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**The Impact of Juveniles' Ages and Levels of Psychosocial Maturity on
Judges' Opinions About Adjudicative Competence**

A Thesis

Submitted to the Faculty

of

Drexel University

by

Jennifer Mayer Cox

in partial fulfillment of the

requirements for the degree

of

Doctor of Philosophy

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Abstract

The Impact of Juveniles' Ages and Levels of Psychosocial Maturity on Judges' Opinions
About Adjudicative Competence

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Determinations of competency in adult criminal court have an extensive history, both procedurally and conceptually. Unlike criminal court, however, juvenile courts were designed for rehabilitation, rather than punishment, and, historically, the issue of competency was not often raised. Recently, however, as stakes for youth in juvenile court have begun to parallel those of defendants in criminal court, youths' competence has become an important issue. The purpose of this study was to investigate whether defendants' age and maturity affect judges' ratings of juveniles' adjudicative competence in juvenile and criminal court. Three hundred forty two criminal and juvenile court judges reviewed one forensic psychological report about a hypothetical defendant; only the age (12-17) and maturity level (less mature; more mature) of the defendant varied across reports. The judges then rated the juvenile's adjudicative competence in both juvenile and criminal court, provided ratings of the individual competence components, rated their confidence in their decision, and rated the importance of various characteristics of the juvenile to their decisions. Judges also provided demographic information. Results revealed a main effect for age, with older juveniles generally deemed more competent, and a main effect for maturity, with more mature juveniles generally deemed more competent. There was no interaction between age and maturity. Results suggest that age and maturity play major roles in judicial determinations of juvenile competency.

CHAPTER 1: BACKGROUND AND LITERATURE REVIEW

National Trends in Juvenile Crime and Punishment

During the 1980s and early 1990s, juvenile crime rates increased dramatically. For example, between 1984 and 1994, the arrest rate of juveniles for violent offenses increased by 78% (Austin, Johnson & Gregoriou, 2000). Furthermore, between 1989 and 1993, the rate of juvenile arrest for murder increased by 45% and aggravated assault arrests increased by 37% (Austin et al., 2000). In response to this alarming national trend, state legislatures instituted a “get tough” approach to juvenile delinquency. States instituted blended sentencing, established lower minimum ages for juvenile transfer to adult court, and meted out more punitive juvenile sentences (Redding, 2001). For example, between 1992 and 2000, 45 states added or amended legislation to make it easier to prosecute juveniles as adults (Austin et al., 2000).

This trend of increased juvenile arrest did not continue and, in recent years, the overall rate of juvenile crime has been declining. The rate of juvenile violent crime peaked in 1994 and has steadily decreased since then (Snyder, 2004). Between 1993 and 2002, the total number of juvenile arrests decreased by 11% (Snyder, 2004). Additionally, in 2002, the rate of juvenile violent crime was the lowest it had been since 1980, 47% below the peak rate in 1994 (Snyder, 2004).

Despite the decrease in juvenile crime rates in recent years, the trend of imposing adult-like sanctions for juvenile offenses is still in full swing. The most consequential judicial trends regarding juveniles have been the statutory and case law changes that have

made it easier for juveniles to be transferred to adult criminal court (Grisso, 2005). As a result of these legal changes, there has been a dramatic rise in the rate at which juveniles are transferred to adult court. For example, between 1988 and 1992, annual juvenile transfers to adult criminal court rose almost 100% for all categories of offenses (excluding property offenses) (Grisso, 1999). By 2002, 7% of juvenile offenders were referred directly to adult criminal court, a significant increase over previous years (Snyder, 2004).

Paradigmatic Shift in Juvenile Justice Philosophy

The original philosophy underlying the establishment of a separate juvenile justice system was that, due to young age and vulnerability, juveniles charged with crimes needed treatment and protection rather than punishment. This philosophy recognized that juveniles' youthful status made them different from adults as far as issues of culpability and competence were concerned. The law's approach to juvenile justice was based on the legal notion of *parens patriae*, or "the state's authority to act as guardian of persons with legal disabilities" (Oberlander, Goldsteing, & Ho, 2001, p.546).

Currently in the justice system, the pendulum is swinging away from rehabilitation and toward harsher penalties for juvenile offenders. The sharp increase in juvenile crime rates that began in the 1980s and continued through the early-1990s "led many to question the efficacy of the juvenile court system and to call for a harsher response to juvenile crime" (Austin et al., 2000). A backlash to rising juvenile crime rates ensued that sparked a wave of legal reform in juvenile justice policies, causing the

process and outcome of juvenile adjudications to look increasingly more like those in the adult criminal system (Austin et al., 2000).

Legal Standards

The Supreme Court established the standard for competence to stand trial in *Dusky v. United States* (1960). To be legally competent to stand trial, the defendant must have “sufficient present ability to consult with his attorney with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against him.” Additionally, the defendant must be able to assist counsel in preparing his defense (*Drope v. Missouri*, 1975). This standard of adjudicative competence is only constitutionally mandated in the adult criminal process.

The Supreme Court has never specifically addressed the issue of whether adjudicative competence is required within the juvenile justice system; however, the Court has stated that when juveniles are adjudicated in adult criminal court, they are entitled to the same rights and protections as adults (*In re Gault*, 1967). In other words, the *Dusky* standard of competence applies when juveniles are adjudicated in adult criminal court, but it does not necessarily apply in the juvenile system (though some states have extended this protection to juveniles adjudicated within the juvenile justice system) (Redding & Frost, 2001). For the purposes of this dissertation, the focus is on juvenile competence issues when youths are adjudicated in adult criminal court.

State Statutory Guidelines Regarding Adult Adjudication of Juveniles

A number of mechanisms have been instituted to facilitate juvenile transfer to adult court (Schetky, 2003). The most common method is judicial discretion, which allows the juvenile court judge to decide whether to transfer a particular juvenile case to adult court. In all but two states (Nebraska and New York), for specific crimes and ages of youths, a juvenile court judge can waive jurisdiction over a juvenile's case and transfer it to adult court. Typically, the juvenile court judge must consider various factors before deciding to transfer a juvenile to adult court, such as whether the juvenile is considered to be a danger to the public and to what extent the juvenile is amenable to treatment (Grisso, 1999). Additionally, at least one state (Virginia) requires that a juvenile meet the *Dusky* standard of competence in order to be transferred to adult court (Redding & Frost, 2001).

Prosecutorial discretion is another method through which juvenile cases can be heard in adult court. A number of states provide prosecutors with discretion to decide whether a juvenile will be adjudicated in juvenile or adult court (Scott & Grisso, 2004). This method provides the prosecutor with the discretion to directly file a juvenile's case in adult court, without requiring judicial approval (Scott & Grisso, 2004).

Mandatory and presumptive waivers are additional methods of transferring juvenile cases to adult court. Mandatory waiver laws require the automatic transfer of juvenile cases to adult court, depending on the youth's age or the type of criminal charge. For instance, an offense-based statutory waiver law may require a juvenile's case to be automatically waived to adult court based solely on the crime allegedly committed by the juvenile, regardless of the youth's age. In Missouri, for example, juveniles as young as 12 can be transferred to adult criminal court for any felony offense (Austin et al., 2000).

An age-based statutory waiver law may require that any juvenile 15 years of age or older be adjudicated in criminal court, regardless of the alleged offense. According to Austin and colleagues (2001), as of 2000, seven states (Georgia, Illinois, Louisiana, Massachusetts, Michigan, South Carolina, and Texas) had lowered the age of adult court jurisdiction to 16 and three states (Connecticut, New York, and North Carolina) had lowered the age to 15. A presumptive waiver law “requires that the juvenile defendant show convincingly why he should *not* be waived” to adult court (Shetky, 2003, p. 465), placing the burden on the youth to persuade the juvenile court to hear his case. As of 2003, 10 states had expanded the number of crimes for which juvenile cases could be waived to adult court, and nine states had established presumptive waiver laws (Shetky, 2003). Consequently, juvenile cases are increasingly being heard in adult criminal court.

Over the past two decades, most states have changed the laws regarding the adjudication of juveniles charged with crimes (Redding & Frost, 2001). Most of these changes have made it easier for juvenile cases to be tried in adult criminal court. As a result, the number of juvenile cases that are adjudicated in the adult criminal system has increased dramatically.

Concerns Regarding Adjudication of Juveniles in Adult Court

Although juveniles are increasingly faced with adult criminal adjudication and punishments, the psychological literature raises serious concerns about the adjudication of juveniles in the adult court system. First, juveniles may not possess the functional capacities required for competent participation in the adult criminal adjudication process

under the *Dusky* standard of competence (Grisso et al., 2003). Second, juveniles possess unique characteristics related to their youthful status that make comparison of their adjudicative capacities with adult's capacities untenable (Woolard & Repucci, 2003).

The extant psychological research has suggested that juveniles often lack or exhibit deficits in the requisite functional capacities associated with the *Dusky* standard of adjudicative competence (Scott & Grisso, 2004). For example, different studies have suggested that many juveniles demonstrate deficits in the capacities to understand the trial process, understand the role of trial participants, accurately conceptualize the notion of a legal right, appreciate how legal concepts apply to their personal situations, communicate effectively with counsel, and make well-reasoned and mature judgments (Grisso, 1997). Youths in preadolescence and early adolescence are at heightened risk of demonstrating such deficits (Oberlander, Goldstein & Ho, 2001). Additionally, deficits in adjudicative capacities are typically exacerbated by lower intellectual functioning, mental illness, and lower socioeconomic status (Grisso, 1997), characteristics common among youths involved with the juvenile justice system (Grisso, 2000b). Although juveniles' adjudicative capacities tend to increase substantially over the course of adolescence, a significant portion of older adolescents (16 and 17 year olds) may exhibit mild to significant impairments in their adjudicative capacities (Grisso et al., 2003). In sum, juveniles are generally at greater risk than adults of having deficits in their adjudicative capacities.

Juveniles also face distinct challenges that can impact adjudicative capacities that cannot be fully accounted for by factors such as age, IQ, low socioeconomic status, or serious mental illness. Developmental limitations associated with youth can have serious

adverse effects on juveniles' adjudicative capacities. Age alone is "a very poor marker for developmental immaturity" (Steinberg & Cauffman, 1999, p. 53). Any emotional disturbance experienced in childhood can delay adolescents' cognitive and emotional development. A substantial proportion of youths in the justice system have experienced some type of emotional or developmental disturbance (Grisso, 2000). Consequently, adolescents of any age might be developmentally delayed and, therefore, psychosocially immature (Grisso, 1999). As a result, their adjudicative capacities may be impaired.

The legal system has typically used the adult framework of adjudicative competence to evaluate juveniles' capacities; however, the adult framework does not account for the possible effects of developmental limitations (Woolard & Repucci, 2000). The most common reasons for adults being found incompetent to stand trial are the presence of serious mental illness (e.g., psychosis) or mental retardation (Grisso, 1999). In the absence of such disorders, adults will generally meet the minimal requirements for adjudicative competence prescribed by the *Dusky* standard. Whereas adults are presumed to be competent, the same presumption does not hold for juveniles. Juveniles' adjudicative capacities may be adversely affected by a multitude of factors, not only serious mental illness (e.g., psychosis) or mental retardation. For juveniles, deficits in adjudicative capacities are more often associated with developmental limitations such as neurological immaturity, cognitive immaturity and psychosocial immaturity. Grisso (2003) noted that, "research on cognitive and psychosocial development suggests that some youths will manifest deficits in legally relevant abilities similar to deficits seen in adults with mental disabilities, but for reasons of immaturity rather than mental disorder" (p. 334).

Although developmental limitations can have serious adverse effects on juveniles' adjudicative competence, the idea that functional deficits may result from immaturity, rather than serious mental illness or mental retardation, has received limited attention in formal legal frameworks (Scott & Grisso, 2004). For example, as of 2005, only a handful of states specifically recognized immaturity as a separate causal factor of incompetence (Grisso, 2005b). These states provide that adjudicative incompetence can be based on developmental limitations alone, without the presence of serious mental illness or mental retardation (Oberlander et al., 2001). However, most states do not formally recognize immaturity as a distinct basis for adjudicative incompetence, and, of the states that do recognize immaturity as a basis for adjudicative incompetence, most require the immaturity and incompetence to be based on mental illness or mental retardation (Grisso, 1999). Though not specifically recognized in most state statutes, research suggests that immaturity is more frequently recognized on an informal basis in many juvenile courts (Grisso, 2005b). Nonetheless, without formal statutory guidelines enumerating immaturity as a potential basis for incompetence, a substantial number of juveniles in the justice system may have marked deficits in their adjudicative capacities that go unrecognized by the courts.

