
Effectiveness of Participation as a Defendant: The Attorney–Juvenile Client Relationship

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Recent changes in the processing of juveniles in the justice system place greater significance on children's capacities to participate in legal contexts. Effective participation as a defendant encompasses abilities beyond those legally required for adjudicative competence, which may nevertheless influence the quality and nature of a defendant's participation in the trial process. Based in developmental judgment theory, the current study compares 203 juveniles and 110 adults detained pre-trial using a hypothetical attorney–client vignette to examine how psychosocial factors are reflected in decision-making processes and link to decision outcomes and effective participation within the attorney–client relationship. Age-related differences in legally relevant decision-making processes and outcomes are identified, and implications for policy are made. Copyright © 2003 John Wiley & Sons, Ltd.

BACKGROUND

Over the last several decades, the juvenile court has become increasingly punitive and has been transformed from a loosely structured system in which rights were viewed as unnecessary to a more formal, due-process oriented system in which children are accorded certain legal rights (Cowden & McKee, 1995; Grisso, 1993, 1997; Reppucci, 1999; Schmidt & Reppucci, 2002). In 1967, the U.S. Supreme Court's decision in *In re Gault* fundamentally changed the juvenile justice system by providing juveniles with the rights to counsel and to assist in their own defense, among others. Since *Gault*, the role of attorneys for juveniles has changed from a

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guardian model to a more conventional defense-oriented advocacy role (Cowden & McKee, 1995). Given their similar potential for loss of liberty, it is now generally accepted that juvenile offenders are deserving of the type of criminal defense representation traditionally reserved for adults (Federle, 1988). This change is especially important given the increasing number of youths being tried as adults (Snyder & Sickmund, 1999). Particularly in the adversarial system of the adult criminal court, the defendant is relied upon to be an active participant in the trial process, value is placed on the defendant's decisions, and the attorney is bound to adhere to the defendant's wishes (Bonnie & Grisso, 2000; Steinberg & Cauffman, 1999). The American Bar Association's Model Rules of Professional Conduct support the attorney's role as a zealous advocate for the child client and require the same basic duties of representation for child clients as for adults (Model Rules of Professional Conduct, Rule 1.14(a) (1983)). However, the zealous advocacy model assumes a competent client (Federle, 1996), and has placed greater significance on children's capacities to participate in legal contexts (Cowden & McKee, 1995; Federle, 1996; Grisso, 1997; Woolard, 2002).

In 1960 and 1975, the Supreme Court outlined standards for establishing a defendant's competence to stand trial (*Dusky v. U.S.*, 1960; *Drope v. Missouri*, 1975; American Bar Association, 1989). Competence to stand trial is assessed through a three-pronged test that seeks to ascertain the defendant's abilities to understand and consult with his/her attorney, factually and rationally understand the charges against him/her, and aid his/her lawyer in creating the defense. Thus, the traditional standard of adjudicative competence set out by *Dusky v. U.S.* is fairly narrow, setting a minimum threshold required for a defendant's case to go forward based on cognitive capacities of understanding, reasoning, and appreciation (Grisso, 2000; Woolard & Reppucci, 2000).

More recently, Bonnie (1992) has classified defendants' abilities into two categories. The first category, termed "competence to assist counsel," includes the abilities to understand and appreciate the significance of the proceedings against oneself (e.g. the roles and motivations of participants, one's rights, and the significance of the matter at hand to one's own situation), as well as the ability to communicate relevant information to counsel to aid in the development of a defense. The second category, deemed "decisional competence," involves decision-making abilities, including capacities for reasoning and judgment (e.g., the abilities to foresee the consequences of multiple options, compare them, and weigh both their probability of occurrence and subjective desirability in making a decision) (Grisso, 1997).

Consideration of Bonnie's classification of defendants' abilities highlights an interesting distinction between the concept of *adjudicative competence* as it is legally defined and the notion of *effective participation* as a defendant. Whereas the legal definition of adjudicative competence establishes a minimum standard of required capacities for a defendant's case to go forward, effective participation encompasses abilities beyond those that are constitutionally required that may influence the quality and nature of a defendant's participation in the trial process without crossing the threshold for legal incompetence (Woolard & Reppucci, 2000; Woolard, 2002). Several scholars have begun to recognize the significance of these abilities for the attorney-client relationship (Bonnie & Grisso, 2000; Buss, 2000; Federle, 1996). In particular, youths who have the cognitive capacities required to meet the

formal legal criteria for competence to stand trial under the *Dusky* standard may nevertheless possess certain developmental characteristics that impair their effective participation as trial defendants (Grisso & Schwartz, 2000). For example, taking an active role in the trial process requires that one trust in and collaborate with an attorney. A juvenile who is able to articulate an understanding of the role of an attorney may not be persuaded of his own attorney's allegiance to him rather than to the court; such a misperception could influence a juvenile in deciding what or how much to tell his attorney (Grisso, 1999). In addition, an effective defendant must possess the ability to conceive of and weigh both short- and long-range consequences in decision-making. Juveniles may be less able than adults to perceive these consequences, or they may make different choices due to age-related factors that influence the weights and values they attribute to each possible outcome (Furby & Beyth-Marom, 1990). Of course, adult defendants also may differ from one another in these abilities; the relevant question is "whether youths are at any comparatively greater risk of reducing the effectiveness of their defense as a consequence of developmental characteristics that diminish these abilities" (Grisso, 2000, p. 143). In the next sections, we highlight research and theory on the capacities necessary for effective participation in the attorney–client relationship and propose a developmental framework for considering factors that may influence these capacities.

CAPACITIES RELEVANT TO EFFECTIVE PARTICIPATION WITHIN THE ATTORNEY–CLIENT RELATIONSHIP

A successful attorney–client relationship is at the crux of meaningful trial participation. Beyond the capacities necessary for legal competence, effective participation as a defendant requires a personally relevant understanding of the lawyer's advocacy role and the confidential nature of the attorney–client relationship, as well as comprehension of one's own directive role in the process (Buss, 2000). Without these, a defendant may be suspicious of the attorney's motivations or withhold information from the attorney out of fear that it will later be held against him or her (Buss, 2000; Cowden & McKee, 1995; Federle, 1996). (Although these suspicions may not be entirely unjustified given the remaining vestiges of the juvenile court's paternalistic orientation, the increasingly adversarial nature of the juvenile justice system and the sizeable presence of youth in the adult system suggest that strict confidentiality should be adhered to by lawyers and understood by juveniles.)

