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Author(s): Jennifer L. Woolard, Mark R. Fondacaro, Christopher Slobogin  
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## Informing Juvenile Justice Policy: Directions for Behavioral Science Research

Jennifer L. Woolard,<sup>1,3</sup> Mark R. Fondacaro,<sup>1</sup> and Christopher Slobogin<sup>2</sup>

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*Recent policy initiatives threaten to reduce the rehabilitative mission of the juvenile court or eliminate the court entirely. This article lays out a framework for an empirical assessment of these developments. It first evaluates the available and potential empirical support for three hypotheses about juveniles that might justify maintaining a separate, rehabilitation-oriented juvenile justice system: the hypotheses that, compared to adults, juveniles are more treatable, less culpable, and less deterrable. On the assumption that the continued existence of a rehabilitation-oriented juvenile court can be justified, it then provides suggestions as to how existing intervention strategies for juveniles could benefit from research attention to several substantive and methodological issues. These include refining outcome criteria and sampling strategies, matching offender and program characteristics, reexamining intervention efficacy, and focusing on decision makers and resource allocations.*

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The common wisdom in juvenile justice policy is that rehabilitation, if not dead, is in serious decline. Rehabilitation is perceived as too costly, ineffective, and offensive to notions of justice, at least those conceptions of justice rooted in the public's desire for retribution. And the public appetite for retribution and punishment is growing. Although serious juvenile crime has declined over the past few years (Snyder & Sickmund, 1999), highly publicized and sensationalized cases like the shooting tragedy at Columbine High School feed the public angst and legitimize calls by both professionals and the public at large to "get tough" on delinquents.

This furor over juvenile justice has triggered two related policy initiatives. The most extreme is a call for the abolition of a separate juvenile justice system as we know it. A few of these abolitionists argue for the juvenile court's elimination on the ground that there are no legally relevant differences between adolescents and adults (Ainsworth, 1991). Found more often in the policy than the social science

<sup>1</sup>Center for Studies in Criminology and Law, University of Florida, Gainesville, Florida.

<sup>2</sup>School of Law, University of Florida, Gainesville, Florida.

<sup>3</sup>To whom correspondence should be addressed at Center for Studies in Criminology and Law, University of Florida, PO Box 115950, Gainesville, Florida 32611; e-mail: jwoolard@crim.ufl.edu

realm, the “adult time for adult crime” slogans presume that juveniles are simply junior versions of adults in most respects. Other commentators concede some differences between youth and adults, but argue that concerns about developmental immaturity and its contribution to offending could be accommodated in the criminal justice system through mitigation, or a “youth discount” at sentencing (Feld, 1997, 1999).

For most policymakers, however, the issue is not whether the juvenile court should be retained, but for whom. The second policy initiative aims at reducing the role that rehabilitation plays in juvenile justice. It is evidenced most clearly by the fact that, between 1992 and 1997, 47 states modified legislative transfer provisions, sentencing, and confidentiality requirements to make their juvenile justice systems more punitive (Snyder & Sickmund, 1999).

Both of these debates could benefit from the insights of social science. At least three different justifications have been advanced for a separate juvenile system: (1) compared to adults, children are more treatable; (2) compared to adults, children are less culpable; and (3) compared to adults, children are less deterrable. Social science can address each of these assertions, and thus aid thinking about whether a separate juvenile justice system is philosophically justifiable and wise based on these considerations.

In the event that some version of a separate juvenile justice system continues, this research is also relevant to the type of juvenile system constructed. For example, a showing that children are especially treatable might argue for a more rehabilitation-oriented juvenile system relative to the adult system. A showing that children are less culpable would support a regime that is less punitive than the adult system. Similarly, a showing that children are less affected by a deterrent approach than adults may argue for a system that is not punishment oriented, but rather is aimed at prevention, through early intervention and treatment programs. On the other hand, if children are not measurably different than adults in these three respects, the juvenile system should perhaps look very similar to the adult system, and transfer is likely to be based more on the nature of the offense than on characteristics of the juvenile.<sup>4</sup> In either case, social science research can help construct an effective juvenile system in other ways as well. Most obviously, it can help identify the most effective intervention programs. It can also identify the children most likely to benefit from those programs and, conversely, the children who are not amenable to treatment and thus most likely to be transferred to adult court.