Summary of Functional Capacities Related to Adjudicative Competence

The *Dusky* standard for adjudicative competence requires that a defendant have “sufficient present ability to consult with his attorney with a reasonable degree of rational understanding and a rational as well as factual understanding of the proceedings against

him” (p.402). This legal standard does not specify the basic knowledge and skills a defendant needs to be able to assist counsel and have an adequate understanding of the trial process. Consequently, psychologists have broken down the legal standard into specific functional abilities a defendant needs in order to meet the *Dusky* standard of competence. Although scholars have proposed various ways of operationalizing the legal standard of adjudicative competence, the conceptualizations of specific functional capacities relevant to adjudicative competence do not differ substantially. For purposes of this research, the theoretical model espoused by Richard Bonnie (1992) was adopted to explore these relevant functional capacities. This model provides the framework that is referred to most often in the psychological and legal literature (Redding & Frost, 2001), and, thus, will serve as the basis of the conceptualization of immaturity included in this dissertation.

Bonnie has proposed that adjudicative competence is composed of at least two basic elements. The first element of adjudicative competence is competence to assist counsel. This factor encompasses the functional abilities relevant to the *Dusky* standard’s requirement that a defendant must have the ability to consult with counsel and have a factual understanding of the trial process. Competence to assist counsel consists of such functional abilities as: having a factual understanding of the trial process (including understanding the role of trial participants, the purpose of the trial, the charges one is accused of and the possible consequences of those charges), understanding the notion of a right, being able to appreciate the significance of legal circumstances to one’s own case, understanding the role of the attorney and the nature of the attorney-client relationship,

and being able to communicate to counsel information that is relevant to his or her defense (Grisso, 1997).

The second element of adjudicative competence is decisional competence. This factor encompasses the functional abilities relevant to the *Dusky* standard's requirement that a defendant must have a rational understanding of the trial process. Decisional competence consists of such functional abilities as: being able to weigh the potential risks and benefits of alternative courses of action, being able to make decisions related to one's defense in a self-interested manner, and being able to make decisions autonomously (Grisso, 1997).

Research on Juveniles' Adjudicative Capacities

Although research regarding juveniles' adjudicative capacities is relatively new in the law and psychology literature, a number of studies have produced important findings. These studies have examined various components of juveniles' adjudicative capacities. The following review of the research regarding juveniles' adjudicative capacities is organized according to Bonnie's model of adjudicative functional capacities. Bonnie's formulation of the functional capacities relevant to adjudicative competence does not bear a one-to-one relationship with the legal factors enumerated in *Dusky*. Bonnie's first factor, competence to assist counsel, encompasses the *Dusky* prongs of ability to assist counsel and factual understanding of the trial process. Bonnie's second factor, decisional competence, encompasses the *Dusky* prong of possessing a rational understanding of the trial process.

Competence to Assist Counsel (Encompasses Dusky's Ability to Assist Counsel and Factual Understanding)

Research has revealed that juveniles may have significant deficits in their abilities to assist counsel. To effectively assist counsel, juveniles must, in part, understand the “lawyer’s advocacy role and the confidential nature of the attorney-client relationship” (Schmidt, Repucci, & Woolard, 2003, p. 177). Without such an understanding, the attorney-client relationship may be compromised. For example, a juvenile who does not understand the attorney’s role may not trust the attorney and, therefore, may withhold information relevant to his or her own defense. Research has indicated that juveniles have significant deficits in their understanding of the attorney’s role and the nature of the attorney-client relationship (Schmidt et al., 2003).

Juveniles also may have significant deficits in their factual understanding of the trial process. Using the MacArthur Competence Assessment Tool – Criminal Adjudication (MacCat-CA), Grisso and colleagues (2003) found that juveniles exhibited significant age-related differences on the instrument’s Understanding subscale. This subscale assesses a defendant’s comprehension of courtroom procedures, the roles of court personnel, and understanding of his or her legal rights. Results indicated that 11 to 13 year olds performed worse than 14 to 15 year olds, and 14 to 15 year olds performed worse than both 16 to 17 year olds and 18 to 24 year olds. Additionally, 40% of the 11 to 13 year olds and 14 to 15 year olds were found to be *moderately* impaired on this subscale. Furthermore, 20% of the 11 to 13 year olds and 10% of the 14 to 15 year olds were found to be *significantly* impaired. Additional results found that performance on

this subscale was related to IQ, with individuals in the 60 to 74 IQ range showing the most significant impairments. Approximately 20 to 25% of the sampled juveniles under the age of 15 had IQ scores between 60 and 74, indicating that up to one-quarter of these juveniles may be at serious risk for incompetence to stand trial. In sum, these results suggest that a substantial portion (10% to 40%) of adolescents may exhibit some degree of impairment in their factual understanding of the trial process, which is an important functional capacity related to adjudicative competence.

Cooper (1997) examined 112 detained juveniles' (ages 11-16) competence to assist counsel and factual understanding of the trial process. Subjects' adjudicative competence was assessed using a modified version of the Georgia Court Competency Test (GCCT). This instrument assesses understanding of courtroom procedure, knowledge of the charges, knowledge of possible penalties, and ability to communicate with an attorney. Results indicated that 98% of participants scored below the cut off score for competence to stand trial. Moreover, even after instruction about courtroom procedures, only 10% of participants who had initially scored below the cut-off scored above the cut-off score at posttest.

Decisional Competence (Encompasses Dusky's Rational Understanding)

Research has also indicated that juveniles may have significant deficits in their decisional competence and their capacities for rational understanding. Using the MacCAT-CA, Grisso and colleagues (2003) found that juveniles exhibited significant age-related differences on the Reasoning subscale. The Reasoning subscale "assesses the recognition of information relevant to a legal defense and the ability to process

information for legal decision making” (p. 340). On the Reasoning subscale, 11 to 13 year olds performed significantly worse than 14 to 15 year olds, and 14 to 15 year olds performed significantly worse than 16 to 17 year olds. On this subscale, approximately 22% of the 11 to 13 year olds and 18% of the 14 to 15 year olds were found to be *mildly* impaired, and 18% of the 11 to 13 year olds and 10% of the 14 to 15 year olds were found to be *significantly* impaired. These results suggest that a substantial portion (10% to 22%) of adolescents under the age of 15 may not possess the ability to reason rationally about their legal situation, which is an important functional capacity related to adjudicative competence.

Additionally, Grisso and colleagues (2003) found significant age-related differences on the Appreciation subscale. The Appreciation subscale assesses “a person’s ability to recognize the relevance of information for one’s own situation” (p. 340). Results indicated that, on this subscale, 11 to 13 year olds performed significantly worse than 14 to 15 year olds, and 14 to 15 year olds scored lower than young adults. On this subscale, approximately 30% of the 11 to 13 year olds and 14 to 15 year olds were found to be *mildly* impaired, and 25% of the 11 to 13 year olds and 15% of the 14 to 15 year olds were found to be *significantly* impaired. Finally, results indicated that juveniles’ performance on the Reasoning subscale was significantly related to IQ. Approximately 40% of the juveniles with IQs between 60 and 74 and 30% of juveniles with IQs between 75 and 89 demonstrated significant impairment in reasoning. This finding is significant because approximately 20% of all participating juveniles had IQ scores between 60 and 74, and approximately 40% had IQs between 75 and 89. In sum, these results suggest that a substantial portion (15% to 40%) of juveniles may exhibit deficits in their abilities

to appreciate the relevance of information to their personal legal situation, which is an important functional capacity related to adjudicative competence.

Summary of Juvenile Adjudicative Competence Research

Deficits in adjudicative capacities are a serious issue for juveniles. In general, juveniles under the age of 16 are significantly more likely to demonstrate some degree of impairment in the functional capacities that are important to adjudicative competence (Scott & Grisso 2004). More specifically, the results of the study by Grisso and colleagues (2003) indicated that 11 to 13 year olds performed significantly worse than adults on all three of the MacCAT-CA subscales, with moderate effect sizes produced. Additionally, 14 to 15 year olds performed significantly worse than adults on all three subscales, with small effect sizes produced. Finally, the performance of 16 to 17 year olds did not differ significantly from that of adults. Therefore, of these age groups, it appears that adolescents under the age of 16 are at greatest risk for incompetence to stand trial, whereas adolescents who are 16 and older do not appear more likely than adults to be incompetent to stand trial.

Importance of Immaturity

Developmental immaturity can impact juveniles' adjudicative capacities in various ways. Even in the absence of serious mental illness (e.g., psychosis) or mental retardation, juveniles' adjudicative competence can be compromised by developmental limitations. These developmental limitations can impair juveniles' capacities in a manner that is separate from and independent of the effects of age, IQ and serious mental illness.

A review of these developmental limitations is important to understanding the role that immaturity can play in juveniles' adjudicative competence.

Different Types of Immaturity and Relevant Research

At least three different categories of immaturity are discussed in the psychological literature. These categories are neurological immaturity, cognitive immaturity, and psychosocial immaturity. Each of these developmental factors can impact juveniles' adjudicative capacities and competence.

Neurological Immaturity

Research examining the development of juveniles' brain (neurological) functioning over time is a fairly recent investigation in the field of psychology (Scott & Grisso 2004). Findings have revealed that neurological development is fairly rapid in early adolescence, slows down through middle adolescence, and continues, to a lesser degree, through late adolescence and into early adulthood (Scott & Grisso, 2004). The prefrontal cortex is one of the last areas of the brain to mature, developing substantially in later adolescence (Scott & Grisso, 2004). This area of the brain "functions as a center for 'executive cognitive functions'" and is crucial to such processes as "planning, organizing information, and thinking about possible consequences of action" (Scott & Grisso, 2004, p. 21). Additionally, the prefrontal cortex is responsible for the regulation of affect (Scott & Grisso, 2004). Affect regulation includes "the capacity to inhibit or delay impulsive and emotional reactions sufficiently to allow for rational consideration of the appropriate responses" (Scott & Grisso, 2004, p. 21-22).

Juveniles' brains, and the prefrontal cortex in particular, develop and mature over the course of adolescence. Consequently, younger adolescents, in particular, are much less likely to have attained the neurological maturity needed to engage in planning and affect regulation (Scott & Grisso, 2004). Neurological immaturity can affect juveniles' adjudicative capacities in various ways. For example, a juvenile with an underdeveloped prefrontal cortex may not have the ability to sustain attention or even sit still throughout a trial. Such inattention and impulsivity can impact juveniles' abilities to assist counsel. A juvenile who cannot attend to the information and evidence presented at a trial will not be able to provide his or her attorney with input that might be important to his or her defense, such as whether accurate information is presented by a witness.

Cognitive Immaturity

Cognitive development and maturation refers to the gains in reasoning abilities, information processing skills, attention, memory, and abstract thinking that occur during the course of adolescence (Scott & Grisso 2004). Although these cognitive abilities tend to develop in a fairly predictable pattern during adolescence, variations in experience or exposure to different concepts can create individual differences in juveniles' cognitive maturity. Cognitive immaturity can affect juveniles' adjudicative competence in various ways. For example, some adolescents may not understand the role of trial participants or the trial process because they have not had any experience with such legal concepts. Consequently, such adolescents might lack sufficient factual understanding of the role of trial participants and the trial process, important components of adjudicative competence in general, and ability to assist counsel in particular (Grisso, 1997). Additionally,

younger adolescents may not yet have developed the ability to think abstractly.

Therefore, they may be unable to contemplate various hypothetical courses of action, a skill necessary for the decisional competence requirement of adjudicative competence (Grisso, 1997).

Psychosocial Immaturity

Psychosocial development refers to the process of social and emotional maturation that occurs during adolescence and early adulthood. Psychosocial immaturity consists of several factors that can influence juveniles' decision-making processes and outcomes, particularly in the context of social relationships (Scott & Grisso, 2004). These factors include attitudes toward and perceptions of risk, future orientation, and susceptibility to the influence of peers and adults (Steinberg & Scott, 2004).

First, adolescents "differ from adults in their assessment of and attitude toward risk" (Scott, Reppucci, & Woolard, 1995, p. 230). Adolescents are less likely to identify the potential risks in a given situation, more likely to underestimate "the likelihood that possible negative consequences might occur," and less likely to appreciate how serious the negative consequences would be if they did occur (Woolard, 2003, p. 10).

Additionally, juveniles tend to weigh risks and rewards in a different manner than do adults, maximizing the weight given to rewards and minimizing the weight given to risks (risk perception) (Scott, Reppucci, & Woolard, 1995). Adolescents also tend to be less risk averse and engage in more risky behaviors than do adults (Scott & Grisso 2004). As a result, when making decisions, adolescents "appear to focus less on protection against losses than on opportunities for gains" (Scott, Reppucci, & Woolard 1995, p. 231).

Second, in contemplating risky decisions, juveniles tend to discount the future more and emphasize short-term risks and benefits more than long-term risks and benefits (future orientation) (Scott, Reppucci & Woolard, 1995). Adolescents' limited life experience may make it more difficult for them to project the consequences of their decisions into the distant future (Scott & Grisso, 2004). Consequently, adolescents may not fully appreciate that a choice they make today may have consequences for them five years in the future (Scott, Reppucci, & Woolard, 1995).

