

Beyond the Manuscript:

A Minimum Age for California's Juvenile Legal System: Lessons on Collaborative Research to Drive Legislative Change

AND

Leveraging Collaborative Partnerships to Protect the Human Rights of Children Involved in the United States' Juvenile Justice System

Elizabeth S. Barnert, Melissa Coretz Goemann, Dafna Gozani, and Hal Strelnick

Welcome to Progress in Community Health Partnerships' latest episode of our Beyond the Manuscript podcast. In each volume of the Journal, the editors select one article for our Beyond the Manuscript post-study interview with the authors. Beyond the Manuscript provides the authors the opportunity to tell listeners what they would want to know about the project beyond what went into the final manuscript.

In this episode of Beyond the Manuscript, Co-Editor-in-Chief, Hal Strelnick interviews Elizabeth S. Barnert, Melissa Coretz Goemann, and Dafna Gozani, authors, *A Minimum Age for California's Juvenile Legal System: Lessons on Collaborative Research to Drive Legislative Change* and accompanying editorial, *Leveraging Collaborative Partnerships to Protect the Human Rights of Children Involved in the United States' Juvenile Justice System*.

Hal Strelnick: Good morning. I am Hal Strelnick, and I am the co-editor in chief of Progress and Community Health Partnerships, and welcome to our Beyond the Manuscript podcast. This morning we have the lead author, Elizabeth Barnert, for one of our manuscripts that are being published in this issue, as well as Melissa Goemann, who is the author of an accompanying editorial, and, an attorney, Dafna Gozani, who will be discussing the manuscript and the efforts in juvenile justice to establish a minimum age for arrest and prosecution. I am going to begin by asking each of them to introduce themselves and then we will talk about the manuscript and the article and the issue, Elizabeth?

Elizabeth S. Barnert: Thank you so much for having us here. I am Liz Barnert. I'm an associate professor of pediatrics at UCLA. Much of my research focuses on young people involved in the juvenile legal system and particularly the intersection with health. And I'm also a clinician in Los Angeles juvenile halls.

Hal Strelnick: Thank you. Melissa?

Melissa Coretz Goemann: Thanks, Hal. My name is Melissa Coretz-Goemann. I'm the Senior Policy Counsel for the National Juvenile Justice Network, or NJJN, and we're focused on helping our members in state organizations all around the country to work on youth justice reform.

Hal Strelnick: Thank you. Dafna?

Dafna Gozani:

Good morning. I am Dafna Gozani. I am with the National Center for Youth Law, also known as NCYL. Our organization's work focuses on amplifying youth power, dismantling racism, transforming policy, practice, and culture, and I am part of our youth justice team, and we specifically focus on young people who come into contact with the justice system and very much have been focused on taking a public health perspective as we do the work.

Hal Strelnick:

Thank you. Liz, you were the lead author in the manuscript that describes the partnership and the legal process in California. We would like you to describe and explain why it is so important.

Elizabeth S. Barnert:

Sure. I have written the article in partnership with my colleague at UCLA, Laura Abrams. She's an academic social worker. If it's okay, the easiest way for me to answer this question is just to tell the story of how we became involved and how the partnership grew. Essentially, Laura and I were at a consortium meeting, put together by a group called the UC Criminal Justice and Health Consortium. Laura and I were in the juvenile justice working group.

We were on different sides of campus and did not even meet in our own campus at UCLA. We met at this conference held in San Francisco. And we were tasked with coming up with a relevant topic on juvenile justice and writing a policy brief about it. Laura had just completed a sabbatical year where she was looking at age jurisdictions in other countries. And Laura said, what about the youngest age? We noted that people do not really talk about that.

People talk about raising the upper age, the age at which young people can be in the adult system or protected from the adult system. So, we Googled it. We're not lawyers. And I looked it up on my phone and I realized it is a concept called minimum age of juvenile justice or juvenile delinquency jurisdiction. And why is this so important? Because we very quickly realized that California did not have a minimum age at that time.

