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Juvenile Justice Reform and the Myth of the Superpredator

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Guest Commentary

Juvenile justice reform and the myth of the superpredator



May 17, 2016



[Frank Vandervort](#)



[Guest Commentary](#)

Frank Vandervort is clinical professor of law at the University of Michigan Law School, where he co-directs the Juvenile Justice Clinic. He has handled juvenile justice and child-protection cases in Michigan courts for more than 25 years. Frank Vandervort is clinical professor of law at the University of Michigan Law School, where he co-directs the Juvenile Justice Clinic. He has handled juvenile justice and child-protection cases in Michigan courts for more than 25 years.

A quick quiz about Michigan's juvenile justice system: Which of the following scenarios involves the facts of an actual case filed in Michigan's Family Courts?

1. A 15-year-old girl cuts a small piece of skin from a fetal pig she is dissecting in biology class and places it in the Slurpee of a girl she does not like. The classmate sees her do it, does not drink the Slurpee and reports her to the teacher. The first girl is charged with poisoning the second girl, a 15-year felony.
2. A 10-year-old boy with severe autism acts out in school. A paraprofessional intervenes to physically manage the boy and in the process injures her shoulder. The prosecutor files a delinquency petition against the boy but, in the judgement of the court, he is too young and too disturbed to formally prosecute, so he is diverted. But he is ordered to pay the paraprofessional \$9000 in restitution for lost wages.
3. Two teenaged sisters are arguing over which of them will get to wear a particular pair of jeans. The argument escalates into a shoving match. One sister calls the police. The other sister is arrested, taken off to the juvenile detention facility and charged with domestic violence. The taxpayers are handed a bill for thousands of dollars to pay for her stay in detention, for the salaries of court personnel, attorney fees and probation officer salaries to oversee her for six months.

The correct answer: "All of the above." These examples are typical of the cases processed in our family courts every day. They also illustrate some of the reasons that Michigan should undertake a major revision of its approach to juvenile crime.

In the 1980s and 1990s, driven to a moral panic by a sudden escalation in juvenile homicide rates, Michigan lawmakers enacted tougher laws with the intention of cracking down on all juvenile crime. That was the era of the "superpredator" (a term that has recently resurfaced in the presidential contest), a term coined by [John Dilulio](#), a Princeton professor who later became the Director of Faith Based Initiatives in George W. Bush's administration, and was spread far and wide by a number of self-serving reform advocates who predicted an onslaught of psychopathic juvenile predators.

Here in Michigan, then-Governor John Engler proselytized for get-tough measures such as building a "punk prison." Then-Senate Judiciary Committee Chair William Van Regenmorter insisted that children be treated harshly and as much like adults as possible when they break the law.

Twenty years later, these policies have proven short sighted and at odds with what we know about adolescents and their delinquent acts. Over that course of time, medical and social science research has demonstrated conclusively that the vast majority of teens engage in delinquent behavior at some point in their adolescence making delinquency developmentally normative. Research has also shown conclusively that most of those delinquent acts are the impulsive actions of still-developing teenage brains, and that these youths' law breaking is "adolescent limited" rather than "lifetime persistent." Simply put, almost all delinquency is outgrown in the normal course of maturing.

In a series of cases over the past decade, the United States Supreme Court has recognized that their still developing brains mean that children must, as a matter of constitutional law, be treated differently from adults. In the words of Justice Kennedy, "criminal procedure laws that fail to take defendants' youthfulness into account at all would be flawed."

This series of cases, and the research on which they rely, make a compelling case for restructuring Michigan's juvenile justice system to reflect what we know about adolescent development and its impact on adolescent lawbreaking. To do so, Michigan's leaders will need to accept that those who created our current get-tough system were misguided. They will need to move away from its rooting in the "superpredator" myth. They will need to reexamine its foundational belief in "adult time for adult crime."

It will take courage and commitment to reimagine our juvenile justice system as one informed by the science of adolescent development. However, such a system would serve Michigan's citizens and her taxpayers better.

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