





Reforming Juvenile Justice: A Developmental Approach

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Summary

Recent research on adolescent development has underscored important behavioral differences between adults and adolescents with direct bearing on the design and operation of the justice system, raising doubts about the core assumptions driving the criminalization of juvenile justice policy in the last decades of the 20th century. It was in this context that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) asked the National Research Council to convene a committee to conduct a study of juvenile justice reform. The committee's charge was to review recent advances in behavioral and neuroscience research and draw out the implications of this knowledge for juvenile justice reform, to assess the new generation of reform activities occurring in the United States, and to assess the performance of OJJDP in carrying out its statutory mission as well as its potential role in supporting scientifically based reform efforts.

ADOLESCENT DEVELOPMENT

Adolescence is a distinct, yet transient, period of development between childhood and adulthood characterized by increased experimentation and risk taking, a tendency to discount long-term consequences, and heightened sensitivity to peers and other social influences. A key function of adolescence is developing an integrated sense of self, including individuation, separation from parents, and personal identity. Experimentation and novelty-seeking behavior, such as alcohol and drug use, unsafe sex, and reckless driving, are thought to serve a number of adaptive functions despite their risks. Research indicates that for most youth, the period of

risky experimentation does not extend beyond adolescence, ceasing as identity becomes settled with maturity. Much adolescent involvement in illegal activity is an extension of the kind of risk taking that is part of the developmental process of identity formation, and most adolescents mature out of these tendencies.

Adolescents differ from adults and children in three important ways that lead to differences in behavior. First, adolescents have less capacity for self-regulation in emotionally charged contexts, relative to adults. Second, adolescents have a heightened sensitivity to proximal external influences, such as peer pressure and immediate incentives, relative to children and adults. Third, adolescents show less ability than adults to make judgments and decisions that require future orientation. The combination of these three cognitive patterns accounts for the tendency of adolescents to prefer and engage in risky behaviors that have a high probability of immediate reward but can have harmful consequences.

Evidence of significant changes in brain structure and function during adolescence strongly suggests that these cognitive tendencies characteristic of adolescents are associated with biological immaturity of the brain and with an imbalance among developing brain systems. This imbalance model implies dual systems: one involved in cognitive and behavioral control and one involved in socioemotional processes. Accordingly, adolescents lack mature capacity for self-regulation because the brain system that influences pleasure-seeking and emotional reactivity develops more rapidly than the brain system that supports self-control.

Adolescent risk taking and delinquent behavior result from the interaction between the normal developmental attributes of adolescents described above and the environmental influences to which they are exposed before and during this stage of development. Put simply, the brain plays an enormous role in determining behavior, but individual development is affected strongly by the interplay between the brain and an adolescent's environment. In particular, the likelihood and seriousness of offending, as well as the effects of interventions, are strongly affected by the adolescent's interactions with parents, peers, schools, communities, and other elements of his or her social environment.

THE JUVENILE JUSTICE SYSTEM

The vast majority of youth who are arrested or referred to juvenile court have not committed serious offenses, and half of them appear in the system only once. Regardless of how serious delinquency is defined, the evidence indicates that youth who commit serious offenses constitute a very small proportion of the overall delinquent population and that their

SUMMARY

behavior is driven by the same risk factors and developmental processes that influence the behavior of other juvenile offenders.

During the past two decades, many youth have come to the attention of the juvenile justice system from schools, child welfare agencies, and the mental health system. Zero-tolerance policies are increasing the number of suspensions and expulsions from schools, leading to increased risk of drop-out and juvenile justice involvement. Crossover youth, who move between the child welfare and juvenile justice systems, and youth with mental health disorders are more likely to be treated harshly in the juvenile justice system. Furthermore, black and ethnic minority youth make up a disproportionate number of adolescents disciplined by the schools, managed by the child welfare system, and diagnosed with the kinds of mental disorders (e.g., emotional disturbances) that are less likely to make them eligible for smaller, more specialized treatment programs.

