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When a Juvenile Commit Criminal Act

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Abstract

For the committing criminal acts, juvenile can be sanctioned with educational measures and with juvenile imprisonment. The general purpose of juvenile sanctions is to provide protection, care, assistance and supervision, and by ensuring the general and professional training of juvenile perpetrators of criminal acts affecting his/her upbringing, development of his/her entire personality and strengthening his/her personal responsibility.

Keywords: Juvenile; Violence; Delinquency

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Introduction

Despite a decrease in overall adolescent crime during the last decade offense rates remain above those of the 1980s [1]. Recent self-report and arrest data also indicate that crime patterns among adolescents have not been entirely positive; less lethal forms of juvenile offenses (e.g., weapons-carrying) and drug use have remained resistant to decline or have recently increased. These data suggest that while most adolescents may be safer from lethal forms of violence, they are spending increasing amounts of time unsupervised, at heightened risk for non-lethal-victimization (fighting, sexual assault) and participation in problem behaviors (e.g., drug use and weapons use). The unacceptably high rates and changes in the type of offending also suggest that further study of the factors and processes that explain adolescent problem behaviors is necessary.

Common law held that those under the age of seven had no mental capacity to commit crimes, and that their mental capacity increased until age fourteen, when responsibility was assumed [2]. Now each state has a juvenile court system that effectively eliminates the defense of age by trying juvenile defendants without juries as delinquents rather than as criminals. In most states these courts have exclusive jurisdiction up to a certain age. At the upper age range, often sixteen to eighteen years, the juvenile court can transfer or certify cases to adult criminal courts if the crime is serious and the juvenile is mature. Reaction to recent, widely publicized, violent crimes by younger children has led to a lowering of the age for trial as an adult in some jurisdictions.

When a child or adolescent perpetrates an act of serious harm, the state must consider how best to intervene [3]. Across the international arena, there are varied responses. Whilst some

jurisdictions adopt a punitive approach, others are more welfare orientated. Interventions can range from the innocuous and minimally intrusive, such as the offer of a befriender to facilitate socialisation and rehabilitation, all the way through to enacting legislation that allows for the deprivation of liberty and indeterminate state control. Indeed, in some jurisdictions, risk-assessment opinions have been used to justify the removal of a young person's liberty forever. Irrespective of which philosophy dominates, those tasked with making decisions about a young person's future must have access to robust and reliable assessments about his/her risk. Key questions relate to whether a young person should be prosecuted, the nature of any legal intervention and disposal, where they should be placed, what level and type of secure placement is needed and for how long, what must be done in order to reduce the risk and optimise the young person's future, and how likely it is that any intervention will meet with success. With children and adolescents accounting for, and being at risk of, serious acts of violence, and the questions faced by policy makers, the Court, professionals and society at large about how to manage this, it is little wonder that assessing violence risk is a high priority for children's services. Nonetheless, the ability to identify or predict which child or adolescent will continue to engage in violent behaviour represents one of the most important challenges in the field of developmental criminology. Whilst there exists a sizeable and informative research base, there remain significant challenges associated with the practice of risk assessment.

### **Antisocial Behavior**

Antisocial behavior and aggression play key roles in the diagnoses of three mental disorders [4]. As discussed in this section, antisocial personality disorder in adults may involve aggressive, impulsive, reckless, and irresponsible behavior. It may also be very difficult for individuals with antisocial personality disorder to maintain jobs and personal relationships or to otherwise conform to social or cultural norms. In children, conduct

disorder is thought to be indicated by the externalization of problems in the form of aggression toward people and animals, destruction of property, dishonesty, theft, and other serious violations of age-appropriate rules such as truancy. In addition, a persistent pattern of negative, hostile, overly aggressive, and defiant behavior in children is characteristic of oppositional defiant disorder (ODD). These disorders are typically diagnosed through interviews and questionnaires.