A number of studies have documented juveniles' misunderstandings or distortions of the attorney–client relationship that could interfere with their effective participation as defendants (Grisso, 2000). In general, children under the age of 15 have significantly poorer understanding of legal matters relevant to their participation in trials than do adults (Cowden & McKee, 1995; Grisso, 1980, 1981, 1997). Many youths, even those having experience with the justice system, misunderstand the privilege of attorney–client confidentiality and the advocacy role of their attorney (see, e.g., Grisso, 1980; Grisso & Pomiciter, 1977). In a descriptive study of 50 adolescent offenders' perceptions and understanding of the legal

process, Peterson-Badali, Abramovitch, Koegl, and Ruck (1999) found that although 61% of the young offenders stated they had been told of a right to counsel, 75% reported that they did not obtain a lawyer prior to questioning. In addition, whereas nearly all (96%) of the youths believed that lawyer–client confidentiality prevented the attorney from telling the police what he or she had said, 26% believed the lawyer *could* reveal information to the judge, and 30% stated that the lawyer could tell his or her parents what he or she had said. Moreover, an earlier study found that the majority of younger adolescents (grade 5; mean age 10.7 years) and close to half of the adolescents in grade 7 (mean age 13.0 years) incorrectly believed that their attorneys could tell police officers what they had said (Peterson-Badali & Abramovitch, 1992). Strikingly, Grisso (1980) found that even juveniles recognizing the advocacy potential of the attorney did not understand the privilege of attorney–client confidentiality; one-quarter to one-third of the juveniles (compared with only about one-tenth of adult ex-offenders) thought that if they told their attorneys that they were guilty of the offense, the attorney would no longer be able to defend them. A substantial minority of the youthful offenders in the study by Peterson-Badali and colleagues (1999) also misunderstood the lawyer’s advocacy role; for example, some youths did not realize that the lawyer could be of help to them during questioning at the police station, others expressed generalized or vague notions of the lawyer’s helping role, and still others thought the lawyer had to prove their innocence. According to Grisso (1997), “Adolescents often appear to believe that defense attorneys defend the interests of the innocent but become more like police officers for the guilty” (p. 15).

Although some argue that adolescents’ deficits in understanding simply reflect a lack of knowledge and may be diminished through instruction, evaluations of knowledge-based interventions have produced less than satisfactory results. Cooper (1997) tested juvenile defendants’ competence to stand trial using the Georgia Court Competency Test before and after showing them an educational videotape on the trial process that included factual information on trial participants and potential consequences. Although the training did significantly improve delinquent youths’ knowledge of trials, the vast majority of juveniles (90%) still did not attain scores above the cut-off score reflecting competence at post-test. Similar interventions aimed at simplifying legal language (e.g. presenting *Miranda* warnings in age-appropriate language) have not significantly increased juveniles’ comprehension (Ferguson & Douglas, 1970; Manoogian, unpublished doctoral dissertation). In considering why instruction alone might not make for an effective defendant, Barnum (2000) underscores the importance of the attorney–client relationship: “A youth who is entirely familiar with the criminal justice system . . . may not have important knowledge deficits in the basics of the trial process, but at the same time may not really understand very much about the specific issues in her own case and may not have established the sort of relationship with counsel that might enable her to learn about these issues successfully” (p. 206). Moreover, knowledge-based interventions seem unlikely to be able to successfully compensate for deficits in juveniles’ understanding that are not factually based. For example, deficits in decision-making capacities such as the capacity for reasoned choice may not be resolvable through education if they arise because the youth has not yet fully developed certain cognitive and psychosocial competencies necessary for decision-making (Steinberg & Cauffman, 1999).

A DEVELOPMENTAL FRAMEWORK FOR STUDYING DECISION-MAKING IN THE ATTORNEY–CLIENT RELATIONSHIP

Although many factors influence effective participation as a trial defendant, until recently the legal standard for adjudicative competence has motivated researchers to focus primarily on cognitive differences between adults and adolescents that might impair juveniles' competence to stand trial. When researchers uncovered little evidence of systematic differences between adults and youths (particularly youths 15 years of age and older) in cognitive processes underlying decision-making based on studies of hypothetical non-legal circumstances (see e.g., Furby & Beyth-Marom, 1990; Grisso & Vierling, 1978; Weithorn, 1983), many interpreted the results to mean that adolescents and adults are equally competent decision-makers. This interpretation is problematic for two primary reasons. First, theory and research suggest that compared with adults, adolescents' newly acquired cognitive capacities may be deployed with less dependability and less uniformity across settings, especially in stressful situations (Driskell & Salas, 1996; Flavell, 1985; Scott, Reppucci, & Woolard, 1995; Seigler, 1991; Steinberg & Cauffman, 1996). Second, cognitive capacities are not the sole determinant of decision outcomes. Beliefs and values drive the choices of adolescents and adults. However, to the extent that beliefs and values are related to developmental characteristics, they are not necessarily established in adolescents and adults with the same degree of permanence. Regarding adolescents, Grisso (2000) raises the question "what if the individual's choices reflected preferences based on a temporary set of values sure to change in a short time?" (p. 160).

Recognizing that the juvenile justice system was formulated not only on notions of youths' cognitive capacities but also on perceptions of their immaturity, Scott and colleagues (1995) proposed and refined a developmental judgment framework for examining decision-making (see also Cauffman & Steinberg, 2000; Cauffman, Woolard, & Reppucci, 1999; Scott, 2000; Steinberg & Cauffman, 1996). Judgment refers to the interaction of cognitive and psychosocial factors that influence decision-making. Scott and colleagues suggest that developmentally linked psychosocial factors may influence the way information is used and the subjective value attached to various consequences, affecting the cost–benefit calculus and ultimately the decisions made, as individuals mature (Scott, 2000; Scott et al., 1995; Steinberg & Cauffman, 1996). Similarly, we propose that developmental deficiencies in psychosocial aspects of judgment serve as blinders, limiting the parameters within which adolescents exercise their cognitive capacities. For example, in reaching a decision to communicate with an attorney, a juvenile may apply the same decision-making process as an adult (i.e. a cost–benefit analysis), but weigh the costs and benefits differently because he/she has a limited future orientation and a tendency to focus on immediate gains, both psychosocial factors that are likely to change with maturity. Thus, age-related differences in psychosocial factors are not themselves merely differences in the values and priorities of adolescents and adults, but comprise parameters that *shape and are reflected in* values and priorities; as adolescents mature on these psychosocial factors, their values change too, resulting in differing decision outcomes with age. Two additional points are worth clarifying.

First, without question, adults' values and preferences may change over time, but such changes likely would not be due to developmental factors. Second, the term "capacities" is somewhat controversial; regardless of whether these psychosocial variables are deemed to reflect capacities or merely factors influencing adolescents' priorities, they are currently outside the scope of the cognitively based legal definition of competency (see, e.g., Cauffman et al., 1999; Steinberg & Cauffman, 1996).

Scott et al. (1995) and others (e.g. Cauffman & Steinberg, 2000; Steinberg & Cauffman, 1996) posit that psychosocial developmental characteristics such as risk perception and preference, and time perspective (future orientation), affect how cognitive capacities are used in decision making. Existing developmental research supports the idea that there may be differences between youths and adults on these psychosocial factors that could affect decision making in legally relevant contexts. For example, research suggests that adolescents engage in more risk taking behaviors than do adults, not necessarily because they are unaware of the risks they take (Alexander et al., 1990), but because they differ from adults in their attitude toward and perception of risk (Scott, 2000). Adolescents focus more on opportunities for gains than on protection against losses, and may view as benefits what adults perceive as costs (Benthin, Slovic, & Severson, 1993; Finn & Bragg, 1986; Gardner & Herman, 1990; Lavery, Siegel, Cousins, & Rubovits, 1992; Lopes, 1987; Scott et al., 1995). In addition, adolescents' propensity toward risk appears related to the degree to which they think with a more immediate rather than future orientation (Cauffman & Steinberg, 2000; Scott, 2000). They tend to attach more weight to short-term consequences (favorable or unfavorable) than to long-term consequences, and are especially likely to place greater weight on potential gains than losses when the gains are more immediate (Bonnie & Grisso, 2000; Grisso, 2000; Scott et al., 1995; see, e.g., Arnett, 1994). In a legal setting, adolescents' greater propensity toward risk and foreshortened time perspective could compromise their trial participation. For example, adolescents might 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. In sum, an adolescent whose judgment has not yet matured in these aspects may make poorer decisions in a legal setting than a comparable adult whose psychosocial development is complete.

