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20. The promise and problems of policy-minded developmental research: Recognizing our implicit value judgments and the limits of our research.

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The chapters in this section of the book document the diverse ways in which children can become entangled in the legal system and, in so doing, how different issues have risen to prominence in each of those domains. For purposes of this discussion, we can distinguish among chapters that highlight the distinct roles of infants and young children who are drawn into the legal system because they are victims of parental maltreatment (Stacks et al., Huntington, Palacios et al.), chapters that focus on children old enough to serve as witnesses in legal proceedings, most often in criminal court (Sloneker et al., Enriquez et al.), chapters that focus on children who are viewed as offenders against the law (Frick et al., Brabeck et al.), and finally a chapter focusing on children whose parents' separation makes them unwitting pawns of judicial decisions in divorce custody disputes (Fabricius et al.).

In what follows, we discuss the issues that arise in each of these chapters, emphasizing several themes: (1) the importance of recognizing the value judgments that sometimes underlie research; (2) the ways in which researchers' focus on outcomes often clashes with a legal focus on rights; and (3) the need for researchers to acknowledge the limitations of their findings when making policy prescriptions. These themes are interrelated, because researchers are accustomed to thinking of their work as fact-based rather than value-laden, but must confront values when they argue that their research has implications for public policy, particularly when they acknowledge uncertainty.

Early maltreatment, and parental rights versus children's welfare (Stacks, Huntington, Palacios)

It is clear from the three chapters on abuse victims that maltreatment has serious and enduring adverse effects on children's developmental trajectories and outcomes. Over the last two or three decades, we have become increasingly aware (as detailed by Stacks et al.) of the many ways in which maltreatment can harm children, not only by way of visible wounds but also by way of profound damage at the neural level which can amplify and potentiate psychological injuries. Indeed, for some children, the damage begins in utero, attributable either to substances ingested by the mother or to circulating stress hormones triggered by domestic violence and other daily stresses. Such findings speak to the desirability of early intervention, including when it involves the removal of the child from the care of those whose care is deficient.

Most advantaged societies have developed legal procedures that allow public agencies to intervene in efforts to ameliorate or prevent the effects of child maltreatment. (Readers of the Stacks et al. and Huntington chapters could be forgiven for thinking that the problems have only developed and been addressed in the United States!) In the U.S. and other countries, attempts to protect children clash with legal principles that parents have the right to raise their children and that their autonomy and responsibility should be infringed as little as possible and only as a last resort. The urgency perceived by those who counsel prompt intervention thus contrasts with legal presumptions regarding the importance of the parents' roles and responsibilities, leading to what are seen as less drastic interventions, such as parent training and substance abuse counselling, that leave the children at home but are seldom adequately funded or widely enough available despite their potential (Huntington). Many of those children initially left at home are eventually removed from their parents' care, often, critics would argue, after suffering further harmful treatment at the hands of their parents because of the delayed action.

Attachment theory has clear relevance to analysis of the competing arguments: The theory underscores the importance to children's current and long-term wellbeing of remaining in the uninterrupted care of sensitively responsive parents (Forslund et al., 2022). This implies that children should be placed or left in the care of parents psychologically able to provide continuing care of high quality achieved either by strengthening the resources of the family-of-origin or by removing the child as early as possible for placement in the care of foster or adoptive parents.

Although those principles have been widely embraced by courts and child welfare authorities, children's experiences seldom match these recommendations. One key impediment to prompt intervention is the fact that the vast majority of removals from home occur in response to chronic neglect, rather than active forms of maltreatment which might prompt greater revulsion and urgency on the part of the officials who must sanction any removal of children from their parents' care. The desire to give parents a chance, perhaps with the support of social services, typically means that removal from the parents is delayed longer than would be ideal from the perspective of attachment theory. In addition, agencies must routinely grapple with a shortage of qualified and skilled foster parents, most children are returned at least temporarily to the care of their parents, and even when that does not happen, children often spend time with several different foster families, leaving permanency a distant unrealized goal.