This article examines existing social science research relevant to these two areas and suggests ways in which both hypothesis construction and research design can be improved. We first examine the “justification” issue: what can social science research tell us about the greater treatability, lesser culpability, and lesser deterrability hypotheses of juvenile offenders? Then we assume a separate juvenile justice system that is at least partly rehabilitation oriented and identify directions for research on justice system interventions.

<sup>4</sup>It should be noted that a finding that adults and children are similar in terms of treatability, culpability, and deterrability might also argue for a unitary, *rehabilitation*-oriented system. Alternatively, a punishment-oriented system for adults might be maintained even if a prevention regime is empirically superior for all ages, as a way of endorsing the assumption that adults control their behavior and should therefore be blamed for it.

## JUSTIFICATIONS FOR THE JUVENILE COURT

### Are Juveniles Inherently More Treatable?

The origins of the juvenile court emerged from a movement of the late 1800s that attempted to treat and reform delinquents and predelinquents by rescuing them from the path to criminality. Although its impact was not solely positive, particularly for the urban poor who were most often the target of such intervention, the underlying notion of treatability and reformation remained a powerful force in the juvenile court's continued development (Platt, 1999; Simpson, 1976). Proponents of early intervention operated on the premise that children and adolescents are more malleable than adults because they are undergoing multiple developmental changes; there was a sense that early intervention can "push" change in the right direction more easily.

Unfortunately, we still do not know if that premise is true. For present purposes, we define "treatability" as the extent to which some type of professional intervention will reduce recidivism or correlated risk factors (Rutter, 1990). Early evaluations concluded that the impact of juvenile justice treatment interventions on recidivism was minimal (Martinson, 1974). That conclusion was challenged on the grounds that intervention failures were due to methodological limitations that failed to detect true effects, not a failure of rehabilitation itself (Palmer, 1975). More recent reviews have identified a number of programs that demonstrate some degree of recidivism reduction using scientific evaluation criteria (Lipsey, 1992; Mulvey, Arthur, & Reppucci, 1993). However, research has not evaluated whether adolescents are inherently more treatable than adults in terms of recidivism reduction.

Research on the additive and/or cumulative effects of risks factors *does* indicate that early intervention can be more efficient, and perhaps more effective, than waiting until negative outcomes have begun to accumulate (Yoshikawa, 1994; Zigler, Taussig, & Black, 1992). Furthermore, earlier involvement in delinquency is clearly associated with more persistent and serious offending patterns (Elliott, 1994; Farrington, 1997). Developmental changes in autonomy, independence, identity formation, and moral reasoning may also differentiate adolescents' receptivity to treatment from treatment receptivity of adults. Ultimately, however, the individual and contextual characteristics that make anyone treatable remain unidentified.

Research that attempts to study whether juveniles are more treatable than adults suffers from two problems in particular. The first is that identical interventions might produce different results in juveniles not because of differences in the subjects, but because of differences in the system in which the interventions take place. For instance, clinical assessments of treatability among mentally disordered offenders indicate that the relative coerciveness of the treatment environment can affect treatment adherence and success (Heilbrun, Bennett, Evans, & Offutt, 1988; Rogers & Webster, 1989). When people perceive that others respect them, are concerned for them, and use fair procedures, they are less likely to feel coerced (Monahan et al., 1996). The same treatment modality may work better (or worse) in the juvenile system than in the adult system simply because the former system may be seen as less coercive by juveniles and their parents.

