United States Sentencing Commission

Public Hearing on Proposed Amendments re Juvenile Offenders

March 7, 2024

Statement of Stephen J. Morse, J.D., Ph.D.

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My name is Stephen J. Morse. Thank you for inviting me to submit this Statement and to testify. I am submitting this Statement solely on my own behalf.

I am Ferdinand Wakeman Hubbell Professor of Law, Professor of Psychology and Law in Psychiatry and Associate Director of the Center for Neuroscience & Society at the University of Pennsylvania. I am an attorney and a psychologist. In the latter capacity, I am a licensed clinician and board-certified in forensic psychology by the American Academy of Forensic Psychology. My primary fields of expertise are criminal law, mental health law, and neuroscience and law. My work focuses on the implications of psychology, psychiatry, neuroscience, and other behavioral sciences for legal doctrine, policy and institutions, with special focus on issues of responsibility and culpability. I have written numerous articles and book chapters on neuroscience and law and on juvenile responsibility. I have testified and consulted as an expert witness in federal and state courts concerning the responsibility of juveniles and young adults. I was Co-Director of the MacArthur Foundation Project on Law and Neuroscience and a member of the MacArthur Foundation Research Network on Law and Neuroscience. The American Academy of Forensic Psychology honored me with the Distinguished Contribution to Forensic Psychology Award, and the American Psychiatric Association awarded me the Isaac Ray Award (for distinguished contributions to forensic psychiatry and the psychiatric aspects of jurisprudence). A copy of my curriculum vitae is attached to this statement.

Introduction

The Sentencing Commission is considering proposed changes to §4A1.2(d), the criminal history calculation for offenses committed prior to age 18, and to §5H1.1, the policy statement concerning the relation of age to potential downward departures. Courts, legislatures, the media, and this Commission have been bombarded with claims that the psychological science and neuroscience of adolescent and young adult development compel a softening of the criminal law's response to offending by juveniles and young adults. The central suggestion of this Statement is that the science is good, but that its relevance to responsibility assessments of youthful offenders is often overstated and rests on confusing the relation of scientific findings to normative legal, moral and social issues. No legal policy conclusion can be "read off" this body of science, which anyway confirms what has long been known about the behavioral capacities of juveniles and young adults. In particular, the data on brain maturation are only indirectly relevant because they are simply consistent with our understanding of the legally relevant behavioral

capacities. For the law, actions, psychological capacities and mental states speak louder than images. In short, the Commission should not consider itself compelled to make any particular changes to the guidelines based on science.

In what follows, this Statement first makes the general argument for why a court, legislature or administrative agency should be cautious about over-relying on scientific data when making normative judgments. Then it turns to consideration of the specific proposed amendments. The most general conclusion is that either rejecting or accepting the proposed changes would be equally consistent with psychological science and neuroscience. The Commission may wish to soften the current guidelines to give some juvenile and young adult offenders more of a "break." So do I. Consequently, this Statement considers the desirability of each of the proposed changes and makes suggestions for modifying them.

The Relevance of Neuroscience and Developmental Psychology to Determinations of Juvenile and Young Adult Responsibility

Here is the opening of the summary of an *amicus* brief in Roper v. Simmons, the 2005 United States Supreme Court decision holding the death penalty unconstitutional for all juvenile capital offenders. It was filed by, *inter alia*, the American Medical Association, the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry, and the American Academy of Psychiatry and the Law:

> The adolescent's mind works differently from ours. Parents know it. This Court [the United States Supreme Court] has said it. Legislatures have presumed it for decades or more.[1]

Similarly, in his dissenting opinion in Miller v. Alabama, Chief Justice Roberts wrote, "…teenagers are less mature, less responsible and less fixed in their ways than adults—not that a Supreme Court case was needed to establish that."[2] Precisely.

