



# Rethinking Juvenile Justice

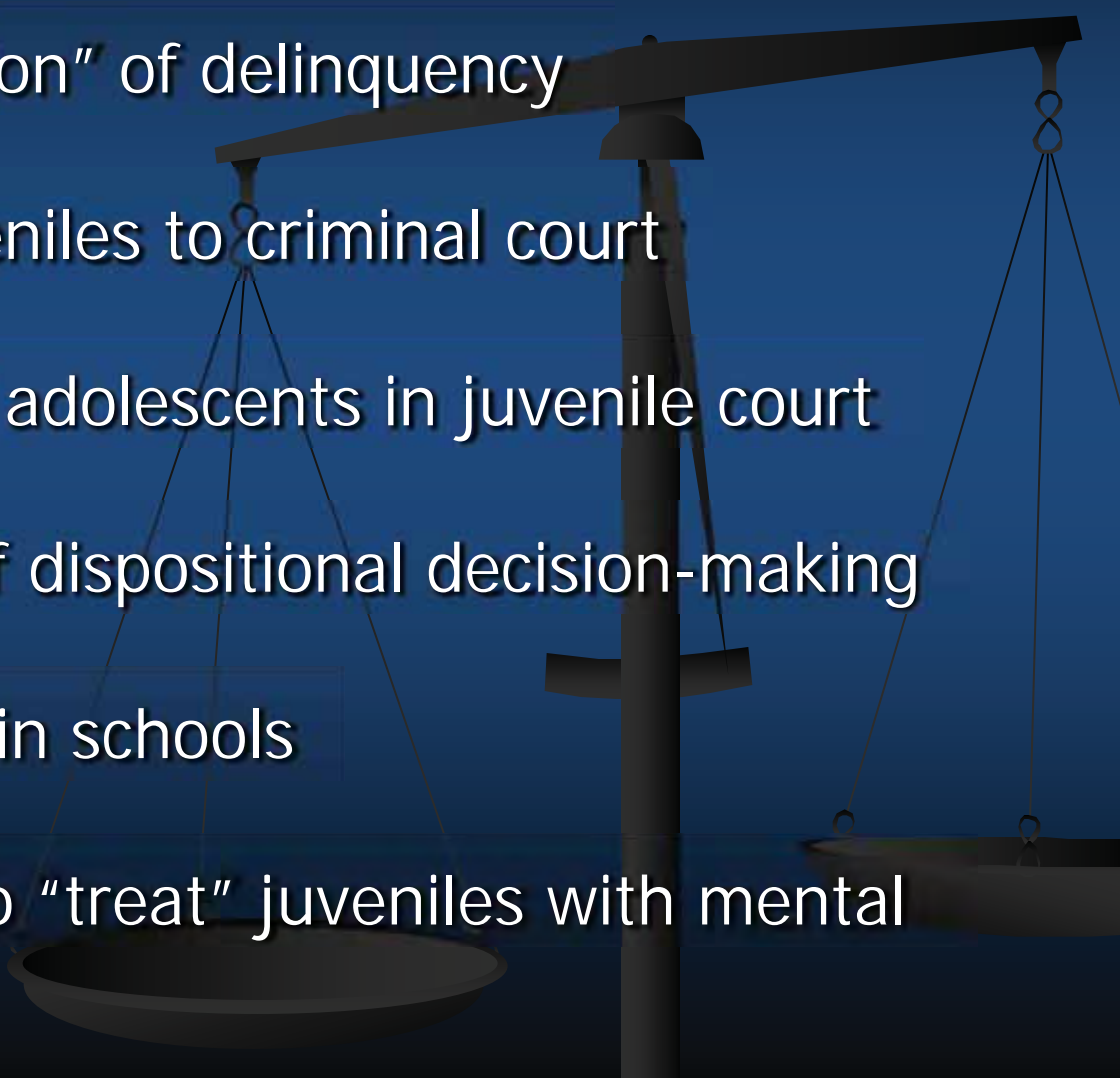
Laurence Steinberg, Ph.D.

Distinguished University Professor  
of Psychology

Temple University

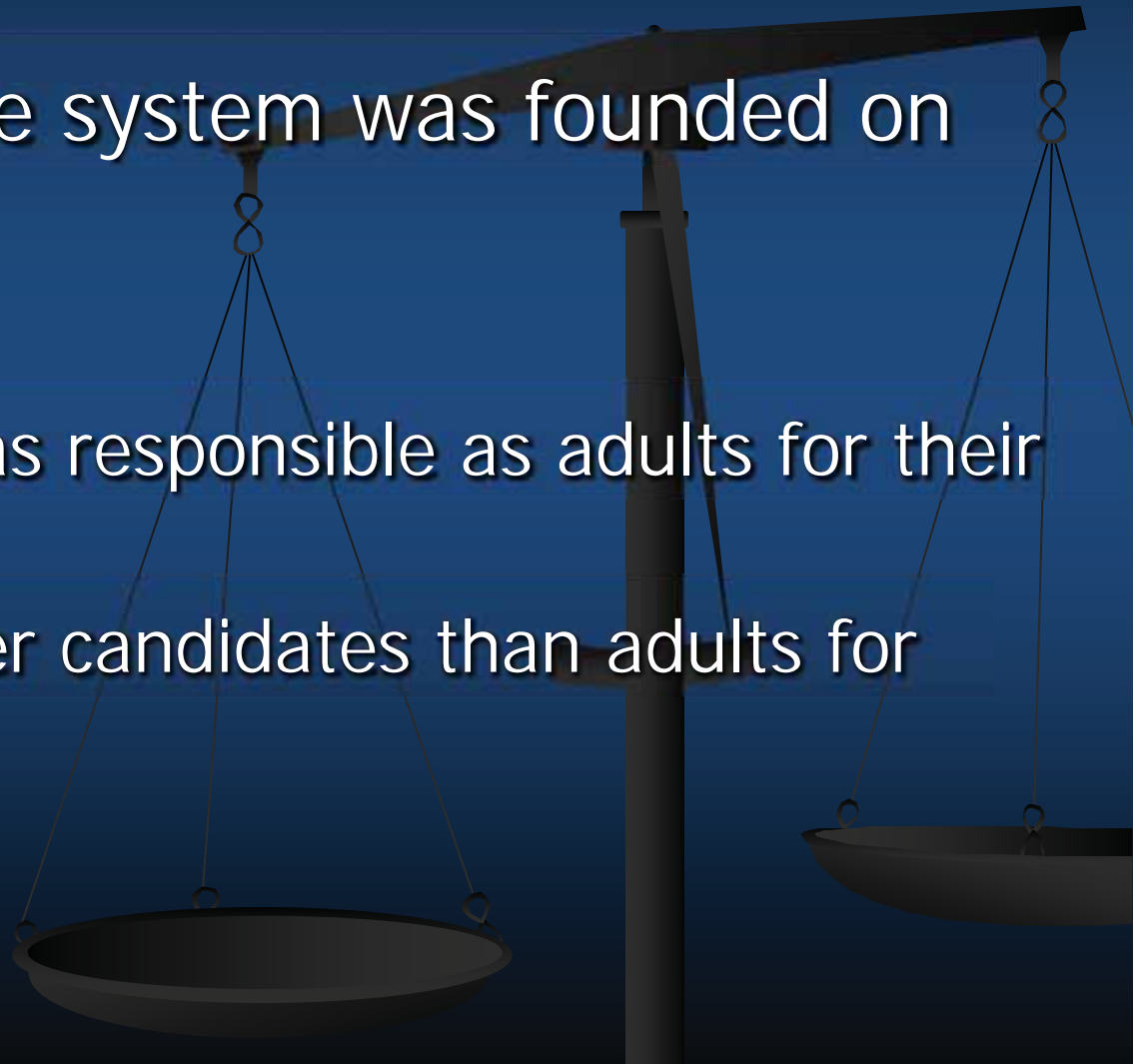
# The Changing Policy Context

During the last two decades . . .

- Increased “criminalization” of delinquency
  - Greater transfer of juveniles to criminal court
  - Harsher punishment of adolescents in juvenile court
  - Less individualization of dispositional decision-making
  - Zero-tolerance policies in schools
  - Use of justice system to “treat” juveniles with mental health problems
- 

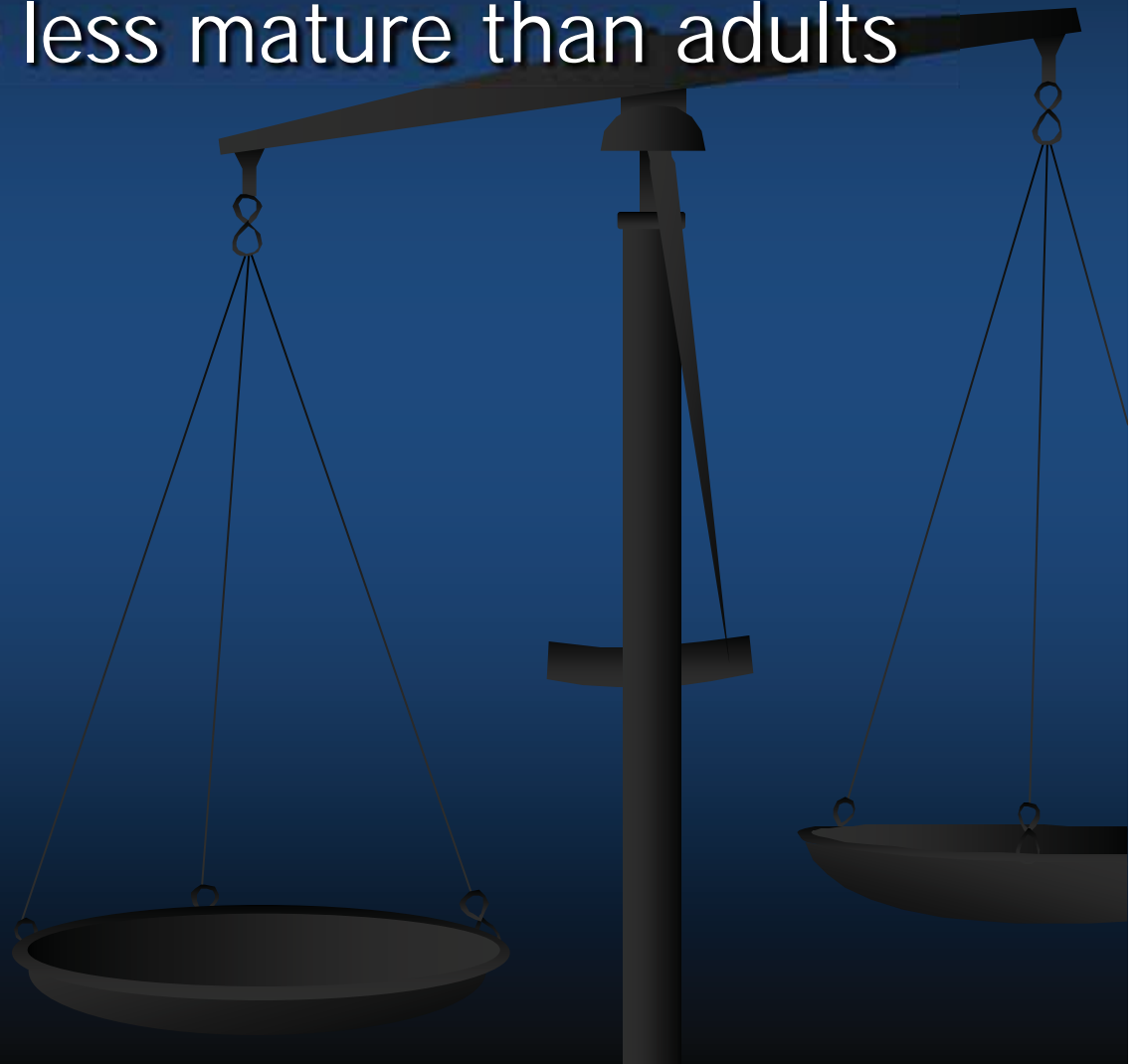
# The Origins of the Juvenile Justice System

- The juvenile justice system was founded on two premises:
  - Juveniles are not as responsible as adults for their behavior
  - Juveniles are better candidates than adults for rehabilitation



# Conflicting Views of Adolescence

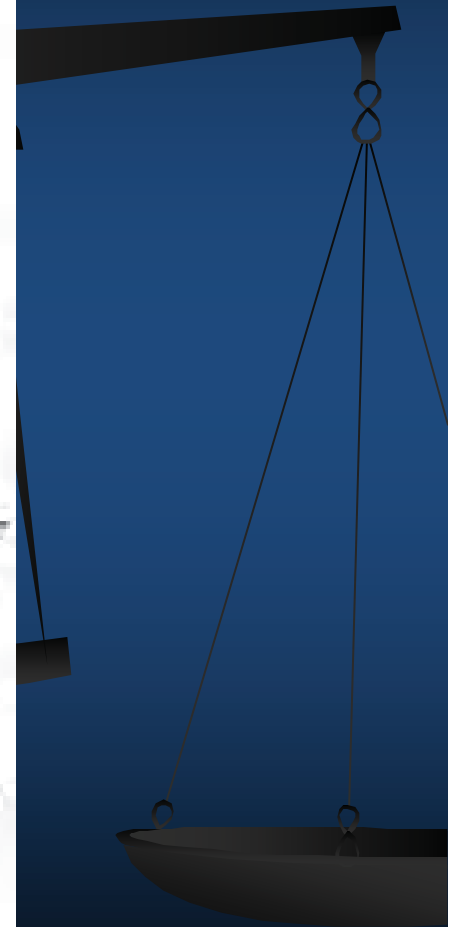
- Adolescents are less mature than adults



“Go to your room and stay there until your cerebral cortex matures.”

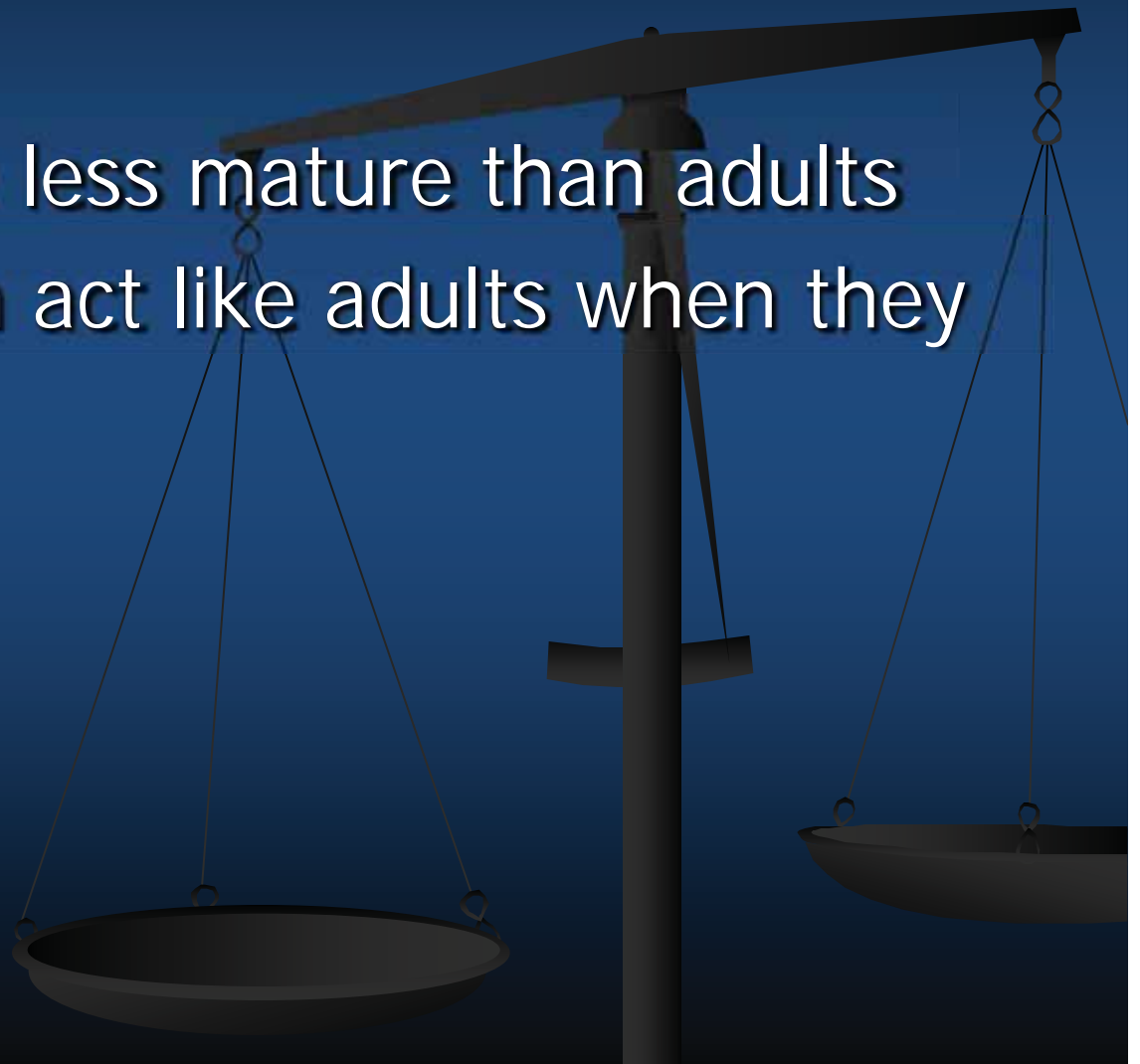


*“Young man, go to your room and stay there until your cerebral cortex matures.”*



# Conflicting Views of Adolescence

- Adolescents are less mature than adults
- Adolescents can act like adults when they want to



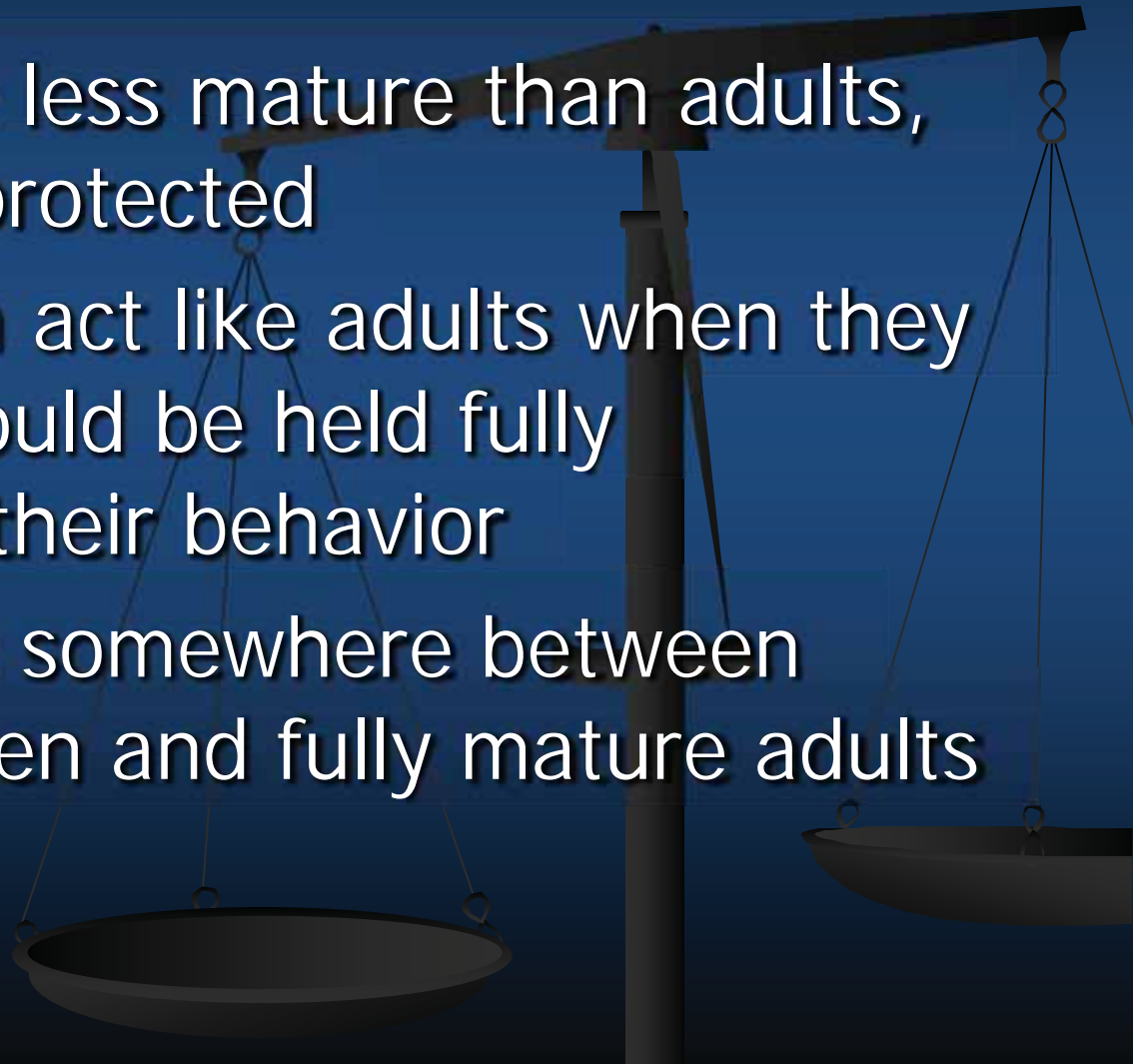
“Your client’s refusal to grow up does not preclude him from being tried as an adult.”