As Palacios et al. point out, by the time children have the opportunity for permanent placement in an adoptive family, many have been seriously damaged by extended experiences of abuse and repeated relationship disruption. Fortunately, there is solid evidence that many of those adverse effects can be reversed or ameliorated, with the magnitude of the reversal greater the earlier children are adopted; in reality, other than those who are removed from their parents' care at birth, the majority of adopted children are not placed early enough to benefit as much as they might (Palacios et al., 2019).

The difficulties encountered in early intervention illustrate the challenges in applying research findings to policy making. First, one must attempt to balance outcomes with rights. Policy recommendations inherently involve implicit value judgments about the relative importance of children's welfare and parental rights (or, indeed, the relative importance of the parents' rights to raise children as they see fit and the children's rights to an abuse-free childhood). Researchers can measure outcomes, but do not have any tools with which to assess when outcomes should or should not trump rights. As such, when they make policy prescriptions they are likely to overlook or underestimate the importance of considerations that are difficult to measure but integral to legal policymaking.

Furthermore, it is not just parents' or children's rights that are at stake. An additional rights issue concerns racial inequalities in child protection (Huntington, this volume; Roberts, 2022; Stacks, this volume). Even if racial disparities can be explained by differences in factors that reliably predict negative outcomes (an issue currently being debated), to the extent that those factors (e.g., extreme poverty, drug abuse) are themselves accentuated by racism, interventions arguably perpetuate racism. This is particularly so when neglect is preventable but society is unwilling to adequately fund prevention, leaving children and their families subject to coercive interventions that only occur after harmful effects are manifest.

Researchers cannot easily avoid these challenges by claiming that they are solely focused on improved outcomes. Even the most aggressive advocates of children's welfare are likely to stop short of policies that would entail radical denial of parental rights. Consider two examples. Few contemporary researchers would ever advocate sterilization as a means of preventing child maltreatment. No matter how many children one loses to child protection, one has the right to bear more children. As a result, foreseeable harms cannot be avoided. Similarly, it would be hard to find a researcher who would advocate that private parties should be able to forcibly adopt children on the grounds that they would provide better care than the biological parents. Without such interventions, however, many children fail to achieve their potential due to their parents' suboptimal care. Once researchers acknowledge that there should be limits to state intervention, they must confront their value judgments about what those limits should be, balancing their intuitions about rights with their knowledge about outcomes.

A second challenge faced by those applying research to policy concerns the imperfections of intervention in the real world. It is simple to argue that removal from a neglectful home promotes nurturance and positive attachment when placement is safe and permanent. But, as noted above, when placement is itself poorly monitored, placements are temporary, and parents usually regain custody, it is harder to claim that removal inevitably leads to attachment security and enhanced child well-being.

These problems may seem specific to child protection, but they raise more general issues with the application of research to practice. New intervention programs routinely appear superior to old programs, leading to regular and confusing changes in the policies being recommended. Furthermore, many new programs are initially tested using simple designs that fail to elucidate methodological limitations. Typically, a group of enthusiastic experts work with a similarly motivated group of volunteers who obtain positive outcomes. Regression to the mean guarantees that with a simple pre-post design, the worse off improve. Drop-outs accentuate the selection effect: only the enthusiastic enrolled, and only the most enthusiastic stay enrolled, leading to an exaggerated sense of effectiveness. Brief follow-up assessments make it impossible to determine whether those apparent effects will be enduring or only temporary.

With promising results in hand, however, the programs are promoted and offered to a larger and more diverse group of participants. New workers, many more familiar with the 'old' programs, are told they must do something new, and program participation is made mandatory. To the extent that expertise is required for delivering the new intervention, or enthusiasm is necessary for benefitting from it, average outcomes decline. Expansion makes it difficult to monitor adherence or to modify implementation to account for local differences in special needs. With larger numbers of participants and greater funding, researchers are able to perform more sophisticated assessments of program efficacy. These assessments control for methodological flaws in smaller scale studies that often exaggerate positive effects. It soon becomes clear that the advantages associated with the new approach to intervention have been over-estimated and the cycle continues (Al-Ubaydli et al., 2021).

