent development into good currency again.” The Network, he says, “has reminded people that adolescents are different from adults, and while they have to be held accountable, that should be done in developmentally appropriate ways.”

What Next?

Is the nation returning to the founding principles of the juvenile justice system? If so, those principles are now more firmly rooted – not in ideology, but in scientific research. And the soil in which they are planted is richer, with public safety, victims’ rights, and accountability joining youth welfare in the mix.

Still, plenty of weeding and nurturing remain to be done. According to Network Director Laurence Steinberg, too many adolescents are spending parts of their formative years in facilities where they don’t learn the skills to become productive adults. “There’s not a lot of individualized decision-making about kids based on their maturity and their mental health,” Steinberg says. “And there’s a lot of work to be done to find out exactly what interventions work for which kids, and to put those interventions in place.”

Nevertheless, it’s clear that new knowledge is changing the way people think about adolescent offenders. As public opinion and professional practice evolve, legislation will surely follow.

For more information

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The Research Network on Adolescent Development and Juvenile Justice is an interdisciplinary, multi-institutional program focused on building a foundation of sound science and legal scholarship to support reform of the juvenile justice system. The network conducts research, disseminates the resulting knowledge to professionals and the public, and works to improve decision-making and to prepare the way for the next generation of juvenile justice reform.

The John D. and Catherine T. MacArthur Foundation is a private, independent grantmaking institution dedicated to helping groups and individuals foster lasting improvement in the human condition. The Foundation fosters the development of knowledge, nurtures individual creativity, helps strengthen institutions, helps improve public policy, and provides information to the public, primarily through support for public interest media. MacArthur supports research, model programs, policy analysis, and public education that promote more effective juvenile justice systems across the country. A new effort, Models for Change, seeks to accelerate system-wide change in Illinois, Louisiana, Pennsylvania and Washington, with the hope that the results will serve as models for successful reform in the juvenile justice systems in other states. For more information or to sign up for MacArthur’s monthly electronic newsletter, please visit www.macfound.org.