*“Your client’s refusal to grow up does not preclude him from being tried as an adult.”*

# Conflicting Views of Adolescence

- Adolescents are less mature than adults, and should be protected
- Adolescents can act like adults when they want to and should be held fully responsible for their behavior
- Adolescents are somewhere between immature children and fully mature adults

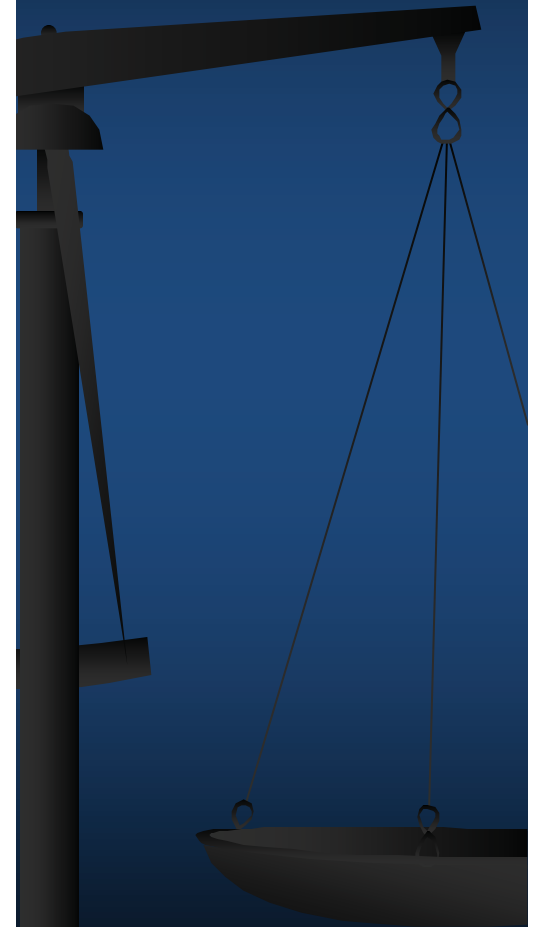


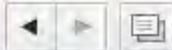


“He’s at that awkward age when they can try him as an adult.”



*“He’s at that awkward age when they can try him as an adult.”*





Q

FRIDAY OCT. 29

FRONT PAGE

INTERNATIONAL

NATIONAL

OBITUARIES

OPINION

**NEW YORK**

BUSINESS DAY

SPORTS FRIDAY

WEEKEND ARTS

MOST E-MAILED

NEWS IN VIDEO

NEWS IN PICTURES

CROSSWORD

LATEST NEWS

SETTINGS & HELP

## 4-Year-Old Can Be Sued, Judge Rules in Bike Case

BY ALAN FEUER  
OCTOBER 29, 2010

Citing cases dating back as far as 1928, a judge has ruled that a young girl accused of running down an elderly woman while racing a bicycle with training wheels on a Manhattan sidewalk two years ago can be sued for negligence.

The ruling by the judge, Justice Paul Wooten of State Supreme Court in Manhattan, did not find that the girl was liable, but merely permitted a lawsuit brought against her, another boy and their parents to move forward.

The suit that Justice Wooten allowed to proceed claims that in April 2009, Juliet Breitman and Jacob Kohn, who were both 4,

were racing their bicycles, under the supervision of their mothers, Dana Breitman and Rachel Kohn, on the sidewalk of a building on East 52nd Street. At some point in the race, they struck an 87-year-old woman named Claire Menagh, who was walking in front of the building and, according to the complaint, was “seriously and severely injured,” suffering a hip fracture that required surgery. She died three weeks later.

Her estate sued the children and their mothers, claiming they had acted negligently during the accident. In a response, Juliet’s lawyer, James P. Tyrie, argued that the girl was not “engaged in an adult activity” at the time of the accident — “She was riding her bicycle with training wheels under the supervision of her mother” — and

was too negligent.

In legal cases, courts have held that parents can be held liable for their children’s negligent actions.

**A child who runs over a woman can be held liable for her injuries.**

seek to determine whether the children were negligent.

But Justice Wooten’s ruling that the children were not liable for the accident was a surprise. It was the first time a court has ruled that a child can be held liable for her negligent actions.



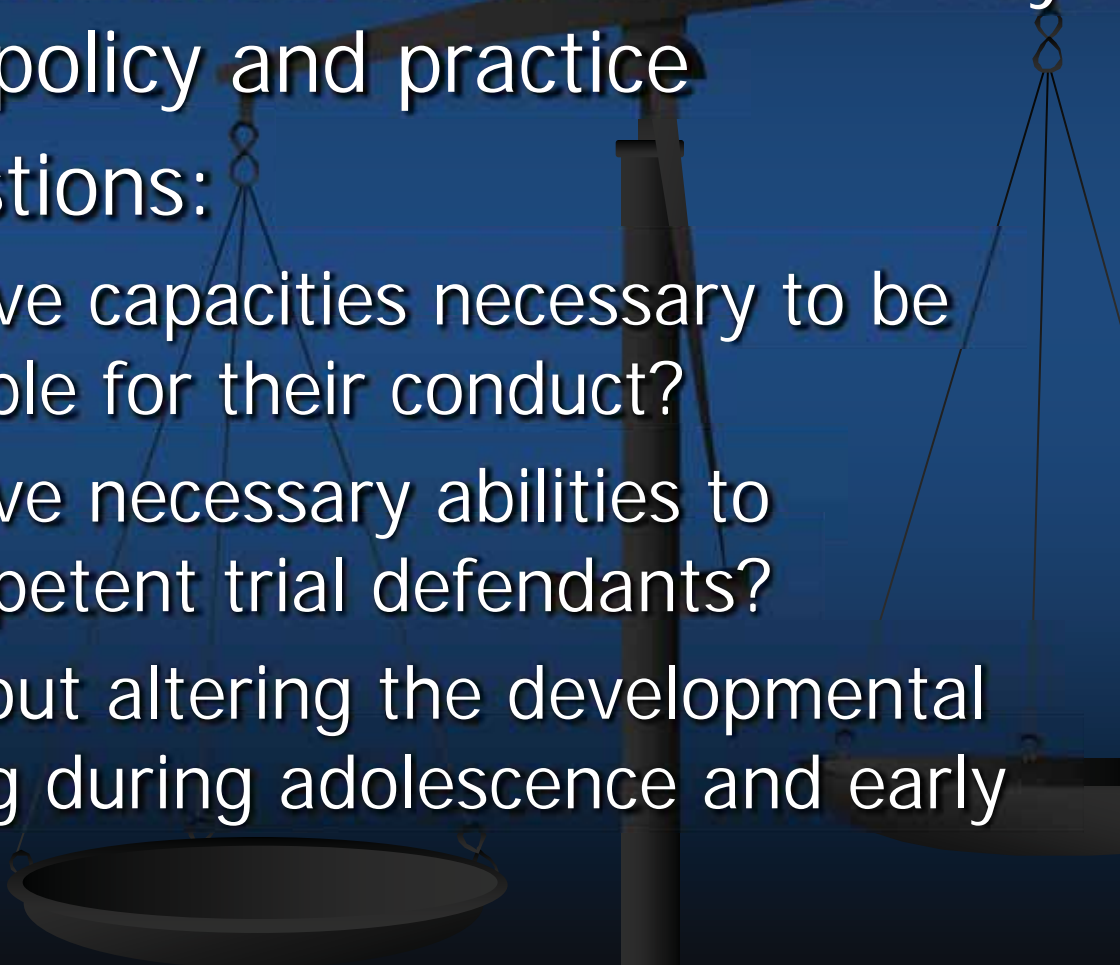
LEARN FROM EXPERIENCE. OURS.

Take a course with our journalists.

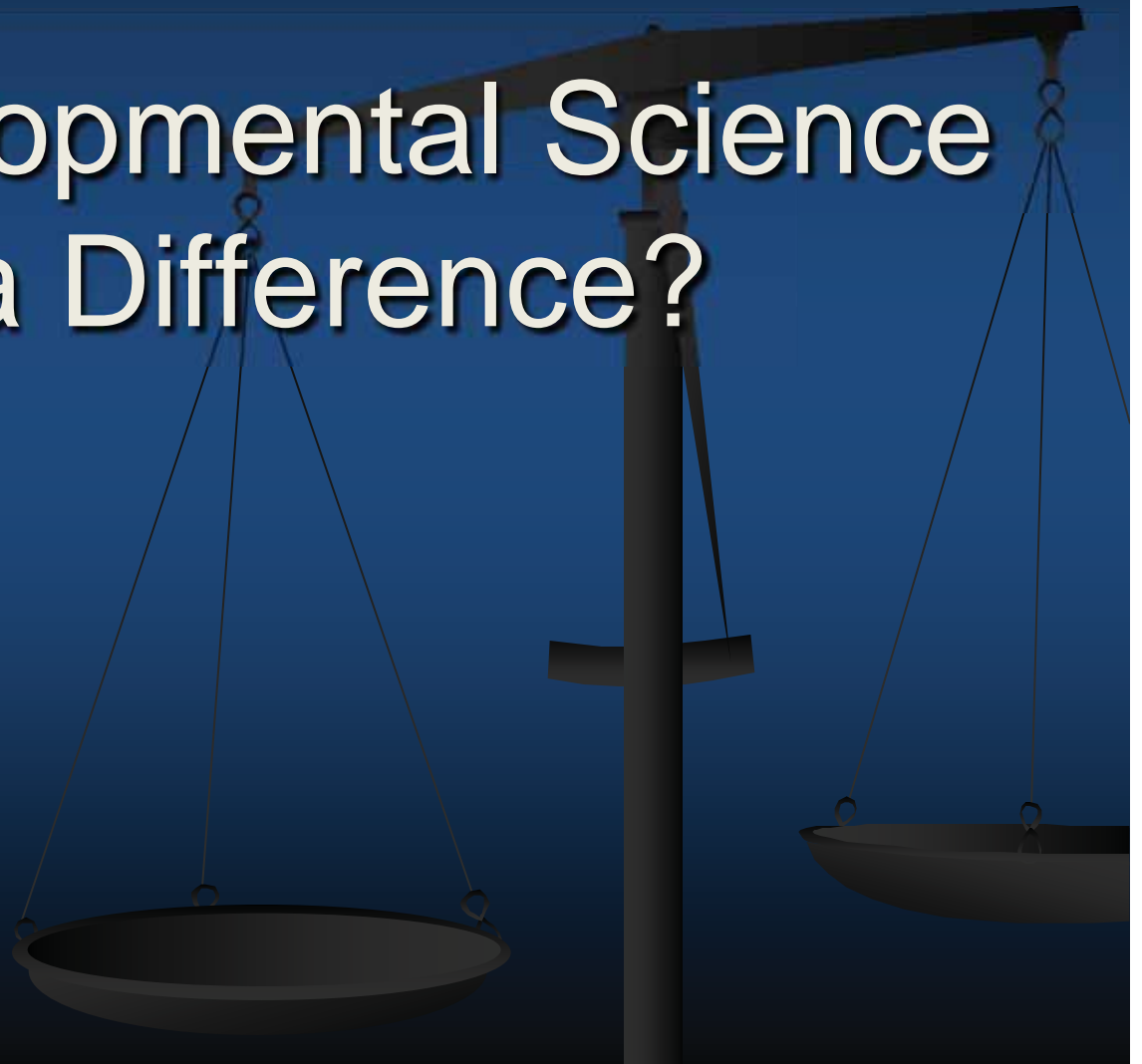
REGISTER NOW ▶

@nytimes  
Kr  
Ne  
nytim

# A Developmental Perspective on Juvenile Justice

- Asks how adolescents differ from adults in ways that might inform policy and practice
  - Three central questions:
    - Do adolescents have capacities necessary to be held fully responsible for their conduct?
    - Do adolescents have necessary abilities to participate as competent trial defendants?
    - What is known about altering the developmental course of offending during adolescence and early adulthood?
- 

Does Developmental Science  
Make a Difference?

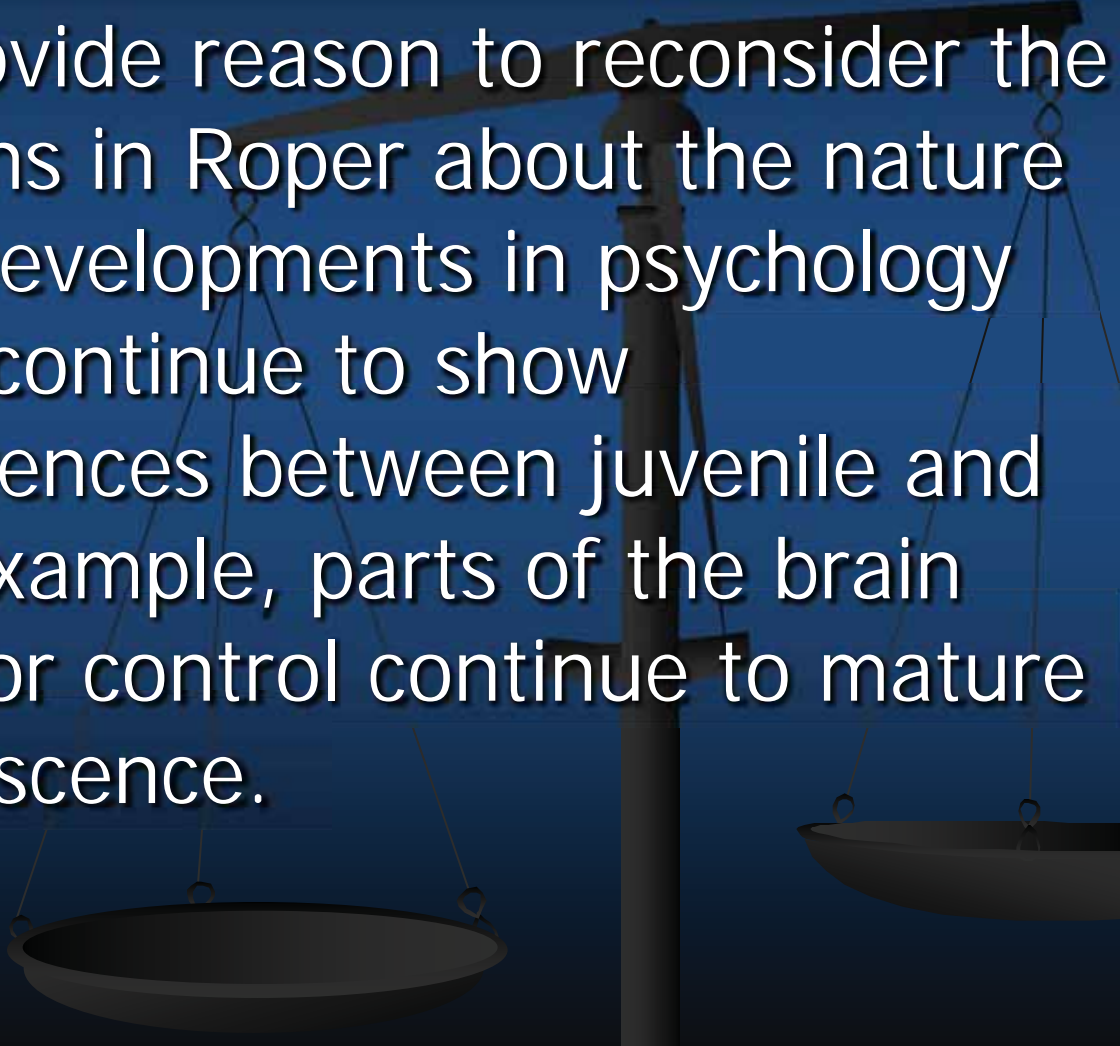


# From the Majority Opinion in *Roper v. Simmons*

As any parent knows, and as the scientific and sociological studies...tend to confirm, a "lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults. These qualities often result in impetuous and ill-considered actions and opinions." ...The second area of difference is that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure.

# From the Majority Opinion in *Graham v. Florida*

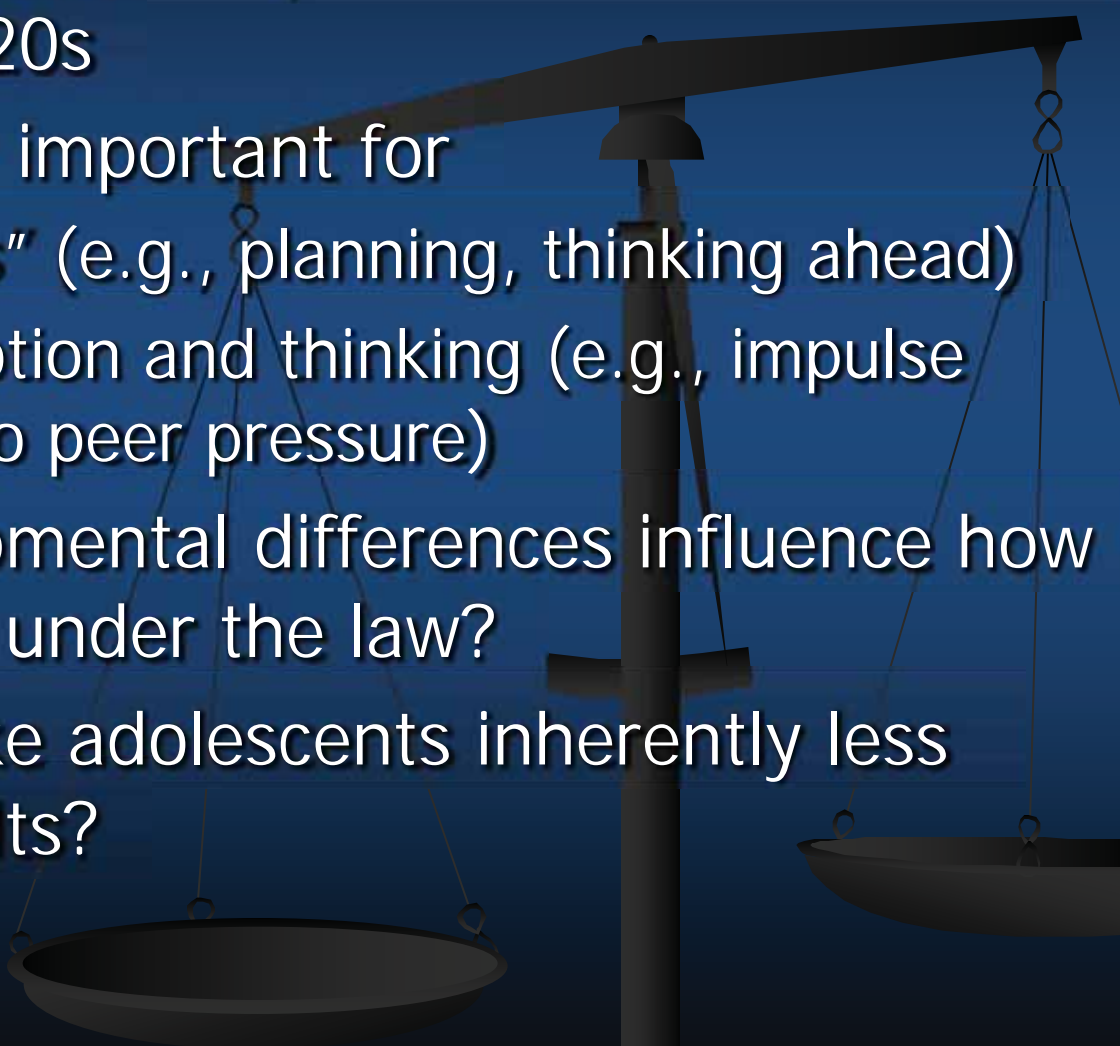
No recent data provide reason to reconsider the Court's observations in *Roper* about the nature of juveniles. . . . Developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence.



Are Juveniles as  
Culpable as Adults?

