Adolescence, Brain Development, and Legal Culpability

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Author Note

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The United States has two parallel justice systems to deal with offenders. The criminal justice system deals with adults involved in various forms of crime, while the juvenile justice system deals with minors who have been found guilty of various offenses, and is generally designed to help rehabilitate rather than punish, and prevent stigmatizing minors as criminals. Currently, lawmakers and rights groups are now considering to raise the age of juvenile courts' jurisdiction to include young and emerging adults. The paper will examine whether the State of Massachusetts should raise the age of juvenile justice jurisdiction to age 20, making 21 the age at which a person must be tried as an adult. A range of data from crime statistics, recidivism rates, along with neurobiological and sociological research indicates that raising the age to 21 would be more beneficial for the state and its youth population, and lead to significant improvements in incarceration and recidivism rates

It is now uniformly accepted across various states that Juveniles have different mental capacities from adults and thus should not be tried under the adult criminal justice system. The practice of prosecuting minors has declined over the recent decades with growing awareness of the fact that adolescent brains are still under development, creating a greater tendency in them to act without considering the consequences of their action, with a greater likelihood to commit more crimes if tried as adults. Thus, juvenile courts differ in their punishment goals offering alternative treatment and punitive measures, owing to these psychosocial disadvantages in terms of peer influence, responsibility, perspective, and temperance, which reduces their ability to foresee long term consequences of their acts (Cauffman, Fine, Mahler, & Simmons, 2018, p. 23). Such research prompted many states to devise their juvenile justice system to help juveniles transition successfully into responsible adults, and to raise the jurisdiction age for the courts. In *Miller v. Alabama* (2012), the U.S. Supreme Court held that handing life sentences to minors without parole violates the 8th Amendment, and the “Sentencer must give mitigating effect to the characteristics and circumstances of youth” (Miller v. Alabama, 2012). The decision prompted states like Massachusetts to start parole hearings for about 63 offenders convicted as juveniles (Lavoie, 2017). However, despite these improvements, teenagers are inevitably treated as adults after they turn 18 and are not allowed to further benefit from the juvenile justice system’s rehabilitative programming and facilities.

Today, emerging research reveals that young and emerging adults show highly similar patterns to juveniles in terms of committing offenses, and at the same time, recidivate higher than all other groups. The state of Massachusetts spends a massive amount of resources in incarcerating young adults within the adult system, which in turn, leads to adverse outcomes for the community as well as these young people. The 2013 figures for Massachusetts indicate that “emerging adults comprised 10 percent of the population, yet accounted for 29 percent of all arrests,10 20 percent of individuals sentenced to incarceration in state prisons, and 23 percent of individuals sentenced to incarceration in county Houses of Correction” (Perker & Chester, 2017, p. 2). In contrast, the developmentally appropriate services provided by the juvenile justice system would prevent these young adults' to involve themselves with the criminal justice system and lower their recidivism rates, while still holding them accountable. It will provide them with an opportunity to engage in vocational training, and rehabilitative programming, thus improving overall outcomes for the community as well as these youth by setting them on the right track. For this purpose, the bills presented by Massachusetts lawmakers which aim to raise the jurisdiction age for Juvenile courts in the state by a further 3 years to 21, would help achieve these favorable outcomes. Consequently, it will save young adults from the harsher sentences and penalties of the adult system, reduce the expense and heavy workload of the criminal justice system, and curb overall incarceration rates.

One of the primary justifications for the policy change are findings from recent neurological studies which demonstrate that young adult brains continue to develop until they reach their mid-twenties; a discovery which is currently not compatible with the cutoff age set in the juvenile system. This occurs because an individual’s emotional intelligence as well as cognitive skills remain under development until an average of 25. According to researchers,

“Recent scientific work suggests that the human brain continues to develop well into the 20s, particularly in the prefrontal cortex region, which regulates impulse control and reasoning” (Schiraldi, Western, & Bradner, 2015, p. 3). This is further reinforced by sociological research which reveals that the key milestones, such as marriage, completion of education, or employment which mark the transition of youth into an adult have started to come much later in life today, as compared to earlier generations. In addition, psychological research also confirms that "Psychosocial maturity extends beyond simple cognitive functioning, and instead encompasses more complex processes such as responsibility, perspective, and temperance” (Cauffman, Fine, Mahler, & Simmons, 2018, p. 23). The fact that the individuals develop such psychosocial maturity, cognitive abilities, and emotional intelligence necessary to guide their actions as adults much later in life than previously thought indicates that it is time to formulate changes in the justice policy in accordance.

The current justice policy applicable in various states tries a 1-year old offender under the juvenile justice system, however, in many states, an 18-year old offender is still prosecuted in the adult criminal justice system regardless of the fact that brain development process within these two ages is scarcely different. Both 18-year olds, and 17-year olds have been known to exhibit the same volatile or impulsive behavior that can lead them to an offense. This line of reasoning was accepted by the U.S. Supreme Court in the case of *Roper v. Simmons (*2005), where it held that “the death penalty may not be imposed on certain classes of offenders, such as juveniles under 16, the insane, and the [intellectually disabled], no matter how heinous the crime”. Furthermore, the court justified the decision by citing that "[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions." (Roper V. Simmons, 2005). Further confirmed from psychological research is that youth and juveniles are more susceptible and vulnerable to outside pressure, and peer influence, thus are neither as well-informed as adults, nor are their personality traits fixed (Cauffman, Fine, Mahler, & Simmons, 2018, p. 23). However, the same reasoning can be extended to young and emerging adults because the American Psychological Association (APA) holds that the emerging adulthood (age 18-25), even if different from young adulthood and adolescence, is still a developmental stage (Peng, 2019).