A second challenge to treatability research comparing adults and juveniles stems from the difficulty of separating treatment effects from natural desistance. Recent

work indicates that delinquent behavior is a normative part of adolescence for many youth (e.g., Moffitt, 1993). More importantly, longitudinal studies of offending patterns have identified that the large majority of adolescents appear to desist from delinquent behavior “naturally” as they enter young adulthood; only a small minority of youth persists in such behavior throughout adolescence into the adult years (Elliott, 1994; Moffitt, 1993). Accordingly, studies that show treatment success may actually merely be recording desistance effects.

### **Do Juveniles Have Less Capacity for the Decision to Engage in Criminal Conduct?**

The reduced culpability position posits that developmental influences on offending patterns and the decision to commit crimes differentiate adolescent offenders from adults. If this is true, presumptions about the autonomous rational actor that undergird the retributive adult system are weakened (Fondacaro, 2000) and a legal framework of diminished responsibility may be justified (Scott, 2000; Scott & Grisso, 1997; Zimring, 2000).

Research on decision-making capacity suggests that developmental influences result in different decision-making strategies and choices for adolescents; that is, adolescents make different decisions than they presumably would once they matured (Scott, 2000). For example, theoretical work on judgment posits that developmental factors lead adolescents to use and process information differently (and less effectively) than adults when considering legally relevant decisions (Scott, Reppucci, & Woolard, 1995). Literature reviews and preliminary empirical work indicates that a multitude of age-based factors are related to juveniles’ decision-making capacities; these include a foreshortened time perspective, a greater proclivity for risk behavior, changing estimates of risk likelihood, propensity to be influenced by peers, and reduced social responsibility or “stake in life” (Cauffman, Woolard, & Reppucci, 1999; Scott et al., 1995; Steinberg & Cauffman, 1996).

Ultimately, however, the empirical foundation for the developmental differences in judgment between adolescents and adults is grounded more in theory and in empirical work in noncriminal, nonlegal contexts. Many substantive and methodological issues remain in developing a consistent and explicit connection between developmental factors and actual behavior (Cauffman & Steinberg, 2000; Woolard & Reppucci, 2000). Substantively, future research must evaluate the ways in which adolescents are different decision makers, whether those differences are developmentally based, and the developmental trajectories that lead them to make different decisions in adulthood (i.e., who grows out of bad judgment?). Methodologically, studying the specific decision-making skills and capacities of adolescents, particularly those who come into contact with the legal system, is difficult because the decision to engage in delinquent or criminal behavior is virtually impossible to study in its natural context.

The methodological obstacle, while significant, does not have to frustrate inquiry. Several strategies could contribute to our knowledge base. First, further work can be conducted on the circumstances in which decisions about criminal behavior take place. For example, one distinguishing feature of adolescent development is the

changing nature and salience of peer groups, and adolescent crime occurs primarily in groups (Zimring, 1981). How do developmental tasks regarding peer pressure interact with these circumstances to influence decision making about crime? Are these influences and situations different for adults? Second, research can examine the role of cognitive and psychosocial factors on adolescent decision making in contexts analogous to criminal scenarios. For example, Fried and Reppucci (1999) used the movie *Sleepers* to portray a situation in which adolescents initially decide to steal a hot dog from a street vendor, but engage in a series of events that ultimately result in serious injury to a bystander. By stopping the video at various decision points and asking adolescents about the scenario, possible consequences, and so on, the authors were able to examine the role of psychosocial factors in the decision making process (see also Fried & Reppucci, 2001). Similar research could be carried out with adults for comparison purposes.

A third line of research on adolescent culpability should focus on the assessments and attributions of decision makers themselves. As with the assessment of amenability discussed above, justice system officials must engage in a complex decision process when determining when and how to hold a juvenile responsible for his or her actions. Researchers could investigate whether the attributions about culpability differ when a juvenile rather than an adult is involved. Perhaps equally culpable individuals are treated differently in terms of blameworthiness assessments simply because they are different ages.

