

*Testifying in Juvenile Cases: A Neuroscience and
Psychosocial Development Framework*

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Learning Goals/Objectives

1. Explain the behavioral implications of the maturational imbalance between the arousal of the socioemotional system and the full maturation of the cognitive control system.
2. List reasons why juveniles are more likely to take risks and make risky decisions when friends are present.
3. Describe the brain-based maturation associated with a juvenile's greater capacity for reform.
4. Explain the indicators of psychosocial maturity associated with desistance from antisocial behavior.
5. Describe two types of negative outcomes associated with placing juveniles in adult prisons.

Agenda

- How juveniles can be charged as adults- Role of justice professionals
- Reverse Transfer Hearing Statutory Criteria
- Neuroscience and Psychosocial Development
- Developmental age-crime trajectories
- Psychosocial maturity and desistance
- Impacts associated with placing juveniles in adult jails

Testifying as
an expert
witness in
these cases?

- Forensic clinicians and other justice involved professionals can play an important role in applying developmental concepts to legal issues
- A professional choice and a personal choice
 - Case examples
- “We are all more than the worst thing we have ever done...We can’t do justice until we understand the other things you are (Stevenson, 2020)
- “Allowing people to be human despite the tragedy of a past crime” (Stevenson, 2020)
- Differentiating juvenile and adult justice systems

How juveniles can be charged as adults in Colorado

- ***Direct File and Reverse Transfer Hearings***
 - Gives prosecutors discretion to file adult charges if the case meets basic age and offense characteristics
 - Defense may ask judge to transfer case back to the juvenile court
- ***Judicial Transfer***
 - In cases that aren't eligible to be directly filed, the prosecution initiates the transfer request and the judge sets a Transfer Hearing

Colorado Reverse Transfer Hearing Statute

- (b) ...the court shall consider the following factors:
- (I) Seriousness of alleged offense and whether the protection of the community requires response or consequence beyond that afforded by this article;
 - (II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
 - (III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;
 - (IV) The age of the juvenile and the maturity of the juvenile as determined by considerations of the juvenile's home, environment, emotional attitude, and pattern of living;***
 - (V) Record and previous history of the juvenile in prior court-related matters;
 - (VI) The current and past mental health status of the juvenile as evidenced by relevant mental health or psychological assessments or screenings that are made available to both the district attorney and defense counsel;
 - (VII) The likelihood of the juvenile's rehabilitation by use of the sentencing options available in the juvenile courts and district courts;***
 - (VIII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;
 - (IX) The impact of the offense on the victim;
 - (X) Whether the juvenile was previously committed to the department of human services following an adjudication for a delinquent act that constitutes a felony; and
 - (XI) Whether the juvenile used, or possessed and threatened the use of, a deadly weapon in the commission of the delinquent act.

Culpability

Measure of degree to which a person can be held morally or legally responsible for an action or inaction

Differentiated from responsibility- related to whether that person committed the act

U.S. Supreme Court

Juveniles and the Law

- Roper v. Simmons (2005)
 - Unconstitutional to impose capital punishment for crimes committed while under age of 18
- Graham vs. Florida (2010)
 - Prohibits life without parole sentence on juvenile offender who did not commit homicide
- Miller vs. Alabama (2012)
 - Prohibits mandatory sentences of life without possibility of parole (even for murder conviction)

Miller vs. Alabama Supreme Court Ruling

Rule of Law or Legal Principle Applied

Mandatory sentence of life without parole for juvenile homicide offenders violates Eighth Amendment's ban on cruel and unusual punishment

Reasoning

Punishment must be proportionate to the offense and the offender

Juveniles are different from adults for criminal sentencing purposes

Child's lack of maturity leads to needless risk-taking and impulsivity, yet it also allows for better chance of rehabilitation

Mandatory life-without-parole sentence takes away court's ability to account for juvenile offender's youth and family/home environment

Assessment in Juvenile Justice Systems

Developmental Perspective

- ***Maturational***
 - Child's innate characteristics
 - Stages of development
 - Developmental domains
- ***Transactional***
 - Product of continuous dynamic interactions between child and experience provided by family and social context

