

# Improving Professional Judgments of Risk and Amenability in Juvenile Justice

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*Edward P. Mulvey and Anne-Marie R. Iselin*

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## Summary

The dual requirement to ensure community safety and promote a youthful offender's positive development permeates policy and frames daily practice in juvenile justice. Balancing those two demands, explain Edward Mulvey and Anne-Marie Iselin, requires justice system professionals at all levels to make extremely difficult decisions about the likely risk and amenability to treatment of adolescent offenders.

Mulvey and Iselin point out that although various forms of "structured" decision-making instruments are used widely in other fields, juvenile justice professionals today make limited use of these tools. Instead, they make decisions based mainly on their intuition about whether the adolescent before them is more likely to harm the community or to use justice system services to turn his life around. The reluctance of busy court professionals to use these structured decision-making tools, they say, arises partly from their heavy work load. But it also grows out of the ethos of the juvenile court itself. Restricting an adolescent's freedom or access to interventions based on a tallying of empirical data is antithetical to viewing each adolescent as a unique individual whose life chances may remain intact with developmentally appropriate intervention.

Mulvey and Iselin recommend and examine three ways to integrate structured judgment approaches into the juvenile justice system that both capitalize on their strengths and support the court's attempts to provide fair, individualized justice. First, more reliance on actuarial methods at detention and intake would promote more efficient and equitable screening of cases for subsequent court involvement. Second, the use of structured decision making by probation officers could provide more consistent and valid guidance for the court when formulating dispositions. Finally, implementing structured data systems to chart the progress of adolescents in placement could allow judges to oversee service providers more effectively.

The challenge for the juvenile system, say the authors, will be to harness the new capacities of the science of decision making and of computer technology to increase the efficiency of its limited resources for the benefit both of the community and of the adolescents in the system.

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Edward P. Mulvey is a professor of psychiatry at the University of Pittsburgh School of Medicine. Anne-Marie R. Iselin is a postdoctoral research fellow with the Western Psychiatric Research and Clinic at the University of Pittsburgh School of Medicine.

To paraphrase Mark Twain, the report of the death of individualized justice for juvenile offenders is greatly exaggerated. Despite a strong trend toward a more punitive and process-oriented juvenile justice system, both the philosophy of the juvenile court and the actions of the professionals working in it are still guided by the goal of providing the right sanctions and the right services to the right offenders.<sup>1</sup> During the course of juvenile justice processing, professionals still make a series of judgments about whether a particular adolescent is likely to harm someone in the community (risk of future violence or crime), to benefit from certain interventions (amenability to treatment), or both.

In today's overburdened system, these judgments are often made rather haphazardly. To even a casual observer, it seems that, especially given recent advances in technology and the decision-making sciences, the juvenile justice system should approach such judgments more systematically. Yet the system has been slow to adopt more structured methods for assessing risk and amenability to treatment.

In this article, we explore how more structured methods of screening and assessment could be introduced into the juvenile justice system without disturbing its ethos of individualized justice. We review developments in ways to improve decision making regarding adolescent offenders and propose that many more structured strategies could be introduced into juvenile justice practice with positive results. Toward that end, we examine where particular forms of structured judgment fit best with existing juvenile justice policy and practice. We also examine whether the juvenile court might serve more effectively as an advocate for appropriate service

provision than as an insightful parent, as originally envisioned.

## A Historical Perspective

In the vision of individualized justice that animated the juvenile courts at the turn of the twentieth century, the court served as a forum where judges could focus on the characteristics of the adolescents before them rather than on the characteristics of the actions committed. In his early writings about the role of the juvenile court, Judge Julian Mack recommended that the court evaluate the physical, mental, genetic, and environmental factors that might be related to juveniles' delinquent behavior. Given this information, the judge must then, as Judge Mack put it, "be able to understand the boys' point of view... willing and patient enough to search out the underlying causes of the trouble."<sup>2</sup> The early juvenile court was a social service agency for children and their families,<sup>3</sup> and it provided services both to delinquent youth and to those at risk of delinquency.<sup>4</sup> The underlying philosophy was that each child's life was malleable, able to develop in either a negative or positive direction.

Keeping the juvenile system separate from the adult system had two express aims.<sup>5</sup> One was to keep adolescents from serving sentences in prison with adults, thus preventing their exposure to adult criminal activity and negative role models. The other was to provide them with positive interventions to help them leave delinquency behind, thus keeping their life chances intact.