That meant that children of any young age, six-year-olds, five-year-olds, eight-year-olds could be arrested and prosecuted in the youth justice system. We also quickly saw that most states did not have a minimum age. And at the time this was, I believe, 2016, the range of minimum age laws in states that did have minimum ages was six to ten years old. So, we just kind of stumbled on this idea as academics. The idea actually didn't come from the community yet. And we didn't know whether it was a good idea.

So, my immediate next step was then to reach out to a person who became our politician partner and to our stakeholder partners. I was in San Francisco for this meeting, and I was actually headed to Sacramento, our state capital, the next day, to share results from my prior study on sex trafficking. When I was going through the results of that paper, I also said to several of the offices I was talking with, "Hey, we just had this idea about what a minimum age for California makes sense. Has anyone talked about that in this building? What do you think?"

When I talked with staffers, they were kind of hurriedly writing the idea down and it seemed like there was interest, but I am a researcher, and I had not looked into it yet and I didn't know if it was a good idea. And if it was a good idea then what should the minimum age be and how do you support children outside of the youth justice system? So, I said, "Okay, good to see your interest. Give me a year, we will be back."

Then in that same trip, I went straight to Dafna's colleagues to the National Center of Youth Law in Oakland and sat around a table with Michael Harris and a few other people. And I said, "Hey, what

do you think about this minimum age idea? People seemed receptive to it in the legislature. Have you thought about this? To your knowledge, has anyone ever pursued legislation around this in California? What would this look like?” And they said, “Good idea. As far as we know, it hasn’t been pursued in California and we would be happy to partner with you on this.”

Then Laura and I came back to UCLA and that is when we built a team and Michael Harris from the National Center of Youth Law formally became part of our research team. We interacted with the politician partners intermittently, really at the beginning to guide the research question. Then we did objective research in partnership with our stakeholder partners, and then relayed the work back to the politicians when we had our findings, which I can explain. So, that is the story of it. Why it is so important really became revealed in the research process.

Hal Strelnick:

And what, what did you learn?

Elizabeth S. Barnert:

For the research, Laura and I launched a series of studies in partnership with our stakeholder partners. Part of it was understanding the scope of the issue. In terms of the national landscape at this time, no state had yet raised or set a minimum age where they previously did not have one. So, there were some states that had minimum ages, but they had been in place since their juvenile justice systems were set up in the early 1900s.

We did a data request to the California Department of Justice, and we learned that there were about 700 kids less than 12 were referred to probation in California every year. And at the most recent age we were looking at the youngest child referred was a five year old. It was a five-year-old boy referred for a curfew violation. We gave these numbers back to the policymakers. And then we also did interviews and gathered quantitative data in the six largest states. Three had a minimum age and three did not.

Our overall conclusion was that a minimum age would address some important protections, but it was not enough of a protection, though it does protect the children below that minimum age. A follow-up analysis we did using our data showed that essentially at any time there’s discretion in the pathway of who can be arrested or prosecuted, it is black children—and particularly black boys—that become significantly overrepresented in the system. And so, back to your original question, Hal, why is this important?

Our overall takeaway is that it is very important to include hard line jurisdictional boundaries that protect all kids below a certain age. Based on all of our research and national guidelines at the time, the United Nations recommended a minimum age of 12 in the Convention on the Rights of the Child, and the Society of Adolescent Health and Medicine recommend a minimum age of 12.

Based on the data we had from the California Department of Justice, based on all the interviews that we conducted with our stakeholder partners on the phone with us during the interviews and that we interpreted together in our weekly Friday meetings at noon, we recommended a minimum age of 12 for California and that is ultimately what the politician partner—who was at the time a state senator Holly Mitchell—pursued.

Hal Strelnick:

So, then how did you get the legislation passed?

Elizabeth S. Barnert:

So, this was really a turning point in the process. It is a great question. I really learned a lot about the role of an academic in terms of what is research translation, research dissemination and being

an advocate. In terms of the research translation, we prepared policy briefs from our findings. We presented our findings back to lawmakers in Sacramento. We presented them back to the governor's office in Sacramento, and that was my role as a researcher.