Juveniles and the Law

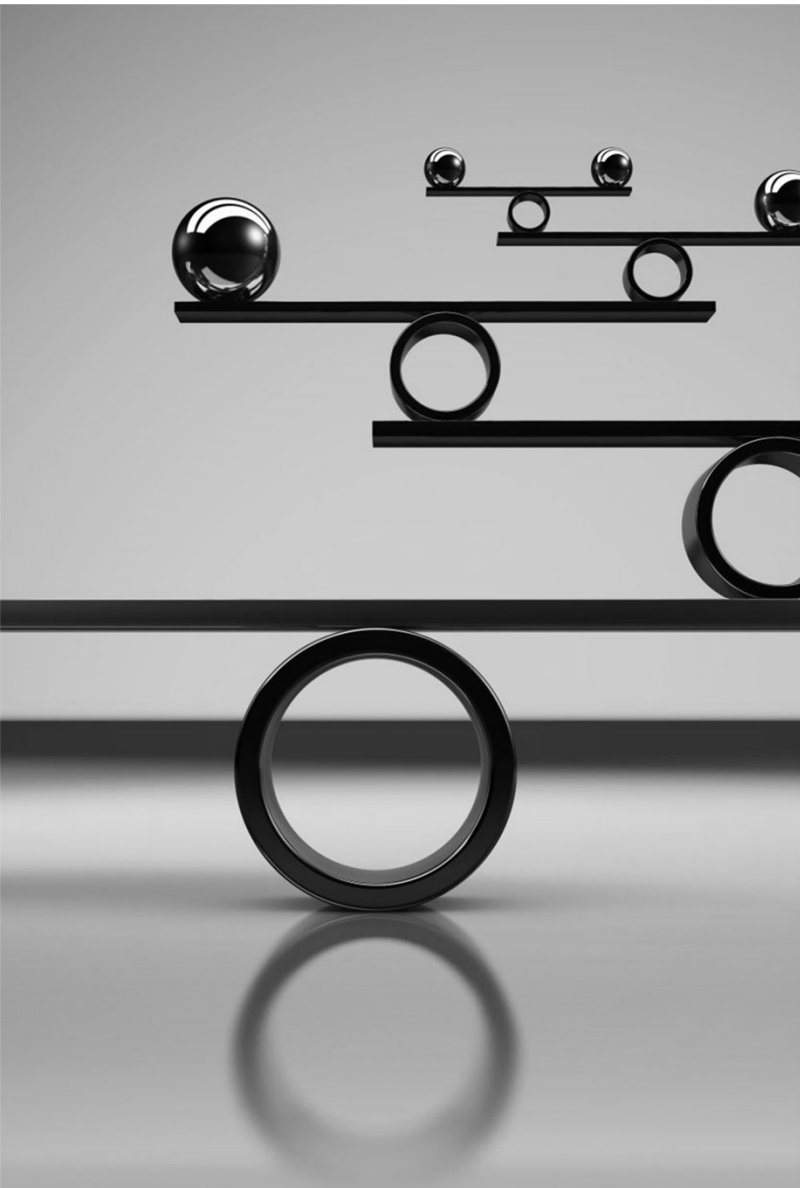
(Roper v. Simmons, 2005; Miller v. Alabama, 2012)

Neuroscience and Psychosocial Development

- Juveniles are less capable of mature judgment than adults
- Juveniles are more vulnerable to negative external influences
- Juveniles have a greater capacity for change and reform



Adolescent Brain Development



Juveniles less capable of mature judgement

- Less capable of ***self-regulation***
 - Less able to resist social and emotional impulses
- Respond differently to perceptions of ***risk and reward***
- Less able to ***foresee*** and take into account ***consequences***

Adolescent Brain Development

Underlying cause of Immaturity= Maturational Imbalance/Temporal Gap

Socioemotional system

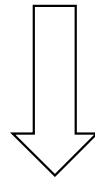
- *Responsible for the increase in sensation-seeking and reward-seeking that takes place in adolescence*
- *Undergoes dramatic changes very early in adolescence, around the time of **puberty***

Cognitive control system

- *Responsible for self-control, regulating impulses, thinking ahead, and evaluating the rewards and costs of risky behavior*
- *Full maturation continues well into the **decade of the 20s***

Middle Adolescence

Imbalance between
reward system and self-
control system



Inclines adolescents
toward ***sensation-seeking
and impulsivity***


Less able to control
impulses and consider
future consequences

Attach greater value to
rewards than risk

Less capacity for ***self-
regulation***

Susceptibility to peer and outside pressures

(Miller v Alabama, 2012; Roper v. Simmons, 2005)



Juveniles are more vulnerable to negative influences and outside pressure, including from family and peers

Limited control over own environment

Lack ability to extricate themselves from horrific, crime-producing settings

Juveniles more vulnerable to negative external influences

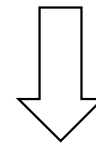
Susceptibility to Peer influences

- Desire for peer approval and fear of rejection affect decision making
- Engage in antisocial behavior to conform to peer expectations or achieve respect and status
- More likely to commit crimes in groups

Juveniles more vulnerable to negative external influences

Hyperactivation of brain's reward system when friends present = more likely to take risks and make risky decisions

Maturation imbalance + susceptibility to peer influence



Less able to deploy cognitive capacities in exercising judgment when decisions influenced by emotional and social variables

- In heat of moment, as in presence of peers and rewards, mature reward centers of brain may **hijack** less mature control systems

