



# THE PROMISE OF ADOLESCENCE:

## Realizing Opportunity for All Youth

### OPPORTUNITIES FOR THE JUSTICE SECTOR

Adolescents—young people ages 10 to 25—make up nearly one-fourth of the U.S. population. Drawing upon recent scientific advances, *The Promise of Adolescence: Realizing Opportunity for All Youth* (2019), a report from the National Academies of Sciences, Engineering, and Medicine, highlights the need for policies and practices that better leverage the developmental opportunities offered by adolescence. The changes in brain structure and function that happen at this age present adolescents with unique opportunities for positive, life-shaping development, and for addressing the harmful effects of negative early-life experiences, such as trauma, abuse, or economic hardship.

The report examines how the nation's justice system can better support adolescents, and these findings and recommendations are highlighted in this brief.

### WHAT IS ADOLESCENCE?

*Adolescence is a developmental period rich with opportunity for youth to learn and grow. Throughout adolescence, the connections between brain regions become stronger and more efficient. This means that adolescents' brains can adapt, and they become more specialized in response to demands placed on them by their environments—by learning opportunities at school, for example, and by social interactions with their peers and families.*

*The adolescent brain also has an exceptional capacity for resilience, meaning adolescents can develop neurobiological adaptations and behaviors that leave them better equipped to handle adversities. By intervening during adolescence, we can improve young people's overall well-being and help them lead meaningful, healthy, and successful lives.*

## ADOLESCENCE AND THE JUSTICE SYSTEM

**Over the past 15 years, advances in the science of adolescent development have had substantial impacts on juvenile justice reform and have focused attention on the potential value of developmentally appropriate practices for older adolescents involved in the criminal justice system. New research on adolescent brain development highlights the diminished culpability of adolescent offenders and their potential responsiveness to preventive interventions based on evidence-based risk- and needs-assessments.**

The report recommends that the juvenile justice and criminal justice systems reform their policies and practices to align with this science—holding youth accountable but without imitating adult punishment, choosing interventions tailored to individual youth to help prevent re-offending, and ensuring that youth are treated fairly during the process in order to enhance their positive social and moral development, all with an emphasis on returning youth to the community unharmed. A developmentally appropriate justice system acknowledges the potential of youth and helps them become successful, law-abiding members of their communities, promoting public safety more effectively than a punitive approach.

## OPPORTUNITIES FOR FURTHER REFORM IN THE JUVENILE JUSTICE SYSTEM

**While much progress has been made over the past decade, there are opportunities for continued juvenile justice reforms to better incorporate what science reveals about adolescent development. The report highlights three areas where further improvements could be made—by increasing family engagement, by creating greater procedural fairness in the system, and by reducing the harmful effects of justice system involvement on youth’s future prospects.**

**Increasing family engagement.** Parental engagement and visitation for youth who are involved in the justice system have been shown to have positive effects both on young people’s likelihood of re-offending and on their mental health outcomes. Opportunities for improvements

in this area include providing legal orientation for parents so that they are able to assist their children in navigating the juvenile justice system and eliminating barriers to visitation so that incarcerated youth can stay connected to their families.

**Procedural fairness.** This concept refers to whether the justice system is impartial and fair, whether litigants feel respected and have a fair opportunity to be heard, and whether the fact-finding procedures are neutral and trustworthy. While the Supreme Court has repeatedly upheld that due process demands representation by an attorney in legal proceedings where a juvenile’s liberty is at stake, many states allow youth to make decisions about their pleas and sentences without the guidance or support of a lawyer. In the committee’s view, youth should rarely, if ever, be permitted to waive their right to a lawyer. Procedural fairness can also be enhanced by creating legal teams that include social workers, housing specialists, and representatives from other critical services.

In addition to enhancing procedural fairness, perceptions of fairness can also be improved by addressing the disproportionate representation of minorities at every stage of the justice system. For example, Black youth are detained at a rate six times higher than White youth and three times higher than Latinx youth. Reducing disparities is essential for improving the fundamental integrity of the system and promoting a sense of fairness among youth.

### **Reducing harm after exiting the justice system.**

Harm can result from system interventions that impede or prevent youth from productively re-entering their communities and making a successful transition to a law-abiding adult life. Opportunities for further progress can be found in reducing or eliminating the use of solitary confinement—which can result in trauma and adversely affect brain development—and in eliminating sex-offender registration for non-violent juveniles, a step that data suggest would pose little risk to public safety.

