

**John D. and Catherine T. MacArthur Foundation
Research Network on Adolescent Development and Juvenile Justice**

E X E C U T I V E S U M M A R Y

**YOUTH ON TRIAL:
A DEVELOPMENTAL PERSPECTIVE
ON JUVENILE JUSTICE**

Edited by Thomas Grisso and Robert G. Schwartz

For young offenders in America, the stakes have never been higher. During the past 20 years, a nationwide trend to get tough on crime has resulted in a much harsher approach to meting out justice for children and adolescents who break the law. Virtually every state has expanded the charges for which juvenile offenders can be tried as adults, lowered the age at which it can be done, and increased the severity of punishment for juveniles convicted of a crime.

But is a criminal justice system that tries and punishes young people with no regard for their developmental immaturity really fair? A new book, *Youth on Trial*, argues that it is not. Nor is it good policy, according to the authors, who assert that society at large is better off if we treat juvenile offenders fairly and in age-appropriate ways.

Developed by the John D. and Catherine T. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, *Youth on Trial* examines the dramatic changes in the juvenile justice system through the lens of developmental psychology, a science that challenges the current presumption that children somehow stop being children when they commit crimes. This book represents a unique collaboration among some of the leading juvenile justice experts in the country, including developmental, clinical, and social psychologists; sociologists, criminologists, and psychiatrists; scholars of law and public

policy; juvenile defense and prosecuting attorneys; and others. It was edited by Thomas Grisso, a clinical psychologist at the University of Massachusetts Medical School, and Robert Schwartz, executive director of the Juvenile Law Center in Philadelphia.

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By carefully reviewing and analyzing both law and science, *Youth on Trial* demonstrates that a fair and enlightened juvenile justice system must take into account the developmental and psychological facts of adolescence. In four ways, this book serves as a foundation for applying developmental psychological principles and knowledge to juvenile justice policy:

- ❖ Makes the case that the recent transformation of juvenile law has largely ignored the fact that adolescents — even those who commit serious criminal offenses — are different from adults.
- ❖ Affirms the urgent need for more research to guide and inform law, policy, and practice in juvenile law.
- ❖ Provides information that lawyers and clinicians can use to improve the quality of their practices for youthful clients.
- ❖ Identifies the need for interdisciplinary collaboration among lawyers, judges, clinicians, and social science researchers.

From Rehabilitation to Punishment

Y*outh on Trial* begins by tracing the evolution of the juvenile justice system, which was launched a century ago with the idea that adolescents were not yet mature and should be dealt with differently than adults when they transgress. Thus, the first juvenile courts were fashioned to work more like social-welfare agencies than institutions of justice, with rehabilitation and youth guidance as their primary objectives.

That view has changed, and, with it, the juvenile justice system. With the turn of the millennium, the emphasis of juvenile justice policy has shifted from rehabilitating delinquent youths to protecting society from increases in youth violence during the late 1980s and early 1990s that have since subsided. As a result, the juvenile justice system has been “reinvented” in the image of the adult criminal justice system. Today, adolescents accused of crimes are more likely to be tried as adults, and, when found guilty, punished as adults. In the words of one “get-tough” advocate, juvenile offenders “are criminals who happen to be young, not children who happen to be criminal.”

Youth on Trial calls attention to the absence of evidence supporting that assumption. For, as a century of developmental psychology has shown, adolescents are not like adults. Their abilities to reason and understand, their emotional maturity, and the way that they make decisions are all different. But, as the authors of *Youth on Trial* point out, recent changes designed to push more and more young people into adult courts and prisons fail to take these fundamental differences into account.

In exploring the differences between adolescents and adults, *Youth on Trial* focuses on two critical questions:

❖ Do youths have the same abilities as adults to participate in the trial process?

❖ Should youths be held to the same level of accountability as adults when they break the law?

While additional research in this area is sorely needed, the evidence we have to date indicates that the answer to both of these questions is “no.”

Youths’ Capacities as Defendants

Grisso provides a review on what is known of children’s and adolescents’ capacities as trial defendants. Two basic competencies are key here: defendants’ ability to assist their legal counsel, and defendants’ ability to participate in making decisions that are crucial to their defense, such as how to plead and whether to enter into a plea agreement.

Research suggests that youths are likely to be less knowledgeable than adults about the legal process and about matters related to their trials. In addition, their basic cognitive and reasoning abilities are less mature than those of adults. Finally, young people are less likely than adults to trust their

lawyers and to communicate with them effectively.

Clearly, these differences can put youths at a severe disadvantage as defendants. For example, studies have shown that many delinquent youths do not fully understand the concept and meaning of a “legal right.” Other research has found that, when questioned by police, many adolescents misconstrued the right to silence — thinking it meant that they should remain silent until they were told to talk. Children and adolescents frequently demonstrated a poor understanding of all four Miranda rights.

Assigning Culpability to Youths

These differences also raise the issue of whether youths have the same level of culpability as adults. If youths do not possess the same capacities as adults, should they be held responsible for their behavior in

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the same way as adults? Again, available evidence suggests not. Emotional and cognitive immaturity, susceptibility to peer pressure, and perceptions and attitudes concerning risk all affect the choices that adolescents make — with the result that many of those choices are less responsible than those that adults in similar situations would make.

