

## Research on Adopting an Adolescent Development Framework in the Juvenile Justice System

Beyond the clear public safety argument against treating children as adults in the criminal justice system, there has been significant research calling for a developmentally appropriate and informed juvenile justice system. Over the past decade research on adolescent development and brain science has shown that adolescence is a distinct period of development that extends up to age 24 or even 25 years. Adolescence is marked by distinct characteristics that differentiate it from childhood from adulthood, including cognitive and behavioral traits such as poor self-control, sensitivity to peer influence, and a tendency to be especially responsive to immediate rewards while failing to take into account long-term consequences.<sup>1</sup>

These traits combined can lead adolescents to engage in high risk behavior with little consideration of the long term consequences of their actions. Typically, this behavior peaks during the late teenage years and dramatically reduces by the time a young person is age 21, with continual desistence through age 25.<sup>2</sup> Desistence studies support this data, pointing to a natural “aging out” of criminal behavior by the mid to late twenties.<sup>3</sup> Neuroscience has been able to document, through the advances of magnetic resonance imaging (MRI), the developing brain during adolescence, showing an imbalance between the part of the brain that controls behavior and impulsivity develops more rapidly than the part of the brain that supports self-control.<sup>4</sup> The brain science further supports that during emotionally charged situations with limited time to react, adolescents are most prone to poor decision making.

These findings have implications for the fairness of the justice system when it holds adolescents accountable for their offending. According to the National Academy of Science, there are three key aspects to a juvenile justice system that takes adolescent development into account<sup>5</sup>. They are:

1. Justice systems should avoid interventions that are excessive or disproportionate to adolescent culpability;
2. Justice systems should recognize that younger youth, due to their developmental immaturity, may be less capable than adults of participating in proceedings to adjudicate their offenses and determine sentences, and some may not meet the minimum standards of competence. It is critical that youth in the juvenile

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<sup>1</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J Bonnie, Robert L Johnson, Betty M. Chemers and Julie A Schuck, Eds. Committee on Law & Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press, p89.

<sup>2</sup> Ibid. page 92.

<sup>3</sup> Mulvey, E.P., Steinberg, L., Piquero, A.R., Besana, M., Fagan, J., Schubert, C.A., and Cauffman, E. 2010. Longitudinal offending trajectories among serious adolescent offenders. *Development & Psychopathology* 22:453–475

<sup>4</sup> NRC Report, page 97

<sup>5</sup> Ibid 122-124

- justice system demonstrate their understanding of the trial process and are able to assist their attorney in the case;
3. Justice system should make special efforts to adhere to fair procedures to avoid practices and outcomes that appear biased or discriminatory, particularly by race, as adolescent tendencies to question adult authority and are impressionable about whether they or their peers are treated fairly.

### Connecticut's Second Chance Act and JJPOC Supported by Research

These aspects of a developmentally-appropriate juvenile justice system dovetail nicely with the proposed reforms in Connecticut's Second Chance Act and the recommendations from the Juvenile Justice and Prison Oversight Committee (JJPOC) in several ways.

In respect to the Second Chance Proposal, raising the age of criminal responsibility to age 21 **while considering** the unique housing, transportation, interrogative, record sealing and expungement of records of 18-20 year olds as separate from those ages 14-17 allows the juvenile justice system to adjust its response to youth based on their development, not just the crime that was committed. By studying the appropriate minimum age for entry in the juvenile justice system, Connecticut is also protecting the interests of younger youth who may not understand the proceedings in a juvenile court setting. Furthermore, the case-by-case review that is proposed by expanding the youthful offender statute ensures a level of procedural fairness while balancing the needs of public safety in reform efforts. Additionally, Connecticut has spent significant resources understanding the racial and ethnic disparities that exist in its juvenile justice system, and used that data to try and ameliorate disproportionate impact of the juvenile justice system on youth and communities of color. This practice will need to be continued as older adolescents are returned to juvenile court jurisdiction.

Research on adolescent development that identifies environmental factors that can help mitigate or exacerbate the healthy development of youth during this developmental stage is available, though less robust and needs more study. The research that does exist, points to youth who are connected to a positive, authoritative adult, who have access to healthy and positive peer groups and access to activities that promote critical thinking and autonomy are more likely to come through adolescence successfully<sup>6</sup>. The design of the juvenile justice system, while not perfect, better supports these environmental factors than the adult criminal justice system.