The scientific literature shows that three conditions are critically important to healthy psychological development in adolescence: (1) the presence of a parent or parent figure who is involved with the adolescent and concerned about his or her successful development, (2) inclusion in a peer group that values and models prosocial behavior and academic success, and (3) activities that contribute to autonomous decision making and critical thinking. Schools, extracurricular activities, and work settings can provide opportunities for adolescents to learn to think for themselves, develop self-reliance and self-efficacy, and improve reasoning skills.

Yet the juvenile justice system's heavy reliance on containment, confinement, and control removes youth from their families, peer groups, and neighborhoods—the social context of their future lives—and deprives them of the opportunity to learn to deal with life's challenges. For many youth, the lack of a positive social context during this important developmental period is further compounded by collateral consequences of justice system involvement, such as the public release of juvenile records that follow them throughout their lives and limit future educational and employment opportunities.

Economically disadvantaged and minority youth are particularly affected by a juvenile justice system in which they are disproportionately represented. There is evidence that “race matters” above and beyond the characteristics of an offense. With few exceptions, data consistently show that youth of color have been overrepresented at every stage of the juvenile justice system. The evidence for race effects is greatest at the earlier stages of the process, particularly at the stages of arrest, referral to court, and placement in secure detention. And in nearly all juvenile justice systems, youth of color also remain in the system longer than white youth.

During the past 15 years, substantial progress has been made by various states and local jurisdictions in embracing and implementing a more

developmentally appropriate way of handling youth who come to the attention of the juvenile justice system. However, when viewed nationally, the pace of reform has been sluggish. Many changes that have occurred have not been evaluated in a sufficiently rigorous and systematic manner to enable other reform-minded jurisdictions to undertake similar initiatives. The lack of critical data on youth characteristics, including race/ethnicity, processing at various stages of the system, and outcomes, significantly impedes tracking and evaluation of reform activities. At the local level, a lack of transparency regarding the decisions of police, prosecutors, and judges makes it difficult to understand and improve system functioning. Advances in information technology allow organizations to share data, but the complex laws governing privacy and confidentiality, as well as entrenched organizational practices, create barriers to collaboration and efficiency.

TRANSFORMING JUVENILE JUSTICE

The overarching goal of the juvenile justice system is to support prosocial development of youth who become involved in the system and thereby ensure the safety of communities. The specific aims of juvenile courts and affiliated agencies are to hold youth accountable for wrongdoing, prevent further offending, and treat them fairly. It is often thought that these specific aims are in tension with one another. However, when these aims and the actions taken to achieve them are viewed from a developmental point of view, the evidence shows that they are compatible with one another. This evidence is summarized below, and guiding principles for implementing a developmentally informed approach to juvenile justice reform are set forth in Box S-1.

Accountability

Holding adolescents accountable for their offending vindicates the just expectation of society that responsible offenders will be answerable for wrongdoing, particularly for conduct that causes harm to identifiable victims, and that corrective action will be taken. It does not follow, however, that the mechanisms of accountability for juveniles should mimic criminal punishments. Condemnation, control, and lengthy confinement (“serving time”), the identifying attributes of criminal punishment, are not necessary features of accountability for juveniles. The research demonstrates that, if designed and implemented in a developmentally informed way, procedures specifically designed for holding adolescents accountable for their offending can promote positive legal socialization, reinforce a prosocial identity, and

facilitate compliance with the law. However, unduly harsh interventions and negative interactions between youth and justice system officials can undermine respect for the law and legal authority and reinforce a deviant identity and social disaffection. A developmentally informed juvenile justice system can promote accountability by providing a setting and an opportunity for juveniles to accept responsibility for their actions, make amends to individual victims and the community for any harm caused, and to participate in community service or other kinds of programs. Restorative justice programs involving victims and adjudication programs that involve restitution and peers are examples of developmentally appropriate instruments of accountability.

Preventing Reoffending

Assessing the risk of rearrest and the intervention needs of each youth is the necessary first step in achieving the overall goal of a more rational and developmentally appropriate array of preventive interventions in the juvenile justice system. Researchers have confirmed the validity of methods to do this. The central challenge is to incorporate these risk/needs assessments effectively into standard court and probation practice. Research is needed on whether and how information generated in screens or assessments is translated in the receipt of appropriate services and whether these services tend to reduce criminal behavior and increase successful adjustment in the community. Also, continued research is needed to eliminate racial/ethnic and gender bias in the design and administration of these tools.