Finally, situational factors may constitute additional barriers to effective participation for juveniles in the attorney–client relationship. Situation-specific conditions such as representation by a court-appointed attorney and macrosystem parameters such as the overrepresentation of African Americans in the juvenile justice system are two such factors. Because juveniles in the justice system are frequently of lower SES, they are often represented by court-appointed attorneys. Such attorneys are often perceived as "second rate," and as having little time to meet with their defendants, which may exacerbate existing problems in developing a solid attorney–client relationship (Hackler, 1992; Woolard & Reppucci, 2000). Case studies suggest that youths tend to have a higher level of trust and satisfaction (regardless of outcome) in attorneys who spend more time working with them (Tobey, Grisso, & Schwartz, 2000), yet according to Ventrell (1995) "lawyers frequently appear on behalf of children whom they have never even seen" (p. 274). Although this may be an unfair generalization, knowledge of a lawyer's court-appointed status could

impact a juvenile's decision to trust in and communicate with him/her in a way that is different from an adult's decision in the same context. Finally, African–American youths' accurate perceptions of inequities such as the disproportionate number of African–American juveniles at all stages of the juvenile justice system and their greater average lengths of stay in detention centers and residential placements (Bilchik, 1999) may also shape their relationships with attorneys (Woolard & Reppucci, 2000).

Little empirical research has examined the ways in which adolescents differ from adults within the attorney–client relationship, and how these differences could impede juveniles' effective participation as trial defendants (Tobey et al., 2000). In the current study, we assess more than 200 juvenile and 100 adult offenders using a hypothetical attorney–client vignette in order to take a first look at how psychosocial developmental judgment factors are reflected in the decision-making processes (i.e. cost–benefit calculations) of adolescents and adults and how these factors link to decision outcomes within the attorney–client relationship.

We put forth four primary hypotheses. First, consistent with research documenting juveniles' misunderstandings and distortions of the attorney–client relationship, adolescents will be more likely than adults to identify and select options such as refusing to talk to an attorney and denying involvement in the offense. Second, developmental psychosocial factors will be reflected in the decision-making process, such that adolescents (especially younger adolescents) will mention more total short-term consequences and more consequences associated with potential short-term gains than will adults. Third, when taken into consideration along with traditionally assessed cognitive aspects of competency, age and contextual measures of psychosocial judgment factors related to development will contribute to the predicted decision to talk and admit to an attorney within a hypothetical attorney–client context. Finally, with regard to additional situational barriers to the attorney–client relationship, adolescents, particularly African–American youths, will make more negative references to their attorney's effectiveness, their level of trust in their attorneys, and their views toward court-appointed attorneys than will adults.

METHOD

The data used in this study are part of a broader dataset, which were collected for the purpose of examining developmental differences in judgment and competence in legally relevant contexts (Cauffman et al., 1999; Krause, unpublished doctoral dissertation; Reppucci & Woolard, 1999; Woolard, unpublished doctoral dissertation; Woolard, Fried, & Reppucci, 2001). However, none of these data have been included in previous analyses.

Participants

Participants were 101 young juvenile males aged 12–15 ($m = 14.2$ years) and 102 older juvenile males aged 16 and 17 ($m = 16.6$ years), held in one of two juvenile detention facilities, and 110 adult males aged 19–35 ($m = 27.2$ years) being held in a regional jail; all three facilities were located in Virginia. Pretrial detainees were

selected to minimize differences resulting from exposure to different stages of the justice process. The juvenile age categories were chosen to reflect age lines drawn within state statutes for transferring juveniles to adult criminal court (Snyder & Sickmund, 1995). The legal adult sample was selected as an appropriate standard for comparison since the justice system presumes that legal adults possess the capacities necessary to be found competent to stand trial (except in the case of severe mental illness or retardation). Demographic characteristics of the three samples are given in Table 1.

The juvenile samples reflected a broader range of races/ethnicities than did the adult sample, resulting in a significant difference in race across age groups ($\chi^2(6, n=304)=40.7, p=0.001$) (see Table 1). African Americans were more highly represented in both the younger juvenile and adult groups, while Caucasians were most highly represented in the older juvenile group. In addition, while both the younger and older juvenile groups contained Hispanics and Asians, the adult group included only one Hispanic and no Asians. Though less diverse, the distribution of adults accurately reflected the population of the jail. Due to the sizeable representation of ethnic minority juveniles who were not African American (totaling 17% of the sample; see Table 1), all analyses involving race were conducted two ways. First, in order to bring to light important differences by ethnicity, analyses that included the race variable compared three groups: African Americans, Caucasians, and other minorities (comprised of Hispanics and Asians). Next, Hispanics and Asians (who were not represented in the adult group) were temporarily dropped from the sample and the data were analyzed a second time in order to allow for the identification of race effects across age groups.

Table 1. Demographic characteristics of the three samples

	Young juveniles (<i>n</i> = 101)		Older juveniles (<i>n</i> = 102)		Adults (<i>n</i> = 110)	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Race/ethnicity						
African American	42	41.6	30	29.4	66	60.0
Caucasian	36	35.6	43	42.2	38	34.5
Hispanic	12	11.9	19	18.6	1	0.9
Asian	8	7.9	8	7.8	0	0.0
Missing	3	3.0	2	2.0	5	4.5
Committing offense						
Person	29	28.7	23	22.5	35	31.8
Property	27	26.7	23	22.5	25	22.7
Court order	42	41.6	45	44.1	18	16.4
Other	1	0.9	7	6.9	31	28.2
Missing	2	2.0	4	3.9	1	0.9
KBIT IQ category						
Lower extreme	8	7.9	7	6.9	12	10.9
Well below average	11	10.9	9	8.9	21	19.1
Below average	15	14.9	15	14.9	22	20.0
Average	53	52.5	56	55.4	53	48.2
Above average	13	12.9	9	8.9	0	0.0
Well above average	0	0.0	4	4.0	1	0.9
Missing	1	1.0	2	2.0	1	0.9
History of prior detention	67	69.1	71	71.7	84	77.8

The groups also differed both on committing offense ($\chi^2(6, n = 302) = 53.2, p < 0.001$) and IQ ($\chi^2(2, n = 309) = 9.8, p < 0.01$) (see Table 1). Juveniles were most likely to be detained for court order violations (e.g. failure to appear in court, probation violation), followed by personal and property offenses, whereas adults were most likely to be committed for offenses against persons and also for a wider range of offenses. With regard to IQ, 65% of the young juveniles and 68% of the older juveniles scored in the average or above average categories, whereas only 49% of the adults scored at this level. The groups did not differ on history of prior detention; 69–78% of each of the groups reported having been detained previously (see Table 1).

