Attorney Perceptions of Juvenile Defendant Competence

Deborah Ader

ABSTRACT

The present study investigated how attorneys perceive the competence and effectiveness of juvenile defendants. 46 state prosecutors and 23 public defenders in North Florida were surveyed on the sharing of decision-making power between juveniles and their lawyers. They also examined a vignette involving a juvenile defendant (with either average or below average IQ). Prosecutors found the juvenile defendant to be significantly more competent than defense attorneys did. Conflicting perceptions of competence between the attorneys may result in the juvenile making decisions that are beyond their scope of competence, and therefore may not be in their long-term best interest.

INTRODUCTION

Juveniles are being convicted of murder now at the young age of 11, and while those under 16 cannot receive the death penalty (Stanford v. Nebraska, 1988; Thompson v. Oklahoma, 1989), they are losing their liberties and being given life sentences. Developmental research suggests that adolescents are different from adults physically, mentally, and psychologically. Many psychologists argue that young juveniles may have limited abilities when it comes to making relevant decisions - whether regarding crime, or decisions about legal proceedings (Scott, Reppucci, & Woolard, 1995). These potential limits could affect the juvenile in every level of the legal system.

The legal standard for competence (Dusky v. U.S., 1960) generally requires that a defendant have "a rational as well as a factual understanding of proceedings against him" and "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding." But the question remains as to whether juveniles have the required abilities at that developmental stage to be competent. There are many different factors that can affect juvenile competence. "Judgment" factors involve cognitive and psychosocial influences. Cognitive factors are thought processes. Psychosocial factors include risk perception, time perspective, and influence of parents and peers. Both types of factors are still developing in adolescents, which could affect their abilities as defendants.

Other studies are looking directly at juvenile defendants themselves, and trying to determine how they perceive situations, and what rationale they use to make decisions. Woolard et al (1999) have interviewed
several hundred juvenile defendants in an effort to examine the age differences in competence and judgement. Adolescents of various ages appear to have comparable cognitive abilities to adults, but judgment factors differently affect their decision-making abilities.

Uphoff and Wood (1998) examined how public defenders divide decision-making responsibility between themselves and their adult clients. The results demonstrated that attorneys felt the decisions that most broadly affected the client, such as plea bargaining and testifying, were best left up to the ultimate judgment of the client; more technical decisions, such as requesting expert witnesses and filing suppression motions, were most often left to the attorney. However, no study has examined juvenile clients.

These issues are important for both defense attorneys and prosecutors. Although the defender may have a better understanding of the juvenile defendant because of the level of contact they have, the prosecution makes the major case processing decisions. If prosecutors presume that juvenile defendants have adult-like capacities, then they may putting these young defendants in a situation that they are not completely capable of handling. If the developmental differences between juveniles and adults are significant, than placing them in an adult situation may have implications for due process under the law.

Other factors such as IQ can affect both juvenile and adult defendants during the trial process as well. A low IQ can affect the defendant every at step of the criminal justice system, because it implies the diminished capacity to learn quickly, and reason beyond short-term decisions. Low-IQ juvenile defendants combine the factors of age and inexperience, so the attorney could be dealing with a client who may not understand the full implications behind all of the decisions that need to be made in the legal system for cognitive and developmental reasons. The current study extends prior work to juvenile defendants. It is hypothesized that prosecutors will find juvenile defendants to be significantly more competent to make their own decisions in the legal system than public defenders. Prosecutors will give juvenile defendants more autonomy to make decisions than the defense attorneys. It is also hypothesized that prosecutors will still find the juvenile defendants to have more abilities relevant to competence than the defense regardless of potential limitations due to a juvenile's low IQ. Defenders would report a juvenile’s IQ will affect their abilities to make decisions and communicate with their attorney; prosecutors would not.

**METHOD**

**Participants**

There are 46 prosecutors, and 23 public defenders in this sample (n=69). See Table 1 for demographic characteristics.
Table 1

Demographic Information

Data

Sample size (N=69)

46 Prosecutors, 23 Public Defenders

24 to 61 Years Old

0 to 29 Years Experience

78% Male, 22% Female

85% Have Previously Tried a Juvenile Case

96% White, 2% African American, 2% Hispanic

Measures

The written survey was comprised of three parts. The first series of questions, modified from Uphoff and Wood (1998) focus on who the attorneys believed should "make the call" generally - the attorney or the juvenile client - in certain legal scenarios. The defense attorneys received an extra set of questions regarding whom they actually let make the final decision in these types of disputes. The answers were assigned a 4-point Likert scale: 1 = the attorney should almost always secure a juvenile's consent before making a decision; to 4 = the attorney should rarely secure the youth's consent. The second set of questions asked directly whether the lawyer or the juvenile client should prevail in a disagreement. The decisions ranged from "the defendant testifying at his/her own trial" to "requesting a lesser included instruction." The next section presented a vignette regarding Mike, a 14-year-old youth, charged with armed robbery and transferred to circuit court. Two versions of the vignette varied Mike's IQ, as above average or below average. After reading the vignette, attorneys answered questions regarding Mike's capabilities as a defendant. The questions asked to what extent Mike could make rational and informed decisions given his age and IQ. Approximately half of these questions used a 5-point Likert scale; the rest were open-ended questions. These free response questions assessed whether Mike's age and/or mental impairment would affect whether he should participate in defense decisions.