The introduction of risk/needs assessment is a significant shift in how juvenile justice agencies conceptualize the potential impact of court involvement. This approach implies a dynamic view of juvenile justice involvement, reflects a shift from predicting risk to managing risk, and puts less stock in determining categories of offenders than on the malleable factors that might contribute to criminal involvement.

Using risk/needs assessments at critical points can reduce idiosyncratic decision making and maximize the impact of resources by targeting them to the risk level of each offender. Whatever the specific mechanism, the appropriate focusing of more intense (and costly) interventions on higher risk adolescents produces a greater reduction in subsequent offending and limits the negative effects of unwarranted intensive intervention on less serious offenders.

No single risk marker is very strongly associated with serious delinquency. Risk for delinquency is generated across multiple developmental stages from infancy to adolescence. Serious delinquents do commit more offenses and in many cases more violent offenses, but that is because they experience a greater accumulation of risk markers, in comparison with

others. Consequently, interventions targeted at just one “key” factor during a limited period of development are likely to have little sustained impact on reoffending. This does not mean that secondary prevention efforts to reduce future offending are for naught. Multiple effective strategies for working with troubled and troubling youth have been shown to have positive effects.

Whether conducted in institutions or in communities, programs are more likely to have a positive impact when they focus on high-risk offenders, connect sound risk/needs assessment with the treatment approach taken, use a clearly specific program rooted in a theory of how adolescents change and tailored to the particular offender, demonstrate program integrity, involve the adolescent’s family, and take into account community context. Expanding the role of families in juvenile justice appears to be a critical challenge, and additional research regarding the processes of family involvement in juvenile justice and methods for successfully involving parents in these processes are urgently needed.

If implemented well, evidence-based programs in both institutions and residential and nonresidential community placement reduce reoffending and produce remarkably large economic returns relative to their costs. But effective evidence-based practice cannot be achieved if service providers alter program characteristics in a misguided effort to make them more appropriate to the clients, culture, or resources of their communities. To offset this tendency, service providers should increase efforts to ensure model fidelity throughout the life of the intervention. A refinement of this approach is to help programs move toward consistent use of practices that have been shown to improve performance across a range of programs.

In general, multifaceted community-based interventions show greater reductions in rearrests than institutional programs. Once they are in institutional care, adequate time (arguably up to about six months) is needed to provide sufficiently intense services for adolescents to benefit from this experience. There is no convincing evidence, however, that confinement of juvenile offenders beyond the minimum amount needed for this purpose, either in adult prisons or juvenile correctional institutions, appreciably reduces the likelihood of subsequent offending.

Fairness

Treating youth fairly and ensuring that they perceive that they have been treated fairly and with dignity contribute to positive outcomes in the normal processes of social learning, moral development, and legal socialization during adolescence. Based on perceptions of procedural fairness as well as constitutional requirements, juvenile courts should ensure that youth are

represented by properly trained counsel, that adjudications do not occur unless youth are able to understand the proceedings and assist counsel, and that youth have an opportunity to participate. However, lawyers in juvenile courts are often under-resourced and overburdened by high caseloads. To improve the quality of representation and enhance the youth's perception of justice, states should clarify the duties and obligations of juvenile defense counsel at every stage of the case and should specify caseload limits in accordance with recommended standards. Courts and juvenile justice agencies should also collaborate to formulate and implement performance measures for fairness (based on legal criteria and on perceptions of participants) during all phases of the juvenile justice process.

Reducing racial/ethnic disparities in the administration of juvenile justice is critical to achieving a fair juvenile justice system. The literature reflects continuing uncertainty about the relative contribution of differential offending, differential enforcement and processing, and structural inequalities to these disparities. However, the current body of research suggests that poverty, social disadvantage, neighborhood disorganization, constricted opportunities, and other structural inequalities—which are strongly correlated with race/ethnicity—contribute to both differential offending and differential selection, especially at the front end of juvenile justice decision making. Because bias (whether conscious or unconscious) also plays some role, albeit of unknown magnitude, juvenile justice officials should embrace activities designed to increase awareness of unconscious biases and to counteract them, as well as to detect and respond to overt instances of discrimination. Although the juvenile justice system itself cannot alter the underlying structural causes of racial/ethnic disparities in juvenile justice, many conventional practices in enforcement and administration magnify these underlying disparities, and these contributors *are* within the reach of justice system policy makers.