As an advocate, we worked with our health professional societies, but really, largely as the academics, we largely stepped away. We felt it was important to maintain the integrity of the science and our reputation and our trust as scientists. So, it was our stakeholder partners who had been with us throughout the research process, who activated their networks. The California youth justice advocates are amazing, and they're all connected. We were working very closely with Patricia Soung from Children's Defense Fund, California. She really took the lead in working with the politicians, in guiding us as the researchers at to when it would be appropriate for us to step in. Together with Holly Mitchell's office, they did an amazing job getting the legislation through.

Hal Strelnick:

Now, I am going to ask you, Melissa. What does it mean that California was able to pass the law that that Liz described how she got involved and how it became an idea that found its time?

Melissa Coretz Goemann:

I think it created really a seismic change on this issue, because as Liz had said, before then not that many folks were talking about this or working on it. But also at the same time, I should say, as California passed their law, Massachusetts passed a law raising the age to 12 as well. So, with these two states leading the way, it really invigorated the field to raise the profile of the issue and invigorated the field to get to work on this issue and recognize what a problem it is that this is how we are treating young children.

No young child should be locked up and be confined in a juvenile facility where they're getting generally poor treatment and just not with their families, not getting the education they need. It's just kind of unimaginable to me. I mean, I'm a mother. I cannot even imagine my child being in this type of situation and I do not think we should put any children in these situations. The proof is also in the research that shows the harm it does to them. I mean, it's understandable that it would.

And in fact, it creates physical harms, emotional harms, and leads to these children actually getting further into the justice system. So, it does not even protect our communities. It makes our communities less safe. I think with these two states leading the way it really catalyzed the movement and now we have seen a lot of states take up this issue. We are still not as far along as I would like to see, but we do have a majority of states—26 states now have at least established a minimum age for arresting and prosecuting children.

We also have a number of states that have focused on the age of detention of children. So, when the political will just is not there to raise the age for juvenile court jurisdiction, many states focus at least on setting a high bar for the age at which you can detain or commit a child. So, if you add those states, and we are something like, I would have to double check, but about 38 states that have either an age of minimum age of prosecution or minimum age for detention and confinement.

Hal Strelnick:

Dafna you picked up after the law was passed and are in the field working on this. Can you say more about what needs to be done and what will move the, if you will, move the bar in the right direction?

Dafna Gozani:

I definitely want to give credit to my amazing colleagues, Michael Harris, Darya Larizadeh and Frankie Guzman, and Laura Ridolfi from the W. Haywood Burns Institute, who worked really collaboratively with the coalition that has been mentioned to get the bill passed. One of the things that came out this work is a template for other states and the ability to bring in individuals from outside the juvenile

justice field, engaging organizations like the American Academy of Pediatrics, researchers, and child welfare experts and really broadening this to be about all of our kids.

For anybody who's doing juvenile justice, if we're doing work at any point in the arc, the early contact is one of the opportunities where we can really close that pipeline and it is the opportunity to really talk about the harms of not only detention and arrests, but even contact with law enforcement. For example, research says children who come into contact with law enforcement before eighth grade are five times more likely to be arrested by the time that they're in tenth grade and 11 times more likely to be arrested by the time they're 20.

We were able to start having those conversations about how we do early intervention, prevention, and support for young people in their communities outside of the system. It's also been the opportunity to look at other states. I've had the privilege of getting to do work in Colorado, which is where I grew up, where I experienced the system as a young person. There it's very interesting to see what it looks like when you have a minimum age, and then you're trying to raise it.

Colorado has a minimum age of ten, and we tried to raise it to 12. And there's a lot of different things that come along with that. I think is the next kind of generation of this work. Namely, as we're starting to get minimum ages in places, how do we raise the ages in places that have a lower age? While Colorado is ten, there are some places that are still much lower than that. The research and the standards have progressed, and now we have standards that are really saying that we should be looking at age 14, not just 12. How do we educate the public, educate lawmakers about really the reasons that we should be following those best practices?

Hal Strelnick:

So, could you say more about what the obstacles encountered in states that have minimums that are below 12?

Dafna Gozani:

Looking at the research, anytime that we are doing a hard line of jurisdiction, which is how we are able to have the biggest impact on disparities, in some ways it's arbitrary because we know that development is different for each kid. We can't do that individualization in the law. We know that that type of discretion actually increases disparities.

