

Juvenile Comorbid Mental Disabilities and Adjudicative and Pre-Adjudicative Competence

Nicky Petersen, B.S., & Kristine M. Jacquin, Ph.D.

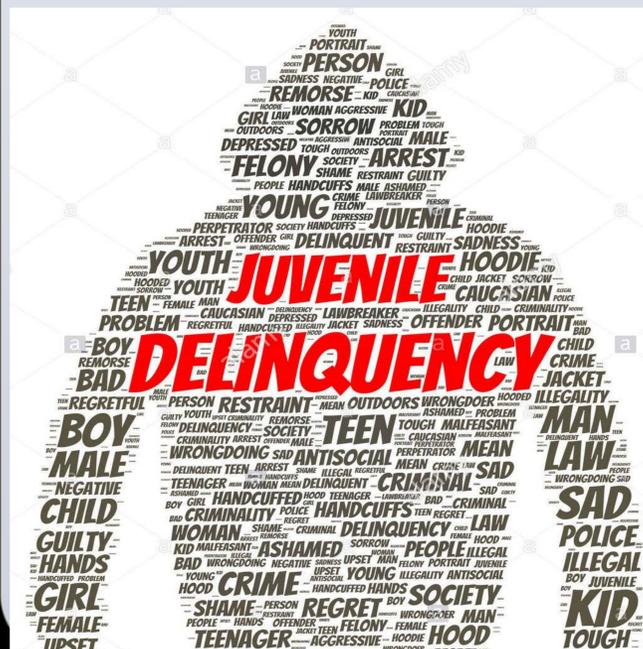


INTRODUCTION

- ◆ When the juvenile justice system was first developed in 1904 (state of Illinois), the requirement of being competent to stand trial or proceed to adjudication did not exist (Fogel et al., 2013).
- ◆ The early juvenile justice system was not punitive but instead emphasized rehabilitative procedures.
- ◆ With the change in public opinion in the past two decades regarding youth-related violence, several significant laws and bills have been successfully passed in state and federal legislatures permitting the transfer of adolescents to adult court more frequently, and helping institute harsher treatment for those who remain in the juvenile court system (Department of Justice, 2010).
- ◆ As it became more common to administer adult penalties to juveniles, court systems increasingly required that adolescent defendants have the same or similar mental capacities as adults concerning competency to stand trial (Pirelli et al., 2011).
- ◆ Such mental functions include the ability to understand the nature of the legal proceedings, the ability to communicate with one's attorney, and the ability to understand the importance and potential consequences of legal actions and decisions (Pirelli et al., 2011).

RESEARCH FINDINGS

- ◆ Research has suggested that over 50 percent of individuals under the age of 18 years who come in contact with the juvenile justice system have some form of diagnosable psychological or substance abuse disorder (Shulman et al., 2018).
- ◆ Approximately two-thirds of incarcerated juvenile males and three-quarters of incarcerated juvenile females have at least one diagnosable psychological disorder.
- ◆ Understanding the possible link between psychological disorders and juvenile offending behavior may be critical for treatment and lowering recidivism, as well as reducing punitive consequences for some adolescent offenders (Fogel et al., 2013; Shulman et al., 2018).
- ◆ For example, the comorbidity of conduct disorder and attention-deficit/hyperactivity disorder (ADHD) has been linked to repeated juvenile offender behavior (Grande et al., 2011).



MIRANDA COMPETENCE

- ◆ A large part of the ability to show pre-adjudicative competence is the ability to comprehend Miranda warnings (Pirelli et al., 2011).
- ◆ Miranda warnings were initially intended to be read only to adults, but the required readings of these protections were later extended to juveniles (Federal Advisory Committee on Juvenile Justice, 2006).
- ◆ However, juveniles waive their Miranda rights at a higher rate than adults. Over 80% of all minors taken into custody waive their rights, which suggests juveniles may not be able to understand their rights or the consequences that follow once they waive their rights.
- ◆ Such long-term consequences could include increased likelihood of 1) a false confession, 2) transfer to adult criminal court or 3) an irreversible guilty plea (Fountain & Woolard, 2018).
- ◆ The Supreme Court (J.D.B. vs. North Carolina) has ruled that some juveniles may not have the mental capacity to understand the consequences of waiving their Miranda rights (Holman & Ziedenberg, 2006).
- ◆ Simplified versions of Miranda rights for juveniles have been generated, but they have shown to be even more challenging to administer.
- ◆ Additionally, researchers at the John and Catherine MacArthur Foundation Research Network have shown that juveniles are less likely to trust and communicate with their lawyers, which is a necessity for both pre-adjudicative and adjudicative competency (Grande et al., 2011).

FUTURE CONSIDERATIONS

- ◆ Approximately 20 states have juvenile competency laws (Holman & Ziedenberg, 2006). Such laws require a defendant to be continuously monitored for his or her competency throughout the court proceeding process.
- ◆ If the juvenile is deemed unfit and incompetent to stand trial the following alternatives could be implemented:
 1. Suspension of the proceedings while the juvenile remains in custody receiving psychological intervention until the acceptable level of competency is achieved.
 2. If competency is deemed unlikely, the charges against the juvenile may be dropped and the child may be remanded to a mental institution.
 3. All charges could be dropped or significantly reduced (Fogel et al., 2013).
- ◆ In conclusion, research supports the idea that once a juvenile enters the court system, their chances of receiving satisfactory outcomes are diminished, which could further lead to recidivism (Shulman et al., 2018).
- ◆ Therefore state and local governments, teachers, and psychologists should focus their efforts on preventive measures as opposed to corrective and punitive measures.