Third, compared with adults, adult and peer influence play much stronger roles in juveniles' judgment and decision-making processes. (Scott, Reppucci, & Woolard, 1995). For example, juveniles' susceptibilities to peer influence and tendencies toward social conformity typically begin in late childhood or early adolescence, peak around age 14, and generally decline thereafter (Scott, Reppucci, & Woolard, 1995). Consequently, adolescents may base decisions on their desire for peer approval rather than on their best interests. Adolescents also tend to be more susceptible to the influence of parents and authority figure than are adults (Scott, Reppucci, & Woolard, 1995). As a result, adolescents may be more likely to acquiesce to the wishes of authority figures than to make independent decisions. On the other hand, research has suggested that, because adolescence is a time in which youths are struggling for power and independence from adults, youths may distrust adults or authority figures (Grisso, 1997). As a result, some youths may base their decisions on the desire to oppose authority, even if a decision is not in their best interests (Grisso, 1997).

Why Focus on Psychosocial Immaturity?

For the purposes of this dissertation, the focus is on the concept of psychosocial immaturity and its relationship with juveniles' adjudicative competence. Neurological or cognitive immaturity will not be focused on directly. The reasons for this focus are several. First, psychosocial maturity develops in a much less predictable pattern over the course of adolescence, whereas both neurological and cognitive maturity tend to progress in a fairly predictable pattern for all adolescents. By late adolescence and early adulthood, brain development is typically complete. In contrast, an adolescent who has a neurologically mature brain may still be psychosocially immature.

Second, as with neurological maturity, cognitive maturity develops fairly predictably over time. For example, most adolescents below the age of 12 or 13 have not developed the capacity for abstract thinking; however, by the age of 15, most adolescents are able to think abstractly (Cauffman & Steinberg, 1995). Although adolescents' cognitive development has matured in such a way that, by mid-adolescence, their cognitive capacities may be roughly equivalent to adults, they may still be psychosocially immature and make immature decisions. Cauffman and Steinberg (1995) noted that competent decision making entails not only the requisite cognitive capacities, "but also the psychosocial traits that determine whether the individual makes good use of the cognitive tools at his or her disposal" (p. 1764).

Third, psychosocial development is more susceptible than neurological or cognitive development to the influence of adolescents' particular life experiences. For example, mood disorders experienced in adolescence can delay psychosocial maturation to a greater degree than they delay neurological or cognitive maturation (Grisso, 2000a).

Due to this mood-related variability between adolescents, age may be a less reliable marker of juveniles' psychosocial maturity than it would be of neurological or cognitive maturity.

Finally, psychosocial factors can substantially impact juveniles' decisional capacities, skills that cannot be fully accounted for by juveniles' levels of neurological or cognitive maturity. Although research has indicated that, by the age of 14 or 15, most juveniles have developed the ability to reason about decisions in a manner similar to adults, juveniles' final decisions tend to differ from those of adults. Scott, Reppucci and Woolard (1995) discussed the distinction between adolescents' cognitive capacities to reason about decisions, which are similar to adults', and their decisional outcomes, which are affected by psychosocial factors that typically do not influence adults' decisional outcomes. Even when adolescents are able to identify the potential risks and consequences of a particular decision, "[i]n undertaking a cost-benefit calculus, minors might weigh a particular cost or benefit differently from adults (or view as a benefit what adults would count as a cost)" (Scott, Reppucci, & Woolard 1995, p. 233). This discrepancy between the quality of adolescents' decision-making processes and their decisional outcomes may reflect the immaturity of juveniles' judgments.

Impact of Psychosocial Immaturity on Adjudicative Functional Capacities

Developmental factors associated with preadolescence and adolescence can significantly impact the functional capacities required for adjudicative competence (Grisso, 2000a). In particular, psychosocial immaturity can interfere with each of the

functional capacities needed for adjudicative competence. Psychosocial immaturity can adversely impact juveniles' factual understanding of the trial process, abilities to assist counsel, and decisional competence.

Competence to Assist Counsel (Encompasses Dusky's Ability to Assist Counsel and Factual Understanding)

As noted earlier, Bonnie's conceptualization of a defendant's competence to assist counsel consists of various functional capacities. For example, an individual should be able to appreciate the significance of legal circumstances as it applies to his or her particular case, understand and appreciate the role of the attorney and the nature of the attorney-client relationship, and be able to communicate to counsel information that is relevant to his or her defense (Grisso, 1997). Additionally, an individual needs to have a sufficient factual understanding of the trial process, including an understanding of the role of trial participants, the charges one is accused of, possible consequences of those charges, and the notion of a right (Grisso, 1997). Psychosocial immaturity can adversely impact the functional capacities related to juveniles' competence to assist counsel.

Risk perception

Adolescents' tendencies to misperceive risk can adversely affect their abilities to appreciate the significance of the legal circumstances of their own cases. As a result, psychosocially immature adolescents may be less likely to identify or appreciate the potential risks associated with the adjudication process or might value gaining a reward more highly than averting a risk. These misperceptions might, for example, impact a youth's willingness to divulge sensitive or embarrassing, yet critical, information to an

attorney. Such a youth might value the benefit of avoiding embarrassing disclosure without appreciating the significance of the risk he or she is taking by not sharing information with the attorney. Additionally, the youth may underestimate the likelihood that such non-disclosure would have a negative impact on the defense. Finally, the youth might believe that the potential consequence of being imprisoned would not be as bad as disclosing embarrassing information.

Future orientation

Juveniles' foreshortened time perspective can adversely affect their understanding of the possible consequences of criminal charges. For example, youths may not appreciate the concept of long-term consequences and may, therefore, think that being found guilty of an offense results in punishment that is equivalent to being grounded at home for the weekend (Oberlander, Goldstein, & Ho, 2001). Additionally, because adolescents may weigh potential short-term gains more heavily than long-term losses, they may withhold "information from their attorneys in order to feel the immediate benefit of not fully incriminating themselves, but neglect to see the long-term cost of compromising their own defense" (Schmidt 2003, p. 180).

Susceptibility to the influence of authority

Due to their susceptibility to adults' influence, juveniles may be more likely to acquiesce to authority figures, such as their attorney, rather than assert their own opinions. Such acquiescence can result in following an attorney's advice about a case to the exclusion of sharing important information that may be inconsistent with counsel's conceptualization. It can also result in a plea bargain that is acceptable to the attorney but that does not represent the youth's own wishes. On the other hand, because adolescents

are “working through developmental issues of independence and identity,” some may have a difficult time trusting adults and authority figures (Grisso 1997, p. 16). This can compromise the attorney-client relationship, which is founded upon trust, and may result in adolescents’ unwillingness to share sensitive information that could improve their defenses.

Decisional Competence (Encompasses Dusky’s Rational Understanding)

Psychosocial immaturity seems to most negatively impact juveniles’ decisional competence. As noted earlier, Bonnie’s conceptualization of a defendant’s decisional competence consists of such functional abilities as the ability to weigh the potential benefits and consequences of alternative courses of action, make self-interested decisions related to one’s defense, and make decisions autonomously (Grisso, 1997). Even when juveniles possess sufficient factual understanding of the trial process, they “might not yet have developed adult-level capacities to use that information in deciding how to respond in their own interests as defendants” (Grisso 1999, p. 376). Psychosocial immaturity can adversely influence the capacities related to juveniles’ decisional competence.

Risk perception

Adolescents may be more likely than adults to focus on opportunities for gains rather than protection against losses (Scott, Reppucci, & Woolard 1995). In the context of making decisions in the adjudication process, adolescents may be more likely to fail to understand the risks that may result from the choices they make. They may also make immature value judgments when deciding on a course of action. For example, a juvenile may choose not to share mitigating evidence with his attorney, because he does

not want to betray a friend and risk social ostracism. Additionally, a juvenile might feel that going to detention would be better than having to clean his room at home (Grisso, 2005b).

Future orientation

Juveniles have a foreshortened future orientation that can cause them to focus more on immediate, rather than long-term, consequences of decisions (Steinberg & Scott, 2003). As an example of this, Grisso related the story of a juvenile who decided to plead guilty to a sex offense so that he could go home quickly, an outcome that was more important to him than the fact that his guilty plea meant that he would have to register as a sex offender (Grisso 2003).

Susceptibility to the influence of authority

Juveniles may be less likely to make autonomous decisions because of their susceptibility to authority. For example, a juvenile may reject a plea bargain because his mother does not want him to accept it. Similarly, a juvenile may acquiesce to his attorney's wishes and accept a plea bargain, even if he would prefer to go to trial. Additionally, some juveniles may reject all advice from parents or attorneys because of their distrust of authority figures.

What Are Judges Doing in Practice?

Thus far, no research has directly addressed the issue of whether or in what ways judges consider the issue of developmental immaturity in the context of making decisions about juveniles' adjudicative competence. A related study analyzed various factors that

juvenile court judges considered in making decisions about transferring juveniles to adult court (Salekin, Neumann, Leistico, & Zalot, 2002). Results indicated that judges who were asked to rate how important various factors were in determining the transfer of a hypothetical juvenile to adult court rated sophistication and maturity factors as being *moderately* important to the waiver decision (though less important than the factors of dangerousness and amenability to treatment) (Salekin et al., 2002). These results were interpreted to mean that judges would more likely transfer juveniles that they deemed in the average to high range of maturity. However, judges who were asked to rate the importance of the same factors in relation to an actual juvenile that they had transferred to adult court, rated the juvenile as significantly lower on sophistication and maturity factors than would have been expected, given the responses provided by the first group of judges. The authors noted that the results might be explained by the possibility that the factors of dangerousness and amenability to treatment outweighed the sophistication-maturity factor or that “judges may be incorrect in stating that they generally consider maturity when making transfer decisions” (Salekin et al., 2002, p. 402). In sum, though judges may report that maturity factors are important to the decision of whether to transfer a juvenile to adult court, it is still unclear whether and to what extent they actually take maturity into account when making transfer decisions.

Salekin and colleagues (2002) also reported that judges who answered the survey based on a specific juvenile they had transferred believed that nearly all the juveniles they had transferred were competent to stand trial. The authors noted that “this finding is consistent with clinical psychologists’ views on the matter” of competence of transferred juveniles (Salekin et al., 2002, p. 396) and suggests that judge may substantially

overestimate the proportion of juveniles tried in adult criminal court who are competent to stand trial.

Other research has investigated judges' opinions of juveniles' maturity in other legal contexts. One study examined factors that judges consider in determining whether and to what extent juveniles should participate in custody decisions (Crosby-Currie, 1996). Results indicated that judges asked children about their wishes in 53% of the cases. Additionally, 99% of judges reported that the weight afforded to a child's wishes depended on the child's level of maturity. However, the results also indicated that judges might have used children's ages as a proxy for maturity, (with older adolescents being assumed to be more mature than younger adolescents), rather than considering maturity as a factor independent of age.

Both the Salekin (2002) and Crosby-Currie (1996) studies compared judges' views and practices with those of mental health professionals and/or attorneys. Salekin and colleagues compared judges' and clinical psychologists' ratings of the importance of various factors to the transfer decision. Results indicated that both judges and clinical psychologists rated sophistication-maturity as moderately important to the decision to transfer. Additionally, both clinical psychologists and judges reported that juveniles that had been transferred to adult criminal court were approximately 16 years old. Research generally supports the notion that, by the age of 16, juveniles are as likely as adults to be competent to stand trial.

Crosby-Currie (1996) also compared judges' views and practices with those of attorneys and mental health professionals. The results indicated that attorneys were significantly more likely than judges to request a child's involvement in the custody

decision-making process and to request a custody evaluation. This suggests that attorneys may be more attentive to juveniles' capacities to participate in this legal context. Additionally, whereas 99% of judges and 92% of mental health professional reported that the weight afforded to a child's wishes depended on the child's level of maturity, 86% of judges and only 30% of mental health professionals reported that the weight depended on the child's age. These results suggest that mental health professionals might make a greater distinction between age and maturity than do judges.

CHAPTER 2: RATIONALE

Psychological research has generally supported the idea that psychosocial immaturity can affect juveniles' adjudicative competence in many ways. However, it is unclear to what extent this knowledge may be influencing actual legal practice. Current statutory guidelines and case law regarding the placement or transfer of juveniles into the adult criminal court system often fail to recognize the potentially significant impact of developmental limitations on juveniles' competence to stand trial. In jurisdictions in which judges have discretion to decide whether a juvenile should be transferred to adult court, preliminary research evidence has suggested that judges do consider issues of maturity to be at least moderately important to the transfer decision (Salekin et al., 2002). However, it is still unclear whether and to what extent judges consider maturity as a factor separate from age, IQ, and serious mental illness.

