

Mental Health Challenges: Diminished
Culpability

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As discussed previously...

Roper v. Simmons, 543 U. S. 551 (2005)

Graham v. Florida, 560 U. S. 48 (2010)

Miller v. Alabama, 132 S. Ct. 2455 (2012)

Thompson v. Oklahoma, 487 U. S. 815 (1988)

Majority Opinion:

"Thus, the Court has already endorsed the proposition that less culpability should attach to a crime committed by a juvenile than to a comparable crime committed by an adult. The basis for this conclusion is too obvious to require extended explanation. Inexperience, less education, and less intelligence make the teenager less able to evaluate the consequences of his or her conduct while at the same time he or she is much more apt to be motivated by mere emotions or peer pressure than is an adult. The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult." (Ref. 1, p. 835)

Roper v. Simmons, 543 U. S. 551 (2005)

Three "general differences" between adolescents under 18 and adults:

- 1) Immaturity reflected in a tendency towards recklessness
- 2) Vulnerability to negative influences and outside pressures
- 3) The lack of a fully formed character

Supported by a 2004 brief from The American Psychological Association which concluded that "scientific evidence shows persons under 18 lack the ability to take moral responsibility for their decisions".

Roper v. Simmons cont'd

"The personality traits of juveniles are more transitory, less fixed...From a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed." (Ref. 2, p 570)

"Juvenile" vs. "Child/Adolescent"

Texas Family Code

vs.

Social Sciences

**Cognitive Development for the FINAL Stage of Adolescence
(19-24)**

- Ability to think ideas through from beginning to end
- Ability to delay gratification
- Examination of inner experiences
- Increased concern for future
- Continued interest in moral reasoning

American Academy of Child and Adolescent Psychiatry

Why is this?

The prefrontal cortex, known as the “CEO” of the brain, is responsible for executive functioning and advanced cognition (reasoning, advanced thoughts, planning, impulse control, judgment of consequences).

Prefrontal cortex is the final area of the brain to mature. Not only does the frontal lobe fail to mature until age 25 or so, but it’s connections to the other parts of the brain continue to improve until that age as well.

**Prefrontal Lobe: Responsible for the
Following**

- Reasoning ability
- Working towards a goal
- Judgment/Decision-making
- Planning complex behavior
- Impulse control
- Emotional control
- Determining right from wrong
- Determining cause and effect relationships.
- Moderating social behavior

Unfortunately...

Amygdala, a small part of the brain that guides instinctual/gut reactions (including fear and aggressive behavior), matures before the frontal lobe, and teenagers use the amygdala, while adults rely more on the frontal lobe (prefrontal cortex)...Young people literally have much greater activity than adults in the emotional and reactive brain regions and much less activity/maturation in the planning and inhibitory areas...So, adolescents respond with gut reactions before reasoned ones.

A Mechanic's Guide

"As Steinberg sees it, a teenager's brain has a well-developed accelerator but only a partly developed brake...By around 15 or 16, the parts of the brain that arouse a teen emotionally and make him pay attention to peer pressure and the rewards of actions – the gas pedal – are probably all set. But the parts related to controlling impulses, long-term thinking, resistance to peer pressure and planning – the brake, mostly in the frontal lobes – are still developing."

"It's not like we go from becoming an accelerator to all brake," Steinberg said. "It's that we go from being heavy-foot-on-the-accelerator to being better able to manage the whole car."

USA TODAY article, 12-02-07
Dr. Laurence Steinberg, Temple University

The End Result?

At some point, the majority of teenagers engage in behavior(s) that, if observed by the discerning eye of the law, would result in their arrest. As such, those adolescents who we refer to as "delinquents" are often merely those who have been caught.

Influences on “Normal” Development

The human brain continues to grow and develop until our mid 20' s, at which time biological maturity is thought to be reached. However, those individuals whose childhood/adolescence is characterized by lack of focus, overstimulation, trauma, and/or substance abuse may not (even with significant intervention) reach psychological maturity until their mid-30' s or later. *The prefrontal cortex is one of the areas most strongly impacted by psychological trauma.*

Developmental research detailing “normal” growth and development is often based on normative estimates using middle-class, Caucasian adolescents. Minority youth, those living in economic hardship, or those experiencing various stressors and/or trauma may not be represented.

Impact of Mental Health

“At a recent meeting of the states’ administrators of juvenile correctional programs, the host asked one of them, “In your opinion, what are the three most pressing issues in juvenile justice facilities today?”. The administrator answered without hesitation, “Mental health, mental health, and mental health.”

(Grisso, Vincent, and Seagrave, p. 3, 2005)

A Few Things on Diagnosis

Studies generally find that approximately 2/3 of youths in juvenile justice system meet criteria for one of the aforementioned diagnostic categories (roughly half of those in the system are thought to meet criteria for at least 2 diagnoses). This is roughly 3 times greater than what would be expected in the same-age general population.

Clinical research and experience suggest it is harder to accurately diagnosis (or Not diagnosis) children/adolescents than adults. Mental health professionals may also over-pathologize “normal” adolescents (be aware of base rates/developmental issues).

Adolescent Psychopathology

Most Common Psychiatric Diagnoses in Juvenile Justice System

- Mood Disorder
- Anxiety Disorder
- Thought Disorder
- Disruptive Behavior Disorder
- Substance Abuse Disorder
- ADHD
- ID or Borderline Intellectual Functioning

Practical Influences on “Normal” Development

What a teenager invests his/her time in will literally impact their brain. Specifically, depending on the activities/tendencies of the teenager, certain neuronal connections will and won't be kept. In short, the pathways in the brain that are used will be the ones that remain. So a kid who skips school and plays video games with his/her friends all day will literally be creating very different neuronal pathways than a kid who has balance in their schedule or who is engaging in other healthier, educational, prosocial activities.

Who is this?

- Impulsive
- Egocentric
- Prone to boredom/Need stimulation
- Irresponsible
- Failure to accept responsibility
- Lack of realistic goals
- Disregard for social norms, rules, obligations
- Promiscuous sexual behavior
- Many short-term relationships
- Limited frustration tolerance
- Lack of remorse, lack of guilt
- Poor behavioral controls

Not An Excuse...

These brain differences don't mean that young people can't make good decisions or tell the difference between right and wrong. It also doesn't mean that they shouldn't be held responsible for their actions. But an awareness of these differences can help parents, teachers, advocates, and policy makers understand, anticipate, and manage the behavior of adolescents.

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Don't Worry – Good News!!!

Most of these same individuals do not continue their "offending" into adulthood. This, it should be noted, holds true for both violent offenders and sex offenders.