As the common law excuse of immaturity and the establishment of a juvenile court system well over a century ago confirm, the law has responded for centuries to the differences between juveniles and adults. Note that the immaturity excuse and the juvenile court were created long before there existed a genuine science of developmental psychology or a neuroscience of brain development. Indeed, the commonsense observation of the differences is so obvious that if psychology and neuroscience were unable to document them, we would not conclude that there were no behavioral differences. We would conclude instead that the sciences were insufficiently advanced to be able to establish the causes and correlates of the differences.

In its trilogy of juvenile punishment cases, *Roper, Graham and Miller*,[3] the Supreme Court gave explicit constitutional status to these differences under some circumstances. Despite claims to the contrary, *Roper* did not cite the neuroscience of adolescent and young adult brain development, but it did cite psychological science to bolster its claim that adolescents are less

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[1] Brief of the American Medical Association et al. as Amici Curiae in Support of Respondent at 2, Roper v. Simmons, 543 U.S. 551 (2005).

[2] Miller v. Alabama, 567 U.S. 460 (2012)(Roberts, C.J., dissenting).

[3] Roper v. Simmons, 543 U.S. 541 (2005); Graham v. Florida, 560 U.S. 48 (2010); Miller v. Alabama, 567 U.S. 460 (2012). I assume that the Commission is completely familiar with these cases.

responsible on average than adults. Science confirms that juveniles are more impulsive, more influenced by peers, more likely to take risks, and less able to tolerate stress. *Graham* and *Miller* did cite neuroscience, but the citations were non-specific and arguably dictum. The psychological science and neuroscience at the time of *Roper* were both clear on the average differences between juveniles and adults depending on age. Nothing was discovered by either science by the time the two following cases were decided that contradicted *Roper*'s account of adolescent and young adult psychosocial development and brain maturation. The Court did not need to cite neuroscience in *Graham* and *Miller* because the reasoning of *Roper* was more than sufficient to support both holdings.

An important question for any legislature, court or administrative agency trying to balance responsibility and public safety in the case of youthful offenders is what role psychological science and neuroscience should play in the decision. How should the law treat offenders who commit their crimes before age 18 or when they are young adults, ages at which on average psychosocial and brain maturation are not complete? The proposed amendments explicitly rely on science to justify potential changes. The Commission is not alone in being influenced by the supposed implications of science. For example, the Supreme Judicial Court of Massachusetts very recently held 4-3 in Commonwealth v. Mattis that "emerging adults," that is, 18-20-year-olds, were so neurologically similar to juveniles that the Massachusetts constitution prohibited imposing a sentence of life without the possibility of parole for those who committed homicide while in that age group.[4]

Again, the question is whether psychological science and neuroscience justify such consequential legal changes, which are largely based on responsibility differences. I fully accept the validity of the science in question. Much of it has been generated by top scientists, including those on this panel before the Commission. It would be colossally surprising if future findings contradicted the present, general conclusion about differences.

To explain the relevance of science to deciding whether juvenile and youthful offenders should be given a "break" requires examination of the first principles of legal (and moral) responsibility and a nuanced understanding of science as it applies to responsibility assessment.

The law's generic criteria for responsibility are that the agent has the capacity for rationality and (more controversially) the capacity for self-control or self-regulation. I refer to these capacities as "the right stuff." In addition, many would claim that sufficient life experience is necessary for full responsibility.[5] These capacities have their commonsense, ordinary

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[4] Commonwealth v. Mattis, 224 N.E.3d 410 (Mass. 2024). The category of "emerging adults" was entirely made up by the Court. It is not a recognized category in any of the relevant disciplines. One might applaud the holding, but, with respect, it was not entailed by neuroscience as the following discussion in this part of the Statement will indicate. Whether the Court's decision usurped the role of the legislature and was justifiable on state constitutional grounds are issues beyond the scope of this Statement.