Juvenile court judges were powerful in the community and were figuratively perceived as parents, directed to make decisions as if the juveniles before them were their own children.<sup>6</sup> Courts functioned in this way until they came under critical scrutiny during the

1960s, by which time the courts' resources were severely strained and the ideal of extensive services directed to fulfill each adolescent's needs was usually more a rhetorical goal than a reality.<sup>7</sup> In an era of increased concern with individual and civil rights, it also became apparent that the considerable individualized discretion given decision makers in the juvenile court often meant that youths received the "worst of both worlds."<sup>8</sup> Juveniles received neither the procedural protections guaranteed adults nor the regenerative and individualized treatments originally promised by the juvenile system.<sup>9</sup> Landmark legal cases introduced procedural rights, such as due process, into the juvenile court and turned attention toward the process and consequences of court actions.<sup>10</sup>

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The juvenile court came increasingly to resemble the adult criminal court. Punishment and penal proportionality—matching the severity of punishment to the seriousness of the crime—became accepted as explicit goals.<sup>11</sup> Statutory revisions elevated community safety as a priority over individualized interventions, resulting, for example, in more liberal criteria for transferring youth to adult court. Punishment was increasingly recog-

nized as acceptable in the juvenile court because it was believed to deter future delinquent behaviors.<sup>12</sup>

Certain procedures, such as transfer to adult court, were restructured to allow for broader application of sanctions, and more punitive interventions, such as boot camps, gained widespread popularity. The increased focus on community safety, however, did not completely override the juvenile court's original goal of individualized rehabilitation. The juvenile system, at its core, continued to devote the bulk of its resources to sorting adolescents according to their likelihood to develop into adult criminals and to redirecting each youth toward positive adult adjustment within the bounds of what it could provide.<sup>13</sup> Juvenile justice professionals still make a broad array of decisions on an individual-by-individual basis, as several articles in this volume make clear. (For a discussion of decisions about mental health problems, see the article by Thomas Grisso; for decisions about substance use treatment, see the article by Laurie Chassin; and for complexities of transfer decisions, see the article by Jeffrey Fagan.)

To make such determinations effectively, juvenile justice professionals must make well-reasoned judgments about two key issues: the risk of future harm to the community posed by an adolescent and how likely that adolescent is to benefit from interventions. In the next section, we highlight the relation between these two issues and discuss how professionals make such judgments today. We also discuss alternative methods for judging risk and treatment amenability, noting the current debate about their merits and presenting empirical evidence on each. We then go on to discuss how these judgments can be made in a way that better aligns the ideal of

individualized justice and the reality of how the system works.

## Judging Risk and Amenability

The balance between ensuring community safety and promoting an offender's positive development permeates policy and frames daily practice in juvenile justice. Decisions weighing risk and amenability to treatment are made throughout the justice process—from deciding whether and how to charge a juvenile with an offense (for example, charge with a misdemeanor, felony, or as an adult), to deciding whether to hold him in secure confinement or permit a return home while awaiting disposition, to deciding when to refer him for more in-depth evaluations, to selecting dispositions (that is, type of supervision, treatment, and placement), to planning for aftercare (for example, level of follow-up monitoring). Throughout the process, determinations are rooted in judgments about how much risk an adolescent poses to the community and what available services might move him back onto a positive path.

Although we present these concepts separately, judgments about an individual's risk for future offending and treatment amenability overlap substantially and are not mutually exclusive either theoretically or in the mind of the professional.<sup>14</sup> Both judgments focus on the likelihood of particular outcomes in response to certain conditions that might be imposed by the court; both are framed by a decision point and a community. They are also ultimately balanced against each other. For example, in an ideal situation, a particular institutional placement may limit an adolescent's opportunities for future offending while providing services particularly appropriate to positive development. In most cases, however, judgments of risk and amenability rarely coincide so neatly, and one assessment usually

takes priority. In some cases, for instance, the nature of the offense or the adolescent's history simply overwhelms other considerations about the possible gains from a particular treatment program.

Although the two determinations are related to each other, assessing risk and amenability are still somewhat distinct clinical tasks. Most often, risk for future offending is based on the nature and severity of the offense as well as the number of past offenses and whether the offenses were violent, against a person, willful, and premeditated.<sup>15</sup> Amenability to interventions and sanctions is most often related to the adolescent's offense history, environmental and personality characteristics, willingness to engage in treatment, past treatments, availability of services, and age. Also relevant to each determination are the organizational characteristics of the juvenile justice system, such as the limited availability of services and the competence of service providers.<sup>16</sup>

## Current Practice in Assessing Risk and Amenability

Although various forms of "structured" decision-making instruments, such as rating scales and decision trees, are available and are used widely in such fields as medicine or adult corrections, juvenile justice professionals today make limited use of these decision-making tools to assess risk for future offending or amenability to treatment, although they are frequently relevant to legal decisions and have a direct bearing on individualized justice. Instead, at successive points along the path of juvenile justice processing, professionals make decisions based mainly on their intuition about whether the adolescent presents a significant likelihood of future harm to the community or whether he would make good use of available services, or both. It is the exception, rather than the rule, to consider a

consistent set of carefully assessed, empirically verified data.

This practice results partially from the heavy demands placed on the juvenile system. Of the almost 950,000 petitions filed in U.S. juvenile courts every year, about two-thirds are formally adjudicated delinquent; the remaining youths are either diverted from the system or handled informally.<sup>17</sup> The resources allocated to assess and process these cases are regularly described as inadequate. Making a detailed assessment of each adolescent requires gathering verifiable information from multiple informants about multiple aspects of an adolescent's life, which simply cannot be done given the tight deadlines and high caseloads in the court.

