UNDERSTANDING ADOLESCENT DEVELOPMENT

From academic jargon to practical value
Developmental Questions

- At what age do individuals develop the capacities necessary to be held fully responsible for their actions?
- At what age do individuals develop the abilities and knowledge necessary to be a competent defendant?
- What do we know about the capacity of individuals to be rehabilitated at different ages?
A Unique Developmental Challenge

- As a defendant
  - constitutionally protected rights, decisions
- As an adolescent
  - Cognitive and psychosocial capacities developing
- As a legally dependent child
  - Dependent on care of, and subject to control/authority of parents
A Developmental Perspective on Juvenile Justice

- Begins from premise that juveniles differ from adults in fundamental ways that are linked to both maturation and experience
- Attempts to describe and document with empirical data the nature and extent of these differences
- Articulates the implications of these differences for legal policy and practice
Three Assumptions When Juveniles Are Tried as Adults

- At time of offense, individual possessed capacities necessary for adult levels of blameworthiness
- At time of trial, individual possesses capacities necessary to act as competent defendant in criminal proceeding
- At time of sentencing, individual possesses qualities consistent with adult sanctioning
Case: Yarborough v. Alvarado

Legal Issue:
Would a reasonable person have felt at liberty to end the interrogation and leave?

Legal Assumption or Presumption:
Age is not the determinative factor
Parents have no effect

Reasoned or prudent thinking
Understanding future implications
Social Influences

Psycholegal Constructs:
Susceptibility to authority
Future Orientation
Decision Making

Developmental Capacities:
Why Understanding Adolescent Development Should Influence Justice Policy and Practice

- Adolescents may be less competent than adults in ways that affect their ability to serve as defendants
- Adolescents may be less completely developed, making prediction of future behavior more difficult
- Adolescents may have certain deficiencies that diminish, or mitigate, their criminal responsibility
Why Neuroscience Was Thought to be Important in *Roper v. Simmons*

- Arguing that adolescents don’t control impulses not the same as arguing that they can’t control impulses
- Policy-makers use science like a drunk uses a lamp post: For support, not illumination
- Science makes common sense and anecdotal evidence more credible
- Laypersons believe “real” scientists more than psychologists
Cautions about a developmental perspective

Examiners should not be using the term “Immaturity” as though it’s a “diagnosis.”

- Immaturity is relative (compared to whom?)
- Immaturity is not all or none (in what way?)
- Age does not define degree of maturity
  - E.g., mental disorders and mental retardation may produce developmental delays in older adolescents
Beware the ecological fallacy

- Taking data obtained from comparing groups and applying it directly to an individual
  - On average, adolescents are less psychosocially mature than adults
  - Therefore, my teenage client is psychosocially immature
Concepts

- Legal
  - Competence
  - Amenability
  - Culpability
    - Mitigation
- Developmental
  - Cognitive Control
  - Psychosocial Maturity
  - Intelligence
  - Mental Illness/Mental Retardation
What Does Research Say About Adolescent Brain Development

- Helpful to think of two distinct sets of brain systems relevant to adolescent behavior.
- Systems involve different regions of the brain and mature along different timetables.
- **Socio-emotional system** mainly involves the limbic system and the ventromedial (lower inside) and orbitofrontal (lower front) areas of the frontal lobe.
- **Cognitive control system** mainly involves the dorsolateral (upper outside) area of the frontal lobe and the parietal lobe.
The Socio-Emotional System

- Responsible for processing emotions, social information, reward and punishment
- Undergoes major changes in "early adolescence" that are related to hormonal changes of puberty
- Changes result in
  - Increased sensation-seeking
  - Increased/easier emotional arousal
  - Increased attentiveness to social information
The Cognitive Control System

- Responsible for deliberative thinking – weighing costs and benefits, thinking ahead, regulating impulses
- Develops gradually from preadolescence on, well into the mid-20s
- Changes result in
  - More **impulse control**
  - Better **emotion regulation**
  - More **foresight**
  - More **planning** ahead
  - Better **reasoning**
Employing a developmental perspective in competence to stand trial

- Children and adolescents are still developing in ways that are relevant for questions of competence to stand trial
  - **Biologically**: Brain development
  - **Cognitively**: Reasoning and problem-solving
  - **Psychosocially**:
    - Autonomy (and dependence on others’ opinions: doing what peers or authorities want)
    - Risk perception (judgment about plea bargains)
    - Time perspective (impact of “now”)

- Philadelphia, Gainesville, Los Angeles, and North/East Virginia (Coordinating site, Univ. of Mass. Medical School)

- Youths and adults in detention centers and jails, and in communities in targeted neighborhoods

- Received some measures of abilities related to competence to stand trial
Questions for Research

Are youths any more likely to have deficits in CST abilities than adults, on average?

If so, at what ages are those differences most apparent?

