

Leveraging Collaborative Partnerships to Protect the Human Rights of Children Involved in the United States' Juvenile Justice System

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In 2019, United States' courts with juvenile justice jurisdiction handled over 720,000 youth delinquency cases.¹ Research demonstrates that children and adolescents involved with the legal system often have complex and unmet social, developmental, legal, medical, and mental health needs.² Given the unique needs of justice-involved youth, it is imperative that the United States treat children in a developmentally appropriate way and promote and protect the human rights of justice-involved youth. The core elements of a justice system that would protect children's human rights are outlined in a series of international guidelines, laws, and treaties that establish minimum standards for treatment of children in conflict with the law. Unfortunately, when it comes to protecting the human rights of children involved with the justice system, the U.S. routinely fails to meet international standards.

In this issue of *Progress in Community Health Partnerships: Research Education and Action*, Drs. Elizabeth Barnert and Laura Abrams highlight one way in which the U.S. systematically fails to protect the human rights of children involved with the justice system. As described in their article, international standards and norms establish the minimum age of criminal responsibility at no younger than ages 12-14 years. Despite these international standards, the U.S. lacks federal protection from prosecution for children under 12 years of age. Furthermore, many U.S. states also lack a minimum age of criminal responsibility for children. The lack of federal and state protections can have devastating effects on children and families. Whether it is the arrest of a 6-year-old in Florida for throwing a temper tantrum in school³ or officers handcuffing and pepper spraying a 9-year-old in New York for a family disturbance call,⁴ news headlines and child narratives reveal the traumatic impact that arrest, prosecution, and incarceration can have on young children and their families.

In addition to news headlines and firsthand accounts from children, scientific evidence confirms that courtrooms and detention facilities are no place for young children. Over the last two decades, advances in neuroscience and neuroimaging show

the brain undergoes numerous structural and functional changes throughout childhood and the process of brain maturation is not complete until at least 26. Furthermore, research shows that the brain develops in stages, culminating in the maturation of the prefrontal cortex. The prefrontal cortex, sometimes referred to as the ‘control center of the brain,’ is the area of the brain responsible for a variety of executive functions, including decision making, impulse control and emotional regulation.⁵

The developmental immaturity of the prefrontal cortex underscores that young children do not have the cognitive ability to fully understand the moral and legal implications of their actions and may lack the capacity or competency to stand trial.⁶ Numerous legal experts and social scientists have also expressed significant concerns about a young child’s competency to understand and exercise their legal rights, to meaningfully participate in their own defense, or to understand what happens procedurally in court.⁷ Given their developmental immaturity, it is not surprising that involvement with the justice system can be detrimental to the well-being and developmental trajectory of young children. Research shows

early contact with the juvenile justice system increases the likelihood of future system involvement ... Detention at a young age is associated with poor adult health outcomes across physical and mental health domains. Juvenile justice involvement may also interrupt health development, serve as a traumatic experience for youth already at

heightened risk for exposure to trauma, and subject young children to victimization and abuse.⁵

The United States' failure to shield young children from involvement with the justice system represents a systemic failure to protect the basic human rights of marginalized children within our society. This failure is exacerbated by the fact that Black, Brown, Indigenous, disabled, and LGBTQIA+ children have been disproportionately criminalized for decades with significant disparities at virtually every decision point in the juvenile justice system.⁸ For example, a recent report by *CBS News* showed “children with documented disabilities were four times more likely to be arrested at school.” The report also found “Black elementary school students – those enrolled in grades five and below – are more than five times more likely to be arrested at school than their white peers.”⁹

The injustices highlighted in this editorial are just a few of the many examples of how the United States' justice system fails to meet the developmental needs of children and adolescents. Recognizing this failure, many advocates have called for a reimagining of our juvenile justice system.

In this issue Drs. Barnert and Abrams demonstrate how collaborative partnerships between researchers, advocates, and policymakers can catalyze the transformation of our justice systems. They have led the way in providing substantial research on the minimum age of criminal responsibility in the United States. This research, along with their collaborative partnerships with advocates and policymakers has been a game changer in advancing legislation to raise the

minimum age of prosecution and incarceration of children. Their work influenced the passage of California Senate Bill 439, which excludes children under age 12 from eligibility for prosecution in California.

Fortunately, Barnert's and Abrams' work did not stop in California. They actively worked to grow a national movement to raise the minimum age of criminal responsibility throughout the United States. Following the model established in California, Drs. Barnert and Abrams helped to establish collaborative partnerships with the National Juvenile Justice Network (NJJN), and many other organizations. These partnerships have played a critical role in helping more states pass legislation raising the age for prosecution and confinement. In 2021 and 2022 respectively, New Hampshire¹⁰ and Maryland¹⁰ raised their minimum ages of child prosecution to thirteen years old, now the highest minimum age in the country. Due to laws passed in 2022, for the first time most states in the U.S. (26) have a minimum age of youth court prosecution.¹⁰ But that still leaves far too many states behind, identified in the table below.

1) Minimum of Age of Criminal Responsibility by State (May 2022. States not listed have no minimum age for prosecuting children).¹⁰

Minimum Age of Jurisdiction	Number	States
Age 13	2	New Hampshire* Maryland*
Age 12	5	California*, Massachusetts, Utah* Delaware*, New York*
Age 11	1	Nebraska
Age 10	16	Arkansas*, Arizona, Colorado, Connecticut, Kansas, Louisiana, Minnesota, Mississippi, Nevada*, North Carolina*, North Dakota, Pennsylvania, South Dakota, Texas, Vermont* and Wisconsin
Age 8	1	Washington*
Age 7	1	Florida*

* State law allows for prosecution of younger children charged with certain serious offenses.

As we increasingly see media narratives falsely blame youth for a “rising crime wave,” it is more critical than ever to ensure that our young children are not subjected to the failed criminal policies of the past that have led states to arrest and jail children too young to even understand

what is happening. We must see children as children, meet their needs within their families and communities, and center their healing. Drs. Barnert and Abrams provide a blueprint for how collaborative partnerships can help achieve developmentally appropriate reforms in our juvenile justice systems. As they wrote, by developing these partnerships, researchers can “grow the work far beyond what could have occurred operating on our own from our ‘ivory tower’ desks at the university.”

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