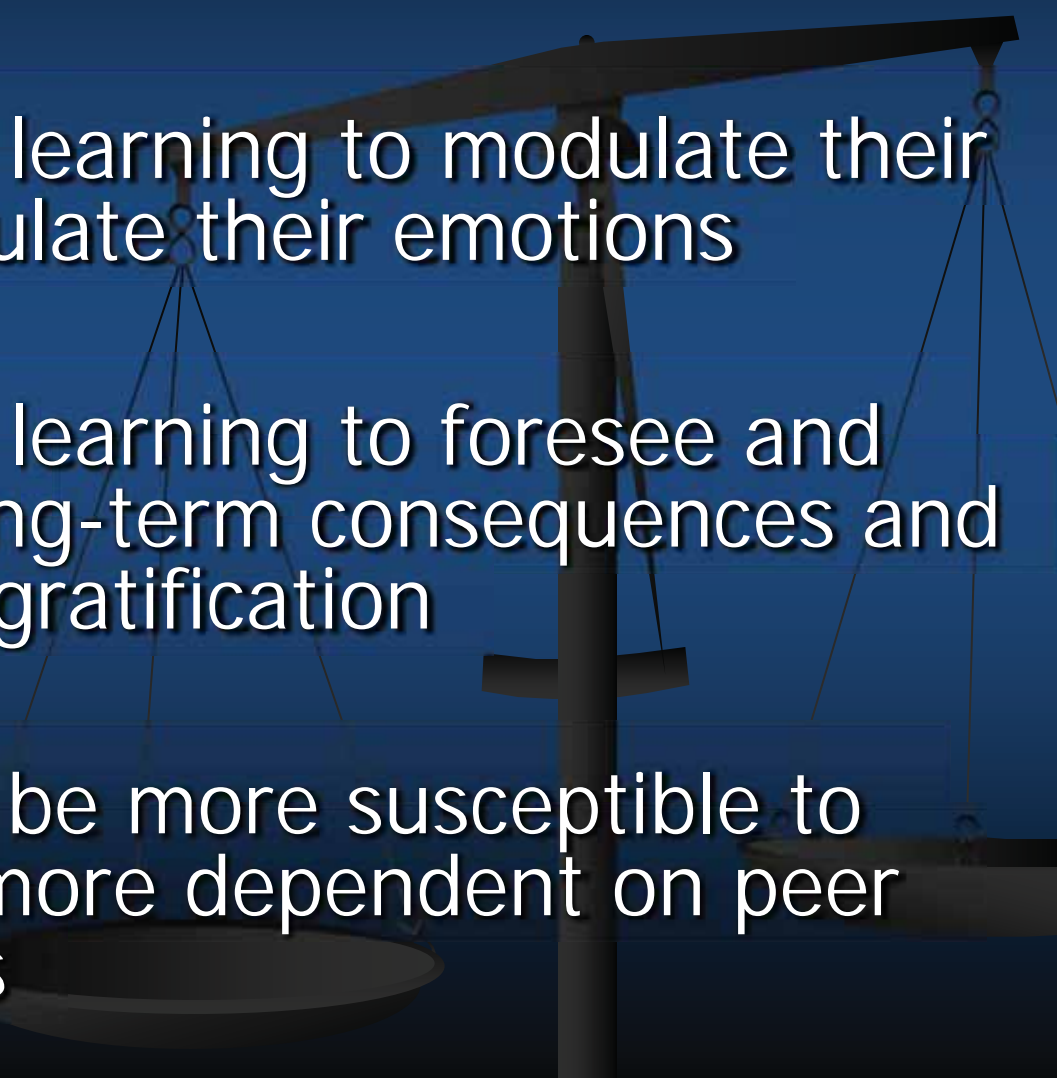


# Background

- New research on brain development shows continued maturation into mid-20s
  - Maturation especially important for
    - "Executive functions" (e.g., planning, thinking ahead)
    - Coordination of emotion and thinking (e.g., impulse control, resistance to peer pressure)
  - Should these developmental differences influence how we treat adolescents under the law?
  - Does immaturity make adolescents inherently less responsible than adults?
- 

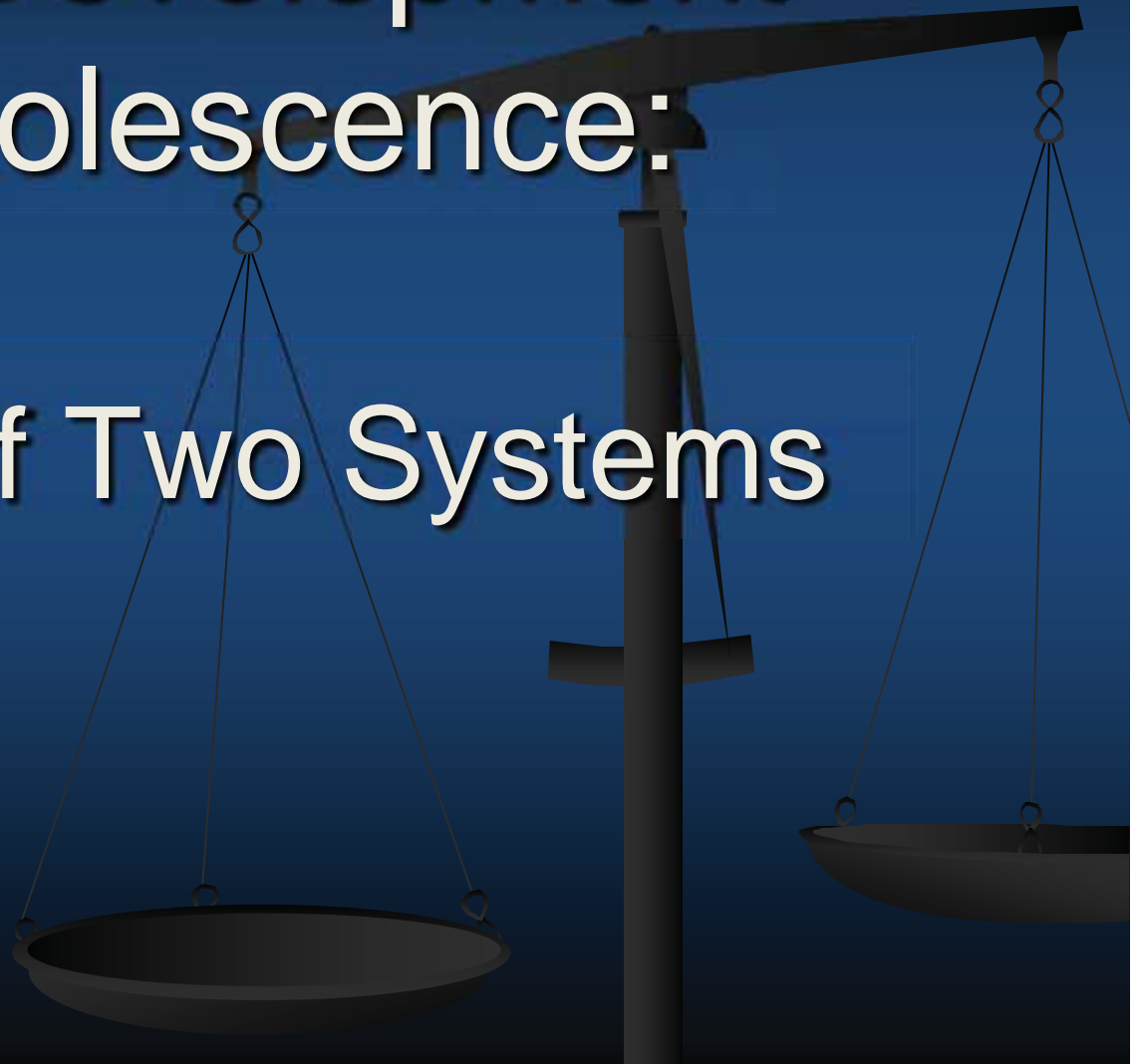


# Impairments That Might Diminish Adolescents' Criminal Responsibility

- Adolescents are still learning to modulate their impulses and to regulate their emotions
  - Adolescents are still learning to foresee and take into account long-term consequences and to delay short-term gratification
  - Adolescents tend to be more susceptible to peer influence and more dependent on peer approval than adults
- 

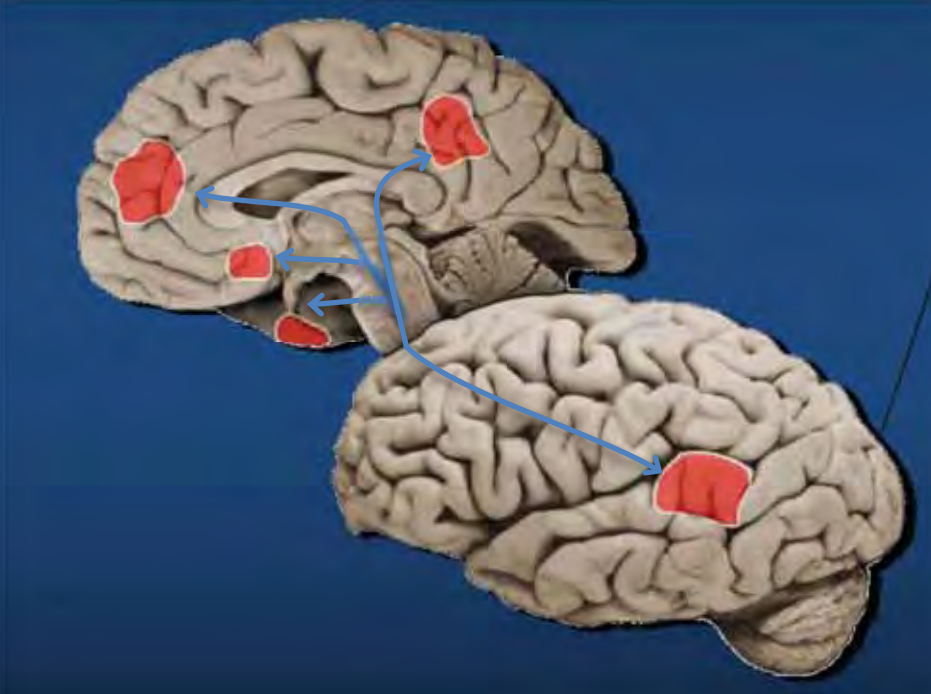
# Brain Development in Adolescence:

## A Tale of Two Systems



# The Incentive Processing System

Linked to processing of reward and punishment

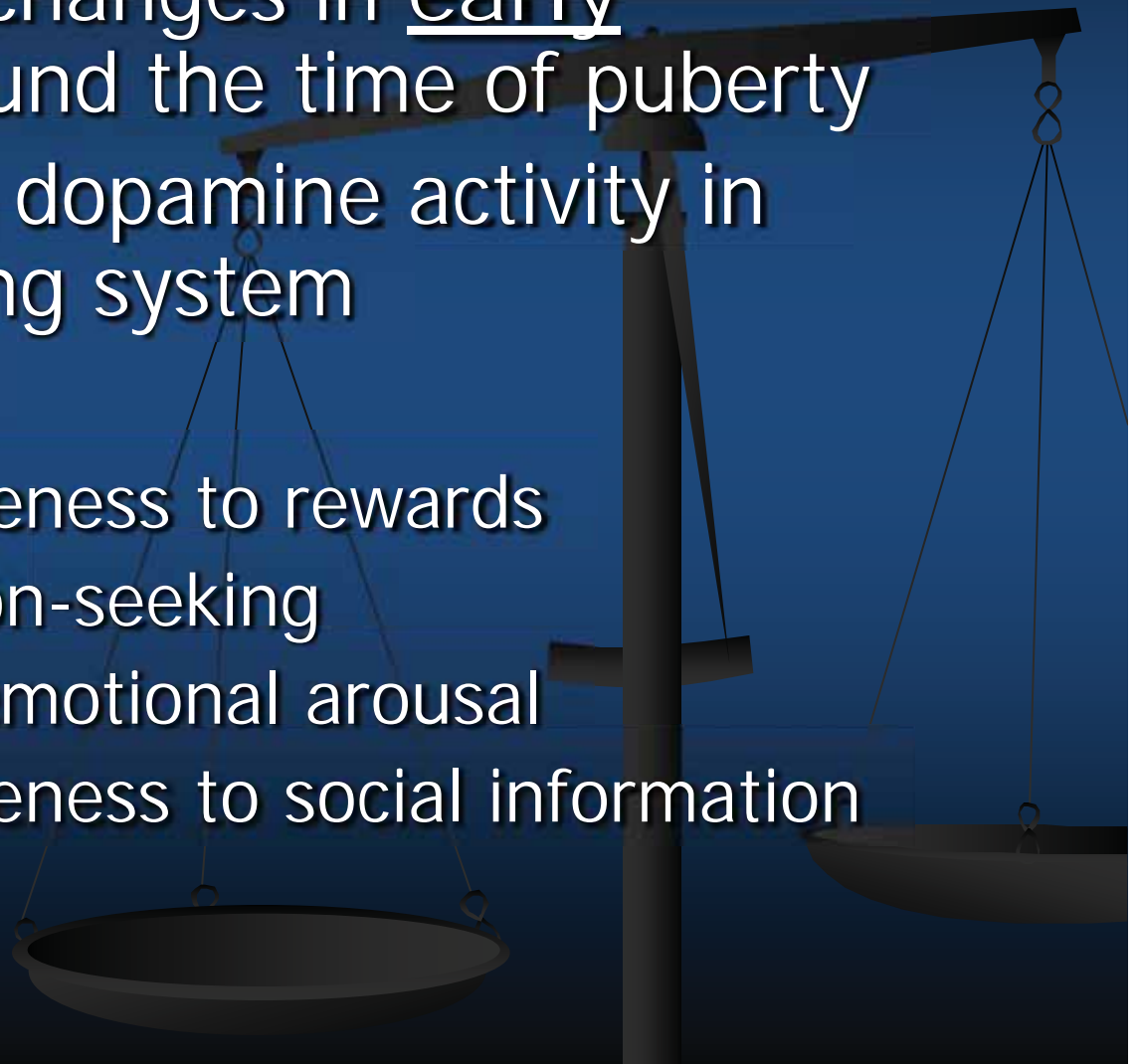


## Key Nodes

- ◆ Ventral striatum
- ◆ Ventromedial prefrontal cortex
- ◆ Orbitofrontal cortex
- ◆ Area between cortex and limbic system (cingulate cortex)

# The Incentive Processing System

- Undergoes major changes in early adolescence around the time of puberty
- Due to increase in dopamine activity in incentive processing system
- Changes result in
  - Increased attentiveness to rewards
  - Increased sensation-seeking
  - Increased/easier emotional arousal
  - Increased attentiveness to social information

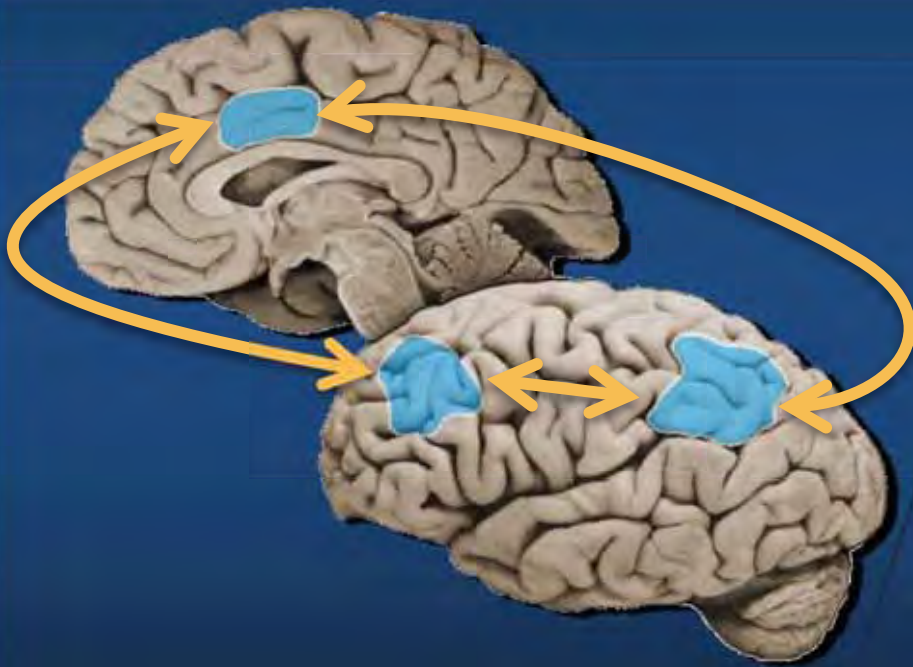


# The Cognitive Control System

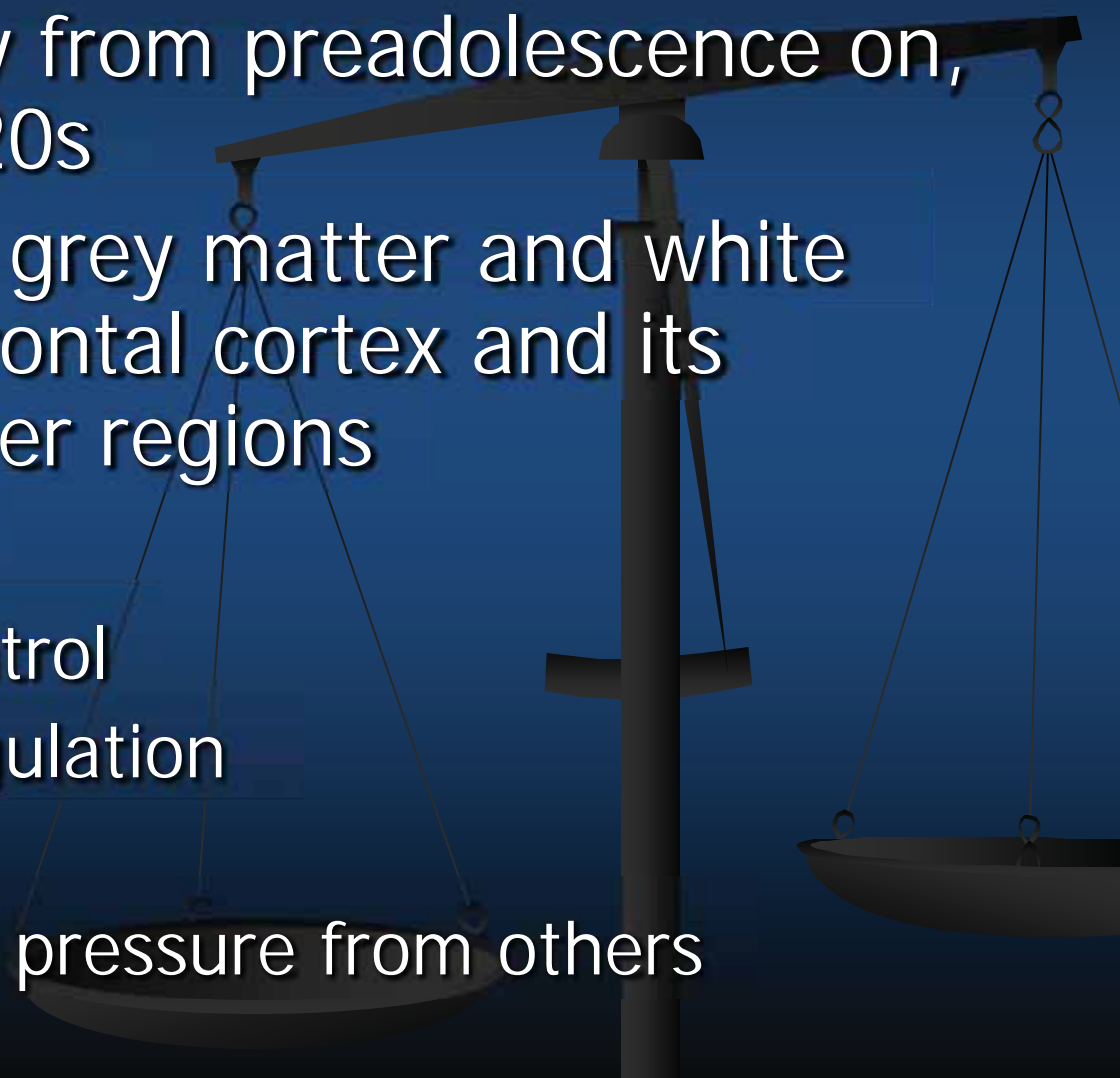
Associated with working memory, logical reasoning, planning, and regulating impulses

## Key Nodes

- ◆ Dorsolateral prefrontal cortex
- ◆ Parietal cortex
- ◆ Area between cortex and limbic system (cingulate)

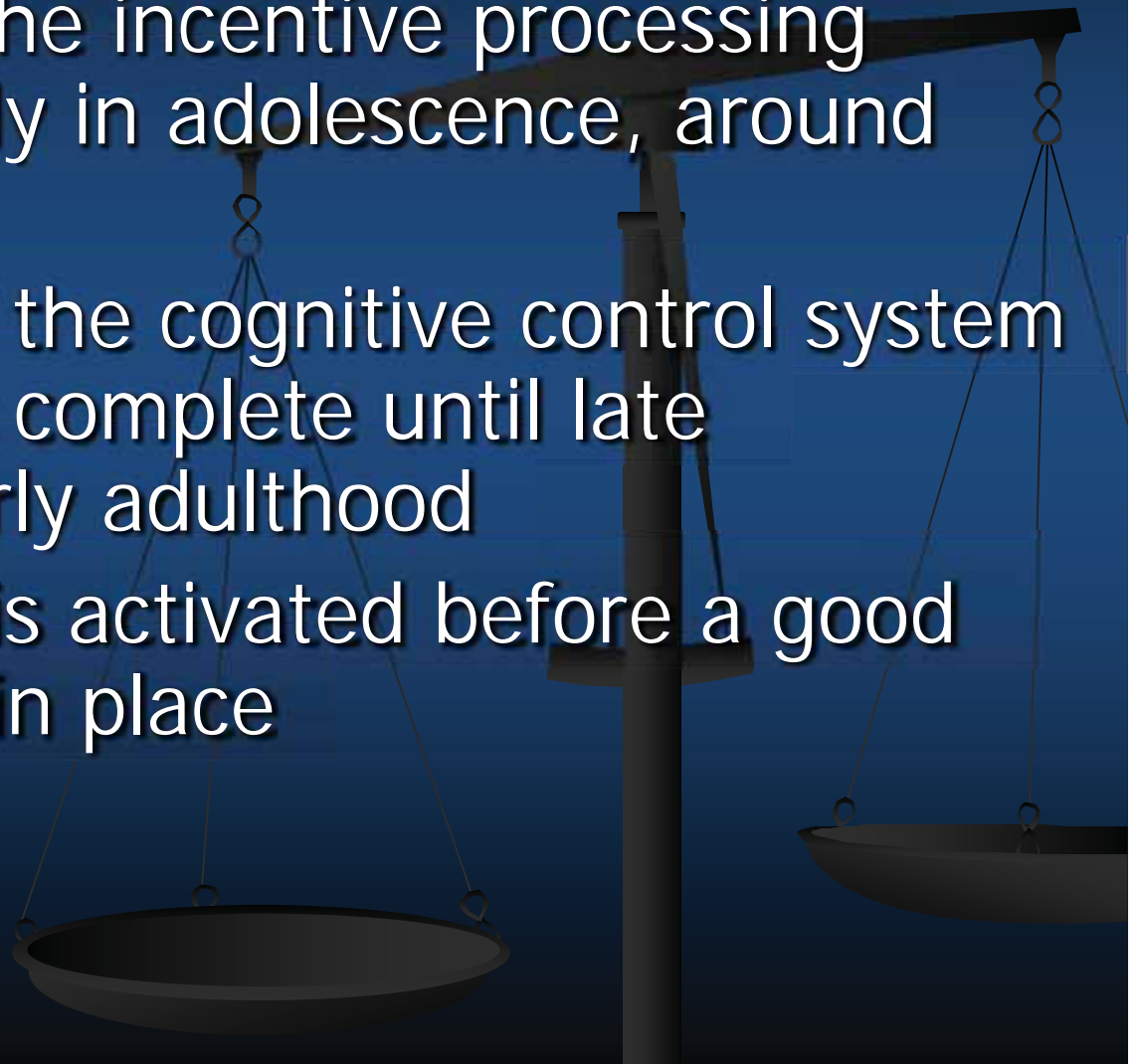


# The Cognitive Control System

- Develops gradually from preadolescence on, well into the mid-20s
  - Due to changes in grey matter and white matter in the prefrontal cortex and its connections to other regions
  - Changes result in
    - Better impulse control
    - Better emotion regulation
    - More foresight
    - More resistance to pressure from others
- 
- A silhouette of a balance scale is positioned on the right side of the slide. The scale is tilted, with the right pan being lower than the left pan. The background is a dark blue gradient.