Research studies have also compared the factors that judges consider to be important in making decisions about the capacities of juveniles to participate in different legal contexts (custody determinations and transfer decisions) with the factors that attorneys and mental health professionals consider to be important. However, in the context of deciding the proper forum in which juveniles should be tried (juvenile court versus adult criminal court), another comparison may be important to the discussion – comparison of juvenile court judges and criminal court judges. Juvenile court judges often have to make decisions about whether a given juvenile is appropriate for transfer to adult court. Criminal court judges may also have to decide whether the juveniles that wind up in their courtrooms should be transferred back to juvenile court. Even in jurisdictions in which statutory or case law has taken transfer discretion away from

judges, it is important to try to understand what forum judges consider appropriate for a given hypothetical juvenile. Although statutory law directs judges' decisions in these jurisdictions, judges' perceptions of juveniles' adjudicative competence may not be in accord with the law's mandates.

The purpose of the current study is to begin examining whether judges consider psychosocial immaturity as a factor separate from age, IQ and serious mental illness in determining juveniles' adjudicative competence. A hypothetical report format was used in order to hold constant all case-related factors (e.g. IQ, mental health, offense severity), varying only age and level of psychosocial maturity of the juvenile defendant. Assessing judges' responses to hypothetical reports is a first step towards understanding how judges use psychosocial immaturity information in practice. Scott and Grisso (2003) have suggested that, "as developmental incompetence gains recognition, attorneys and judges will become attuned to discerning these incapacities in immature youths in the trial context and take steps to protect them" (p. 40).

Hypotheses

Main Effects

1. There will be a main effect for age; judges will generally deem younger juveniles less competent than older juveniles.
2. There will be a main effect for maturity; judges will generally deem "immature" juveniles less competent than "mature" juveniles.
3. There will be an interaction between age and immaturity on judges' competence decisions. Specifically, decisions about competence will be affected primarily by

age for the youngest (12 years) and oldest (17 years) juveniles. However, decisions about competence for juveniles in the middle age range (e.g. 13 to 15 years) will depend on maturity level.

Secondary Hypothesis

1. There will be a main effect for type of judge; criminal court judges will deem juveniles more competent than will juvenile court judges.

CHAPTER 3: METHOD

Participants

Prior survey research has indicated that a 20-35% response rate can be anticipated for judges (Redding, Floyd, & Hawk, 2001; Redding & Reppucci, 1999). Consequently, using a conservative estimate of a 20% response rate, 1200 surveys were mailed to judges to achieve the desired sample size. A 28.5% response rate was achieved, with 342 judges responding to the survey. Judges were chosen as survey participants, rather than attorneys, because judges are responsible for the ultimate decision about a defendant's competence to stand trial.

Participants in the study were recruited from 25 states that were selected to achieve a geographically representative sample.¹ Potential participants were identified through judicial directories and state court websites. We mailed study materials to approximately 48 judges from each of the 25 states. An attempt was made to identify those judges who solely adjudicated criminal court cases and juvenile delinquency cases. Initial investigation revealed that this information could often not be determined from the judicial directories. When this information could be determined, these potential participants were included in the mailing list. When this information could not be determined, potential participants were randomly selected from the pool of judges from each state. In cases in which a state did not have more than 48 judges, all judges were recruited for participation.

Of the 342 participants, 73.4% were men and 26.6% were women. Eighty-six percent of the sample was White, 3.2% was Hispanic, 1.2% was African-

¹ New Jersey judges were not recruited because of a state restriction on judges' participation in research.

American/Black, 0.9% was Asian or Pacific Islander, 0.6% was American Indian, 0.3% identified as Other, and 5.6% indicated that they preferred not to answer. The mean number years of experience ranged from four months to 43 years ($M = 12.46$, $SD = 7.87$). Approximately 23% of responding judges were from urban areas, 15% were from suburban areas, and 56% were from rural areas, with the remaining judges practicing in more than one setting (e.g., presiding over two different courts, one in a rural setting, one in a suburban setting).

With respect to positions held prior to becoming a judge, approximately 45% had been civil trial lawyers, 34% had been prosecutors, 29% had been private criminal defense attorneys, 13% had been public defenders, 9% had been transactional lawyers, and 25% had engaged in other types of legal work, including appellate trial law, real estate law, in-house counsel, general practice, magistrate, mediator, law professor, juvenile defender, and domestic relations.²

Eighteen percent of judges presided over courts that solely dealt with adult criminal matters and 16% of judges presided over courts that solely dealt with juvenile criminal matters. Forty-six percent of judges reported they presided over a court other than a solely criminal or juvenile court (e.g., general jurisdiction, appellate court, family law court, domestic relations court, probate court, drug court, or mixed criminal and juvenile). Judges reported that, in the previous year, they had reviewed anywhere from zero to over 100 juvenile cases with the potential for adjudication in criminal court ($M = 3.7$, $SD = 8.9$). The number of these cases judges reported having reviewed in the course of their careers ranged from zero to several thousand ($M = 53.4$, $SD = 192.8$).

² The sum of the frequencies of former positions exceeds 100% because many judges held multiple positions prior to their judgeship.

Design

This study used a 2 (type of judge: juvenile court or criminal court) x 2 (level of maturity: mature or immature) x 6 (age: 12, 13, 14, 15, 16, 17) between subjects design. Two of the independent variables (age and maturity level) were true experimental variables, and the third independent variable (type of judge) was a quasi-experimental variable. The primary dependent variables were the judges' ratings of the juvenile's competence to stand trial in criminal court and juvenile court and the judges' choice of forum (juvenile or criminal court) for the adjudication of the juvenile's case.

Materials

A packet of study materials was mailed to each participant. Each packet was comprised of: (a) a cover letter with consent information and general study completion instructions; (b) a hypothetical competence evaluation report of a juvenile; (c) a set of questions regarding the case, including ratings of the juvenile's competence to stand trial in criminal court and juvenile court; (d) questions about factors thought to be important to juveniles' competence to stand trial; (e) questions about participants' professional experiences with juvenile criminal cases; and (f) demographic questions. (See Appendices A-D).

The hypothetical reports were modeled on the juvenile competence to stand trial evaluations presented by Heilbrun, Marczyk, and DeMatteo (2002). Each hypothetical report included identical descriptions of the juvenile's charge, background history (e.g., family life; academic performance), mental health history, and IQ. The two vignettes

varied in the description of the juvenile's level of maturity; this maturity information was conveyed through descriptions of the youth's hypothetical responses to competence-related questions. The language used to convey maturity level was based on research by Woolard and colleagues (2003) and Grisso (2005b). For each vignette type (mature or immature), we varied the juvenile's age from 12 through 17, resulting in 12 versions of the survey, six versions for each of the 2 levels of maturity.

The questionnaire asked judges to identify which forum they believed appropriate for adjudicating the juvenile's case, criminal court or juvenile court. Judges also were asked to consider five separate component capacities associated with competence (i.e., knowledge of charges, knowledge of the role of trial participants, understanding of pleas, understanding of consequences of pleas, and ability to assist counsel) and rate how sufficient they believed the described juvenile to be with regard to each component. Judges rated the youth's capacities on a 5-point Likert-type scale, from "not at all sufficient" to "completely sufficient." Judges also rated the degree to which they believed the described juvenile was competent to stand trial in criminal court and juvenile court, based on a 5-point Likert-type scale, from "not at all competent" to "completely competent."

Another set of questions asked judges which factors they considered important in determining the described juvenile's level of competence. Judges were asked to use a 5-point Likert-type scale to rate the factors of IQ, mental health, age, academic performance, seriousness of the crime, and maturity from "not at all important" to "very important." Space also was provided for judges to write in any other factors they deemed important to their decision-making process about the juvenile in the hypothetical report.

Later in the questionnaire, using the same format, judges were asked to rate factors they considered to be important to decisions about juveniles' competence to stand trial in general, rather than just to the particular juvenile described in the study's hypothetical report.

To assess the perceived maturity level of the described juveniles in the vignettes, judges were asked to rate three separate component factors related to psychosocial maturity. On a 5-point Likert-type scale, judges were asked to rate the extent to which the described juvenile maximized the weight given to rewards and minimized the weight given to risks, emphasized short-term risks and benefits more than long-term risks and benefits, and was susceptible to the influence of peers or adults, from "not at all" to "completely." Then, judges were asked how old the described juvenile appeared to be, regardless of stated age.

Following the questions related to the hypothetical report, judges were asked to answer questions regarding the type of court in which he/she presided, the type of law practiced prior to becoming a judge, how many years he/she had been a judge, and how many juvenile criminal cases he/she had reviewed in the previous year and throughout his/her career. Finally, demographic questions were presented (i.e., age, sex, race/ethnic group, and political orientation).

Procedure

Each participant was randomly assigned to one of 12 conditions and received only the one hypothetical report associated with that condition. See Table 1 for response rates

by cell. Twelve hundred potential respondents were each sent a copy of the designated survey, a cover letter, and a stamped return envelope. Judges were not asked any identifying information and were instructed not to provide identifying information on any materials. To increase response rates, two weeks after the initial mailing, all 1200 potential participants were sent a second copy of their packets and cover letters. All potential participants received a second mailing because there was no way to track who had responded due to the completely anonymous nature of the research procedures.

Table 1. Response Frequencies by Vignette Type³

<u>Age</u>	<u>Mature</u>		<u>Immature</u>	
	Frequency	Percent	Frequency	Percent
12	22	6.4	33	9.6
13	32	9.4	23	6.7
14	29	8.5	24	7.0
15	39	11.4	28	8.2
16	32	9.4	30	8.8
17	20	5.8	28	8.2

Power Analysis

An a priori power analysis revealed that, for a 2 x 2 x 6 between factors MANOVA, with an alpha of .05, a medium effect size ($f = .25$) expected for type of judge and maturity level, a large effect size ($f = .4$) expected for age, and a medium effect size ($f = .25$) expected for the interaction between age and maturity, 240 participants would be needed to achieve a power of .80. Three hundred forty two participants, with

³ Chi-square analyses revealed that response rates were equivalent across age and maturity levels ($\chi^2 = .11.39, p = .41$).

an alpha level of .05, produced sufficient power to detect medium and large effects (Wilson VanVoohis & Levonian Morgan, 2001).⁴ Therefore, this study should have had sufficient power to detect meaningful results.

⁴ This is based on a “rule of thumb” for MANOVA requiring 20-30 subjects per cell for a power of .80.

CHAPTER 4: RESULTS

Judges rated the extent to which the juvenile in the hypothetical report was competent to stand trial in both criminal court and juvenile court. On average, judges rated youths as moderately competent to stand trial in criminal court ($M = 3.5$, $SD = 1.28$) and mostly competent to stand trial in juvenile court ($M = 4.4$, $SD = 0.86$). See Table 2 for mean competence ratings based on age and maturity.

Table 2. Means (Standard Deviations) for Competence Ratings in Criminal Court and Juvenile Court by Age and Maturity

<u>Age</u>	<u>Criminal Court</u>		<u>Juvenile Court</u>	
	Mature M (SD)	Immature M (SD)	Mature M (SD)	Immature M (SD)
12	3.05 (1.25)	2.76 (1.25)	4.59 (0.50)	3.97 (1.02)
13	3.53 (1.30)	2.78 (1.45)	4.66 (0.60)	4.00 (1.00)
14	3.66 (1.05)	3.13 (1.39)	4.52 (0.69)	3.92 (1.10)
15	3.97 (1.16)	3.14 (1.18)	4.82 (0.45)	3.86 (0.93)
16	4.32 (0.91)	3.33 (1.16)	4.87 (0.34)	4.03 (0.96)
17	4.25 (1.02)	3.73 (1.12)	4.75 (0.44)	4.15 (1.01)

Note. 1 = not at all competent; 5 = completely competent

Age and Maturity

Because main effects can only be interpreted within the context of an interaction, we first examined whether level of maturity moderated the relationship between defendants' ages and judges' competence ratings. No significant interaction was

detected ($F(10, 648) = .493, p = .895$); therefore, all main effects could be directly interpreted.

Age

Results of a MANOVA (with the two dependent variables being judges' ratings of the juvenile's competence to stand trial in criminal court and juvenile court) demonstrated a main effect for defendants' ages on judges' competence ratings ($F(10, 648) = 3.28, p < .001$), with judges rating younger juveniles as less competent than older juveniles (see Figure 1).⁵ However, the effects of age depended on the type of court for adjudication; defendants' age affected judges' competence ratings in criminal court ($F(5, 325) = 6.12, p < .001, f^2 = .19$), but not in juvenile court ($F(5, 325) = 0.74, p = 0.59, f^2 = .24$).⁶ Post hoc analyses were conducted to determine judges' competence ratings by age in criminal court. A Bonferroni correction was used to account for family wise error rates (.05 divided by 15) resulting in a corrected alpha of .003. Using this conservative alpha level, 12-year-olds differed significantly from 16-year-olds and 17-year-olds on competence ratings in criminal court. Notably, however, there were medium effect size differences for 12-year-olds versus 15-year-olds ($d = .49$) and for 13-year-olds versus 17-year-olds ($d = .47$)⁷ (see Table 3 for all comparisons). A regression analysis revealed that defendants' ages were significantly associated with judges' ratings of competence in

⁵ Consistent results were produced when judges with no juvenile case experience were removed from the analysis ($F(10, 492) = 2.63, p = .005, f^2 = .19$).

