

**The Effects of Gender and Length of Time Between Commission of Crime and Trial  
on Juveniles' Trial Outcomes**

A Dissertation

Submitted to the Faculty

of

Drexel University

by

Kimberly A. Larson

in partial fulfillment of the

requirements for the degree

of

Doctor of Philosophy

September 2007

## ACKNOWLEDGEMENTS

A special thanks to my committee Naomi E. Sevin Goldstein, Kirk Heilbrun, Bret Boyer, David Rubenstein, and Elliot Atkins for all of your help, not only with my dissertation, but throughout my graduate school career. Thank you to Amanda for your help in facilitating this project while I was on internship. And, of course, my sincerest appreciation and thanks to my mother, my father, my sister, Erica and my best friends Brad, Danielle, Tara, Sean, Katy, Jess and Kate for your understanding, support, and caring throughout this process. Without all of you, none of this would have been possible.

**TABLE OF CONTENTS**

LIST OF TABLES.....	vi
LIST OF FIGURES.....	vii
ABSTRACT.....	viii
1. BACKGROUND AND LITERATURE SURVEY.....	1
1.1 Influences Outside of Our Awareness.....	1
1.1.1 Stereotypes Influence Our Awareness.....	1
1.1.2 Age as an Extralegal Factor Effecting Punishment.....	2
1.1.3 Gender as an Extralegal Factor Effecting Punishment.....	8
2. RATIONALE.....	27
2.1 Age.....	29
2.2 Gender.....	31
3. HYPOTHESES.....	35
3.1 Main Effects.....	35
3.2 Interactions.....	37
4. METHOD.....	38
4.1 Participants.....	38
4.2 Design.....	38
4.3 Materials.....	39
4.4 Procedure.....	40
4.5 Method of Analysis.....	41
5. RESULTS.....	43
5.1 Preliminary Analyses.....	43

5.2 Demographic Data.....	44
5.3 The Effect of Defendants’ Age and Gender on Judges’ Ratings of Defendants’ Likelihood of Recidivism, Dangerousness, Responsibility, and Appropriate Sentence Length.....	44
5.4 Prediction of Judges’ Verdicts Based Upon Defendant’s Age and Gender.....	46
5.5 Effect of Judge Demographic Characteristics on Judges’ Ratings of Sentence Length, Responsibility, Likelihood of Recidivism, and Dangerousness.....	47
6. DISCUSSION.....	48
6.1 Gender.....	48
6.2 Age.....	51
6.3. Interaction Between Gender and Age.....	52
6.4 The Effect of Judge Demographic Characteristics on Juvenile Trial Outcomes.....	53
7. LIMITATIONS.....	54
8. IMPLICATIONS.....	57
8.1 Implications for Juvenile Competence to Stand Trial of Biases in Trial Outcomes.....	59
9. FUTURE LINES OF RESEARCH.....	63
LIST OF REFERENCES.....	65
APPENDIX A: TABLES.....	73
APPENDIX B: FIGURES.....	82
APPENDIX C: Letter Introducing Study, Consent, Instructions.....	86
APPENDIX D: Follow-up Letter Introducing Study, Consent, Instructions.....	87
APPENDIX E: Trial Vignette.....	88
APPENDIX F: Brief Questionnaire Regarding Trial Vignette.....	90

	v
APPENDIX G: Demographic Survey.....	92
VITA.....	95

## List of Tables

1. Differences in Judges' Ratings of Appropriate Sentence Length for Juvenile Defendant by Judges' Demographic Characteristics .....	71
2. Differences in Judges' Ratings of Juvenile Defendants' Responsibility by Judges' Demographic Characteristics .....	72
3. Differences in Judges' Ratings of Juvenile Defendants' Dangerousness by Judges' Demographic Characteristics .....	73
4. Differences in Judges' Ratings of Juvenile Defendants' Likelihood of Recidivism by Judges' Demographic Characteristics .....	74
5. Correlations Between Dependent Variables.....	75
6. Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Rating of Sentence Length.....	75
7. Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Responsibility.....	76
8. Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Dangerousness.....	77
9. Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Likelihood of Recidivism.....	78
10. Planned Contrasts Between Age Groups and Dangerousness and Recidivism....	79

## List of Figures

1. Normality of Judges' Ratings of Responsibility.....	80
2. Normality of Judges' Ratings of Dangerousness.....	81
3. Normality of Judges' Ratings of Sentence Length.....	82
4. Normality of Judges' Ratings of Likelihood of Recidivism.....	83

**Abstract**

The Effects of Gender and Length of Time Between Commission of Crime and Trial on  
Juveniles' Trial Outcomes

Kimberly Larson, M.S., J.D.

Naomi E. Sevin Goldstein, Ph.D.

Similar to adults, juveniles' trials are often delayed for a variety of reasons; however, developmental changes associated with adolescence and early adulthood differentiate them from adults in many ways. This study investigated the ways in which the length of time from crime to trial may affect juveniles' trial outcomes. Further, it investigated the ways that extralegal factors, such as age and gender, change judges' perceptions of defendants' guilt and culpability. In particular, it examined the effect of these extralegal factors on judges' perceptions of the appropriate verdict and sentence length, as well as perceptions of defendants' levels of responsibility for the crime, likelihood of recidivism, and dangerousness. The study examined these questions using a hypothetical case vignette that varied a defendant's gender and age at the time of trial, while keeping the age at the time of the crime constant.

Participants included 295 juvenile and criminal court judges who, after reading the vignette, completed a short questionnaire asking them what they believed would be the appropriate verdict and sentence length, as well as their perceptions of the defendants' levels of responsibility, likelihood of recidivism, and dangerousness. Following the survey, participants were asked to complete a short demographics questionnaire.



Results revealed a main effect for defendant's age on judges' ratings of likelihood of recidivism and dangerousness. Specifically, judges rated younger defendants as more likely to recidivate and more dangerous than older juveniles. There was no main effect for defendant's gender and no interaction between gender and age were found.

## CHAPTER 1: BACKGROUND AND LITERATURE SURVEY

### Influences Outside of Our Awareness

#### *Stereotypes Influence Our Awareness*

Individuals are influenced by factors outside of their awareness (Graham & Lowry, 2004). Social psychology has explored the influence of stereotypes or “culturally shared beliefs” that are “both positive and negative” “about the characteristics and behavior of certain groups” on both our conscious and unconscious decision-making processes (Graham & Lowry, p. 484). For example, our culture generally holds the beliefs that “blondes have more fun” and that “Asians are studious” (Graham & Lowry, p. 484).

Stereotypes have been found to influence and guide our conscious processes, even when we are completely unaware of them (Graham & Lowry, 2004). Researchers believe that because we are often forced to perceive, digest, and act upon large amounts of information very quickly, we develop stereotypes or heuristics as a shorthand for judging individuals (Gideon & Teigen, 2004). Specifically, we evaluate the extent to which an individual fits the stereotyped group and treat him or her accordingly (Gideon & Tiegen).

This human tendency to judge individuals by perceived group characteristics is in direct conflict with our legal system. In the American legal system, justice is supposed to be blind (U.S. Constitutional Amendment XIV). According to the 14<sup>th</sup> Amendment’s mandate of a fair trial, defendants are to be convicted on the basis of evidence, with legally irrelevant considerations excluded (U.S. Constitutional Amendment XVI).

However, research shows us that, in fact, trials may be influenced by factors that should be considered irrelevant in determining the defendant's guilt (Wrightsmann, Nietzel, & Fortune, 1998). In fact, these stereotypic "extralegal factors" have been shown to affect the decisions of judges, resulting in disparities in trial outcome based, not on the evidence and culpability of the defendant, but on less substantive factors, such as generalizations based upon immutable characteristics of the defendant or victim (De La Fuente, De La Fuente, & Garcia, 2003; Hahn & Clayton, 1996; Jones & Kaplan, 2003; Warling, 2001; Warling & Peterson-Badali, 2003). For example, some research has demonstrated that because mock jurors associated certain races with particular crimes, they are likely to give more negative verdicts and attributions when the defendant's crime and race are congruent with these stereotypes (Jones & Kaplan). In fact, effects such as these have been demonstrated across a variety of areas, such as SES, ethnicity, religion, gender (Hahn & Clayton) attractiveness (De La Fuente; De La Fuente, & Garcia) and age (Warling; Warling & Peterson-Badali).

### *Age as an Extralegal Factor Effecting Punishment*

#### *Everyday Examples that Support the Idea that Individuals Stereotype on the Basis of Age*

Both the literature and our common experiences demonstrate that age is a variable that can affect our perceptions. One need only look to our own laws to see that, in our common experience, age changes our views of individuals, and we often stereotype individuals on the basis of these perceptions. If this were not true, age discrimination

laws, such as the Age Discrimination in Employment Act (ADEA), would be unnecessary (ADEA, 1990). However, it is not only the elderly in our society that are judged by group characteristics rather than on an individual basis. In fact, a variety of laws have been enacted that reflect our collective societal view that younger individuals are different from adults. For example, juveniles are not granted the same rights and privileges as adults, such as driving, drinking (National Minimum Drinking Age Act, 1984), or voting (U.S. Constitutional Amendment XXVI, 1971) because society deems them less developed than adults and, therefore, unable to handle the responsibilities associated with such privileges (Campbell, 1992). In fact, the younger the juvenile, the less freedom he or she is likely to be granted due to society's perceptions of youth (e.g., driving).

*Evidence from History and Case Law Supporting the Idea that Age Effects Juveniles' Adjudication within the United States Justice System*

Traditionally, juveniles have been purposefully treated differently with respect to their adjudication in the justice system. For example, common law differentiated juveniles according to a three-tiered system (Dressler, 1999; Mack, 1909; Stapleton & Teitelbaum, 1972). Children below age seven were considered incapable of forming the criminal intent required to commit a crime, and children above age fourteen, were treated as fully responsible adults (Dressler, 1999; Richey Mann, 1984). Between the ages of seven and fourteen, a rebuttable presumption existed that the child was able to form the intent to commit a crime (Dressler; Richey Mann; Mack; Stapleton & Teitelbaum).

In the late 1800s, due to our beliefs that younger juveniles were less culpable than

older offenders, the United States created a separate juvenile justice system for trying youthful offenses (Besharov, 1974). Further, even during the past 25 years with the shift in our legal system toward harsher punishment, many scholars and policy makers still believe that younger offenders are less culpable (e.g., Bandali, 1999). Recent decisions, such as *Roper v. Simmons* (2005), which excluded those under 18 years old from imposition of the death penalty, demonstrate this societal attitude. In *Roper*, examining the “evolving standards of decency,” the Court found that executing those under the age of 18 was cruel and unusual punishment under the 8<sup>th</sup> Amendment (*Roper*, p. 1190). The Court reasoned that, while earlier decisions, such as *Stanford* (1989), had found that executing those under 18 was not cruel and unusual, since that decision, a national consensus had developed against the imposition of the death penalty for juveniles (*Roper*). The Court stated that juveniles differed from adults in three ways that should exempt them from the death penalty: (1) their “susceptibility to immature and irresponsible behavior means their irresponsible conduct is not as morally reprehensible as that of an adult” (2) “[t]heir own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment” and (3) “[t]he reality that juveniles still struggle to define their identity means it is less supportable to conclude that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character” (*Roper*, p. 1195). In other words, the Court found that the general societal consensus was that juveniles are less culpable than adults due to their immaturity, lesser ability to escape negative environments, and personality characteristics which may not yet be permanent (*Roper*).

From the evidence cited above, it appears that, not only do our perceptions of age appear to serve as a mitigator in the justice system with younger juveniles being perceived as less culpable, but the younger a juvenile, the greater the benefit of this effect. However, one need not rely on general assertions and circumstantial evidence of the effects of age on individual's perceptions', experimental evidence exists.

*Age as an Extralegal Factor: Research on the Effects of Age and Age-related Variables on Punishment*

*Research on the effects of age-related variables on punishment for crimes.*

Related, but not synonymous with age, is "babyfacedness," or the "extent to which a person's facial features resemble that of a prototypical baby" (Zebrowtiz & McDonald, 1991, p. 605). In empirical research "babyfacedness" is usually determined by measuring the facial features of an individual; "babyfacedness" has been characterized as including "larger eyes, thinner, higher eyebrows, a large forehead and a small chin, and a curved rather than an angular face" (Zebrowtiz & McDonald, p. 605). This combination of facial features has also been found to affect trial outcomes, even when legally relevant variables are controlled. Babyfaced people have been found to be considered more honest and naïve, two characteristics which might also be associated with youth (Berry & McArthur, 1985; McArthur & Aptow, 1984; McArthur & Berry, 1987; Zebrowitz & Montepare, 1990, 1992). Similar results were obtained using a Southern-European sample (Masip, Garrido, & Herrero, 2004). In addition, babyfacedness was also found to be associated with kindness and warmth (Berry &

McArthur). This effect on individuals' perceptions has occurred regardless of whether the face is static or moving (Zebrowitz-McArthur & Montepare, 1989).

Researchers have also examined the influence of children's facial maturity on parental punishment of their children. Zebrowitz, Kendall-Tackett, & Fafel (1991) examined 32 middle class families whose children who were rated on level of babyfacedness. When the parents' punishments of their children were examined, they found that more mature-faced children's actions were perceived as more intentional than those of their baby-faced counterparts (Zebrowitz, Kendall-Tackett, & Fafel). Further, when intentionality was held constant, babyfacedness was associated with decreased punishment severity for younger children and increased punishment severity for older children who committed relatively serious infractions, such as hurting another child or destroying property (Zebrowitz, Kendall-Tackett, & Fafel).

