

Aboriginal Peak Organisations Northern Territory

An alliance of the CLC, NLC, CAALAS, NAAJA and AMSANT

NT Royal Commission Response Background Paper

1.1 Fact Sheet - Facts about the Nature of Youth Offending

Issue

Factual information about the nature of young peoples' brain development, and its implications for youth offending, is critical to developing an effective youth justice system.

Evidence

Treating young people in the justice system as “mini-adults” and ascribing the same responses to offending for young people and adults is a fundamentally flawed approach.

Developments in psychology and brain science show significant differences between juvenile and adult minds that have real implications for establishing culpability and an appropriate age of criminal responsibility. Additionally, exposure to trauma can also result in impaired brain development with similar implications regarding culpability. Importantly, it has also been established that young people, when given appropriate supports, are highly capable of behavior change.

Importantly, almost all young offenders are likely to be what Becroft refers to as “desistors” – that is, young people who will commit an offence in their adolescence and but settle into a law-abiding lifestyle by their mid-twenties. Becroft argues that there is little benefit in bringing such young people before the courts except where the seriousness of the offending is high (Becroft, 2013).

Research

Mapping studies of the brain have shown that the frontal lobes, which are responsible for ‘higher’ functions including planning, reasoning, judgement and impulse control, do not fully develop until well into the 20s, or even 30s for some individuals (Becroft, 2013).

Brain development research reveals that it is not simply a matter of adolescents being unable to evaluate risk, instead it is the incomplete development of brain mechanisms that assist a person to moderate their impulsive behaviors which reduces a young person’s tendency to pay regard to those risks (Somerville and Casey, 2010).

Trauma in children can also impair brain development, whereby the cognitive, neurological and psychological development of a child is disrupted by exposure to traumatic incidents resulting in wide-ranging impairments in arousal, cognitive, emotional and social functioning (Atkinson, 2013).

This growing body of research is increasingly being highlighted when considering the culpability of young people, including in a series of recent landmark cases in the U.S. Supreme Court. In one such case in 2010, Justice Kennedy noted that “juveniles are more capable of change than are adults, and their actions are less likely to be evidence of irretrievably depraved character than are the actions of adults” (Becroft, 2013).

References

- ATKINSON, J. (2013). Trauma-informed services and trauma-specific care for Indigenous Australian children. Resource sheet no. 21 produced for the Closing the Gap Clearinghouse. Australian Institute of Health and Welfare, Australian Institute of Family Studies.
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- SOMERVILLE, L. H. & CASEY, B. J. 2010. Developmental neurobiology of cognitive control and motivational systems. *Current Opinion in Neurobiology*, 20, 236-241.