Researchers from Cornell’s Law, Psychology, and Human Development (LPHD) Program are influencing judicial decisions across the nation, including a ruling by the U.S. Supreme Court.

The multidisciplinary program launched in 2007 brings together Human Ecology faculty from the Department of Human Development, the Department of Psychology in the College of Arts and Sciences, and the Cornell Law School. Together, they study how human psychological processes such as memory, perception, judgment, and decision-making play out in the law.

“There are a lot of illusions and foibles in human judgment and decision making,” said Charles Brainerd, the program’s director and a professor of human development. “It’s likely these affect and infect the criminal justice system. It’s something we as a society need to better understand.”

Programs focused on psychology in the criminal justice system aren’t new. Dozens of law schools around the country offer concentrations for those who plan to work in the courts. But the Cornell program stands out because it is the only one focused on research.

“Our program relates to the field of law like biology relates to medicine—it’s the basic science of the law,” Brainerd explained.

The idea is to use data to influence how the criminal justice system functions. Why’s that important? Take, for example, the investigative aspect of the law.

“It pretty much solely relies on memory,” Brainerd said. “Forensic evidence is gathered in less than 10 percent of the felony cases in the United States, and it’s only processed to a standard that can be used in half of those.” That means 95 percent of felony cases have no tangible evidence like fingerprints or DNA samples.

“So what’s left? It’s what comes out of people’s mouths. And what’s that? Memory mixed with judgment and reasoning,” he said. “It’s very important to understand how memory works in these situations and what conditions are likely to produce the most accurate memories.”

Applications across the spectrum

Brainerd can offer similar examples of how the program’s research applies to nearly every stage within the criminal justice system.

“You can think of it as a stream that starts with the crime—why do people make the decision to break the law?—and follows all the way along the process to the investigation, the charging of the crime, the trial, conviction, punishment, and appeal,” he said. “We have people who work through that whole spectrum.”

Valerie Reyna, professor of human development and psychology, works at the very beginning of that spectrum. She is an expert on risky decision making among adolescents—essentially why young people are more likely to commit and to become the victims of crime.

“The common sense notion is that adolescents think they are immortal. But if you look at the facts, that turns out to be completely false,” she said. “Most adolescents do a very good job of balancing risks and rewards—they just see the risks as being ‘worth it.’”
“So when an adolescent hears the statistic that if you have unprotected sex, there’s a less than 1 percent chance you’ll contract the HIV virus—what they see is that more than 99 percent of the time, you can beat it,” she said. “For an adult, that’s still not worth it.”

Adolescents also don’t draw the same conclusions as adults do when given a set of circumstances, Reyna explained. “If I say just four words to an adult—‘prom night’ and ‘hotel room’—they automatically think of a potentially dangerous situation. But most adolescents wouldn’t foresee potential problems there.”

Moving along the spectrum, some of Brainerd’s own research focuses on memory and cognition, specifically how they relate to eyewitness testimony. In a case earlier this year—State of Missouri v. Daniel Coleman—Brainerd presented scientific evidence about the unreliability of eyewitness testimony in a pre-trial hearing. Brainerd’s testimony led the judge to throw out the unreliable eyewitness identification in the case, which could have led to a false conviction.

“The case was precedent-setting because it appears to be the first time that an eyewitness identification was suppressed in Missouri on the basis of psychological research,” Brainerd said.

And it was research by Stephen Ceci, the Helen L. Carr Professor of Developmental Psychology in Human Development, which was cited this year in the U.S. Supreme Court case Kennedy v. Louisiana. In the case, the state of Louisiana wanted to sentence Patrick Kennedy to death for raping a child.

The court ruled that a state could not punish the crime of raping a child with the death penalty. In their decision, they cited Ceci’s research on the suggestibility of child witnesses.

“Part of the case was built on the child’s testimony,” Ceci explained. “The Supreme Court argued that the death penalty needed to be reserved for cases with no mitigating circumstances, and they viewed the age of the child as a mitigating circumstance.”

Cornell researchers are also focused on providing a voice for child victims of crime in the courts. Children’s testimony often used to be ignored in the legal system, but advances in knowledge about accurate interviewing techniques make it possible to gather reliable evidence from children.

The other 12 LPHD faculty are experts on different topics within the field of law. For example, Jeffrey Rachlinski, professor of law, studies the factors that influence judicial decision making. And John Blume, professor of law and director of the Cornell Death Penalty Project, conducts research on the psychology of the death penalty.

“The research is oriented around critical societal needs,” Brainerd said. “It’s exactly the kind of research the courts need to sift through evidence and make decisions.”

The next generation

In addition to having an impact on the criminal justice system today, the LPHD program takes seriously its teaching mission.

“We’re looking to train the next generation of psycho-legal researchers,” Ceci said. “The whole movement in law in the last decade is what they call empirical law, which is founded in research. The days of debating over the hypothetical are over. The idea now is to collect data that supports your decisions. We need to convey that to students and encourage them to continue this research.”

The program currently offers a PhD concentration, which allows students to get an advanced degree in human development or psychology.

“It’s really good for our graduate students because it exposes them to all of these experts, and they can take courses in the law school much more easily,” Brainerd said.

In addition, a proposal is pending to add a dual degree for students interested in a JD and a PhD.

While the main focus is on graduate studies and research, the LPHD faculty also offer a large series of undergraduate courses such as Children and the Law, Social and Psychological Aspects of the Death Penalty, Risk and Rational Decision Making, and Memory and the Law.

“For undergraduate students who want to go into this area, they would be crazy not to come here,” Brainerd said. “You can actually take a large number of courses in the law area as an undergraduate, and that’s unique.”

As the program matures, there are plans to expand into other areas as well. A distinguished speaker series will bring top scientists to Cornell this academic year. And if all goes as planned, the program hopes to begin admitting candidates for the joint law and PhD degree in the fall of 2010.

“There’s a level of excitement and ground swell that didn’t exist before,” Ceci said.

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This illustration shows the Roman two-faced god, Janus, on trial. Symbolically, his bearded, mature head speaks to judges of yore while the young boy’s head is turned toward the judge of the future.

Credit: Zina Deretsky, National Science Foundation.