[5] The law also excuses responsible agents if they commit crimes in circumstances in which they have been compelled by an external, do-it-or-else threat that a reasonable person would comply with. Duress is the doctrinal expression of this excuse. This issue is not relevant to the present discussion, but I include this note for completeness.

language meanings. For example, rationality includes the ability, *inter alia*, to get the facts right, to understand how to achieve one's goals (instrumental rationality) and to reason coherently about what one should do. Think of Daniel M'Naghten who delusionally believed that the Tories planned to kill him and that he needed to assassinate Prime Minister Peel to save his own life. M'Naghten could not get the facts right through no fault of his own. Self-control means the ability to refrain from acting even if one's rational capacities are apparently intact. Consider a person with pedophilia who knows that touching minors sexually is wrong, but who plausibly claims that faced with strong desire, the pedophile simply lacks the ability to refrain.[6] These responsibility criteria are not scientific; they are not about brains. They are thoroughly normative, reflecting the law's view of what is required of people to hold them responsible. They are properties of people, not brains.

Because the criteria for responsibility are not self-defining and normative, the questions are how much capacities of what kind and how much experience are necessary for responsibility. Again, these are not scientific questions. Only people who have sufficient amounts of the right stuff should be held fully accountable. The capacities for rationality and self-control are arrayed along a continuum. As human beings develop throughout childhood, adolescence and into adulthood, these capacities increase. The law commonly assumes that by the age of 18, agents have enough of the right stuff to generally be held fully responsible. In some individual cases, even younger people are considered to have enough of the right stuff to be held responsible, especially in cases of very serious crimes such as homicide. This does not mean that the law does not recognize that peoples' capacities continue to mature after age 17. It simply means that by the age of 18, the law concludes that offenders have enough of the right stuff to be responsible.[7] Science does not show that this conclusion is morally incorrect. It shows only that people will generally have more of the right stuff as they grow older.

Could the law reasonably draw the line at a different age based on our knowledge of the average capacities of adolescent and young adults and the average amount of life experience they have at a given age? Of course it could. Drawing this line is a normative judgment based on what we can fairly expect of people at a given age. The variation in the age at which adult responsibility is imposed differs among United States jurisdictions and cross-nationally. These legal differences do not reflect a scientific difference; they manifests a normative difference. Psychology and neuroscience may provide morally and legally relevant facts about human

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[6]I am not suggesting that pedophilic offenders should be excused from criminal responsibility. I am simply employing a commonly used example of a person with a plausible claim about lack of self-control whose rational capacities are intact. For example, the Supreme Court accepted the validity of such a claim in a case upholding the constitutionality of the involuntary civil commitment of so-called "mentally abnormal sexually violent predators." Kansas v. Hendricks, 521 U.S. 346 (1997). Hendricks claimed that he could not help himself, especially when he was stressed. A few years later the Supreme Court held that an explicit, independent lack of control criterion was necessary to justify such commitments. Kansas v. Crane, 534 U.S. 407 (2002).

[7] *Roper* held that although 16- and 17-year-olds were responsible enough to be convicted of a capital offense, their rational capacities were insufficiently developed to justify the imposition of capital punishment. It did not base its opinion on lesser life experience. The Supreme Court used the same reasoning about cognitive capacities to prohibit the death penalty for capital murder committed by defendants with intellectual disability. Atkins v. Virginia, 536 U.S. 304 (2002).

development if they add to commonsense observation, but they cannot dictate when full responsibility can be (rebuttably) presumed.

Wherever the law draws the line, some younger defendants will have enough of the right stuff and some older defendants won't. Many crimes committed by juveniles were planned and were not impulsive or unduly influenced by peer pressure. Christopher Simmons' shockingly brutal homicide was such a case, as Justice Kennedy conceded in *Roper*. Similarly, many crimes committed by those age 18 and older are impulsive and the like. Bright lines drawn on a continuum inevitably make mistakes in both directions, but they are justified by considerations of efficiency and, in some contexts, by the unacceptability of one type of mistake.[8] Our legal system tries to correct such mistakes through individualized sentencing decisions. Based in part on the reasoning of *Roper* and *Graham*, *Miller* prohibited the imposition of mandatory life without the possibility of parole (LWOP) for homicide crimes committed by juveniles, but it permitted this extreme sentence only after the most searching, individualized determination that the defendant deserved such harsh treatment. Such individualized inquiries will never be perfect and will sometimes be erroneous, but this, too, is an inevitable outcome of the process of human beings applying normative standards.