Child witnesses, and false allegations versus false denials (Sloneker, Enriquez)

The legal interventions discussed in the first trio of chapters (Stacks, Huntington, and Palacios) all involve what are variously called Family or Dependency Courts where the child's best interests are considered paramount, decisions can be made applying a 'preponderance of the evidence' or 'clear and convincing' standards of proof, and the child's testimony is only infrequently required. In contrast, when child maltreatment leads to criminal charges, the allegations must be proven beyond a reasonable doubt, and children are much more likely called to testify. These children are at the centre of the chapters by Sloneker et al. and Enriquez et al. Since several widely publicized multi-victim cases in the 1980s and 1990s, a large number of studies have focused on factors affecting the quality and reliability of children's testimony which is often critical to successful prosecution for those cases taken to court.

Some of the research reviewed by Sloneker et al.focused on children's suggestibility and other factors that diminish their reliability; other studies, including our own, have sought to show how limitations and potential weaknesses can be overcome by employing developmentally appropriate interviewing practices which elicit testimony or information of higher quality (Lamb et al., 2018; Lyon et al., 2019) and are associated with higher rates of successful prosecution (Pipe et al., 2013). The suggestibility research has spurred the development of demonstrably more effective investigative interviewing practices in many countries, including the U.S..

Sloneker and colleagues do an admirable job examining individual differences in memory performance and suggestibility (e.g., stress, attachment, intelligence). Theoretically, individual difference research is important, in part because it can help elucidate mechanisms underlying development. From an applied perspective, however, its relevance for legal proceedings is limited. It is difficult to move from studies identifying individual differences to measures capable of distinguishing between accurate and inaccurate witnesses. Even were this possible, those measures would be viewed with scepticism in the U.S. legal system, where assessments of the likelihood that particular witnesses should be believed are strongly disfavoured, on the grounds that this is a jury function (Meixner, 2012). In some other countries, individualized assessment of witnesses is permissible, but the focus has been on the quality of the statements rather than characteristics of the individual (see, for example, the enormous literature on CBCA, Oberlader et al., 2021). At any rate, Sloneker and colleagues argued that the results are mixed or that the statistical associations are complicated, such that simple assertions, for example, that stress improves/impairs memory, are impossible.

There is one individual difference that courts universally care a lot about: Age. Age is easy to measure and has long had legal significance. It is also a factor familiar to developmentalists. Ceci and Bruck's (1993) classic review of 100 years of research on suggestibility emphasized the large and consistent age effects across studies. Through their review and a series of highly influential demonstrations of preschool children's suggestibility (see, e.g., Ceci et al., 1994), they helped to explain how bizarre allegations of ritualistic sexual abuse could emerge through persistent suggestive questioning of large numbers of young children. At the same time, research on basic development has demonstrated profound changes in young children's ability to monitor the sources of their knowledge and distinguish between what they believe and what they remember (Roberts & Blades, 2000).

It is a truism that if younger children are much more suggestible than older children, then older children are much less suggestible than younger children. This should be encouraging to legal practitioners, who recognize that preschool children only rarely testify in court (Evans & Lyon, 2012). It should also be the focus of researchers when reviewing research: The age range should always be noted, particularly when studies focus exclusively on preschool children. Perhaps because age differences seem obvious, Sloneker and colleagues are quick to point to research finding reverse age trends. However, the context in which these effects occur--false recognition of strong associates of words on to-be-remembered lists--and the way in which false memories are calculated—by excluding response biases due to guessing (Brainerd et al., 2006)--proves the point that in the most legally relevant contexts, older children are less susceptible to suggestion than younger children.

When it comes to deliberate misrepresentation, older children are clearly much more capable than young children, and this has implications for the other side of the allegation coin: false denials of abuse. Experimental work has demonstrated that, whereas the youngest children have difficulty in keeping transgressions a secret, at least when directly confronted, children in their early grade school years and older are both adept at withholding information and denying wrongdoing (Williams et al., 2020). Social factors are also of obvious importance, including parents' influences on children's motivations to conceal wrongdoing, which only wanes as children mature into adolescence. Parents can easily induce secrecy and even recantation (Gordon et al, 2014; Malloy & Mugno, 2016).