The final section included demographic information as well as their previous experience courtroom experience.

Procedures

Survey distribution varied between the attorneys' offices. At one office, the research team distributed the surveys at a staff meeting. The researchers gave the attorneys a general overview of the topic, distributed and recollected the survey, and then debriefed them as to the general purpose and intent of the project. Another office had the surveys distributed to them by their supervisor, and then recollected at a later date.
RESULTS

The survey was divided into three separate parts for analyses: vignette-specific questions, general questions, and demographic effects. Multivariate Analysis of Variance (MANOVA) tests were performed on the vignette-specific questions and the general questions. Chi-squares were performed on the rest of the general questions. An alpha level of .01 was used for all levels of significance to minimize the experiment-wide error rate.

**Vignette-Specific Questions**

A MANOVA was used to examine the effects of attorney type and IQ on the main questions pertaining to the vignette. A significant main effect for attorney type was found, F (5, 60), Wilks = .69, p < .001. Univariate tests indicated prosecutors found the vignette character to be more competent and effective than the defenders on: Appreciation: F (1, 64) = 23.38, p < .001, Understanding: F (1, 64) = 13.10, p < .001, Decision-Making: F (1, 64) = 9.81, p < .003, Reasoning: F (1, 64) = 18.34, p < .001, and Effectiveness: F (1, 64) = 8.84, p < .004.

![Figure 1. Effect of Attorney Type on Vignette Defendant's Competence-Related Abilities.](image)

No significant effects were found for IQ, F (5, 61) Wilks = .87, ns.

The qualitative follow up questions were analyzed for the attorney and IQ effects separately, using the Chi-square test. Only the question pertaining to whether the attorneys found Mike's intellectual capacities as a factor affecting his ability to participate in the case was significant, X² (1, n=66) = 6.88, p < .01.
None of the IQ effects were significant.

**General Questions**

There were two sets of general questions that were analyzed. The eleven general questions were collapsed into two categories regarding the type of decision being made - either a large case-impacting decision, or the more common day-to-day decisions that attorneys and clients make on many trials. Using MANOVA, no significant attorney effects were found on either type, $F(2, 57) \text{Wilks} = .95$, ns.

**Demographic Analyses**

No significant demographic effects of any legal experience variables were found.

**DISCUSSION**

The main hypothesis that was tested for in this study was supported - prosecutors and public defenders have different perceptions. Prosecutors found the juvenile defendants to be more competent and effective in each aspect - appreciation and understanding of circumstances, decision-making, reasoning, and effectiveness. This signifies a disparity in the expectations the attorneys have of juvenile defendants and may affect the way they process cases. Only one effect of IQ was found. The defense attorneys perceived that Mike’s intellectual abilities played a key role in his level of participation, whereas prosecutors did not. Qualitative results were also consistent with findings.

Attorney/juvenile client relationship research has only received minimal attention in social science research to
date, and this is the first study to look directly and solely at the attorneys' perspectives on juvenile clients. However, this study has several shortcomings, due mainly to time and funding constraints. The main weakness in the study was sample size. With the time and resources allotted, it was difficult to obtain a large multi-district sample for analysis. Also, the study only looked at the variable of IQ when considering the hypothetical juvenile defendant. Many of the attorneys surveyed reported that other variables, such as street smarts, past school record, actual learning disabilities, and emotional problems all factor into how they perceive the defendant and the case.

Judging from the competency standards set in Dusky v. U.S. (1960), some juvenile defendants may not even meet minimum requirements due to the developmental differences between juveniles and adults, as well as age, and other limits of cognitive function such as learning disabilities and below average IQ.

These limitations notwithstanding, this study makes an important contribution to the field. The juvenile's decision-making abilities are important to how the young offender fares all areas of the legal system. From the moment the juvenile is taken into custody, there are many decisions that he/she must make; both long and short-term thinking is necessary at this stage of the game. For example, legislative policy mandating stricter Miranda standards for juvenile confessions may help them to better protect themselves in the early stages of the legal system.

Waiver standards and policies need to be examined as related to juvenile defendant competence as well. Competence standards may need to be set for some transferable charges, in order to ensure the young defendant's ability to perform within the minimum standards required of them.

Future studies might want to use similar survey material and use a larger, more comprehensive sample than the current study. Also, as previously mentioned, the respondents of this survey had mentioned variables other than IQ that they felt to be important in making decisions about a juvenile's abilities related to competence: street smarts, past school record, past criminal record, and learning disabilities. Other demographic factors such as race, gender, age, and urban versus rural juveniles can be looked into as well.

The fact that there is a significant difference between the way prosecutors and public defenders perceive juvenile clients is a powerful statement about today's legal system. Historically, there have been many changes in the way the justice system treats juveniles on the whole; however the changes taking place today are giving young defendants even more responsibilities without increasing their education or protection against due process violations. The attorney/juvenile client relationship needs to be researched more in the current system in order to better understand the experiences of both parties. Public defenders do not have the time to spend with each client in order to ensure their effectiveness as defendants beyond the minimum. As demonstrated by this study, prosecutors don't perceive any need to develop procedure that may assist the defenders in doing such. Hopefully, as this new era in the juvenile justice system begins, a closer look will be given to the cognitive abilities and effectiveness of juvenile defendants, and stronger protections will be given to them to
ensure they are receiving a fair trial.

REFERENCES


