

Adolescent Forensic Evaluation: Juvenile Transfer Hearings and Legal Criteria

Amir Ramezani, PhD

Center for Cognition and Compassion (CCC)

CCC Education and Research

CCC Forensic

Ramezani@centercc.com

Agenda

- Experiential
- Clinical vs Forensic Role
- 707 Hearing
- Factors Considered in the Evaluation
 - Clinical and Forensic Research
 - Defense and Prosecution Considerations
- Legal Criteria
- Small group exercise

A Case to Think About

CASE:

- Jee is a young teenager who was brought to juvenile hall for having stabbed and killed a pregnant female because the victim was believed to have flirted with Jee's partner.
- After the stabbing Jee shared the event on social media.
- Jee has a history of homelessness, parental neglect, emotional and physical trauma, vague association with gangs, two counts of robbery with a gun. Her probation officer conducted an evaluation and found Jee to not be appropriate for Juvenile Hall and to be transferred to adult court.

Experiential Meditation

Imagine yourself as a young teenager.
You had experienced a lot of hardships and trauma in your life,
which lead you to engage in an illegal act that brought you to JH.
Ask yourself, how would you want to be treated by the court?

Now, imagine one of your dear friends or a loved one was permanently hurt in some way by a minor who had committed a crime. How would you like the offender to be treated by the court?

What are some fair and just ways to support a human life, get justice, and protect society?

Psychologist's Role

- Forensic vs Clinical Role
- Provide informed consent to the person being evaluated
 - Informed that you are not in a treating role
 - Inform that you are not in a doctor-patient relationship
 - Inform that you are a consultant for the hiring part
 - Information shared may not be confidential, but the psychologist must follow ethical and mandated reporting guidelines (e.g., suicide, abuse etc.)
- Provide agreement form to the attorney
 - Who is the owner of records
 - Tests and Raw Data are not disclosed

California Code, Welfare and Institutions Code WIC § 707

- CC WIC § 707
 - Criteria used to determine when a minor can be transferred to adult/criminal court
 - Applies to
 - Offender who are fourteen years old or older
 - Offender committed any felony if they are sixteen years old or older
 - 5 criteria are laid out to determine if the defendant is amenable to stay within the juvenile court jurisdiction
 - Juvenile Court Jurisdiction expires at the age of 25 years old
- 2023
 - The prosecuting attorney have to meet a higher standard of proof to demonstrate that a minor is not amenable to the juvenile court's jurisdiction
- These criteria are partially based on the Ken v US (1966) case
- <https://www.youtube.com/watch?v=0YzdQ22D2co>

Kent v. US (1966)

- The Kent criteria are fundamental to psychological assessment and can be simplified into three primary psycho-legal factors:
 - (a) risk of dangerous behavior
 - (b) level of maturity and sophistication
 - (c) receptiveness to treatment

Other Factors to Consider

- Factors:
 - Risk of dangerous behavior in the context of gang life, affiliation, lethality, MH functioning, and criminality
 - 2 types of maturity-sophistication:
 - Intellectual, Cognitive, and Psychological
 - Developmental Disorders
 - TBI or substance use related cognitive disorder
 - Psychosocial hardships, trauma, DSM Dx
 - Criminal sophistication
 - Planning vs impulsivity
 - Calculating consequence vs planning until the legal act has be executed
 - Understanding of nature of act, moral/ethical wrongfulness, and legality
 - Treatment amenability until 25 years old.

Defense:

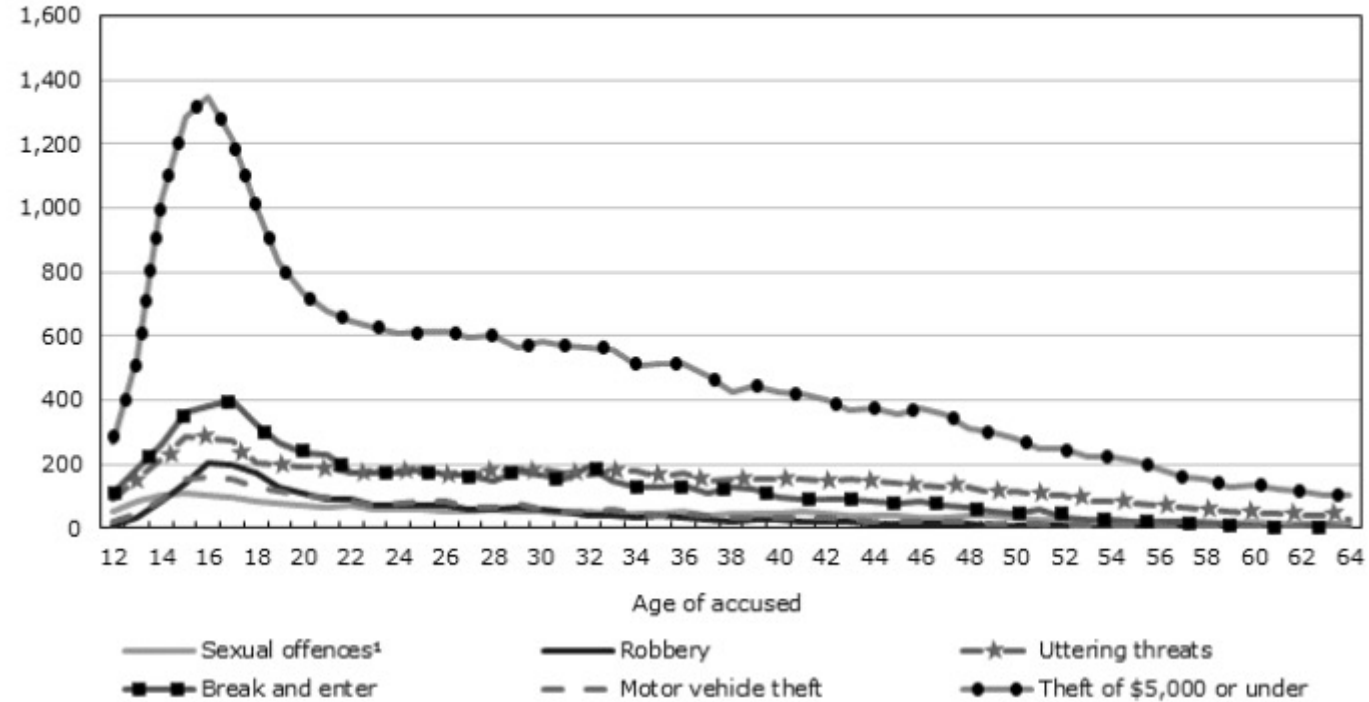
Stay in JH and not transferred to adult/criminal court

- Neuropsychological and Developmental Factors in Juvenile Transfer Hearings: Prosocial Perspectives by Norbert Ralph, PhD
 - Prosocial and Moral in relation to brain development
 - Offending behavior peak during adolescents, a time when social reasoning is developing
- The Teenage Brain, By Dr. Jensen
 - Interconnections and pathways of the brain continue to undergo major changes past age twenty-five.
- Pruning of neurons (Jensen)
 - Decline in gray matter and unmyelinated cells, and a concurrent increase in white matter and neural pathways, indicating that lesser-used neurons die out
 - Reductions in frontal regions, areas that control prosocial action, reasoning, judgment, insight, and impulsivity.
 - Teenage brain is 80% mature by age twenty-one
 - What about the other 20%
 - The 20% difference accounts for being an adolescent vs a prosocial adult.

Neuropsychological and Developmental Factors in Juvenile Transfer Hearings: Prosocial Perspectives by Norbert Ralph, PhD

Selected offences which peak during youth and decline rapidly with age, 2014

rate per 100,000 population



Defense:

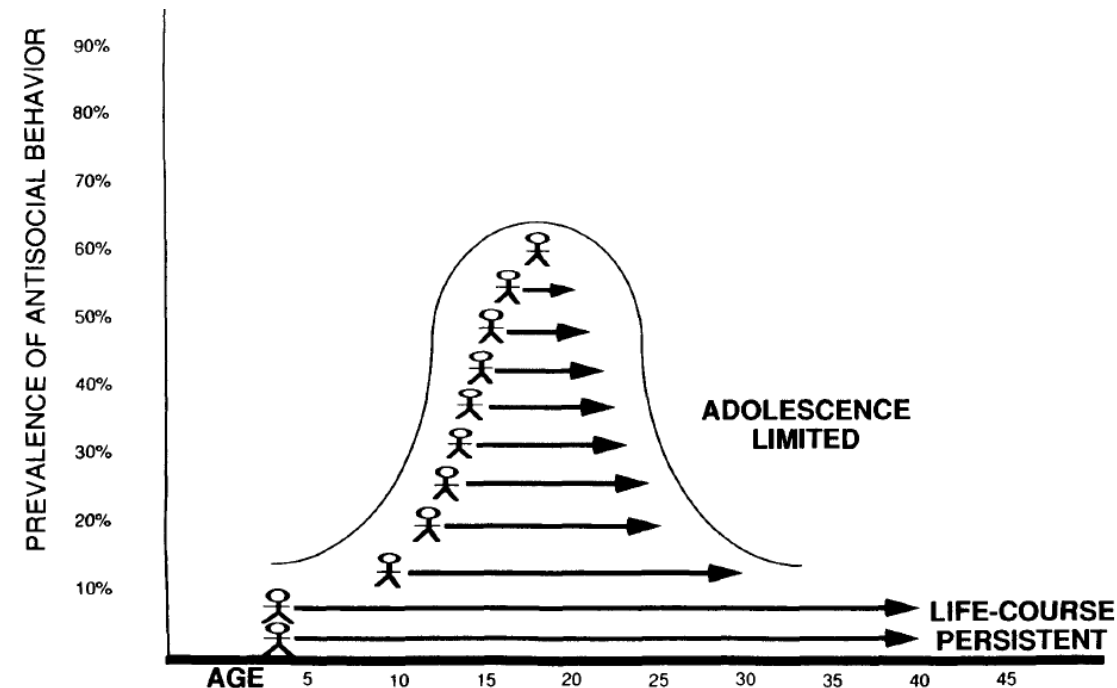
Stay in JH and not transferred to adult/criminal court