Curiously, researchers discussing false denials of abuse largely ignore experimental work helping us to identify basic mechanisms that underlie children's performance in real world contexts. External validity is always an important concern, and disclosure of abuse is clearly more serious than the transgressions examined in deception research or the false reports created in suggestibility research, but the experimental findings can and should be considered alongside findings obtained in field studies, especially because observational research on disclosure has unique methodological challenges. Researchers have argued that false denials of abuse are uncommon because most children recruited from forensic samples disclose abuse and the rates of disclosure are higher in studies in which the abuse was substantiated. But just as selection effects easily undermine intervention research, they also undermine attempts to understand abuse disclosure.

The fact that most children in studies of children questioned about sexual abuse disclose abuse says more about how abuse is suspected than it says about sexually abused children's willingness to disclose: Most children are questioned about sexual abuse because they disclosed. The fact that disclosure rates are higher among substantiated cases says more about the substantiation of abuse than it says about sexually abused children's willingness to disclose: Substantiation is heavily dependent on disclosure (Lyon et al., 2020). When there is external evidence of abuse, which both reduces the likelihood of false allegations and makes detection and substantiation of abuse without disclosure more likely, large percentages of children deny abuse (especially by family members) when questioned, even when interviewers use the supportive techniques built into the Revised NICHD Protocol (Hershkowitz et al., 2014; Hershkowitz & Lamb, 2020).

High rates of non-disclosure do not justify suggestive questioning, because suggestive questioning can elicit false reports. Rather, such rates lead to the conclusion that initial denials and recantations of abuse have limited probative value in assessing the truthfulness of abuse disclosures. Along with delayed disclosure (London et al., 2008), these are components of the misleadingly named "child sexual abuse accommodation syndrome" that receive some empirical support (Hershkowitz et al., 2014; Lyon et al., 2021; Malloy et al., 2007). Moreover, denials can justify additional interviewing when there are strong reasons to suspect abuse and the repeated interviews avoid suggestion (Blasbalg et al., 2021; Hershkowitz et al., 2021).

What makes researchers' recommendations for interviewing practice complicated by value judgments is that some types of questioning increase true reports but also increase false reports (e.g., body diagrams: Dickinson & Poole, 2017). This should come as no surprise; the trade-offs between sensitivity and specificity have long been understood by researchers studying the differences between recognition and recall memory. Generally speaking, recognition has greater sensitivity than recall but lower specificity, thus increasing true positives but also increasing false positives (Ceci & Bruck, 1993). Whether questioning approaches that increase both true and false disclosures are ever justified requires a balancing of costs and benefits. Some researchers tend to worry about false allegations, and other researchers tend to worry about false denials. Both can point to the devastating consequences of mistakes for children and their families.

In order to avoid injecting their value judgments into their recommendations, researchers strive to identify interviewing methods that increase both sensitivity and specificity. The sensitivity of recall questions can be maximized through narrative practice (Brown et al., 2013), and the specificity of recognition questions can be maximized by pairing affirmative responses with requests for elaboration (Stolzenberg et al., 2017). Moreover, because younger children routinely provide unelaborated responses to recognition questions, and often exhibit a "no" bias, recognition questions can actually reduce sensitivity compared to carefully phrased wh-questions eliciting elaboration of children's prior responses (Henderson et al., in press). Interviewing innovations can thus help us avoid value tradeoffs.

Enriquez et al. focus not on the quality or accuracy of testimony but on the stress and difficulties occasioned when children must testify, often after long delays, in the face of considerable anxiety and competing pressures from family members while being challenged about their accuracy and honesty. Courts in the U.S. may learn from the reforms that have been introduced in the U.K. (and in particular in England and Wales) over the last 30 years (Spencer & Lamb, 2012)[1]. For decades, video-recorded investigative interviews by specialist interviewers have been shown in court as the central part of the child's 'evidence in chief.' After the recording is shown, the child can be asked further questions by the prosecution and must be made available for cross examination by counsel for the defendant. To minimize memory decay during the long delays that typify criminal prosecutions, and to allow victims to begin therapeutic interventions sooner than if they had to await the conclusion of criminal proceedings, UK courts recently began video-recording cross-examinations so that all the child victim's testimony could be

[1] Scotland has a legal system and tradition that are distinct from those in England and Wales. As a result the reforms discussed here have proceeded on different time scales and with some different terminology in England and Wales, as opposed to Scotland. Northern Ireland has its own system.

completed earlier than would otherwise be the case. Perhaps most importantly, judges are now required to hold Ground Rules Hearings (GRHs) with counsel before children are questioned in courtroom proceedings and all counsel are advised to have attended training focused on permissible questioning strategies. In the GRHs, agreement is reached about the ways in which questions can be formulated and asked, with judges encouraged to intervene if counsel violate those rules. The guidance on how to ask questions in court is summarized in the *20 Principles of Questioning* (2022; Sloneker et al. appear to misunderstand this as guidance for forensic interviewers). Counsel or judges can also request the involvement of intermediaries to facilitate the formulation of questions appropriate to the needs of vulnerable witnesses.

