



Young Adult Offenders:

An Important Sub-Population in Need of Justice Reform

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Young adult offenders are still an under recognized group in many western jurisdictions. The evidence from developmental psychology and the criminological and sociological literature suggests that young adults constitute a distinct and important sub-group of the adult offender population. It is time for a developmentally informed and appropriate justice model for this group of young people.

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How to deal with young adult offenders is currently one of the most important areas of justice reform. The criminal laws of most European countries provide for special arrangements to be made when dealing with young adults in either criminal or juvenile law. Offenders age 18 to 21 are dealt with differently than older adults in 19 European countries including Austria, Germany, and the Netherlands. However, in most western jurisdictions where and how to draw the line between the adult and youth justice systems has been an ongoing and sometimes contentious debate. Only recently has Canada and the United States began to consider the validity of treating young adults as a unique and special sub-population within the adult system.

Developmental psychology suggests empirically supported justifications for the differential treatment of young adults within the legal system. The courts have also recognized that age is an imperfect proxy for diminished capacity. The age of eighteen (the age of adult criminal responsibility in Canada and the United States) is arbitrary rather than evidence-based given that cognitive functioning changes quite gradually.

There is strong evidence that, from a neurological perspective, the human brain is not fully developed in its capacity for cognitive functioning and emotional regulation until well into young adulthood. Maturity affects impulsivity, reasoning, consequential thinking, and the legal argument around maturity is often referred to as the sophistication-maturity nexus.

Research suggests that brain development continues long after the age of eighteen and is not likely fully mature until age twenty-five. In *Roper versus Simmons*, (which ultimately concluded that the death penalty was

unconstitutional for juveniles in the United States) the majority recognized the psychological, neuro-scientific explanations for youthfulness and noted that the qualities that distinguish juveniles from adults do not disappear at 18.

From a psychological perspective, psychosocial capacities and moral reasoning abilities vary considerably between individuals so that some remain immature longer than others, including after the legal age of adulthood. As a group, young adult offenders are more like adolescents than adults with respect to features such as executive functioning, impulse control, malleability, responsibility, susceptibility to peer influence, and competence. Certainly, they do not reach all the attributes associated with our conceptions of “adulthood” by age eighteen.

Thus, age is not a reliable marker of maturity in most young people, but in particular for those in conflict with the law. In fact, developmental psychologists now recognize the age from late teens to mid-twenties as a distinct developmental stage, distinguishable from both adolescence and adulthood. Scholarly attention to this developmental period has increased tremendously in recent years and it is now widely referred to as “emerging adulthood,” a phrase first coined by psychologist Jeffrey Arnett (2000). Arnett (2000) argues that individuals in the eighteen to twenty-four year age range constitute a developmentally distinct sub-group of the adult population. Additionally, he maintains that it is a critical period - biologically, socially, and legally - for the transition into adulthood. Emerging adults struggle if they are part of especially vulnerable populations such as those aging out of foster care, coming out of the criminal justice system, or experiencing disabilities. Thus the added stressors of transitioning to adulthood may overwhelm the already compromised coping capabilities of some young adults.

Differences in philosophy that characterize youth and adult justice systems have generally meant that youth and adult custody institutions have very different organizational climates, considerations, and precedents, whether that be in court rooms or correctional facilities. For example, adult prisons tend to be focused on security and order through various demonstrations of correctional power. Young adults are disadvantaged in these types of adult-oriented, authoritarian type facilities in ways that can heighten the negative impacts of prison on young people. Young adult offenders are still an under recognized group in many western jurisdictions. The evidence from developmental psychology and the criminological and sociological literature suggests that young adults constitute a distinct and important sub-group of the adult offender population. It is time for a developmentally informed and appropriate justice model for this group of young people.

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