### **Is a Deterrent Approach Less Effective with Juveniles?**

A third approach to juvenile court jurisdiction relies on a “preventive” model of criminal justice. In *Kansas v. Hendricks* (1997), the U.S. Supreme Court approved the use of long-term preventive (postsentence) confinement of sex offenders who are dangerous because they are unable to control their behavior. Although the subject of debate, *Hendricks* could provide theoretical support for juvenile court jurisdiction over many offenders on a diminished deterrability rationale (Slobogin, Fondacaro, & Woolard, 1999). As the Court assumed with sex offenders, juveniles may be relatively unable to control their behavior relative to other types of offenders. If so, *Hendricks* could be construed to permit a juvenile system separate from the adult criminal justice system.

A recent meta-analysis of juvenile justice intervention efficacy suggests that deterrence-based interventions not only do *not* reduce recidivism among juveniles, but may actually have negative effects. The average recidivism rate for intervention groups was 24% higher than for control groups (Lipsey, 1992). In subsequent analyses limited to studies of noninstitutionalized serious offenders, deterrence programs demonstrated no significant effects on recidivism rates (Lipsey & Wilson, 1998).

Of course, research on the deterrent effect of criminal penalties on adults casts doubt on the efficacy of deterrence generally (Andersen, 2000). Developmentally based deterrence research must specify the factors that would lead to variations in deterrability between children and adults. The literature relevant to culpability (e.g., regarding risk preference, temporal perspective) may be relevant here. That research indicates that developmental factors of judgment and decision making may

make adolescents less likely than adults to respond to the retributive deterrence-based regime of the criminal justice system. Thus, for instance, deterrence may be more effective with older adolescents and adults who have developed an increasing stake in their future and a lessening preference for risk than younger adolescents.

Finally, in conducting research on relative deterrability, social scientists must be alert to the same methodological difficulty considered in connection with study of relative treatability. If reduced recidivism is demonstrated, is it because deterrence operated effectively or because the juvenile desisted naturally?

## **RESEARCH ON JUSTICE SYSTEM INTERVENTIONS**

Despite the move toward a more punitive approach to juvenile justice, most juvenile courts remain rehabilitation oriented to at least some degree. Furthermore, in many states, transfer to adult court is still based, in theory if not in practice, on the juvenile's amenability to treatment (Slobogin, 1999). Perhaps most courts and legislatures accept the assumptions about juvenile treatability, culpability, and deterrability outlined above.

In any event, because of the role rehabilitation still plays in juvenile court, social scientists can be extremely useful in helping legal institutions identify the most effective means of reducing the recidivism of juvenile offenders. To better inform the policy and practice decisions regarding juveniles' treatability and the implications for sanctions in juvenile court and/or transfer to criminal court, research should address several methodological and conceptual issues. These include outcome criterion specification, policy-relevant sampling strategies, matching offenders to treatment modalities, broadening the examination of intervention efficacy, and focusing attention on the decision makers themselves and the constraints under which they function.

### **Outcome Criteria**

As noted earlier, recidivism is often the outcome indicator of choice in the policy arena. However, recidivism can be operationalized and measured in a variety of ways. Intervention success has usually been dichotomized into presence or absence of recidivism, a blunt measure of success given research on developmental trajectories of offending over time. A more refined definition of recidivism should be developed, which could be based on dimensions of frequency (cessation, reduced occurrence, a pattern of gradual or steep desistance), severity (deescalation of severity within an offense type such as assault), or offense type (violent or nonviolent, person or property) as indexed through rearrest, adjudication, and/or conviction.