To date, there has been no systematic research on the extent to which these reforms have actually made involvement in court proceedings less stressful for children, though there is evidence that the developmental appropriateness of lawyers' questions has improved (e.g., Henderson et al., 2019). Somewhat surprisingly (like many observers, we expected that video-recorded testimony would be less effective than 'live' testimony) there is no evidence that rates of conviction have changed with the increasing use of recorded testimony and there have been no successful appeals against conviction on the grounds that defendants were denied fair trials because of the various reforms described above. Enriquez et al. make a strong case for a variety of reforms to US practices and procedures to achieve the same kinds of benefits for young victim witnesses.

The enthusiastic response to legal reforms in the U.K. contrasts with the tepid response to more modest reforms in the United States, such as the use of remote testimony (via closed-circuit television), which has received some judicial support but appears to be rare in practice (Cross & Whitcomb, 2017; Goodman et al., 1999). In part this is due to prosecutorial worries about the potentially reduced impact of remote testimony, limited court resources, and the legal prerequisites imposed on the practice by the U.S. Supreme Court in *Maryland v. Craig* (1990), requiring a showing that without the special measures, the child witness would suffer such extreme emotional distress from testifying in the courtroom that she would be unable to communicate.

In part, however, the U.S.'s modest reforms reflect the tension noted above between a focus on outcomes and a focus on rights. The U.S. Supreme Court has moved towards an 'originalist' approach to interpreting constitutional rights, and has declared that criminal defendants' rights to confront their accuser require live in-person testimony because that was standard practice in England at the time the Bill of Rights were ratified (*Crawford v. Washington,* 2004). Although *Crawford* did not consider and therefore did not overrule *Craig*, it overruled the precedent upon which *Craig* was founded, a precedent that had adopted what the Court now dismissively calls a 'functionalist' approach to interpreting confrontation rights. That approach reasoned that since the purpose of confrontation is to increase the accuracy of evidence, procedures that preserve accuracy but dispense with live confrontation are permissible.

Craig's approach to confrontation rights is thus at odds with the Supreme Court's originalist approach to interpreting the Constitution. Researchers may reasonably complain that outcomes are more important than the preservation of archaic procedures but if they wish to influence legal decision making, they must grapple with the value-based belief that lay perceptions of fairness are as important as scientific judgments about the accuracy of outcomes.

One strategy for adapting to the Supreme Court's value judgments about fair procedures is to recognize that, just as factual statements often contain hidden value judgments, value judgments often contain factual assumptions, and those assumptions are subject to empirical test. This is illustrated by the U.S. Supreme Court's cases assessing children's complaints of abuse subsequent to *Crawford*. The Court recognized that the statements of children can be afforded special treatment under the Constitution (*Ohio v. Clark*, 2015). Consistent with its' originalist approach, the Court based its reasoning in large part on historical evidence that at the time the Bill of Rights was ratified, when children were too young to testify, their hearsay was freely admitted (citing Lyon & Lamagna, 2007). However, there was still room for social scientists to exert some influence. In *Crawford*, the Court had held that the kind of hearsay that would violate defendants' confrontation rights were statements intended to substitute for trial testimony. In order to square its reasoning about history with its reasoning about the type of hearsay that should be excluded, the Court in *Clark* cited psychological research that young children do not allege abuse with the expectation that their statements will be used in court (Lawrence et al., 2015).

