

Less Guilty by Reason of Adolescence

Adolescent Development and Juvenile Justice

In 2005, in a landmark decision, the U.S. Supreme Court outlawed the death penalty for offenders who were younger than 18 when they committed their crimes. The ruling centered on the issue of culpability, or criminal blameworthiness. Unlike competence, which concerns an individual's ability to serve as a defendant during trial or adjudication, culpability turns on the offender's state of mind at the time of the offense, including factors that would mitigate, or lessen, the degree of responsibility.

The Court's ruling, which cited the Network's work, ran counter to a nationwide trend toward harsher sentences for juveniles. Over the preceding decade, as serious crime rose and public safety became a focus of concern, legislators in virtually every state had enacted laws lowering the age at which juveniles could be tried and punished as adults for a broad range of crimes. This and other changes have resulted in the trial of more than 200,000 youths in the adult criminal system each year.¹

Proponents of the tougher laws argue that youths who have committed violent crimes need more than a slap on the wrist from a juvenile court. It is naïve, they say, to continue to rely on a juvenile system designed for a simpler era, when youths were getting into fistfights in the schoolyard; drugs, guns, and other serious crimes are adult offenses that demand adult punishment. Yet the premise of the juvenile justice system is that adolescents are different from adults, in ways that make them potentially less blameworthy than adults for their criminal acts.

The legal system has long held that criminal punishment should be based not only on the harm caused, but also on the blameworthiness of the offender. How blameworthy a person is for a crime depends on the circumstances of the crime and of the person committing it. Traditionally, the courts have considered several categories of mitigating factors when determining a defendant's culpability. These include:

- Impaired decision-making capacity, usually due to mental illness or disability,
- The circumstances of the crime—for example, whether it was committed under duress,
- The individual's personal character, which may suggest a low risk of continuing crime.

Such factors don't make a person exempt from punishment—rather, they indicate that the punishment should be less than it would be for others committing similar crimes, but under different circumstances.

Should developmental immaturity be added to the list of mitigating factors? Should juveniles, in general, be treated more leniently than adults? A major study by the Research Network on Adolescent Development and Juvenile Justice now provides strong evidence that the answer is yes.

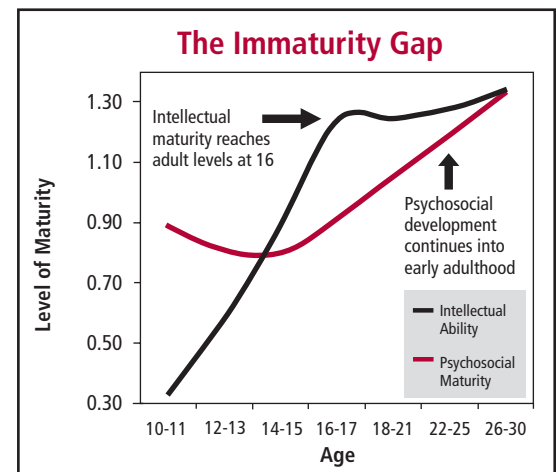
The Network's Study of Juvenile Culpability

The study of juvenile culpability was designed to provide scientific data on whether, in what ways, and at what ages adolescents differ from adults.

Many studies have shown that by the age of sixteen, adolescents' cognitive abilities—loosely, their intelligence or ability to reason—closely mirrors that of adults. But how people reason is only one influence on how they make decisions. In the real world, especially in high-pressure crime situations, judgments are made in the heat of the moment, often in the company of peers. In these situations, adolescents' other common traits—their short-sightedness, their impulsivity, their susceptibility to peer influence—can quickly undermine their decision-making capacity.

The investigators looked at age differences in a number of characteristics that are believed to undergird decision-making and that are relevant to mitigation, such as impulsivity and risk processing, future orientation, sensation-seeking, and resistance to peer pressure. These characteristics are also thought to change over the course of adolescence and to be linked to brain maturation during this time. The subjects—close to 1,000 individuals between the ages of 10 and 30—were drawn from the general population in five regions. They were ethnically and socioeconomically diverse.

The study's findings showed several characteristics of adolescence that are relevant to determinations of criminal culpability. As the accompanying figure indicates, although intellectual abilities stop maturing around age 16, psychosocial capability continues to develop well into early adulthood.



Short-Sighted Decision-Making

One important element of mature decision-making is a sense of the future consequences of an act. A variety of studies in which adolescents and adults are asked to envision themselves in the future have found that adults project their visions over a significantly longer time, suggesting much greater future orientation.

These findings are supported by data from the Network's culpability study. Adolescents characterized themselves as less likely to consider the future consequences of their actions than did adults. And when subjects in the study were presented with various choices measuring their preference for smaller, immediate rewards versus larger, longer-term rewards (for example, "Would you rather have \$100 today or \$1,000 a year from now?"), adolescents had a lower "tipping point"—the amount of money they would take to get it immediately as opposed to waiting.

How might these characteristics carry over into the real world? When weighing the long-term consequences of a crime, adolescents may simply be unable to see far enough into the future to make a good decision. Their lack of foresight, along with their tendency to pay more attention to immediate gratification than to long-term consequences, are among the factors that may lead them to make bad decisions.