But juvenile justice professionals make limited use of structured instruments not just because of the court's insufficient resources. The ethos of the court also reinforces a reliance on unstructured professional judgment. As noted, from its beginnings, the ideal of the juvenile court has been to provide individualized justice for adolescents by considering their unique capacities and life situations rather than just the characteristics of their offenses. The use of standardized instruments thus runs counter to the identity of the juvenile system as a whole and to the professional identities of those who carry out its mission. Restricting an adolescent's freedom based on a tallying of empirical data is antithetical to viewing each adolescent as a work in progress whose life chances may remain intact with developmentally appropriate intervention. Individualized justice demands that the court's actions make sense for each individual case, rather than for a class of cases that fit the adolescent's "profile." The rationale of the juvenile system rests on its ability to respond with discretion to that one case that needs a unique solution.

## Two Common Methods for Structuring Judgment

The juvenile court may find it easier to move away from its reliance on intuition given recent increases in methods and scales for structured decision making.

Many instruments for assessing future risk and treatment amenability, including both straight *actuarial* methods and combined actuarial and *clinical* judgment methods, are becoming readily available.

The actuarial approach rates and groups individuals according to the likelihood of a specified event happening in the future. It uses a consistent and systematic method for collecting and combining information, much like actuaries do in setting insurance rates. The most common such approach is to assign points to particular characteristics of an individual and combine these points (usually by adding them together or weighting each piece of data and then adding them together) to obtain an overall score. The total score reflects how likely a particular outcome, such as an automobile accident or a re-arrest, is for that person. Data in actuarial models are not required to be theoretically connected to the outcome of interest; rather, they must simply be able to predict that outcome. As both computer technology and statistical methods continue to advance, more sophisticated and accurate actuarial methods, like "neural networks" or other intensive methods for combining information and refining prediction models based on new information, will appear in practice.<sup>18</sup>

The clinical approach, by contrast, reaches a judgment about the likelihood of an event happening by constructing a coherent picture of how different characteristics of an individual and his situation increase or decrease the

chances that it will happen. The clinical approach attempts to develop a theory of why an event might happen for an individual, based on the regularities seen in past cases and what is known about the current case. An adolescent, for example, might be extremely sensitive to personal slights, have a history of fighting when confronted, and be returning to live with a highly critical parent who also has a history of violence. All of these variables fit together to form a picture of likely future violence by this adolescent. These variables might not be relevant in another case, but in this one they form a logical picture of how likely the adolescent is to commit a violent act in the near future and what might increase that risk. Assessments by probation officers, mental health professionals, and judges usually rely heavily on clinical approaches to determine both the likelihood that a youth will commit future violence and that youth's amenability to treatment.

In their most basic forms, actuarial and clinical methods in many ways address opposite sides of the coin. Whereas actuarial methods provide straightforward estimates of future behavior based largely on what is known about groups of individuals, clinical methods provide complex assessments based largely on what is known about an individual. Actuarial methods are largely inductive; clinical methods are largely deductive. Actuarial methods fit well in situations where processing demands are high and resources are low, whereas clinical methods fit well within the objective of individualized care. Not surprisingly, academics and clinicians are often at odds about the values of each method.

Since the 1950s, practitioners and researchers in several different fields, such as suicide risk assessment and student admissions, have debated the merits of actuarial and clinical

methods for predicting events. Research has consistently demonstrated that actuarial methods outperform clinical methods, in terms of the proportion of correct to incorrect predictions, in a variety of tasks.<sup>19</sup> Furthermore, actuarial methods outperform clinical judgment even when the actuarial model is tested against the clinical judgment of the skilled professionals on which it was based.<sup>20</sup> From a strict utilitarian viewpoint, adopting actuarial methods makes sense for many areas where accurate prediction in the aggregate is the major goal.<sup>21</sup>

But the discussion about the relative merits of actuarial and clinical approaches is more an academic exercise than a substantive debate with real implications for juvenile justice practice and policy. In practice, actuarial and clinical methods are often merged to enhance assessment information and subsequent recommendations, both at the level of individual professional assessments of offenders and at the level of designing systems to allocate resources for assessment and intervention.

### **Combining Clinical and Actuarial Methods in Assessment**

The individual assessment process has two phases: data collection and data combination. Data gathered about a case can be either actuarial or clinical—for example, an individual's score on a risk assessment instrument or clinical impressions about the level of thought disorder—or some combination of the two. The data are then combined, again using actuarial or clinical methods. An assessor can review relevant scores on structured instruments and deduce a clinical profile. Or the assessor can combine clinical ratings of several dimensions using a standard weighting scheme. Improving practice in general, and ultimately combining individualization with efficiency, rests on integrating clinical



and actuarial approaches, rather than choosing between them, both in collecting and combining data.

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The systematic integration of actuarial and clinical information is often termed structured clinical judgment.<sup>22</sup> Using structured clinical judgment, a decision maker follows guidelines for collecting information consistently (either scores on assessment tools or ratings based on clinical impressions) across a set of predetermined domains and then combines this information the same way across each case. The same domains relevant to the decision being made are considered as a matter of course, the rules for collecting information are clearly stated, and the process for combining information is structured and explicit.