# Timing is Everything

- The excitation of the incentive processing system occurs early in adolescence, around puberty
- The maturation of the cognitive control system is gradual and not complete until late adolescence or early adulthood
- The “accelerator” is activated before a good braking system is in place
- The result?





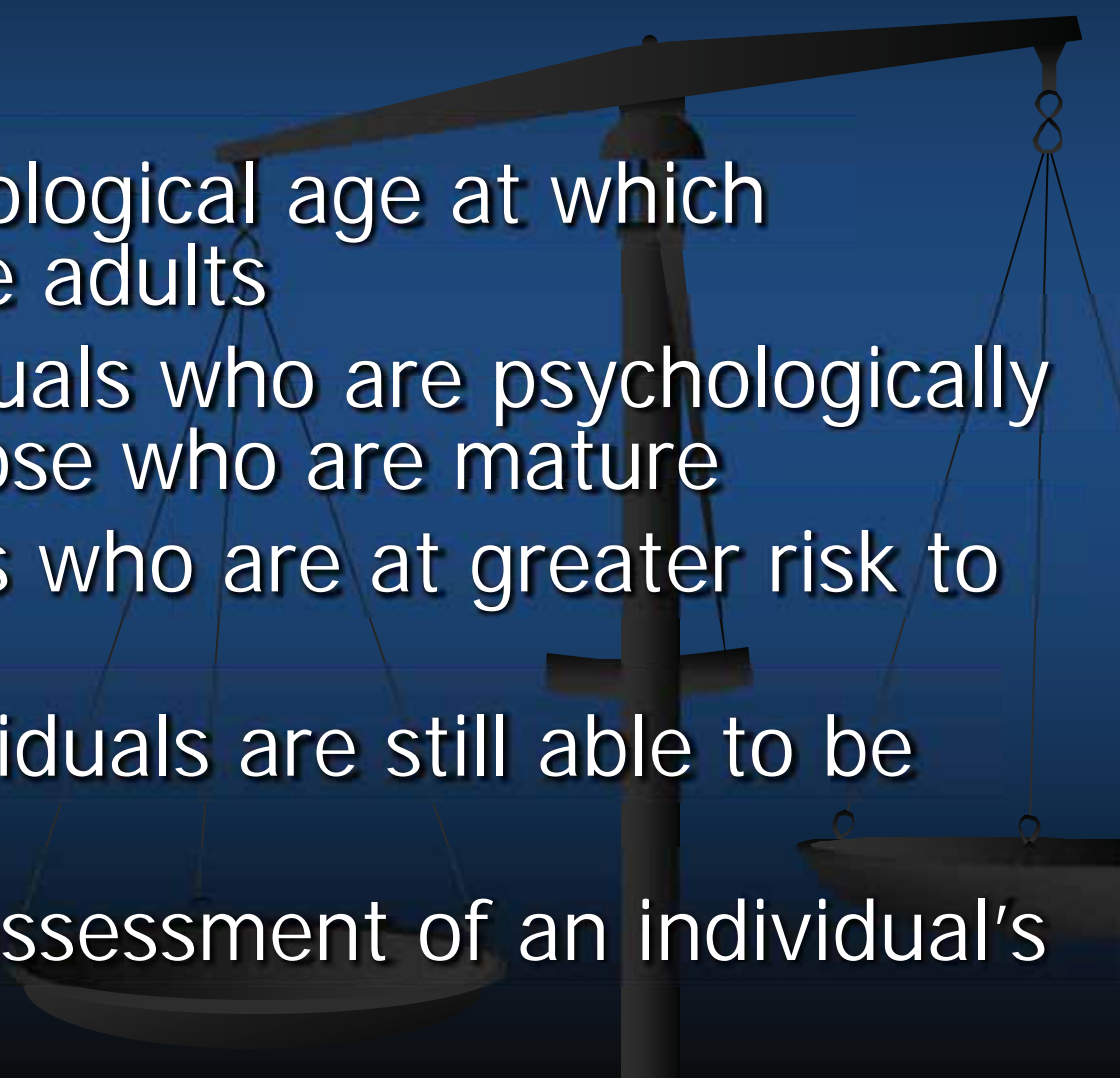
Starting the engine without a skilled driver behind the wheel





# Limits of Brain Research

*It can not . . .*

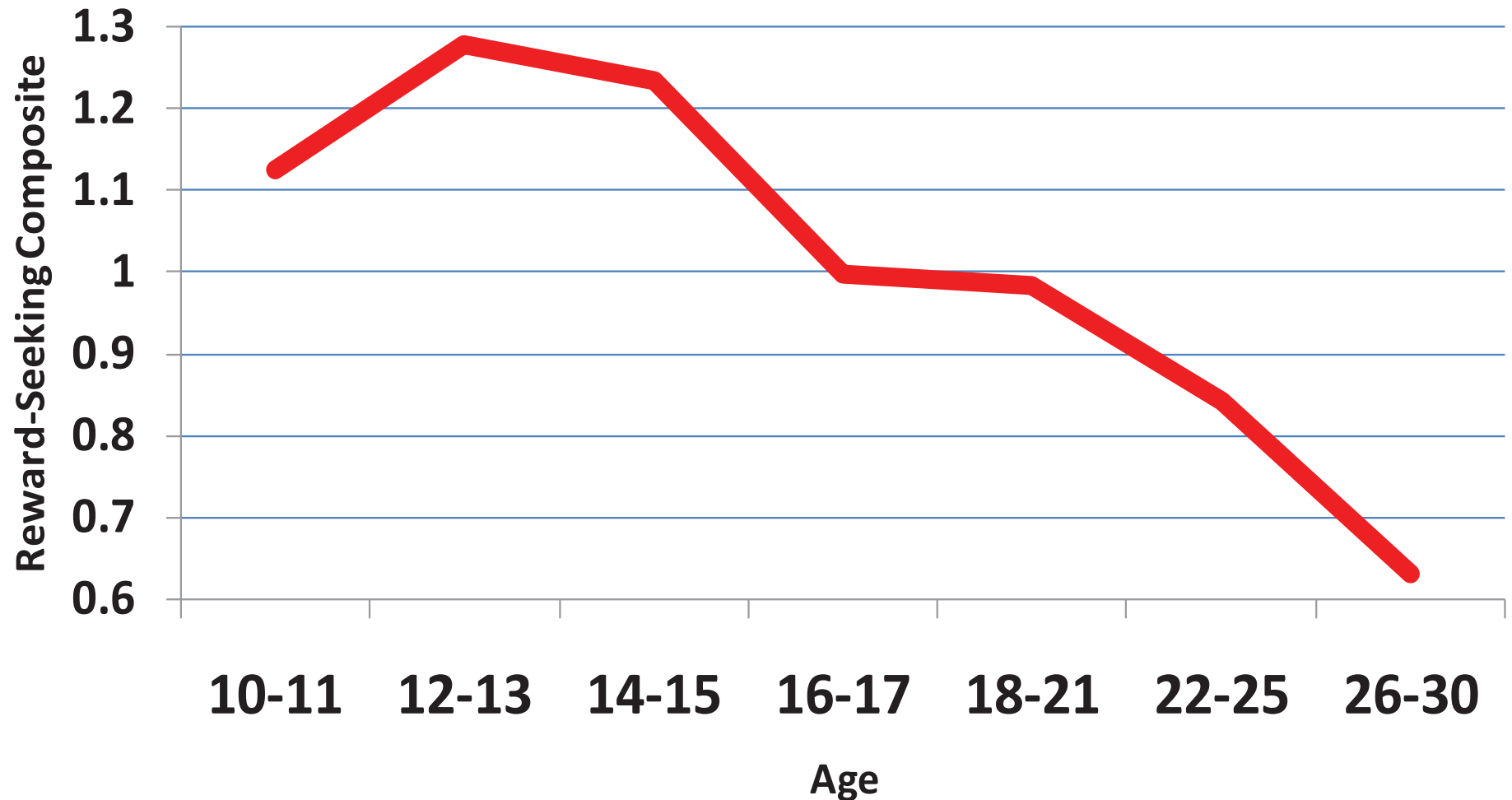
- Identify the chronological age at which individuals become adults
  - Distinguish individuals who are psychologically immature from those who are mature
  - Identify individuals who are at greater risk to re-offend
  - Tell us which individuals are still able to be rehabilitated
  - Substitute for an assessment of an individual's actual behavior
- 

# MacArthur Juvenile Culpability Study



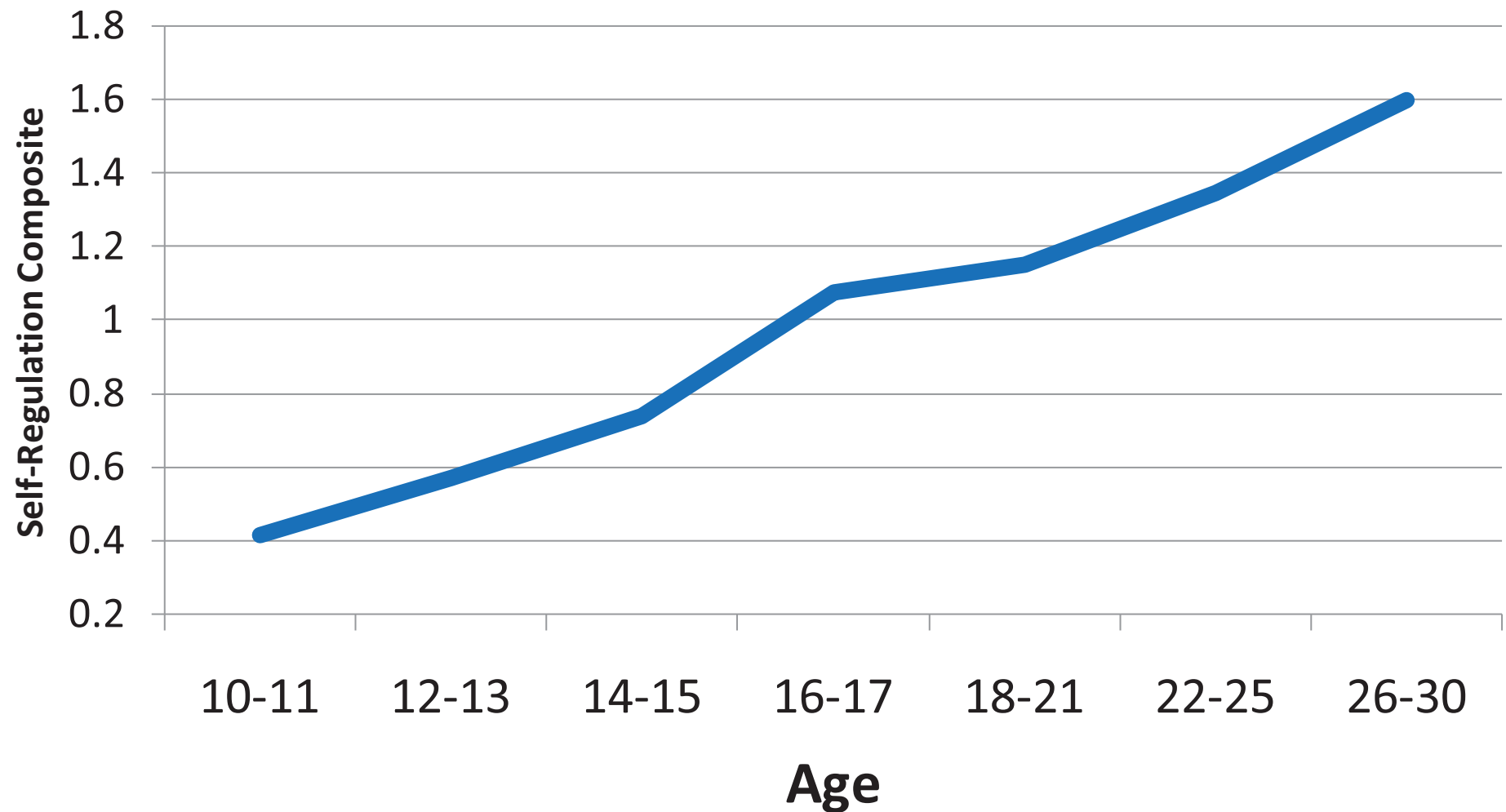
- Are adolescents less mature than adults in ways relevant to criminal responsibility?
- Studied 935 individuals from ages 10 to 30 in four locates (California, Colorado, Philadelphia, Washington, DC)
- Examined age differences in
  - Reward-seeking
  - Self-regulation
  - Basic intellectual abilities

# Reward-Seeking is Higher



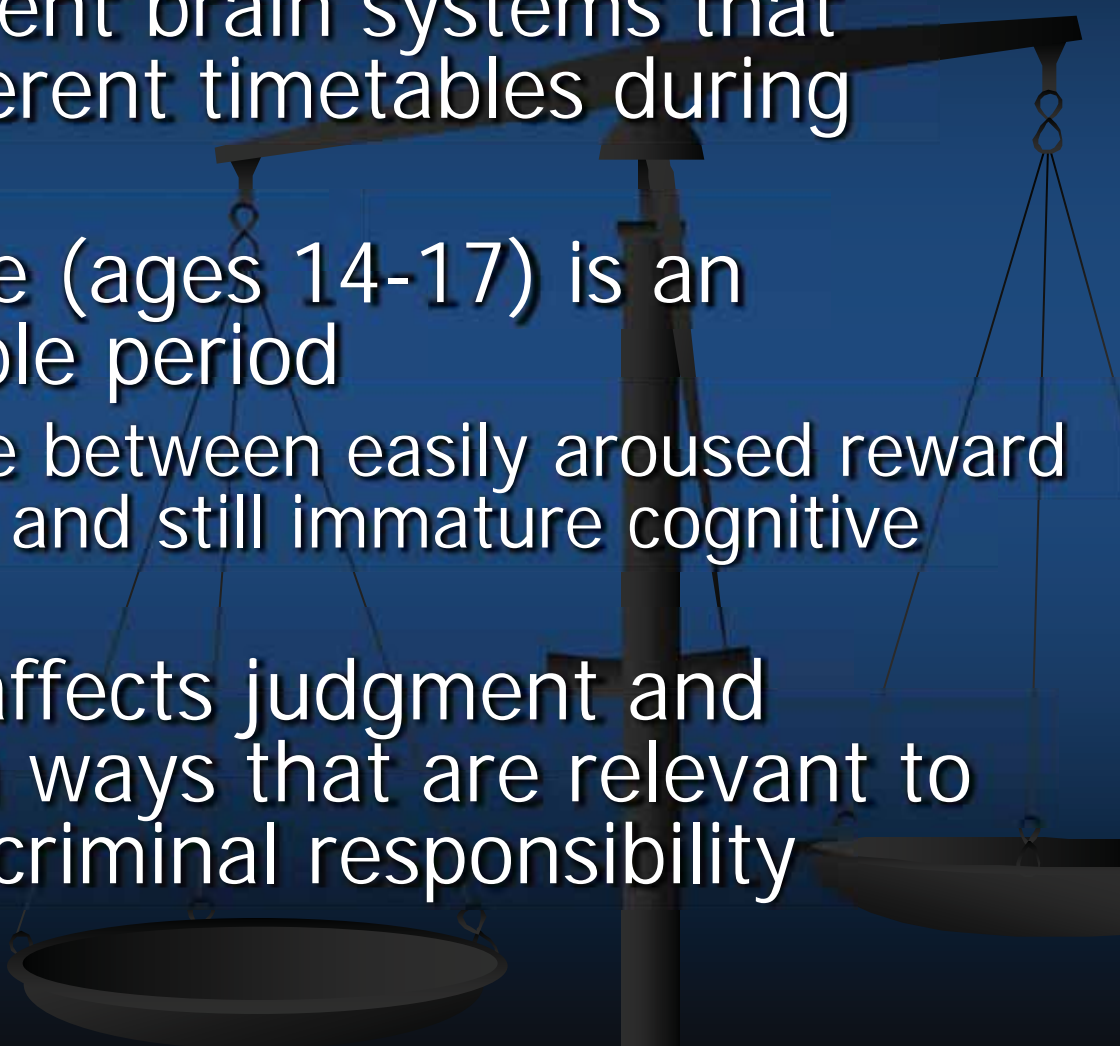
Composite of self-reported sensation-seeking, IGT reward sensitivity, preference for immediate rewards in delay discounting, risky driving. Curvilinear and linear trends significant

# Self-Regulation is Still Immature



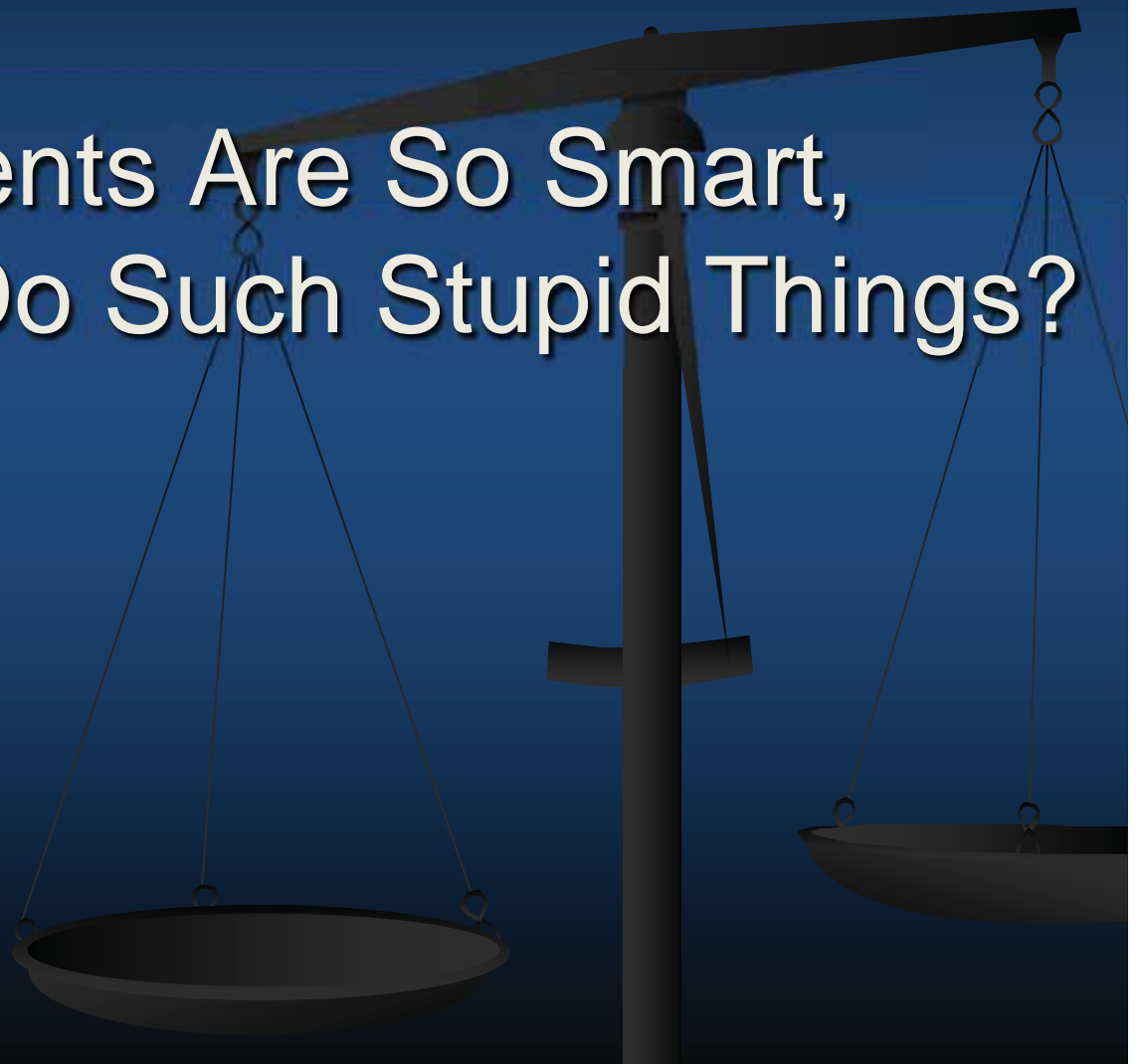
Composite of self-reported impulse control, anticipation of future consequences, resistance to peer influence, and TOL latency. Linear trend significant