Another key factor in this regard is the tendency for recidivism. Raising the age of juvenile courts' jurisdiction is expected to make a significant reduction in overall recidivism rates since the juvenile system's methods are targeted towards rehabilitating offenders instead of punishing them. According to the CFJJ, The people who fall within the age of “18 to 24 account for 10 percent of the U.S. population but 30 percent of arrests. And if they get incarcerated, three out of four come back to court for a totally new case, making the highest recidivism rate of any there age group in Massachusetts” (Peng, 2019). Since, the juvenile system is more acquainted with the services needed by minors and adolescents such as mental health, educational, or substance abuse prevention services, it leads to lower recidivism by eliminating or reducing the social and psychological causes behind the offense. In contrast, the adult criminal justice system exposes adolescents and young adults to the criminal justice system where harsher punishments and strict punitive measures tend to exacerbate problematic behaviors in them and contribute to increased recidivism rates. This is evident from the report of the Council of State Governments regarding Massachusetts, “18- to 24- year-olds had higher rates than all other age groups in three measures of recidivism (re-arraignment, reconviction, and re-incarceration) at the 3-year mark. Notably, 76 percent of 18- to 24-year-olds released from county jails and state prisons in 2011 were re-arraigned within three years of release” (CSG, 2017, p. 16). In addition, because juvenile offense records are private and sealed, future employers and landlords that perform a background check are not able to access any information which shows them as having been implicated for a crime committed as a minor. Thus, offenses committed during this vulnerable age would not haunt the individual for the remaining portion of his/her life. It is clear that young adults too are in need of such services as a criminal record can make it nearly impossible to find adequate employment or place to live, thus forming hurdles for them in being able to live a normal life and creating an incentive to return to a life of crime.

The issue of juvenile courts’ jurisdiction to include young adults is also subject to the culpability factor. As our understanding of human developmental processes improves, it indicates the need for addressing the developmental requirements of young adults in our societal institutions. Since young adults are still malleable in terms of personality and development, any systematic changes in the way they are treated will have the potential to create permanent or long-lasting impacts on their lives, and consequently, their community. Owing to the increased susceptibility to peer influence, and their regulatory capacities still under development, they are more likely to engage in high-risk activities. Thus "risk-taking behaviors such as accidental drowning and driver deaths occur more frequently during adolescence than during any other period” (Cauffman, Fine, Mahler, & Simmons, 2018, p. 26). These factors underscore the legal concept of culpability which is based on the conception that two people who committed the same form of offense may vary in their blameworthiness. An individual who purposefully commits a crime deserves a complete punishment if it is determined that he/she had the complete rational capacity to make a choice without having some form of incapacity, or deficiency or tendency to being affected by external pressure. Since a young individual is still under a developmental phase, it clearly undermines their decision-making capacity, and although they can make mature and rational decisions, they are at a greater likelihood to show poorer judgment when their choices have emotional ramifications or they in presence of their peers, or when a decision is rushed, and the rewards are salient (Cauffman, Fine, Mahler, & Simmons, 2018, p. 29). When devising a criminal law framework, such characteristics have to be considered in the case of young adults just as they are considered in the case of adolescents, to assess the extent of mitigating conditions and blameworthiness. It becomes clear that young adults, like teenagers, are less culpable than fully grown adults.

In conclusion, the policy change to revamp the juvenile justice system and increase its jurisdiction to include individuals that fall between the ages of 18 and 21 would be highly beneficial in helping them improve their lives and reintegrate into society. It will also prevent them from being involved with the criminal justice system in the long-term while still holding them accountable for their offenses. Just as the basic notion, which holds that young adolescents are likely to mess up because they are young, is accepted as grounds for separating the two criminal justice systems, it should also be an acceptable factor for young adults. In recognition of their reduced capacity for responsible decision-making, if young adults are also given a chance to further mature in an appropriate environment, then research indicates that it will significantly reduce recidivism rates, help them enhance their lives and allow them to harness the opportunities and facilities provided to them by the juvenile system.

# References

Cauffman, E., Fine, A., Mahler, A., & Simmons, C. (2018). How Developmental Science Influences Juvenile Justice Reform. *UC Irvine Law Review, 8*(1), 21-39.

CSG. (2017). *Justice Reinvestment in Massachusetts.* Council of State Governments: Justice Center.

Lavoie, D. (2017, July 31). *Juvenile Parole Hearings Draw Mixed Reviews in Massachusetts*. Retrieved May 5, 2019, from US News: https://www.usnews.com/news/best-states/massachusetts/articles/2017-07-31/juvenile-parole-hearings-draw-mixed-reviews-in-massachusetts

Miller v. Alabama, 567 U.S. 460 (U.S. Supreme Court 2012).

Peng, A. (2019, April 3). *The unforeseen directions of raising juvenile court ages in Massachusetts*. Retrieved May 5, 2019, from Telegram: https://www.telegram.com/news/20190403/unforseen-directions-of-raising-juvenile-court-ages-in-massachusetts

Perker, S. S., & Chester, L. (2017). *Emerging Adults: A distinct population that calls for an age-appropriate approach by the justice system.* Retrieved May 5, 2019, from Emerging Adult Justice in Massachusetts: https://justicelab.columbia.edu/sites/default/files/content/MA\_Emerging\_Adult\_Justice\_Issue\_Brief\_0.pdf

Roper V. Simmons, 543 US 551 (U.S. Supreme Court 2005).

Schiraldi, V., Western, B., & Bradner, K. (2015, September). Community-Based Responses to Justice-Involved Young Adults. *New Thinking in Community Corrections, 2015*(1), pp. 1-28.