Measures

Adjudicative Competence

The MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT; Poythress et al., 1999) was used as a measure of adjudicative competence to assess defendants' understanding, reasoning, and appreciation of the legal process. This tool was developed to assess competence according to the criteria outlined by *Dusky v. U.S.* (1960) and *Drope v. Missouri* (1975), and is a structured interview comprised of 22 questions, which make up three subscales: Understanding, Reasoning, and Appreciation. The MacCAT demonstrates good internal consistency and criterion-related validity with adult populations of criminal defendants (Poythress et al., 1999), although no data on juvenile defendants are available. Interviewers were trained on 20 training protocols and obtained good reliability scores ($\kappa > 0.80$).

Previous analyses of a subset of these data demonstrated that few differences of any sort exist between adolescents and adults on the three subscales of the MacCAT, and that IQ accounts for much of the variance in the differences between the three age groups (Krause, unpublished doctoral dissertation). Given these findings, participants' MacCAT subscale scores were incorporated into predictive analyses of decision outcomes in order to assess the effect of psychosocial judgment and other variables (above and beyond measured adjudicative competence) on decision-making in the hypothetical attorney–client context.

In addition, two of the MacCAT Appreciation questions were coded for content. These questions pertained to participants' beliefs about their lawyer's effectiveness and their likelihood of full disclosure to their lawyer. The coding scheme outlined in the MacCAT scoring manual (Poythress et al., 1999) categorizes participants' responses as clearly plausible, questionably plausible, or clearly implausible reasoning, in order to identify delusional or otherwise mentally ill defendants. Beyond this categorization, however, the MacCAT coding scheme is not designed to capture the content of participants' answers. Because in this sample, the majority of participants' responses were coded as clearly plausible (81–89%, depending on the question) and contained a good deal of explanation, a coding scheme was developed to examine more carefully the reasoning behind participants' answers. Of specific interest were participants' positive or negative references to their lawyer's effectiveness, trust in their lawyers, and their lawyer's court-appointed or privately retained status. It was possible for answers to be coded into more than one category. Coding was completed independently by two coders; disagreements were resolved through

discussion and consensus. Prior to consensus, inter-rater reliability was 0.60 for the question pertaining to lawyer effectiveness and 0.68 for the question pertaining to likelihood of full disclosure; these kappa values are characterized as reflecting good agreement (Fleiss, 1981).

Intellectual Functioning

Intellectual functioning was measured using the Kaufman Brief Intelligence Test (K-BIT; Kaufman & Kaufman, 1990), an individually administered measure appropriate for ages four to 90. It is comprised of a Vocabulary subtest and a Matrices subtest, designed to assess verbal and nonverbal or problem-solving abilities, respectively. Analyses suggest that the K-BIT is both a reliable and valid measure of intelligence, demonstrating adequate split-half reliability and test-retest reliability (meeting or exceeding 0.87 in the standardization sample), and having comparable (though slightly higher) score distributions to the WISC-R and WAIS-R full IQ distributions (Naugle, Chelune, & Tucker, 1993; Parker, 1993).

Context-Specific Judgment and Decision Making

Judgment and decision-making abilities within the context of the attorney–client relationship were assessed using an attorney–client vignette describing a male who has committed a robbery, is now in his first meeting with his attorney, and must decide whether or not to admit the truth to his attorney (Woolard, unpublished doctoral dissertation). In the adolescent version of the vignette, the male is described as being 15 years old; in the adult version, a specific age is not given.

After hearing the story, participants were first asked to report all of the character's *decision options* ("What are all the things a person could do in this situation?"). Responses were coded as talk and admit, deny involvement, refuse to talk, or other. Participants were then required to make two *decision choices* based on the information in the story: (i) a recommendation for the decision the character should make ("What would you tell Joe to do?"); and (ii) what he would do in a similar situation ("If you were in the same situation, what would you do?"). In addition, after the first decision choice, participants were asked to generate all of the possible *decision consequences* that could follow from each of the three primary decision options—admitting involvement in the crime, denying involvement in the crime, and remaining silent/refusing to talk to the attorney. Decision consequences were assessed as an indicator of the reasoning and decision process used when considering the decision options.

The attorney–client vignette was scored in two parts. First, decision choices were coded for both of the decision points. Second, the decision consequences were coded for content category (using a modification of the rating scheme developed by Grisso, 1981; see the Appendix), valence (positive or negative consequence—related to the weighing of risks and benefits), and temporal perspective (short-term or long-term consequence). Coding was completed independently by two coders, and disagreements were resolved through discussion and consensus.

The attorney–client vignette provides a tool for exploring defendants' beliefs and reasoning about the attorney–client relationship. It does not measure capacities relevant to the legal standard of competence to stand trial; rather, it provides

assessments of risk perception and time perspective, two of the developmentally based judgment factors that may implicate the broader concept of effectiveness of participation. Two noncontextual measures of judgment were included in the overall protocol in order to provide some indication of the construct validity of the vignette. The Arnett Inventory of Sensation Seeking (AISS; Arnett, 1994) was incorporated as an indicator of risk perception, and the Life Orientation Test (LOT; Scheier & Carver, 1985) was included as an indicator of future time orientation. The AISS is comprised of 20 items on a four-point Likert scale designed to index sensation seeking or proclivity toward risk on two subscales—Novelty and Intensity. The AISS correlates with adolescents' participation in reckless behavior and has adequate internal reliability (Arnett, 1994). The LOT consists of 12 items designed to assess an individual's optimism regarding future outcomes, and has been used with children as young as nine years old. Previous studies have demonstrated adequate internal consistency ($\alpha = 0.76$) and test–retest reliability (0.79). Validity tests have confirmed predictive relationships with assessments of locus of control, self-esteem, and depression (Scheier & Carver, 1985).

Some evidence of construct validity could be established if the contextual judgment variables measured in the vignette demonstrate moderate correlations with the noncontextual measures of risk perception and time perspective, which should themselves behave in ways consistent with developmental theory (i.e. demonstrate age-based increases in future time perspective and decreases in sensation seeking). In this study, the AISS demonstrated predicted age-based differences in an ANOVA with IQ percentile as a covariate, $F(5, 296) = 4.63$, $p < 0.001$. We also found that the AISS correlated significantly with the proportion of risks out of all consequences mentioned in the vignette ($r = 0.14$, $p < 0.05$). However, the noncontextual measure of future orientation (LOT) did not demonstrate significant age-based differences in an ANOVA with IQ percentile as a covariate, nor did it correlate with the proportion of short-term consequences in the vignette. The lack of age differences in the LOT itself contradicts developmental theory and other findings regarding age-based differences in future orientation (Greene, 1986), suggesting it has limited utility as a reference point for establishing construct validity of the attorney–client vignette.

Procedure

Measures were administered within a two-hour individual interview, which was conducted in a detention center classroom or in a small office cubby in a hallway of the jail. The MacCAT was administered first, followed by the KBIT. The attorney–client vignette was administered in the latter half of the interview. The entire protocol was read aloud, and participants were given a five-minute break halfway through the interview. Participants were told they could quit at any point, but attrition rates were extremely low (1.3%; $n = 4$).

RESULTS

Hypothesis 1. Adolescents will be more likely than adults to identify and select options such as refusing to talk to an attorney and denying involvement in the offense.