⁶ By convention, effect sizes of $f^2 = .02, .15, \text{ and } .35$ are considered small, medium, and large, respectively (Cohen, 1988).

⁷ By convention, effect sizes of $d = .2, .5, \text{ and } .8$ are considered small, medium, and large, respectively (Cohen, 1992).

criminal court; as age increased, so, too, did competence ratings ($b = .22$, $SE = .04$, $p < .001$).

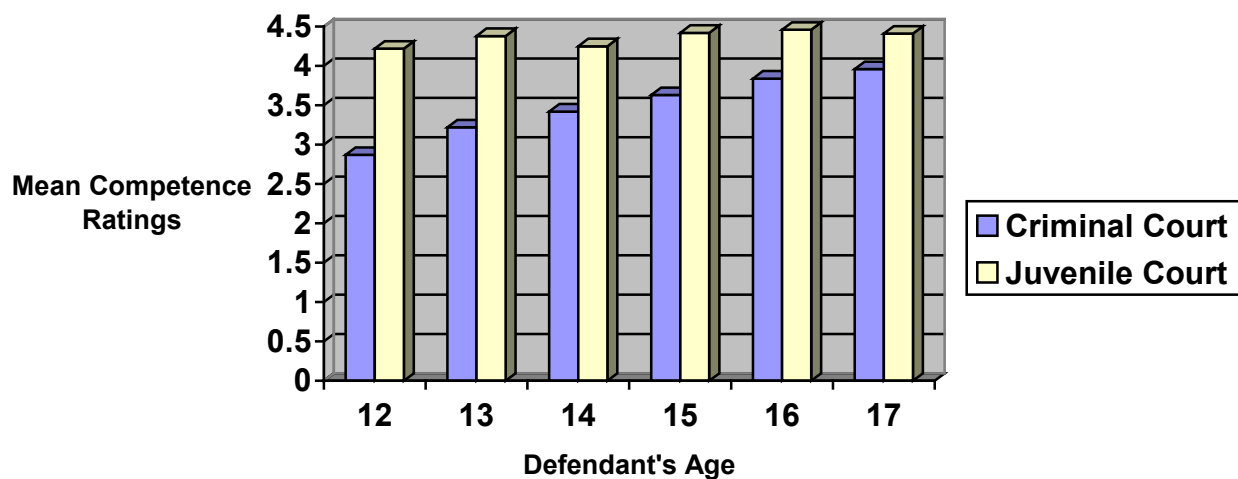


Figure 1. Judges' Mean Competence Ratings by Age

Table 3. Post-hoc Age-based Comparisons of Judges' Competence Ratings in Criminal Court

	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>
Age 12	.35	.54	.75*	.96 **	1.08 **
Age 13		.20	.41	.62	.74 *
Age 14			.21	.42	.54
Age 15				.21	.33
Age 16					.12
Age 17					

Note. Reported values are the mean difference scores.

* Medium effect size

** Large effect size

Maturity

A manipulation check was performed to determine whether the independent variable of psychosocial maturity was effectively manipulated in the hypothetical reports. A one-way ANOVA examined whether the description of a juvenile as psychosocially mature or immature differentially affected ratings on the three constituent components of psychosocial maturity (risk perception, future orientation, and susceptibility to the influence of peers or adults). Results indicated that, as intended, level of maturity significantly affected ratings of all three components; juveniles described as immature were considered to maximize the weight given to rewards and minimize the weight given to risks (risk perception) ($F(1,315) = 5.26, p < .001, f^2 = .58$), to emphasize short-term risks and benefits more than long-term risks and benefits (future orientation) ($F(1,323) = 9.84, (p < .001, f^2 = 1.09)$), and to be susceptible to the influence of peers or adults to a greater extent than juveniles described as mature in the vignette ($F(1, 296) = 13.11, p < .001, f^2 = 1.45$).

As predicted, results demonstrated a main effect of defendants' maturity on judges' competence ratings ($F(2, 324) = 34.24, p < .001, f^2 = .19$), with immature juveniles deemed less competent than mature juveniles (see Figure 2).⁸ More specifically, defendants' maturity levels affected judges' competence ratings in the context of both criminal court ($F(1, 325) = 24.46, p < .001, f^2 = .19$) and juvenile court ($F(1, 325) = 66.09, p < .001, f^2 = .19$).

⁸ Consistent results were produced when judges without juvenile case experience were removed from the analysis ($F(2, 246) = 31.42, p < .001$).

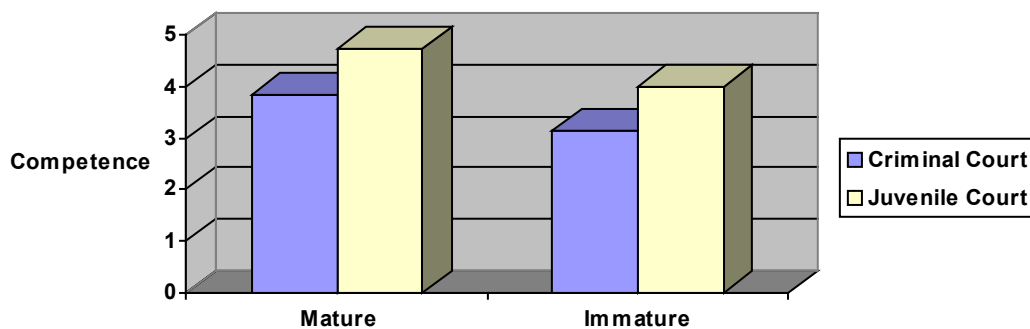


Figure 2. Mean Competence Ratings by Maturity Level

Type of Judge

Criminal court and juvenile court judges did not differ significantly in their competence ratings of juvenile defendants in criminal court ($F(1, 118) = 2.26, p = .14$) or in juvenile court ($F(1,118) = 1.17, p = .28$). Juvenile court judges provided a mean competence rating of 3.58 (SD = 1.25) for criminal court and 4.54 (SD = .76) for juvenile court. Criminal court judges provided a mean competence rating of 3.89 (SD = 1.00) for criminal court and 4.40 (SD = .73) for juvenile court.

Exploratory Analyses

Male and female judges differed significantly in their ratings of defendants' competence in criminal court ($t(1,329) = 3.04, p < .003$), with male judges assuming greater competence than female judges (See Figure 3). However, no significant gender difference was found for ratings of competence in juvenile court ($t(1,330) = 1.69, p = .09$). Notably, there were proportionally more female judges presiding over juvenile courts (44%) than criminal courts (24%).

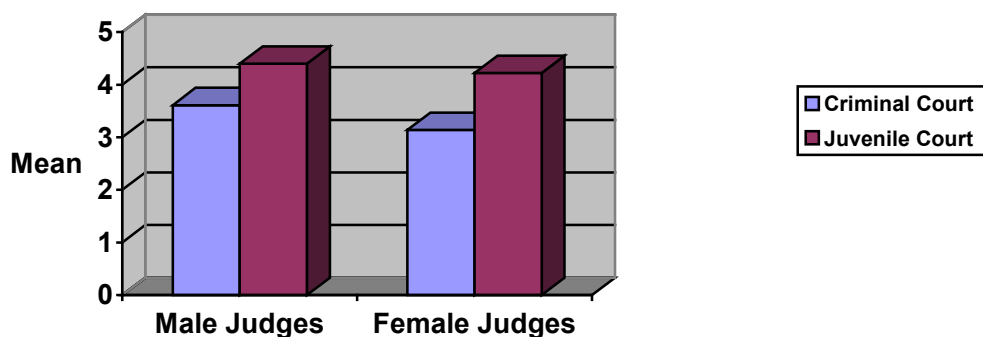


Figure 3. Mean Competence Ratings for Criminal Court and Juvenile Court by Judge Gender

A MANOVA was performed to examine whether competence ratings differed based on region of the country. States were grouped into four regions (Northeast, South, Midwest, and West).⁹ No significant differences were found for judges' ratings of competence in either criminal ($F(3, 326) = .03, p = .99$) or juvenile court ($F(3,326) = 1.81, p = .15$) based on region.¹⁰

A MANOVA was calculated to determine whether judges' competence ratings differed based on political orientation. The political view Likert scale was dichotomized into liberal and conservative. Individuals were considered liberal if they rated political view a 1 or 2, and individuals were considered conservative if they rated political view a 4 or 5. Results revealed no significant difference between liberal or conservative judges regarding their ratings of juveniles' competence to stand trial in either criminal court ($t(1,$

⁹ Region groupings were determined through information on an education website: <http://www.eduplace.com/ss/maps/usa.html>.

¹⁰ A MANCOVA analysis, covarying age and maturity, also revealed no significant differences for judges' ratings of competence in either criminal or juvenile court based on region.

153) = 1.36, $p = .25$)¹¹ or juvenile court ($t(1, 153) = .235, p = .63$).¹² However, an independent samples t-test revealed that male judges rated themselves as significantly more conservative in political view ($M = 3.06, SD = .89$) than did female judges ($M = 2.79, SD = .95$) ($t(1, 312) = 2.33, p = .021$).

Regression analyses revealed no significant relationship between judges' years of experience and their ratings of juveniles' competence to stand trial in either criminal court ($b = .003, SE = .009, p = .70$) or juvenile court ($b = .001, SE = .006, p = .88$). Additional regression analyses revealed no significant relationship between the number of juvenile cases judges had reviewed in the past year and their ratings of juveniles' competence to stand trial in criminal court ($b = -.001, SE = .008, p = .89$) and juvenile court ($b = -.002, SE = .005, p = .75$). Moreover, no significant relationship was revealed between the number of juvenile cases judges had reviewed in their careers and their ratings of juveniles' competence to stand trial in criminal court ($\beta = .02, p = .66$) and juvenile court ($\beta = .04, p = .49$).

An independent samples t-test examined differences in judges' ratings of juveniles' competence to stand trial in criminal or juvenile court based on whether the judge believed the juvenile should be adjudicated in criminal or juvenile court. Judges who indicated that the juvenile should be adjudicated in criminal court found the juvenile to be significantly more competent to be tried in criminal court than did judges who believed the juvenile should be adjudicated in juvenile court ($t(1, 25) = 4.08, p < .001$). On the other hand, there was no significant difference regarding ratings of juveniles'

¹¹ A regression analysis using political view as a continuous variable also revealed no significant relationship to competence ratings for criminal court $F(1, 314) = .519, p = .47$.

¹² A regression analysis using political view as a continuous variable also revealed no significant relationship to competence ratings for juvenile court $F(1, 315) = .085, p = .77$.

competence to stand trial in juvenile court based on judges' choice of forum (criminal court or juvenile court) ($t(1, 321) = .78, p = .43$). See Figure 4.

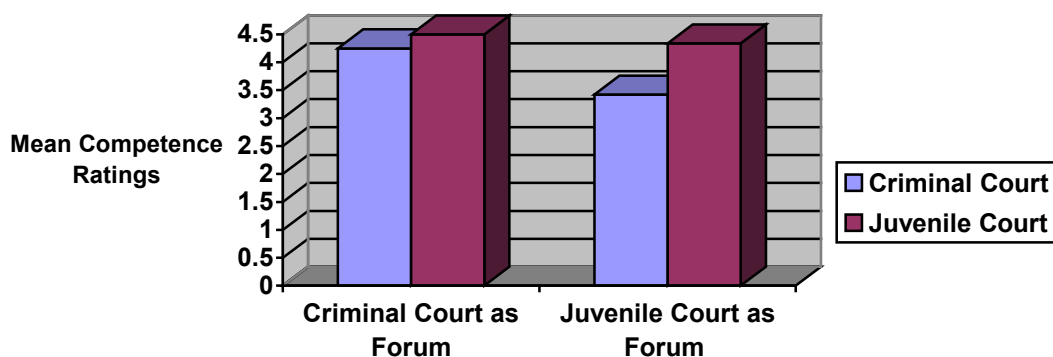


Figure 4. Mean Competence Ratings Based on Choice of Forum

An independent samples t-test revealed a significant difference in judges' confidence ratings about their forum decisions based on choice of forum. Judges who indicated the juvenile should be adjudicated in criminal court rated themselves as significantly less confident in their decision than did judges who indicated the juvenile should be adjudicated in juvenile court ($t(1, 317) = 2.67, p < .008$). Additionally, confidence level was regressed simultaneously on number of years of experience as a judge, number of juvenile transfer cases in the past year, and number of juvenile transfer cases over career, with no significant findings ($b_e = .004, SE_e = .007, p_e = .498; b_y = .013, SE_y = .006, p_y = .03; b_c = .000, SE_c = .000, p_c = .07$).