The psychological science of psychosocial development is more directly relevant to law than neuroscience because the law's responsibility criteria are psychological and, broadly speaking, behavioral. Actions speak louder than images. If there is a disjunct between the brain and behavior, we must believe the behavior for legal purposes. If the brain looks immature but the offender is behaviorally mature, then for legal purposes, the offender is mature. And vice versa. To give an analogous example, if a defendant's brain looks normal but the defendant is clearly experiencing psychotic symptoms such as hallucinations and delusions, the defendant is not a rational agent. And vice versa. Finally, although there is cross-national evidence that juveniles everywhere have similar psychosocial development profiles concerning self-regulation, reward seeking and risk-taking,[9] there are enormous differences in cross-national crime rates, especially for serious crimes. In our own nation, there are differences in crime rates among juveniles depending on demographic and cultural variables. By emphasizing the role of brain maturity, we risk underestimating the role of culture and other non-biological variables in predisposing juveniles and young adults to criminal behavior.

Whether the law should give juveniles and young adults a break and what kind of break are difficult normative decisions. We would like science to help, but can it? The psychology and neuroscience of adolescent and young adult development are based on group averages. At every

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[8] One justification for *Roper*'s categorical exclusion of the death penalty for 16- and 17- year-olds convicted of capital murder is that most juveniles probably are insufficiently rational to deserve death, and the mistake of executing a juvenile who did not deserve it is morally and legally repugnant and unacceptable. Allocation of the burden and proof and setting the level of the burden of proof are other methods for avoiding undesirable errors.

[9] Laurence Steinberg et al, "Interaction of Reward Seeking and Self-Regulation in the Prediction of Risk-Taking: A Cross-National Test of the Dual Systems Model." 92 Developmental Psychology 1593 (2016). The lead author is one of the world's leading authorities on adolescent development. The subjects in this psychological study ranged in age from 11-30. Cultural and wealth variables affected the results, e.g., self-regulation was stronger among Asian subjects, but the cross-national psychosocial similarities were substantial. Presumably, the brains of the subjects in the various nations were similar, too.

age there is a distribution of data about the variable in question and that distribution has an average, a mean. Within any age cohort there will be considerably heterogeneity. To say, for example, that on some measure of maturity, 18-year-olds are more mature than 17-year-olds means that there is a statistically significant difference between the means of the two groups on that measure. If the sample size is large enough, the mean difference might be quite small in absolute terms. The question is how much overlap there will be between the groups being compared. Even though there is a mean difference between groups, some number of subjects in both may be indistinguishable from each other on the measure. Using age as an example, the closer the two groups are in age, the more overlap there will be. The average psychosocial maturity of 13- and 25-year-olds will be quite different and there may be little overlap. But the average psychosocial maturity of 16-, 17-, 18-, and 19-year-olds will differ much less and there will be substantial overlap. 17- and 18-year-olds will be barely distinguishable even if there is a statistically significant mean group difference.

So far, discussion has not focused on the possibility that as younger offenders age and mature, they will "grow out of" their anti-social tendencies. Moreover, as a statistical matter, a good number will not recidivate, even among those juveniles convicted of serious crime. What role should corrigibility play in thinking about juvenile records for purposes of calculating the criminal history score? The Supreme Court recently held that a finding of permanent incorrigibility was not required for a court to impose a sentence of LWOP on an offender who committed murder before the age of 18.[10] This apparently unforgiving holding makes little sense if the focus is future dangerousness. If the offender is genuinely corrigible with or without some form of treatment intervention, then LWOP is unnecessary for public safety and is both a waste of valuable resources and of a potentially useful community life for the prisoner after release. But if one believes that many juvenile offenders have sufficient right stuff to be held fully responsible or almost fully responsible, then the potential for change is irrelevant on retributive grounds. How corrigibility should contribute to deciding how juvenile criminal histories should be employed for sentencing is therefore dependent on the decision-maker's sentencing goals. This is a normative question that science cannot answer.[11]