This finding paralleled results of an earlier study examining the impact of facial maturity on perceptions of legal responsibility (Berry & Zebrowitz-MacArthur, 1988). In that study, 128 undergraduates read vignettes containing a pretrial intake report about a male defendant that had committed either an intentional or negligent crime and plead either guilty or not guilty to that crime (Berry & Zebrowitz-MacArthur). Researchers found that more severe punishments were recommended for baby-faced defendants than for mature-faced individuals who admitted to committing premeditated crimes (Berry & Zebrowitz-MacArthur). Zebrowitz et al. (1991) posited that the outcome was the result of a violation of the expectations of the individual meting out the punishments. Participants were also more likely to believe that baby-faced defendants committed negligent offenses, while mature-faced defendants were perceived as more likely to commit crimes

involving dishonest intentional behavior (Berry & Zebrowitz-MacArthur).

*Research on the effects of age on punishment.*

In addition to examining babyfacedness, research has directly addressed the impact of defendants' ages on trial outcomes. These studies found that although age did not affect the verdict in juvenile defendants' trials, age did predict sentence length, with younger juveniles receiving shorter sentences than older juveniles (Warling, 2001; Warling & Peterson-Badali, 2003). Further, other studies, conducted prior to *Roper*, found that the defendant's age predicted likelihood of receiving a sentence of execution, with hypothetical defendants in the vignette who were older receiving harsher punishment (Crosby, Britner, Preston, Jodl, & Portwood, 1995). However, one study did not find this age effect, instead obtaining the seemingly inconsistent finding that, despite the fact that age did not impact sentence length, participants still viewed younger defendants as less accountable (Ghetti & Redlich, 2001).

Two studies have provided evidence of the effect of defendants' ages on jurors' sentencing decisions. First, using both a sample of university students and a public sample recruited through advertising, Warling (2001) asked mock jurors to read a written description of a trial involving a juvenile defendant whose age was identified as either 13, 17, or 25 years. Results indicated that although age did not affect jurors' verdicts or ratings of guilt, shorter sentences were meted out to younger juveniles (Warling). Warling also found that mock jurors who self-identified as holding legally conservative views were more likely to convict regardless of age.



Building upon this earlier research, Warling and Peterson-Badali (2003) again investigated whether the age of a defendant would affect juridical decision-making. Mock jurors were comprised of one sample of university students and another sample drawn from the general public to better approximate the jury pool (Warling and Peterson-Badali). Each participant provided both a verdict and sentence length based upon a hypothetical trial transcript of a defendant charged with second-degree murder (Warling and Peterson-Badali). The defendant again was identified as being either 13, 17, or 25 years of age (Warling and Peterson-Badali). Again, results indicated that although verdict was unaffected by age, sentence length varied by age, with the younger defendants receiving a lighter sentence than either the older juvenile or the adult defendant (Warling and Peterson-Badali). In a companion study, results also indicated that whether deliberations were conducted individually or in groups did not impact the age effects found earlier (Warling and Peterson-Badali). Additionally, upon closer examination of participant deliberations, mock jurors tended to use age as a mitigating factor in their decision-making process (Warling and Peterson-Badali).

### *Gender as an Extralegal Factor Effecting Punishment*

#### *Stereotypes of the Female Offender: Society's Conceptions of Women's Crimes*

##### *Social constructions of femininity: the "good girl."*

In society's view, men who commit crime are the norm, while women are the exception (Pearson, 1997). Violence and aggression have been considered uniquely male characteristics, whereas women have been historically considered incapable of being

involved in social deviance (Pearson). As a result of these stereotypes, when women act outside of their traditional roles by behaving criminally, society asks why a woman would act this way (Pearson).

*Historical bases for current research and theory regarding gender and sentencing: perceptions of female offending within a historical context.*

Historically, in society's view, women who committed crimes were fundamentally different in some way from male offenders, from whom violence was expected (Rasche, 1975). Based upon these stereotypical role expectations of females, criminologists have posited numerous theories to account for "unexpected" female criminality (Pearson, 1997, p.7; Rasche). Prior to 1894, research and documented interest in female criminality was virtually non-existent (Carlen, 1985; Rasche). There were few references to women in the literature, and women, generally, were not considered dangers to society (Datesman & Scarpitti, 1980); however, the modern conceptions of female criminality have their roots in this era (Carlen; Pollack, 1978; Rasche).

Beginning with his first publication in 1894, Lombroso could be considered among the first major American researchers of female crime (Bowker, 1978; Vedder & Somerville, 1975). Using a method in which he took elaborate cranial measurements, Lombroso divided women into the "occasional offender" and the "born criminal" (Pollack, 1978). Lombroso concluded that most women fell into the former category, but when a woman was a born criminal she "was more terrible than the male" and "lacked compassion" (Rasche, 1975, p. 17). He felt that since the female criminal was an exception in civilized society, the female "born criminal" was an even greater exception

to societal rules (Rasche, p. 17). Since her “normal sister is kept in the paths of virtue by many causes....when a woman commits a crime, we may conclude her wickedness must have been enormous before it could triumph over so many obstacles” (Rasche, p. 17). In 1895, Lombroso and Ferrero added to this theory, positing further biological bases for female crime (Carlen, 1985). In this work, Lombroso and Ferrero stated that women’s usual passivity stemmed from her ovum, which was less active than male sperm (Carlen). Therefore, they concluded that the active woman who commits crimes must be, essentially, masculine (Carlen; Temin, 1976).

In 1907, Thomas, augmented the previous biological theories and posited socially based factors for female crime (Temin, 1976). To him, the female criminal was crafty and lured men with her sexuality (Temin). Her difficulties were caused by an inability to adjust to her expected feminine roles. His solution to female criminality, consequently, was to help women learn to conform to traditional expectations for females (Carlen, 1985; Temin).

Lekkerker, who visited the United States to study female reformatories during the 1920s, was among the first to notice the differential treatment of women within the justice system. She noted that women were often diverted out of the system without formal trial through methods like probation (Rasche, 1975). She commented:

The fact is, that from the beginning women delinquents were much more regarded as erring and misguided human beings needing protection and help than as dangerous criminals against whom social order should be protected....The more serious and violent offenses...are not often committed by women and even in those cases the public is frequently more inclined to find condoning explanations

than if it concerns men” (Rasche, p. 21).

Moreover, she observed while men were feared, women were viewed as benign and incapable of posing a threat to society. “In the eyes of the public” there “has always been something pathetic about the disgraced and dishonored” female criminal (Rasche, p. 21).

Several years later, in 1934, Glueck and Glueck examined the causes of female criminality (Raeche, 1974; Vedder & Somerville, 1975). They followed these women longitudinally, even years after their release. Creating another of the first of female criminality theories based upon social factors, the Gluecks concluded that female criminality was the result of the combination of mental inferiority, economic hardship, lack of education, and familial instability (Glueck & Glueck; Raeche).

Nonetheless, despite the introduction of social factors in theories of female criminality, in the literature, biology continued to be among the primary etiologies of female crime discussed. Otto Pollack (1950) asserted that women’s criminality appeared to be less frequent than men’s because women were more deceitful and benefited from the chivalry of police (Carlen, 1985; Temin, 1976; Pollak, Vedder & Somerville, 1975). He posited that their deceitfulness was due to the passive role that they assumed during intercourse (Carlen). Moreover, he commented that criminologists traditionally believed “women commit fewer crimes and that when they do so they somehow betray their womanhood by venturing out into a reserve of men” (Carlen, p. 4). Finally, as late as 1968, Cowie, Cowie, and Slater stated that female crime was due to a genetic imbalance that caused women to behave in more masculine ways (Campbell, 1981; Carlen).

*Current theories about treatment of females within the legal system: Is it better to be female?*

While many of these historical theories may now seem outdated, they have influenced more recent research and theory about gender and criminality (Campbell, 1981). From these theories have sprung hypotheses concerning the reasons why men and women are treated differently by the criminal justice system (Campbell). When the literature is examined, three primary hypotheses rooted in these early examinations of female criminality emerge to explain why gender affects the treatment of females in the justice system; however, these theories produce contradictory outcomes for women. These hypotheses can be divided into: (1) those that predict more lenient treatment for women than for men (e.g., Pearson, 1997); (2) those that predict harsher treatment for women compared to men (Simon & Ahn-Redding, 2005); and (3) those that predict no difference between the treatment of males and females in the justice system (Simon and Sharma, 1979). Proponents of the first theory (e.g., Pearson; Julian, 1993) argue that factfinders are less likely to punish women as harshly as men due to factors such as chivalry, perceived naiveté of women, or for more practical reasons, such as the fact that they may have young children at home (Pearson). In contrast, others believe that women are treated more harshly within the criminal system because they have violated social mores by committing crimes (Simon & Ahn-Redding). Finally, some studies have found no differences between treatment females and males during adjudication (e.g., Simon and Sharma).

*Past Evidence for Theory 1: Women are Treated Less Harshly Due to Chivalry, Perceived Naiveté of Women, and Child Rearing*

*The basic hypothesis.*

According to this hypothesis, judges and juries treat women less harshly than men who commit similar crimes (Pearson, 1997). This theory posits that factfinders treat women differently due to feelings of chivalry and perceived naiveté, as well as women's child rearing duties. Similar to Lekkerker's observations in the late 1800's, society takes pity on the female criminal (Julian, 1993). Judges and jurors feel a need to protect women more than men accused of comparable crimes and, because they are not viewed as serious threats to society, the public is more likely to "find condoning explanations" for female criminal behavior (Rasche, 1975, p. 21). Further, related to the earlier notions of females, such as those of Lombroso discussed above, society may believe that women are incapable of crime, and since it is against their nature, they must have been led into such evil acts by others (Campbell, 1981). Finally, judges and jurors may believe that putting women with children in prison will be more detrimental than beneficial to society (Julian).

*Research demonstrating that women tend to be treated less harshly than men*

A number of studies have provided evidence that women are treated less harshly than men in the criminal system. First, Ghali and Chesney-Lind (1986) did not find a gender effect for verdict but did find an effect of gender on sentencing. Specifically, they found that females were more likely than males to receive probation when legal and

social variables were controlled (Ghali & Chesney Lind; Simon & Ahn-Redding, 2005). Nagel and Weitzman (1971) reached similar conclusions. They found that women were more likely to be released on bail pre-trial, more likely to have their cases dismissed or be acquitted, and if convicted, more likely to receive suspended sentences or probation (Nagel & Weitzman). Based on these data, Nagel and Weitzman concluded that women were nearly always treated preferentially, except in the case of assault, which will be discussed later (Nagel & Weitzman). Finally, in an examination of 309 criminal cases, Frazier, Wilbur, and Henretta (1983) also found that women were more likely than men to receive lighter punishment. Further, independent of other potential influences, females were more likely to receive recommendations from probations officers for non-incarceration sentences, which in turn was the best predictor of final judicial decisions regarding sentence (Frazier, Wilbur, & Henretta).

In another study, male judges were found to affix more lenient sentences for women than men (Wrightsman, Nietzel, & Fortune, 1988). In an examination of 10,500 cases, researchers found that while women and men were arrested at similar rates and plead guilty at similar rates, women still received lesser punishments for similar crimes (Wrightsman, Nietzel, & Fortune). In particular, the study found that they were more likely to have their sentence suspended and less likely to serve time in prison (Wrightsman, Nietzel, & Fortune).

Two studies also found that women are treated preferentially in sentencing for violent crimes (Pearson, 1997). In the first study, researchers found that, for violent crimes, men were 11 percent more likely to be imprisoned (Pearson). In the second study, researchers concluded that, as of 1996, men convicted of killing their wives received an

average sentence of 16 years, whereas, women convicted of killing their husbands received an average sentence of only 6 years (Pearson).

In addition to the above studies, state statistics also indicate that women are receiving preferential treatment in the justice system (Pearson, 1997). For example, data from New York in 1986, demonstrated that while 77% of men convicted of homicide went to prison, only 48% of women convicted of homicide served a prison sentence (Pearson). Statistics collected by the city of Phoenix in Arizona examining 2,500 offenders found that men were two times more likely to be incarcerated compared to women (Pearson).

*Research providing support for the rationales behind the more lenient treatment of women.*

Studies have not only shown that women tend to be treated less harshly, but researchers also have presented several rationales for these effects, including chivalry (Demleitner, Berman, Miller, & Wright, 2004), perceived naiveté of women (Campbell, 1981), and the child rearing responsibilities of women (Crites, 1976; Simon & Ahn-Redding, 2005). First, factfinders (i.e., mostly male judges) view women as in need of protection or chivalry (Demleitner et al.). When asked, judges stated that they could not help comparing female defendants to their wives or mothers, individuals they could not imagine engaging in the conduct of which the defendant was accused (Simon & Ahn-Redding). Musolino (1988) interviewed a total of twelve judges in the Washington D.C. area about their differential treatment of men and women. All but one judge affirmed that they did treat the sexes differently (Simon & Ahn-Redding). One of the main rationales



judges provided was that they had been taught to be chivalrous toward women (Simon & Ahn-Redding). For example, one judge commented, “I am more lenient toward women, and I’ve just not been able to grasp why that is, except I love my mother very much” (Simon & Ahn-Redding). Another stated that women were less likely to recidivate because incarceration is much more degrading for females than it is for males. Based upon this data, these researchers believed that judges were more lenient in sentencing women, but that gender did not effect their determination of guilt (Simon & Ahn-Redding).

Another examination of judges’ rationales revealed similarly sympathetic and chivalrous behavior (Pearson, 1997). Among the findings of this study were that judges believed that women were less culpable for their crimes, more rehabilitatable, and less dangerous than their male codefendants. One judge commented, “This is a masculine system. When a woman enters into it, your train of thinking gets derailed. All the more acutely when it’s a girl.” (Pearson, p. 62).