Judges were asked to indicate the importance of various factors to their decisions about the level of competence of the juvenile in their respective hypothetical reports. A number of factors were specified (IQ, mental health, age, academic performance,

seriousness of crime, maturity), and an open-ended, “other” category provided judges the opportunity to write in any other important factors that contributed to their decisions.

Judges rated each factor’s importance on a Likert-type scale ranging from 0 (not at all important) to 5 (very important). Due to the range of “other” responses provided, “other” responses were grouped into categories, including criminal history (19 responses), family environment (7 responses), and other (33 responses). See Table 4 for results.

Table 4. Judges’ Ratings of Importance of Factors in Their Competence Ratings of a Hypothetical Youth

<u>Factor</u>	<u>Mean</u>	<u>SD</u>
Family Environment	4.43	.54
Criminal History	4.21	.71
Mental Health	4.21	.04
Other	4.18	.73
Level of Maturity	3.94	.05
Age	3.91	.05
IQ	3.91	.05
Seriousness of Crime	3.40	.07
Academic Performance	3.10	.05

Multiple regression analyses were conducted to determine which factors judges believed important when rating juveniles’ competence to stand trial in criminal court and juvenile court. Judges’ ratings of competence to stand trial in criminal court were regressed, simultaneously, on IQ, mental health, age, academic performance, seriousness of the crime, and level of maturity; in a second equation, judges’ competence ratings in juvenile court were regressed on the same set of predictor variables. Although the overall models were significant for predicting judges’ ratings in criminal court and juvenile

court, only academic performance independently predicted judges' ratings of competence to stand trial in criminal court, and only mental health and maturity independently predicted judges' ratings of competence to stand trial in juvenile court. See Table 5.

Table 5. Regression Analyses of Competence Ratings in Criminal and Juvenile Court

Predictor Variables	Criminal Court*			Juvenile Court**		
	<i>b</i>	<i>SE</i>	<i>p</i>	<i>b</i>	<i>SE</i>	<i>p</i>
IQ	-.13	.10	.18	-.11	.07	.11
Mental Health	.10	.10	.32	.16	.07	.02
Age	.11	.09	.22	.01	.06	.82
Academic Performance	.30	.09	<.01	.12	.06	.07
Seriousness of Crime	.01	.06	.86	.05	.04	.18
Maturity	-.18	.10	.08	-.14	.07	.05

* Adjusted $R^2 = .02$, $R^2 = .04$

** Adjusted $R^2 = .02$, $R^2 = .04$

Additional multiple regression analyses were conducted to determine how the same set of factors were related to each component of competence. Again, the full models significantly predicted judges' ratings of juveniles' understanding of pleas and juveniles' abilities to assist counsel. However, only academic performance and maturity were independently related to judges' ratings of understanding pleas, and only academic performance and maturity were independently related to judges' ratings of ability to assist counsel. See Table 6.

Table 6. Regression Analyses of Competence Components.

Predictor Variables	<u>Understanding Consequences of Pleas*</u>					
	<u>Assist Counsel **</u>					
	<i>b</i>	<i>SE</i>	<i>p</i>	<i>b</i>	<i>SE</i>	<i>p</i>
IQ	-.13	.10	.20	-.06	.09	.52
Mental Health	.19	.10	.06	.07	.09	.44
Age	-.02	.09	.80	.03	.08	.7
Academic Performance	.33	.09	<.01	.25	.08	<.01
Seriousness of Crime	.08	.06	.17	.05	.05	.38
Maturity	-.28	.09	<.01	-.30	.09	<.01

* Adjusted $R^2 = .05$, $R^2 = .06$

** Adjusted $R^2 = .03$, $R^2 = .05$

Judges were also asked to indicate the importance of various factors considered in real-life cases when making decisions about juveniles' competence to stand trial. Again, a number of factors were specified (IQ, mental health, age, level of maturity, seriousness of the offense, amenability to treatment, and dangerousness), and an open-ended, "other" category was provided. The "other" category was grouped into the following categories: including criminal history (16 responses) and treatment history (3 responses), as well as other (13 responses). See Table 5 for results.

Table 7. Judges' Ratings of Importance of Factors in Competence Ratings for Real Cases

<u>Factor</u>	<u>Mean</u>	<u>SD</u>
Mental Health	4.37	.04
Treatment History	4.33	1.12
Criminal History	4.19	.66
Dangerousness	4.04	.07
Level of Maturity	4.04	.05
Age	4.02	.05
IQ	4.01	.05

Amenability to Treatment	3.78	.07
Seriousness of Offense	3.74	.07

A correlation matrix was calculated to provide some initial information about the extent to which judges' ratings of juveniles' competence to stand trial in juvenile court and criminal court were correlated with their ratings of the juveniles' capacities on the individual competence components. Results revealed that judges' ratings of juveniles' competence to stand trial in both juvenile and criminal court were significantly related to their ratings on each component of competence (See Table 6). A Bonferroni correction was used (.05 divided by 10) to account for family wise error rates, resulting in a corrected alpha of .005. Even with this adjusted p value, judges' ratings of juveniles' competence to stand trial in both juvenile and criminal court were still significantly correlated with their ratings on each component of competence.

Table 8. Correlations Between Individual Components of Competence and Competence Ratings in Criminal and Juvenile Court

	<u>Criminal Court⁶</u>	<u>Juvenile Court⁷</u>
KOC ¹	.26*	.33*
KRTP ²	.40*	.50*
UP ³	.40*	.46*
CP ⁴	.44*	.51*
AAC ⁵	.46*	.56*

¹ Knowledge of Charges

² Knowledge of Role of Trial Participants

³ Understanding of Pleas

⁴ Understanding Consequences of Pleas

⁵ Ability to Assist Counsel

⁶ Ratings of Competence to Stand Trial in Criminal Court

⁷ Ratings of Competence to Stand Trial in Juvenile Court

* $p < .01$

Multiple regression analyses produced good fits between judges' ratings of juveniles' competence to stand trial in both criminal and juvenile court and judges' ratings of juveniles' knowledge of charges, knowledge of the role of trial participants, understanding of pleas, understanding of the consequences of pleas, and ability to assist counsel. See Table 9.

Table 9. Regression Analysis of Competence to Stand Trial as Predicted by Judges' Ratings on Individual Components of Competence.

	<u>Criminal Court*</u>			<u>Juvenile Court**</u>		
	<i>b</i>	<i>SE</i>	<i>p</i>	<i>b</i>	<i>SE</i>	<i>p</i>
KOC ¹	.03	.08	.76	.05	.05	.34
KRTP ²	.21	.10	.03	.22	.06	<.01
UP ³	-.04	.11	.73	.10	.07	.15
CP ⁴	.14	.10	.17	.10	.07	.13
AAC ⁵	.30	.10	<.01	.28	.06	<.01

* Adjusted $R^2 = .23$, $R^2 = .24$

** Adjusted $R^2 = .35$, $R^2 = .36$

¹ Knowledge of Charges

² Knowledge of Role of Trial Participants

³ Understanding of Pleas

⁴ Understanding Consequences of Pleas

⁵ Ability to Assist Counsel

Additional independent samples t-tests were conducted to determine whether ratings of individual components of competence influenced judges' determinations of whether the juvenile should be adjudicated in criminal court or juvenile court. The only individual component of competence that differentiated between judges who chose

criminal court ($M = 3.75$, $SD = .91$) and judges who chose juvenile court ($M = 3.16$, $SD = 1.18$) was understanding of pleas ($t(1, 320) = 2.20$, $p = .03$). When analyzed with logistic regression, both understanding the role of trial participants and understanding of pleas were found to predict judges' choice of forum ($F(8) = 24.63$, $p = .04$).

In the survey, judges were asked whether they had compared the hypothetical juvenile to another juvenile or an adult defendant with whom they had real-life experience. Two hundred seventy (79%) judges reported that they had compared the hypothetical juvenile with a real-life juvenile defendant, and 38 (11%) reported that they had compared the hypothetical juvenile with a real-life adult defendant. Independent samples t-tests examined whether judges' ratings of juveniles' competence to stand trial in criminal court and juvenile court differed based upon the group to which the hypothetical juvenile was compared. Results indicated that when judges compared the hypothetical juvenile to a real-life adult defendant, they rated the juvenile as more competent to stand trial in criminal court ($M = 3.92$, $SD = 1.19$) than when they compared the hypothetical juvenile to a real-life juvenile defendant ($M = 3.37$, $SD = 1.29$) ($t(1, 305) = -2.48$, $p = .01$). Additionally, when judges compared the hypothetical juvenile to a real-life adult defendant, they rated the juvenile as more competent to stand trial in juvenile court ($M = 4.58$, $SD = .72$) than when they compared the juvenile to a real-life juvenile defendant ($M = 4.32$, $SD = .88$); ($t(1, 306) = -1.75$, $p = .04$).

CHAPTER 5: DISCUSSION

The present study examined the impact of juveniles' ages and levels of psychosocial maturity on judges' ratings of juvenile competence to stand trial. We found that, overall, judges believed older and more mature youths were more competent to stand trial, but the impact of defendants' ages on judges' competence ratings did not depend on the youths' maturity level.

Age

Our findings that juvenile defendants' age affected judges' ratings of juveniles' competence to stand trial is consistent with previous research indicating that juveniles' competence-related capacities increase with age and competence-related deficits decrease with age (Viljoen & Roesch, 2005; Grisso et al., 2003). Previous findings further indicate that youths under the age of 14 are especially likely to demonstrate significant deficits in their competence to stand trial (Grisso et al., 2003). Juveniles over the age of 15 demonstrate few, if any, differences in competence-related capacities from young adults (Grisso et al., 2003; Poythress et al., 2006). Our results support these previous findings; judges in our study viewed 12 and 13 year olds' competence to stand trial in criminal court differently from the competence of older juveniles.

Notably, these ratings were entirely based on age-related differences and not on variations in competence-related capacities. Specifically, judges made age-related distinctions in juveniles' competence-related capacities even though the description of juveniles' capacities was identical across ages, within each maturity level. For example, although the descriptions of competence-related capacities were identical for the mature

16-year-old defendant and the mature 12-year-old defendant, judges rated the 16 year old as more competent to stand trial. This result likely reflects the “common sense” or “common experience” heuristic that older juveniles are generally more competent to stand trial than younger juveniles. It also suggests that judges may be heavily influenced by chronological age, despite an emphasis on competence-related abilities described in psychological evaluations. Despite judges’ reliance on age, research cautions against using age as a proxy for competence, in light of numerous individual characteristics that may impact juveniles’ competence-related capacities, such as IQ, mental health, and maturity level (Grisso, 1997; Grisso et al., 2003, LaVelle Ficke, Hart, & Deardorff, 2006; Steinberg & Cauffman, 1999).

Maturity

The present study found a significant relationship between level of psychosocial maturity and judges’ ratings of juveniles’ competence to stand trial. The more mature juvenile was rated as more competent to stand trial. Prior research has suggested that psychosocial maturity can affect juveniles’ competence-related capacities by impacting their decision-making processes (Cauffman & Steinberg, 2000). The psychosocial information provided in the hypothetical reports was designed to reflect the fictional juvenile’s maturity of judgment and decision making. It is likely that judges in the current study rated immature juveniles as less competent due to this perceived immaturity of judgment and decision making.

Judges indicated that the issue of maturity was of moderately high importance to their decisions about the juveniles’ competence to stand trial. These results are in line

with previous research indicating that legal professionals (judges and defense attorneys) considered developmental immaturity to be relevant and moderately important to juveniles' adjudicative competence (Viljoen & Wingrove, 2008). Additionally, judges have considered sophistication and maturity to be moderately important to their decisions about whether to transfer a hypothetical juvenile to adult court (Salekin et al., 2002). Though judges have been noted to acknowledge the importance of psychosocial maturity in juveniles' legal decision-making (Viljoen & Wingrove, 2008), research has also indicated that a majority of legal professionals believe that psychosocial immaturity should not be considered an independent basis for incompetence to stand trial (Viljoen & Wingrove, 2008). Currently, statutes governing the standards for rulings of incompetence to stand trial generally infrequently recognize immaturity as an independent basis for incompetence (Redding & Frost, 2001). However, previous research has suggested that a juvenile defendant may be incompetent to stand trial based solely or primarily on psychosocial immaturity, though he or she may not have significant intellectual deficits or serious mental health symptoms. Perhaps, as empirical evidence on the impact of psychosocial maturity on juveniles' adjudicative capacities accrues, legal guidelines will reflect these findings.