Antisocial personality disorder is one of the most extensively studied personality disorders. Individuals with this disorder are impulsive, aggressive, and aloof, and are thought to have diminished capabilities for work, love, guilt, and cooperation with others. Antisocial personality disorder begins in childhood with substantial behavior problems either at school or at home. The disorder is typified by antisocial behavior in a broad range of social and personal contexts. Impulsive-aggressive behavior is most prominent during childhood. These behaviors include fighting, setting fires, running away from home, treating animals cruelly, and engaging in conflicts with authority figures. In adulthood, the impulsive-aggressive behaviors persist and are associated with impairments in work and social situations. Individuals with antisocial personality disorder tend to change jobs repeatedly, both by getting fired and by quitting. They also frequently use and abuse alcohol and drugs.

### **Delinquency**

At common law, it was a complete defense to a charge that the accused was a child under the age of seven at the time the crime was committed [5]. It was irrebuttably presumed that children under seven were incapable of forming the requisite mens rea to commit a crime. A rebuttable presumption of incapacity existed for those between 7 and 14 years of age. The presumption could be overcome for those between 7 and 14 if the prosecution could prove that the defendant understood that the criminal act was wrong.



Few minors are charged with crimes today. This is the result of the advent of the juvenile court systems in the United States. Currently each state has a juvenile court system that deals with juvenile delinquency and neglected children.

Statutes vary, but it is common for juvenile courts to possess exclusive jurisdiction over criminal behavior of juveniles. However, some states give concurrent jurisdiction to criminal courts and juvenile courts. If concurrent, the juvenile court usually must waive jurisdiction before the criminal court can hear the case. Determining who is a juvenile also differs, with some jurisdictions utilizing a method similar to the common law (irrebuttable and rebuttable presumptions) and others simply setting an age cutoff, such as 14 or 16.

The purpose of the juvenile justice system differs from that of the criminal justice system. Whereas criminal law has punishment as one of its major purposes, the purpose of the juvenile system is not to punish, but to reform the delinquent child.

Criminal liability is imposed on conduct felt to be against the general interests of society [6]. Obviously if millions of people have to live together, their lives will be more pleasant and peaceful if some measures are taken to prevent people from killing or physically attacking others, walking into their houses and taking things away, or smashing up someone else's car. Most of us would agree that these types of behaviour are anti-social, and we want them to be controlled. But there is not always agreement on what kinds of conduct should be considered criminal. Swearing in front of children is considered anti-social by many, along with eating smelly fast food on public transport, or wearing too much perfume or aftershave. Yet none of these constitutes a crime, and very few people would wish them to be. On the other hand, there are types of behaviour which may affect nobody but the people involved – smoking cannabis and failing to wear a seat belt are examples – which are nevertheless criminal acts.

Adolescent crime has been studied using many labels [1]. The most common label for adolescent criminal behavior has been delinquency. Delinquency encompasses a range of norm-breaking behaviors that apply to adults and minors. Behaviors for which adults are criminally responsible include drug use and violent offenses against other persons (e.g., assault), property (e.g., vandalism, arson), and public order. In addition to criminal violations, minors also are responsible for status offenses (e.g., truancy, community curfews, running away). In sum, delinquency refers to a range of behaviors that, when committed by a person who has not reached adulthood, violate a law and elicit a legal response from the community. Delinquency also has been operationalized as deviance, anti-social behavior or as a component of problem behaviors, interpersonal aggression, drug use, and a combination of these behaviors. Overall, the range of delinquent (i.e., arrestable) offenses is varied and encompasses serious interpersonal violence and minor property damage.