Poor Impulse Control

The Network's study also found that as individuals age, they become less impulsive and less likely to seek thrills; in fact, gains in these aspects of self-control continue well into early adulthood. This was evident in individuals' descriptions of themselves and on tasks designed to measure impulse control. On the "Tower of London" task, for example—where the goal

is to solve a puzzle in as few moves as possible, with a wrong move requiring extra moves to undo it—adolescents took less time to consider their first move, jumping the gun before planning ahead.

Network research also suggests that adolescents are both less sensitive to risk and more sensitive to rewards—an attitude that can lead to greater risk-taking. The new data confirm and expand on earlier studies gauging attitudes toward risk, which found that adults spontaneously mention more potential risks than teens. Juveniles' tendency to pay more attention to the potential benefits of a risky decision than to its likely costs may contribute to their impulsivity in crime situations.

Vulnerability to Peer Pressure

The law does not require exceptional bravery of citizens in the face of threats or other duress. A person who robs a bank with a gun in his back is not as blameworthy as another who willingly robs a bank; coercion and distress are mitigating factors. Adolescents, too, face coercion, but of a different sort.

Pressure from peers is keenly felt by teens. Peer influence can affect youths' decisions directly, as when adolescents are coerced to take risks they might otherwise avoid. More indirectly, youths' desire for peer approval, or their fear of rejection, may lead them to do things they might not otherwise do. In the Network's culpability study, individuals' reports of their vulnerability to peer pressure declined over the course of adolescence and young adulthood. Other Network research now underway is examining how adolescent risk-taking is "activated" by the presence of peers or by emotional arousal. For example, an earlier Network study, involving a computer car-driving task, showed that the mere presence of friends increased risk-taking in adolescents and college undergraduates, though not adults.¹

Although not every teen succumbs to peer pressures, some youths face more coercive situations than others. Many of those in the juvenile justice system live in tough neighborhoods, where losing face can be not only humiliating but dangerous. Capitulating in the face of a challenge can be a sign of weakness, inviting attack and continued persecution. To the extent that coercion or duress is a mitigating factor, the situations in which many juvenile crimes are committed should lessen their culpability.

Confirmation from Brain Studies

Recent findings from neuroscience line up well with the Network's psychosocial research, showing that brain maturation is a process that continues through adolescence and into early adulthood. For example, there is good evidence that the brain systems that govern impulse control, planning, and thinking ahead are still developing well beyond age 18. There are also several studies indicating that the systems governing reward sensitivity are "amped up" at puberty, which would lead to an increase in sensation-seeking and in valuing benefits over risks. And there is emerging evidence that the brain systems that govern the processing of emotional and social information are affected by the hormonal changes of puberty in ways that make people more sensitive to the reactions of those around them—and thus more susceptible to the influence of peers.²

Policy Implications: A Separate System for Young Offenders

The scientific arguments do not say that adolescents cannot distinguish right from wrong, nor that they should be exempt from punishment. Rather, they point to the need to consider the developmental stage of adolescence as a mitigating factor when juveniles are facing criminal prosecution. The same factors that make youths ineligible to vote or to serve on a jury require us to treat them differently from adults when they commit crimes.

Some have argued that courts ought to assess defendants' maturity on a case-by-case basis, pointing to the fact that older adolescents, in particular, vary in their capacity for mature decision-making. But the tools needed to measure psychosocial maturity on an individual basis are not well developed, nor is it possible to distinguish reliably between mature and immature adolescents on the basis of brain images. Consequently, assessing maturity on an individual basis, as we do with other mitigating factors, is likely to produce many errors. However, the maturing process follows a similar pattern across virtually all teenagers. Therefore it is both logical and efficient to treat adolescents as a special legal category—and to refer the vast majority of offenders under the age of 18 to juvenile court, where they will be treated as responsible but less blameworthy, and where they will receive less punishment and more rehabilitation and treatment than typical adult offenders. The juvenile system does not excuse youths of their crimes; rather, it acknowledges the development stage and its role in the crimes committed, and punishes appropriately.

At the same time, any legal regime must pay attention to legitimate concerns about public safety. There will always be some youths—such as older, violent recidivists—who have exhausted the resources and patience of the juvenile justice system, and whose danger to the community warrants adjudication in criminal court. But these represent only a very small percentage of juvenile offenders. Trying and punishing youths as adults is an option that should be used sparingly.

Legislatures in several states have begun to reconsider the punitive laws enacted in recent decades. They have already recognized that prosecuting and punishing juveniles as adults carries high costs, for the youths and for their communities. Now we can offer lawmakers in all states a large body of research on which to build a more just and effective juvenile justice system.

¹ Allard, P., & Young, M. (2002). Prosecuting juveniles in adult court: Perspectives for policymakers and practitioners. *Journal of Forensic Psychology Practice*, 6, 65-78.

² Gardner, M., & Steinberg, L. (2005). Peer influence on risk-taking, risk preference, and risky decision-making in adolescence and adulthood: An experimental study. *Developmental Psychology*, 41, 625-635.

³ Nelson, E., Leibenluft, E., McClure, E., & Pine, D. (2005) The social re-orientation of adolescence: A neuroscience perspective on the process and its relation to psychopathology. *Psychological Medicine*, 35, 163-174.

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.