The upshot of the foregoing discussion is that large numbers of later juvenile offenders, 16- and 17-year-olds, will be psychologically and biologically indistinguishable from those offenders who are age 18 or older. Later juveniles certainly know that committing serious crimes (and less serious crimes for that matter) is wrong. Further, younger offenders are more likely to recidivate than older offenders. There are juveniles who exhibit seemingly fixed antisocial dispositions. These youths are sometimes referred to as callous and unemotional.[12] In terms of desert and depending on how much of the right stuff is required, substantial numbers of late juvenile offenders may have enough right stuff to be held fully responsible for full blame and

[10] Jones v. Mississippi, 141 S. Ct. 1307 (2021).
[11] For ease of exposition, I have not addressed the accuracy of predictions of corrigibility and whether the apparent rehabilitation of an offender while in prison is predictive of good behavior in the community.
[12] Whether a formal diagnosis of psychopathy is justified for those under the age of 18 is controversial.

punishment except capital punishment. In exceptional cases, juvenile homicide offenders may have enough of the right stuff to deserve LWOP. Many will present a public safety danger.

The question for this Commission is how to respond to such considerations within the Guidelines. The next section of this statement addresses that question.

Legal Policy

The goals of sentencing and how they should be weighed and balanced are essentially contested. The Supreme Court has repeatedly and explicitly assumed that the primary goals are retribution, deterrence and incapacitation. This is consistent with the Commission's aspiration to balance culpability with public safety in its response to juvenile and young adult offenders. All the proposed options for changing the criminal history calculation would give juvenile offenders a break compared to the current guidelines. The proposed change to the age policy statement also represents a more lenient approach to downward departures. I think that good reasons support virtually all of the proposed changes or the option of making no change at all.

The response to juveniles and perhaps to some young adults should be more lenient. None of the proposed changes is ideal in my opinion, however, and I shall say how they might be modified. These suggestions are simply meant to stimulate thought about how to best achieve justice. Science cannot dictate the appropriate balance. Consequently, in what follows I will present my own normative opinions about good policies and the reasons that support them.

Option 3

Option 3, which does not count any juvenile conviction in the criminal history calculation, is the least desirable and should not be adopted as written. As noted, many later juvenile offenders are in fact sufficiently psychosocially mature to be considered fully responsible for their crimes. They have enough right stuff. Some may continue to be at significant risk for recidivism based on their character as well as their younger age. Such considerations suggest that not all youthful offenders deserve a break on culpability grounds, and many will later be dangerous if given a break.

I understand the desirability of a bright line rule that avoids all the potential unfairness that results from, *inter alia*, prosecutorial discretion about using the transfer power, differences in substance, procedure and record-keeping among jurisdictions, and varying degrees of information about the juvenile record. These are undoubtedly serious problems that threaten systemic unfairness. Nonetheless, Option 3 deprives the sentencing judge of too much socially and legally useful information about what the just sentence should be in an individual case. Some juvenile criminal histories should be counted.

The Commission's data indicate that the number of cases involving an offense committed by an individual prior to age 18 is just over 3,100. This is not an immense number. In cases in which the district judge has substantial reason to believe that the juvenile record is misleading about culpability and dangerousness, a downward departure after thorough consideration of the offender's claim should not place an undue burden on judicial resources.

Although Option 3 may not be desirable for all juvenile conviction cases, it might be appropriate for cases involving conviction for those offenders who were age15 and younger when they committed their crimes. Some of these younger offenders may have enough of the right stuff, but in general it is considerably less likely. There should be a presumption that these offenders did not have enough of the right stuff. Moreover, if one considers the correlation between age and rates of serious offenses, those offenders convicted of crimes committed when they were age 15 or younger will not present a significant danger if those convictions are not used in the calculation. I would certainly favor this for less serious crimes committed by those age 15 or younger.

