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# Youth, Interrupted: Encouraging a Holistic Approach to Juvenile Incarceration Policy

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# Abstract

Scientific research into the experience of juveniles in detention has recently had an impact on court rulings. In the cases of *Roper v Simmons (2005), Graham v Florida (2010)* and *Miller v. Alabama (2012)* judges used research in juvenile cognitive development to inform their rulings. Though current research covers different aspects of juvenile experience in the criminal justice system, few studies approach the subject holistically or examine the inherent symbiotic relationship between juvenile detention policy and juvenile incarceration. This literature review seeks to present information on and encourage further examination of this relationship. For the purposes of the review, the terms "youth," "juvenile," "adolescent/s," "young people," and "under age" all refer to people between the ages of 13 and 18.

# Introduction

On any given day, nearly 53,000 youth are held in facilities away from home because of involvement in the criminal justice system (Sawyer, 2018). The years following the Ronald Regan Administration, with its distinctive stance on the war on drugs, saw an increase in not only juvenile arrests, but also in juvenile imprisonment under laws geared toward adult crime (Snyder, & Mulako-Wangota, 2012). The United States has only rather recently acknowledged the difference between juvenile and adult cognitive culpability in the commission of crimes (Miller & Steinberg, 2012; Scott & Steinberg, 2008). Three United States Supreme Court cases have shaped modern judicial ruling regarding offences by juveniles: Roper v. Simmons (2005) eliminated the death penalty for offenders under the age of 18, Graham v. Florida (2010) ruled that juveniles cannot be sentenced to life without parole unless they are convicted of a homicide, and Miller v Alabama (2012) expanded on the Graham v Florida ruling to include that juveniles cannot be sentenced to life without parole even if convicted of homicide. In all these cases, rulings that the sentencing of adolescents should be different than sentencing for adults was partially based on research evidence that the adolescent brain is not as fully developed as the adult brain. However, these changes have resulted in new problems for juveniles in the court system.

In *Miller v Alabama*, the most recent of these three U. S. Supreme Court cases, the Court ruled that mandatory sentences of life without the possibility of parole for juveniles, for any reason, violated the Eighth Amendment ban on cruel and unusual punishment as it relates to juvenile offenders (Miller & Steinberg, 2012). Although seen as needed reform in the treatment of under-age offenders, this ruling has led to law reform that has both increased the chance that an adolescent's case could be transferred to adult criminal court and the number of juveniles being tried as adults, thereby increasing the likelihood of much harsher sentences for these youth (Lambie & Randell, 2013). Changes to policy include elimination of some factors a judge must consider before transferring a juvenile case to adult courts (such as severity and circumstances of the crime), expanding the list of crimes in which transfer to adult court is an option, lowering the minimum age for transfer, and giving greater discretion to prosecutors in juvenile cases. For a young person, transfer into the adult system can have serious penalties. While the consequences of transfer differ from state to state they can, and often do, include repercussions such as lengthy incarceration and abuse in adult prison (Redding, 2003).

These un-intentioned results of policy reform imply an increased importance for policy makers to have access to research that allows them to make informed decisions regarding juveniles in the court system. In a 2012 interview, Laurence Steinberg, a child psychologist at Temple University in Philadelphia, Pennsylvania, "Adolescents are significantly different from adults in ways that mitigate criminal responsibility. They're more impulsive and less able to anticipate the consequences of their actions." (Miller & Steinberg, 2012, p. 25). Though policy makers give many reasons for incarcerating juveniles with adults, recent research shows increasing amounts of evidence indicating "numerous negative psychological and behavioral consequences for young people who are incarcerated, particularly for those incarcerated in adult prisons and with adult offenders" (Lambie & Randell, 2013 p. 449).

# Development

Juveniles do not possess the same level of neuropsychosocial development (i.e. maturity) as adults. For many people, involvement in sensation-seeking and risk-taking behaviors peaks during adolescence (Lambie & Randell, 2013). Juveniles do not have the same maturity development level as an adult possesses and often have difficulty regulating their moods, impulses and behaviors (Redding, 2003). During this time, youths are more likely to exhibit antisocial behavior-behavior that is characterized by aggression and violation of social rules (Loeber et al., 2012).

Adolescence is a developmental period marked by significant neurological changes that are closely associated with predictable changes in behavior. One such marked behavioral pattern is the pronounced rise and fall in delinquent (habitual violations of the law committed by juveniles) and antisocial behaviors that starts at approximately age 10, peaks at around age 16-17 and then declines rapidly in later adolescence and early adulthood (Evans-Chase, 2013; Loeber et al., 2012). These behaviors are seen not only in those who are juvenile offenders, but also as a part of general adolescent development. Neurological studies of adolescent brain development show that there are two distinct processes which co-occur in a healthy adolescent brain and have a direct impact on delinquent behavior (Matto & Ballan, 2013). One of these changes is associated with a sharp increase in risk-taking behaviors and the other is associated with a slower development of the ability to self-regulate behavior. These two changes are aspects of psychosocial development, while the underlying neurological changes during this time of maturation are termed neuropsychosocial development (Evans-Chase, 2013; Steinberg, 2009).