Unfortunately, the U.S. Supreme Court's approach makes it difficult to argue for the constitutionality of videorecorded testimony. The purpose of videorecorded testimony is to substitute for trial testimony, and this is precisely what the Supreme Court has held offends the Constitution. Ironically, other elements of good investigative practice also increase the likelihood that the child's statements will be held inadmissible without the child's in-court testimony, including recording of interviews, structured questioning, and eliciting a promise to tell the truth. This is because as the interviews become more formal, lower court are more likely to view them as substitutes for testimony (Lyon & Dente, 2012).

However, other reforms are possible. With slight modifications, U.S. courts could adopt the intermediate solution that has long been the practice in the U.K., in which a videotaped interview is played at trial but supplemented with additional questions from the prosecution and cross-examination by the defense. The prosecution would lead with preliminary questioning of the child, and then lay the foundation for admission of a pre-trial interview (under standard hearsay exceptions, such as that for recorded recollections). The interview would then be played in court, and additional live examination would follow. The defendants' rights to confrontation would not be violated because the defendant would have the opportunity to question the child in court.

With respect to the questions asked in court, the U.S. Supreme Court has recognized that limits can be place on courtroom questioning when the purpose is to ensure that the testimony is relevant and not misleading (*Holmes v. South Carolina*, 2006). The states can prohibit developmentally inappropriate questioning, an approach that has already received some statutory support (Cal. Evid. Code Section 765(b), 2022). Prosecutors could file pretrial motions outlining the types of questions that should be restricted on cross-examination.

Although overtly difficult questioning may be regulated, the remaining challenge is that courtroom practitioners are unlikely to recognize many forms of miscommunication. Indeed, research on miscommunications in court has often found that prosecutors are just as likely as defense attorneys to confuse children (Evans et al., 2017), and it is difficult to train lay adults to

identify ambiguities (Wylie et al., 2021). Ultimately, the courts may need to move to more radical solutions, such as a ban on all yes/no questions and forced-choice questions without special leave from the court.

Child offenders, and punishment versus leniency (Frick, Brabeck)

In their chapters, Frick et al. and Brabeck et al. shift focus to children whose involvement in the legal system hinges on their being viewed as offenders or law breakers. Frick et al. discuss youths who become engage in law breaking as juveniles. Much of the literature on juvenile offenders has noted the distinction between those whose delinquency begins early and those whose entry into the system is delayed. There is considerable evidence that the early offenders are more likely to display callous-unemotional (CU) traits in childhood, lack empathy, engage in more violence, and are more likely to continue criminal activities into adulthood whereas the late offenders tend to have shorter and less serious criminal careers and the potential to become productive law-abiding adults. Preventive intervention is most likely to be effective, but it is unclear how this could be done legally and effectively, save perhaps by offering better universal mental health services to children so that those with worrisome traits (CU traits, emotional reactivity) can be identified early and be offered interventions.

Frick and colleagues argue that different types of juvenile offenders should be offered tailored interventions. Adolescent-onset offenders are most likely showing signs of adolescent rebelliousness, which is least likely to lead to adult criminality, except through the criminogenic effects of harsh legal intervention. They are therefore best suited for diversion. Offenders whose behavioural problems emerged in childhood should be separated into two groups: those with CU traits and those with difficulties in regulating their emotions. Offenders with CU traits tend to be the most violent, and evidence for successful treatment is spotty (Wilkinson et al., 2016). Frick and colleagues highlight one successful intervention reducing CU traits, but as they warn, the study has questionable implications for intervention with adolescent offenders: the children were only 3 to 6 years old (Kimonis et al., 2019).

As long as the juvenile justice system emphasizes rehabilitation over punishment, research identifying typologies of adolescent offending can have the desired effects, counselling leniency with both adolescent-onset offenders, and, perhaps in light of more recent findings, childhood-onset offenders whose behavioural problems stem from emotional dysregulation. Indeed, within the last twenty years, researchers studying adolescent neurological development have had some luck in convincing the Supreme Court that differences between adolescents and adults justify differential treatment, leading to the abolition of capital punishment for crimes committed by juveniles (*Roper v. Simmons*, 2005), mandatory life sentences without the possibility of parole (LWOP) (*Montgomery v. Louisiana*, 2016), and LWOP sentences for crimes short of murder (*Graham v. Florida*, 2010). A number of states have banned life without parole for juveniles altogether, and many hoped that the Supreme Court might eventually do so, as well as extend leniency upwards to young adults, given findings that neurological development continues into the twenties (Jouet, 2021).