Implications for Court Disposition

(Rosado & Scali, 2016)

- Influence of peers considered when courts must determine youth's culpability and blameworthiness when crime is committed by a group
- Particularly problematic when a youth who is greatly influenced by peers is placed in facility where he/she/they will be exposed to negative peers
- Role of peers in adolescent decision making also has key implications for the type of programs with which the juvenile court contracts

Lesser culpability, greater capacity for change

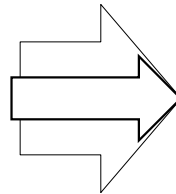
- Character is not as well formed as adults; traits are less fixed, and actions less likely to be evidence of irretrievable depravity (Miller v Alabama, 2012; Roper v. Simmons, 2005)...such that greater possibility exists that minor's character deficiencies will be reformed (Graham v. Florida (2010))
- Adolescence is transitional because it is marked by rapid and dramatic change within individual in the realms of biology, cognition, emotion and interpersonal relationships (Rosado & Scali, 2016)

Juveniles have
greater capacity for
change and reform

- Continued maturation of brain regions and systems that govern self-regulation and executive function
- Synaptic pruning and continued myelination
- Neuroplasticity
- Personality traits more transitory, less fixed. Still defining identity

Greater Capacity for Change and Reform

“Maturational imbalance”
between social-emotional
and cognitive control
systems of the brain
diminishes



Improvements in impulse
control, resistance to peer
pressure, planning, and
thinking ahead

Synaptic
Pruning
+
Myelination

Improved connectivity among cortical areas and between cortical and subcortical areas

Improvements in ***executive function***- response inhibition, planning, weighing risks and rewards, and simultaneous consideration of multiple sources of information

Improved coordination of affect and cognition

Neuroplasticity

Potential for brain to be modified by experience

Considerable
neuroplasticity in late
adolescence- suggests
opportunities for change

Adolescents
distinguished from
adults by their relatively
unformed character

Desistance

Age-Crime Curve

Psychosocial Maturity

Developmental Taxonomy- Course of Delinquent Involvement (Moffitt, 1993)

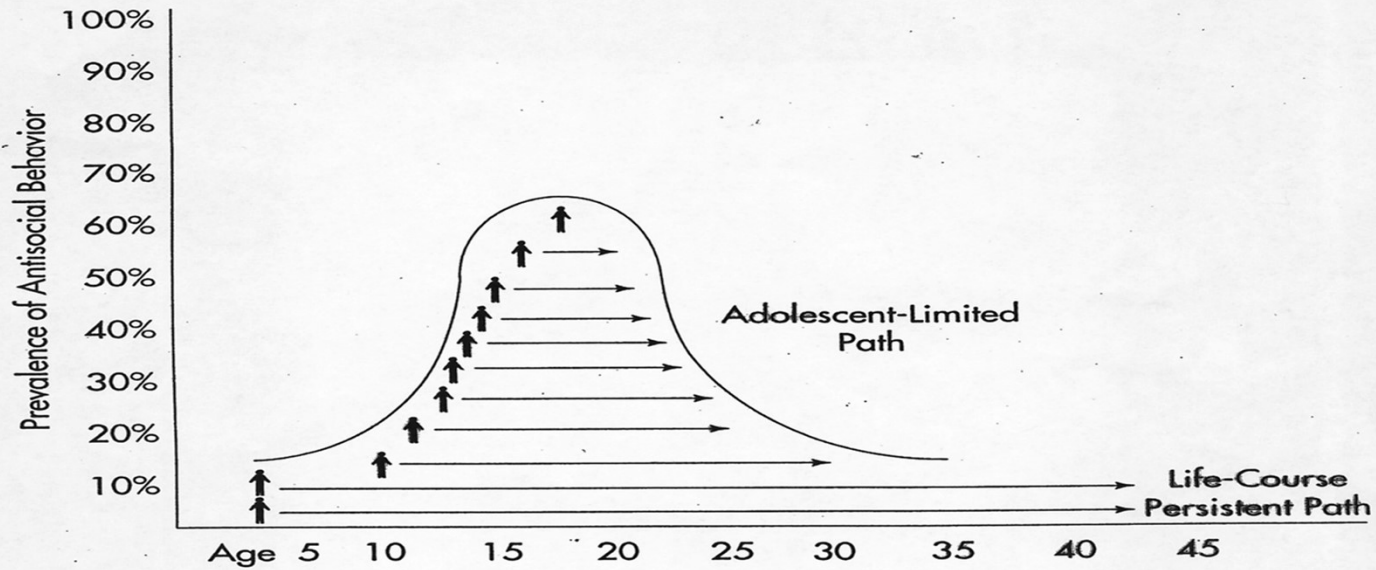
Life-Course Persistent

- Stable and persistent
- Continuous course → changing manifestations
- Personality coherence
- Causal factors origins in childhood
- Neuropsychological risks/deficits
- Child abuse and neglect
- Intergenerational transmission
- 5% to 6% account for 50% of known crimes