I think people also become accustomed to a status quo and start making justifications about why younger ages are very different than 12. We have heard from lawmakers, and we ask them, "Well, what if a nine-year-old did this in the state?" And they said, "But no, no, no, that's very different." The lack of national standard leaves little encouragement for states that don't have a minimum standard. Those states that do have a minimum can pat themselves on the back and say, "Well, we've done better than other places."

That is incredibly problematic as well. It is really important as a movement that we continue to raise the bar everywhere, and that we're not just focused on the places that it's easiest to pass legislation. We also continue to think about what compromises that we end up having to do politically to pass something mean for the other states. You will see like a lot of the states where in order to pass legislation advocates have had to carve out certain offenses, and that is very much not aligned with what the research says. We know offense does not equal risk. We know that offense does not equal likelihood to recidivate, especially in this age group, especially what we know about development.

But for folks who are in places where it's politically very difficult, those one-off tragic cases often become most public. That's where the conversation centers rather than the 99 percent of other cases.

So, we really have to think about our approach and what it means for young people who are in need of services.

Unfortunately, our juvenile justice system has become synonymous with services. The juvenile justice system is not a service provider, and for young people who are struggling, often that has been thought of as the default of way to get them services.

Having people think differently about how we get services without arrest, without involvement of law enforcement, without the justice system. How do we support families who want these services, yet people think we have to coerce families and children to get help? We have to break that mindset and it's a longstanding one. We have treated services as punishment, and we know a punishment really does not work with this age group because of their developmental stage.

At the end of the day, we need to be looking at underlying causes, the need for services, and whether it is just childhood behavior. Sometimes kids just need to be kids. This is the appropriate age to make mistakes, but folks have a hard time wrapping their heads around that.

Especially in the states that do have that minimum age, they feel pretty good about having that standard, particularly when there are other states that have nothing.

Hal Strelnick:

So, as a non-lawyer, could you explain to me why there is not a federal minimum age?

Dafna Gozani:

I am going to do my best and then I am going to actually turn it over to Melissa because Melissa has the big picture national work. Much of what happens in juvenile justice systems happens on a state level. There's only a certain degree that you can do around the federal level, and the number of children under federal court jurisdiction is a small percentage, rather most of our kids are impacted by the state courts. There's a ton that could happen if there's political will on the federal level to incentivize states.

But in terms of making those decisions, one of the hardest things I think about doing youth justice work in the United States is that really you are doing almost a state-by-state approach to try to get standards put into place.

Melissa Coretz Goemann:

I think Dafna did a great job of explaining it actually. The juvenile justice systems are pretty much state by state. There, as Dafna said, is a small percentage of children that are tried federally, and so they should be protected. Representative Karen Bass actually introduced a piece of legislation in the last Congress, H. R. 2908, that would have raised the minimum age federally to age 12. That unfortunately did not get a hearing, but we know that Congress works very slowly.

It was the first time that was introduced, and it is going to be reintroduced by her successor, Representative Kamlager-Dove. So, we hope that there will be continued conversations at the federal level about this issue, even though it would only impact children in the federal system. The federal laws do serve as a model for states. And so, I think it's an important standard for Congress to set. So, we are hoping to continue to work on that. But I do think it'll take a bit of time.

Hal Strelnick:

And this journalist focused on partnerships. Could you just assess the role of partnerships going forward?

Elizabeth S. Barnert:

I would like to continue the story to tell you how I got connected with Melissa and Dafna and I think that will answer that question. After California had passed its legislation and we had finished all the articles and the youth justice advocates in California who we had partnered with had kind of moved

on to other very important topics that they were working on, I said to Laura, “It’s time to go national. Why is there not federal legislation?” Same question you just asked, Hal.

And Laura said, “Well, let’s throw a luncheon.” This was during COVID, the acute pandemic era. So, “luncheon” meant a national Zoom meeting from Fridays, 12:00 to 1:00. And I had a medical student that said, “Hey, I have a little bit of downtime. Can I do something to help?” And so, I said, “Yes, you can.” And so, what she did is that she made a spreadsheet and she looked state by state. Where were their advocacy organizations where had there been legislation proposed around minimum age?