Chi squares analysis was used to test for (i) demographic differences in the number of participants identifying each of four possible responses (categorized as talk and admit, deny involvement, refuse to talk, or other) corresponding to the character's *decision options* in the attorney–client vignette and (ii) the proportion of participants selecting each of the four responses at the two *decision choices* (i.e. “What would you tell Joe to do?” and “If you were in the same situation, what would you do?”). In accordance with the hypothesis, a significantly greater proportion of older juveniles (31.4%) and younger juveniles (26.7%) than adults (16.8%) identified refusing to talk as an option in the attorney–client relationship ($\chi^2(2, n = 310) = 6.21, p < 0.05$). In addition, although the majority of participants recommended that Joe talk and admit to his attorney (77.0%) and indicated that they would talk and admit to their attorney if in Joe's situation (74.0%), both younger (22.8%) and older juveniles (22.6%) tended to be more likely than adults (11.2%) to recommend Joe deny involvement in the offense.

Hypothesis 2. Developmental psychosocial factors will be reflected in the decision-making process, such that adolescents (especially younger adolescents) will mention more total short-term consequences and more consequences associated with potential short-term gains than will adults.

Multivariate analyses of variance (MANOVAs) were used to examine the *decision consequences* generated for the three primary decision options (talk and admit, deny, refuse to talk). The time perspective, valence, and content of consequences were analyzed by demographic variables for the decision option chosen by the participant at the initial decision choice as well as for the two alternative options the participant did not select. Results demonstrated that age influenced the time perspective of consequences generated across the three decision options ($F(4, 554) = 2.43, p < 0.05$). Older and younger juveniles suggested a greater number of short-term consequences ($m = 1.81, SD = 1.47$; $m = 1.67, SD = 1.47$) than did adults ($m = 1.21, SD = 1.24$) ($F(2, 278) = 3.92, p < 0.05$). Furthermore, the frequency with which certain types of consequence were mentioned varied by age ($F(30, 586) = 1.84, p < 0.01$). Younger juveniles mentioned more consequences categorized as “questioning pursued/curtailed” ($F(2, 307) = 3.34, p < 0.05$), “freedom/temporary detainment” ($F(2, 307) = 3.88, p < 0.05$), and “disposition” ($F(2, 307) = 4.34, p < 0.05$) than did older juveniles, who made more mentions of these categories than did adults. On the other hand, adults made more mentions of a “plea agreement/deal” being reached ($F(2, 307) = 3.97, p < 0.05$) than did older juveniles, who made more mentions than did younger juveniles (see the Appendix for content category definitions).

Aside from age, IQ was the only demographic factor associated with the type of consequence mentioned by participants. IQ predicted the overall number and variety of consequences generated by participants ($F(2, 277) = 3.64, p < 0.05$). Participants having below average IQ scores mentioned fewer total consequences ($m = 4.5$ versus $m = 5.3$) ($F(1, 278) = 5.75, p < 0.05$), and used fewer consequence categories ($m = 2.9$ versus $m = 3.3$) ($F(1, 278) = 5.51, p < 0.05$) than did participants scoring in the average to above average range on the IQ test. IQ also influenced the time perspective ($F(2, 277) = 5.24, p < 0.01$) and valence ($F(2, 277) = 4.19, p < 0.05$) of consequences given across the admit, deny, and refuse to talk decision

options. Participants having average or above average IQ scores generated more short-term consequences ($m = 1.75$, $SD = 1.54$), compared with participants having below average IQ scores ($m = 1.20$, $SD = 1.19$), ($F(1, 278) = 6.46$, $p = 0.01$); they also generated more total negative consequences ($m = 3.46$, $SD = 1.73$) than did participants having below average IQ scores ($m = 2.88$, $SD = 1.56$) ($F(1, 278) = 5.16$, $p < 0.05$). Finally, the frequency with which certain types of consequences were mentioned also varied by IQ ($F(15, 290) = 2.79$, $p < 0.001$). Participants having average and above average IQ scores mentioned more frequently the avoidance or initiation of court proceedings ($F(1, 304) = 6.67$, $p < 0.01$), lawyer effectiveness or willingness/refusal to help ($F(1, 304) = 13.70$, $p < 0.001$), and lawyer trust/confidentiality ($F(1, 304) = 6.20$, $p = 0.01$) than did participants having below average IQ scores.

Hypothesis 3. When taken into consideration along with traditionally assessed cognitive aspects of competency, age and contextual measures of psychosocial judgment factors related to development will contribute to the predicted decision to talk and admit to an attorney within a hypothetical attorney–client context.

Logistic regressions were employed to determine significant predictors of the decision choices. For these analyses, the four potential decisions (talk and admit, deny, refuse to talk, and other) were combined into two dichotomous variables representing the participant's recommendation to the character (admit or not admit) and the participant's statement of what he would do in a similar situation (admit or not admit). Due to the large number of predictors in comparison to the sample size, demographic variables, adjudicative competence subscale scores, and contextual judgment factors including time perspective, valence, and content of consequences, were entered as separate blocks of predictors. However, in order to address multicollinearity across blocks of predictors, a hierarchical modeling approach was used (see Table 2). The initial model included only the demographic block of predictors in order to account for the distribution features of the data. Ensuing models (II, III, & IV) paired additional blocks of predictors with the demographic block in order to assess the influence of adjudicative competence and contextual judgment variables over and above age, race, and other demographic variables. Model II paired the demographic block of predictors with adjudicative competence variables. In model III, three blocks were entered concurrently; the temporal perspective and valence variable blocks were simultaneously added to the demographic block due to the theorized link and the high correlations between temporal perspective and valence variables (ranging from $r = 0.14$ to $r = 0.56$). Model IV simultaneously assessed the influence of demographic variables and the type of consequence described across decision options. (For clarity, only those variables that significantly predicted one or both of the decision outcomes are included in the table.) Significant predictors from each block were then entered into a final regression equation for each decision point. In the demographic block, categorical variables containing more than one level were contrast coded to examine level differences. Age was dummy coded (see, e.g., Cohen & Cohen, 1983) to compare older juveniles to adults and then to compare younger juveniles to adults. Race was dummy coded to reflect Caucasians as the reference group against which African Americans were first compared and other minorities were next compared.