The first neuropsychosocial process, coinciding with puberty, is a dramatic change in dopamine levels connected with an increase in activity in the limbic system. These changes increase dopamine activity in an area of the brain called the nucleus accumbens, increasing motivation to seek rewards and making rewards seem more important and satisfying (Evans-Chase, 2014; Hirschi & Gottfredson, 1983; Steinburg, 2009). Along with this increase in dopamine activity there is a decrease in amygdala activity, which involves the avoidance response to threats, making negative outcomes seem less adverse and decreasing the threat of negative consequences for behavioral choices (Evans-Chase, 2014; Matto & Ballan, 2013). Researchers hypothesize that these changes are the primary factors for adolescent risk-taking and delinquent behaviors.

The second process relates to the relationship between age, juvenal delinquency and the slow development of self-regulatory areas in the brain. These changes occur in the prefrontal cortex and the neural pathways between the prefrontal cortex and the limbic system and include an increase in white matter from the myelination (process of insulation and conduction of electrical signals) of axons and a decrease in grey matter due to synaptic pruning (Evans-Chase, 2014; Matto & Ballan, 2013). The speed at which information is processed and communicated between the cortical areas is positively affected by the increase in myelination. There are three areas in the prefrontal cortex that are central in self-regulation: the medial prefrontal cortex, the ventrolateral prefrontal cortex and the anterior cingulate cortex. These three areas reach maturity, or myelination, later in adolescence and into early adulthood. As these areas mature, there is also an increase in the executive cognitive functions based in the prefrontal cortex such as inhibition, weighing risks verses rewards, and planning, as well as the ability to self-regulate behavior (Matto & Ballan, 2013). As research suggests, the ability of the adolescent mind to consider farreaching consequences combined with a natural lack of concern for risk-taking behavior are very often out of the juvenile's control.

# Youth and the Criminal Justice System

There are several negative implications to adolescent offenders' lack of proper maturity. Juvenile offenders are typically more vulnerable to peer influence, coercion, provocation, and immature decision making. Some researchers point to these factors as reasons for mitigating culpability in criminal activity, making incarceration in an adult prison an unsuitable sentence for an adolescent offender (Mulvey, & Schubert, 2012). Moreover, researchers found that incarceration in general inhibits opportunities for successful pro-social development by restricting autonomy, limiting a young person's options for positive social interaction and subsequently hindering successful reintegration into regular society (Dmitrieva et al., 2012; Lambie & Randell, 2013; Mulvey, & Schubert, 2012).

Incarcerating juveniles in adult facilities can be even more harmful than incarcerating them with their peers. Of all the incarcerated population, youth and adolescents held with adults are at the highest risk of sexual abuse and "youths who are younger and from minority racial groups have been shown to be at particular risk of victimization within the prison system" (Lambie & Randell, 2013, pg. 452). Though developmental research suggests that because of their level of maturity adolescents should not be held as culpable as an adult, this does not mean that they are not responsible for their crimes. Many who deal in politics and policy creation see this reasoning as an excuse for, rather than a mitigating factor in, the behavior of juvenile offenders and believe that unless an adolescent who has committed a serious crime is punished as an adult, they are escaping responsibility for their actions (Scott & Steinberg, 2008).

# **Being on the Inside**

The prison environment is often characterized by experiences such as social isolation, victimization, and often unaddressed or exacerbated mental health issues (Lambie & Randell, 2013). In general, many of those who served time as juveniles felt that their childhoods had been stolen away from them (Hartwell et al., 2010; Lane et al.,2002). Research done by Lane, et al. (2002) found that the pain and loss experienced while they were incarcerated often only increased the resentment and anger that many adolescents feel towards the justice system, further increasing antisocial behavior. In a study done in Australia by Ashkar & Kenny (2008) on 16 male inmates between the ages of 16 and 19 who were serving time in an adult maximum-security detention facility in New South Wales, detainees reported their experiences of being incarcerated as negative, with few deterrent effects on re-offending. Many of the young inmates in the study described being humiliated, scared, and depersonalized after entering the adult system. Most believed that they were still at risk for re-offending and stated the need for postincarceration support (Ashkar & Kenny, 2008). Beliefs such as these could in part be the result of attitudes learned from much more pessimistic opinions expounded by adult inmates, though there do not appear to be any recent studies done on topics of that nature.