Several intervention efforts and policy initiatives have been undertaken to reduce disparities, but there is little scientific evidence bearing on their effectiveness so far. Activities that have shown some promise for reducing disparities include using periodic public reports as a tool for heightening awareness and promoting accountability of state and local governments, modifying policies and practices that tend to disadvantage minority youth, concentrating efforts to reduce or structure discretionary decision making at the arrest and detention stages, eliminating punitive and discretionary school discipline practices likely to result in a referral to the juvenile justice system, and initiating a comprehensive research and data program on the causes and consequences of racial/ethnic disparities.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

OJJDP is the federal agency that has responsibility for providing state, local, and tribal jurisdictions with the scientific knowledge and programmatic and technical support they need to improve their juvenile justice systems.

OJJDP's 1974 authorizing legislation reflects several basic understandings that have set the nation on the path toward developmentally appropriate juvenile justice policies and practices. The guiding premises are that youth who offend should be treated differently from adults who offend, that juvenile offending is preventable, and that youthful offenders should receive individualized treatment and services. The legislation's core requirements reflect key normative principles underlying developmentally appropriate policies and practices: the prohibition against detaining offenders whose offense (e.g., truancy, running away) would not be a crime if committed by an adult reflects the principle that youth who are not a risk to society or themselves should not be detained or removed from existing support systems; the requirements of "sight and sound separation" from adults and removal from adult jails reflect the idea that youth are vulnerable and should not be subject to punitive and potentially harmful conditions of incarceration; and the obligation to address racial disparities reflects the principle that youth should be treated fairly and equitably as a matter of justice.

Congress envisioned a strong partnership between the federal government, state juvenile justice agencies, and tribal governments as well as a strong leadership role for OJJDP. However, OJJDP's capacity to carry out this role has dramatically declined over the past decade because of inadequate funding and a severe restriction of its discretion in determining how its resources should be used. Its core requirements have been weakened by exceptions and a lack of clarifying federal regulations. Although reduced funding has continued, OJJDP's authorizing legislation expired in 2007 and 2008, and there has been no presidentially appointed administrator since 2009.

OJJDP's weakened state comes at a time when the juvenile justice field is moving toward a more developmentally appropriate system, but the field needs technical assistance, training, and other kinds of consultative services to help achieve that goal. OJJDP has the necessary congressional mandate and the support of the juvenile justice field. However, the agency will not be able to provide robust guidance and assistance to the juvenile justice field unless Congress removes the budgetary and political roadblocks that prevent it from doing so.

RECOMMENDATIONS

Knowledge about the developmental stage of adolescence has important implications for juvenile justice policy, providing the framework for a system that is fair to young offenders and effective in reducing youth crime. There are admittedly many gaps in this understanding. But the research is sufficiently robust to provide a solid foundation for juvenile justice policy and for general guidance about the design and operation of interventions and programs as knowledge continues to develop.

The recommendations that follow set forth the core components of a sustained process for reforming the nation's juvenile justice systems in a developmentally informed manner, for incorporating new evidence into policy and practice on a continuing basis, and for solidifying and sustaining these changes.

Political Commitment to Reform by State, Local, and Tribal Governments

Given the current fiscal realities regarding the role of OJJDP and the role of the federal government in general, the immediate momentum for change will need to come from state, local, and tribal governments. Numerous state and local jurisdictions appear to be making progress toward more developmentally appropriate juvenile justice policies and practices. But many jurisdictions lack political support for reforms or the readiness to take the first necessary steps. Even among reform-minded jurisdictions, many have not yet undertaken system-wide improvements; they appear to be progressing on some fronts and backsliding on others. Moreover, some specific reforms, such as reducing racial/ethnic disparities and improving access to counsel, are being addressed at a very slow pace and by relatively few jurisdictions.