Table 2. Regression equations predicting decision to talk and admit to attorney

	Recommendation to character			Self-report		
	β	Odds ratio	R^2	β	Odds ratio	R^2
MODEL I Demographic Factors			18.4%			11.5%
AGE1 (younger juveniles versus adults)	-1.44**	0.24		ns		
AGE2 (older juveniles versus adults)	-1.17*	0.31		-0.82*	0.44	
RACE2 (other minorities versus Caucasians)	-1.29**	0.28		ns		
DETBEF (prior detention history)	-1.06*	0.35		-1.12**	0.33	
CRIME2 (property)	0.64*	1.90		ns		
MODEL II Demographics+ Adjudicative Competence			ΔR^2 0.2%			ΔR^2 0.3%
AGE1 (younger juveniles versus adults)	-1.46**	0.23		ns		
AGE2 (older juveniles versus adults)	-1.17*	0.31		ns		
RACE2 (other minorities versus Caucasians)	-1.32**	0.27		ns		
DETBEF (prior detention history)	-1.08*	0.34		-1.11**	0.33	
CRIME2 (property)	0.64*	1.89		ns		
MODEL III Demographics + Time Perspective + Valence			ΔR^2 11.0%			ΔR^2 7.4%
AGE1 (younger juveniles versus adults)	-1.63**	0.20		ns		
AGE2 (older juveniles versus adults)	-1.18*	0.31		ns		
DETBEF (prior detention history)	-1.13*	0.32		-1.22**	0.30	
CRIME2 (property crime)	0.75*	2.12		0.71*	2.03	
Short term (admit)	0.84**	2.31		ns		
Short term (deny)	0.53*	1.70		ns		
Long term (admit)	-0.88**	0.41		0.37*	1.44	
Long term (deny)	-0.63*	0.53		ns		
Negative (admit)	-0.80**	0.45		ns		
MODEL IV Demographics+ Content Categories			ΔR^2 19.5%			ΔR^2 11.6%
AGE1 (younger juveniles versus adults)	-1.35*	0.26		ns		
AGE2 (older juveniles versus adults)	-1.47**	0.23		-1.07*	0.34	
RACE1 (African Americans versus Caucasians)	-1.02*	0.36		ns		
RACE2 (other minorities versus Caucasians)	-1.58**	0.21		ns		
DETBEF (prior detention history)	-1.08*	0.34		-1.10*	0.33	
CRIME2 (property)	0.82*	2.28		0.68*	1.98	
Freedom/temporary detainment	-0.53*	0.59		ns		
Leniency/harshness	0.78**	2.18		ns		
Investigative action pursued/avoided	-1.32*	0.27		ns		
Lawyer effectiveness	0.44**	1.55		ns		
Friend impact	-1.44*	0.24		-1.40*	0.25	

R^2 is a pseudo- R^2 . Variables that did not significantly predict either decision are excluded;

* $p < 0.05$, ** $p < 0.01$.

Finally, committing offense was effect coded (see, e.g., Judd & McClelland, 1989) to compare property offenses, court order violations, and person offenses against the grand mean. In *post hoc* analyses, age and race variables were recoded using Helmert contrasts (see, e.g., Judd & McClelland) to allow for a comparison between younger and older juveniles, and African Americans and other minorities.

In the initial models predicting participants' recommendation that the vignette character talk and admit to his attorney, significant predictors included demographic variables (e.g. age, race, detention history, and committing offense), as well as contextual judgment variables reflecting psychosocial aspects of decision-making,

Table 3. Final regression equations predicting decision to talk and admit to attorney

Character should talk/admit to attorney	pseudo- $R^2 = 38.3\%$	
	β	Odds ratio
AGE1 (younger juveniles versus adults)	-1.68**	0.19
AGE2 (older juveniles versus adults)	-1.52**	0.22
RACE1 (African Americans versus Caucasians)	-0.87*	0.42
RACE2 (other minorities versus Caucasians)	-1.22*	0.30
Prior detention history	-1.10*	0.33
CRIME2 (property)	0.93**	2.53
Long term (deny)	-0.38*	0.68
Leniency/harshness	0.72*	2.05
Lawyer effectiveness	0.41*	1.51
Friend impact	-1.38*	0.25
Participant would talk/admit to attorney	pseudo- $R^2 = 13.5\%$	
	β	Odds ratio
Prior detention history	-1.18**	0.31
Friend impact	-1.41*	0.25

* $p < 0.05$; ** $p < 0.01$.

but not adjudicative competence variables (see Table 2). All of the demographic variables and a number of the contextual judgment variables remained significant in the final regression equation modeling participants' recommendations to the vignette character (see Table 3). Both younger and older juveniles were significantly less likely than adults to recommend talking to an attorney. Moreover, African Americans and other minorities were less likely than Caucasians to recommend talking and admitting to an attorney, as were those who had been detained previously. On the other hand, having committed a property offense and identifying fewer long-term consequences of denying involvement predicted a greater likelihood of recommending talking and admitting to an attorney. Finally, making references to the lawyer's effectiveness or to leniency or harshness (e.g. "They'll go easier on me") increased the likelihood of recommending talking and admitting, whereas making references to the impact on one's friends predicted a decreased likelihood of recommending the vignette character talk and admit. To further explore the age and race findings, predicted probabilities were calculated. Caucasians were consistently more likely than African Americans and other minorities (with one adult exception) to recommend Joe talk and admit to his attorney across all age groups (see Table 4).

In the initial models predicting participants' self-reported likelihood of talking and admitting to an attorney, traditional measures of adjudicative competence were not significant predictors, although age, detention history, and contextual measures of psychosocial aspects of judgment were (see Table 2). Two of these predictors remained significant in the final regression model of participants' self-reports (see Table 3). Those who had a history of prior detention and those who mentioned more consequences regarding the impact to one's friends were less likely to report that they would talk and admit to an attorney.

Hypothesis 4. Adolescents, particularly those of minority status, will make more negative references to their attorney's effectiveness, their level of trust in their attorneys, and their views toward court-appointed attorneys than will adults.

Table 4. Means and standard deviations of predicted probabilities of talking/admitting to attorney

	Character		
	<i>n</i>	Mean	SD
Younger juveniles			
African American	41	0.68	0.17
Caucasian	35	0.84	0.13
Other minority	17	0.57	0.19
Older juveniles			
African American	27	0.74	0.17
Caucasian	40	0.84	0.15
Other minority	26	0.59	0.22
Adults			
African American	65	0.85	0.14
Caucasian	37	0.92	0.10
Other minority	1	0.96	—

Due to missing data in the dependent variable, for this analysis, $n(\text{younger juveniles}) = 93$; $n(\text{older juveniles}) = 93$; $n(\text{adults}) = 103$.

The content of responses to two questions from the Appreciation subscale of the MacCAT was examined using descriptive and chi squares analyses in order to get a first glimpse of the influence of demographic variables on potential situational barriers to the attorney–client relationship such as defendants’ beliefs about their lawyer’s effectiveness, their level of trust in their lawyer, and their views toward court-appointed versus privately retained attorneys. The two questions analyzed were Question 18, “Do you think that your lawyer will help you more, less, or about the same as lawyers usually help people who are in trouble with the law? What are your reasons for thinking that?”, and Question 19, “Some lawyers expect their clients to tell them everything about how they got into trouble with the law. Compared to other people facing charges like yours, are you more likely, less likely, or just as likely to tell everything to your lawyer? What are your reasons for thinking that?”

Results did not support the hypothesis that African-American adolescents would hold more negative conceptions of their attorneys than Caucasian adolescents; instead, the impact of contextual barriers was widespread and not limited to this cross-section of the group. In response to the question targeting the lawyer’s efficacy, almost a quarter (24.7%) of participants felt negatively about their attorney’s effectiveness, although 42.6% of participants made positive references to their attorney’s willingness and ability to assist them. With regard to their willingness to disclose information to a lawyer, only 6.2% of participants made a positive remark about trusting their lawyer; 8.4% mentioned lawyer trust/confidentiality negatively. Notably, African Americans were significantly less likely than Caucasians or other minorities to speak positively about their trust in their attorneys ($\chi^2(2, n = 308) = 10.23, p < 0.01$). Finally, fully one-third (34.6%) of participants spontaneously made either a negative reference to court-appointed attorneys (or public defenders), or a positive reference to privately retained attorneys when asked about their lawyer’s efficacy. Although fewer participants made negative references to court-appointed attorneys (or positive references to privately retained attorneys) when asked about their willingness to disclose information, adults were significantly more likely to do so (11.9%) than were younger juveniles (5.0%) or older juveniles (2.0%) ($\chi^2(2, n = 312) = 9.25, p = 0.01$).