# Summary of Findings

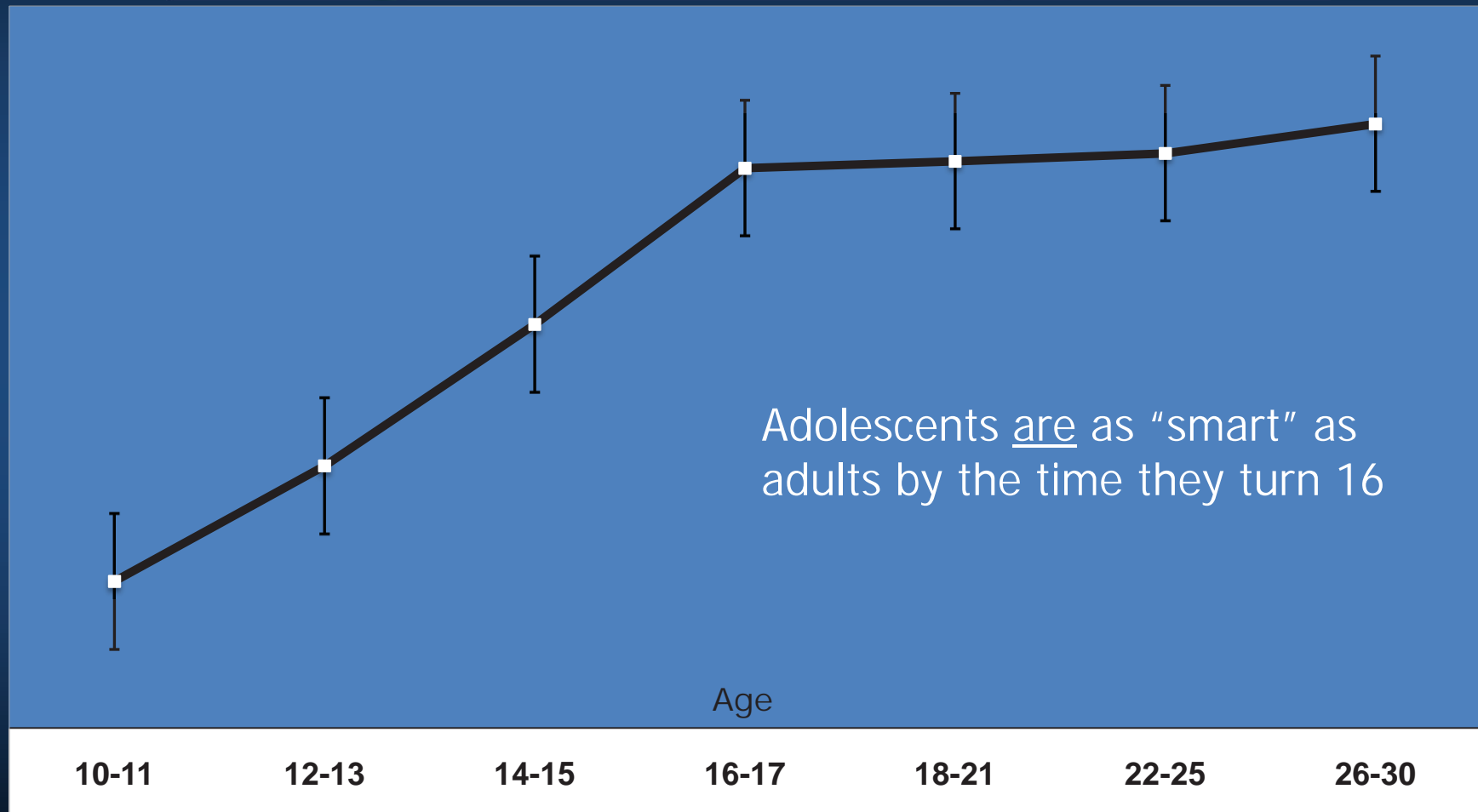


- Reward seeking and cognitive control are regulated by different brain systems that develop along different timetables during adolescence
- Middle adolescence (ages 14-17) is an especially vulnerable period
  - Greatest imbalance between easily aroused reward processing system and still immature cognitive control system
- This vulnerability affects judgment and decision-making in ways that are relevant to determinations of criminal responsibility

If Adolescents Are So Smart,  
Why Do They Do Such Stupid Things?

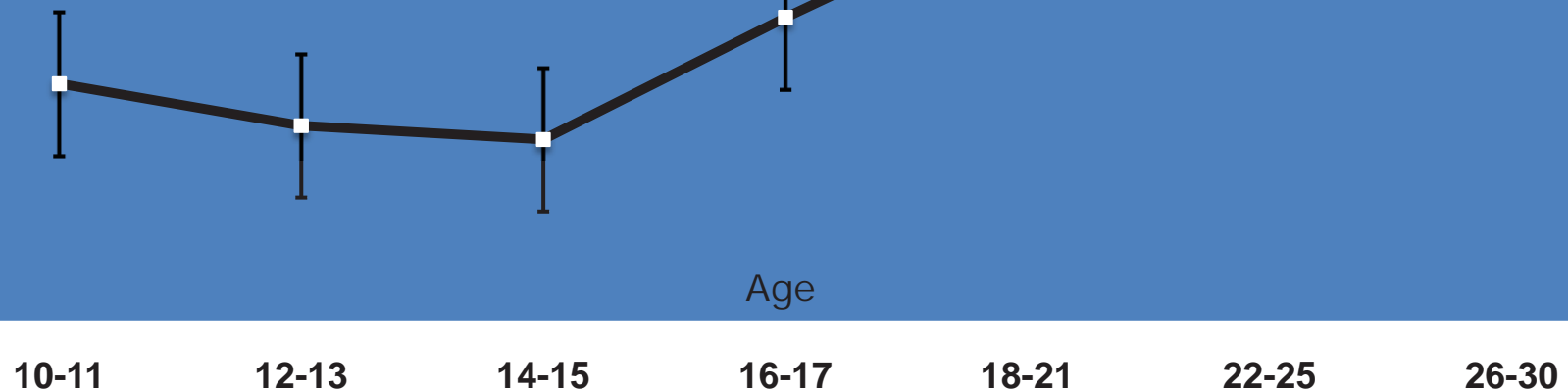


# Basic Course of Cognitive Development



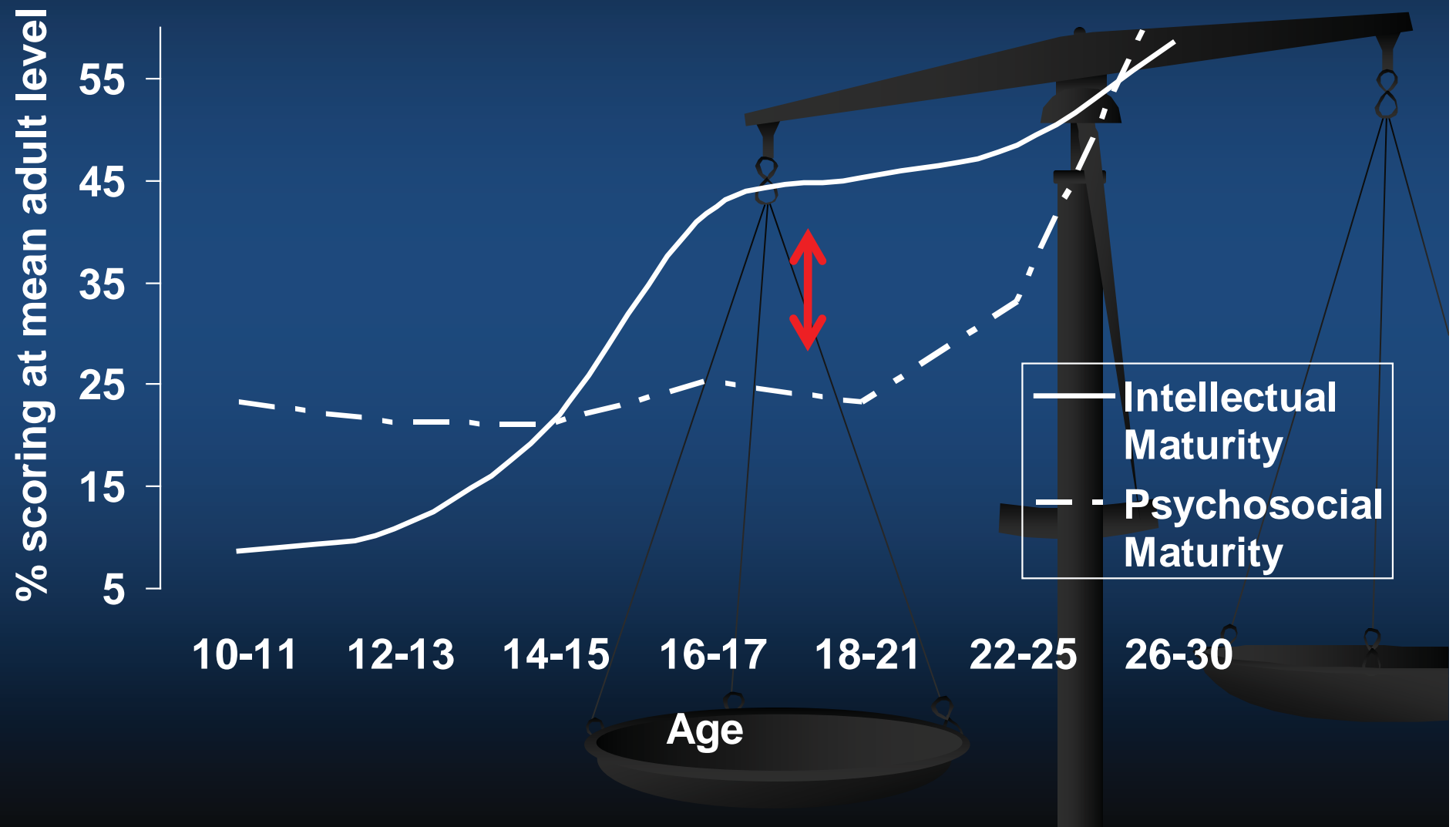
# Basic Course of Psychosocial Development

But adolescents are less mature, socially and emotionally, even after they enter their 20s





# Individuals Mature Intellectually Before They Mature Socially and Emotionally



# Conclusions



- Intellectual and psychosocial maturity follow different patterns
  - Intellectual abilities reach adult levels by age 16
  - Psychosocial capacities do not reach adult levels until much later
- No single age at which individuals become adults, but on average adolescents are less mature than adults in ways that may mitigate criminal responsibility
- Adolescents are responsible for their behavior, but less responsible than adults

Are Juveniles as Competent  
as Adults in Court?



# Background

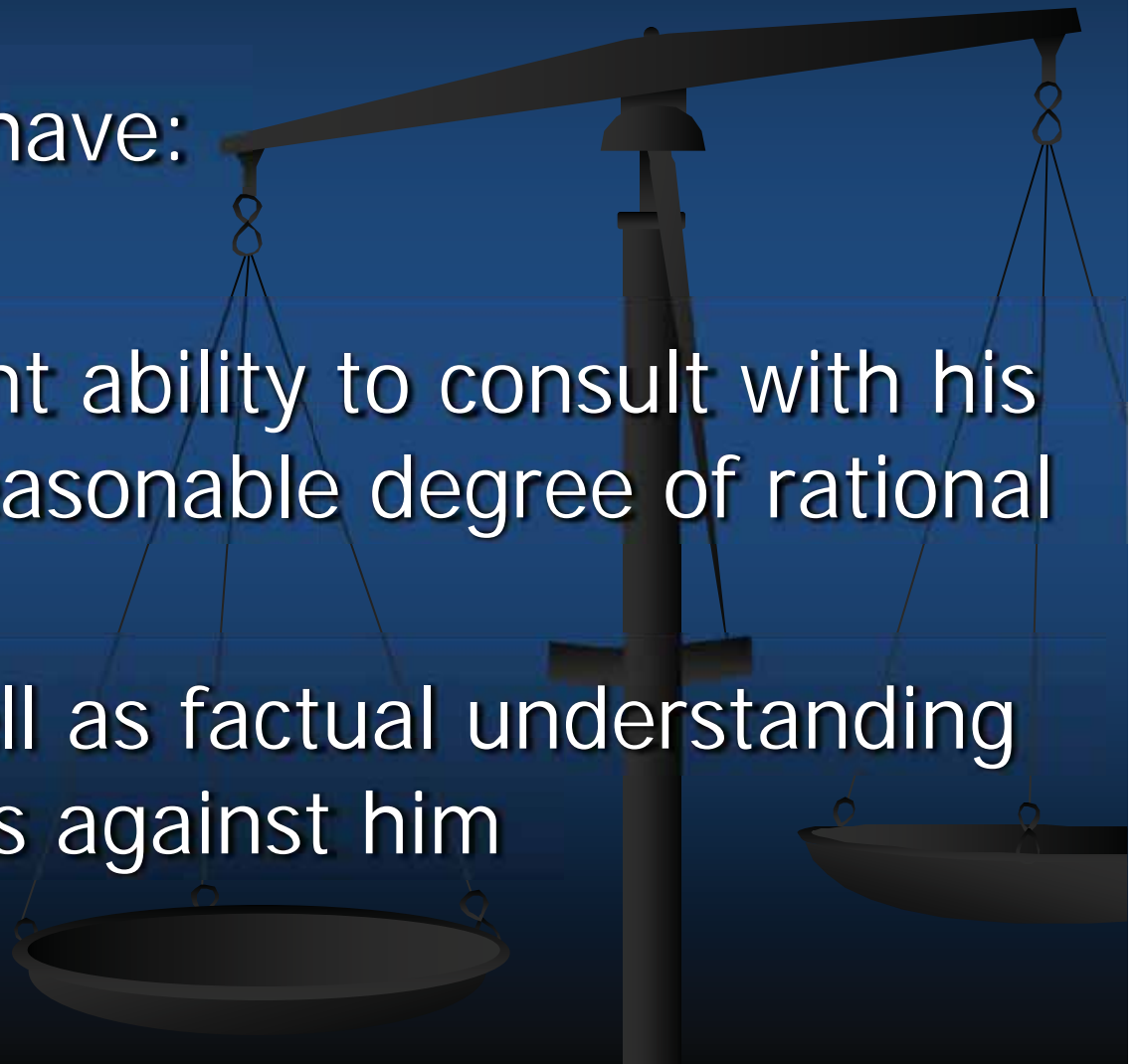


- Competence to stand trial generally an issue in cases involving mentally ill or mentally retarded defendants
- Increased number of juvenile defendants in criminal court raises new questions
- Is developmental immaturity another contributor to incompetence?
- Do immature defendants exhibit legal decision-making that differs from that of older defendants?

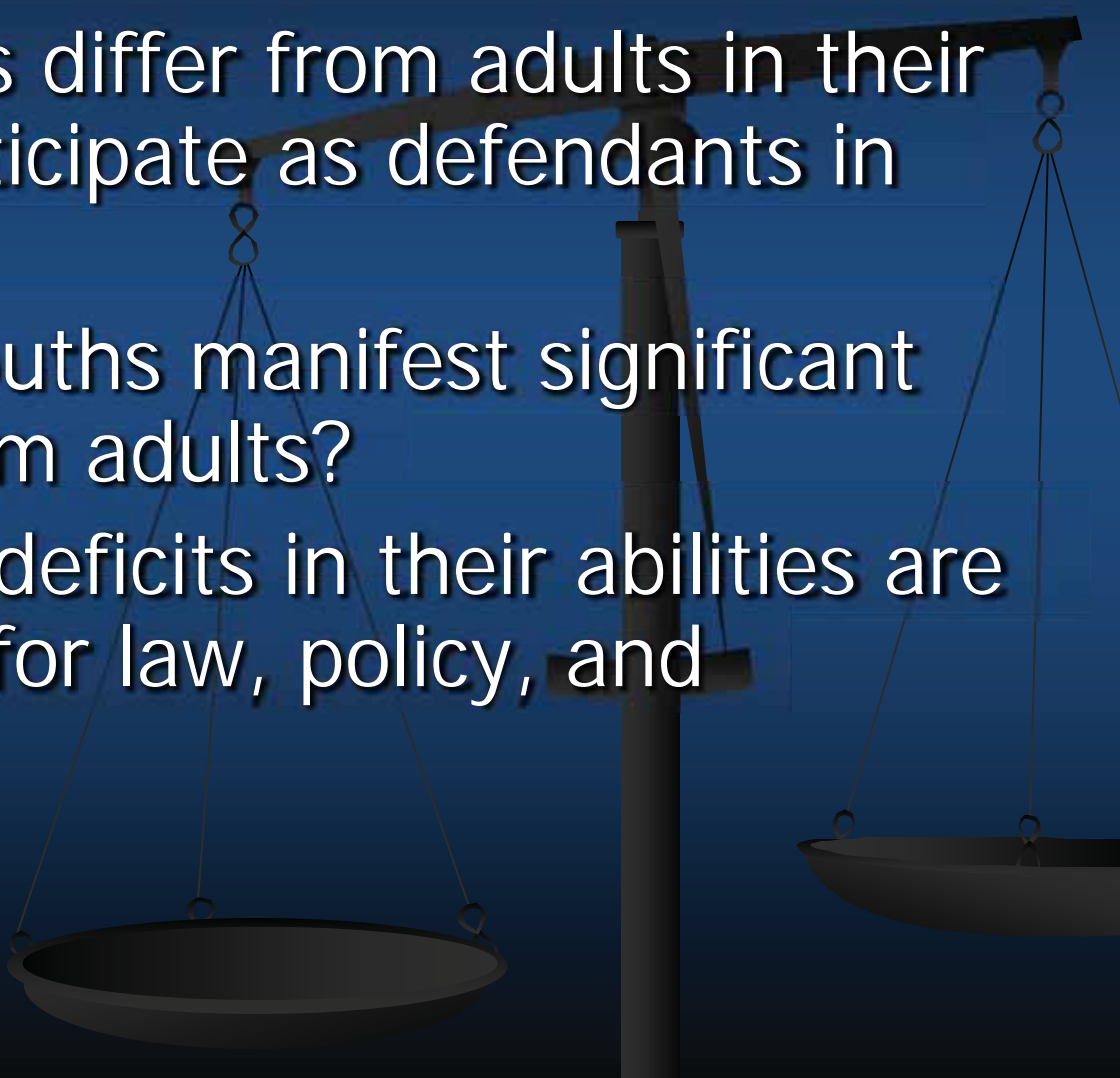
# The Legal Standard for Competence to Stand Trial

A defendant must have:


- Sufficient present ability to consult with his attorney with a reasonable degree of rational understanding
- A rational as well as factual understanding of the proceedings against him



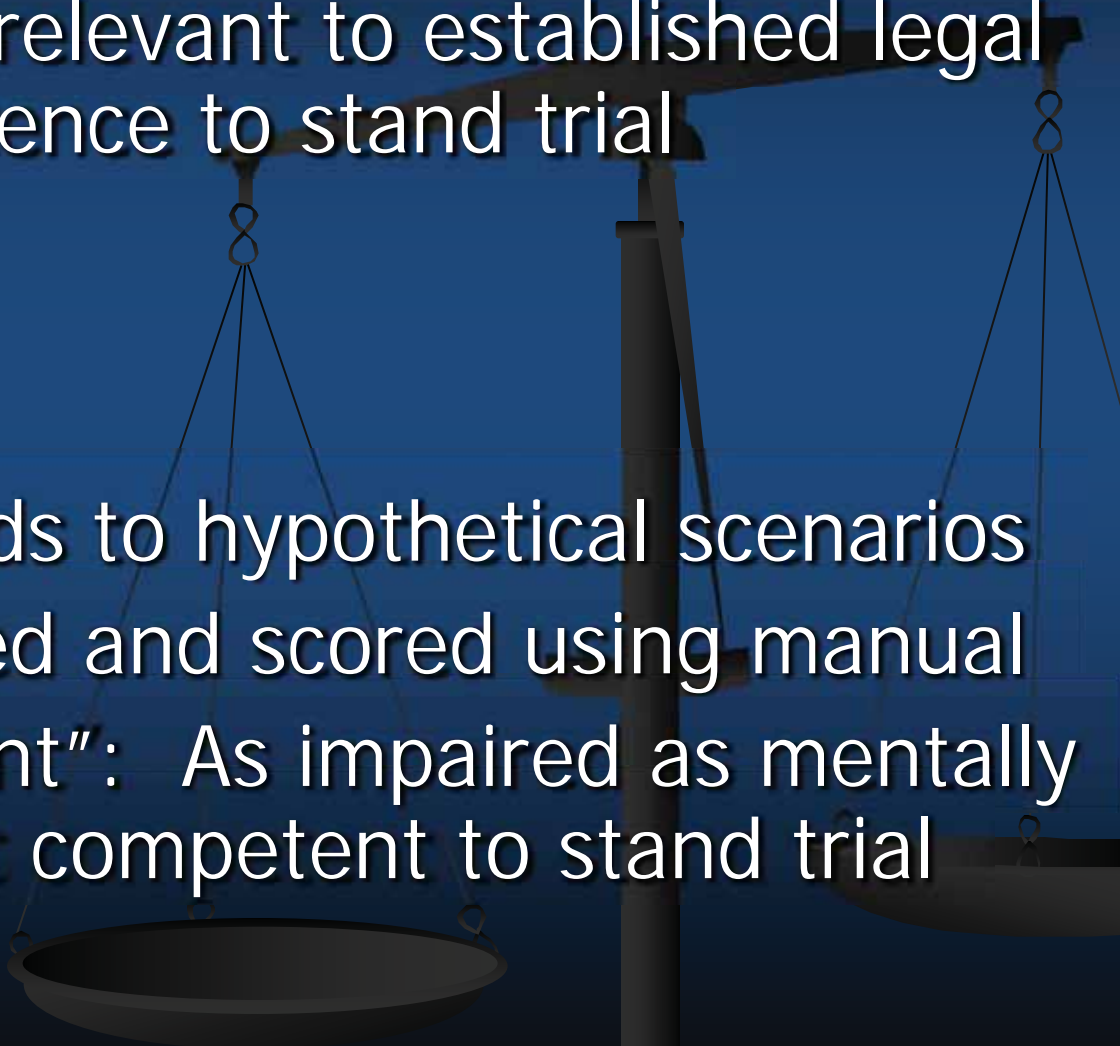
# The Basic Research Questions

- Do adolescents differ from adults in their abilities to participate as defendants in trials?
  - If so, which youths manifest significant differences from adults?
  - What kinds of deficits in their abilities are most relevant for law, policy, and practice?
- 

# MacArthur Juvenile Competence Study

- Data collected in California, Florida, Pennsylvania, Virginia
  - Participants recruited from detention centers and jails, and in communities in targeted neighborhoods
  - Tested 1,400 individuals between 11 and 24
  - Ethnically and socioeconomically diverse sample
  - Examined age differences in
    - Competence to stand trial
    - Ability to make other legal decisions
- 

# MacArthur Competence Assessment Tool



- Measures abilities relevant to established legal criteria for competence to stand trial
  - Understanding
  - Reasoning
  - Appreciation
- Participant responds to hypothetical scenarios
- Responses recorded and scored using manual
- "Serious impairment": As impaired as mentally ill adults found not competent to stand trial



# Sample Scenario



Participant is read a story about a bar room fight between Fred and Reggie, which led to Fred's arrest for assault.