With regard to what specific abilities and characteristics of youths?
MacCAT-CA Understanding Percent Seriously Impaired

Before and After “Teaching”
MacArthur Detained Sample: Percent Within IQ/Age Groups with Seriously Impaired MacCAT-CA on Understanding or Reasoning
MacArthur Judgment Evaluation (MacJEN)

- Judgment and reasoning in three legal situations:
  - police questioning
  - attorney consultation
  - plea agreement decision making

- Scoring
  - Content of responses
  - Aspects of decision-making
    - Risk orientation
    - Future orientation
“What Should Joe Do?”
Response to Police Questioning
Reasoning they gave:

- **Youths** tended to focus on how statement might allow Joe to go home now, and on being compliant to get leniency

- **Adults** tended more often to consider how one’s statement could increase or decrease penalties later in adjudicative process
“What Should Joe Do?”
Response to Plea Bargain
(Plea Bargain cont’d)

Reasoning they gave:

- **Youths** tended to focus on length of time (e.g., “2 years is less than 6 years”)

- **Adults** tended to wrestle with odds of winning or losing (e.g., “If this is Joe’s first offense…” or “Depends on how he feels about the lawyer he got…”).
Examples: How immaturity sometimes influences youths’ decisional capacities

- Effects of immaturity on perceptions of authority
  - E.g., role of attorney (deciding what to tell)
  - E.g., acquiescent or oppositional “sets”

- Effects of immaturity on weighing gains and losses
  - E.g., involvement of peers
  - E.g., judgment about short-term vs. long-term effects of decision
Conclusions: Research on “Developmental Incompetence” suggests...

- Little or no difference (on average) in CST abilities between 16-17 year olds and adults

- Greater risk of incompetence due to immaturity, when...
  - 14 or younger
  - 15-17 with low intelligence (compared to adults with low intelligence)
  - Youths have mental disorders that create developmental delays

- The important differences are more in “appreciation” (rational understanding) and “decision making” than in “factual understanding”
What we learned

- Adolescents are more likely than young adults to make choices that reflect a propensity to comply with authority figures, such as confessing to the police rather than remaining silent or accepting a prosecutor’s offer of a plea agreement.

- Younger adolescents are less likely, or perhaps less able, than others to recognize the risks inherent in the various choices they face or to consider the long-term, and not merely the immediate, consequences of their legal decisions.
Cautions

As a matter of law, the mere fact of immaturity does not automatically mean “incompetent.”

Depends on...

- Actual abilities:
  - Factual understanding
  - Rational understanding
  - Decision making

- Cause: Whether deficits actually are related to immaturity

- Context: Whether the inabilities can be easily remedied
Raising the question…

Research suggests that the risks of incompetence are increased when the youth shows any one (or more) of the following…

1. During any pretrial contacts, youth’s behavior has suggested serious problems in memory, attention or interpretation of reality

2. Prior diagnosis of MI or MR serious enough to have required treatment in the past

3. Prior record of IQ score below 75, or school record indicating learning disability

4. Younger than age 14
The relation of adolescence to incompetence

**Distorted:** “Juveniles are less competent than adults.”

**Supported:** “Youths 15 and below are at greater risk of incompetence.”

**Distorted:** “Young adolescents are incompetent.”

**Supported:** “Youths below 14 are at especially greater risk of incompetence.”
Assertions (cont’d)…

- The relation of adolescents’ intellectual deficits and disorders to incompetence
  - Not Supported: “Youths with low IQs or mental disorders are incompetent”
  - Supported: “Youths with low IQs or mental disorders (even older youths) are at greater risk of incompetence.”
  - Supported: “More than half of youths under 14 with low IQs or disorders lack abilities usually associated with competence.”
Assertions (cont’d)…

- The relation of youths’ legal experience to competence

  - Not Supported: “Youths with more arrests and court experience are more likely to be competent.”

  - Supported: “There is no relation between youths’ amount of legal experience and their abilities relevant for competence.”
Developmental expertise in forensic evaluations

- Need specialized knowledge of development
- How to interview children and adolescents
- Have a working knowledge of when cognitive and psychosocial capacities develop
- Place responses in context (e.g., is this average?)
- Know which psychological tests are appropriate
A comment about clinicians’ resources

- Great variability across U.S. in quality of evaluations because of differences in resources

Number of hours spent on a JCST evaluation:

Percent of urban juvenile courts in U.S.
Mitigation as a Legal Construct

- Penal proportionality
- Excuse involves complete exculpation
  - Extreme duress
  - Self-defense
  - Severe mental illness (NGRI)
- Mitigation refers to reduced, but not complete, blameworthiness
MacArthur Juvenile Culpability Study

- Purpose: To examine age differences in capacities relevant to mitigation
- Design: Five data collection sites nationally
  - Philadelphia, D.C., Denver, Los Angeles, Orange County California
  - Over 900 individuals from ages 10 to 30
  - Computerized performance tests of planning, preference for immediate gratification, impulsivity, risk-taking, sensation-seeking, learning from experience
  - Standardized questionnaires measuring similar characteristics
## Sample Characteristics

- **N=935**

### Age
- 10-11: 12.5%
- 12-13: 14.7%
- 14-15: 13.8%
- 16-17: 15.2%
- 18-21: 15.9%
- 22-25: 14.6%
- 26-30: 13.2%

### Household Education
- < High School: 11.9%
- High School Grad: 22.8%
- Some College: 34.1%
- College Graduate: 21.4%
- Post-College: 9.7%