Every state should undertake a comprehensive, sustained and transparent process for achieving juvenile justice reform guided by the developmentally informed principles enunciated in this report (see Box S-1).

A key element in building and sustaining organizational and constituent support for reform has been the willingness of policy makers at all levels to be engaged in the process and to be transparent regarding the effectiveness and costs of their current programs and policies. Two strategies have been helpful: (1) the use of bipartisan, multistakeholder task forces or commissions to promote consensus and long-term follow-through and (2) collaboration with foundations, OJJDP, and other youth-serving organizations to leverage resources.

Many reform activities have not been adequately documented or evaluated, particularly those aimed at reducing racial/ethnic disparities. System-

BOX S-1
Guiding Principles for Juvenile Justice Reform

The overarching goal of the juvenile justice system is to support prosocial development of youth who become involved in the system and thereby ensure the safety of communities. Juvenile courts and affiliated agencies specifically aim to hold youth accountable for wrongdoing, prevent further offending, and treat youth fairly. Actions taken to achieve these aims should be designed and carried out in a developmentally informed manner.

Accountability

- Use the justice system to communicate the message that society expects youth to take responsibility for their actions and the foreseeable consequences of their actions.
- Encourage youth to accept responsibility for admitted or proven wrongdoing, consistent with protecting their legal rights.
- Facilitate constructive involvement of family members in the proceedings to assist youth to accept responsibility and carry out the obligations set by the court.
- Use restitution and community service as instruments of accountability to victims and the community.
- Use confinement sparingly and only when needed to respond to and prevent serious reoffending.
- Avoid collateral consequences of adjudication, such as public release of juvenile records, that reduce opportunities for a successful transition to a prosocial adult life.

Preventing Reoffending

- Use structured risk/needs assessment instruments to identify low-risk youth who can be handled less formally in community-based

wide reform efforts as well as individual programs should have clearly stated goals and objectives that can be measured scientifically, either on an individual site basis or across many sites. A plan for collecting and analyzing the necessary data should also be developed and the assessment made public.

Recommendation 1: State and tribal governments should establish a bipartisan, multistakeholder task force or commission, under the aus-

settings, to match youth with specialized treatment, and to target more intensive and expensive interventions on high-risk youth.

- Use clearly specified interventions rooted in knowledge about adolescent development and tailored to the particular adolescent's needs and social environment.
- Engage the adolescent's family as much as possible and draw on neighborhood resources to foster positive activities, prosocial development, and law-abiding behavior.
- Eliminate interventions that rigorous evaluation research has shown to be ineffective or harmful.
- Keep accurate data on the type and intensity of interventions provided and the results achieved.

Fairness

- Ensure that youth are represented throughout the process by properly trained counsel unless the right is voluntarily and intelligently waived by the youth.
- Ensure that youth are adjudicated only if they are competent to understand the proceedings and assist counsel.
- Facilitate participation by youth in all proceedings.
- Intensify efforts to reduce racial/ethnic disparities, as well as other patterns of unequal treatment, in the administration of juvenile justice.
- Ensure that youth perceive that they have been treated fairly and with dignity.
- Establish and implement evidence-based measures for fairness based on both legal criteria and perceptions of youth, families, and other participants.

pices of the governor, the legislature, or the highest state court, charged with designing and overseeing a long-term process of juvenile justice reform. This body should

- a. Undertake a formal, authoritative, and transparent review of its juvenile justice system aiming to align laws, policies, and practices at every stage of the process with evolving knowledge regarding

adolescent development and the effects of specific juvenile justice interventions and programs.

- b. Develop a strategy for modifying current laws, policies, and practices, for implementing and evaluating necessary changes on an ongoing basis, and for reviewing any proposed juvenile justice legislation.
- c. Intensify efforts to identify and then modify policies and practices that tend to disadvantage racial/ethnic minorities at various stages of the juvenile justice process and publish periodic reports on the nature and extent of disparities and the effects of specific interventions undertaken to reduce them.