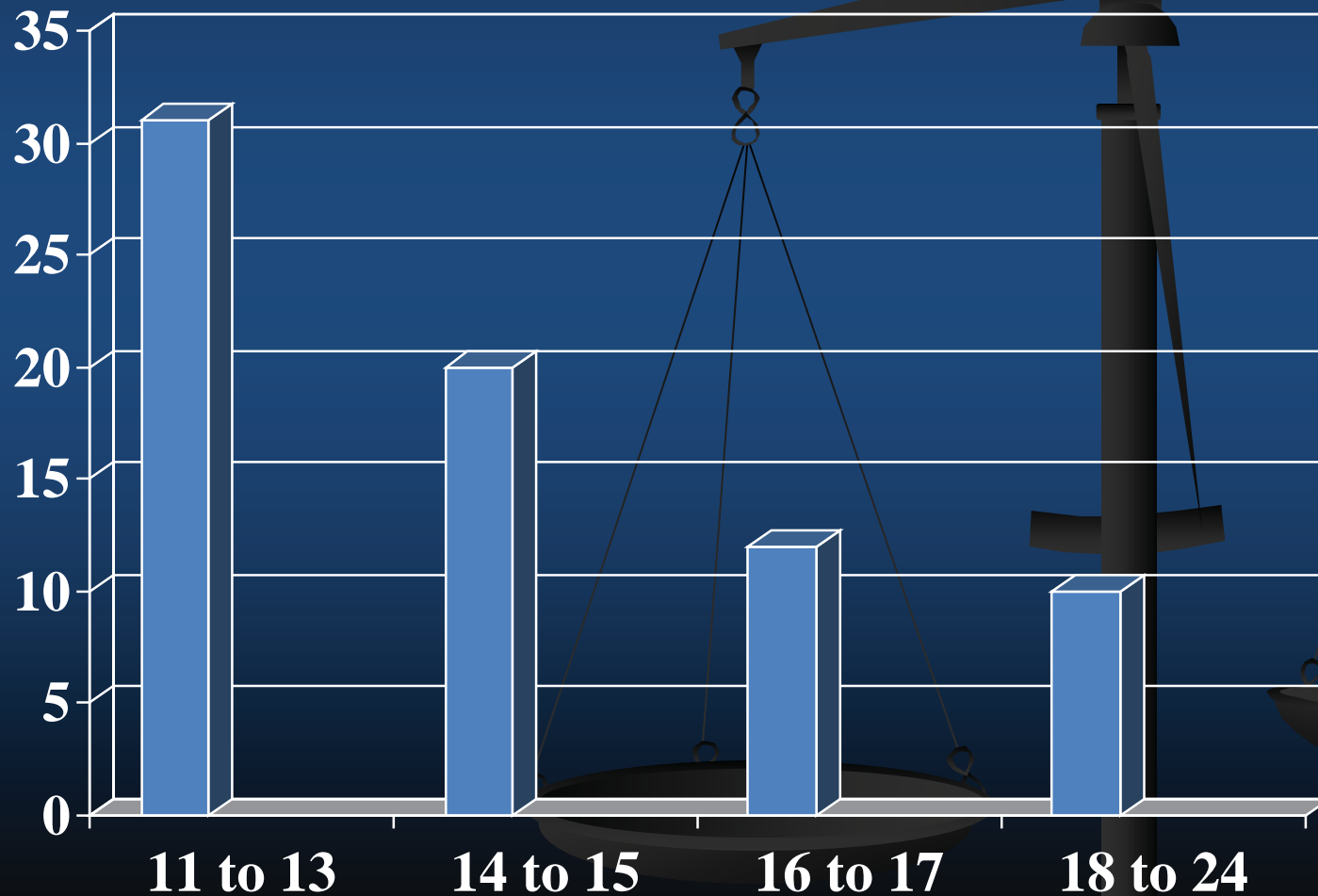
"Let's say that Fred's case goes to court for a jury trial. What are some of the jobs of the jury?"

If participant does not know the answer . . .

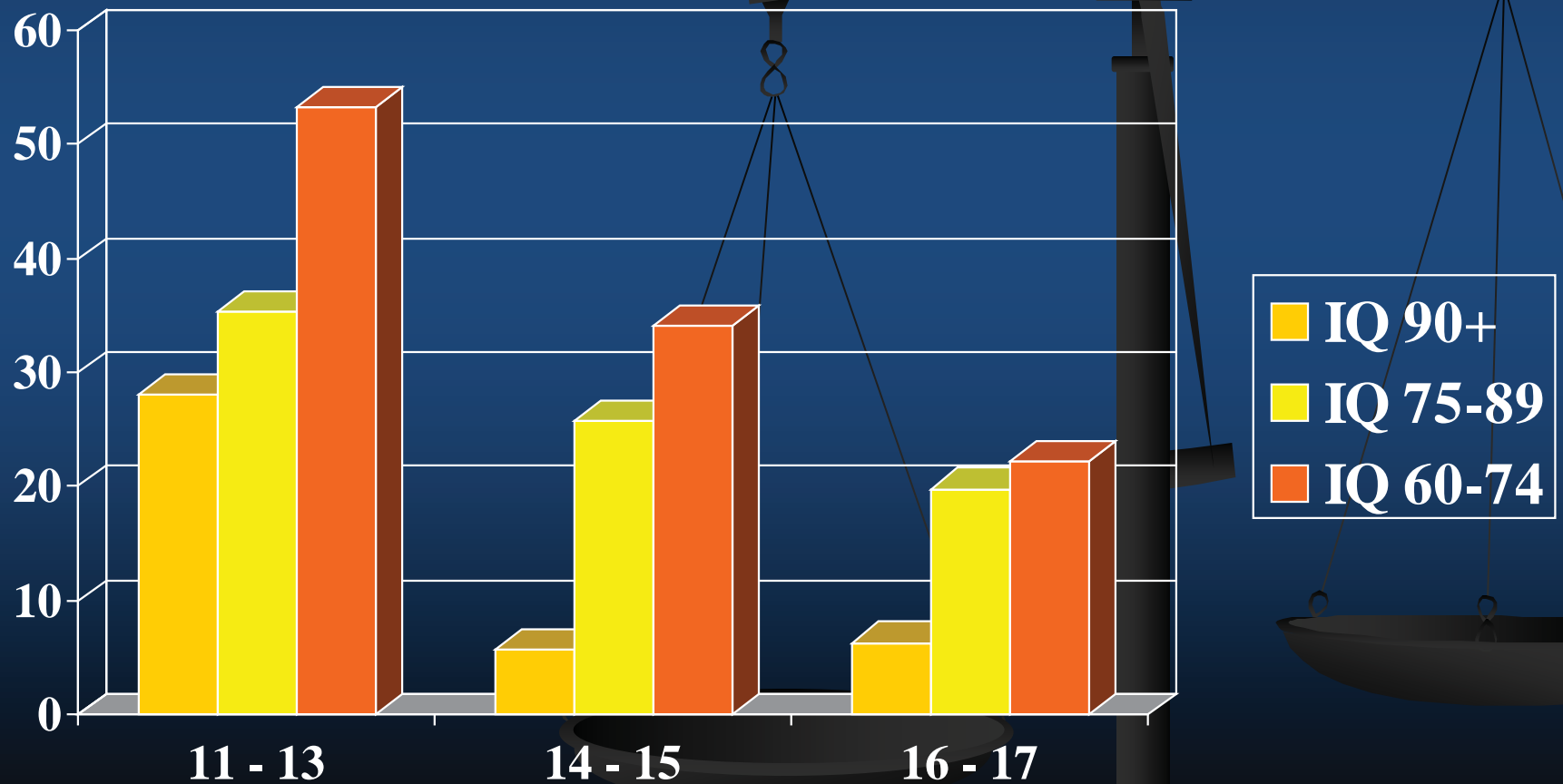
"Fred's lawyer tells Fred what will happen if his case is decided at a jury trial. A group of people called a jury will listen to both sides of the case. The jury will decide whether Fred is guilty or not guilty. In your own words, tell me what Fred just found out about the jobs of the jury."

# Percent with Seriously Impaired Understanding or Reasoning

Significance: 11-13  $\neq$  14-15  $\neq$  18-24; 16-17 = 18-24

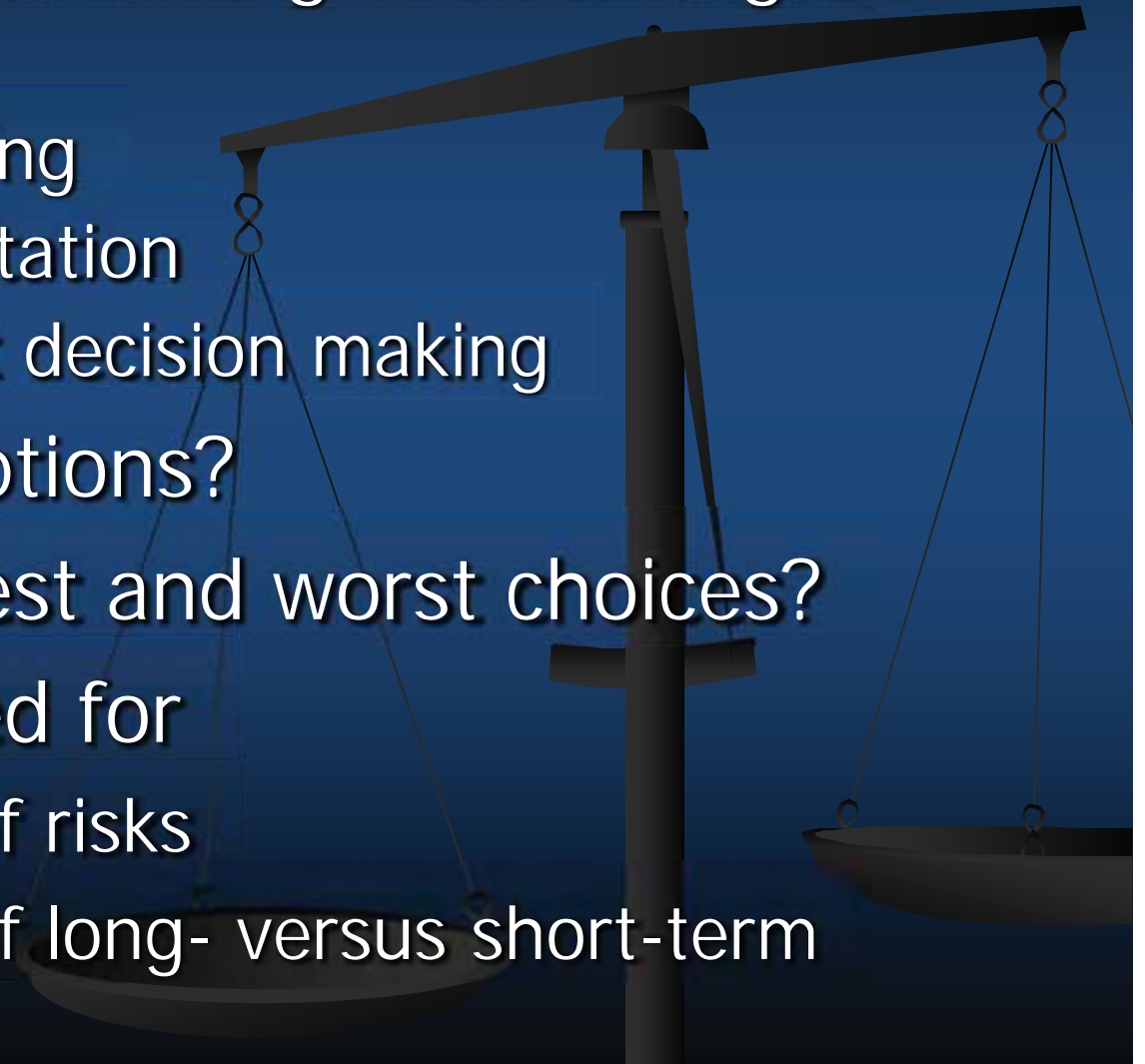


# Percent of Detained Juveniles with Seriously Impaired Understanding or Reasoning



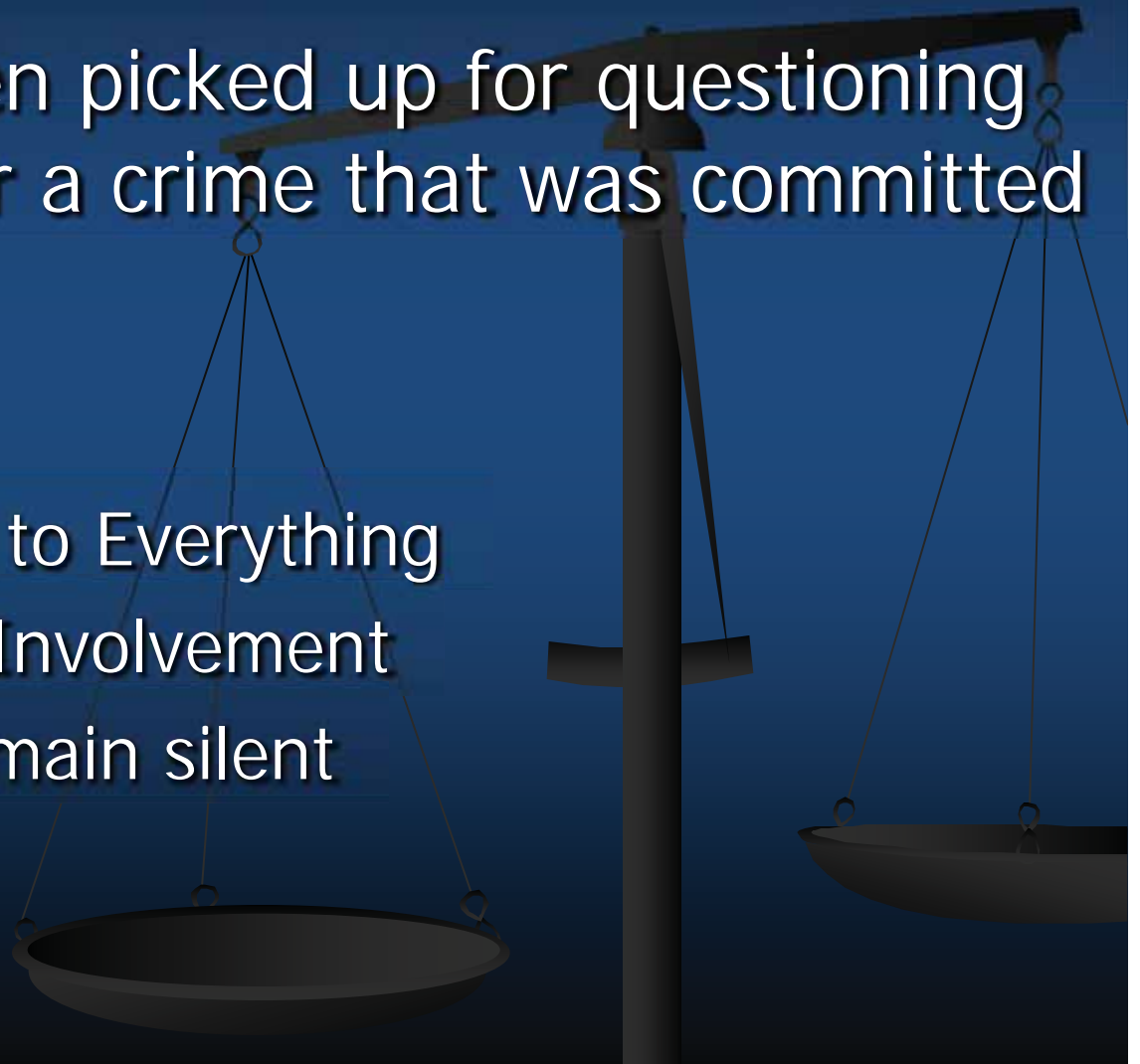
# Legal Decision-Making

- Judgment and reasoning in three legal situations:
  - police questioning
  - attorney consultation
  - plea agreement decision making
- What are the options?
- What are the best and worst choices?
- Responses coded for
  - Consideration of risks
  - Consideration of long- versus short-term