Though this study suggests that judges take the issue of psychosocial maturity into consideration when provided with such information, it remains unclear to what extent psychosocial maturity is assessed and reported in psychological evaluations of juveniles' competence to stand trial. Given the importance of this factor to juveniles' adjudicative capacities and judges' reported willingness to consider this information,

evaluators should consider assessing and reporting information about psychosocial maturity and its impact on competence-related abilities in cases involving juveniles.

Interaction between Age and Maturity

Contrary to initial expectations, age and maturity separately affected competence ratings; the two factors did not interact. The older a juvenile, the more competent judges rated him and, within each age group, the mature juvenile was rated as more competent. The lack of interaction may be attributable to the clear maturity distinctions in hypothetical reports. Without the ambiguity present in actual cases with real, complex defendants, judges may not have needed to rely on age in considering the relationship between maturity and competence.

Another possible reason that judges may have rated psychosocially mature juveniles as more competent was because of their reliance on written information only. Judges were told the age of the juvenile, but were not provided with visual or auditory information that would differ across age groups, thereby decreasing the salience of chronological age, and, potentially, increasing the relative salience of maturity. For example, when a judge sees a 12-year-old defendant in the courtroom, he or she may look “immature,” despite actual psychosocial characteristics. In contrast, a 17-year-old defendant may look “mature,” despite actual psychosocial characteristics. The physical impressions might be so powerful that they could outweigh psychologists’ descriptions of juvenile defendants’ maturity levels. As a result, in real cases, age might have a much greater influence than maturity on judges’ competence ratings, particularly when the juvenile is very young (i.e., under age 13) or older (i.e., over age 16). When the

juvenile's age is less clear from physical appearances (i.e., in the middle age range) the impact of maturity might be far greater.

Type of Judge and Judges' Demographic Characteristics

Contrary to initial expectations, criminal and juvenile court judges did not rate juveniles' overall competence differently. It appears that criminal court and juvenile court judges applied the competence criteria similarly and that both criminal and juvenile court judges viewed juvenile defendants in a similar manner. It was initially believed that juvenile court judges might be more inclined to deem juvenile defendants less competent to stand trial than would criminal court judges due to the greater rehabilitative emphasis in juvenile court. However, the lack of such a finding suggests that the model of juvenile justice may have become more punitive and more similar to criminal court. Alternatively, juvenile and criminal court judges may apply the competence criteria consistently and directly, rather than relying on the context of their experiences.

Judges' gender was the only demographic variable associated with ratings of juveniles' competence to stand trial, with male judges rating juveniles as significantly more competent to stand trial in criminal court than female judges. Though it is not clear why a gender difference exists in this particular context, it may be partially explained by the fact that male judges rated themselves as significantly more conservative in political view. There is social science research indicating that female legal professionals may be more supportive of competence-related due process rights (Viljoen & Wingrove, 2008). That study found that female legal professionals (judges and defense attorneys) placed greater emphasis on legal capacities than did male legal professionals, suggesting that

female legal professionals may require greater evidence of legal capacities before they are willing to deem a juvenile competent to stand trial. Additionally, Viljoen and Windgrove (2008) found gender differences in the rated importance of developmental immaturity for competence to stand trial, with female legal professionals rating it as more important than male legal professionals. Those authors suggested that this gender effect might “reflect a greater emphasis on or understanding of developmental issues among female legal professionals, possibly as a result of roles and experience in childrearing.” (p. 223). Finally, within this study, a greater proportion of female judges presided over juvenile courts than criminal courts. The female judges, therefore, had more experience with juvenile cases and may have been more attuned to issues of developmental immaturity within that population. This may have contributed to female judges rating the hypothetical juveniles as less competent to stand trial than did male judges.

Reference Group and Choice of Forum

Judges who compared the hypothetical juvenile with a real-life adult defendant rated the juvenile as significantly more competent to stand trial in criminal court than did judges who compared the hypothetical juvenile to a real-life juvenile defendant. For adult criminal defendants, there is generally an assumption that the defendant is competent unless there is evidence to the contrary (Redding & Frost, 2001). Therefore, when juveniles are being compared to adult defendants, there may be a similar presumption of competence. The evidence from the psychological literature, however, indicates that this may not be a valid assumption or comparison, especially with very young defendants (Grisso, 1997; Ryan, 2005; Steinberg & Cauffman, 1999).

With respect to choice of forum, judges who indicated that the hypothetical juvenile should be adjudicated in criminal court rated the juvenile as significantly more competent to be tried in criminal court than did judges who believed the hypothetical juvenile should be adjudicated in juvenile court. This result did not hold for ratings of competence to be adjudicated in juvenile court. It is logical that judges who thought the juvenile should be adjudicated in criminal court rated the juvenile as more competent to stand trial in criminal court. Additionally, it is logical that ratings of competence to stand trial in juvenile court did not differ between those judges who said the juvenile should be tried in criminal court and those who said the juvenile should be tried in juvenile court; judges who thought the juvenile was competent for criminal court would, by default, rate the juvenile as competent for juvenile court, a venue which generally requires a lesser standard. Additionally, those judges who said the juvenile should be tried in juvenile court would also rate the juvenile as sufficiently competent for that forum.

The findings of the present study suggest that judges require a lower level of competence when a juvenile is adjudicated in juvenile court, which coincides with previous research (Viljoen & Wingrove, 2008). Historically, when the focus of juvenile court was treatment and rehabilitation, it was presumed that juveniles did not need the protections associated with the criminal court process and its associated punitive outcomes (Oberlander, Goldstein, & Ho, 2001). However, ample evidence exists to indicate that this is no longer a valid presumption, in light of the significantly more punitive nature of sanctions that juveniles face in modern jurisprudence (Austin et al., 2000; Redding & Frost, 2001). Consequently, increased due process protections have

been afforded to defendants adjudicated in juvenile court; however, the parameters of the competence standard in juvenile court remain unclear and varied (Redding & Frost, 2001). To the extent that juvenile court adjudication subjects the defendant to the possibility of adult-like criminal sanctions, many argue that the standard of competence should be the same as that for criminal court (e.g., Grisso, 1997; Grisso, 1999; Redding & Frost, 2001).

Judges who indicated the juvenile should be adjudicated in juvenile court were significantly more confident in their decision to place the juvenile in that forum than were judges who indicated that the juvenile should be adjudicated in criminal court. Judges' confidence ratings may have been reduced by the severity of the consequences associated with transferring a juvenile to criminal court. Judges who determined the juvenile should remain in juvenile court were, likely, more confident in that decision because a decision to transfer a juvenile to criminal court is subject to error. In other words, judges may be more likely to doubt their choices when the choice has the potential for criticism, as would be the case when transferring a juvenile to criminal court. Additionally, there are potentially more severe consequences for the juvenile defendant adjudicated in criminal court, which can further contribute to judges' lack of confidence.

Judges who chose criminal court as the proper forum for the hypothetical juveniles' adjudication reported higher ratings of the juveniles' understanding of pleas than did judges who chose juvenile court as the proper forum. This emphasis on understanding of pleas may reflect the belief that choice of plea is a fundamental aspect of adjudication, requiring sufficient factual and rational understanding of the meaning of the pleas and sufficient decision-making skills to make rational choices. Understanding

of pleas may not be considered as important in juvenile court due to the presumptively more rehabilitative nature of juvenile court proceedings.

Factors Related to Competence

In the current study, judges rated the factors of IQ, mental health, age, academic performance, seriousness of the crime, and level of maturity to be important to their competence ratings. Both common knowledge and extant research indicate that factors such as age, IQ, mental health, and maturity of judgment are, in fact, significantly related to adjudicative competence (Grisso et al., 2003). Logically, one might assume that younger age, lower intelligence, significant mental health symptoms, and immaturity of judgment can all adversely affect competence-related capacities. Because numerous factors can be related to or impact juveniles' competence, it is important to make a case-by-case assessment of whether a particular juvenile is competent to stand trial in criminal court instead of transferring juveniles based solely on age or crime.

CHAPTER 6: LIMITATIONS AND FUTURE DIRECTIONS

Results must be interpreted within the context of the study's limitations. First, this study has the same limitations inherent in most survey/vignette-based research. To create an instrument that was user-friendly, succinct, and minimally time-consuming (i.e., that judges would complete), both the breadth and depth of the depicted case had to be artificially limited. A few judges commented that the information provided was not sufficiently detailed and this attempt at conciseness may have impacted ratings. In the future, the use of longer vignettes that incorporate more information upon which to make decisions may better approximate real-life scenarios.

Similarly, judges may have reacted differently to fictional case descriptions than they would have to actual defendants. Consequently, although judges' responses in this study suggested that they consider the issue of psychosocial maturity when determining a juvenile's competence, these results may not generalize directly to real cases. However, it appears that information about juveniles' psychosocial maturity is infrequently presented in real competence evaluations, thereby making it difficult to assess judges' responses in real-life cases. The generalizability of the current results may be limited by the fact that we did not incorporate any visual or other cues that might convey information about a juvenile's age or level of maturity. In real-world cases, such cues may influence judges' decisions regarding juveniles' competence to stand trial. However, holding constant other visual variables while changing the age of the individual would require technology, such as morphing, which would have been cost prohibitive in the current study.

This study was designed to assess the unique and combined roles of psychosocial maturity and age in judges' perceptions of juveniles' adjudicative competence. To create a "clean" design, only age and maturity levels were manipulated. As a result, some important factors related to juveniles' adjudicative competence were not examined in this study, such as gender, ethnicity, intelligence, and mental illness. Nonetheless, we believe that the interpretability of a clean design outweighed the drawbacks of holding these variables constant. Future research should consider varying these factors.

Additional limitations of this research are related to the sample. In this study, judges were chosen as participants because they are ultimately responsible for making decisions about whether defendants are competent to stand trial. However, a number of other players inform this decision, including attorneys and mental health professionals. These other players may have a great deal of influence on the process of determining which defendants may or may not be competent to stand trial, as lawyers are typically the ones who decide when to raise the question of competence and mental health professionals provide evaluations and opinions about juveniles' competence-related capacities. Research should explore whether attorneys are aware of how the issue of psychosocial maturity impacts their juvenile clients' competence to stand trial. Additionally, future research might seek to evaluate the reports of mental health professionals to determine if and how they assess and communicate information about juveniles' psychosocial maturity and its impact on adjudicative competence abilities. A topic of related interest may be exploring the most effective ways to evaluate and communicate such information to judges and lawyers in forensic reports.

Another limitation might result from the fact that a large portion of responding judges did not have any experience with juvenile cases. However, there were no significant differences in results between judges with and without experience with juvenile defendants. There may also be selection bias, with differences between those judges that did and did not respond. Given the 28.5 % response rate, responses might not represent the larger population of judges. However, attempts were made to make the sample as representative as possible by obtaining a national sample and encouraging response through duplicate mailings. Furthermore, the participation rate was consistent with most previous research with this population (Redding & Repucci, 1999).

There are also limitations associated with the use of manipulated vignettes, particularly with the descriptions of psychosocially mature and immature juveniles. Use of maturity descriptions was a novel approach, with no previous research vignettes on which to base them. Despite the lack of research models, however, the language used to convey maturity level was based on research presented by Woolard and colleagues (2003) and Grisso (2005b). Moreover, fidelity checks suggested that attempts to vary maturity levels were successful. Nonetheless, there may be more effective, realistic ways to communicate information about psychosocial maturity. Additionally, the described capacities of the juveniles in the vignettes resulted in judges' competence ratings that clustered around the middle to high end of the Likert scale, restricting variability. (i.e., few judges rated the juveniles as "not at all" or "minimally" competent). Although this is a statistical limitation, it probably reflects the common assumption that most defendants are competent to stand trial.

Despite these limitations, this study focuses on the role of psychosocial maturity in the context of juvenile competence to stand trial. To our knowledge, few studies have addressed judges' decision making in the context of juveniles' adjudicative competence, and none have examined the impact of psychosocial maturity on judges' decisions about juveniles' adjudicative competence. Further, this study used an experimental design to disentangle the impact of age and maturity on judges' competence decisions. In addition to using a clean experimental design, the study used real-world competence evaluations as models for the vignettes, thereby increasing the content validity of the study. Future research should attempt to broaden the external validity of the study through examination of real cases.

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APPENDIX A: Study Description, Consent, and Instructions

As part of the JD-PhD program in Law and Psychology at Drexel University and Villanova University School of Law, we are conducting a research study on judges' decision-making, and would very much appreciate your participation. This is an anonymous survey and you will not be asked to report any identifying information. The survey materials will take a total of about 10-15 minutes to complete. Participation in this study is completely voluntary. Your return of the survey in the enclosed envelope will constitute consent for your responses to be used in this research.