Another, less studied variable, economics, has also been proposed to account for the leniency hypothesis based on chivalry. Kruttschitt broke down the larger category of women into different subcategories and studied the effects of chivalry on sentencing. Kruttschitt found that women who were more “respectable” or economically better off were more likely to be treated leniently, receiving the benefits of judges’ chivalry (Simon & Ahn-Redding, 2005).

In addition to chivalry, judges, in research, often cite women’s needs to care for dependent children as a rationale for less severe punishment (Crites, 1976; Simon & Ahn-Redding, 2005). Due to the fact that most women defendants are single parents,

incarceration can leave children without caretakers (Simon & Ahn-Redding). Therefore, judges in one study believed a burden would be placed on society if mothers were imprisoned (Simon & Ahn-Redding). A study in Los Angeles with over 10,500 participants supported this rationale. Researchers found that judges were more lenient with female offenders, especially when the women had young children for whom they were the sole caretakers (Simon & Ahn-Redding). In addition, research conducted by Daley provided a more in-depth exploration of these familial extralegal variables. Like the research discussed above, Daley found that existence of a family made women less likely to receive harsh punishment. When judges were asked about their rationales for these shorter sentences, they stated that they were motivated by concern over the women's dependent children, rather than traditional notions of chivalry (Simon & Ahn-Redding). Finally, in the 1988 Musolino study of Washington D.C. area judges discussed above, researchers found the other main theme judges cited for their differential treatment of females and males was the greater child care responsibilities of women (Simon & Ahn-Redding). Other research similarly has found that women with children and married women were likely to receive more lenient sentences (Simon & Ahn-Redding).

*Past Evidence for Theory 2: Women are Treated More Harshly for Violating Social Norms*

*The basic hypothesis.*

One can see the roots of the role violation hypothesis in the research of Thomas discussed above, who stated that women were expected to conform to traditional roles, as

well as that of Otto who stated that women “betray their womanhood” by committing crimes (Temin, 1976). In other words, this theory posits that males are expected to commit crimes, but females are not. As noted above, historically, women were expected to exhibit certain stereotypical behaviors, and committing crimes violates such expectations. Consequently, when a judge finds a woman guilty of a crime, he or she is likely to “throw the book” at the female defendant (Simon & Ahn-Redding, 2005). According to this theory, factfinders should react more harshly to women who have transgressed society’s expectations for women, punishing women not just for their offenses, but also for stepping outside of their feminine roles (Simon & Ahn-Redding).

*Historical evidence that women tend to be treated more harshly than men.*

Proponents of this point of view (e.g., Temin, 1973) point to two primary pieces of evidence that support the harsher treatment of women in the criminal system. First, historically, statutes have explicitly treated women and men differently (e.g., *Ex Parte Brady*, 1927; *Platt v. Commonwealth*, 1926; *State v. Heitman*, 1919). Under these statutes, convicted males had their minimum sentence determined by a judge in an open hearing, with counsel present. In contrast, women’s minimum sentences were decided in a closed hearing by a parole board, and counsel was not provided (Simon & Ahn-Redding, 2005). Under these differing procedures, women were not given the due process protections afforded males (Simon & Ahn-Redding). Instead, under the rationale that women should be protected, their sentences were left to the whims of the parole board, allowing them to hold women as long as necessary for their “rehabilitation” (Simon & Ann-Redding, 2005).

Second, in the past, statutes providing for indeterminate sentencing of women were also sanctioned (Richey Mann, 1984). For example, in discussing the latter of these two, now defunct, procedural mechanisms, the Pennsylvania Superior Court upheld the practice of allowing indeterminate sentences for women, but not men, stating that the legislature could have reasonably believed that women, as a class, should receive this treatment in order to “match” “the time of incarceration” to “the necessary treatment...to provide...effective rehabilitation.” (Commonwealth v. Daniel, 1967, p. 164; Simon & Ahn-Redding, 2005, p. 77). The court, providing the rationale behind its decision stated “such a conclusion could be made based on the psychological and physiological makeup of women” and “their reaction as a class to imprisonment.” (Commonwealth v. Daniel, 1967, p. 164; Simon & Ahn-Redding, p. 77). The Pennsylvania Supreme Court overruled this decision, finding no violation of the Equal Protection Clause; the ruling stated that the judges could not “discern any reasonable and justifiable difference or deterrents between men and women which would justify a man being *eligible* for a shorter maximum prison sentence than a woman for the commission of the same crime, especially if there is no material difference in their records and the relevant circumstances” (Commonwealth v. Daniel, 1968, p. 650). In response, the legislature enacted a statute that provided for another type of indeterminate sentencing (Richey Mann). The Pennsylvania Supreme Court then held that statute unconstitutional, ending government sanctioned discrepant treatment in sentencing based on gender in Pennsylvania (Commonwealth v. Daniel, 1968; Richey Mann; Simon & Ahn-Redding; Temin, 1976).

*Research demonstrating that women tend to be treated more harshly than men.*

In addition to the historical evidence that statutory provisions may have lead to the harsher treatment of women, research also supports the gender role violation hypothesis. For example, Ghali and Chesney-Lind (1986), found evidence that women were sometimes treated more harshly than men for similar crimes. In particular, their data indicated that, for less serious offenses, women who were arrested were more likely to be prosecuted than were men who were arrested. In addition, they were more likely to plead guilty to these lesser offenses (Simon & Ahn-Redding, 2005).

Another study found that women were more likely to be subject to severe sentences when they did not conform to female stereotypes (Chesney-Lind, 1997). For example, if the female defendant was a bad mother and abused or neglected her children, she was more likely to receive a harsher sentence (Chesney-Lind). Further, research by Nagel and Weitzman (1971) found that while women were treated less harshly in most cases, when charged with assault, their sentences were closer to those of their male counterparts. They hypothesized that assault was a more male-like crime, and therefore, women paid a price for violating gender stereotypes and were punished more like men (Nagel & Weitzman; Simon & Ahn-Redding, 2005).

Finally, a body of literature on the “backlash effect” has emerged that provides indirect support for the hypothesis that women are treated more harshly in the legal system due to stereotype violations. Specifically, the social psychology literature has demonstrated that individuals are socially and economically sanctioned for counterstereotypical behavior (e.g., Rudman & Fairchild, 2004). Gender stereotypes are among those that have demonstrated this “backlash effect” (Rudman & Fairchild). A

number of studies have demonstrated that females and males who violate expected gender roles are treated harshly, and those who commit gender role violations sometimes attempt to hide their counterstereotypical behavior (Redman & Fairchild). For example, Redman and Fairchild found that, after losing a contest to a confederate, men and women were likely to sabotage atypical or counterstereotypical men and women, but not those who conformed to gender role expectations. Further, participants who were given feedback on a test indicating that they had violated gender stereotypes attempted to hide this deviation due to fear of backlash (Redman & Fairchild).

Some evidence has indicated that backlash begins very early in life for children. In one study, researchers found that even nursery and preschool children demonstrated similar behaviors to those discussed above (Lamb, Easterbrook & Holden, 1980). Results showed that, during free-play, participants reinforced each other for gender appropriate activities and punished one another for actions incongruent with traditional stereotypical male and female roles (Lamb, Easterbrook & Holden). While this effect has not been directly studied within the legal arena, it does have a strong body of support in varied contexts, thereby providing indirect evidence that women who violate stereotypical behaviors within the legal context may be subject to backlash as well.

This backlash can also be seen in popular culture. An examination of 19th Century literature reveals that women who “misbehave” by transgressing their feminine roles suffer dire consequences (Alder & Worrall, 2004). During the same period, one can observe that the women depicted as demure and passive were praised (Alder & Worrall). Even during the 20th Century, study of literature reveals that women were presented as in need of protection and saving by males. Adler and Worrall argued that this type of

depiction is part of other social controls (e.g., the use of physical violence designed to keep women in their expected roles).

*Past Evidence for Theory 3: There is No Difference in the Treatment of Men And Women*

Not all studies, however, have found that women are punished more harshly for transgressing gender stereotypes. In various attempts to investigate the two hypotheses discussed above, researchers have also generated evidence for a third possible hypothesis that there is no difference between the punishment of men and women. For example, Simon and Sharma (1979) did not find differences in courts' dismissal of charges, adjudication, or incarceration of male and female defendants. (Simon & Sharma). Two other studies found similar results. Kempinen found no evidence for differential punishment of male and female defendants in the 1970s (Simon & Ahn-Redding, 2005). More recently, in a study with results varying with the level of court studied, Ghali and Chesney-Lind (1986) found that, in District Courts in Honolulu, pretrial dismissal, adjudication, and sentencing did not differ based upon gender (Simon & Ahn-Redding).

In a study specifically addressing the impact of gender role violation on punishment, Smith (2003) hypothesized that a woman who violated gender stereotypes would be viewed as an "evil woman" and, consequently, would be punished more harshly. However, Smith found no differences in criminal sanctions between women whose behaviors had violated traditional notions of femininity and women who committed crimes that did not violate gender roles. These results must be interpreted with caution. In explaining these unexpected results, Smith cited difficulty in creating

vignettes for the study, the lack of a representative sample, and problems discerning which results were the result of the effects of gender and which were the result of other factors (Smith).

Box (1979) examined the phenomenon of female criminality using meta-analysis. Based on his study, Box concluded that “the weight of relevant evidence on women committing serious offenses does not give clear support to the view that they receive deferential, and more favorable, treatment from members of the public, police or judges” (Carlen, 1985, p. 5). However, he qualified his result in the case of juvenile, female offenders. Box remarked that when young females were arrested for relatively minor offenses, “Juvenile courts are often transformed into stern parental surrogates who lock up their naughty daughters for behaving in ways which gain scarcely concealed approval when committed by sons” (Carlen, p.5). However, one must take into account that this study was conducted during the 1970s and the number of girls in the justice system has increased substantially since then (Morris, 1987; Chesney-Lind, 1997). Consequently, Box’s results may not be applicable today.

*Stereotypes of the Juvenile Female Offender: Society’s Conceptions of Girls’ Crimes*

*The juvenile court: The development of separate adjudication for children.*

In the late 1800's, reformers expressed shock at the treatment of children within the adult system (Mack, 1909). At that time, children above age seven were adjudicated within adult courts, subject to the same arrest, trial, and sentencing, but also provided



with the same protections as adult defendants (Stapleton & Teitelbaum, 1972).

Dissatisfied with procedures, reformers felt that the legal system should not treat children like their adult counterparts; they believed that the justice system needed to create juvenile procedures consistent with a social welfare philosophy (Besharov, 1974; Mack).

Following these rehabilitative ideals, the juvenile justice system was born and became the primary system for the adjudication of juveniles (Besharov, 1974; Campbell, 1981). Unlike the adult criminal system, the juvenile courts were created in order to ameliorate perceived deficits in the way children were treated (Besharov; Mack, 1909). However, just as women were treated differentially within the adult system, girls were treated differently within the juvenile system, and being a girl was a detriment (Chesney-Lind, 1997).

Citing the need to protect them, girls charged with status offenses (e.g., suspected offenses of sexuality, such as “incurability”) were more likely to be institutionalized and held for longer periods of time than were boys charged with similar offenses (Chesney-Lind, 1997; Datsman & Scarpitti, 1980, Temin, 1976). In fact, girls charged with status offenses were treated more harshly than both girls and boys charged with acts considered crimes within the larger population (Chesney-Lind). For instance, one study of a juvenile court in Delaware found that girls who were first-time status offenders received harsher punishments than did boys charged with felonies (Chesney-Lind). When only girls who had repeatedly committed status offenses were examined, the pattern was even more evident, with girls being six times as likely as boys to be placed in institutions (Chesney-Lind).

Legislation, such as the Juvenile Justice and Delinquency Prevention Act of 1974

and its recent reauthorizations, have attempted to correct this double standard (Juvenile Justice and Delinquency Act, 1992). However, often, judges have both formally and informally resisted these attempts and circumvented measures designed to reduce this imbalance (Simon & Ahn-Redding, 2005). Although some studies have demonstrated less gender-biased treatment of status offenses (Carter, 1979; Clarke & Koch, 1980; Cohen & Kluegel, 1979; Dungworth, 1977, Johnson & Scheubel, 1991; Teilmann & Landry, 1981), other national statistics show that gender disparities persist (Chesney-Lind, 1997).

From this evidence it would appear that, at least within the juvenile system, the more discretion judges are given, the more likely that girls are to be held longer than boys for similar crimes. Historically, this disparity has been justified by the perceived increased need for protection of girls compared to their male counterparts (Chesney-Lind, 1997). While judges' discretion in the juvenile courts was decreased in an attempt to balance this disparity, parallel measures do not exist within the adult system, suggesting that youthful girls in the adult criminal system may be treated more harshly because of protection-related goals.

On the other hand, other measures exist in the adult system that, while not specifically intended to address this gender-discrepancy problem, may reduce the gender disparity (Demleitner et al., 2004). In particular, both state and federal systems have implemented Sentencing Guidelines, designed to provide guidance for judges in determining appropriate sentences (Demleitner et al.; Wrightsman, Nietzel, & Fortune, 1988). In the past, they have provided mandatory ranges from which factfinders could not deviate. Consequently, extralegal variables, such as gender, could carry less weight in

influencing sentence lengths. Because these ranges were mandatory, judges had only a limited discretion in determining sentence lengths and, therefore, were less able to vary length of sentence by gender to give women the benefit of chivalry. (Demleitner et al.). Recently, however, the Supreme Court struck down mandatory sentencing guidelines in the federal system. In *Booker and Fanfan*, the Court held that the Federal Guidelines (Guidelines) were invalid, making them only advisory, and allowing increased judicial discretion (Booker, 2005). Although this decision applied only to the Federal Guidelines, other courts may also find it applies to states through the interpretation of their state constitutions (Booker). Nonetheless, although the Guidelines are only advisory, judges still defer strongly to the suggested range provided by the Guidelines (Demleitner et al.). Consequently, it is difficult to tell what role the Guidelines might play in either increasing or decreasing the likelihood that gender-biased judicial bias might influence sentence lengths.