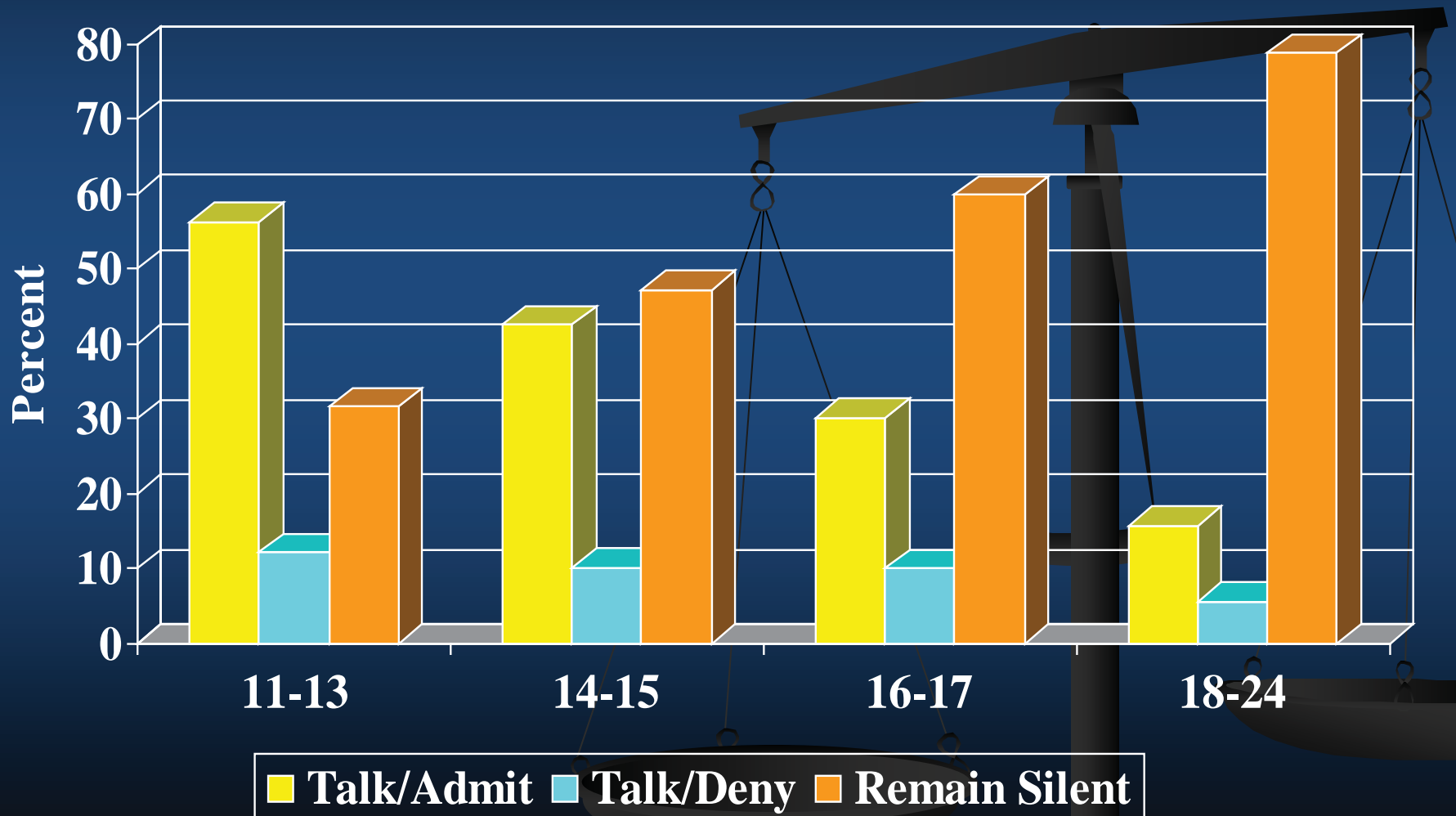


# Police Interrogation

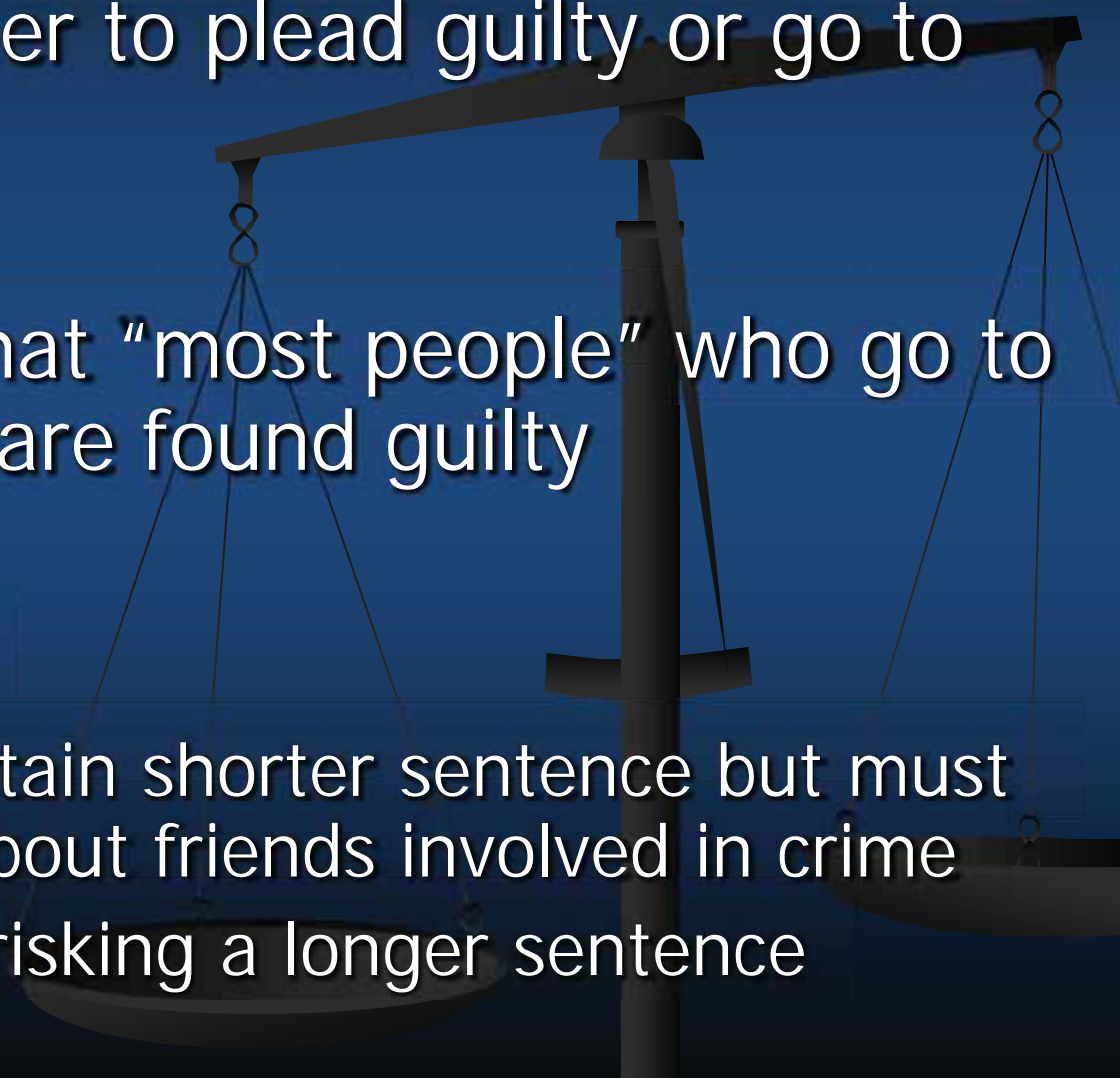
- What to do when picked up for questioning by the police for a crime that was committed
- Options were
  - Talk and Admit to Everything
  - Talk and Deny Involvement
  - Don't Talk / Remain silent



# Best Interrogation Choice by Age

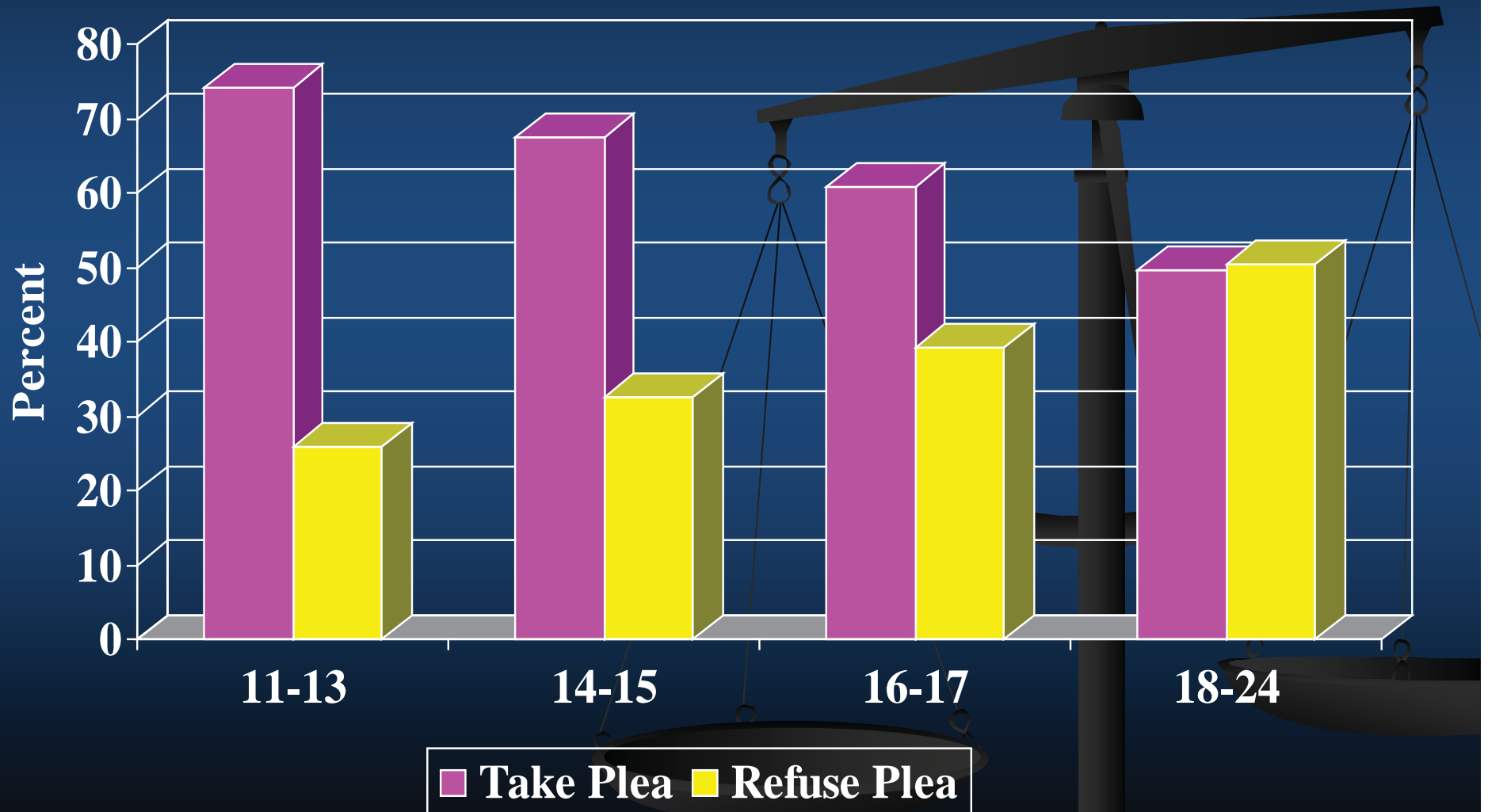


# Plea Agreement



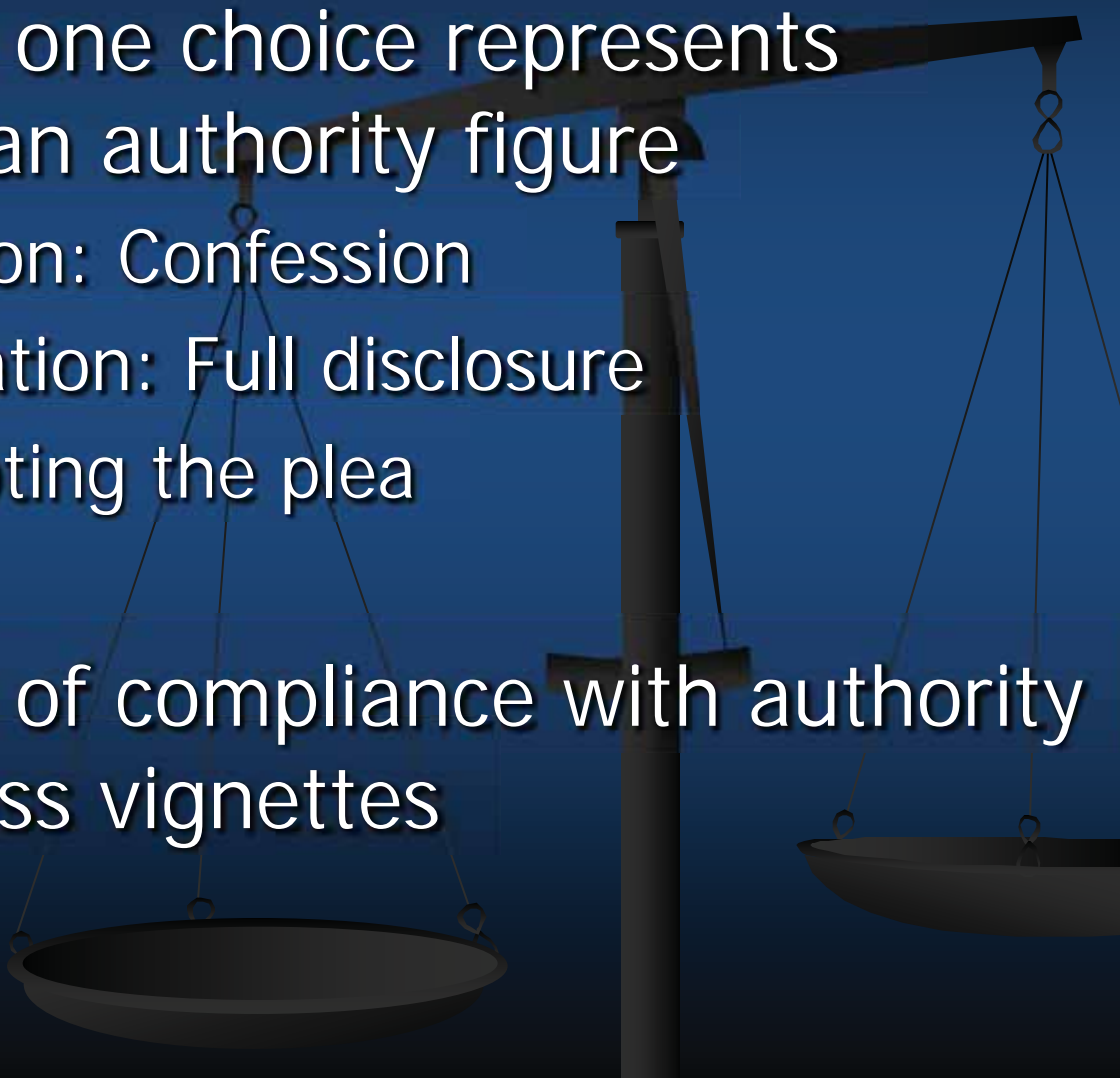
- Considering whether to plead guilty or go to trial
- Respondent told that "most people" who go to trial for this crime are found guilty
- Balancing options
  - Plea involves a certain shorter sentence but must give information about friends involved in crime
  - Going to trial and risking a longer sentence

# Plea Agreement Choice by Age





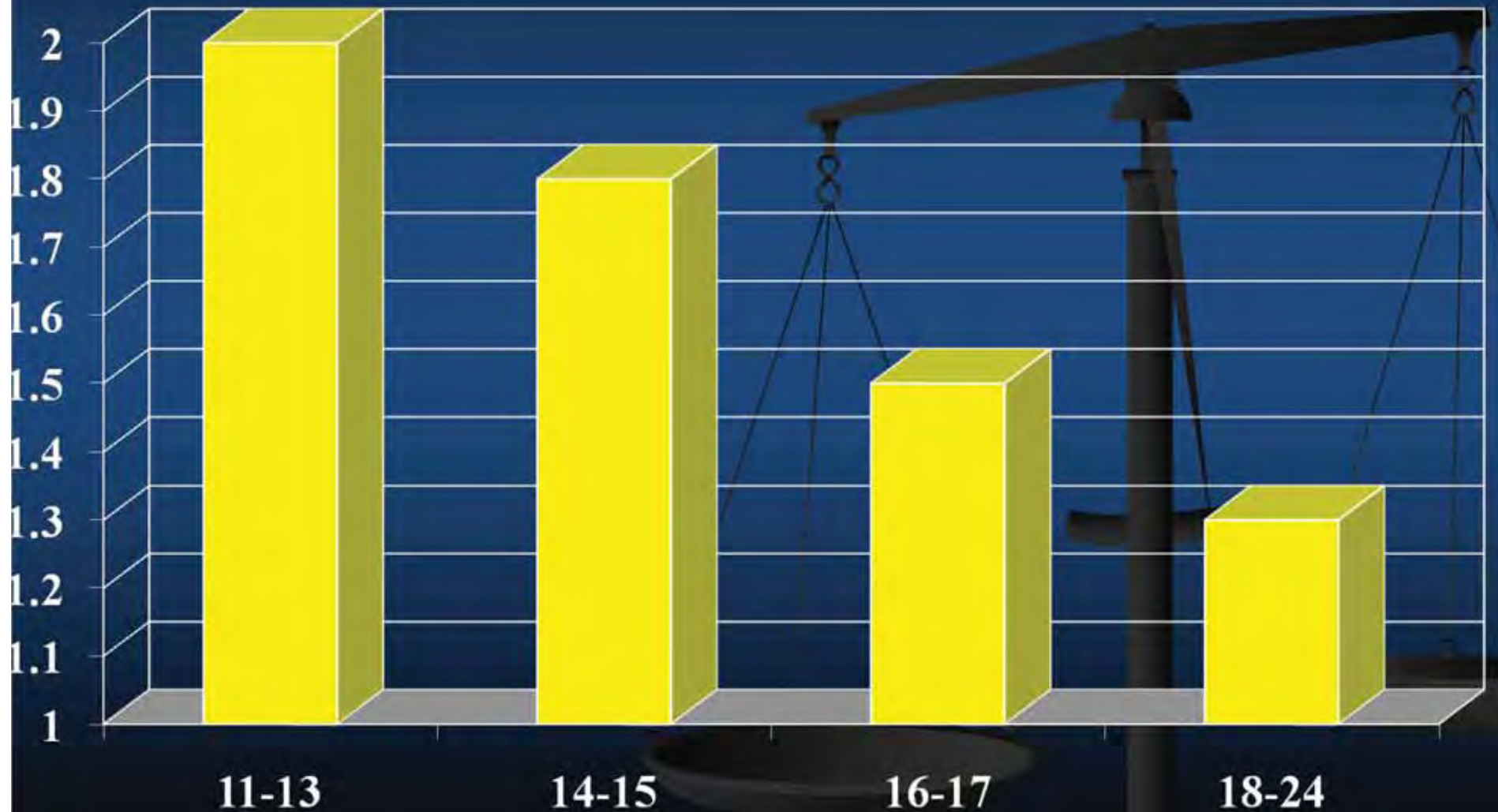
# Compliance with Authority



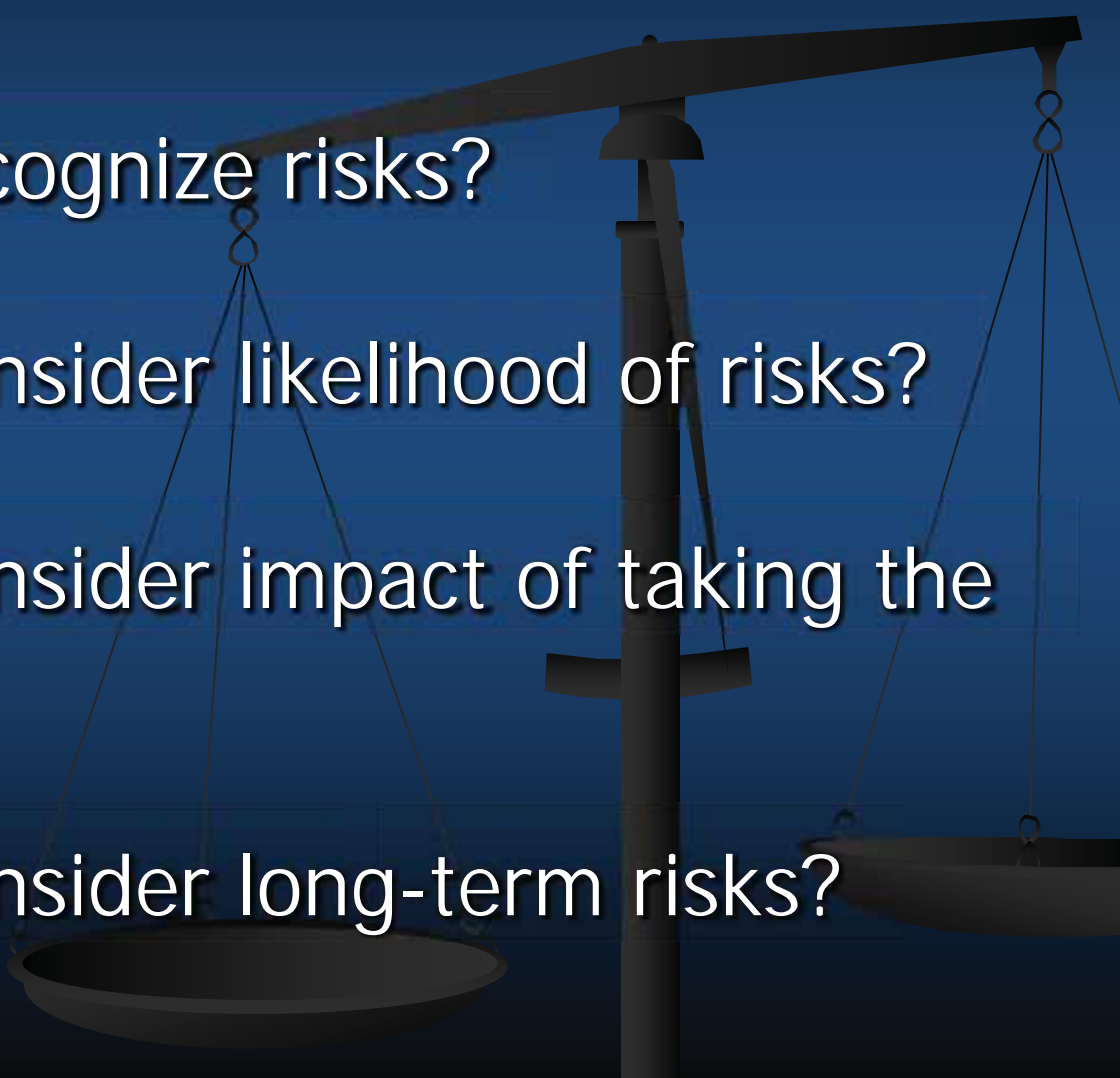
- In each vignette, one choice represents compliance with an authority figure
  - Police interrogation: Confession
  - Attorney consultation: Full disclosure
  - Plea Offer: Accepting the plea
- Created an index of compliance with authority by summing across vignettes