### **Sampling Strategies**

Although the intervention literature has grown exponentially and a number of promising programs have been identified, conclusions about intervention efficacy must be tempered by the fact that in sampling strategies are not always consonant

with legal policy concerns. Several comments can be made in this regard. First, as just noted, evaluations of interventions for violent juvenile offenders have used multiple definitions of violence that lead to different samples of juveniles being identified as violent and prevent comparisons of relative intervention efficacy (Lipsey & Wilson, 1998; Tate, Reppucci, & Mulvey, 1995). Second, sampling strategies based simply on developmental factors may not be sensitive to the effects of legal doctrine. For example, modern transfer laws tend to focus on treatability of certain age groups or those charged with certain offenses; for others, treatability or nontreatability is legally presumed (see, e.g., Fagan, 1996; Winner, Lanza-Kaduce, Bishop, & Frazier, 1997). Third, sampling strategies should also be attentive to the law's bottom line interest: violence proneness. Criminological and psychological research has consistently identified a small group of early-onset offenders (about 5% of the male offenders) who progress to serious delinquency in adolescence (Elliott, 1994; Moffitt, 1993). Another group that has received less attention is made up of nonchronic offenders who generally commit less serious crimes, but are still responsible for a significant proportion of serious crime (Tolan & Gorman-Smith, 1997). The ability to identify these groups could more accurately guide legal intervention strategies.

A different sampling concern arises from the dearth of conceptual and methodological work on the effectiveness of interventions on different groups defined by race, ethnicity, gender, contextual variables, and so on. Hawkins and colleagues (Hawkins, Laub, & Lauritsen, 1998) argue that research examining race-based differences in juvenile offending must use sampling strategies and theories that include community-level factors in addition to individual-level explanations. This approach would result in sampling strategies that incorporate macrolevel constructs of community structures and cultural variables such as neighborhood poverty and family disruption. Multilevel sampling strategies would facilitate analyses of the psychological, family, and other contextual factors that contribute to delinquency (Jackson & Fondacaro, 1999; Loeber & Hay, 1997). In turn, these factors should have implications for the efficacy of matching offenders with treatment options.

### **Offender/Program Match**

The next step for research on treatability reframes the question of "what works?" to "what works, for whom, under what conditions?" Now that some promising intervention strategies have been identified (see, e.g., Lipsey, 1992; Mulvey et al., 1993), further work needs to evaluate the match between offenders and treatment modalities, in part relying on more complex sampling strategies and criterion specifications outlined above. For instance, although a recent meta-analysis found only a 12% average reduction in recidivism among treated youth compared to control groups who received the usual programming, further analysis of programs for noninstitutionalized juveniles found that approximately 50% of the variation in effect size could be accounted for by the following four clusters of variables (in order of decreasing importance): characteristics of the juveniles, treatment type, amount of treatment delivered, and general program characteristics (Lipsey, 1992). Interestingly, the same characteristics also accounted for 50% of the variance in effect sizes for programs for institutionalized and presumably more serious offenders, but in the reverse order



of importance. Program success varies tremendously based on offender type and placement.

Further research should examine this issue of matching types of programs to types of juvenile clients, as well as to more extensive follow-up after program completion, particularly for samples of serious violent offenders (Tolan & Gorman-Smith, 1997). For example, *patterns* of intervention may be more predictive of treatment success than participation in a particular intervention program. Are there “typical” intervention histories and how do they affect subsequent intervention efficacy? These concerns are especially salient for serious violent offenders, a substantial proportion of whom have likely had multiple contacts with the justice system, but who are less often the focus of treatment research. Some programs that focus on multiple intervention points (e.g., multisystemic therapy) have demonstrated success with these populations (Henggeler, Melton, & Smith, 1992), but more research on this approach is needed.

### **Sensitivity to Program Implementation**

Treatability research must move past an almost exclusive focus on outcome to understand the key components of process and implementation (Mulvey et al., 1993). The search for a technology of intervention has narrowed the focus of extant evaluation to content and outcome and ignored implementation in particular situations, effectively removing the effects of context from the equation (Mulvey & Woolard, 1997). As treatment interventions move from demonstration project or pilot phase to full-scale implementation and replication, research must be well positioned to distinguish core elements vital to program fidelity from other components that can adapt to changing community and service delivery contexts (Henggeler, Smith, & Schoenwald, 1994; Kendall & Southam-Gerow, 1995).