DISCUSSION

Increasingly punitive measures aimed at delinquent youths have resulted in changes in the number and types of legal rights accorded to juveniles. A juvenile's right to counsel and the increasingly defense-oriented advocacy role of attorneys for juveniles call into question adolescents' abilities to participate effectively as trial defendants. The results of this study demonstrate age-related differences in decision outcomes and implicate several developmental judgment variables as potentially influential in the decision-making processes of adolescents and adults. These findings underscore the need for caution in ensuring that youthful defendants are effective participants in the trial process. In addition, other demographic and justice system variables and contextual barriers that have been largely ignored previously should be considered in the attorney–client relationship.

Several age-related differences in decision outcomes were uncovered. Compared with adults, juveniles were more likely to suggest refusing to talk as an option in the attorney–client relationship; they also tended to be more likely to recommend that the vignette character deny involvement in the crime. In addition, controlling for other demographic variables, adjudicative competence, and contextual judgment factors, adolescents were less likely than adults to recommend the vignette character communicate honestly with his attorney. A note of caution is in order, however, since age did not significantly predict participants' self-reports regarding whether they would communicate honestly in a meeting with their own attorneys under similar circumstances. With regard to the decision-making process, juveniles were more likely to think of short-term consequences than were adults, indicating their focus on more immediate rather than long-term events when making decisions. In particular, juveniles were more likely than adults to mention consequences involving potential immediate gains, such as the pursuance or curtailment of questioning and freedom or temporary detainment (e.g. "I'll get to go home"); the number of mentions of these categories decreased with age. On the other hand, mentions of potential long-term gains, such as plea agreements, increased with age. It is worth noting that the measure of adjudicative competence was not a significant predictor of either participants' recommendations to the vignette character or their own self-reported likelihood of talking and admitting to an attorney. Thus, it appears that traditional cognitively based measures of adjudicative competence may not capture all of the elements relevant to effective decision-making in the attorney–client relationship.

To differing degrees, race, IQ, committing offense, and detention history were also related to decision outcomes and decision-making processes. African-Americans and participants of other minority status were consistently less likely than Caucasians to recommend that the vignette character talk and admit to his attorney. Conceivably, these findings reflect awareness of the unequal treatment of minorities in the justice system, although race did not significantly predict participants' self-reported likelihood of talking and admitting to an attorney under similar circumstances. IQ was associated with the content, valence, and temporal perspective of consequences generated by participants during the decision-making process. At first glance, these findings seem to reflect a greater general understanding of the court process and the lawyer–client relationship by participants of average or above average IQ. Remarkably, however, IQ was not a significant predictor of the decision to talk and admit to an attorney for either the participant's recommendation to Joe

or his self-report of what he would do in Joe's situation. Clearly, the decision to talk honestly to an attorney reflects more than simply knowledge or intelligence; other factors are influencing this decision. Committing offense and history of detention significantly predicted decision outcomes. Having committed a less serious offense (i.e. property offense) was predictive of recommending that the vignette character speak honestly with his attorney, whereas having a history of detention lessened this likelihood as well as participants' self-reported likelihood of talking and admitting to their attorneys. Although it might be expected that prior experience in the justice system would provide participants with a better working knowledge of how to most effectively utilize their attorneys, it seems instead that prior experience may have added a degree of cynicism or distrust to participants' views of attorneys. Notably, this finding underscores Grisso's (1980, 1981) finding that youths having experience with the justice system continue to misunderstand and mistrust the attorney's role as a confidential advocate; thus it is unlikely that this result is due to sample specific variability.

The notion of situational barriers to effective participation in the attorney–client relationship was supported, and although the results were not specific to juveniles, the significance of these barriers should not be diminished. The tendency for African–American defendants to view their attorneys as less trustworthy may put them at a considerable disadvantage when compared with other defendants. Once again, these views may be the result of awareness of racial inequities in the justice system; in fact, the distribution of races/ethnicities in each age group in this study seems to reflect this problem (see Table 1). Both the younger juvenile group and the adult group are both more highly represented by African Americans than Caucasians, but the older juvenile group is most highly represented by Caucasians. Though purely a speculative notion, it may be that African–American juveniles are more likely than their Caucasian counterparts to be processed through the juvenile justice system (rather than diverted) in early adolescence; they may also be more likely than Caucasians to be transferred to adult court than retained in the juvenile justice system as older adolescents. Finally, the disparaging references to court-appointed attorneys and public defenders and the negative comparisons of these attorneys to privately retained attorneys made by over one-third of the participants suggests that the indigent defense system in this country is not viewed positively by many of its clients.

Limitations and Strengths

Several limitations of this study must be considered. The cross-sectional design limits to some degree our interpretation of developmental differences, and the lack of a female sample limits any generalizability of our findings to females. In addition, a sample that included a larger number of Hispanics and Asians in the adult age group would allow a more thorough analysis of race differences through development into adulthood. Although the relatively large number of statistical manipulations raises the possibility of false positive results, analyses were conducted using an *a priori* framework designed to minimize this problem. Beyond this, given the self-report nature of this study, it is difficult to know exactly why there was a difference in which variables predicted participants' answers to the questions "What would you

tell Joe to do?” and “If you were in Joe’s situation, what would you do?” Because the attorney–client vignette presents a hypothetical situation, we cannot determine whether adolescents’ recommendations and self-reported actions have a one-to-one correspondence with their actual behavior as defendants. However, this limitation does not undercut the utility of understanding adolescents’ beliefs and reasoning about the attorney–client relationship. Indeed, it is difficult to identify any studies of adolescent defendants’ decision making that have adequately captured defendants’ actual behavior—most rely on hypotheticals to investigate decision-making. As such, we believe that the vignette provides a useful initial tool for exploring adolescent judgment in the attorney–client context. Clearly, the next step in research will be to examine the correlation between the vignette outcomes and actual decision-making. In addition, the current findings suggest that a closer look at the role of denial or the telling of half-truths to one’s attorney (i.e. neither fully admitting involvement nor completely refusing to talk) may contribute to a better understanding of this incongruence. Finally, because the MacCAT was not designed specifically for the purposes of examining the attorney–client relationship, this study offers only a first, limited look at participants’ beliefs about their lawyer’s effectiveness, their trust in their lawyer, and their views toward court-appointed versus privately retained lawyers. Having noted these limitations, it should be recognized that this study is the first systematic investigation of the attorney–juvenile client relationship. Moreover, it incorporates a large adult comparison group (100+), and the size of the juvenile sample (200+) far exceeds any of the previous case study investigations (e.g., Tobey et al., 2000, involved ten public defenders and ten youths).

Conclusions and Policy Implications

In conclusion, age-related differences in decision-making outcomes and developmental differences in psychosocial judgment factors affecting the decision-making process should be recognized as a potential threat to the attorney–client relationship and to juveniles’ effective participation as trial defendants. Researchers and policy-makers may begin to amend this situation in several ways. First, researchers should continue to explore potential deficits in youths’ abilities to function as effective defendants, focusing less on the cognitively based definition of competency and more on factors outside the constitutionally required scope of capacities that may impede juveniles’ participation in the trial process.