One way to combine the diverse information gathered in risk assessments is for the clinician to formulate a set of reasons why the results of an actuarial instrument might or might not be misleading.<sup>23</sup> Using the actuarial instrument as an “anchor,” the clinician presents an argument that justifies a higher or lower assessment of the probability of

future violence. In the absence of such justifications, clinical judgments are often made in a “backward” fashion. For example, information that a clinical evaluator might have about a treatment option, such as a group home that is readily available, would determine the outcome of interest—that the adolescent be referred to that group home—and case variables, or judgments such as risk of future violence, would then be chosen selectively to support the logic of this decision.<sup>24</sup> Structured clinical judgment provides a more consistent evaluation of the information regarding a case and more reliable judgments across the set of cases seen. Structuring clinical judgments also improves how well clinical methods predict future outcomes, putting them on nearly equal footing with actuarial methods.<sup>25</sup>

Actuarial and clinical methods can also be combined to target assessment or intervention resources efficiently. Using a routine, easily administered actuarial screening tool, such as a self-report history form or a standardized intake rating form, nonprofessional staff can identify groups of cases requiring further, more intensive assessment or treatment. Cases identified as high-risk at the initial screening phase can then be evaluated by a professional using more sophisticated clinical approaches. Results from this more detailed evaluation may be used to make referrals to specialized interventions.

Using actuarial instruments for screening reserves the more expensive and involved clinical approaches for cases most likely to benefit from closer scrutiny. Screening tools are *meant* to “over-identify” cases at high risk for a particular problem. Youths who are initially classified as positive for the problem but are found not to have it after a more detailed assessment are called “false positives.”

Screening tools can also register “false negatives” by classifying youths as not having the problem when in reality they do. The ratio of “false positives” to “false negatives” that is acceptable in different situations can often be set by adopting different cut-points on the screening tool that determine when a case should be provided services or receive further assessment. Thus scarce resources can be allocated to those most in need.

### Current Practices for Assessing Risk and Amenability in Juvenile Justice

In several areas of juvenile justice processing, more structured methods for screening and assessment are beginning to be put into practice. Most commonly, locales have devised risk assessment instruments that tally items and calculate an overall risk score regarding the appropriateness of institutional placement or detention, with some locales even requiring such an instrument.<sup>26</sup> Items and scores are derived for a specific locale, based on a combination of local data about re-arrest or re-institutionalization and local values regarding the acceptable level of community risk from juvenile crime.<sup>27</sup> The logic behind these measures is simple: the more risk factors endorsed, the more likely the juvenile is to re-offend, and therefore the more justification there is to detain or place the juvenile in an institution. Overall, actuarial instruments of this sort have been shown to be moderately predictive of re-arrests.<sup>28</sup>

Developing and testing these sorts of tools for specific points in juvenile justice processing, however, can be costly.<sup>29</sup> Therefore, many locales simply adopt tools used by a comparable city or state. Although such an approach almost inevitably increases consistency within the court, it does not achieve the full payoff of implementing structured judgment ap-

proaches. A locale’s failure to develop local standards undercuts the considerable potential gain to be had from using its own data and a consensus process to develop instruments tailored to its juvenile justice system.<sup>30</sup>

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An actuarial decision-making system can often be developed as part of a broad-based reform of a community’s juvenile justice system.<sup>31</sup> Having stakeholders identify appropriate risk indicators and choose thresholds for particular actions, such as detention, can increase collaboration and produce a shared sense of mission. Carefully introducing actuarial risk assessments can also effectively address the continuing issue of disproportionate minority confinement in a community.<sup>32</sup> Regardless of the strength of the underlying causes of minority overrepresentation (a subject covered in the article by Alex Piquero in this volume), a community can implement detention standards fairly and objectively using a structured instrument, thereby affecting the rates of minority adolescents locked up in the process.

One comprehensive approach to developing assessment instruments, the combined risk-and-need approach, goes beyond calculating a single score of how likely a juvenile might be to re-offend to include an assessment of protective factors or treatment needs.<sup>33</sup>



Rather than treating risk as a stable characteristic of the adolescent, the risk-and-need approach assumes that risk might be lowered by particular interventions or by careful monitoring in the community. An adolescent with a drug or alcohol problem may be at higher risk for re-offending but may also be a good candidate for positive community adjustment if that problem can be addressed effectively. The risk-and-need assessment strategy goes beyond simply sorting adolescents into lower or higher risk groups by providing information about how to select interventions to reduce risk. It allows the evaluator to use results from the assessment to identify treatment interventions specific to an individual's needs rather than just to offer a binary decision about the need for incarceration.