# Compliance with Authority by Age

11-13, 14-15 ≠ 16-17, 18-24

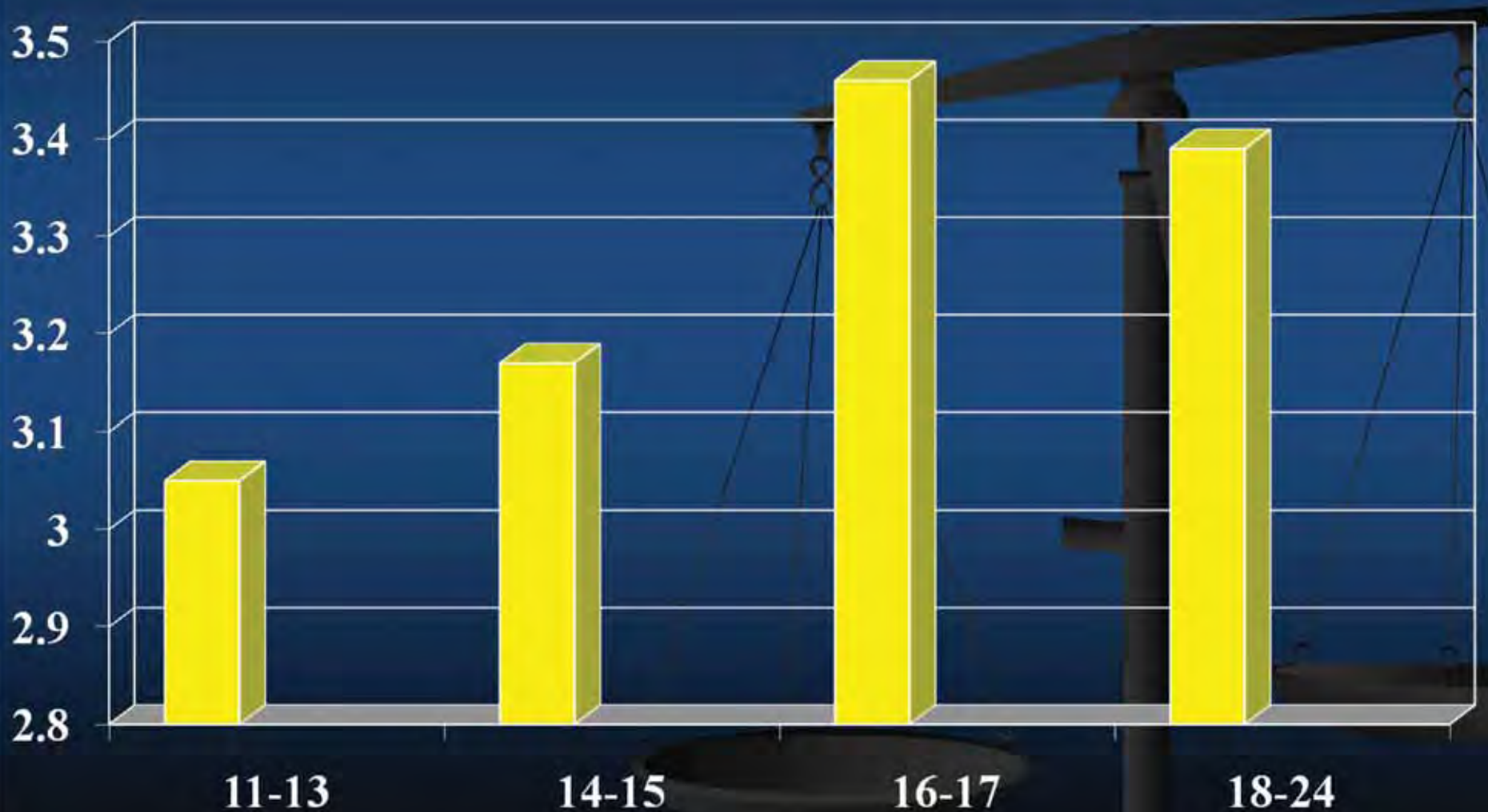


# Consideration of Risks When Making Legal Decisions

- Does individual recognize risks?
  - Does individual consider likelihood of risks?
  - Does individual consider impact of taking the risk?
  - Does individual consider long-term risks?
- 

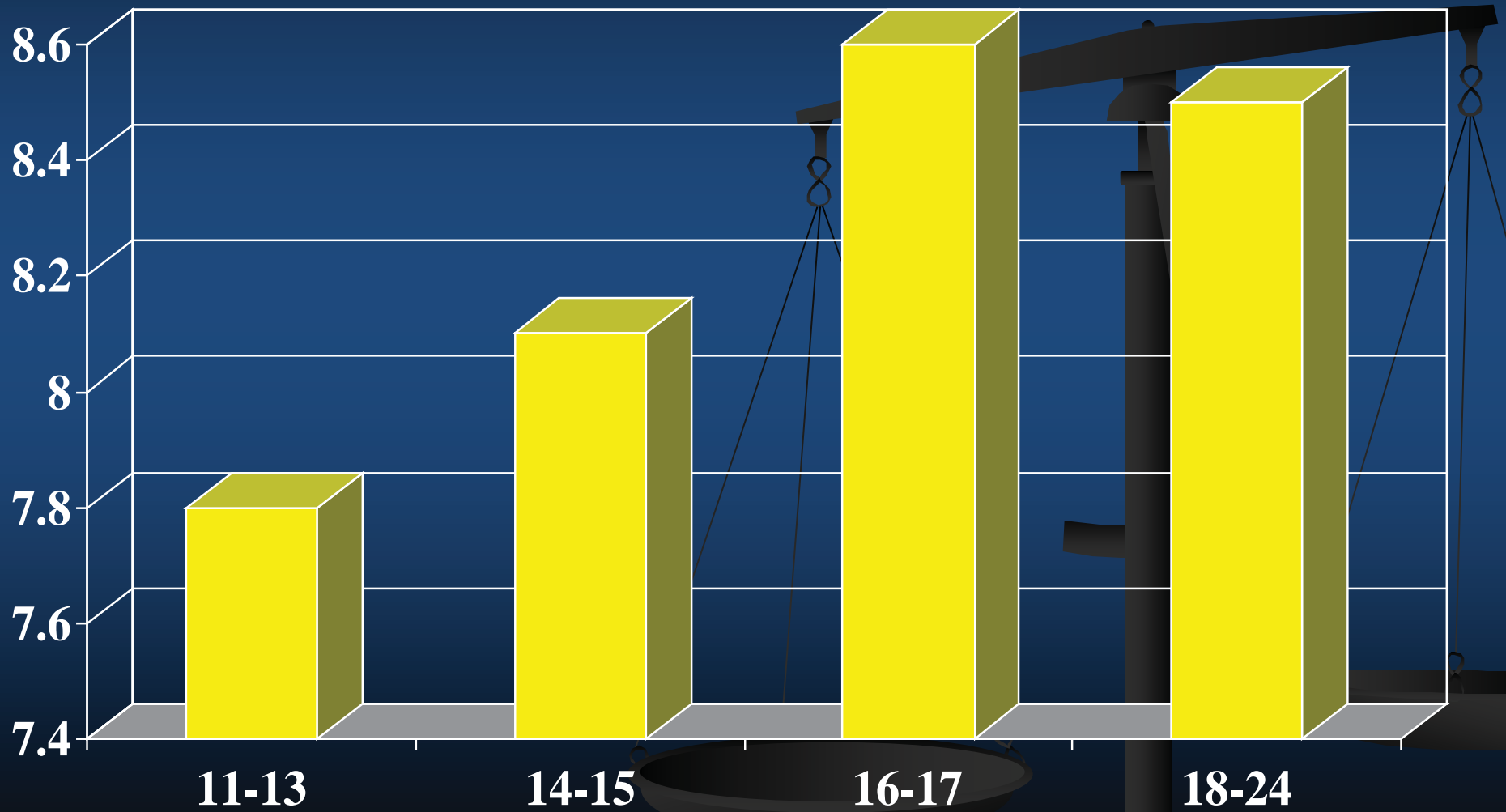
# Average Number of Risks Recognized

Significance: 11-13 = 14-15  $\neq$  16-17 = 18-24

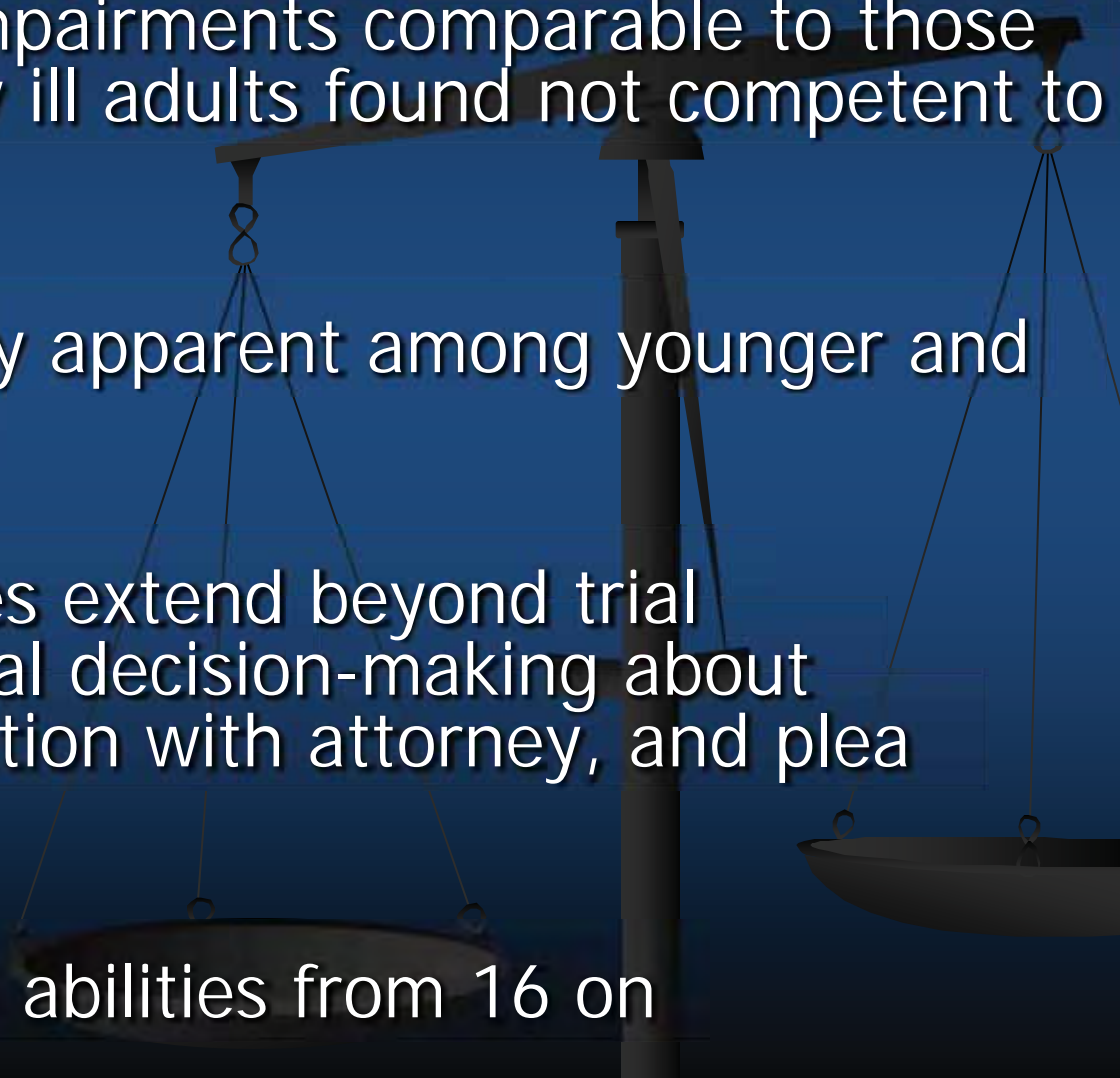


# Long Term Consequences Mentioned

Significance: 11-13  $\neq$  16-17



# Main Findings

- Significantly higher proportion of normal individuals 15 and younger show impairments comparable to those seen among mentally ill adults found not competent to stand trial
  - Deficiencies especially apparent among younger and lower-IQ individuals
  - Deficiencies in abilities extend beyond trial competence, into legal decision-making about confessions, consultation with attorney, and plea agreements
  - No age differences in abilities from 16 on
- 

# Pathways to Desistance



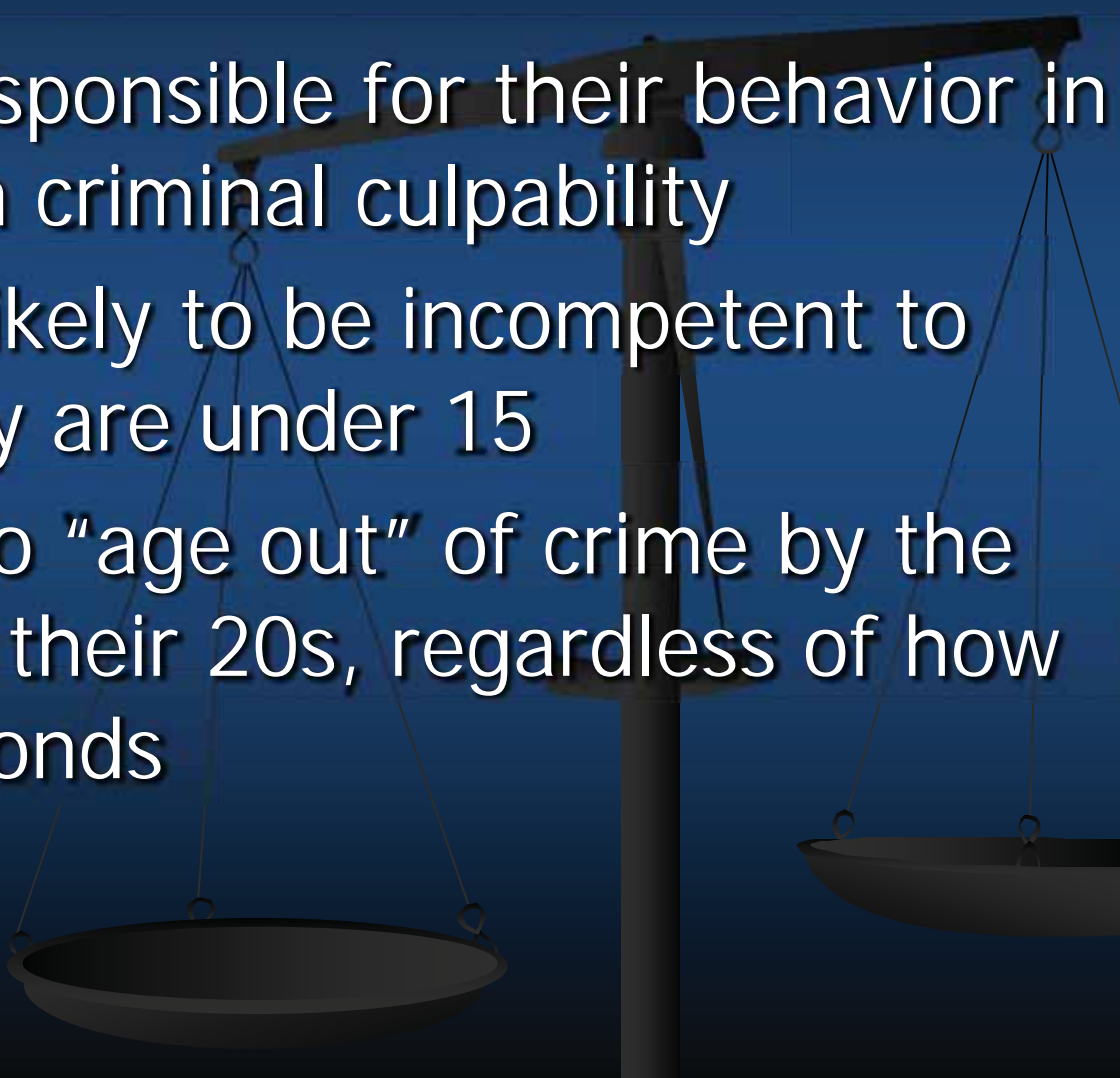
- We know what gets adolescents involved in crime
- But we do not know what gets adolescents to desist from crime after they have become involved
  - Most of them desist during adolescence
  - Some continue into early adulthood
  - Very few become chronic offenders
- If we can figure out what leads to desistance we can
  - Design better interventions
  - Make better predictions about which juveniles are risks to public safety and which are not
  - Allocate resources more wisely
  - Save taxpayers' money

# What is the Developmental Course of Offending from Adolescent to Adulthood?

A pair of scales of justice is depicted against a dark blue background. The scales are positioned on the right side of the frame, with the central pillar and horizontal beam extending across the middle. Two pans are suspended from the beam by thin wires. The scales are rendered in a dark, metallic color, possibly black or dark grey, with some highlights suggesting a three-dimensional form. The background is a solid, deep blue.



# Adolescents Are Different From Adults

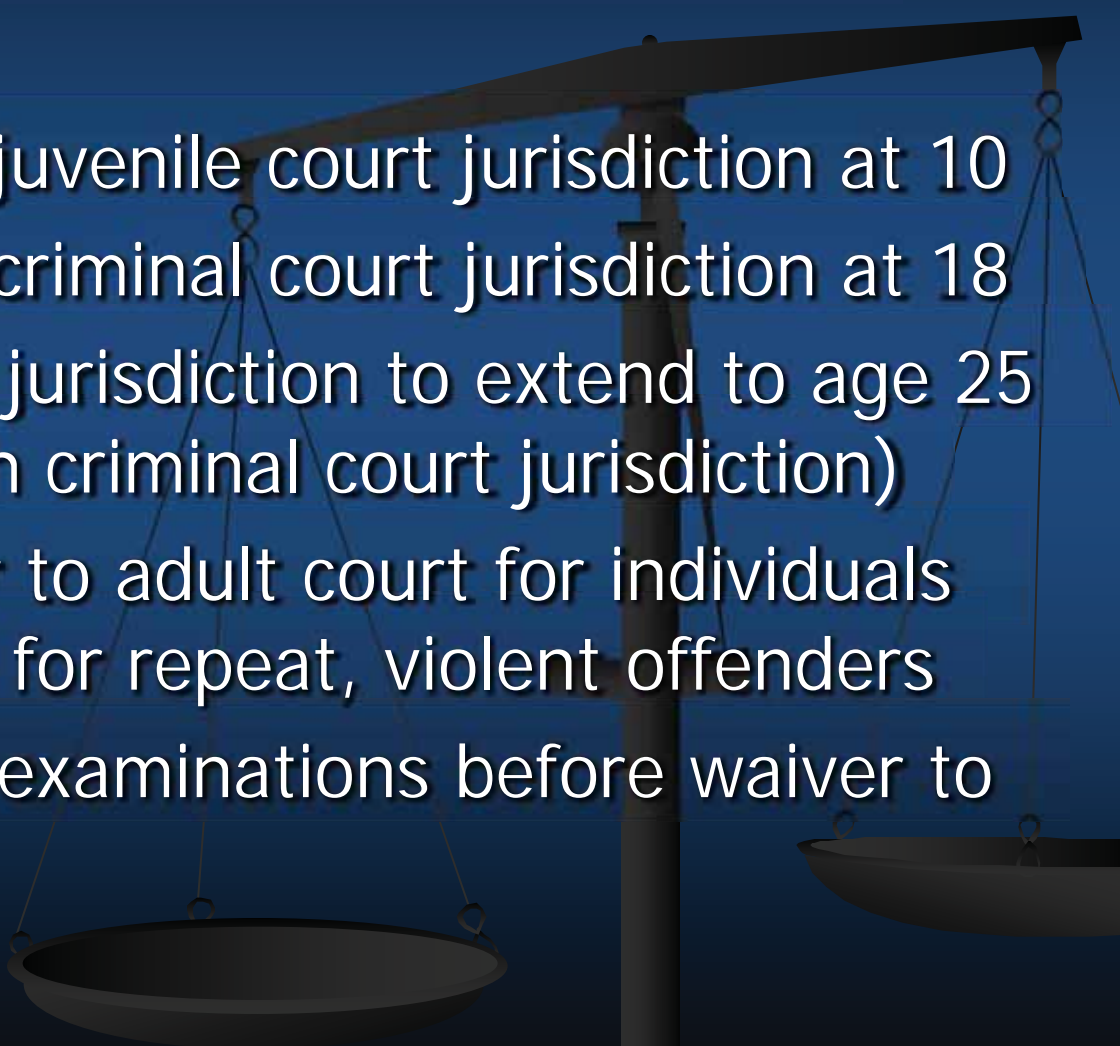
- They are less responsible for their behavior in ways that lessen criminal culpability
  - They are more likely to be incompetent to stand trial if they are under 15
  - They are likely to “age out” of crime by the time they are in their 20s, regardless of how the system responds
- 

# Implications for Policy and Practice



- Adolescents should not be held to same standards of criminal responsibility or punished as harshly as adults
- Before 16, adolescents need special protections when interrogated, in court, or asked to make legal decisions
- Sanctions and interventions for juvenile offenders should emphasize rehabilitation rather than focus only on punishment

# Policy Recommendations: Jurisdictional Boundaries

- Set minimum age of juvenile court jurisdiction at 10
  - Set minimum age of criminal court jurisdiction at 18
  - Permit juvenile court jurisdiction to extend to age 25 (i.e., overlapping with criminal court jurisdiction)
  - Permit judicial waiver to adult court for individuals aged 15-17, but only for repeat, violent offenders
  - Require competence examinations before waiver to adult court
- 

# Policy Recommendations: Sanctions and Treatment



- Make punishment certain but provide rehabilitation
- Harsher and longer sanctions are not more effective than less punitive and briefer ones – just more expensive
- Use institutional placement only for repeat, violent offenders, and limit length of stay – eliminate LWOP
- Expand use of community-based, family-focused treatment programs
- Extend period of probation supervision after release from placement

---

Elizabeth S. Scott · Laurence Steinberg

---

# RETHINKING JUVENILE JUSTICE

