

# JUVENILE PLEAS: A DEVELOPMENTALLY INFORMED APPROACH FOR DEFENSE ATTORNEYS

## ADOLESCENT PLEA BARGAIN DECISION MAKING

- In high stakes or stressful situations, adolescents:
  - make short-sighted decisions
  - are motivated by immediate gratification
  - may give in to pressure from authority figures
- Defense attorneys can increase the likelihood that juveniles weigh their options and consider long-term consequences by addressing adolescent capacities



## Discuss Pleas Early & Often

- Meet with the client **before arraignment** to discuss the possibility of a plea.
- Ensure youth have **sufficient time** to weigh their options and ask **questions**.
- Ask the client beforehand if they would like to include a **parent** in the discussion. If not, provide an opportunity to discuss the plea bargain without a parent present.
- Emphasize to the client's **parent** that it is the **youth's decision**.

## History of Involvement Does Not Indicate Increased Knowledge



- Explain the rights being waived before plea decisions are made. Have clients explain their rights back to you **in their own words** to identify gaps in understanding.
- Explain potential collateral consequences that may **impact** their **future opportunities** for employment, education, military service, public housing, etc. Give youth the opportunity to consider future consequences.
- Discuss what **probation** or other dispositions entail.



## Youth-Centered Discussion Strategies

- Ensure clients know it is their decision, not their parent's or their attorney's.
- Use **open-ended** questions; avoid questions that require yes-no responses.
- Don't ask youth to indicate if they understand. Rather, **have youth describe information in their own words** to demonstrate understanding.
- Ask youth to identify the **pros and cons** of each option.
- Discuss the potential **long-term** consequences associated with each option.
- **Slow down** the conversation; give youth time to consider their options and come up with questions.
- Provide advice and assistance without being forceful.
- Consider your client's developmental and intellectual capacities in determining the likelihood that they are able to **competently** enter a plea.

## Plea Bargain Discussion Checklist

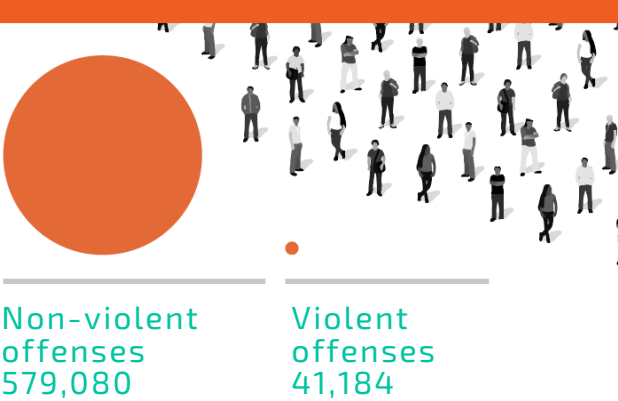
- ☐ Discussion occurred early in the process
- ☐ Youth had sufficient time to discuss options, weigh alternatives, and seek advice from trusted adults and attorney
- ☐ Explained rights waivers, case facts, and potential outcomes including collateral consequences to youth before they decided how to plead
- ☐ Discussed reasons for and against taking the plea and going to trial
- ☐ Gave youth the opportunity to show their understanding by asking them to explain everything in their own words
- ☐ Youth was able to explain and acknowledge the pros and cons of their decision

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Images by Mallory Bory

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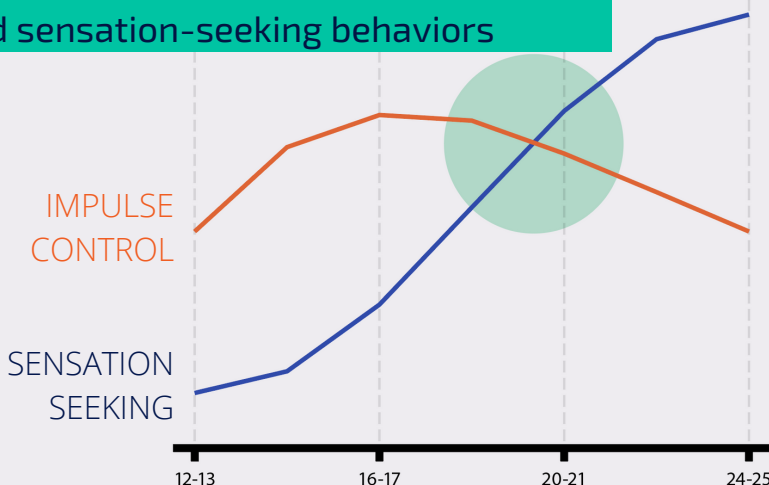
individuals under the age of 18 were arrested in the United States in 2017, the majority for non-violent offenses