It may be objected that some of these younger offenders will have committed very serious and even heinous crimes, and such crimes should be included in the criminal history calculation to protect the public. This is a fair point, but no bright line rule will be perfect. I think it would be reasonable to adopt Option 3 only for those who committed crimes when they were age 15 or younger.

Another possibility that I prefer is to adopt Option 3 for <u>all</u> juvenile offenders convicted of less serious crimes. Very little if any break should be given to 16- and 17- year-old juvenile offenders convicted of the most serious crimes that involve danger to persons, such as homicide, aggravated assault, serious sex crimes, robbery, and perhaps burglary of homes. These are such morally wrongful offenses that later juveniles have the strongest possible moral and legal reasons not to offend. These convictions should be counted. For less serious crimes, such as theft, juvenile convictions in any court would not be counted. As juveniles know, it is wrong to steal, but for property crimes, the threat to public safety is generally less heinous and the need for public safety protection is less powerful. I recognize that this suggestion is controversial, but I believe that it may strike the balance the Commission seeks.

Options 1 & 2

As noted, nothing in the relevant science would prohibit the Commission from leaving the current calculation guideline intact. But if the Commission decides that softening of the criminal history calculation is warranted, then a scheme like Options 1 and 2 is more desirable than Option 3. These two options treat crimes committed prior to age18 less harshly, but they are included in the calculation.

In general, I prefer including only convictions in adult court in the criminal history calculation because I am more confident of careful responsibility attribution in a body with extremely limited therapeutic aspirations, if any. I recognize that this will create some disquieting disparities, but I am more confident that adult courts will make a more searching inquiry into culpability.

Option 2 seems better on this ground. But this raises the difficult question of how to respond to juveniles who were convicted in juvenile court of very serious crimes, such as homicide, aggravated assault, firearms offenses, and rape. The unwillingness of the prosecution to seek transfer in these cases may indicate some reason for leniency and optimism about the

future life trajectory of these offenders compared to those transferred for the same crime, but it also may not. Some serious youthful offenders convicted in juvenile court will have enough of the right stuff to be considered fully responsible and many might be dangerous. Such serious criminality among the young is not a good prognostic sign, even if younger offenders are statistically unlikely to commit such crimes again.

To strike the appropriate balance, I would modify Option 2 to permit inclusion in the calculation of serious juvenile offenses adjudicated in juvenile court, but only after a thorough examination of the record to determine if there is substantial reason to believe the offender was sufficiently culpable and dangerous to justify inclusion. The rebuttable presumption would be that the juvenile conviction is not counted. This inquiry will involve expenditure of additional judicial resources, but the number of cases will be small.

Age (Policy Statement)

I fully agree in principle that youth alone or in combination with other circumstances might warrant a downward departure in cases in which the mitigating factors are substantial and differentiate the case from the typical case governed by the Guidelines. I also think that it would be helpful to give sentencing judges more specific guidance for deciding when a downward departure is appropriate. Nevertheless, I think number (1) of the proposed amendment is unwise and should not be adopted.

The proposed language says that when considering departures based on youth, "the court should (emphasis supplied) consider,"

(1) Scientific studies on brain development showing that psychosocial maturity, which involves impulse control, risk assessment, decision-making, and resistance to peer pressure, is generally not developed until the mid-20s.

First, the language emphasizes brain development. This is not the appropriate criterion as the previous section of the Statement indicated. Psychosocial variables are the important criteria for the law because the law concerns behavior, not brains. Focusing on brain development can distract a court from concentrating on the offender's behavior.

Second, brain development data do not "show" that psychosocial capacities generally do not mature until the mid-20s. There is a correlation, but it is imperfect. It is developmental psychology that "shows" that psychosocial maturity is not complete at age 18. Even for psychosocial data, the correlation is imperfect. In an important sense, psychosocial maturation is never complete; it continues long after the mid-twenties.

