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YOUNG OFFENDERS: WHAT HAPPENS AND WHAT SHOULD HAPPEN

This bulletin examines policies that affect young offenders who cross over from the juvenile to the criminal justice system. It focuses on adolescence and early adulthood, with a particular emphasis on juvenile delinquents ages 15-17 who are candidates for transitioning into the criminal justice system and young adults ages 18-24 who are already in the criminal justice system.

Beginning in the 1960s, rising crime rates in the United States prompted a swing from treatment to punishment. The more punitive philosophy of the criminal justice system filtered down to the juvenile justice system, and young offenders were being charged increasingly in the criminal justice system. This trend may now be reversing with a growing emphasis on rehabilitation in the juvenile justice system.

This publication summarizes 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 by James Howell, Barry Feld, Daniel Mears, David Petechuk, David Farrington and Rolf Loeber, NCJ 242935, available at NCJRS.gov. Bulletin 5 is one in a series of bulletins prepared for Transitions From Juvenile to Adult: Papers From the Study Group on Transitions From Juvenile Delinquency to Adult Crime. The study group was led by David Farrington and Rolf Loeber under award number 2008-IJ-CX-K402; to learn more, visit NIJ.gov, keyword "Transitions to Adulthood." This summary was written by Phil Bulman, a staff writer at NIJ. See full bulletin for source citations.

The 20th-Century Shift to Punitive Policies

During most of the 20th century, state sentencing policies generally were offender-oriented and based on a rehabilitative model of individualized sentencing. However, the national crime rate began to increase sharply in the 1960s, and an increase in the number of homicides committed by adolescents and young adults in the late 1980s and early 1990s in some cities alarmed the public and policymakers alike. By the end of the 1990s, all states had passed laws to make their juvenile justice systems more punitive, and these new laws led to more juveniles being tried and sentenced as adults and then sent to adult prisons. The changes may have been counter-productive. Recent studies have shown that juvenile justice system services and supervision are more effective than confinement in reducing antisocial behavior.

Transfers to the Criminal Justice System

Many studies have found that young people did not fare as well when their cases were transferred from the juvenile to the criminal justice system. Some

studies found that transferred youth were more likely to reoffend, reoffend more quickly and at higher rates, and commit more serious offenses following release from prison than those who were not transferred. Recent studies found that transferring juveniles to the criminal justice system increased, rather than decreased, rates of violence. One review of transfer studies found that transferred juveniles were 34 percent more likely to be rearrested for violent or other crimes than those who stayed in the juvenile justice system.¹

Special Considerations for Juveniles in Sentencing

In *Roper v. Simmons* (543 U.S. 551 (2005)), the Supreme Court found capital punishment for juveniles to be unconstitutional. The majority opinion offered three reasons not to punish juveniles as severely as adults:

- Their immature judgment and lesser self-control cause them to act impulsively and without a full understanding of the consequences.
- They are more susceptible to negative peer influence.
- Their personalities are still changing, and their crimes provide less reliable evidence of depraved character.

In *Graham v. Florida* (130 S. Ct. 2011 (2010)), the Court applied *Roper's* diminished responsibility rationale to cases in which youth convicted of non-homicide crimes were sentenced to life without parole.

Child and Adolescent Brain Development

Many differences between how adolescents and adults think and behave reflect developmental differences in the human brain, which is not fully mature until early adulthood. During adolescence and into the early 20s, increased maturation of the prefrontal cortex improves cognitive functioning and reasoning ability. The evidence from developmental neuroscience suggests that young adult offenders ages 18-24 are, in some ways, more similar to juveniles than to adults.

Researchers have found that youth ages 16-17 sense fewer risks than do either older or younger research subjects. This is an age when criminal activity also increases.

To be competent to stand trial, a defendant must be able to consult with a lawyer, fully understand the proceedings, and be able to help in preparing a defense. Developmental psychologists strongly question whether juveniles have the cognitive ability, psychosocial maturity and judgment necessary to exercise their legal rights.

Reentry Challenges for Young Offenders

About 200,000 people ages 24 and younger leave juvenile facilities or prisons every year. Young offenders may face an array of adjustment problems. For example, school systems may not be receptive to working with them and may warehouse them in special classrooms or alternative schools. Violence and drug dealing may occur in family settings. Peer networks may foster criminality. Some youth may be unemployable because they have not graduated from high school and have limited, if any, employment history.

Recommendations

Policymakers should:

- Consider raising the minimum age for criminal court to 21 or 24.
- Consider creating special correctional facilities for young adult offenders, with tailored services such as cognitive-behavioral therapy, drug treatment, mentoring, educational and vocational training, and work release programs. Some states have special facilities for young adults, such as Pennsylvania's Pine Grove institution. Several European countries also have separate institutions for 18- to 20-year-olds. Because juveniles sent to adult correctional facilities have higher recidivism rates than those in juvenile facilities, setting up special facilities could help decrease recidivism, thus saving money.

- Consider implementing a “youth discount” for young offenders, decreasing the severity of penalties.
- Conduct risk and needs assessments of young offenders to guide interventions.
- Employ reentry services that include therapy, drug treatment and educational programs.

Endnote

1. Some recent research indicates that the situation may be more complex. The Pathways to Desistance study found that youth sent to the criminal justice system for a serious violent felony offense (excluding sex offenses) had a lower subsequent arrest rate than those who remained in the juvenile justice system. However, youth who were sent to the criminal justice system for a property offense or another felony (excluding Uniform Crime Reports Part 1 and drug offenses) had a higher subsequent arrest rate than those who remained in the juvenile justice system.

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