If you wish to participate, please read the enclosed case report and answer the questions that follow. The case report consists of excerpts from an evaluation of a juvenile's competence to stand trial. There are no right or wrong answers, as the questions ask you to make judgments based on your experience and opinions. After you have answered the questions regarding your experiences and opinions, please answer the background information questions that follow.

Please read and answer the questions in the order they are asked. Do NOT skip ahead in the questionnaire or look at subsequent pages or questions unless instructed to do so. Do NOT return to previous questions to which you have already responded. If you are uncomfortable answering a question, please skip it. Finally, this is a survey of judges' decision-making and it is therefore important that only the intended judge complete the survey.

After you have completed all of the forms, please place them in the self-addressed, stamped envelope that is provided, and return it to me. Again, please do not write your name on any forms in the packet or on the packet itself.

THANK YOU very much for your time and cooperation.
Your participation in this study is very valuable and greatly appreciated.

APPENDIX B: Hypothetical Reports

REFERRAL

John D. is a ____ -year-old male charged with Aggravated Assault. The Prosecutor has recommended that John be adjudicated in criminal court. John's attorney requested a mental health evaluation to provide the defense with information relevant to John's competence to stand trial in criminal court.

RELEVANT HISTORY

John D. is the second of three children. John reported that his home life has been rather chaotic because of his father's alcohol use and the behavioral problems of his siblings. According to both John and his school records, he has never repeated a grade, generally gets C's in his classes, and has had an average number of absences. Both John and his school records indicated that he has had two fights at school; the most recent fight resulted in his current charges.

CURRENT CLINICAL CONDITION

At the time of the evaluation, John was ____ years old. He was oriented to person, place and time and his thought process was clear and goal directed. John denied the presence of hallucination and there was no evidence of delusions. John was cooperative throughout the evaluation. A previous psychological report indicated that John has never been diagnosed with any mental, emotional, or behavioral problems. His overall level of intellectual functioning (IQ) fell within the Low Average range (Full Scale IQ = 83, 13th percentile), with deficits relative to his same age cohort in vocabulary and fund of information. An IQ score of 83 is average for youths in the juvenile justice system.

CAPACITIES ASSOCIATED WITH COMPETENCE TO STAND TRIAL

Factual Understanding

John demonstrated a basic understanding of the charges against him and the possible penalties that could result. When asked to describe the roles of the judge, prosecutor and defense attorney, he was generally able to do so.

Rational Understanding

John demonstrated a basic understanding of his charges. Additionally, he appeared to understand what it means to plead guilty or not guilty and the possible consequences of such decisions. John reported that pleading guilty means that, “you say that you did it and not guilty means that you didn’t do it.” John said that if he were to plead not guilty, his lawyer could help him try to “beat the case and then I could go home.” John stated that if he was then found guilty, he could “get locked up for many years.” John further reported that if he were to plead guilty, then “I wouldn’t have a chance to go to court and explain myself.” John also seemed to appreciate the significance of a plea agreement, and reported that, “maybe I won’t get locked up as long if I just tell them I did it or maybe I could go home; but that also means that I would probably have to be on probation or do community service or something like that.” When asked whether he would say that he did the crime even if he did not, so that he could go home right away, John responded that he would rather wait for his turn to go to court, “because I didn’t do it and I don’t want something like that to be on my record.”

Ability to Assist Counsel

When asked what he would do to help his lawyer, John stated that he would “be honest and tell him everything that happened, because he is there to help me.” John was asked what he would do if there was some embarrassing information that he might not want to share with his lawyer. John reported that he would “probably tell him anyway, because it would be worse for my case if I didn’t and I don’t care as much about being embarrassed a little.” When asked whether he thought he could make independent decisions about his defense, he responded, “Yeah, I think so, I don’t usually let other people tell me what choice to make.” John was asked what he would do if his lawyer told him to take a deal if John did not think it was a good idea. John said that he would tell his lawyer he wanted to go to court. John was also questioned about appropriate courtroom demeanor. When asked how he would behave in court, he reported that he would “sit quietly with my lawyer and answer the questions that they ask me, even though it might get kind of boring.” Finally, John was asked what he would do if a witness made a mistake or lied when testifying. He reported that he would “tell my lawyer that they lied and ask him what we can do about it.”

REFERRAL

John D. is a ____ -year-old male charged with Aggravated Assault. The Prosecutor has recommended that John be adjudicated in criminal court. John's attorney requested a mental health evaluation to provide the defense with information relevant to John's competence to stand trial in criminal court.

RELEVANT HISTORY

John D. is the second of three children. John reported that his home life has been rather chaotic because of his father's alcohol use and the behavioral problems of his siblings. According to both John and his school records, he has never repeated a grade, generally gets C's in his classes, and has had an average number of absences. Both John and his school records indicated that he has had two fights at school; the most recent fight resulted in his current charges.

CURRENT CLINICAL CONDITION

At the time of the evaluation, John was ____ years old. He was oriented to person, place and time and his thought process was clear and goal directed. John denied the presence of hallucination and there was no evidence of delusions. John was cooperative throughout the evaluation. A previous psychological report indicated that John has never been diagnosed with any mental, emotional, or behavioral problems. His overall level of intellectual functioning (IQ) fell within the Low Average range (Full Scale IQ = 83, 13th percentile), with deficits relative to his same age cohort in vocabulary and fund of information. An IQ score of 83 is average for youths in the juvenile justice system.

CAPACITIES ASSOCIATED WITH COMPETENCE TO STAND TRIAL

Factual Understanding

John demonstrated a basic understanding of the charges against him, but had some difficulties identifying the possible penalties that could result. When asked to describe the roles of the judge, prosecutor and defense attorney, he was generally able to do so.

Rational Understanding

John demonstrated a basic understanding of his charges and what it means to plead guilty or not guilty. John reported that pleading guilty means that, "you say that you did it and not guilty means that you didn't do it." However, when further questioned, John had some difficulty appreciating the possible

consequences of such decisions. John reported that if he were to plead not guilty, “my lawyer or the judge might get mad at me because I wouldn’t tell them I did it, even if I really didn’t do it, and would try to get me locked up for a long time.” John further reported that he would rather plead guilty and try to get a deal rather than go to court because of this belief. When John was informed that making a plea agreement would mean that the crime would be on his record and that he would probably be on probation for some time, he said, “I don’t care, because that won’t mean anything for me.” When John was informed that if he were to plead not guilty, he could go to court and possibly be found not guilty and therefore have no record, he said, “I don’t want to have to go to lock up and wait for court when I can just say I did it and go home, like, tomorrow.”

Ability to Assist Counsel

When asked what he would do to help his lawyer, John stated that even though he knew he should tell his lawyer everything, “I probably won’t because it would be too embarrassing and I’d rather take my chances than look bad. Plus, it would mean that I might have to rat out one of my friends, and if I did that then no one would like me anymore.” When asked whether he thought he could make independent decisions about his defense, he responded, “I don’t know, out on the street, I usually just go along with what my friends say, so they don’t get mad.” John was asked what he would do if his lawyer told him to take a deal if John did not think it was a good idea. John responded that he would most likely just agree, because he would not want his lawyer to get mad at him if he disagreed. When asked how he would behave in court, he reported that he “might have a hard time sitting through the trial because I would rather be playing video games.” Finally, John was asked what he would do if a witness made a mistake or lied when testifying. He reported that he would “probably jump up and yell at them and tell them to stop lying about me, because I can’t stand it when someone lies about me.”

APPENDIX C: Dependent Measures

1. What do you believe is the proper forum for this ___-year-old juvenile's case?

- Criminal Court Juvenile Court

2. How confident are you about this decision?

1	2	3	4	5
Not at all Confident		Moderately Confident		Completely Confident

For questions 3-7, using the scale from “not at all sufficient” (1) to “completely sufficient” (5), please answer the following questions:

	Not at all Sufficient				Completely Sufficient
3) To what extent do you believe that this ___-year-old juvenile's <u>knowledge about the charges against him</u> is sufficient?	1	2	3	4	5
4) To what extent do you believe that this ___-year-old juvenile's <u>knowledge about the role of trial participants</u> is sufficient?	1	2	3	4	5
5) To what extent do you believe that this ___-year-old juvenile's <u>understanding of various pleas</u> is sufficient?	1	2	3	4	5
6) To what extent do you believe that this ___-year-old juvenile's <u>appreciation of the consequences of various pleas</u> is sufficient?	1	2	3	4	5
7) To what extent do you believe that this ___-year-old juvenile's <u>ability to assist counsel</u> is sufficient?	1	2	3	4	5

For questions 8-9, using the scale from “not at all competent” (1) to “completely competent” (5), please answer the following questions:

	Not at all Competent				Completely Competent
8) To what degree do you believe this ___-year-old juvenile would be competent to stand trial in <u>criminal court</u> ?	1	2	3	4	5

9) To what degree do you believe this ___-year-old juvenile would be competent to stand trial in <u>juvenile court</u> ?	1	2	3	4	5
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For questions 10-16, using the scale from “not at all important” (1) to “very important” (5), please indicate the importance of each of the juvenile’s characteristics to your decision about his level of competence.

	Not at all Important				Very Important
10) IQ	1	2	3	4	5
11) Mental Health	1	2	3	4	5
12) Age	1	2	3	4	5
13) Academic Performance	1	2	3	4	5
14) Seriousness of Crime	1	2	3	4	5
15) Maturity	1	2	3	4	5
16) Other (please specify): _____ _____ _____	1	2	3	4	5

For questions 17-19, using the scale from “not at all” (1) to “completely” (5), answer the following questions:

	Not at all				Completely
17) To what extent do you believe that this ___-year-old juvenile <u>maximizes the weight given to rewards and minimizes the weight given to risks</u> ?	1	2	3	4	5
18) To what extent do you believe that this ___-year-old juvenile <u>emphasizes short-term risks and benefits more than long-term risks and benefits</u> ?	1	2	3	4	5
19) To what extent do you believe that this ___-year-old juvenile is <u>susceptible to the influence of peers or adults</u> ?	1	2	3	4	5

20. This ___-year-old juvenile appeared:

- Equal to his stated age.
- Younger than his stated age.
- Older than his stated age.

21. The description of this youth appeared consistent with a juvenile of what age?

22. To whom have you compared this juvenile?

- Another juvenile defendant
- An adult defendant

scale from “not at all important” (1) to “very important”(5). These questions apply to real cases, not the vignette you just read.

	Not at all Important	2	3	4	Very Important
9. <input type="checkbox"/> IQ	1	2	3	4	5
10. <input type="checkbox"/> Mental Health	1	2	3	4	5
11. <input type="checkbox"/> Age	1	2	3	4	5
12. <input type="checkbox"/> Level of Maturity	1	2	3	4	5
13. <input type="checkbox"/> Seriousness of the Offense	1	2	3	4	5
14. <input type="checkbox"/> Amenability to Treatment	1	2	3	4	5
15. <input type="checkbox"/> Dangerousness	1	2	3	4	5
16. <input type="checkbox"/> Other (please specify): _____ _____ _____	1	2	3	4	5

17. In what type of location do you hear cases?

- Urban Suburban Rural

18. What is your gender?

- Male Female

19. What is your race/ethnic identification?

- American Indian or Alaskan Native
 Asian or Pacific Islander
 African American/Black (not of Hispanic origin)
 Hispanic
 White (not of Hispanic origin)
 Other
 Prefer not to answer

Vita

Education

- Ph.D. candidate, Clinical Psychology, Drexel University, Philadelphia, PA, (Anticipated completion: September 2008)
- M.S., June 2003, Drexel University, Philadelphia, PA
- Juris Doctorate, May 2006, Villanova University School of Law, Villanova, PA
 - Villanova Law Review, Staff Writer & Associate Editor (2002-2004)
- B.A. Psychology, May 1998, Summa Cum Laude, University of Massachusetts, Amherst, MA

Experience

- Predoctoral Psychology Intern, Florida State Hospital (2006 – 2007)
- Psychological Evaluator, Dr. Kirk Heilbrun, Philadelphia, PA (2005 – 2007)
- Psychotherapist, Dr. Bret Boyer, Darby, PA (2003 – 2005)
- Psychotherapist, Dr. Terry Murphy, Philadelphia, PA (2003 – 2004)
- Group Therapy Trainee, Tasha Knob, Philadelphia, PA (2002 – 2003)

Professional Presentations

- Mayer, J., Goldstein, N.E., & Redding, R.E. (2003). *The Use of Children's Preference in Child Custody Determinations: Implications for Law and Forensic Mental Health Practice*. Poster presented at the American Psychology-Law Society Conference, Scottsdale, Arizona.
- Mayer, J. & Goldstein, N.E. (2002). *Gender-Specific Treatment Needs of Girls in the Juvenile Justice System*. Paper presented at the International Association of Forensic Mental Health Services, Miami, Florida.
- Mayer, J. (1998). *Romantic Attraction and Gender Role*. Paper presented at the Association for Women in Psychology Conference, Baltimore, Maryland.