## CHAPTER 2: RATIONALE

Despite the fact that juveniles are often treated similarly to their adult counterparts in the justice system, juveniles differ from adults in many ways due to developmental changes associated with adolescence and early adulthood (Perkins, 2001). Juveniles may change dramatically over the course of years, or even several months, especially during adolescence (Perkins, 2001). This raises the question of whether delay in adjudication for months or years affects their hearing outcomes. For example, holding an older individual for many months for competence restoration is unlikely to affect his/her appearance, (e.g., physical stature). However, for a juvenile around the time of puberty, the physical changes during the same number of months may be dramatic (InteliHealth, 2005).

In addition to physical changes occurring during this time, juveniles' cognitive development is rapid (Grisso, 1997). Their judgment, or the ways in which they weigh risks and consequences, will most likely become more adult-like, resulting in an expanded capacity to think through options when making decisions (Grisso, 1995). Further, juvenile defendants may also mature emotionally. For instance, as juveniles age, they may become less suggestible and compliant or they may view their offenses differently than they did when they were younger (Goldstein et al., 2001; Koocher, 1992). For example, if a defendant is tried at age eighteen for a crime he was accused of committing when he was thirteen, the way the eighteen year old defendant views the crime may be completely different from his point of view at the time of the alleged offense.

One must wonder whether the more mature appearance, mannerisms, and demeanor of a child defendant following a period of delay between commission of the

crime and trial might change judges' perceptions of the youth's responsibility for the offense, thereby, affecting the outcome of the hearing. In other words, these developmental changes may cause a juvenile to both appear and act more adult-like during the trial than his/her younger self looked and acted when he or she committed the crime, thus, potentially leading to a change in judges' perceptions of the youth's level of responsibility for the offense. Defense attorney reminders to the factfinder that the juvenile allegedly committed this crime at a much younger age may guard against some of these effects. However, do such reminders truly guard against all of the possible changes in perceptions associated with defendants' age?

Unlike other extralegal variables, such as race, the research surrounding the extralegal effects of gender on hearing outcomes is far from clear. As demonstrated by the research reviewed above, it is unclear how a defendant's gender might affect trial outcome. Further, much of the research that exists has investigated adult female defendants, while juvenile female defendants have remained largely unstudied.

Although many extralegal variables have been shown to affect trial outcomes, only a small subset of these variables will be examined in the proposed study. To incorporate all of the relevant extralegal variables, the study sample size would require thousands of participants in order to reach an acceptable level of power to examine the main effects and interactions. Consequently, in the current study, only two of the salient variables will be included: age and gender. Specifically, the current study will explore the effects of age and gender on sentence length and other indices of judges' perceptions of responsibility and culpability. The reason for selecting these variables is discussed in greater depth below.

## Age

*Why is age a particularly important extralegal variable that warrants investigation?*

Although extant research has demonstrated that the extralegal variables of age (e.g., Warling, 2001) and gender (Frazier, Wilbur, & Henretta, 1983) can affect hearing outcomes if the child remains the same age at the time of the crime and adjudication, no study has attempted to examine the effects of developmental changes associated with age within the court context. The empirical evidence reviewed above suggests that jurors use age as a mitigating factor in sentencing, with defendants perceived as younger receiving lighter sentences (e.g., Warling, 2001; Warling & Peterson-Badali, 2003). Although these studies suggest that age does play a part in factfinder determinations, all of the studies assumed that the defendant was being tried at the same age that he or she committed the crime. Further, these studies only examined juror decision-making. Given the demonstrated effects of age on sentencing, if juvenile defendants are perceived as older and more mature after a delay between the commission of the offense and adjudication, they may receive harsher punishments than they would have had they been tried shortly after the alleged offense. Thus, the proposed study will investigate how delays in juveniles' hearings affect the outcomes of these hearings.

In addition to possible risks of differential treatment in sentencing, examination of the effects of age on sentencing has become important in recent years for several other reasons. First, conservative estimates indicate that roughly 60,000 pretrial competence evaluations are performed annually in the United States (Redding & Frost, 2001). Therefore, the sheer frequency with which this issue is raised makes the investigation of

how being held for a length of time affects juveniles' mental health. Second, the issue of juvenile competence to stand trial is now raised more often due to the increasing frequency with which juveniles are tried in adult criminal courts (Steinberg & Schwartz, 2000). Consequently, because the issue is raised more often, an increasing number of juvenile defendants may be held for competence restoration and, as a result, proceed to trial substantially after the alleged offense was committed. As a result, it is important that we understand how developmental variables and the changes associated with this development may affect a juvenile's trial differently from that of an adult.

*How will the proposed study build upon past research regarding age?*

First, previous research in this area has assumed that the age at which the defendant committed the crime was the same age at which he was tried. However, in the reality of our justice system, this is often not the case. Defendants may be held pre-trial for numerous reasons, including, but not limited to, competence to stand trial evaluation and restoration, change of attorney, motions for change of venue, or scheduling delays. Further the time between the commission of the alleged crime and trial may be lengthy for other reasons, such as a defendant jumping bail or eluding arrest. The current study will account for the period of time that could elapse between a juvenile defendant's alleged commission of a crime and the age at which the hearing occurs.

Further, previous research in this area has focused almost exclusively on the effects of a defendant's age on juror decisions, ignoring the decision-making processes of judges; however, in most cases, judges rather than juries determine outcomes. Therefore,

this study will explore whether judges, who are assumed to have more expertise and should, theoretically, be less easily swayed by extralegal influences, are also influenced by such extralegal variables. Further, many juveniles are adjudicated in juvenile court hearings and not within the adult system, therefore, it is important to examine the effects of age and gender within the system in which juveniles' cases are actually heard.

Finally, although the previous research outlined above identified defendant's age as a factor in jury decision-making, extant studies have not evaluated whether age interacts with other extralegal factors that have been empirically identified as pertinent. Although the aforementioned studies suggest a defendant's age alone may affect sentence length, age does not exist in a vacuum; jurors and judges simultaneously perceive many characteristics of the defendant (e.g., gender), and the interaction between these factors may affect factfinders' decisions.

## Gender

*Why is gender a particularly important extralegal variable that warrants investigation?*

Gender was included in the current study because, unlike other variables, such as race, which have resulted in clear research outcomes, the effects of gender are inconclusive. It is unclear how gender may change sentencing, especially for juveniles. As reviewed above, several hypotheses exist concerning the effects of gender on sentencing, each with its own conflicting predictions. Consequently, it is important that the effects of this extralegal variable continue to be examined. Further, while still dwarfed by the number of males in the justice system, the percentage of female offenders is growing; this is particularly true for female juvenile offenders (Morris, 1987; Chesney-



Lind, 1997). Therefore, it is increasingly important that we understand the role that gender plays in the process of adjudication.

*How will the proposed study build upon past research regarding gender?*

Given the conflicting findings of previous research, it is difficult to predict how, exactly, gender might affect factfinders' decisions. Evidence supports the hypothesis that females may be treated more harshly than males, other evidence supports the hypothesis that females may be treated less harshly, and still other evidence suggests that there may be no difference in treatment. Complicating this picture further, however, are recent legislative and judicially imposed changes in the law. For example, due to statutory changes, children are increasingly transferred to adult criminal court for their legal transgressions (Steinberg & Schwartz, 2000). It is difficult to tell whether, post transfer, judges will be more likely to treat transferred females in ways similar to the traditional treatment of juvenile girls or more akin to adult females. Second, in the recent Booker (2005) decision, the Supreme Court declared the Federal Sentencing Guidelines (Guidelines) unconstitutional. The Guidelines were specifically designed to root out bias in sentencing, whether based on gender, race, or any other extralegal variable by limiting judicial discretion (Demleitner et al., Berman, Miller, & Wright, 2004). In fact, section 5H1.10 of the Guidelines explicitly stated that sex may not be used as a factor in sentencing, and section 5H1.6 stated that "family ties and responsibilities...are not ordinarily relevant in determining whether a sentence should be outside the applicable guideline range" (U.S. Sentencing Guidelines, § 5H1.6). Therefore, while in the past,

women who were the sole caretakers for children may have received leniency, during the Guidelines era, judges were generally restricted from considering such factors, except to move up or down within the prescribed guideline range (Bloom, 2003). Only in exceptional circumstances were family ties to form the basis for a downward departure from the mandated range (Bloom).

Some studies found that the Guidelines were accomplishing their purpose of creating less biased sentencing. For example, by decreasing the individualization of sentences, increasing numbers of women were being incarcerated, especially for drug related crimes (Bloom, 2003; Chesney-Lind, 1997). However, others have found that, even during the Guidelines era, in cases where a downward departure was granted, the allowance of discretion reintroduced sentence disparity. One study found that “female defendants received departures that were nine percentage points higher than did similar male defendants.” (Demleitner et al., Berman, Wright, & Miller, 2004, p. 324). However, when the Guidelines were reduced to the status of being advisory only, judicial discretion, which was formerly limited by the Guidelines, was reintroduced into sentencing. Without this legislation to control gender bias, it is possible that we will again see patterns of gender differences similar to those of the pre-Guidelines era.

Finally, previous research has not examined the interaction between gender and age. Consequently, as no previous research exists, it is difficult to say how these two variables may change the effects on hearing outcomes. However, one might hypothesize, based upon theory and previous research, that younger women may experience harsher sentences due to the fact that girls committing crimes is an even larger violation of traditional gender stereotypes for females. In other words, if a woman committing a

crime is a violation of traditional expectations for women, a girl committing a crime is a double aberration. Therefore, one might hypothesize that the younger a female, the more harsh the punishment she will receive due to this double stereotype violation. In contrast, criminal activity is more expected for males. Consequently, one could argue that they may be treated less severely because they are not violating traditional expectations for their gender. . Further, younger males may benefit from the effects observed earlier in which younger individuals may profit from their youthful appearance and demeanor, resulting in less severe punishment for younger males. Consequently, we expected that the relationship between age and juveniles' trial outcomes would depend upon gender, such that females would receive harsher sentences at younger ages, while males would benefit from their youthfulness and receive less harsh ratings on trial outcomes.

## CHAPTER 3: HYPOTHESES

### Main Effects

#### *Verdict*

1. There will be a main effect of age on verdict; older defendants will be convicted more often than will younger defendants for identical crimes.
2. There will be a main effect of gender on verdict; male defendants will be convicted more often than will female defendants for identical crimes.

#### *Length of Sentence*

1. Defendants' ages (13, 15, 17, or 24) will affect the length of sentences assigned (i.e., there will be a main effect for age). The older a defendant is at the time of trial, the longer sentence participants will assign, despite the defendants having allegedly committed the crimes at the same age.
2. Defendants' gender (male or female) will affect the length of sentences assigned (i.e., there will be a main effect for gender). Female defendants will receive shorter sentences and male defendants will receive longer sentences.

#### *Responsibility for the crime*

3. Defendant's age (13, 15, 17, or 24) will affect assigned ratings of responsibility (i.e., there will be a main effect for age). The older a defendant is at the time of trial, the higher the guilt rating participants will assign, despite the defendants having allegedly committed the crimes at the same age. This is hypothesized due

to research and experiential evidence demonstrating that older offenders are treated more harshly within the judicial system.

4. Defendants' gender (male or female) will affect assigned ratings of responsibility (i.e., there will be a main effect for gender). Female defendants will receive lower ratings of responsibility while male defendants will receive higher ratings of responsibility.

#### *Dangerousness*

5. Defendant's age (13, 15, 17, or 24) will affect assigned ratings of dangerousness (i.e., there will be a main effect for age). The older a defendant is at the time of trial, the higher the dangerousness rating participants will assign, despite having the defendants having allegedly committed the crimes at the same age.
6. Defendants' gender (male or female) will affect assigned ratings of dangerousness (i.e., there will be a main effect for gender). Female defendants will receive lower ratings of dangerousness while male defendants will receive higher ratings of dangerousness.

#### *Recidivism*

7. Defendant's age (13, 15, 17, or 24) will affect assigned ratings of likelihood of recidivism (i.e., there will be a main effect for age). Older defendants will be more likely to receive higher ratings of likelihood of recidivism, while younger defendants will be more likely to receive lower ratings of likelihood of recidivism, despite defendants having allegedly committed the crimes at the same age.
8. Defendants' gender (male or female) will affect assigned ratings of likelihood of recidivism (i.e., there will be a main effect for gender). Female defendants will be

more likely to receive lower ratings of likelihood of recidivism while male defendants will be more likely to receive higher ratings of likelihood of recidivism.

#### Interactions

9. Older female defendants and younger male defendants will experience less harsh punishment (i.e., less likely to be found guilty and shorter sentences).
  
10. Older female defendants and younger male defendants will be viewed as less culpable (i.e., viewed as less responsible for the crime, less dangerous, and less likely to recidivate).