With respect to sex, adolescent males comprise a significant proportion of juvenile arrests, accounting for nearly 71 % of all juvenile arrests [7]. Despite the disparity between sexes in regard to total juvenile arrests, females have not necessarily experienced the same decline in offending as has been observed in males. In addition, although overall rates of juvenile crimes have decreased over the past decade, rates of offenses committed by females have risen or the declines have been considerably less than that found in males. For example, while the incidence of violent crimes has decreased considerably for males, it has remained consistent for females, and the incidence of aggravated assault arrests by females has increased. The rate of arrests for simple assaults has also remained relatively high for females. There were also increases observed in property crimes by females, particularly in larceny-theft, and while the male arrest rate for burglary has declined by nearly 75 % since 1980, the arrest rate for female juveniles has decreased around 50 %.

## Juvenile Delinquent

The term ‘juvenile delinquent’ became officially embedded in American society by 1899, when the first juvenile court was established in Chicago, thus initiating the third period in American delinquency [1]. The years between 1899 and 1966 mark the ‘Juvenile Court Period’ wherein the courts operated under the English doctrine of *parens patriae*. This new doctrine required that American courts intervene in a child’s best interest and provide family services when such services were not being provided and the lack of such services were deemed to contribute to future delinquency. Specifically, the Juvenile Court act of 1899 served to: a) refine the definition of delinquency, b) remove juvenile cases from criminal court, c) separate temporarily institutionalized juveniles from adults offenders, and d) establish a probation system for juveniles to minimize institutionalization. The development of juvenile court continued to emphasize many of the conceptual changes brought about by the Houses of Refuge Movement, including the ideas that the state superseded the role of the family when handling juvenile punishment and reform, and that punishment and reform could continue to involve institutionalization. According to this new perspective, however, the role of court intervention was to decriminalize youthful offenders and help save them from factors that contributed to crime including poverty, urbanicity, and dysfunctional family life. By the mid 1920s, all but two states (Maine and Wyoming) had developed juvenile courts modeled after the Chicago Juvenile Court.

The manner in which society handles youthful offenders provides some insight into the way delinquency is defined and perceived. From the early colonial period to present day, two themes persist that influence the way researchers study delinquency. First, the notion that adolescents are physically and mentally different from adults provides the basis from which to study delinquency from an intrapersonal perspective that examines personal, biological, and psychological variations. Second, the early

practice of handling first time delinquents within the family, followed by the courts’ policy of replacing the family (i.e., *parens patriae*), reflects the belief that delinquency could be influenced through external means (e.g., socialization). Politically motivated policy changes, however, illustrate the fluid nature of delinquency and the challenge that defining it presents. Nevertheless, by continuously revisiting our assumptions of what causes delinquency, and by studying trends in associated behaviors, better attempts at understanding its etiology can be made.

## Responsibility

In our society, the actions of adults are controlled by two types of law: criminal law and civil law [8]. Criminal laws prohibit activities that are injurious to the well-being of society, such as drug use, theft, and rape; here, criminal legal actions are brought by state authorities against private citizens. In contrast, civil laws control interpersonal or private activities and legal actions are usually initiated by individual citizens. Contractual relationships and personal conflicts (torts) are subjects of civil law. Also covered under civil law are provisions for the care of people who cannot care for themselves—for example, the mentally ill, the incompetent, and the infirm.

Today juvenile delinquency falls somewhere between criminal and civil law. Under *parens patriae*, delinquent acts are not considered criminal violations. The legal action against them is similar (though not identical) to a civil action that, in an ideal situation, is based on the need for treatment. This legal theory recognizes that children who violate the law are in need of the same treatment as law-abiding citizens who cannot care for themselves.

Delinquent behavior is treated more leniently than adult misbehavior, because the law considers juveniles to be less responsible for their behavior than adults. Compared with adults, adolescents are believed to:

- Have a stronger preference for risk and novelty

- Be less accurate in assessing the potential consequences of risky conduct
- Be more impulsive and more concerned with short-term consequences
- Have a different appreciation of time and self-control
- Be more susceptible to peer pressure

### **Violence in Schools**

Schoolyards are, in many ways, primarily a set of relationships [9]. The politics of the event of schoolyard violence begs the question of just how social relations turn up in schoolyards, how relations of power are solidified on the ground and made as real as the space that encapsulates them and gives them form. The question of violent schoolyard events rests, then, with how institutions (legislators, police, parks and recreation boards, school boards, custodial services, families) and individuals connect, given that they are thrown together with baggage (racism, sexism, substance abuse, and so forth) from elsewhere and a predisposition to act. Schoolyards also exist in relation to other properties: parks, classrooms, liquor stores, junkyards. Their influence goes beyond their boundaries, as students leave to enter classes or walk home. Violent events, then, are material, geographic, and comprised of myriad complex relations between youths, adults, institutions, and places.