The problem is that longer-term trends reflect a shift toward more punitive reactions to adolescent offenders, including increasing numbers of transfers of youths to adult court and

declines in the number of resources made available to provide the mental health and educational facilities that offending youths desperately need. Moreover, the changing composition of the Supreme Court within the last few years has already led to signs of retreat from leniency (See *Jones v. Mississippi*, 2021, an opinion by Justice Kavanaugh that the dissent asserted "guts" *Montgomery*).

In states preserving the LWOP option, courts need little coaxing to find the necessary evidence of "permanent incorrigibility" (*Montgomery v. Louisiana*, 2016, p. 209; Duncan, 2022). In this climate, identification of childhood-onset CU offenders may make matters worse. The Supreme Court's lenience toward adolescent offenders was based on adolescents' impulsiveness, susceptibility to peer influence, and hope for rehabilitation (Steinberg, 2017). But as Frick and colleagues note, adolescent offenders with CU traits exhibit more planning, are less susceptible to peer influence, and are more likely to continue offending into their adulthood.

Brabeck et al. describe in some detail a rather different kind of "law-breaking" youth—those (mostly between 13 and 17 years of age) who have entered the country as unaccompanied minors. Many of them have escaped extreme poverty and have had long and traumatic journeys prior to entering the country yet in the short run they are placed in detention facilities with inadequate health care and no educational resources. Many are then released to parents or relatives pending resolution of their petitions, but of course their undocumented status means that they are ineligible for most of the services they need. They are also not entitled to legal representation and must often represent themselves in proceedings held in a language they do not understand. Not surprisingly, the majority lose their cases and are deported. For many, though, the cycle has only begun, as they often make additional efforts to re-enter the country as soon as they can.

Brabeck and colleagues present a compelling argument for better treatment of unaccompanied minors. It is impossible to argue that they would not benefit from legal representation, given the legal complexities of seeking asylum and other forms of relief; the barriers to understanding due to language, immaturity, and trauma; and the frequency with which they have valid claims for relief because of mistreatment in their home countries. Our continued neglect of their needs bespeaks a value judgment that their claims are secondary to society's interest in limiting immigration. This trade-off is perhaps best illustrated by the fact that, regardless of the number of trafficking victims in the U.S., and regardless of their cooperation with law enforcement in prosecuting their traffickers, no more than 5,000 can obtain relief from deportation in any year. This suggests that researchers arguing for reforms should also confront assumptions about the costs of increased immigration to society, and marshal empirical evidence documenting the benefits of liberalized immigration policies.

Joint custody and parents' rights in a different context (Fabricius)

The final and perhaps numerically largest group of children and youth in the legal system are those whose parents separate, creating a need for formal assignment of responsibility for the children's future care. Although most separating parents sooner or later agree between themselves with whom the children will live, courts are frequently asked to make decisions regarding the amounts of child support owed by non-resident parents and in some cases must

decide how responsibility for the children's day-to-day care should be divided. Fabricius focuses on the latter issues, reviewing evidence showing that, on average, children do better psychologically when they spend meaningful amounts of time with both of their parents. Informed by that evidence, Fabricius has promoted a rebuttable presumption in Arizona law that children of divorcing parents should spend equal amounts of time with both of their parents, drawing on the same principles of attachment theory that have been so difficult to honour in the child welfare decision-making discussed in the chapters by Stacks et al., Huntington, and Palacios et al.

Such reforms of course contrast with the application of the Approximation Rule in many states whereby future child-care responsibilities divided roughly as they were before the separation. To date, there are not sufficient data to indicate whether one or other approach offers superior outcomes (although on average children do better psychologically when they have meaningful post-separation relationships with both parents: Lamb, 2021) but the continuing appeal of these competing legal rules underscore the role of ideology and values when making decisions about children and the law.

Conclusion

Policy minded research in developmental psychology is satisfying because of the real improvements that it can bring to the lives of youth and their families. At the same time, precisely because research can have profound effects on people's lives, applied researchers should assess the value judgments underlying their work, recognize that competing rights are often at stake in policy debates, and acknowledge the limitations of their findings. Doing so will improve the integrity and quality of applied research.

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