## CHAPTER 4: METHOD

### Participants

Prior research has demonstrated that judge response rates range from 20-35% (Redding & Reppucci, 1999). Consequently, using the more conservative finding of a 20% response rate, 1,200 surveys were mailed to judges to achieve the desired sample size. Surveys were mailed to judges who were chosen randomly from publicly available databases. A 33% response rate was obtained, with 393 judges responding to the survey. However, after the exclusion criteria discussed below were applied 295 participants remained. Judges were chosen as survey participants because judges, rather than juries, typically make the ultimate determinations of both verdict and sentence.

Although it was planned that only juvenile court judges would participate in the survey, upon examination of available judge databases, it was discovered that, it was often impossible to discern which judges heard only juvenile cases. Furthermore, especially in more rural jurisdictions, judges frequently tended serve as general jurisdiction judges. In other words, in less populated areas, the same judges may hear all cases to come before the court, and, often, the same judge may hear both juvenile and criminal adult cases. Consequently, judges were asked what type of court they preside over and were included / excluded according to the criteria discussed below in the Results section.

### Design

This study used a 4 (age: 13, 15, 17, 24) x 2 (gender: male, female) between subjects design. In this vignette-based study, age and gender were true independent

variables. The primary dependent variables were the verdict and assigned sentence length, as well as ratings of dangerousness, risk of recidivism, and level of responsibility.

### Materials

Each judge was mailed a packet of information including: a cover letter introducing the study (Appendix C & D); a brief trial vignette (Appendix E); a survey asking what the participant believed would be the appropriate trial outcome, as well as his/her perception of the defendant's level of responsibility, likelihood of recidivism and dangerousness (Appendix F); and a demographic questionnaire (Appendix G). The cover letter provided a brief description of the study, its purpose, and an invitation to participate. The vignette provided a hypothetical case summary. The survey questionnaire pertaining to the trial vignette asked about the participant's beliefs about the defendant's level of responsibility, level of dangerousness, and risk of recidivism, as well as the appropriate verdict and sentence length. The demographic questionnaire inquired about such factors as the participant's age, race, socioeconomic status, marital status, gender, and whether the participant resided in an urban, suburban, or rural area.

Each participant was randomly assigned to one of eight conditions and received only the vignette associated with that condition. In these vignettes, gender and age of the hypothetical offender were manipulated; all other defendant variables and trial-related information were held constant. Specifically, IQ, educational and employment status, mental health, and race did not vary across vignettes. The defendant was described as having an IQ of 80, which is roughly average for youth in the juvenile offender population (Klinge & Dorsey, 1993; McGaha, et al., 2001). Participants were told that the defendant completed the 8th grade and does odd jobs for neighbors, such as mowing



lawns, shoveling snow, and washing cars. The case summary also described the defendant as suffering from Major Depression, as this is a common diagnosis (DSM-IV-TR, 2000), especially within the juvenile forensic population (McGaha, et al., 2001). The defendant was identified as African American because African Americans in the United States are disproportionately arrested, charged, and sentenced (Demleitner et al., 2004).

### Procedure

The research materials were mailed to a nationwide sample of judges randomly selected from publicly available, web-based and published directories. The United States was divided into 10 geographical regions based upon regional classification contained in publicly available websites, such as the Library of Congress (Library of Congress, 2007), and United States Census Bureau (U.S. Census Bureau). One hundred twenty judges were randomly chosen from each region, for a total of 1200 judges. New Jersey judges were excluded due to a state restriction on judges' participation in research. Judges were not asked for any identifying information and were instructed not to provide identifying information on any materials. Further, a self-addressed stamped envelope was provided to facilitate ease of returning the survey. Finally, approximately two weeks after the initial mailing, a reminder letter was sent to encourage those that intended to participate to return their completed packets. Included in this letter was an explanation that the study was anonymous, so it was not possible to determine who had already returned the materials a statement of thanks to those who had already returned the research materials. A second copy of the survey was mailed to each potential participant along with the reminder letter.

Within each packet, the materials were presented in the following order: cover

letter, vignette, outcomes questionnaire, and demographics questionnaire. The demographics questionnaire was the final item in the packet because one of the items inquires about the participant's race. Previous research has found that when participants are asked to provide their race prior to completing other measures, their performance on those measures changes (Wicherts, Dolan, & Hessen, 2005); therefore, the demographics questionnaire was the final item in the packet in order to guard against such effects.

### Method of Analysis

An a priori power analysis revealed that, for a 2 x 4 MANOVA, with an alpha of .05, and a medium effect size ( $f = .25$ ) estimated for all main effects and interactions, 240 participants would be needed to achieve a power of .80. For reasons discussed below, it was not possible to use MANOVA; therefore, a series of ANOVAs were conducted. Three hundred and ninety-three surveys were returned and 295 of those were included in analyses. Two hundred and ninety five participants, with an alpha level of .05, produced a power of .99 to detect a large effect ( $f = .4$ ) and a power of .89 to detect a medium effect ( $f = .25$ ).

To test for the proposed main effects and interactions on the dependant variables of sentence length, responsibility, dangerousness, and likelihood of recidivism, a 2 (gender: male or female) x 4 (age of defendant: 13, 15, 17, 24) between subjects multivariate analysis of variance (MANOVA) was originally planned. MANOVA was proposed, rather than a series of ANOVA equations, to reduce the probability of Type I error (Field, 2007). MANOVA would have been appropriate to use for these analyses because all of the dependent variables were, theoretically, correlated. It was planned that Tukey's HSD would be used for planned comparisons if the overall F-test showed that

the means of the dependent variables were not the same for all groups formed by the categories of independent variables. For reasons discussed below, the proposed analyses were altered after the data were obtained and inspected.

A logistic regression equation ( $\text{verdict} = a + b_1 (\text{age}) + b_2 (\text{gender}) + b_3 (\text{age})(\text{gender})$ ) was used to examine the main effects of age and gender on verdict, as well as the interaction between age and gender. Verdict was regressed simultaneously on age, gender, and the product term of age and gender (all predictor variables were centered prior to running the analysis).

## CHAPTER 5: RESULTS

### Preliminary Analyses

#### *Excluded Participants*

To determine whether a random sample of the 10 geographical regions was obtained, a one-way ANOVA was performed; results were not significant [ $F(3, 287) = .897, p = .443$ ], indicating no differences in response rates between regions.

Two criteria were used to exclude judges from the sample. First, judges who had not heard a case involving a juvenile who had committed a crime within the last year were removed ( $n=85$ ), as were judges who did not answer the question about whether they had heard a juvenile case in the previous year ( $n=6$ ). Second, judges who responded that they only heard civil matters were excluded ( $n=19$ ). All judges specified the type of court in which they presided; therefore, it was unnecessary to exclude judges based on omission of that information. After these inclusion/exclusion criteria were applied, 295 of the original 393 judges remained in the sample.

Of the included judges, 78% were male, 19% were female, and 3% declined to answer that item. The racial composition of the sample was 90% White (Not Hispanic), 3% Latino or Hispanic, 1% African American, 1% Asian, 2% Other; 3% chose not to answer that item. Thirty-six percent of judges were located in suburban areas, 33% lived in rural areas, and 28% lived in urban areas; 3% did not answer the question. Judges were asked to rate their political views from one (Liberal) to six (Conservative). The mean political orientation was 3.6 ( $SD = 1.15$ ).

Some judges declined to answer the questions posed, stating they needed additional information in the vignette. Of the 17 questions posed, 25 judges declined to

answer three questions, 15 judges declined to answer two questions, and 8 declined to answer one question. Five judges completed the survey but, also, commented on the brevity of the vignette.

### Demographic Data

To identify any potential differences in ratings between participants, based on their reported demographics, we conducted a series of ANOVAs, with 7 pertinent demographic characteristics as independent variables and judge's ratings as dependent variables. One way ANOVAs indicated conditions were not significantly different across judges' age, gender, race, annual income, marital status, area, and political view (See Tables 1, 2, 3, &4)

Because having correlated dependent variables is an assumption of MANOVA, prior to running analyses, correlations between all dependant variables (responsibility, dangerousness, recidivism, and sentence length) were examined (See Table 5). All dependent variables were correlated. Perceived level of responsibility and sentence length were correlated at the .05 alpha level, and all other correlations were significant at the .01 level.

### The Effect of Defendants' Age and Gender on Judges' Ratings Of Defendants' Likelihood Of Recidivism, Dangerousness, Responsibility, And Appropriate Sentence Length

We planned to conduct a MANOVA to evaluate whether judges' ratings of a defendant's recidivism, dangerousness, responsibility, and appropriate sentence length differed depending upon the defendant's age and gender. However, as discussed below, the assumptions underlying MANOVA were not met; therefore, this type of analysis was

not possible.

Prior to running the analyses, the assumptions underlying MANOVA were evaluated. First, the assumption of homogeneity of variance-covariance was examined using Box's M Test, and a violation was revealed. However, because the degrees of freedom for this test can be large, the test is oversensitive (Huberty & Olejnik, 2006). Consequently, the variance determinants were also examined and indicated that the variance was unequal. Because this can be due to multivariate non-normality (Huberty & Olejnik, 2006), multivariate normality was examined next. Because there is no way to directly assess multivariate normality, univariate normality must be examined for each variable (Huberty & Olejnik, 2006). Examination of tests of normality, using both graphical methods (see Figures 1, 2, 3, & 4), and the Shapiro-Wilk test for all eight groups, revealed that the data were not normally distributed, (all  $W$ 's  $>.45$ ; all  $p$ -values  $<.0001$ ). Due to the violation of this assumption, it was not possible to use the planned MANOVA.

Because a MANOVA was not possible, hypotheses were examined using a series of two-way factorial ANOVAs, using responsibility, recidivism, dangerousness, and sentence length as the dependent variables. With all dependent variables, we found no significant main effects for gender on responsibility, likelihood of recidivism, dangerousness, and sentence length and no significant interactions between gender and age of defendant on responsibility, likelihood of recidivism, dangerousness, and sentence length. A significant main effect of defendant age was found for dangerousness and recidivism (See Tables 6, 7, 8 and 9).

A series of planned contrasts were conducted using dangerousness and recidivism

as dependant variables, and age group as the independent variable. Each age group was compared sequentially with the next group, resulting in three contrasts, total.

Specifically, results from the 13-year-old defendant were contrasted with those of the 15-year-old defendant, 15-year-old defendant's results were contrasted with the 17-year-old defendants', and 17-year-old's results were contrasted with those of the 24-year-old defendant. When dangerousness was examined by age, no statistically significant differences were detected (See Table 10). When recidivism was examined by age, statistically significant differences were found between the 17 and 24 year old. No other age groups differed on likelihood of recidivism. (See Table 10).

#### Prediction of Judges' Verdicts Based Upon Defendant's Age And Gender

Logistic regression was used to determine if defendant's age and gender were associated with judges' verdicts. Analyses indicated that the overall model containing gender and age was not significantly associated with the probability of judges' verdicts, ( $X^2(6) = 2.30; p > .10; R^2_N = .007$ ). Further, the individual regression coefficients indicated that neither gender (Wald  $X^2(1) = 0.82; p > .10; B = -.73$ ), nor age (Wald  $X^2(1) = 0.11; p > .10; B = -.074$ ), nor the interaction between age and gender (Wald  $X^2(1) = .411, p > .10, B = .180$ ) predicted verdict.

### Effect of Judge Demographic Characteristics on Judges' Ratings of Sentence Length, Responsibility, Likelihood of Recidivism, and Dangerousness

A series of one-way ANOVAs were also used to examine whether judges' demographic characteristics were associated with their decisions regarding juvenile defendants' trial outcomes. Results revealed that judges' ratings of the appropriate sentence, likelihood of recidivism, responsibility for the crime, and dangerousness were not associated with judges' political views, age, gender, racial group, annual income, marital status, area of residence, frequency of interaction with juveniles, or the type of court in which they presided.



## CHAPTER 6: DISCUSSION

This study sought to investigate the effects of a defendant's age and gender on judge's ratings of recidivism, responsibility, dangerousness, sentence length, and verdict. It was hypothesized that a defendant's age and gender, as well as the interaction between these variables, would affect judges' ratings of verdict, sentence length, responsibility, likelihood of recidivism, and dangerousness.

### Gender

Previous research has supported three separate and contradictory hypotheses about the effects of gender on trial outcomes: (1) women are treated less harshly than men due to notions of chivalry, perceived naiveté, and child rearing duties; (2) women are treated more harshly than men due to violations of social norms by committing crimes; and (3) there is no difference between the treatment of men and women within the justice system. With regard to gender, this study supported the third hypothesis, finding no effect of gender on any of the dependent variables. In other words, gender was not found to affect judges' verdicts, assigned sentence lengths, or ratings of responsibility, likelihood of recidivism, or dangerousness. Further, no interaction was found between age and gender on any of the dependent variables.

Several possible explanations exist that may account for the lack of gender effect. First, judges' decisions may be unaffected by the gender of defendants. Many previous studies (e.g., Campbell, 1981; Musolino, 1988; Simon & Ahn-Redding, 2005) have focused on the effects of gender on juror decision-making. It may be that judges, who have more experience and expertise, may be less swayed by this extralegal variable than jurors. However, evaluation of this proposal is not possible in the current study due to

the lack of a direct comparison between judges' and jurors' decision making.

Another possible explanation for the current results is that social expectations for females have changed since the time the research discussed above was conducted. Many of the studies cited as a basis for the hypotheses in this study were conducted in previous decades. During the time that research was conducted, women may have been treated more harshly due to social norm violations or women may have been treated more leniently due to notions of chivalry or the expectation that women occupy a child-rearing role. Today, these roles and expectations may be different. For instance, traditional social roles are changing -- women are increasingly primary breadwinners (United States Census Bureau, 2000), and men often undertake a significant amount of childrearing responsibilities (United States Census Bureau, 2000). Furthermore, women are increasingly involved in the judicial system; the population of both adult female (United States Department of Justice, 1998) and juvenile female offenders (Poe-Yamagata & Butts, 1996; United States Department of Justice, 1998) is rising disproportionately to their male counterparts. Consequently, due to changes in traditional roles and general expectations, it is possible that, currently, women are simply treated as equal to their male counterparts within the justice system.