Although structured decision making and risk-and-need assessment strategies are not yet used widely in the juvenile justice system, they are beginning to be put into practice. Mental health clinicians, for example, are increasingly likely to integrate structured clinical judgment into their practice when doing assessments for courts.<sup>34</sup> Used properly, these approaches can increase the scientific soundness and practical utility of their assessments.<sup>35</sup> Numerous interview and rating systems, such as the Early Assessment Risk List (EARLS) or the Structured Assessment of Violence Risk in Youth (SAVRY), now provide systematic methods for assessing the future risk of violence with acceptable predictive accuracy.<sup>36</sup> Several brief, self-report measures related to risk of future violence, such as the Antisocial Process Screening Device, are also predictive of antisocial behavior and likelihood of successful involvement in treatment.<sup>37</sup> Although there is no self-report measure of treatment amenability, there are measures of motivation to change, a key component of treatment amenability. Such measures as the

University of Rhode Island Change Assessment (URICA) and Treatment Motivation Questionnaire (TMQ) have variable predictive ability, and few studies have examined motivation to change in adolescents.<sup>38</sup>

We know of one interview-based rating system for assessing treatment amenability: the Risk, Sophistication, and Treatment Instrument (RST-I).<sup>39</sup> Preliminary data show that it is predictive of important juvenile justice and clinical outcomes, such as treatment compliance.<sup>40</sup> It is, however, relatively new, and more research is needed on its predictive validity, especially in comparison with other risk-and-need measures.

Research on the utility and validity of risk-and-need instruments in court systems in general remains rather limited. Only a few structured risk-and-need instruments have undergone careful recalibrations and repeated validity testing.<sup>41</sup> The benefit of introducing these systems at this point may simply be to increase the uniformity of decision making at certain stages in juvenile justice processing, but that is still a plus: more consistent application of decision-making rules has been shown to increase overall accuracy even if the model used is less than optimal.<sup>42</sup> Much of the value of using these risk-and-need systems may lie in the fact that they are used at all, rather than in the exact specificities or sensitivities of their algorithms.<sup>43</sup>

One important limit of some of these highly structured instruments that must be addressed before they can be adopted widely is that they may not be equally valid across different racial and ethnic groups. Although there is some evidence that comprehensive risk-and-need assessments may predict outcomes equally well across gender and ethnicity, screening instruments may not do as well. For example,

brief risk measures predict recidivism better for whites and males than for blacks and females.<sup>44</sup> Clinical assessments too appear to predict recidivism better for white samples than for ethnically diverse samples.<sup>45</sup> Two papers in this volume discuss these matters in more detail. Elizabeth Cauffman addresses the assessment of female offenders, and Alex Piquero addresses the assessment of youths from diverse ethnic backgrounds.

### Changing Policy and Practice

This review leads to two general conclusions, one encouraging and one not. On one hand, there *are* methods for structuring judgments to make them more consistent and valid, and these methods are applicable to juvenile justice practice. On the other hand, because their value is not readily apparent, these methods are rarely adopted enthusiastically by juvenile justice professionals.

To increase the likelihood that these technologies will become more accepted in juvenile justice practice, we next address two issues. First, we stress both the promise and limits of these technologies. Structured judgment strategies are not panaceas. To avoid unrealistic expectations and misapplications, practitioners must know when these strategies work well and when they do not. Second, we explore how these technologies can enhance the explicit goals of the court. As noted, the realities of the juvenile justice system often undermine its philosophy. Recognizing how these technologies can promote the espoused goals of juvenile justice is critical to their being adopted. Ideally, professionals would use effective methods in situations where they are likely to perform well and would understand clearly the value and reasons for doing so.

### Characteristics of Effective Structured Assessments

*Consistency.* The foundation of any effective structured judgment system, whether an actuarial table or a structured judgment guide, is consistency. Information must be consistently defined, and the methods for combining that information must be consistently applied. The components being measured must be readily understood and obtainable by the personnel gathering and combining the information. This requirement is often undermined in practice, however, when systems use highly inferential constructs, such as an adolescent's level of criminal sophistication, or information beyond the immediate access of the person making the determination, such as school grades for the past three years. People can use information consistently only when they can easily assess or obtain it. Consistency also means that all evaluators within the decision-making system are using the same methods for combining information every time they perform an assessment. Weighting information in different ways or defining factors differently introduces considerable "noise" into the formulation of a final risk or treatment amenability score. The more noise there is in the information used to make decisions, the more difficult it is to predict policy- and practice-relevant outcomes accurately in the long run. The most informative assessments therefore combine and distill the available case information using consistently defined constructs and methods.

#### *Connection to management strategies.*

Effective assessments also take into account change in the lives of the individuals being evaluated. Because risk state can change as an individual's life changes, the task of predicting violence is therefore best framed as assessing and managing violence potential,

rather than foreseeing a discrete event.<sup>46</sup>

Rather than providing likelihoods about whether an individual will commit a violent act within a given time period, professionals are now more inclined to identify variables that raise or lower the probability of violence and methods for managing them.<sup>47</sup> This is an ambitious undertaking, the limits of which are just now being sorted out by researchers and practitioners.<sup>48</sup>

To be effective in the long run, any structured judgment approach must be consistently implemented and adaptable to change and ongoing management. Assessing adolescents in the juvenile justice system poses challenges on both counts. First, adolescents change a great deal over the course of their teens, and, second, the ethos of the court discourages consistency in decision making. We discuss these two challenges to implementing structured assessments of risk and treatment amenability in the next section.