# **Aging Out of Crime**

Being in an adult system does not allow for juvenile offenders to "age out" of criminal behavior. Although not every youth who commits crime will age out of doing so, there is a significant group who do. The typical adolescent offender does not grow up to be an adult criminal. "The statistics on youth crime has shown that seventeen-year-olds commit more crimes than any other age group, but afterwards the crime rate declines steeply" (Scott & Steinberg, 2008, p.11). This pattern is referred to as the age-crime curve, which assumes that criminal behavior is most prevalent in mid to late adolescence but tapers off between the ages of 17-20 years old as the brain begins to mature (Hirschi, & Gottfredson, 1983).

Research in behavior suggests that many adults who engaged in antisocial behaviors in youth regret their youthful behavior and did not continue these activities as adults. As adolescents' individual identities become formed and settled, many grow out of their antisocial tendencies (Lambie & Randell, 2013; Scott & Steinberg, 2008). However, incarceration disrupts the natural aging out of these behaviors. Research indicates that "incarceration of juveniles generally is ineffective in reducing recidivism and may maintain, or even increase, levels of engagement in antisocial behavior and criminal activity" (Lambie & Randell, 2013, pg. 450). In a study done by Mulvey & Schubert (2011), using information on juvenile offenders 14-18 years old, gathered seven years after their convictions, researchers found that adolescents reported a decrease in criminal behavior over time. Even among the most serious offenders only a small percentage of those that participated in the study continued high-level offending into and throughout the follow-up period of the study (Mulvey & Schubert, 2011). This research

suggests that the confinement of a juvenile offender is of no benefit to the offender's rehabilitation and maturation and that such confinement may inhibit their social growth.

# Mental Health and the Juvenile Justice System

Several studies document the unmet mental health needs of juveniles in prison. (Dmitrieva et al, 2012; O'Hara et al., 2019; Rohde, Seeley, et al., 1997). Studies documenting depression, anxiety and suicide tend to be the most common. Research on mental health in the juvenile justice system suggests that juvenile offenders have higher rates of mental disorders than those who have not been a part of the juvenile system (Lambie & Randell, 2013; Odgers et al., 2005). The most recent research indicates that within the juvenile justice system, "two thirds of males and three quarters of females meet criteria for one or more psychiatric disorders" (Odgers et al, 2005, pg. 26). Currently, the mental health needs of juvenile offenders are not being met.

Mental health programming in juvenile detention centers lack "the application of evidence-based practice" with "few programs that transition youth out of detention with the support that their mental health issues warrant." (Odgers et al, 2005, pg 30). Female offenders tend to have more anxiety problems than their male counterparts and among males, white males suffered from more anxiety than either African-American males or Hispanic males (Cauffman et al., 1998; Greve, 2001).

During incarceration, "isolation, boredom, bullying, and victimization are pervasive stressors" (Lambie & Randell, 2013, pg. 453). In a 2010 nationwide survey of residential facilities, 56% of youth reported at least one form of violent victimization while in juvenile custody, including physical and sexual assault by either another inmate or a staff member (Evans-Chase, 2014). The relationship between delinquency and exposure to violence or violent victimization appears to be non-linear, meaning the impact of exposure to repeated violence and/or victimization considerably increases the likelihood for further offending behavior (Smith & Ecob, 2007).

Given the ever-changing nature of adolescent identity and self-esteem, incarceration can have a negative long-term effect on a young person's sense of self and self-worth (Dmitrieva et al, 2012; Lambie & Randell, 2013; Domalanta et al., 2003.) Although mental health is generally discussed quite frequently with regards to juvenile incarceration issues, research in this area is key to reforming policy, as the current system for treating those with mental health issues in the juvenile justice system is unable to sufficiently address their varying mental health needs (Odgers et al, 2005)

# Reentry

Youth incarceration differs from adult incarceration in that it is aimed at deterring incidence of crime as well as recidivism. Though aging out of crime is fairly common, there is research that suggests that goals in decreased recidivism among offenders who are still juveniles are far from being achieved. Incarceration without successful rehabilitation of juvenile offenders is not only generally unsuccessful at lowering the rate of recidivism, but also may increase the opportunity for further antisocial behavior (Dmitrieva et al, 2012; Lambie & Randell, 2013; Leigey & Hodge, 2013). According to Lambie & Randell (2013) "between 70% and 80% of juveniles who have been in residential correction programs are subsequently rearrested within a three-year period" (Lambie & Randell, 2013, pg. 450). Positive family involvement/interaction is often key to successful reentry results for youth post-incarceration, however offenders frequently find that coming back to their families and communities is almost as hard as serving time and often results in reincarceration. Young people who have been incarcerated and have created an established criminal behavior reputation in their neighborhood or community may have a more difficult time with successful reentry and rehabilitation (Lambie & Randell, 2013). The stigma attached to having a criminal conviction sometimes limits access to ways of reintegration into the community. As a result of their criminal history, it can be difficult for returning adolescents to meet probation requirements, such as employment (Hartwell et al., 2010). As noted by Bullis, & Yovanoff (2006) unemployment rates were high and those that were employed had mostly low-wage jobs.