The current findings may also be due to the fact that a third variable, not included in the study, actually accounts for the relationship between gender and trial outcomes. For example, as previously discussed, earlier studies found that, with female offenders, the relationship between trial outcomes and gender may be related to the type of crime committed (Chesney-Lind, 1997; Nagel & Weitzman, 1971; Simon & Ahn-Redding, 2005). Although the crime incorporated into the current study was selected because we

thought we could avoid these effects by choosing a crime that was neither too serious nor too minor, it is possible that type of crime did play a role. It is also possible that other variables that have been found in past research to affect the relationship between gender and trial outcomes, such as “respectability” of female defendants (Simon & Ahn-Redding, 2005), account for these effects.

In past research, it has been found that certain racial groups are filtered out of the justice system prior to adjudication (Demleitner, 2004). In particular, white defendants may never reach adjudication because police and prosecutors may arrest and charge these defendants at disproportionately lower rates than those of their minority counterparts (Demleitner, 2004). It is possible that a similar phenomenon may occur with gender. It is possible that women are filtered out of the system prior to reaching adjudication, and the women who do reach adjudication are seen as more like their male counterparts and, therefore, deserving of the same punishments. In other words, women may still benefit from the protective effects of their gender prior to the adjudication process, in the form of informal diversion prior to adjudication. However, this study does suggest that they may be treated similarly to their male counterparts with respect to trial outcomes.

As discussed above, the Federal Sentencing Guidelines were determined to be unconstitutional in *Booker* (United States v. Booker, 2005). It is possible that judges continue to follow the Guidelines, even though they are now advisory, thereby, continuing the lack of disparity based upon extralegal factors seen during the Guidelines era.

## Age

The current study hypothesized that younger defendants would be treated less harshly than their adult counterparts. A main effect was observed for age on dangerousness and recidivism, but not on verdict, sentence length, or responsibility. However, these age effects were in the opposite direction from those predicted. Specifically, judges rated younger defendants as more likely to recidivate and more dangerous. Several factors may account for these counterintuitive results. First, congruence between behavior and stereotypes could have played a role. Previous research has revealed that, because mock jurors associated certain races with certain crimes, when a defendant of a particular race commits a crime consistent with the stereotype, participants were more likely to find that defendant guilty (e.g., Jones & Kaplan, 2003). An analogous phenomenon may have occurred in the current study, but with age based stereotypes instead of race. Judges may have stereotypes about the types of crimes that juveniles commit. Therefore, the juvenile defendants in the vignette, who committed crimes seen as congruent with his or her youthful status, may have been treated more harshly. If behavior was more consistent with expectations, judges may have seen the crimes committed in the hypothetical vignettes as more congruent with juvenile offenders; therefore, the judges may have been more likely to ascribe higher ratings of recidivism and dangerousness to younger juveniles than to older juveniles or adults. In the other direction, judges may not have viewed the crime scenarios as congruent with adult stereotypes and, therefore, provided lower ratings of recidivism and dangerousness for older offenders. Consequently, the type of crime included in this study may account for the disparity between previous age-related findings and results of the

current study.

Second, because defendants in the vignettes were not arrested for any additional crimes since the described arrest, judges may have felt that older youth, who had longer periods in which to commit other crimes, were less likely to recidivate in the future. Consistent with this reasoning, judges also rated older defendants as less dangerous than younger defendants.

### Interaction Between Gender and Age

No extant research has investigated the interaction between age and gender on trial outcomes. It was hypothesized that an interaction between defendant's age and gender would be found. Specifically, we proposed that older female and younger male defendants would receive less harsh punishments, while younger females and older males would receive harsher punishment. We believed that younger females, who violated social roles by committing crimes, would not benefit from their youth because young girls' criminal activity is such an extreme violation of society's expectations, and, therefore, judges would treat them harshly. In contrast, adult females would benefit from their gender, and not suffer from this more extreme stereotype violation; therefore, they would be seen as less culpable and treated less harshly. Males would not be violating social expectations because criminal activity is more consistent with gender expectations. Consequently, we predicted that younger males would receive the full benefit of their youthful status. Despite these predictions, no such interaction was observed. The current results, therefore, suggest that the observed relationship between age and measures of trial outcome may not depend upon a defendant's gender.

### Judge Demographic Characteristics

Judges' decision making in juveniles trials did not appear to vary with the judges' demographic characteristics. For example, male and female judges did not differ in their decisions regarding cases. Judges' of different racial groups, political views, income levels, and martial status, also did not differ in their ratings. Judges ratings did not differ depending upon whether they were located in urban, suburban, or rural areas, nor did they differ depending upon whether the judges presided in juvenile court, criminal court, or some other type of court. These findings suggest that juveniles' trial outcomes may not be affected by the demographic characteristics of the judges presiding over their hearings.

## CHAPTER 7: LIMITATIONS

This study was designed to examine the role of a delayed trial (i.e., delay before time of arrest or a period of competence restoration) on trial outcomes and judicial decision making. It also incorporated defendant's gender, another factor that has been shown to influence decision making in other contexts. However, research has demonstrated that other variables, such as race, ethnicity, intelligence, and mental health, can also affect juror decision making, and these important factors were not incorporated into this study due to practical considerations, such as the sample size that would have been required and interpretability of results. Nonetheless, this research was a first step in incorporating multiple case-related factors into a single study in order to better understand the ways in which they might interact within the trial context.

Another limitation of this study is the possibility of response bias. Judges who returned the mail surveys differ in some ways from judges who did not complete the survey. Given the 33% return rate, responses may not represent the larger population of judges. However, attempts were made to make the sample as representative as possible of United States judges 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).

The proposed study is also limited by the lack of visual cues indicating defendant's age. Similar to the impact of "babyfacedness" (McArthur & Aptow, 1984; Zebrowitz & Montepare, 1990; Masip, Garrido, & Herrero, 2004), it may be that age-related visual cues, rather than age per se, determines the effects of age on trial outcomes.

In order to test this hypothesis, one would have to use pictures of the same individual at different ages, while also controlling for factors such as attractiveness, variability in clothing, and threatening nature of appearance. We can imagine accomplishing this level of control only through computerized techniques, such as morphing, which are extremely expensive and cost-prohibitive for the current study.

Another limitation of the current study is that we did not include any jurors as participants. The current study only incorporated judges; therefore, findings may not be applicable to jurors' decision making. While in a smaller proportion of cases, jurors do make decisions regarding defendant's trial outcomes; however, they may reach decisions in a manner different from judges. For example, it is possible that jurors may be more or less influenced than judges by extralegal factors, such as age and gender. Further, jurors deliberate in groups, which has been shown to affect their decisions in some cases (Blumberg, 1994; Bagby, Parker, Rector, & Kelemba, 1994). Consequently, the current research cannot be generalized to jurors.

Further, the case summary vignettes are abbreviated, compared with an actual trial transcript. Therefore, the current study is subject to all of the traditional criticisms of jury research, particularly that results may not be ecologically valid. However, it is not practical to incorporate an entire trial transcript because participants, particularly judges with heavy caseloads, would be reluctant to spend hours or days reading the necessary materials. Obtaining a sufficient sample size necessitated abridged materials.

Finally, judges' knowledge that they were only responding to a hypothetical case and not making a determination about a real defendant may have, in some way, affected judges' decision-making. However, the judges did take the time to respond to the survey



and appeared to give it careful consideration, suggesting that such an effect may not be a major concern.

Despite these potential limitations, the current study provided important information that could contribute to our understanding of judges' decision making in juvenile cases. Specifically, it revealed that holding a juvenile for a long period of time pre-trial may not impact their trial outcomes, as measured by judges' ratings of likelihood of recidivism, dangerousness, sentence length, and verdict. Therefore, in spite of pronounced developmental changes occurring during adolescence, holding juveniles for extended periods of time may not affect their trial outcomes. It also demonstrated that the extralegal factor of gender may not affect judicial decisions.

Another concern that might be raised is the possible overlap in judges' minds between the terms "dangerousness" and "recidivism," as used in the questionnaire. It is possible that judges, in considering these questions, may have had varying definitions in mind. As used in the questionnaire, these terms were intended to represent different constructs. Dangerousness was intended to refer to the defendant's propensity for violence in the future, while recidivism was meant to address the juvenile's likelihood of committing additional offenses, whether violent or not. Although these terms were not defined for judges within the questionnaire, these constructs are often considered separately in state statutes, (see e.g., ORS 419C.349, 42 Pa. C. S. Sec. 6355); thus, as intended, judges may have considered dangerousness and recidivism to be different, non-overlapping constructs.

## CHAPTER 8: IMPLICATIONS

The current study did not find any gender disparities in measures of trial outcome. Provided this is an accurate finding, these results shed some light on our legal system. First, these findings suggest that gender disparities in our judicial system may have equalized since the cited studies (e.g. Chesney-Lind, 1997; Nagel & Weitzman 1971) that were conducted between the 1960s and 1990s. As noted earlier, this may be due, in part, to changing conceptions of traditional sex roles and stereotypes. Another possible explanation would be that, despite the Supreme Court's finding that the Guidelines are only advisory and no longer mandatory, courts are continuing to follow them, thereby, having the desired effect of decreasing disparity in sentencing. However, as discussed below, more research is needed to investigate possible interactions between gender and other important variables.

With regard to the defendant's age, the current research calls into question whether the relationship between age and trial outcomes consistently holds in the direction observed in past research. In previous research (e.g., Warling, 2001), youth acted as a mitigator. However, the current study found that younger juveniles received harsher sentences than their adult counterparts. This suggests that a third intervening variable may moderate the relationship between age and measures of trial outcome. Future research is needed to clarify this discrepancy, and identification of such a variable could have implications for adjudication.

If the observed effect of age on trial outcomes is accurate, such a finding may have implications for any of the numerous reasons why a juvenile may experience a delay between the commission of the alleged offense and adjudication (e.g., delays due to

competence to stand trial evaluation and restoration, change of attorney, motions for change of venue, scheduling delays, a defendant jumping bail or eluding arrest).

Specifically, this study suggests that it may be to juvenile's advantage to delay his or her trial. However, as noted above, some third variable omitted from the study may account for the results. Alternatively, the fact that the juvenile in the vignette had not been arrested for any major offenses in the intervening period may have played a role in judges' decision making.

Because the paucity of studies in this area prohibits examining the consistency of results with previous research, the validity of our results should be questioned. Further, because it is not yet possible to determine whether this extralegal variable does influence judicial decision making, it is important to consider the implications if younger age does act as a mitigator in trial outcomes, as previous research suggested (Warling, 2001; Warling & Peterson Badali, 2003). If it is found that younger defendants receive less harsh punishments, the implications would be quite different. For example, relevant procedures might need to be adjusted to account for the rapid development of juveniles during periods of trial delays and the potential impact of their development on factfinders' impressions and decision making. Furthermore, such adjustments might be needed to ensure youths' cases reach trial faster, thereby, increasing fairness to the juvenile defendants. Attorneys might realize that it is in their juvenile clients' best interest to get trials to court quickly. Finally, if attorneys and other legal personnel are aware of the ways in which judges may be biased against older juveniles, they could try to guard against the effects of these biases through defense attorney warnings, for example.

If the current study's findings are confirmed by future research, and older age acts as a mitigator, one way to guard against the extralegal effect of youth would be to call judges' attention to possible biases and use of stereotypes that might affect their judgments. In fact, the social cognition literature reveals that when individuals' attention is called to their tendencies to stereotype, in some situations, people are able to counteract this tendency. (Monteith, Sherman, and Devine, 1998). This could be accomplished through statements by defense attorneys or through the use of expert testimony, regardless of whether the fact finder is a judge or a jury.

#### Implications for Juvenile Competence to Stand Trial of Biases in Trial Outcomes

It is important to continue clarifying the relationship between age and trial outcomes. If future research were to support our finding that older age is a mitigator of trial outcome, then juveniles would benefit from delaying their trials until they were older. Therefore, attorneys might actually wish to delay their clients' hearings whenever ethically possible. In contrast, if future studies were to support previous findings that young age is a mitigator of sentence length, one particularly salient application of this research would be to pretrial detention of juveniles for competence restoration. One of the fundamental rights within our criminal justice system is a defendant's right to a fair trial (e.g., United States Constitution, Amendments 5, 6, 14). Integral to this right is the mandate that, in order for a defendant's trial to be fair, he or she must, not only be physically present, but be mentally present as well (American Jurisprudence, 2004). To guarantee this right, the Supreme Court, in *Dusky v. United States* (1960) and *Drope v. Missouri* (1975), established standards requiring defendants to be competent to stand

trial. Under this *Dusky / Drope* standard, in order for a defendant to be considered competent, he or she must not only have a rational and factual understanding of the proceedings against him or her, but also be able to assist the attorney in his or her defense (Dusky, 1960; Drope, 1975). Although the Supreme Court has only clearly enunciated that this standard applies to adults, many jurisdictions consider it applicable to juveniles as well (Bonnie & Grisso, 2000; Dusky, 1960; Drope, 1975). If the defendant is found competent under the *Dusky* standard, the court will allow the trial to proceed (Redding & Frost, 2001). However, if the defendant is found to be incompetent, he or she is typically transferred to a secure facility for competence restoration (Redding & Frost). Later, if competence is restored through treatment, the defendant's trial resumes (Melton et al., 1997).