### Sex
- Male: 49.2%
- Female: 50.8%

### Race/Ethnicity
- African-American: 29.2%
- Asian-American: 15.1%
- Hispanic: 21.2%
- White: 24.0%
- Other: 9.9%

### Age Groups comparable with respect to:
- Race/ethnicity
- Sex
- Household Education
- IQ
Main Areas Assessed

- Outcomes Influenced by the Socio-Emotional System
  - Risk Taking
  - Sensation Seeking
  - Resistance to Peer Influence

- Outcomes Influenced by the Cognitive Control System
  - Impulse Control
  - Thinking Ahead

- Aspects of Intellectual Ability
  - Intelligence
  - Verbal Fluency
  - Basic Information-Processing Abilities (e.g., memory)
Overall Intellectual Ability Does Not Change After 16
Developmental factors

- Peer influence
- Compliance with authority
- Foresight/Future Orientation
- Perception of and Preference for Risk
- Impulsivity
IF ADOLESCENTS ARE AS SMART AS ADULTS, WHY DO THEY DO SUCH STUPID THINGS?
What Does It All Mean?

- Adolescence is a time characterized by a socio-emotional system that is easily aroused and highly sensitive to social feedback.
- Adolescence is a time characterized by a still-immature cognitive control system.
- As a result, adolescents are:
  - Less able to control impulses
  - Less able to resist pressure from peers
  - Less likely to think ahead
  - More driven by the thrill of rewards
- We have a good understanding of the neurobiological underpinnings of these qualities.
What Does It Not Mean

- That adolescents do not know right from wrong
- That adolescents are the same as young children
- That adolescents should not be held responsible for their actions
- That all juvenile offenders are the same
Is Research on Brain Development Important for Juvenile Justice Policy?

- Yes
  - Helps understand biological bases of differences between adolescents and adults
  - Helps persuade laypersons that these differences are “real”

- No
  - Under the law, behavior, not anatomy, matters
  - The idea that biological evidence is more “real” than psychological evidence is naïve
  - We know a lot less than the public thinks we do
What Brain Research Can Not Do

- It *can not* tell us where to draw an age boundary between adolescence and adulthood
- It *can not* distinguish individuals who are psychologically immature from those who are mature
- It *can not* distinguish between individuals who are “really” guilty and those whose behavior should be excused
- It *can not* identify individuals who have “bad” brains or who are at greater risk to re-offend
- It *can not* substitute for an assessment of an individual's actual behavior
- It *can not* tell us when individuals are still able to change, or are still amenable to treatment
- It *does not* change anything we already knew about
How Should What We Know Inform Juvenile Justice Policy and Practice?

- Reaffirms That Juveniles are Different from Adults
  - Prior to 16, different intellectually and emotionally
  - After 16, still different emotionally

- Ensure that Individuals Under 16 are Competent to Stand Trial

- Immaturity Should be Considered a Mitigating Factor When We Judge Criminal Responsibility, Even Among Older Adolescents

- Immature Juveniles Will Almost Always Grow into Mature, Law-Abiding Adults

- Sanctions Imposed on Juvenile Offenders Should Hold Them Responsible, but Should Not Harm Them in Ways that Imperil Their Development
How developmental knowledge might affect practice

- Place your interactions with your client in context
  - Attorney client interaction
- Placing your client in context for others
  - Judge
  - Probation Officer
  - Prosecutor
A Unique Developmental Challenge

- As a defendant
  - constitutionally protected rights, decisions
- As an adolescent
  - Cognitive and psychosocial capacities developing
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Parent-Youth Interview Project

- **Age**
  - 77 11-13 year olds
  - 47 14-15 year olds
  - 48 16-17 year olds
  - Parents range 27-71

- **Gender**
  - 45% female youth
  - 85% female parents

- **Race/ethnicity**
  - 62.4% African American
  - 22.4% White
  - 8% Latino/a
  - 7.1% Other

- **IQ**
  - Parents: 99.5 (17.8)
  - Youth: 94.8 (14.8)

- **Justice experience**
  - 18.1% parents
  - 28.2% youth
Difference between a lawyer and an attorney?

- Judge appoints attorney, you hire lawyer
- Attorney-prosecutor, lawyer-defense
- Nothing, same

Percent:
- 11-13
- 14-15
- 16-17
- Parent
What is the most important role of the defense attorney?

- Do what parent wants
- Do what child wants
- Do what judge wants

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Who should lawyer listen to when parent/youth disagree?

- Parent
- Child
- Judge

Percentages for different age groups (11-13, 14-15, 16-17) and parent opinion.
Adolescents should decide if parents and adolescents disagree
Knowing what to ask for and look for in reports and evaluations
- Forensic Eval
- Social History/ Presentence Report
- Transfer hearing/proceedings
- Understanding what is “out of character”, what is normative, what is delay of development
- Emphasizing/explaining malleability