Core program elements probably include estimates of intensity or dosage, developmental appropriateness of the intervention, or involvement of parents or other members of the juvenile’s context. Elements of the program context that *might* affect implementation, such as interaction with and characteristics of other systems (e.g., juvenile court, other social services, mental health), funding streams, and community receptivity, must also be operationalized. Henggeler and colleagues (1997) provide an example by examining contextual effects on treatment fidelity of the multisystemic therapy (MST) intervention with serious juvenile offenders. Assuming that many communities would be unable to finance the weekly therapist supervision component of the original MST model, they compared recidivism outcomes for the full and reduced supervision implementations. Adherence to the original treatment model as reported by parents, adolescents, and therapists produced significantly better recidivism outcomes.

### **Focus on Decision Makers and Resource Allocations**

Treatability determinations may be most significantly driven by offender and offense characteristics, but research on clinical judgment and decision making indicates that the decision maker and the larger context also play an important role at multiple

stages of the justice process (Mulvey, 1984). Mulvey and Reppucci (1988) tested the hypothesis that a plentiful service context would create conditions for more favorable amenability assessments, particularly among those professional groups whose work involves service delivery to youths. They found that judgments regarding the benefit of punishment and treatment services varied across agency type (court, community mental health center, and social services) and resource availability. Professionals in the low-resource condition rated juveniles as less amenable to treatment and more likely to benefit from punishment than did professionals with greater resources.

This research demonstrates that amenability assessments can be shaped not only by individual risk factors, but also by external factors subject to changing policy initiatives and funding streams. Accordingly, individually based predictors of treatment success or failure should be examined in the broader context of resource allocation. Particularly for violent juveniles or those who are “on the bubble” regarding transfer or punitive sanctions in juvenile courts, research should focus on the prosecutor, who is ultimately responsible for charging decisions, and the probation officers, who are often responsible for social histories and disposition recommendations (Bridges & Steen, 1998; Reese, Curtis, & Whitworth, 1988). As public expenditures are allocated toward punitive sanctions and away from rehabilitative services, the resulting low-resource context may set up a downward spiral that leads decision makers to view violent juveniles as less amenable.

Models of the treatment and disposition decision-making processes should not rely on optimal time and resource circumstances that stray far from the juvenile justice system reality. Rather than making optimal decisions, Simon (1982) argued that decision makers are engaged in *satisficing* procedures, in which they choose the option that meets minimal needs within the constraints of limited time and information (Gigerenzer & Goldstein, 1996). These models are a more realistic way of investigating juvenile justice decision makers who are processing large numbers of cases under serious time and resource constraints (Mulvey, 1984). Combinations of individual-level factors such as assessments of treatability and macrolevel factors such as organizational tensions between rehabilitation and punishment may drive case outcomes (Tolan & Gorman-Smith, 1997).

## CONCLUSION

As it begins its second century, the juvenile court stands on somewhat shaky ground. Although its original ideals of social experimentation and rehabilitation have not been entirely snuffed out, legal and policy reforms of the past several decades have led many to question their necessity. Arguments for the court’s continued existence and appropriateness for juvenile offenders have a strong foundation in law and psychology. The concepts of greater amenability to treatment, reduced culpability, and lesser deterrability all share a common presumption of critical developmental differences between adolescents and adults. Current knowledge of prevention and treatment programs refutes the notion that nothing works. However, in both of these areas, several key gaps in knowledge remain (Cauffman & Steinberg, 2000; Scott & Grisso, 1997; Woolard & Reppucci, 2000). Interdisciplinary collaboration

that addresses these gaps by translating ecologically sound concepts into common practice in widely variable settings will facilitate the development of empirical knowledge that has the potential to inform the policy and practice of juvenile justice.

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