Although the Supreme Court laid out the standard and process for competence determinations in *Dusky* and its progeny (e.g., Dusky, 1960), it was not until 1972 that the Court discussed the maximum length of time a defendant could be held for competence restoration (Jackson, 1972). In *Jackson v. Indiana*, the Court ruled that defendants who are transferred for competence restoration may only be held for a "reasonable period of time necessary to determine whether there is any substantial probability that he will attain [competence] in the foreseeable future" (Jackson, 1972, p. 738). As a result of the Supreme Court's lack of specificity regarding the definition of a "reasonable length of time," states have taken a variety of approaches to fulfilling *Jackson's* mandates (Redding & Frost, 2001). States have implemented this standard in a variety of ways that range from a defendant being held pretrial for anywhere from 6 months (e.g., South Carolina) to the length of time that they would have been held if

found guilty (e.g., Louisiana).

Consideration of the effects of competence restoration on juveniles has become increasingly important in recent years. Although, in the past, juvenile cases were assumed to be heard under more rehabilitative ideals within the juvenile system (Mack, 1909), in recent years, both the juvenile and adult systems have become increasingly punitive (Grisso, 1997). In addition to a general shift in public opinion toward more retributive ideals for criminal sanctions, transfer or waiver laws have been relaxed in many states, resulting in more juveniles being moved to the adult criminal system for trial (Steinberg & Schwartz, 2000). In other words, in the past, juvenile cases were heard in the more rehabilitation-oriented juvenile courts, but today, they are increasingly likely to be transferred to the more punitive adult criminal system. Also, younger aged defendants are being transferred with greater frequency (Steinberg & Schwartz, 2000) and transfer occurs for a wider range of offenses (Torbet, 1996; Campaign for an Effective Crime Policy, 1996).

As a result of these statutory changes, the issue of juvenile competence is now increasingly raised, and more juveniles are sent for competence restoration. Additionally, the issue of competence restoration may be even more important for juveniles than for adults due to evidence that restoration periods for adolescents may be longer than those for adults (McGaha, Otto, McClaren, & Pettila, 2001; Pinals, 2005). Specifically, research has found that there is a larger proportion of mental retardation found among incompetent juveniles than among incompetent adults (McGaha, Otto, McClaren, & Pettila, 2001) and that mentally retarded individuals have longer restoration periods (Pinals, 2005). Studies have demonstrated that the inclusion of larger proportions of

mentally retarded individuals may make restoration periods even longer than the average of two to three months cited by some authors (McGaha, et al., 2001; Simon, 1999; Hoge, et al. 1996 ). Thus, understanding the possible effects of longer competence restoration periods on the adjudication of juveniles seems particularly relevant to determinations of equal treatment in the criminal justice system.

If juveniles are treated differently based on the extralegal factor of age, juveniles' constitutionally guaranteed right to a fair trial would be in question (In re Gault, 1967). Consequently, it is possible that the justice system would need to consider ways to counteract these effects. Possibly, juveniles would need their own substantive standards, rather than simply incorporating the adult statutes created to meet the *Jackson* (1972) requirements. Perhaps, these juvenile-specific standards would permit only shorter restoration periods before the juvenile would need to be released, along with more frequent review periods to ensure that the restoration process is truly making progress.

## CHAPTER 9: FUTURE LINES OF RESEARCH

Future research could build upon the current study in several ways. First, the use of longer vignettes that incorporate more material upon which to make a decision would better approximate a real case, thereby, making the results more ecologically valid. As discussed several judges in this study declined to answer some items based upon the rationale that not enough information was provided. While the cautionary discussion regarding the likelihood of judges taking the time to complete a lengthy study still applies, it is possible, based upon the comments of responding judges that some may have been willing to consider additional information, if provided. The current vignette was confined to one page; however, future studies might expand upon this vignette in order to provide additional information.

Visual cues could also be incorporated into the study. As discussed above, it may be these visual cues, rather than age itself that would better account for the effects of age on trial outcomes. However, holding constant other visual variables while changing the age of the individual may only be accomplished using technology, such as morphing, which is very expensive. Funded research would benefit from the inclusion of these visual cues.

Another important, future investigation would be to compare judges' and jurors' decision making. If such differences exist, this comparison could be vitally important to defendants determining whether, and under what conditions, they should exercise their 6<sup>th</sup> Amendment right to a jury trial. Such findings could also have implications for the fairness of our trial system.

Future lines of research might also examine whether disparities exist at other



stages of the legal process. Perhaps women benefit from their gender more informally, through police or prosecutor diversion. Future studies might apply similar survey methods to other actors within the legal process to determine whether diversion decisions differ based upon gender, as other studies have found with race (Jones & Kaplan, 2003).

Finally, interactions of age and gender with other important variables should be incorporated into future studies. Such variables might include SES, intelligence, mental health diagnosis, or type of crime committed. It is also important to note that, because these variables were held constant in the current study, results may not be generalizable to defendants who do not belong to the groups identified within the vignette. For example, the defendant in the case vignette was described as African American; therefore, the results of the current study may not be applicable to defendants of other races.

### List of References

42 Pa. C. S. Sec. 6355 (2007.)

Age Discrimination in Employment Act of 1967, 29 U.S.C.A. §§ 621 et seq.

Alder, C., & Worrall, A. (Eds.). (2004). *Girls' violence: Myths and realities*. Albany, NY: State University of New York Press.

Albonetti, C.A. (1997). Sentencing under the federal sentencing guidelines: Effects of defendant characteristics, guilty pleas, and departures on sentence outcomes for offenses, 1191-1992. *Law and Society Review*, 31, 789-822.

Am. Jur. 2D 171 (2004).

Bagby, R. M., Parker, J. D. A., Rector, N. A., & Kalemba, V. (1994). Racial prejudice in the Canadian legal system: Juror decisions in a simulated rape trial. Special issue: Race, ethnicity, and the law. *Law and Human Behavior*, 18(3), 339-350.

Bandali, S. (1999). Children and the expanding role of criminal law. *Child Psychology & Psychiatry Review*, 4(2), 85-90.

Berry, D. S. & Zebrowitz-McArthur, L. (1988). What's in a face? Facial maturity and the attribution of legal responsibility. *Personality & Social Psychology Bulletin*, 14(1), 23 - 33.

Besharov, Douglas J. (1974). *Juvenile justice advocacy: Practice in a unique court*. New York: Practising Law Institute.

Bloom, B. E. (Ed.). (2003). *Gendered justice: Addressing female offenders*. Durham, NC: Carolina Academic Press.

Bowker, Lee H. (1978). *Women, crime, and the criminal justice system*. Lexington, MA: Lexington Books.

Brodsky, A. M. (Ed.). (1974). *The female offender*. Beverly Hills, CA: Sage Publications LTD.

Campaign for an Effective Crime Policy, Public Policy Reports: A Series of Reports on Major Issues in Criminal Justice: The Violent Juvenile Offender: Policy Perspective 5 (July 1996).

Campbell, A. (1981). *Girl Delinquents*. New York, NY: St. Martin's Press.

- Campbell, T.D. (1992). The rights of the minor: As person, as child, as juvenile, as future adult. In Alston, P., Parker, S., & Seymour, J. (Eds.) *Children, Rights and the Law* (p. 5). Publisher: Oxford: Clarendon Press.
- Chesney-Lind, Meda. (1997). *The female offender: Girls, women, and crime*. Thousand Oaks, CA: Sage Publications, Inc.
- Christina, D., Hicks, J., O'Dwyer, J., Tchaikovsky, C. & Carlen, P. (1985). *Criminal women*. New York, NY: Basil Blackwell Inc.
- Commonwealth v. Daniel, 210 Pa. Super. 156 (1967).
- Commonwealth v. Daniel, 430 Pa. 642 (1968).
- Crites, Laura. (1976). *The female offender*. Lexington, MA: Lexington Books.
- Crosby, C. A., Britner, P. A., Jodl, K. M. & Portwood, S. G. (1995). The juvenile death penalty and the eighth amendment. *Law and Human Behavior*, 19(3), 245-260.
- Culliver, Concetta C. (Ed.). (1993). *Female Criminality: The State of the Art*. New York, NY: Garland Publishing, Inc.
- Datesman, Susan K. & Scarpitti, Frank R. (1980). *Women, Crime, & Justice*. New York, NY: Oxford University Press.
- De La Fuente, De La Fuente, & Garcia. (2003). Effects of pretrial juror bias, strength of evidence and deliberation process on juror decisions: New validity evidence of the juror bias scale scores. *Psychology, Crime, and Law*, 9(2), 197 – 209.
- Demleitner, Nora V., Berman, Douglas A., Miller, Marc L. & Wright, Ronald F. (2004). *Sentencing Law and Policy: Cases, Statutes, and Guidelines*. New York, NY: Aspen Publishers.
- Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> edition, Text Revision, Washington, DC: American Psychiatric Association (2000).
- Dressler, J. (1999). *Cases and materials on criminal law* (2nd ed.). St. Paul, MN: West Publishing Company.
- Drope v. Missouri, 420 U.S. 162 (1975).
- Dusky v. United States, 362 U.S. 402 (1960).
- Ex Parte Brady, 157 N.E. 69 (1927).

- Faith, Karlene. (1993). *Unruly women: The politics of confinement & resistance*. Vancouver, B.C.: Press Gang Publishers.
- Field, A. (2007). Discovering statistics using SPSS, <http://statisticsshell.com/manovalecture.pdf>.
- Finkel, N. J., Hughes, K. C., Smith, S. F. & Hurabiell, M. L. (1994). Killing kids: The juvenile death penalty and community sentiment. *Behavioral Sciences and the Law*, 12, 5-20.
- Fried, C. S. & Reppucci, N. D. (2001). Criminal decision making: The development of adolescent judgment, criminal responsibility, and culpability. *Law and Human Behavior*, 25(1), 45-60.
- Ghetti, S. & Redlich, A. D. (2001). Reactions to youth crime: Perceptions of accountability and competency. *Behavioral Sciences and the Law*, 19, 33-52.
- Gideon & Teigen, K. (2004). Yet another look at the heuristics and biases approach. In Koehler, D. J. & Harvey, N. (Eds.), *Blackwell handbook of judgment and decision making* (pp. 89-109). Malden, MA: Blackwell Publishing.
- Gilbert, P. R. (2003). Discourses of female violence and societal gender. *Violence Against Women*, 8, 1271-1300.
- Glueck, S. & Glueck, E.T. (1934). *Five hundred delinquent women*. New York: Alfred A. Knopf.
- Goldstein, N. E., et al. (2001, June). Risk factors for false confessions in adolescent offenders, Address at the European Association of Psychology and Law Conference, Lisbon, Portugal.
- Graham, S. & Lowery, B. S. (2004). Priming unconscious racial stereotypes about adolescent offenders. *Law and Human Behavior*, 28(5), 483-504.
- Grisso, Thomas. (1995). The competence of adolescents as trial defendants, *Journal of Psychology Public Policy and the Law*, 3, 5.
- Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., et al. (2003). Juveniles competence to stand trial: A comparison of adolescents' and adults' capacities as trial defendants. *Law and Human Behavior*, 27(4), 333-363.
- Hahn, P.W. & Clayton, S.D. (1996). The effects of attorney presentation style, attorney gender, and juror gender on juror decisions. *Law and Human Behavior*, 20(5), 544-544.

- Haegerich, T. L. (2002). *Influence of stereotypes on individual and group decisions in a novel context: Juvenile offenders in court*. Unpublished doctoral dissertation, University of Illinois at Chicago. Chicago, IL.
- Hoge, S. K., Poythress, N., Bonnie, R., Eisenberg, M., Monahan, J., Feucht-Haviar, T., & Oberlander, L. (1996). Mentally ill and non-mentally ill defendants' abilities to understand information relevant to adjudication: A preliminary study. *Bulletin of the American Academy of Psychiatry and the Law*, 24, 187–197.
- Huberty, C.J. & Olejnik, S., *Applied Manova and Discriminant Analysis*. Hoboken, New Jersey: Wiley Interscience (2006).
- Koocher, G. P. (1992). Different lenses: Psycho-legal perspectives on children's rights, *Nova Law Review*, 14, 711-716.
- Library of Congress, <http://memory.loc.gov/ammem/index.html>.
- InteliHealth, Aetna (Medical content reviewed by Harvard Medical School faculty), Guiding Your Child Through the Adolescent Years at <http://www.intelihealth.com/IH/ihIH/WSIHW000/34970/34978/41768.html?d=dmChildGuide>.
- In re Gault*, 387 U.S. 1 (1967).
- Jones, C. & Kaplan, M.F. (2003). The effects of racially stereotypical crimes on juror decision-making. *Basic and Applied Psychology*, 25(1), 1-13.
- Julian, F. H. (1993). Gender and crime: Different sex, different treatment? In Culliver, C.C. *Female Criminality: The state of the art*. New York, Garland Publishing.
- Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5715 et seq. (1992).
- Klein, D. (1976). The etiology of female crime: A review of the literature. In Crites, L. *The Female Offender*. Lexington, MA: Lexington Books.
- Klinge, V. & Dorsey, J. (1993). Correlates of the Woodcock Johnson Reading Comprehension and Kaufman Brief Intelligence Test in a Forensic Population. *Journal of Clinical Psychology*, 49 (4), 593-598.
- Lamb, M. E., Easterbrooks, M. A. & Holden, G. W. (1980). Reinforcement and punishment among preschoolers: Characteristics, effects, and correlates. *Child Development*, 51(4), 1230-1236.
- Levine, M., Williams, A., Sixt, A. & Valenti, R. (2001). Is it inherently prejudicial to try a juvenile as an adult? *Behavioral Sciences and the Law*, 19, 23-31.