Third, a downward departure should be based on an individualized inquiry into the psychosocial maturity of the offender being sentenced, and not based on group data that obscure the heterogeneity of psychosocial development at every age. Group data often must be used to predict individual behavior when a more intensive examination of the subject may not be possible or could increase error. But, in the criminal justice context involving just blame and punishment based on responsibility, individualized determinations should be required.

Last and most important, the language begs the question about the "right stuff" for responsibility. Even if psychosocial development continues into the mid-twenties (and beyond), it does not follow that "incomplete" development should be mitigating. The question is whether psychosocial maturity is developed enough. If the individual offender has enough of the right stuff to be fully responsible, no downward departure may be justified even if that offender would develop more of the right stuff as the offender grows older. The language is implicitly question-begging.

I would amend the language as follows:

In determining whether a departure is warranted and the extent of such departure, the court may consider the following:

(1) An individual offender's psychosocial maturity in cases in which the offender is substantially less psychosocially mature than offenders of the same age. Psychosocial maturity includes impulse control ability, accuracy of risk-assessment, rational decision-making ability, and the ability to resist peer pressure. Scientific studies of the general relation between age and psychosocial maturity may be considered.

I trust that the reasons for the suggested language are clear from the foregoing discussion.

Number (2) in the proposed amendment is sensible because recidivism risk as a function of age is an issue for which group data are essential. Purely individual assessment is not likely to increase the accuracy of evidence-based, statistical predictions of recidivism risk and may in fact decrease it.

Conclusion

This Statement attempted to clarify the relation of the science of adolescent and young adult development to the proposed amendments to the guidelines concerning the use for sentencing of juvenile criminal histories and age generally. Legal decision-makers faced with difficult normative questions often unjustifiably rely on science rather than recognizing the essentially normative nature of legal criteria. The Statement also addressed the specific amendments under consideration. I offered suggestions for thinking about the best approaches to criminal history calculations and to the amended language in the age policy statement about potential downward departures.

I hope that this Statement will help the Commission with its deliberations about these very important issues. Thank you again for inviting me to submit the Statement and to testify.

February, 2024

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Field Training: Massachusetts General Hospital Psychiatry Outpatient Department, 1969-1970; McLean Hospital Outpatient Clinic, 1970-1973

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Diplomate, American Board of Professional Psychology (Forensic Psychology), 1986

Previous Experience:

Visiting Professor, Faculty of Law, University of Zurich, 2018-22

Visiting Scholar, Centre for the Study of Mind in Nature, Oslo University, 2010

Visiting Distinguished Scholar, University of Southern California Law Center, 2009

Visiting Professor, Interdisciplinary Center, Herzliya, Israel, 2005

Solow Visiting Professor of Law, Cardozo School of Law, 2002

William Minor Lile Visiting Professor of Law, University of Virginia, 1998, 1999

Visiting Professor of Law, Georgetown University Law Center, 1995, 1997

Associate Dean for Academic Affairs, University of Pennsylvania Law School, 1990-1992

Orrin B. Evans Professor of Law, University of Southern California Law Center, 1982-1988

Professor of Psychiatry and the Behavioral Sciences, University of Southern California School of Medicine, 1979-1988

Professor of Psychology, University of Southern California, 1982-1988

Visiting Professor of Law and Social Science, California Institute of Technology, 1983

Professor of Law, University of Southern California Law Center, 1979-1982

Associate Dean for Academic Affairs, University of Southern California Law Center, 1979-1980

Associate Professor of Law, University of Southern California Law Center, 1976-1979

Associate Professor of Psychiatry and the Behavioral Sciences, University of Southern California School of Medicine, 1977-1979

Previous Experience: (continued)

Consultant, Center for Law and Health Sciences, Boston University School of Law, 1974-1977

Assistant Professor of Law, University of Southern California Law Center, 1974-1976