## Two Challenges for Implementation in Juvenile Justice

*Variability and change in adolescence.* A variety of individual characteristics, such as skills and motivation, and social characteristics, such as family functioning and peer affiliations, come together to determine the likelihood of someone being involved in crime or violence at any given time. Adolescents, including juvenile offenders, are particularly subject to change, physically, emotionally, and psychologically, as they move toward adulthood. Measuring aspects of personality and functioning and assessing their effects on the likelihood of offending are thus especially challenging when considering adolescents. There can be wide variability both within groups of adolescents and in any individual adolescent over time. Depending on what is being assessed, the teen one sees this week or

month may differ greatly from the teen one sees the next week or month. Because adolescents mature in predictable ways but often at very different rates, it is difficult to be certain about whether observed characteristics, such as low impulse control, reflect an innate characteristic or simply a developmental phase. An adolescent who appears disengaged and aloof may within a year's time become focused and engaged in numerous activities. While adolescents do not change greatly in terms of their rank ordering in a number of characteristics, it is still often difficult to say with certainty what the pattern of change will be for a particular adolescent. Given rapid developmental changes as well as vast individual differences, adolescents are moving targets.<sup>49</sup>

These patterns of change pertain also to antisocial activity. Although studies find identifiable patterns of both criminal offending and substance use over adolescence and young adulthood,<sup>50</sup> it is clear that, even for serious adolescent offenders in late adolescence, the rule is change, not constancy.<sup>51</sup> Considerable evidence exists, for instance, that a high proportion of offenders curtail their illegal behavior (and substance use) as they progress into their twenties.<sup>52</sup> Late adolescence brings socially constructed transitions, such as from one school to another or from school to work, as well as developmentally driven changes, such as increased investment in romantic relationships, that together make antisocial activity less likely.<sup>53</sup>

This simple regularity of change has an important implication for assessments of adolescent offenders: determinations of likely future offending during late adolescence and early adulthood have a limited shelf life. The events and transitions in an adolescent's life often make any given assessment less

relevant as time goes on. Assessments of risk and treatment amenability are thus most valid when they focus on short-term outcomes and explicitly incorporate the types of events that might precipitate or reduce the likelihood that an event will happen. To be most informative to public policy and psychological practice, adolescent assessments must therefore be done regularly. Furthermore, the measures being used in these assessments must be updated frequently.<sup>54</sup>

*Matching the method with court goals.*

Findings about the utility of structured judgment approaches have led to far more change in decision-making practices in the adult justice system than in the juvenile justice system. Part of the explanation for this difference lies in the congruence between the goals of the court and the methods of structured judgment. In the adult system, the use of actuarial methods promotes the valued principles of proportionality (sufficient, but not excessive, punishment for the gravity of the crime) and equality (individuals committing the same crime receiving the same level of punishment). To policymakers and practitioners in juvenile justice, however, actuarial methods seem to undercut the longstanding commitment to providing individualized justice and services and to the focus on the actor rather than the act.<sup>55</sup> Actuarial methods also contradict the view of the professional, whether the judge, the probation officer, or the social service provider, as having unique knowledge and skill gained from years of experience. Observers in the court often see structured judgment methods as empirically sophisticated, but theoretically vacuous, and as unable to recognize the ability of skilled professionals to formulate individualized, theoretically based formulations about the behavior in question, which is the essence of individualized justice.

As important as the ideal of individualized justice is, however, is how well that ideal gets put into the practice of the juvenile court. While espousing the ideal, the court must also efficiently and effectively sort juvenile offenders, operating as both a “people processing” and a “people changing” organization.<sup>56</sup> It is both a triage unit for distributing sanctions and interventions and a public display of symbolic and real authority meant to redirect the lives of adolescent offenders. Within this framework, there is a place for structured judgment approaches as long as they promote the overall operational goals of the court, while not directly assaulting the notion of individualized justice.

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The court processes cases through a series of successive determinations about transfer, detention, intake, adjudication, and disposition. At each stage, the sample of offending adolescents is refined to arrive at a group deserving sanctions or rehabilitation. The sorting rules are generally consistent—more numerous past offenses and more severe current crimes eventually lead to more supervision or institutional placement, either through transfer to the adult system or through institutional placement at disposition

in the juvenile system. These successive judgments move adolescents and families through the routine process connected with juvenile crime and hand out “going rate” punishments for particular forms of illegal behavior. If it operates well, the process should sort cases fairly—for example, without bias for race, ethnicity, or gender.

At the same time, the juvenile court system also tries to provide a corrective experience for adolescents. It tries to fulfill a “people changing” function by providing the right service at the right time or by instilling a sense of social responsibility in the adolescents and families coming before it. Juvenile courts are often seen by professionals both within and outside the system as “conduits” to appropriate services: a way to get an adolescent a needed intervention with the added clout of the court attached to enforce service involvement.<sup>57</sup> In the best case, court involvement can be a turning point for an adolescent, prompting an end to criminal activity through either appropriate service provision or a powerful socializing experience.