She made the spreadsheet. We sent out an invitation to people across the country, inviting them to this luncheon. Then one of the people who joined at the very end of the meeting said, “Hi, I’m the executive director of National Juvenile Justice Network, and I would be glad to have a follow-up conversation with you.” So, we had a follow up conversation with him, and he said, “We want to help.”

And so, this network became the coalition that Melissa now leads and that meets monthly, and that Dafna is a part of, and it is still in our Friday noon to 1:00 research team meeting time. I would say our role is twofold. One is when we can provide research information. We’re still creating new studies. Melissa’s coalition gives us a great dissemination pathway. And then the other is that we help mobilize the health professional societies, which actually attend these coalition meetings and have been very valuable.

Again, I feel like I am in the backseat. I am so grateful for Melissa’s leadership and for passionate, talented, brilliant advocates like Dafna who are carrying this work forward. I am kind of standing by however I can be most useful.

Dafna Gozani:

I will add just that it has been amazing to have that national space to be able to learn from one another, to be able to be connected, and to think about who the right messengers for this work are. One of the most powerful pieces of testimony and advocacy came from a connection that Melissa helped us make with the American Academy of Pediatrics. And that’s something that everybody can connect to. If they’re a parent, their kid has a pediatrician. They can remember being a kid, they had a pediatrician.

It is a very trusted person in most of our lives and having them be able to speak to why this is important, why we should not be locking up fourth, fifth, sixth graders, had immense impact. What they were able to bring to the table is a very different perspective, different language, and different vision than the folks who are traditionally in the juvenile justice space. I think it is also educating us in that advocacy space about what language we should be looking at, what research we should be looking to. Being able to make those connections and bring more people into this work and more people understanding that these are all our kids, I think has been just incredibly, incredibly important to the movement.

Melissa Coretz Goemann:

I just wanted to add, I really appreciate Liz and Laura Abrams getting this national coalition started and off the ground, and I think it has been a huge help to the field. Since we have started, New York has passed a bill raising their age to 12. New Hampshire raised their age to 13, and Maryland has raised their age to 13. So, I think it’s a wonderful collaboration.

It is so helpful to have public health professionals working together with youth justice advocates so they can provide that medical perspective, which really adds a layer that is often not present in our advocacy work and that is very resonant, I think, with legislators. I was, before this, rereading the article that Liz and Laura wrote and thinking how we might want to promote even more the way that

they approach the work in California in terms of trying to get doctors in each of these states working on the bills to do their own research. Because unfortunately, states tend to be very parochial.

So, you might present great research studies from California, but they will be responding, “Well, we’re in X state. So, how does that apply to us?” Obviously, it is applicable because I think children behave similarly in every state, but it might be helpful to try to reach out and make those connections with researchers in other states. So, that’s something I’m taking away from the work to try to move forward.

Hal Strelnick:

Well, as a family physician I know how important this is and hope that the family physicians become a part of this coalition as well. And I do understand so far, it has been a state-to-state challenge, but I hope by giving you this platform, you will reach a new audience, and that is why I championed this article and asked you, Melissa, to write the editorial to underscore how important this is, because it was largely an invisible issue until this process began.

I am glad that it is moved to a national coalition so that each state can learn from the other. The federal mandates might, might eventually be a possibility to shift from state by state to a national embrace of what should be an obvious principle, but has not been. And of course, the, our view of childhood has changed over time, and as, as, as has adolescence and youth, and I think it’s important that we continue that discussion. And I appreciate your discussion this morning with us, and wish you the best in making this, this issue something that becomes a historical one, rather than one we’re facing today. So, thank you. And I look forward to the work that’s to be done in the future.

Elizabeth S. Barnert:

Thank you so much for having us. And I just want to thank again all our partners, our partners in California who got this dot on the map and, and then Melissa, Dafna, and all of your colleagues for doing what appears to me to be thankless, very difficult work from the heart that is so important for our country. Thank you so much.

Melissa Coretz Goemann:

Thank you. I wanted to thank my co-author of the editorial, Dr. Micah Owen, who could not be here today, but he did a tremendous job collaborating with me on it.

Dafna Gozani:

Thank you.

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