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Letter to The Governor's Commission on Law Enforcement Accountability, Community, & Transparency

This purpose of this letter is to offer an opinion on establishing a minimum age for prosecutions in juvenile court.

Julian Jefferson Esq., from the New Hampshire Public Defender office in Manchester, requested that I offer my thoughts and opinion on this issue so that multiple people involved in the juvenile justice system could be heard. I have been a licensed psychologist since 1987, and I have been evaluating juveniles in New Hampshire since I opened my private practice here in 2006. I would estimate that I have evaluated well over a thousand juveniles for the juvenile justice system. The vast majority of these assessments have been for competency to stand trial but other evaluations have included examining juveniles for certification as well as psychosexual, mental health, and violence risk assessments.

I would offer the opinion that based upon both my experience with examining juveniles for competency to stand trial, as well as the current literature and research on the matter, it seems quite appropriate to establish a minimum age of 13 for prosecutions. It has been my experience that after examination, I have never found a 10 or 11-year-old juvenile to be competent to stand trial. Furthermore, I can estimate from my practice over the past 15 years that roughly only about 10% of juveniles I have examined at age 12 have been found to be competent. Once a juvenile reaches age 13, this seems to be an important turning point. I have found that competence could certainly go either way at age 13, and I have to undertake a very careful examination of factors associated with competency in order to form an educated judgement about trial competency. If I receive a referral for a juvenile competency evaluation of an adolescent age 14 and above, I start with the notion that due to their age alone, they are likely competent unless I identify factors that would interfere with competence such as mental illness/emotional disturbance, learning disabilities, intellectual/ cognitive issues or severe social-emotional immaturity for their age.

In addition to my own clinical and anecdotal observations about juveniles under the age of 13, there is also substantial research to suggest that younger-age juveniles are less likely to be competent than their older peers. The Commission may be aware that there are at least 10 States that have already set a minimum age of 10 for a Delinquency Petition to be filed against a child.

A major study many years ago by the McArthur Research Foundation Network on Adolescent Development in Juvenile Justice offered that based on a large study of over 1400 males and females between the ages of 11 and 24, juveniles ages 11 to 13 were three times more likely as young adults ages 18 to 24 to be seriously impaired on the evaluation of competence-relevant abilities. In addition, the premier juvenile research scientist on competency, Thomas Grisso PhD, has published research related to this issue that has revealed that youth below age 13 are much more likely than older children and adults to have significant deficits related to competency to stand trial.

The above-noted research specific to competency-related abilities should also be taken in the context of a substantial amount of recent research on juveniles and the legal system in general. This research and related Court rulings have indicated that a juveniles' blameworthiness or culpability is diminished to a substantial degree simply by reason of youth and immaturity. Juveniles cannot receive mandatory life sentences or be subject to capital punishment.

In summary, I would offer based on both my own experience of evaluating over a thousand juveniles for their competency to stand trial in the State of New Hampshire over the past 15 years, in addition to an emerging and substantial body of research, the notion of establishing a minimum age for prosecution of juveniles beginning at age 13 is supported. Establishing this cutoff would substantially reduce the burden of processing large numbers of very young juveniles through the justice system, reduce the time, money and effort required to complete this lengthy and cumbersome evaluation process, and clearly be in concert with scientific research findings and what many other states have already done in terms of processing juveniles within the juvenile justice system.

Thank you for this opportunity to offer my opinion to the Commission on this important question.



John Beata Ph.D.

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