

# Issue Brief

## Adolescents' Competence to Stand Trial: Justice for Disabled and Immature Youths

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With oversight by the Massachusetts Department of Mental Health, clinicians in juvenile court clinics throughout the Commonwealth perform evaluations in delinquency cases at the request of judges and attorneys. One type of evaluation they are frequently asked to perform pertains to juveniles' competence to stand trial (CST). CST refers to a defendant's capacity to understand the trial process, to assist one's attorney in a defense, and to be able to make decisions (for example, how to plead, and whether to waive or claim various constitutional rights). Often youths and adults lack CST capacities due to the effects of mental disorders or mental retardation. Our justice system recognizes that it is unfair to try adolescents or adults when their disabilities jeopardize meaningful participation in their defense.

The juvenile justice system in the U.S. and in Massachusetts is about 100 years old, yet the legal question of CST has not been applied with any frequency in juvenile courts until the past 10 years. Now Massachusetts' juvenile courts perform large numbers of CST evaluations every year.

The recency of the concept's application to youths in juvenile courts has created many unanswered questions. How might youths' mental disorders—which are very different from those of adults—influence their abilities to participate in their defense? Moreover, might there be an age below which youths with no mental illness or mental retardation frequently lack these abilities, simply because their capacities for understanding and reasoning have not yet matured? And how can that risk be evaluated on a case-by-case basis by courts and clinicians?

### Adolescents' Capacities

In 1998 the John D. and Catherine T. MacArthur Foundation brought together a national panel of researchers, the MacArthur Research Network on Adolescent Development and Juvenile Justice, to study this issue. CMHSR faculty member Thomas Grisso, joined later by Gina Vincent, was assigned the task of directing the Network's nationwide research activities in this area. The work began with the publication of a book, *Youth on Trial*,<sup>1</sup> that provided the legal and psychological analyses for the problem.

This was followed by a four-year study, in four urban communities in the U.S., designed to identify youths' and adults' abilities to understand their trials, assist their attorneys, and make decisions in their cases using highly standardized and objective measures of these abilities. The study involved over 1300 youths (ages 11-17) and adults (ages 18-24)—one-half were in detention centers and jails, and the other one-half had little justice system involvement.

When the results of this study were released in early 2003,<sup>2</sup> they were featured in most major newspapers in the U.S. Most youths above age 15 performed about as well on trial-participation abilities as did the adults. But in an era when youths 14 and younger are increasingly being charged with delinquencies and in some states are tried in criminal court as adults, about one-third of youths were found to have deficits in trial-related understanding and decision making that were as great as for persons whom courts usually find incompetent to stand trial. Moreover, the proportion with serious impairments in these CST abilities increased to about one-half for the youngest adolescents when they had low intelligence test scores, even without serious mental illnesses.



## Improving Legal and Clinical Practice

What are the implications of these findings for the actual practice of courts, attorneys, and juvenile court clinicians? In 2002, the CMHSR faculty directing this project conducted a survey of 87 of the 100 largest juvenile court jurisdictions in the U.S., designed to determine the current status of juvenile CST referrals and evaluations.<sup>3</sup> The study found that referrals for evaluations of youths' CST has been, and continues to be, increasing nationwide, as it has in Massachusetts. Due to the quality of its juvenile court clinical services, the Commonwealth of Massachusetts appears to be as well prepared as any other state to obtain evaluations of youths' competence. However, the survey showed that neither in Massachusetts nor elsewhere has there been systematic guidance for juvenile court clinicians and legal professionals concerning how to evaluate youths' abilities related to trial competency in a suitable manner, given youths' developmental differences from adults.

Since 2003 CMHSR faculty (funded by the MacArthur Foundation) have been developing the first comprehensive guide for performing CST evaluations with juveniles. This began with a series of working meetings with four Massachusetts juvenile court clinicians who had exceptional expertise in CST evaluations of adolescents and who created the initial concepts and methods. These were put to the test in a series of one-day meetings with panels of judges, prosecutors, defense attorneys, and juvenile court clinicians selected from throughout the nation.

Over the course of these meetings, the evaluation process was refined and piloted in Massachusetts leading to two products that will be published in June 2005. One is a manual that juvenile court clinicians can use to guide their evaluations of youths' CST so that they are sensitive to youths' special developmental and clinical differences from adults.<sup>4</sup> The other is a booklet for legal professionals, explaining to them the nature of juvenile court clinicians' evaluations performed according the principles and methods in the clinicians' manual.<sup>5</sup> CMHSR faculty are now engaged in projects to assist juvenile court clinicians in Massachusetts, and nationwide, to implement this new evaluation method.

## Policy Recommendations

In the course of this project, the publications noted earlier have issued the following recommendations:

- Juvenile justice attorneys and judges should consider raising the question of CST in any delinquency cases involving youths with a history of mental disorder, mental retardation, or learning disabilities, and for all youths who are younger than 14 (with or without mental disabilities).
- Juvenile justice policy makers should consider mandating CST evaluations in all delinquency cases involving youths younger than 14, and for all youths of any age referred for trial as adults in criminal court.
- Courts should ensure that CST evaluations of youths are conducted only by forensic clinicians with child and adolescent specialization, using methods that are sensitive to clinical and developmental differences between children and adults.

## References

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3. Grisso, T., & Quinlan, J. (2004). Juvenile court clinical Services: A national description. Worcester, MA: Center for Mental Health Services Research, University of Massachusetts Medical School.
4. Grisso, T. (2005). Evaluating juveniles' adjudicative Competence: A guide for clinical practice. Sarasota, FL: Professional Resource Press.
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