First, the juvenile justice system provides, and in some instances, requires, that families are part of the youth's treatment plan. Many of the evidenced based practices in juvenile justice that show reduced recidivism for youth (e.g. multi-systemic therapy, family functional therapy, etc.) relies on family involvement as part of the offending youth's treatment plan. Second, while the most common public policy response to deviant behavior in the juvenile justice system is to co-house youth together in detention centers, training schools and boot camps, this

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<sup>6</sup> Steinberg, L, Chung, HL, and Little, M (2004) "Reentry of young offenders from the justice system: A Developmental Perspective." *Youth Violence and Juvenile Justice*, 2 (1), 21-38.

strategy can have adverse effects on participants under some conditions. By keeping the few youth who pose a public safety risk to the community in smaller settings that have high structure, implement evidence based, developmentally appropriate programming, and that organize youth by risk level, rather than by charge, has shown that youth are less likely to engage in negative peer-driven behavior.<sup>7</sup> Third, smaller therapeutic programs that are close to home also provide the opportunity to mirror life-experiences and allow youth to practice their autonomy and critical thinking skills.<sup>8</sup>

#### **States that Focus on Rehabilitation rather than Punishment**

The juvenile justice system was created in 1899 with the understanding that youth are different from adults and are amenable to rehabilitation. This “mission” of the juvenile justice system to focus on rehabilitation and not just punishment is evident in the juvenile codes of many states. While the majority of state juvenile codes balance youth accountability with rehabilitation, those who have had major reforms in the past decade generally refocus their purposes to reflect more of the principals listed above.

For example, Georgia who went through systemic reforms in recent years, emphasizes rehabilitation, not punishment, in the juvenile code, “The purpose of this chapter is to secure for each child who comes within the jurisdiction of the juvenile court such **care and guidance**, preferably in his or her own home, as will secure his or her **moral, emotional, mental, and physical welfare** as well as the safety of both the child and community. It is the intent of the General Assembly to promote a juvenile justice system that will **protect the community, impose accountability for violations of law, provide treatment and rehabilitation**, and equip juvenile offenders with the ability to live responsibly and productively.”<sup>9</sup>

The Illinois juvenile code also emphasizes rehabilitation, “The purpose of this Act is to secure for each minor subject hereto such care and guidance, preferably in his or her own home, as will serve the safety and moral, emotional, mental, and physical welfare of the minor and the best interests of the community; to preserve and strengthen the minor’s family ties whenever possible, **removing him or her from the custody of his or her parents only when his or her safety or welfare or the protection of**

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<sup>7</sup> National Research Council (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J Bonnie, Robert L Johnson, Betty M Chemers and Julie A Schuck, Eds. Committee on Law & Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press, p180.

<sup>8</sup> Fazal, S. (2014). *Safely Home: Reducing youth incarceration and achieving positive youth outcomes for high and complex need youth through effective community-based programs*, Washington, DC. Youth Advocate Programs Policy & Advocacy Center.

<sup>9</sup> O.C.G.A. § 15-11-1

the public cannot be adequately safeguarded without removal<sup>10</sup> ...[it is a] system that will protect the community, impose accountability for violations of law and equip juvenile offenders with competencies to live responsibly and productively<sup>11</sup>.”

There are several other states who also have adjusted their juvenile code to refocus on rehabilitation and age appropriate accountability in recent years. I am happy to provide this information to the Committee upon request.

### Unique Needs of Older Adolescents

Less is known about effective interventions with older adolescents who are getting ready to transition into adulthood. While there is an emerging body of research, this is still a nascent field. What is known, is that adolescents who are arrested and jailed or incarcerated as part of the adult criminal justice system, have poor outcomes. According to crime data, it is well established that adolescents between the ages of 18-24 commit a disproportional amount of crime; in 2013, this age group comprised 20% of the state and federal correctional population<sup>12</sup>. More concerning is their recidivism rates. The Department of Justice reports that recidivism rates for young adults released from prison are significantly higher than for other age groups. One study found that approximately 76 percent of people who were under the age of 25 when released from prison were rearrested within three years, and 84 percent were rearrested within five years.<sup>13</sup>

In 2015, The Council of State Governments released an issue brief highlighting this age group and making recommendations for both the juvenile and adult criminal justice systems who supervise these youth (ages 18-25). These recommendations include: tailoring supervision and services to address young adult needs; reducing barriers across system to support the unique needs of young adults; improving data collection and reporting on young adult recidivism and other outcomes; and building the knowledge base for effective programs for this population.<sup>14</sup>

We believe that Connecticut can be a leader in criminal justice reform by implementing the above referenced strategies to successfully integrate this older youth population into the juvenile justice system. Investing in research and documentation of practice will be imperative if this is to evolve in more widely-used practice. Ensuring that the juvenile justice system remains “right sized” is critical to these reforms.

I am happy to serve as a resource to this Committee to expound further on the information presented in this testimony. Please feel free to contact me at 202-558-3580, or by email at [mmistrett@cfyj.org](mailto:mmistrett@cfyj.org).

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<sup>10</sup> 705 ILCS 405/1-2

<sup>11</sup> 705 ILCS 405/5-101

<sup>12</sup> E. Ann Carson, and Daniela Golinelli, *Prisoners in 2012: Trends in Admissions and Releases, 1991–2012*, U.S. Department of Justice, Office of Justice Programs Bureau of Justice Statistics (2014).

<sup>13</sup> <https://esgjusticecenter.org/wp-content/uploads/2015/11/Transitional-Age-Brief.pdf>

<sup>14</sup> *Ibid.*, p 7