Fulfilling both of these roles well is a demanding enterprise. Processing cases efficiently, while still promoting a sense of procedural justice, takes an enormous amount of resources. Identifying adolescents who will benefit from particular services or sanctions at each point in the system is also daunting. To use resources efficiently, and to incorporate structured judgment effectively, the court must clarify when it is primarily concerned with equitable processing and when it is attempting to assess future risk or amenability to influence an adolescent’s development.

It is often claimed that individualized judgments directed at both these goals are made on every case at each point in the process.

But adopting this position may lead to adolescents receiving the clinical analogy of what the Supreme Court in *Kent* termed “the worst of both worlds.”<sup>58</sup> They receive neither the in-depth examination of their character and situation needed to make a sound judgment nor the equity inherent in a consistently applied empirical determination. There are, though, several ways to focus the screening and assessment of risk and amenability to serve adolescents more effectively.

### **Integrating Structured Judgment into Practice**

There are three ways to integrate structured judgment approaches into the juvenile justice system that both capitalize on their strengths and support the court’s attempts to provide fair, individualized justice. First, more reliance on actuarial methods at detention and intake would promote more efficient and equitable screening of cases for subsequent court involvement. Second, the use of structured decision making by probation officers could provide more consistent and valid guidance for the court when formulating dispositions. Finally, implementing structured data systems to chart the progress of adolescents in placement could allow judges to oversee service providers more effectively. We outline below how each of these approaches might work.

#### **Using Actuarial Methods at Detention and Intake**

Adopting easily administered and interpreted screening instruments at detention and intake would both capitalize on the new technologies of risk assessment and accomplish the goal of equitable processing at these early points of contact with the juvenile system. Structured instruments for determining the need for detention have proved useful in reducing detention center populations, often by



reducing racial disparities, while ensuring that certain adolescents housed in less restrictive environments still show up for court. In addition, routine mental health screens, such as the Massachusetts Youth Screening Instrument–Version 2 (MAYSI-2),<sup>59</sup> have been useful for identifying adolescents who might require increased supervision or immediate crisis intervention while in detention. Intake screening instruments have also shown promise in identifying cases with high risk of future offending. Straightforward, self-report, or direct behavioral rating scales can promote efficient case processing and diversion at the early stages of juvenile justice system processing.

More involved assessments of risk or amenability to treatment at these early stages of court processing are probably *not* worth the investment, even on teens scoring high on screening instruments. The main goal of the system in these early stages is primarily to identify consistently the youths who should go on to more involvement with the court. Although it would be ideal to identify adolescents with clear service needs early to intervene and prevent future problems, the structure of the juvenile and social service systems makes this difficult and unlikely. Little, if any, evidence suggests that assessing service needs for adolescents at detention or intake assures coordinated service delivery for the identified problems. At this early point the juvenile justice system is simply not organized to communicate in detail and follow through on any assessment information that it may obtain. The service providers responsible for following up on the needs of the adolescents do not work directly for the juvenile court (they are usually in the schools or the mental health system), and juvenile justice personnel are simply unable to follow up on the overwhelming number of adoles-

cents who pass through the system. Moreover, agencies receiving a referral from the juvenile justice system invariably conduct their own assessment before providing services. Referrals can be made based on sound screening instruments, whose findings should be provided in the referral, but in-depth risk-and-needs assessments at this early point in processing probably have little chance to make a real difference in the life of the adolescent. Just about all they can guarantee is more paper work and meetings for professionals.

We inject one important caveat about implementing more structured screening at detention and intake. More work is needed to assess possible racial and ethnic disparities resulting from such screening tools. As noted, existing screening tools may have different predictive validities with different racial and ethnic groups,<sup>60</sup> and any use of such tools must therefore correct for these differences.

### **Using Structured Decision Making at Disposition**

Building more structure into the assessment of risk and amenability at the disposition phase of court processing would provide better guidance to the court in making decisions about placements and services. The twin reality of large caseloads and few judges means that court disposition hearings are rather short. Most information about the appropriateness of placements or community supervision options is spelled out in the report submitted by the probation officer to the court. These reports usually contain a workable recommendation or a few options for placement or services, and, in the vast majority of cases, the judge orders the recommended services. The adolescent's attorney has in most cases already been informed of, and negotiated aspects of, the recommended



disposition. These hearings are not an extended inquiry into the dynamics of the adolescent's antisocial behavior or a probing analysis of the match between an offender's characteristics and the likely disposition. Most often, they are more like an acceptance of a plea agreement than a systematic judgment of future likelihood of harm or amenability.