Second, procedural reforms may be necessary. Attorneys must be made aware of youths’ potential deficits as defendants, be given guidance on how to be effective counselors for juveniles in the increasingly adversarial arena of juvenile justice, and be afforded the time necessary to develop a mutually beneficial attorney–client relationship. Lawyers bear a heavy burden in representing juveniles, especially in criminal prosecutions. To prepare them effectively, lawyers for juveniles should be required to have a solid grasp of child and adolescent psychological development and an understanding of how developmental factors may affect the attorney–client relationship (Grisso & Schwartz, 2000; Margulies, 1996; Ventrell, 1995). Moreover, they should be given concrete methods to improve the nature of interviewing, counseling, and decision-making with juvenile clients (Tobey et al., 2000). Buss

(2000) suggests that lawyers can enhance their juvenile client's participation in the trial process through a combination of instruction and relationship building. Elements of good instruction such as careful explanation, the use of appropriate language, and encouraging youths to ask questions are necessary but not sufficient methods for improving a juvenile's effective participation as a defendant. According to Buss (2000), "Instruction by itself is an ineffective tool in part because, as a practical matter, instruction will go unheeded, absent the necessary relationship ('why should I listen to her?'), and in part because, as a matter of psychological development, instruction by itself is insufficient to produce maturation" (p. 254). However, the attorney is in a unique position to build a relationship, being the individual with the greatest access to a detained juvenile. Buss suggests that an effective attorney-client relationship includes many of the elements of friendship (e.g. trust, disclosure) without confusing the juvenile client by crossing the line of professionalism and becoming a buddy. Accomplishing this requires soliciting the client's viewpoint frequently, demonstrating loyalty (even under pressure from other authority figures or the juvenile's parents), and avoiding the case's turnover to another attorney. Practically speaking, of course, attorneys will not always have the time or motivation to do this; furthermore, it should be recognized that enhancing the attorney-client relationship may only modestly affect juveniles' actual decision-making. It remains to be seen whether an effective juvenile defendant can be created, but, at the very least, a juvenile's effectiveness as a defendant may be enhanced through attention to the attorney-client relationship (Margulies, 1996). Finally, more resources should be provided to court-appointed attorneys and public defenders in order to decrease the heavy caseloads that may prevent them from effectively representing their clients, who, due to their overrepresentation in the justice system, are frequently minority juveniles and adults.

Beyond research and immediate procedural changes, some authors have suggested that legislators need to consider reviewing the legal standards for competency for juveniles. For example, Grisso (1999) suggests that if procedural changes fail to compensate for juveniles' deficits such that they receive unfair trials, then policy-makers should consider "a lower threshold for raising the question of trial competence, especially for youths in criminal court, or facing serious consequences in juvenile court" (p. 379). Realistically, however, developmentally grounded arguments for incompetence or effectiveness of participation are likely to be dismissed. Nevertheless, Bonnie and Grisso (2000) suggest that failing to attend to developmental differences relevant to decision-making "may result in unfair jeopardy for youths whose developmental incapacities impair their ability to participate in their defense" (p. 88). As Buss (2000) emphasizes, if incompetency arguments will not benefit juvenile defendants, enhancing their effective participation in the trial process, for example, through such mechanisms as improving lawyers' training and affording them more time to each case, is "an unambiguous good" (p. 253).

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APPENDIX:

Definition of Consequence Content Categories modified from Grisso (1980)

- (i) *Anger produced/avoided*. Physical, hostile retaliation of angry response from others (or mention of absence of same). This should refer only to justice system personnel, not parents or friends.
Examples: They'll get angry. They'll beat him up. He won't get punished. Judge will be mad.
- (ii) *Questioning pursued/curtailed*. Continued verbal pressure to provide information (or mention of absence of same).
Examples: Ask more questions. Force him to talk. Put him through more. Won't get hassled. They'd get it out of him.
- (iii) *Freedom/temporary detainment*. Placement in jail or detention for "holding," versus immediate release from physical custody.
Examples: Let him go. Can't do anything. Send him home. Taken into custody. He'll be out for a while. He'll be off the hook. Put in detention (or jail). Hold him til trial. Lock him up.
- (iv) *Assumption of innocence/guilt*. Assumption by others that the suspect is or is not guilty of the alleged crime.
Examples: Everybody knows he did it. They'll believe him. They'll think he's telling the truth. They'll be suspicious. They'll think he's lying. They'll think he must be guilty.
- (v) *Leniency/harshness*. Responses which focus generally on "easier" or "harder" outcomes, but where the nature of the outcome (e.g. detention, disposition) is not mentioned.
Examples: Go easier on him. Less trouble for him. Shorter sentence. Go harder on him. Give him more time. Longer sentence. More time to do. Statements can be used against him later.
- (vi) *Counsel provided/withheld*. Police or others present will or will not take steps to provide the juvenile with an advocate (whether lawyer, parent, social worker, etc.). This is just providing counsel—it doesn't refer to whether the lawyer or others will help him or not, or quality of the representation.
Examples: They'll call his parents. They'll call a lawyer. Lawyer will come to assist him.
- (vii) *Investigative action pursued/avoided*. Police or others do or do not take steps to seek out evidence on the juvenile's involvement in a crime (apart from continued questioning of the juvenile).
Examples: They'll look for evidence. Just go on the evidence. They might have some proof he did it. He'd end up telling someone. They'll hold a lineup. They'll find out other ways.

- (viii) *Disposition*. Favorable or unfavorable judicial decisions, ranging from adjudication decisions to decisions about continued custody or placement.
Examples: He'll lose the case. He'll get out of it (long term). Put on probation. Sentence him. Send him up. They'll find him guilty.
- (ix) *Court proceedings initiated/avoided*. Any police or court procedure (or mention of absence of same) which formally moves the case to higher stages in the judicial process.
Examples: They'll set up the court date. He'll get a record. He'll be written up for report. He'll get busted. He'll go to court, hearing, etc. They'll drop charges. They'll postpone hearing until more evidence.
- (x) *Other*. Any consequence not meeting criteria for (i)–(ix) or (xi)–(xv). Often idiosyncratic.
- (xi) *Lawyer assistance*. Mention of lawyer assistance, help with case (or absence, refusal, working against defendant's interest).
Examples: Lawyer will try to get him off. Lawyer can't do much to help him. Will try to represent him to best of his ability. Lawyer will tell him what his options are. Doesn't have enough evidence to help him.
- (xii) *Prosecutor deal*. Mention of a deal made (or withdrawn, changed) with the prosecutor regarding adjudication, sentencing.
Examples: He might get a better deal. They could lie and transfer him anyway. The prosecutor might plea bargain. Has nothing to do with deal.
- (xiii) *Parent assistance*. Mention of parents helping (or not helping) juvenile.
Examples: He'll go home and get beaten by his parents. His parents will tell him what to do.
- (xiv) *Friend impact*. Mention of friends helping/hurting juvenile, his case, being affected.
Examples: Friends could get time. Friends could get mad. If he's released his friends might come looking for him. His friends wouldn't get in trouble.
- (xv) *Lawyer trust/confidentiality*. Mention of trust in (or lack of trust in) attorney, or mention of/reference to privilege of confidentiality.
Examples: He might tell the police and the judge. I don't trust lawyers. He can't tell anyone what I said anyway.

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