A key figure in relational work on schoolyard violence is Randall Collins (American sociologist), who dismisses the notion of violent individuals by suggesting that “even people that we think of as very violent—because they have been violent in more than one situation, or spectacularly violent on some occasion—are violent only in very particular situations.” This may be more indicative of cases of high-level violence because of infrequency in occurrence, but it can also explain low-level behaviors like harassment and bullying. While bullying can seem to be a more pervasive (read: inherent, cultural, or structural) problem, especially in light of the

constant connections students have with their peers because of social networking, it is nonetheless necessarily prescribed by a set of relations that precipitate a violent event. For example, although there are cases where students have maintained a consistent “attack” on a classmate via mobile phones or through Internet chat, the primary form of bullying occurs somewhere at school. Because there is a certain geography—a social setting and a physical location—to bullying, it is necessarily a relational problem involving youths and a physical context, such as a schoolyard. That is, two or more people engage in a violent act in a particular place.

In the midst of other types of homicidal violence in society, there has been a rash of fatal school shootings and other school violence in recent years [10]. The mass murder at Columbine High School in 1999 serves as one of the worst examples and has led to increased attention on school violence and at-risk youth by policymakers, criminologists, delinquency experts, and educators. Perpetrators of deadly school violence are predominantly young, suburban males, often with deep-rooted problems that have gone unaddressed. These include pent-up frustrations, a dysfunctional family life, child abuse victimization, mental problems, and, for many, being bullied. Substance abuse is also typically a factor. A gang presence at school can further increase the potential for school shootings and violence. What appears to be the most important correlate to school killings is the availability and use of firearms. Nearly all school fatalities and serious injuries involved guns and other weapons, with both students and teachers being potential targets.

### **Legal Approach**

Intellectual and emotional maturity is generally associated with physical maturity—something that normally takes place in the mid to late teens [11]. This age usually marks the end of compulsory schooling and the acquisition of privileges (e.g., right to vote, operate a motor vehicle, drink alcohol) and responsibilities

(e.g., military service) in modern societies. Therefore, the age of physical maturity for most individuals has almost universally been set as the age of legal responsibility as far as criminal matters are concerned. In primitive societies or premodern times, a kind of “old enough” arbitrary standard was probably used to assess when someone had transited from child to adult and was therefore eligible not only for adult privileges but adult consequences as well. No such arbitrary standard will do in societies governed by the rule of law. Law demands precision. Thus, definite demarcation lines (ages) must be drawn to determine just when an offender is to be considered eligible for criminal punishment or to be treated in some other way. All modern societies have established these demarcations primarily using biological age as the standard.

It is no longer necessary to make the case for a comparative approach to understanding systems of youth and juvenile justice [12]. It is increasingly assumed that developments in any single nation state cannot be fully explored without reference to sub-national, regional and local diversity as well as acknowledging the impact of international and global forces. The advantage of an international focus is that it encourages debate of the structural, cultural and political constraints and dynamics within which juvenile justice was constructed in developed capitalist countries during much of the 20th century and which have then been challenged, and in some cases overturned, since the 1980s. Comparative analysis makes it possible to begin to unravel the relative import of internal, national dynamics and external, international contexts and constraints. But equally it must be recognised that, as a result of competing internal and external pressures, such systems are continually in transition and flux. Whatever future trajectories appear likely on the basis of a reading in the first decade of the 21st century may not hold for a decade in the future.