- Does psychological, intellectual, or cognitive maturity impact level of maturity-sophistication
 - Developmental Disorders
 - Neurocognitive Disorders
 - Sever mental health
 - Life circumstance/hardships and low education
 - Criminality only increase with substance use or around peers
- Does lack of opportunity for treatment and peoples who acted as resources show a prosocial behavior
 - Teacher, mentor, stepfather, friend's mother impact school performance and prosocial behaviors
 - Were there prosocial behaviors prior to using substance (e.g., taking care of a friend, sibling, or animal)

Prosecution:

Transfer from JH to adult/criminal court

- Longitudinal Studies of Antisocial Behaviors (AB) in Adolescents in Dunedin, New Zealand by Moffitt (1993)
 - Adolescent Limited
 - Mimic peers
 - Grow out of AB
 - Life Course Persist (p694)
 - Childhood hx
 - Disciplinary problems
 - Academic problems
 - Hyperactivity and Learning Dis. (p685)
 - This narrows life options
 - Aging does not change AB



Prosecution:

Transfer from JH to adult/criminal court

- Moffitt (1993, p 695)
 - “Adolescence-limited offenders should engage primarily in crimes that symbolize adult privilege or that demonstrate autonomy from parental control: vandalism, public order offenses, substance abuse, "status" crimes such as running away, and theft.”
 - “Life-course-persistent offenders should spawn a wider variety of offenses, including types of crimes that are often committed by lone offenders. Thus, in addition to the aforementioned crime types, they should commit more of the victim-oriented offenses, such as violence and fraud.”
- Personality disorders can not be treated withing the expiration of the Juvenile court's jurisdiction
- The level of psychological and cognitive sophistication as well as criminality demonstrates danger to society

Judges Decision

- Brannen, et. al., (2006)
 - Provided hypothetical cases
 - Examined how judges' weigh three specific criteria: dangerousness, sophistication-maturity, and amenability to treatment *in a hypothetical case*
 - Out of all three criteria, dangerousness had the greatest weight
 - High dangerousness would likely lead to transfer
 - Low in dangerousness, sophistication-maturity, but high in amenability to treatment would likely lead to retaining within JH.
 - **Judges prefer**
 - To make determination on a case-by-cases basis
 - Get psychological evaluations to determine the criteria
 - **Judges do not prefer**
 - Have a report that write only about the social history or information that is not relevant to the criteria
 - Use excessive statistical jargon in the report
 - Use of excessive psychological jargon in the report

1 out of 5 Questions

The Degree of Criminal Sophistication Exhibited by the Minor (Defendant)

- (A)(i) The degree of criminal sophistication exhibited by the minor.
- (ii) When evaluating the criterion specified in clause
- (i) the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.

Other Considerations:

- Clinical Interview
- ACE's
- Psychosocial, intellectual, academic, and personality development
- Gang affiliation
- Knowledge of weapon usage
- Psych and neuropsych testing

2 out of 5 Questions

Whether the Minor can be Rehabilitated Prior to the Expiration of the Juvenile Court's Jurisdiction

- (B)(i) Whether the minor can be rehabilitated prior to the expiration of the Juvenile Court's jurisdiction.
- (ii) When evaluating the criterion specified in clause (i), the Juvenile Court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.

Considerations

- Is the diagnoses treatable within a 5-10 year span?
- Does juvenile hall provide services that address MH needs
- Can the minor commit to regular treatment
- Has the minor already engaged in intervention
- Conduct disorder
- Personality disorders

3-5 out of 5 Questions

What is the youth's previous delinquent history?

What is the success of previous attempts by Juvenile Court to rehabilitate the youth?

What is the circumstance and gravity of the alleged offenses?

Small Groups

CASE:

- Jee is a young teenager who was brought to juvenile hall for having stabbed and killed a pregnant female because the victim was believed to have flirted with Jee's partner.
- After the stabbing Jee shared the event on social media.
- Jee has a history of homelessness, parental neglect, emotional and physical trauma, vague association with gangs, two counts of robbery with a gun. Her probation officer conducted an evaluation and found Jee to not be appropriate for Juvenile Hall and to be transferred to adult court.
- Interview data shows signs of PTSD. Psych testing shows no elevations in clinical conditions except for PAI showing mild elevations on Antisocial feature (T=63) and paranoid personality style (T=60). Neuropsych testing shows average IQ and cognitive functioning. Jee is not motivated to engage in intervention. Has not engaged in prior MH treatment.

Brainstorm in small groups the following questions?

- What Degree of Criminal Sophistication was Exhibited by the Minor (Defendant)
- Whether the Minor can be Rehabilitated Prior to the Expiration of the Juvenile Court's Jurisdiction