Strong Supporting Role for OJJDP

The policies and principles reflected in OJJDP's legislation are now buttressed by a strong body of scientific knowledge regarding adolescent development as well as an impressive array of research on juvenile offending. Strengthening the legislation will send a strong message regarding the need for state, local, and tribal jurisdictions to assume greater responsibility for complying with the requirements and achieving a developmentally appropriate juvenile justice system. It will also enable OJJDP to redirect its resources in a way that best supports the efforts of state, local, and tribal jurisdictions.

Recommendation 2: The role of OJJDP in preventing delinquency and supporting juvenile justice improvement should be strengthened.

- a. OJJDP's capacity to carry out its core mission should be restored through reauthorization, appropriations, and funding flexibility. Assisting state, local, and tribal jurisdictions to align their juvenile justice systems with evolving knowledge about adolescent development and implementing evidence-based and developmentally informed policies, programs, and practices should be among the agency's top priorities. Any additional responsibilities and authority conferred on the agency should be amply funded so as not to erode the funds needed to carry out the core mission.
- b. OJJDP's legislative mandate to provide core protections should be strengthened through reauthorizing legislation that defines status offenses to include offenses such as possession of alcohol or tobacco that apply only to youth under 21; precludes without exception the detention of youth who commit offenses that would not be punishable by confinement if committed by an adult; modifies the definition of an adult inmate to give states flexibility to

keep youth in juvenile facilities until they reach the age of extended juvenile court jurisdiction; and expands the protections to all youth under age 18 in pretrial detention, whether charged in juvenile or in adult courts.

- c. OJJDP should prioritize its research, training, and technical assistance resources to promote the adoption of developmentally appropriate policies and practices by jurisdictions throughout the country, particularly helping those that have not yet achieved a state of readiness to undertake reform.
- d. OJJDP should support state and local efforts to reduce racial/ethnic disparities by using its technical and financial resources to expand the number of local jurisdictions currently participating in activities aimed at reducing disproportionate minority contact (DMC); support efforts to design and implement programs and policies aiming to reduce disparities; support scientifically valid methods for understanding the causes of racial/ethnic disparities and for evaluating the impact of DMC interventions; and enhance the transparency of its oversight activities by identifying impediments being encountered and assisting localities to overcome them.

Federal Support for Research

Traditionally, OJJDP has been the primary funder of research on juvenile crime and juvenile justice, but its capacity is limited. It is essential that OJJDP and other funding agencies continue to support research that has far-reaching implications beyond that of juvenile justice. But it is critical that the research agenda, outlined in Chapter 11 of our report, adhere to the highest standards of scientific rigor. The evidence-based movement in treatment and prevention did not gain traction until the programs were evaluated with experimental designs and benefit-cost analyses were undertaken.

Recommendation 3: Federal research agencies, including the National Science Foundation, the Centers for Disease Control and Prevention, and the National Institutes of Health, as well as OJJDP, should support research that continues to advance the science of adolescent development and expands our understanding of the ways in which developmental processes influence juvenile delinquency and juvenile justice responses.

Data Improvement

State, local, and tribal jurisdictions are dependent on a variety of data sources from the federal government and from various agencies within

their own jurisdictions, including law enforcement and juvenile justice agencies and courts, as well as education, social services, and health and mental health agencies. They often lack the clout to influence the providers of relevant juvenile justice and other systems' data. This challenge must be pursued at the federal level, and OJJDP is the logical agency to lead the effort and provide the training and technical assistance on automated data systems and support for data analysis activities to assess reform initiatives.

Recommendation 4: Under OJJDP's leadership, the Bureau of Justice Statistics and other governmental and private statistical organizations should develop a data improvement program on juvenile crime and juvenile justice system processing that provides greater insight into state, local, and tribal variations. OJJDP should also be involved in any effort undertaken by other U.S. Department of Justice agencies with the Federal Bureau of Investigation to improve the federal collection of juvenile arrest and incident data. At the state, local, and tribal levels, data should be collected on the gender, age, race/ethnicity of offenders as well as the offense charged or committed; arrest, detention, and disposition practices; and recidivism. OJJDP should provide training and technical assistance on data collection, automated data systems, and methods of protecting the confidentiality of juvenile records.