Visiting Assistant Professor of Psychology, Boston University, 1973-1974

Principal Investigator, Center for Law and Health Sciences, Boston University School of Law, Project to study "Rights of Adolescents Receiving Mental Health Services" under N.I.M.H. grant, 1973-1974

Professional Memberships:

American Bar Association
American Psychological Association (Fellow)

Professional Activities & Awards:

American Psychological Association Task Force on Legal Action, 1976-1977

Board of Directors, American Psychology-Law Society, 1977-1981

Visiting Psychologist, American Psychological Association Visiting Psychologist Program, Alaska Psychiatric Institute, Anchorage, Alaska, 1979

Advisory Committee to California Legislature Joint Committee on Revision of the Penal Code, 1980-81

California State Psychological Association Committee on Legal and Social Issues Concerning the Mental Health of Children and Families, 1980-1981

Book Review Editor, Law and Human Behavior, 1980-87

President, American Psychology-Law Society, 1981-1982

Director (ex officio), American Board of Forensic Psychology, Inc., 1981-1982

Professional Activities & Awards: (continued)

Editorial Advisory Board, International Journal of Law and Psychiatry, 1982-2006

Consulting Editor, Professional Psychology, 1983-1993

USC University Associates Award for Excellence in Teaching [University-wide], 1984

President, Division 41/American Psychology-Law Society, American Psychological Association, 1986-87

Editorial Board, Perspectives in Law and Psychology (book series of Division 41 of the American Psychological Association), 1986-1995

John D. and Catherine T. MacArthur Foundation Research Network on Mental Health and the Law, 1988-1996

Editorial Board, Law and Human Behavior, 1988-91

Distinguished Contribution to Forensic Psychology Award, American Academy of Forensic Psychology, 1989

Fellow, American Psychological Association, 1991

Trustee, Bazelon Center for Mental Health Law, 1995-2016

Criminal Law Advisory Board, The Journal of Criminal Law and Criminology, 1995-

Lindback Award for Teaching Excellence [University-wide], University of Pennsylvania, 1997

Faculty, American Academy Forensic Psychology 1999-

Referee (Criminal Law), Stanford-Yale Junior Faculty Forum, 2000, 2002, 2004, 2006, 2008

P. Browning Hoffman Memorial Lecture in Law and Psychiatry, University of Virginia School of Law and Institute for Law, Psychiatry and Public Policy, 2003

Board of Advisors, Ohio State Journal of Criminal Law, 2003-

Professional Activities & Awards: (continued)

Expert Consultant, President's Council on Bioethics, 2004

Editorial Board, Criminal Law and Philosophy, 2005-

Founding Director, Neuroethics Society, 2006.

Deinard Memorial Lecture in Law and Medicine, University of Minnesota, 2007.

Visiting Distinguished Fellow, Sage Center for the Study of the Mind, University of California, Santa Barbara, 2007.

Co-Director, Governing Board and Co-Director of the Research Network on Criminal Responsibility and Prediction, John D. And Catherine T. MacArthur Foundation Law and Neuroscience Project, 2007-2010.

A Leo Levin Award for Excellence in an Introductory Course [Law School], 2007

Editorial Board, Journal of the American Academy of Psychiatry and the Law, 2007-2016

Editorial Board, Legal Theory, 2009-

MacArthur Foundation Research Network on Law and Neuroscience, 2011-2016.

Isaac Ray Award (for distinguished contributions to forensic psychiatry and the psychiatric aspects of jurisprudence), American Psychiatric Association, 2014

Barrock Lecture in Criminal Law, Marquette University Law School, 2014

Elizabeth Hurlock Beckman Award (awarded by the Beckman Award Trust for a teacher who has inspired former students to create an organization which has demonstrably conferred a benefit on the community at large), 2014

Co-Investigator, DIMENSIONS - Remodeling criminal insanity and psychosis through the philosophical, legal, and medical dimensions of the

Professional Activities & Awards: (continued)

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