Franklin E. Zimring, a professor of law at the University of California at Berkeley, asserts that inability to resist peer pressure plays a critical role in youth crime. He points out that very few youths commit crimes alone; more often than not, they are accompanied by other youths as witnesses and collaborators. “No fact of adolescent criminality is more important than what sociologists call its ‘group context,’ and this fact is important to a reality-based theory of adolescent moral and legal responsibility for criminal acts,” Professor Zimring writes.

This propensity for group crime reflects many youths’ lack of knowledge and experience in responding to situations that put them at risk for criminal behavior, he continues. Although social inexperience “surely does not excuse criminal behavior,” Professor Zimring acknowledges, it should be recognized as a mitigating factor when assessing responsibility for criminal behavior.

The authors of *Youth on Trial* do not claim to know all the answers to the questions raised by the complex issue of youth culpability. The evidence to date does not draw any “bright lines” on age, maturity, and responsibility. As Professor Zimring notes: “We have a great deal of social psychology homework ahead of us” before these questions can be answered satisfactorily.

However, the authors also point out, we do know that even in their late teens, youths are still psychologically and socially immature, and that changes in psychosocial maturity

affect a person’s ability to make consistently mature decisions. “... The growing body of evidence that maturity improves gradually and at different rates for different people, combined with the lack of a clear cutoff between maturity and immaturity, underscores the wisdom of the juvenile justice system’s long-standing emphasis on individually tailored treatment,” write Elizabeth Cauffman, a developmental psychologist at the University of Pittsburgh, and Laurence Steinberg, a developmental psychologist at Temple University. “Under such a system, it may be determined, for example, that an offending teenager who is not yet fully mature but who nevertheless ‘ought to know better’ may be less culpable than an adult but more so than an eight-year-old.”

Adolescent offenders have diminished competence to participate in proceedings against them, and their limited capacity also makes them less culpable than older offenders.

Maintaining a Separate Juvenile Justice System

As *Youth on Trial* underscores, the juvenile justice system in this country has undergone a dramatic transformation. But, the authors warn, an even more radical change may lie ahead. “The next step, which many are quite ready to take,” writes Elizabeth S. Scott, a law professor at the University of Virginia, “is to abolish the separate juvenile justice system.”

The authors of *Youth on Trial* argue that such a step would be both unfair and detrimental to adolescents accused of crimes.¹ Evidence from developmental psychology supports a conclusion that youths bring neither the same level of competence nor culpability to the trial process as do adults. How then can they receive due process and equal protection of

¹ In addition, research published in *The Changing Borders of Adolescence*, a companion volume sponsored by the John D. and Catherine T. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice, demonstrates the failure of “get-tough” laws that exchange fairness to youths for increased public safety. If anything, studies indicate that these laws are harmful to youths and reduce public safety.

their rights as defendants in an adult system? "Those who would abolish the juvenile court must replace it," writes Judge Gary L. Crippen. "There can be no constructive, reasoned case for the prosecution of juvenile offenses in the criminal courts until we have at hand the research and analysis that shows the better capacity of these courts to employ the rule of law to further justice for juveniles."

That is not to say that the current juvenile justice system cannot be improved. The authors of *Youth on Trial* maintain that a developmental psychological perspective offers promise for a more rational system — one that both protects society and is fair to youths who are accused of illegal acts.

Issues for Research

Although research cannot tell us what is just, it can provide data to inform wise and fair policy-making. In reviewing what is known and not known about adolescent development and criminal behavior, *Youth on Trial* identifies several critical questions for future research to address:

- ❖ At what age should we presume that adolescents are competent to stand trial?
- ❖ At what age are youths' capacities sufficiently developed for us to hold them to the same standards of culpability as adults?
- ❖ What is the appropriate response to an adolescent offender whose developmental immaturity has caused his criminal behavior?

Youth on Trial lays the groundwork for this work to be done. As Judge Crippen notes, this book "confirms common perceptions that adolescent offenders have diminished competence to participate in proceedings against them and that their limited capacity also makes them less culpable than older offenders. With this evidence, we can identify the elements of justice for juvenile offenders that should be found in the system that deals with their wrongdoing."

By advancing and refining our knowledge in this area and using it to shape juvenile justice policy, we promote both justice and public safety. As *Youth on Trial* points out, in a civilized society, we can and ought to have both.

Thomas Grisso is a clinical psychologist at the University of Massachusetts Medical School, where his research, teaching, and clinical practice focus on forensic mental health evaluations and services. He is the author of more than 100 journal articles in clinical, applied developmental, and forensic psychology, as well as several books, including *Evaluating Competencies* (1986), *Juveniles' Waiver of Rights* (1981), *Assessing Competence to Consent to Treatment* (1998, with Paul Appelbaum), *Forensic Evaluation of Juveniles* (1998), and *Youth on Trial: A Developmental Perspective on Juvenile Justice* (2000, edited with Robert Schwartz).

Robert Schwartz co-founded the Juvenile Law Center in 1975. He is executive director of the Juvenile Law Center, a Philadelphia-based public interest law firm that works to advance the rights and well-being of children in jeopardy. His litigation has sought to improve conditions of delinquency institutions and promote adequate services to youths in the juvenile justice system.

The John D. and Catherine T. MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice was established in 1997 to develop new knowledge regarding the assumptions on which the juvenile justice system functions, and determine how a fuller understanding of adolescent development might influence legal and social policies concerning juvenile crime and juvenile justice. Chaired by Laurence Steinberg of Temple University, the Network's agenda bridges research, policy, and practice in social science, law, and juvenile justice. For more information on the Network, visit its Web site at www.mac-adoldev-juvjustice.org.

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