

JUVENILE PLEAS: A DEVELOPMENTALLY INFORMED APPROACH FOR JUDGES

ADOLESCENT PLEA BARGAIN DECISION MAKING

- In high stakes or stressful situations, adolescents:
 - make short-sighted decisions
 - are motivated by immediate gratification
 - may give in to pressure from authority figures
- Judges can increase the likelihood that youth make informed plea bargain decisions by using developmentally appropriate, open-ended questions during the colloquy.

WHEN CHECKING TO MAKE SURE YOUTH UNDERSTAND PLEAS, BE SURE TO USE OPEN-ENDED QUESTIONS TO EVALUATE ADOLESCENT UNDERSTANDING AND DECISION-MAKING SKILLS. BELOW ARE SOME SUGGESTED QUESTIONS:

1

To Ensure Youth Understand the Allegations and What It Means to Admit Guilt

- Why are you in court today?
- What does **pleading guilty** mean?
- What are the consequences of pleading guilty -or- what are some **good and bad things** that can happen if you plead guilty today?
- What does it mean that you are giving up the right to **remain silent**?
- What does it mean that you are giving up the right or ability to present **witnesses or evidence**?

To Ensure the Youth Understands They Can Choose to Plead Not Guilty

2

- Who did you talk to about your decision to plead guilty?
- **What would happen** if you chose to plead not guilty?
- What did your lawyer say your **options** were today?
- Given the options that your lawyer talked with you about, are you **satisfied** with this option, or would you rather do something else?

3

To Ascertain Whether the Youth Understands the Consequences of Pleading Guilty

- Can you tell me what **punishment** you are agreeing to by pleading guilty today?
- What are some other good and **bad things** that might also happen by taking this plea deal today?
- If you plead guilty, has your attorney told you how that might impact your life? [have to pay restitution, placed outside of the home, etc.]
- How can this case be used against you in the **future**?
- Ask open-ended questions to assess youth comprehension of relevant collateral consequences associated with housing, college, military recruitment, employment, or immigration.

To Ensure the Youth Received the Necessary Information

4

- How much **time** did you spend talking about the plea with your lawyer? Did you feel like it was enough time, or **do you need more time**?
- Did you get to ask your lawyer all the questions you have about pleading guilty or taking a plea deal?
- Is there anything you still do not understand completely about pleading guilty today?

5

To Identify Factors that Make It Less Likely the Plea is *Knowing, Intelligent, and Voluntary*

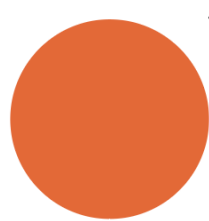
- What is the **main reason** you want to plead guilty today?
- **Who** made the decision for you to plead guilty today?
- Did anyone **promise** you anything if you sign this form/say you are guilty in court today?
- Did you take any drugs or alcohol today that might make it harder to think clearly or make decisions?

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Images by Mallory Bory

620,264

individuals under the age of 18 were arrested in the United States in 2017, the majority for non-violent offenses



Non-violent offenses
579,080

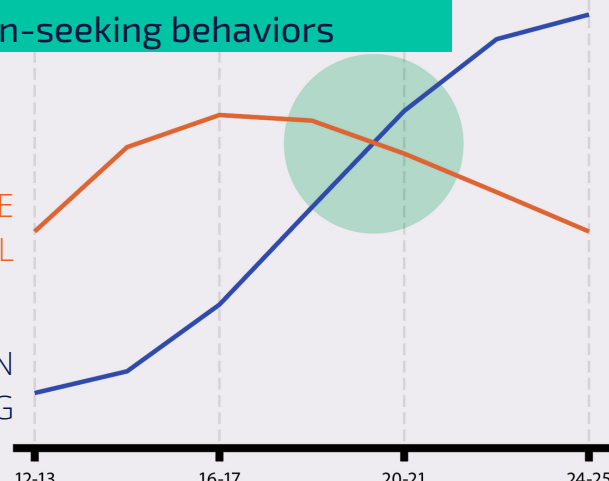
Violent offenses
41,184

Teens are not small adults

Though they may look all grown up, teenagers' brains are still far from mature. Adolescent brains do not process emotions in the same way as adult brains, and the ability to regulate emotions continues to develop into young adulthood. Teens' drive to seek rewards is strong while the neural circuits that support impulse control are still immature. This results in a predisposition toward risk-taking behaviors.

It's not until our early twenties that we begin to see a decline in risk-taking and sensation-seeking behaviors

IMPULSE CONTROL
SENSATION SEEKING



Context is critical

Teens' decision-making skills are compromised when...

there is an imminent threat or reward



in social situations surrounded by peers



You won't get caught

C'mon

under stress or emotional distress

Difficulty regulating emotions and heightened impulsivity makes teens more vulnerable to making poor decisions in stressful and social situations. Emotionally charged situations can drive normal adolescents to take risks that typical adults would not take.

Vulnerability and opportunity

Connections in the brain are still forming during adolescence, making teens extremely sensitive to both positive and negative experiences.