The principle that children and young people should be protected from the full weight of ‘adult’ criminal jurisdiction underpins the concept of welfare in youth justice. For much

of the 20th century most Western systems of juvenile justice have sought legitimacy in a rhetoric of child protection and ‘meeting needs’. Custodial institutions were criticised as stigmatising, dehumanising, expensive, brutalising, and as criminogenic rather than rehabilitative agencies. ‘Justice’ for juveniles was considered best delivered through the establishment of a range of community-based interventions. The care and control of young offenders was thought best placed in the hands of social service agencies and professionals.

Yet the prosecution of juvenile offenders is not a straightforward process [13]. How prosecutors exercise their discretion and how they make decisions about juvenile offenders depend on two primary elements: first, how prosecutors perceive their role (both within the community and within the criminal and juvenile justice framework) and, second, how prosecutors perceive the juvenile offenders in question (specifically with regard to blameworthiness or blamelessness). Therefore, in order to understand the complexities involved in the prosecutorial decisionmaking process, it is crucial to understand first what the prosecutorial job is, and how doing the job differs from carrying out the perceived prosecutorial role. There is no single way to understand or perceive the prosecutorial role, and prosecutors, in determining their role, are influenced by a number of internal and external factors. These factors include, but are not limited to, the elective nature of the office, feelings of responsibility toward others, notions of guardianship toward juvenile offenders, societal expectations, and institutional values.

Likewise, as there is no single way to interpret the prosecutorial role, so too is there no one way to understand or make sense of juvenile offenders. The law understands juveniles in one particular way based on capacity. By virtue of their chronological age, individuals either fall below or above a particular cut-off point. If they fall below it, they are presumed by law to be incapable of forming criminal intent and, therefore, are not believed to be legally liable for their actions. If they fall above it, they are,

in contrast, presumed by law to be capable of forming criminal intent. Therefore, they may be held legally liable for their actions.

### **Juvenile Justice**

At first glance, the characteristics of the adversarial criminal justice process in Western societies seem to overlook many of the needs-rights of child victims [14]. Their rehabilitation and best interests, while possibly in the background, are not assigned high priority in the process. Child victims' participation is limited and problematic. Important aspects of children's development and the right to equality are further neglected. As to protection, while this is clearly a goal of the criminal justice system (unlike the other human rights principles), the low reporting rates of crimes against children and the evidentiary difficulties associated with such crimes make it difficult for the criminal justice system to reach this goal in a satisfactory manner. Further, an investigation into the psychosocial needs of child victims such as an apology, direct (positive) interaction with the perpetrator, validation, and a sense of control reveals that they are typically not addressed in the criminal process.

In Western adversarial criminal justice systems the major participants are the state-represented by the prosecutorial authority-and the offender. Victims are typically only witnesses. In many cases, the process ends with a plea bargain, leaving no role for the victim. In other cases, victims are called to give testimony, and while doing so, to put themselves at the hands of defense attorneys who are trained to conduct stringent cross-examinations. Seen as a "piece of evidence" (albeit a central one), victims often are denied opportunities to tell their stories in their own terms, to ask questions that bother them, or to talk about the aftermath of their victimization.

### **Conclusion**

The purpose of implementation juvenile sanctions is to protect, care, supervise and educate the beneficial influence on the overall mental and physical development of the juvenile and encourage the strengthening of his/her personal responsibility. During the implementation of sanctions against juveniles, they should be treated with respect for their personality and dignity, to encourage their physical, moral and intellectual development and to preserve their physical and mental health. Implementation is based on an individual juvenile delinquency program tailored to their personality as much as possible, in accordance with the contemporary achievements of science and practice. The individual program is based on a thorough analysis of the special characteristics of juveniles, the causes and types of criminal offenses and other forms of behavioral disorder, the level of education, the life of the juvenile and the circumstances of his/her family life.

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