

Support for Raising the Age for Justice-Involved Youths

By Marilyn C. Moses

Author’s Note: *Opinions or points of view expressed in this document are those of the author and do not reflect the official position of the U.S. Department of Justice.*

From 2013 to 2016, with financial support from the National Institute of Justice (NIJ), Harvard’s John F. Kennedy School of Government convened an Executive Session on Community Corrections (ESCC) to rethink community corrections policy, with an eye toward recommending new policy and practice approaches based on current science. Twenty-nine distinguished and experienced leaders from the public and private sectors, representing a variety of expertise — practitioners, policymakers and researchers — were selected to serve as executive session members.

The ESCC resulted in a series of thematic policy papers. This article discusses the first paper, “Community-Based Responses to Justice-Involved Young Adults,” which focuses on significant recommendations for justice-involved young adults.¹ In this paper, ESCC members Vincent Schiraldi, Bruce Western and Kendra Bradner recommend a significant policy change in response to justice-involved young adults: raising the age of juvenile court jurisdiction to 21

years old with additional, gradually diminishing protections for young adults up to the age of 24 or 25. This recommendation is not original to these ESCC members. It has been recommended in the past by a number of other scholars, but few jurisdictions have embraced the recommendation.² Thus, based on current research in the area, these three authors have joined the chorus of others who endorse this change.

Reasons for Raising the Age

Schiraldi, Western and Bradner believe similarly to author and poet Maya Angelou, who once said, “Do the best you can until you know better. Then when you know better, do better.” Their recommendation is based on a consistently accumulating mass of neurological and behavioral scientific evidence, substantiating what mature adults intuitively know and are expressing when they ask young adults in frustration, “What were you thinking?” The evidence, which stretches across decades, suggests that children and young adults, unlike mature adults, do not possess fully developed brains and are, therefore, limited in their ability to fully appreciate the “down the road” consequences of actions taken.³

The scientific evidence, relied upon by the authors in making their recommendation, suggests that the human brain is not fully developed in young adults until sometime in their mid-20s. While young adults obviously have mature cognitive abilities, many do not generally possess the capacity requisite to curb impulsive behavior, resist peer pressure and fully consider the long-term consequences of their actions. With the scientific evidence that has been available for decades, the authors opine that we now “know better” and, therefore, now have a responsibility to “do better.” For them, “doing better” translates to responding to these scientific findings by developing age-appropriate responses for young adults who commit crime. While their central recommendation is that the age of juvenile court jurisdiction should be raised, they also believe that the developmental maturity of young adults should not be accommodated only at the court setting, but rather systemwide at each stage of criminal processing — pre-arrest, arrest, pretrial, community-based programs, incarceration and collateral consequences.

The authors envision a more age-responsive approach at the pretrial and arrest stages that involves the unified effort of police, social service and community service providers; their shared goal of diversion

is not just for juveniles, but for low-risk young adults, as well. Similarly, the response to young adults at the pretrial level should include the use of age-sensitive assessment tools. For example, when setting bail, court commissioners should consider the fact that young adults are just starting out in life and are likely to have meager financial resources. To this end, pretrial release should be the goal whenever possible. Dedicated case managers with specialized training and a caseload limited to young adults is recommended, as well as full utilization of family and community resources.

Moreover, the authors also believe that incarceration of young adults should occur only as a last resort. When institutionalization is necessary, the sentence length should be as short as practicable. The time spent behind the prison fence should be programmatically rich and geared toward increasing the probability of success on release. Specialized housing units for young adults that are managed by selected and trained staff persons are also recommended. Like juveniles, given that the science indicates young adults are at a developmental disadvantage, serious efforts should be made to ensure that young adults' experiences with the criminal justice system do not become a "life sentence." The authors also believe that policymakers, practitioners and community members should do everything possible to foster successful reintegration and minimize the collateral consequences for criminally involved young adults. They describe two programs — the San Francisco Adult Probation Transitional Age Youth Unit and the Roca program in Massachusetts — they believe exemplify efforts to respond to young adults in an age-appropriate manner, respecting where their clients

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are with respect to brain development and maturation.

The ESCC cited recent findings on “brain science” as its rationale for expanding the age range for juvenile court jurisdiction; likewise, the Supreme Court has also relied on the mounting body of scientific evidence on brain development and, as a result, has reassessed prior decisions rendered concerning juveniles and the range of appropriate punishments for serious crimes. Findings from this research have brought about changes in Supreme Court decisions about justice-involved youths,⁴ and in 1999, the governor of Connecticut raised the state’s age of juvenile court jurisdiction from 16 to 18.⁵ The present governor, Dannel Malloy, has proposed extending it to 21.⁶ The authors strongly advocate for these age increases to continue in other jurisdictions, and policy changes in this direction could bring welcomed reductions in correctional populations.

ENDNOTES

¹ Schiraldi, V., B. Western and K. Bradner. 2015. *Rethinking corrections in the community bulletin: Community-based responses to justice-involved young adults*. Washington, D.C.: National Institute of Justice.

² Howell, J.C., B.C. Feld, D.P. Mears, D.P. Farrington, R. Loeber and D. Petechuk. 2013. *Bulletin 5: Young offenders and an effective response in the juvenile and adult justice systems: What happens, what should happen, and what we need to know*. Washington, D.C.: National Institute of Justice.

³ Giedd, J.N., J. Blumenthal, N.O. Jeffries, F.X. Catellanos, H. Liu, A. Zijbendos, T. Paus, A.C. Evans and J.L. Rapoport. 1999. Brain development during childhood and adolescence: A longitudinal MRI study. *Nature Neuroscience*, 2:861-863. London: Nature Publishing Group.

⁴ *Thompson v. Oklahoma*, 487 U.S. 815, 101 L.Ed.2d 702, 108 S.Ct. 2687 (1988)

⁵ Salsich, A. *Raising the age of juvenile jurisdiction in Connecticut*. Vera Institute. Retrieved from www.vera.org/project/raising-age-juvenile-jurisdiction-connecticut.

⁶ De Avila, J. 2015. *Gov. Malloy wants minimum age to be tried as an adult set at 21*. Wall Street Journal. Retrieved from www.wsj.com/articles/gov-malloy-wants-minimum-age-to-be-tried-as-adult-set-at-21-1451354757.

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