

The New Science of Adolescent Development: How Will It Change Delinquency Law and Practice in California's Future?

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Roper v. Simmons (2005) 543 U.S. 551
 [Finding it unconstitutional to impose the death penalty on children.]

1. Juveniles lack maturity and have an underdeveloped sense of responsibility, and engage in "impetuous and ill-considered actions and decisions." (p. 569)
2. Juveniles are especially vulnerable to negative influences, including peer pressure, and since they lack control over their environment, it is difficult for them to escape negative influences. (p. 569)
3. Adolescent personality traits change over time. Only a small number of those who experiment in risky or illegal activities develop problem behavior that lasts into adulthood. (p. 570)

These characteristics mean that juveniles are less culpable than adults and are unlikely to be deterred by the prospect of punishment. They should not be punished the same way as adults.

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Graham v. Florida (2010) 560 U.S. 48, 130 S.Ct. 2011
 [Life without parole for children in non-homicide offenses are unconstitutional]

- The parts of the brain involved in behavior control continue to mature through late adolescence. (p. 2026)
- Even experts have difficulty differentiating between juveniles whose crime reflects "unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption." (p. 2029)
- States must give juveniles convicted of non-homicide crimes a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. States may not make the judgment at the outset that those offenders never will be fit to reenter society. (p. 2030)

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J.D.B. v. North Carolina (2011) 131 S.Ct. 2394

[Law enforcement must consider the suspect's age in determining whether *Miranda* warnings should be given.]

- Age affects the way a child perceives his or her freedom to leave in an encounter with police. A reasonable child will sometimes feel pressured to submit to questioning when a reasonable adult would feel free to go. (p.2403)
- Historically, our laws recognize that children do not have the capacity to exercise mature judgment and have an incomplete ability to understand the world around them. The legal restrictions placed on children as a class— their ability to buy and sell property, enter a binding contract, and marry without parental consent -- reflect a universal understanding of the different characteristics of youth. (pgs. 2403-2404)

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Miller v. Alabama (2012) 132 S.Ct. 2455

[Statutes that impose mandatory life without parole on juveniles are unconstitutional]

- Nothing said in *Graham* about children -- about their distinctive (and transitory) mental traits and environmental vulnerabilities -- is crime-specific. Those features are evident in the same way, and to the same degree, when (as in both cases here) a botched robbery turns into a killing. (p. 2465)
- Mandatory life without parole precludes consideration of age and its hallmark features -- immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account a youth's family and home environment -- from which he cannot usually extricate himself -- no matter how brutal or dysfunctional. It neglects the extent of his participation in the offense and the way familial and peer pressures may have affected him. It ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth -- his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. And finally, mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it. (p. 2468)

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California Applications of U.S. Supreme Court Cases

***People v. Caballero* (2012)**

Holds "de facto life" sentences unconstitutional and says youth must have "a meaningful opportunity for release" under *Graham* and *Miller*

S.B. 9 (Yee 2012)

Gives youth serving life without parole sentences an opportunity to qualify for review of their sentence

S.B. 260 (Hancock 2013)

Creates a review process for youth who have served a substantial amount of their prison sentence, with "a meaningful opportunity for release"

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Examples of Areas in which Adolescent Development Principles Could Be Used to Change the Law:

- Abolish Juvenile Life without Parole
- Direct File/Prop 21
- Sexual exploitation (who is the victim?)
- Sexting
- Zero tolerance laws

Look for areas where there is a disconnect between the law and what we know about adolescent development.

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Applying Adolescent Development Principles in the Court Process:

- Searches (consent issues)
- Confessions/Admissions
- Attention to what youth understand
- Waiver of rights
- Intent to commit the crime
- Competence to stand trial (including ability to assist counsel)
- Diversion/informal resolution

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How Should Adolescent Development Principles Impact Sentencing/Disposition?

- Consider youthfulness as a mitigating factor
- Recognize developmental issues in relation to understanding of violence, gang issues
- Focus on what youth can accomplish given their developmental stage and choose interventions that enable them to demonstrate success
- Steer away from dispositions that will interfere with normal development
- Factor in what youth actually understand in disposition; reduce overloaded orders
- Don't interpret probation violations as evidence of bad character

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