Still, functioning, positive families can be a powerful support mechanism when adolescents must deal with the challenges of post-incarceration. Well-functioning families communicate effectively and provide a safe and regulated environment, which can make reentry easier and more successful than if those factors where not in place. Left without this kind of support after release, the likelihood that a juvenile will fall back into former criminal behavior is very high. (Anthony et al., 2010; Brown et al., 2003). A key to the reintegration of youth post-incarceration is a strong and positive relationship with at least one adult. According to several studies, most young offenders attempting to come back from incarceration identified a strong adult mentor who was engaging, constant and maintained a personal connection as critical for them in their successful reentry to the community (Bullis, & Yovanoff, 2006; Lambie & Randell, 2013).

#### Limitations

Much of the research done tends to focus on different aspects of the experience but does not give a holistic picture of the negative impact of juvenile imprisonment, that is, a view that explains how each part is interconnected and cannot be understood except as it applies to the entire system. One possible reason for this lack of study of the over-all experience that encompasses incarceration through reentry into society is that longitudinal studies of this nature are not easy to do; they are expensive and offer varying levels of participation on the part of offenders. Another explanation would be the number of mitigating factors in a study of that nature. Just as each person is different, so is his/her experience. There are many factors that can contribute to participants' overall experience, including age when first incarcerated, gender, familial relationships, personal experience, and previous mental and physical health, as well as other factors typically unmeasured in such studies. As previously mentioned in this review, mental health is one of the more explored subjects related to the experience of juvenile incarceration, although most research tends to focus on mental health during time spent in incarceration rather than treatment after reentry. Currently, many studies focus on male offenders, but few include female statistics. Incarceration during adolescence and early adulthood hinders both the mental and social maturity of offenders. Understanding how a juvenile offender can be affected by this kind of interruption in their psychosocial maturity is an important factor for juvenile justice policy and practice (Dmitrieva, et al, 2012).

# Implications

Due to the trend in transference of juveniles to adult courts, it is important to know how juveniles serving time with adult offenders affects under-age inmates when considering sentencing policies for juvenile courts in the future. Generally, there are two main areas of thought when discussing the topic of juvenile incarceration: those who believe that juvenile detention, though punishment, should be rehabilitative in nature, and those who believe that imprisoning youth should be strictly punitive (Scott & Steinberg, 2008). With the advent of recent reforms, policy in juvenile courts tends toward leniency, but those reforms also tend to encourage transfer of young offenders to adult courts, typically leading to harsher, adult-oriented sentencing. Those who support the idea of adult crime equaling adult time use the rationale that harsher policy is needed in response to a new generation of young offenders that the juvenile system is unable to control (McLeigh & Sianko, 2010; Scott & Steinberg, 2008). Though there seems to be overwhelming evidence on the negative effects of juvenile incarceration, some research suggests that youth offenders were successfully rehabilitated and were less likely to be rearrested following longer incarceration whether served in a juvenile facility or in an adult facility (Loughran, et al., 2010; Mulvey, 2011).

# **Future Directions**

Incarceration is not meant to be a pleasant experience, it is meant to keep the offender away from society, to provide restitution for the victim and their family, and to provide means for the offender to rehabilitate. But the effectiveness of incarceration on

juveniles specifically depends on several factors, including the experience of the juvenile while incarcerated (Shulman, & Cauffman, 2011). It is important to consider all aspects of the incarceration experience when creating policy for crimes committed by young offenders. Comparatively recent rulings in the cases of *Roper v Simmons, Graham v Florida* and *Miller v Alabama*, each heard by the Supreme Court of the United States, have considered the mental growth of juveniles as a part of the reasoning behind the ruling. However, there is room for more and better research on the topic.

Although there is substantial research done in separate areas of the experiences of those who enter the criminal justice system as juveniles, there is less research on the whole experience of being in the system, both during and afterwards. To better study the effects of incarceration on juvenile offenders, it would be more informative if further, more holistic, longitudinal studies were done. Studying how incarceration can affect an offender's life after release is highly important since it could play an important role in future policy creation. As there are not many longitudinal studies focusing on the whole experience of serving time as a young person, it is difficult to conclude that incarceration was the main factor for the ultimate outcomes of reentry into society for former juvenile offenders. Family and positive connections with adults have been linked to successful reentry, however other factors for successful reentry should be expanded on in the future. For a more general idea of the experience of under-age incarceration and its effects on a young person, further research in exploring all factors connected to incarceration is needed.

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