Adolescent-Limited

- Temporary and situational
- Discontinuity is hallmark
- Personality disorder plays no part
- Causal factors- proximal & specific to adolescent development
- Adaptive response to contextual circumstances → maturity gap
- 75% of delinquent 13 yr. olds expected to cease all offending
- Exit maturity gap; consequences shift; availability of alternatives

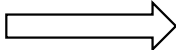
The changing prevalence of participation in antisocial behavior across the life span



From "Adolescence-Limited and Life-Course-Persistent Antisocial Behavior: A Developmental Taxonomy," by T. E. Moffitt, 1993, *Psychological Review*, 100, 674-701. Copyright © 1993 by the American Psychological Association. Reprinted by permission of the author.

Psychosocial Maturity and Desistance

Steinberg, Cauffman, & Monahan (2015)

- Followed more than 1,300 serious male juvenile offenders for 7 years after conviction  Exploring link between **psychosocial maturity and desistance** from crime as they transition from mid-adolescence to early adulthood (ages 14–25)
- Recent research indicates that youth experience protracted maturation, into their mid-twenties, of **brain systems** responsible for self-regulation
- Stimulated interest in measuring young offenders' **psychosocial maturity** into early adulthood.

Study Participants

- Male and female youth at least 14 years old and younger than 18 years old at time of index petition
- 84 percent male and 80 percent minority (41 percent black, 34 percent Hispanic, and 5 percent American Indian/other)
- Adjudicated delinquent or found guilty of serious (overwhelmingly felony level) violent crime, property offense, or drug offense at current court appearance
- At time of baseline interview for study, 50 percent were in institutional setting

Psychosocial Maturity and Desistance From Crime

Steinberg, Cauffman,
& Monahan, 2015

Identify

Identify initial patterns of how serious adolescent offenders stop antisocial activity

Describe

Describe role of social context and developmental changes in promoting these positive changes

Compare

Compare effects of sanctions and interventions in promoting these changes

Steinberg et al (2015) measured three aspects of psychosocial maturity that develop during adolescence and early adulthood

1. **Temperance**- Ability to control impulses, including aggressive impulses
2. **Perspective**- Ability to consider other points of view, including those that take account longer term consequences or that take the vantage point of others
3. **Responsibility**- Ability to take personal responsibility for one's behavior and resist the coercive influences of others



Indicators of
psychosocial
maturity

Impulse control

Suppression of aggression

Consideration of others

Future orientation

Personal responsibility

Resistance to peer influence

Global index of psychosocial maturity

Study Results

- Insert Cauffman video here

Lessons Learned

Sample still maturing in each of six indicators of psychosocial maturity at age 25

Consistent brain development research- shows continued maturation of brain systems that support self-regulation well into mid-twenties

Vast majority of juvenile offenders grow out of antisocial activity as make transition to adulthood

Most juvenile offending is limited to adolescence

Implication
for
practitioners

Interventions for juvenile offenders should be aimed explicitly at facilitating development of psychosocial maturity

Are the types of sanctions and interventions that serious offenders are exposed to likely to facilitate or impede this process?

Special care to avoid exposing young offenders to environments that might inadvertently derail this developmental process

Research on impacts associated with placing juveniles and young adults in prison

<i>Suicide</i>	
-Juveniles incarcerated in adult jails (OJJDP, 2012) -Campaign for Youth Justice. (November 2007)	-More likely to commit suicide in adult jail than in juvenile facility -Youth housed in adult jails are 36 times as likely to commit suicide than are youth housed in juvenile detention facilities
<i>Sexual/Physical Abuse</i>	
-Juveniles incarcerated in adult jails (OJJDP, 2012) -U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2007) -National Prison Rape Elimination Commission	-Five times as likely to be sexually abused or raped as they would be in juvenile facility -More likely witness as well as be target of violence -Youth who are held in adult facilities are at the greatest risk of sexual victimization -Youth incarcerated with adults are probably at the highest risk for sexual abuse
<i>Increased Recidivism</i>	
-Juveniles incarcerated in adult jails (OJJDP, 2012) -John Jay College of Criminal Justice/Research and Evaluation Center (2012) -Centers for Disease Control and Prevention (Nov. 2007) -Juvenile Transfer Laws OJJDP (2008)	-Children prosecuted as adults are 34 percent more likely to commit new crimes than youth who remain in juvenile justice system - No connection between transfer and reduced rates of juvenile crime - Prosecuting youth as adults generally results in increased arrest for crime , including violent crimes, as compared to juveniles retained in juvenile justice system - Adult prosecution of teens increases recidivism , promotes life-long criminality, and decrease safety.