Given this reality, it does not seem reasonable to develop elaborate structured judgment instruments for judicial decision making. This is not a situation in which consistently defined information can be combined in a uniform way. Judges do not have the time to compile the types of ratings that might be required, and they often do not have access to the information that might be needed to make a structured assessment. It would seem reasonable, however, for probation officers to provide the judge with results of standardized assessments so that cases can be compared quickly and consistently. Because the disposition hearing is largely a review of the appropriateness of a recommended placement or service, it would seem essential to provide the judge with a consistent "ruler" for assessing the fit between the particulars of the case and the recommendation. Instruments that provide a judge with scores on such things as the likelihood of re-offending if no intervention is provided or the success experienced in certain types of placements for adolescents with the characteristics seen in this case would certainly provide a useful touchstone for reviewing the reasonableness of the proposed disposition plan. Such instruments could be constructed using information already being reviewed by the probation officer for the court report and from official data bases about re-arrests or court re-appearances of the youth in that locale. Knowing how well a particular case matches the regularities seen

in past cases can help the judge make a more informed review of the proposed service plan for the adolescent.<sup>61</sup>

The ethos of the judge as a wise decision maker about the particulars of each case has made it hard for some to see the pragmatic payoff of such an approach. The judge fulfills an extremely important role as a community representative and standard bearer, and undermining this position would certainly erode the symbolic impact of appearing in court for an offense. Nonetheless, holding on to the notion that the judge is also a fully informed and insightful clinical decision maker seems to place too large a burden on any individual in this position. Using structured assessments of risk and amenability on each case, a judge may be able to make more effective use of the limited time given to each case. With this standard information, a judge could ask why the results of a structured instrument are at odds with a proposed plan or why a mismatch of an offender's characteristics and the profile of a service's ideal client are reasonable in this case. Used this way, structured assessment instruments could provide an anchored starting place for inquiry and judgment during the disposition hearing.

### **Using Structured Information about Service Effectiveness in Review Hearings**

The realities of an overburdened court and the need for systematic, consistent information also suggest that judges might usefully play a more administrative oversight role regarding the provision of services to high-risk offenders. As noted, assessments of risk are most useful when they are revised periodically, taking note of changes in a juvenile's life that might elevate or reduce the risk of antisocial activity. Court review hearings, while held regularly for many serious cases, are often rather perfunctory

reports on overall assessments of an adolescent's progress in the community or in an institutional program. These reviews could be much more useful if they were tied into information developed from structured instruments about the variables related to continued offending or treatment success for that adolescent. Extending the information provided at disposition into an ongoing assessment instrument to track progress on key intervention goals for that adolescent could focus review proceedings on how well these goals are being accomplished.

This approach would also give the judge an opportunity and structure for inquiring about the appropriateness and intensity of services provided by contracted agencies. Meta-analyses of juvenile justice interventions demonstrate that appropriate services for the most serious offenders provide the greatest benefits in terms of reduced offending.<sup>62</sup> Monitoring whether a serious adolescent offender is receiving the services identified as necessary is thus a critical task for ensuring effective use of intervention resources.

Yet most court reviews of adolescents in institutional care focus on how well the adolescents are "adjusting" or "performing" in the program. The adolescent who does not make progress may be brought back to court for "failure to adjust" and placed in another facility. Having a profile of the types of services needed by that adolescent, however, could enable the review hearing to explore whether the needed services have actually been provided. Structured assessment instruments completed at disposition can be an ongoing tool for assessing how well serious adolescent offenders are progressing in treatment and how well treatment programs are providing the needed services. The court can then more

actively promote the appropriate provision of services to fulfill its obligations to use resources effectively to protect the community. Over time, information from these reviews can reveal how effective agencies are at providing service over their contracted periods with the court. Using information based on the risk and needs of its most serious cases, the court could move away from the model of a fully informed judge and toward a model of a fully informed system.

Implementing these last two approaches—structured decision making by probation officers and ongoing monitoring of service provision by judges—requires a greater commitment to accurate data collection and refined data management. Currently, juvenile justice systems vary widely in the sophistication and focus of their data management systems. We therefore reserve comment on the specifics of how to implement data systems and instead refer the reader to examples of such systems that are already in place.<sup>63</sup> Each juvenile justice system will vary greatly in its application of improvements in its data systems. If done well, though, these systems will provide an accurate, ongoing view of the court's efficiency given the idiosyncrasies of resources available in a particular locale. The explosion of technologies for storing and processing information presents juvenile courts an opportunity to move toward more technologically advanced and streamlined operations. Just as investments in information technology have pushed businesses to new levels of productivity, they could also help courts accomplish their goals in new ways, opening the door to more sophisticated, focused, and effective practice.

## Conclusion

The idea of structuring judgments in juvenile justice is still in its infancy, but its potential

seems clear. The science of decision making will continue to develop methods that can be applied in the real world of court decision making. Computer technology will continue to make case information more readily accessible and integrated. The challenge for the juvenile system will be to harness these capacities to increase the efficiency of its limited resources for the benefit both of the community and of the adolescents in the system.

Responding to this challenge does not mean abandoning the goal of individualized justice but rather facing the reality of where and how this goal can be realized. Providing poorly grounded, cursory judgments about the risk and needs of adolescents at numerous points as they proceed through the system does not seem to be a service of great value. Using different forms of structured judgment systems appropriately at different points in the system may instead make it possible to accommodate the often unique risks and needs posed by adolescent offenders.

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