## A DEVELOPMENTALLY INFORMED CRIMINAL JUSTICE SYSTEM

Given the resounding scientific evidence about the neurobiological and socio-behavioral development of adolescents, it is clear that the criminal justice system

needs to adopt policies and practices that support the positive development of all young people. Reform efforts recognizing the developmental needs of older adolescents and young adults are emerging within the criminal justice system, including reducing automatic transfers of juveniles to criminal courts based only on the charged offense, and creating developmentally informed correctional programs for young offenders. These efforts should be guided and strengthened by the science of adolescent development and the core principles of a developmental approach.

## **BLUEPRINT FOR ACHIEVING A DEVELOPMENTALLY APPROPRIATE JUSTICE SYSTEM**

### **Recommendation 9-1: Reduce disparities based on race, ethnicity, gender, ability status, and sexual orientation or gender identity and expression among adolescents involved in the justice system.**

- A. Congress should ensure proper implementation of the Juvenile Justice and Delinquency Prevention Act (JJDP), including oversight of state efforts to monitor and reduce racial and ethnic disparities with an increased focus on research and data collection.
- B. The Office of Juvenile Justice and Delinquency Prevention (OJJDP), in accordance with requirements laid out in the JJDP, should require at a minimum that all states furnish specific, rigorous metrics on the race and ethnicity of youth involved in the justice system.
- C. School systems should leverage available federal, state, and local funding to implement evidence-based programs to improve social and structural conditions to reduce racial disparities and student referrals to the justice system.
- D. Law enforcement officials and other institutions and community organizations should undertake prevention programming designed to reduce justice system involvement by disadvantaged groups, based on social and structural inequities differentially experienced by those groups.

### **Recommendation 9-2: Ensure that youth maintain supportive relationships while involved in the justice system and receive appropriate guidance and counsel from legal professionals and caregivers.**

- A. Juvenile facilities should amend policies that curtail visitation rights as punishment, and states and localities

should implement policies and practices to assist families in overcoming barriers to prison visitation so that youth can remain connected to parents, caregivers, and other relatives.

- B. Probationary programs should connect parents and caregivers with community and educational resources that can teach them how to help their child succeed and avoid future interactions with the justice system.
- C. State legislatures and courts should ensure that justice-involved youth are provided with competent counsel throughout the legal process.
- D. State legislatures and courts should ensure that adolescents under the age of 15 are not allowed to waive the right to an attorney or the right to remain silent without prior consultation with an attorney.

### **Recommendation 9-3: Implement policies that aim to reduce harm to justice-involved youth in accordance with knowledge from developmental science.**

- A. Congress and state legislatures should enact legislation to eliminate the use of sex-offender registries for non-violent juveniles.
- B. Given the robust evidence of the harmful effects of solitary confinement, the federal government or philanthropic organizations should fund research on effective alternatives to solitary confinement so that detention facilities will be able to scale back or eliminate the use of this practice as soon as practicable.

### **Recommendation 9-4: Implement developmentally appropriate and fair policies and practices for adolescents involved in the criminal justice system.**

- A. Legislatures should restore judicial discretion in decision making about transferring juveniles to or from criminal courts.
- B. Prosecutors and courts should be guided by the principles of proportionality and individualization with consideration given to the maturity, needs, and circumstances of the individual offender when making transfer decisions.
- C. Judges sentencing juveniles in criminal courts should place these youth in juvenile correctional settings rather than adult correctional facilities. These youth should be entitled to all of the services they would have received if they had received a juvenile disposition and, upon turning 18, should be entitled to placement and services available to young adult offenders. Courts should conduct formal review of youths' criminal sentences

on an individualized basis to determine whether the sentences should be adjusted in light of their mitigated culpability and prospects for successful adjustment in the community.

**Recommendation 9-5: For those youth in the custody of the justice system, ensure that policies and practices are implemented to prioritize the health and educational needs of adolescents and avoid causing harm.**

- A. Correctional programming for adolescents and young adults in the criminal justice system should promote accountability and reduce re-offending through developmentally appropriate services in both correctional facilities and residential and community settings, including mental health, substance abuse, education, and social services.
- B. Researchers, in partnership with practitioners, should

urgently examine and evaluate effective alternatives to solitary confinement that promote the healthy development of individual youth and protect the safety of all in the facility.

- C. State and local educational agencies should work in partnership with their justice system counterparts to ensure that rigorous and relevant curricula for adolescents are delivered in residential facilities and that these curricula are aligned with career and technical education standards and meet the needs of all youth, including those with disabilities and English language learners.

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