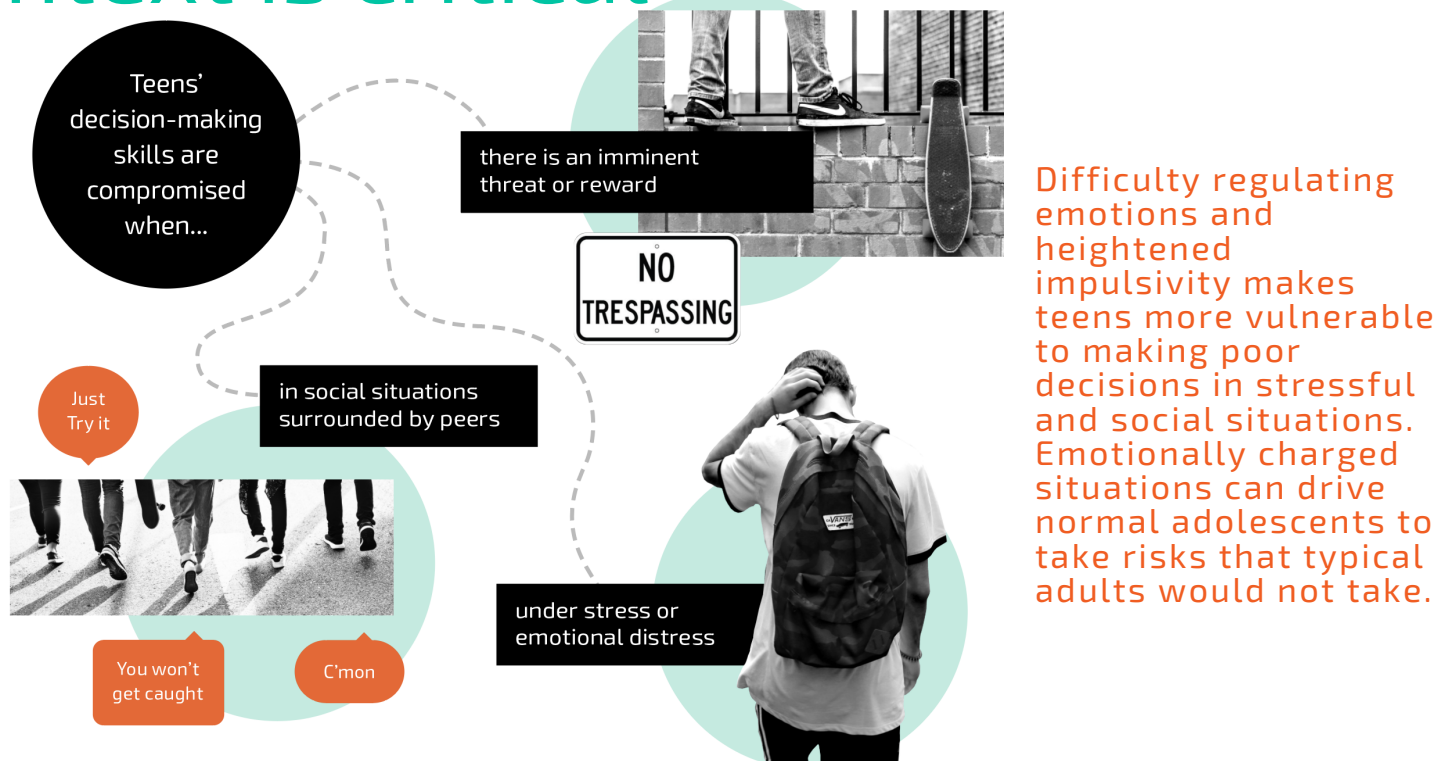
## Teens are not small adults

Though they may look all grown up, teenagers' brains are still far from mature. Adolescent brains do not process emotions in the same way as adult brains, and the ability to regulate emotions continues to develop into young adulthood. Teens' drive to seek rewards is strong while the neural circuits that support impulse control are still immature. This results in a predisposition toward risk-taking behaviors.

It's not until our early twenties that we begin to see a decline in risk-taking and sensation-seeking behaviors



## Context is critical



## Vulnerability and opportunity

Connections in the brain are still forming during adolescence, making teens extremely sensitive to both positive and negative experiences.