- Mack, J.W. (1909). *The Juvenile Court*, Harvard Law Review 23, 104-107.
- Mann, C. R. (1984). *Female crime and delinquency*. University, AL: University of Alabama Press.
- McGaha, A., Otto, R. K., McClaren, M. D. & Petrila, J. (2001). Juveniles adjudicated incompetent to proceed: A descriptive study of Florida's competence restoration program. *Journal of the American Academy of Psychiatry and the Law*, 29(4), 427-437.
- Melton, G.B., Petrila, J., Poythress, N.G., & Slobogin, C. (1997). *Psychological Evaluations for the Courts: A handbook for mental health professionals* (2<sup>nd</sup> ed.). New York, NY: Guilford Press.
- Monteith, M.J., Sherman, J.W., & Devine, P.G. (1998). Suppression as a stereotype control strategy. *Personality and Social Psychology Review*, 2, 63-82.
- Nagel, S.S., & Weitzman, L.J. (1971). *Women as Litigants*. Hastings Law Journal, 23, 171-198.
- National Minimum Drinking Age Act of 1984, 23 U.S.C.A. § 158, (July 17, 1984).
- Oberlander, L. B., Goldstein, N. E., & Ho, C. N. (2001). Preadolescent adjudicative competence: Methodological considerations and recommendations for practice standards. *Behavioral Science and the Law*, 19, 545-563.
- ORS 419C.349 (2007).
- Pate v. Robinson, 383 U.S. 375 (1966).
- Pearson, Patricia. (1997). *When She was Bad*. New York, NY: Viking.
- Perkins, D.F. (2001). Adolescence: Developmental Tasks. Fact Sheet FCS 2118. University of Florida Institute of Food and Agricultural Sciences Extension at <http://edis.ifas.ufl.edu/pdf/HE/HE82000.pdf>.
- Pinals, D. (2005). Where two roads meet: Restoration of Competence to stand trial from a clinical perspective. *New England Journal of Criminal and Civil Confinement*, 31, 81-108.
- Piquero, N. L., & Davis, J. L. (2004). Extralegal factors and the sentencing of organizational defendants: An examination of the federal sentencing guidelines. *Journal of Criminal Justice*, 32, 643-654.
- Platt v. Commonwealth, 152 N.E. 914 (1926).

- Poe-Yamagata, E. & Butts, J.A., United States Department of Justice Office of Juvenile Justice and Delinquency Prevention (1996). *Female Offenders in the Juvenile Justice System.*, Pittsburgh, PA: Diane Publishing.
- Pollak, J. (1978). Early theories of female criminality. In Bowker, L.H. (1978) *Women, crime, and the criminal justice system.* Lexington, MA: Lexington Books.
- Pollak, O. (1950). *The criminality of women.* Philadelphia: University of Pennsylvania Press.
- Rasche, C.E. (1975). The Female Offender as an Object of Criminological Research. In Brodsky, A.M. (1975). *The Female Offender.* Beverly Hills, CA: Sage Publications, Inc.
- Redding, R. E. & Frost, L. E. (2001). Adjudicative competence in the modern juvenile court. *Virginia Journal of Social Policy and the Law Association*, 9, 353-409.
- Roper v. Simmons, 543 U.S. 551, (2005).
- Rudman, L. A. & Fairchild, K. (2004). Reactions to counterstereotypic behavior: The role of backlash in cultural stereotype maintenance. *Journal of Personality and Social Psychology*, 87(2), 157-176.
- Semmler, C. & Brewer, N. (2002). Effects of mood and emotion on juror processing and judgments. *Behavioral Sciences and the Law*, 20, 423-436.
- Simon, A. (1999). The restoration of competency to stand trial: An analysis of intervention efficacy. *Dissertation. Abstracts International: Section B: The Sciences and Engineering*, 60, 1315.
- Simon, R.J. & Sharma, N. (1979). *The female delinquent in Washington, D.C.: 1974 and 1975.* Washington D.C.: Institute for Law and Social Research.
- Simon, R. J., & Ahn-Redding, H. (2005). *The crimes women commit: The punishments they receive.* Lanham, MD: Lexington Books.
- Stapleton, V. W. & Teitelbaum, L.E. (1972). *In Defense of Youth: A Study of the Role of Counsel in American Juvenile Courts.* New York, NY: Russell Sage Foundation.
- Stanford v. Kentucky, 492 U.S. 361 (1989).
- State v. Heitman, 105 Kan. 139 (1919).

- Steinberg, L. & Schwartz, R. G. Developmental psychology goes to court. *In Youth on trial: A developmental perspective on juvenile justice* 1, 9-10 (Thomas Grisso & Robert G. Schwartz eds., 2000).
- Tang, C. M. & Nunez, N. (2003). Effects of defendant age and juror bias on judgment of culpability: What happens when a juvenile is tried as an adult? *American Journal of Criminal Justice*, 28(1), 37-52.
- Temin, C. (1976). Discriminatory sentencing of women offenders: The argument for ERA in a nutshell. In Crites, L. *The Female Offender*. Lexington, MA: Lexington Books.
- Temen, L. (1973). *Discriminatory Sentencing of Women Offenders*. Criminal Law Review 11.
- Torbet, P. et al., National Center for Juvenile Justice, State Responses to Violent Juvenile Crime 49 (July 1996).
- United States Census Bureau, United States Census (2000).
- United States Constitution, Amendment VI.
- United States Constitution, Amendment XIV.
- United States Constitutional Amendment XXVI.
- United States Department of Justice, Office of Justice Programs (1998). Women in Criminal Justice: A Twenty Year Update: Special report. At <http://www.ojp.usdoj.gov/reports/98Guides/wcjs98/chap1.htm>
- United States v. Booker, 543 U.S. 220 (2005).
- Vedder, C. B., & Somerville, D. B. (1973). *The delinquent girl*. Springfield, IL: Thomas Books.
- Wall, B. W., Krupp, B. H. & Guilmette, T. (2003). Restoration of competency to stand trial: A training program for persons with mental retardation. *Journal of the American Academy of Psychiatry and Law*, 31(2), 189-201.
- Warling, D. & Peterson-Badali, M. (2003). The verdict on jury trials for juveniles: The effects of defendant's age on trial outcomes. *Behavioral Sciences and the Law*, 21, 63-82.
- Wicherts, J. M., Dolan, C. V., & Hessen, D. J. (2005). Stereotype threat and group differences in test performance: A question of measurement in variance. *Journal of Personality and Social Psychology*, 89, 696-716.



Wrightsman, L.S., Nietzel, M.T., Fortune, W.H. (1998). *Psychology and the Legal System*, 4th ed. Pacific Grove, CA: Brooks / Cole Publishing Company.

Zebrowitz-McArthur, L. & Apatow, K. (1984). Impressions of baby-faced adults. *Social Cognition*, 2(4), 315-342.

Zebrowitz, L. A. & MacDonald, S. M. (1991). The impact of litigants' baby-facedness and attractiveness on adjudications in small claims courts. *Law and Human Behavior*, 15(6), 603-623.

**APPENDIX A: Tables**

Table 1.

Differences in Judges' Ratings of Appropriate Sentence Length for Juvenile Defendant by Judges' Demographic Characteristics

Source	Df	F	Partial Eta <sup>2</sup>	p
Judge's Age	3	1.960	.002	.971
Judge's Gender	1	36.175	.011	.227
Judge's Race	3	8.253	.007	.800
Marital Status	3	41.586	.036	.172
Area of Residence	2	16.913	.010	.504
Political View	5	13.730	.020	.732
Annual Income	1	7.074	.002	.593
S Within group error	137	(24.593)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 2.

Differences in Judges' Ratings of Responsibility of Juvenile Defendants by Judges' Demographic Characteristics

Source	Df	F	Partial Eta <sup>2</sup>	p
Judge's Age	3	1.177	.019	.320
Judge's Gender	1	.642	.003	.424
Judge's Race	5	.606	.016	.695
Marital Status	3	.143	.002	.934
Area of Residence	2	.107	.001	.898
Political View	5	.813	.022	.542
Annual Income	1	1.398	.007	.239
S Within group error	185	(2.503)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 3.

Differences in Judges' Ratings of Dangerousness of Juvenile Defendants by Judges' Demographic Characteristics

Source	df	F	Partial Eta <sup>2</sup>	p
Judge's Age	3	.740	.012	.530
Judge's Gender	1	.040	.000	.841
Judge's Race	5	1.132	.030	.345
Marital Status	3	.347	.006	.791
Area of Residence	2	.035	.000	.966
Political View	5	.803	.021	.549
Annual Income	1	1.244	.007	.266
S Within group error	183	1.426		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 4.

Differences in Judges' Ratings of Likelihood of Recidivism of Juvenile Defendants by Judges' Demographic Characteristics

Source	Df	F	Partial Eta <sup>2</sup>	p
Judge's Age	3	1.250	.020	.293
Judge's Gender	1	.677	.004	.412
Judge's Race	5	.677	.018	.642
Marital Status	3	.397	.007	.755
Area of Residence	2	.525	.006	.592
Political View	5	1.077	.029	.375
Annual Income	1	1.264	.007	.262
S Within group error	180	(2.393)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 5.  
Intercorrelations Between Dependent Variables

	Dangerousness	Recidivism	Sentence
Responsibility	.692*	.600*	.344*
Dangerousness		.701*	.396*
Recidivism			.265*

\*  $p < 0.01$

Table 6.  
Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Appropriate Sentence Length for Juvenile Defendants

Source	df	F	Partial Eta <sup>2</sup>	p
Age (A)	3	1.571	.029	.199
Gender (G)	1	.000	.000	.984
A X G	3	.494	.009	.687
S Within group error	159	(25.093)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 7.

Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Juvenile Defendants' Responsibility

Source	df	F	Partial Eta <sup>2</sup>	P
Age (A)	3	1.994	.027	.116
Gender (G)	1	.042	.000	.838
A X G	3	1.449	.020	.230
S Within group error	212			

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

Table 8.

Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Juvenile Defendants' Dangerousness

Source	df	F	Partial Eta <sup>2</sup>	p
Age (A)	3	2.956*	.041	.033
Gender (G)	1	.432	.002	.512
A X G	3	.293	.004	.830
S Within group error	210	(1.421)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

\*p < .05



Table 9.

Effect of Age, Gender, and Interaction Between Age and Gender on Judges' Ratings of Juvenile Defendants' Likelihood of Recidivism

Source	df	F	Partial Eta <sup>2</sup>	p
Age (A)	3	6.285*	.084	.000
Gender (G)	1	1.568	.008	.212
A X G	3	1.187	.017	.316
S Within group error	205	(2.145)		

*Note.* Values enclosed in parentheses represent mean squared errors. S = subjects.

\*p <.01

Table 10.

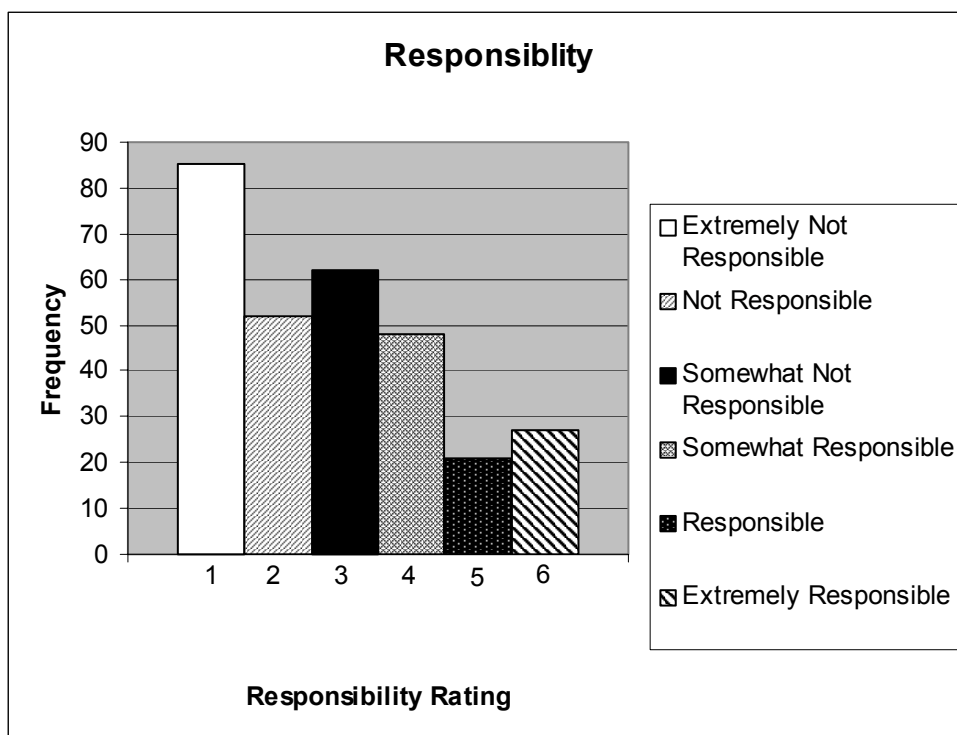
## Planned Contrasts Between Age Groups on Dangerousness and Recidivism

	Contrast	t	Df	p
Dangerousness	13 / 15	.028	83.483	.978
	15 / 17	1.738	81.996	.086
	17 / 24	.988	124.821	.325
Recidivism	13 / 15	-.153	73.154	.878
	15 / 17	1.319	70.986	.191
	17 / 24	2.730*	125.136	.007

\*  $p < .01$

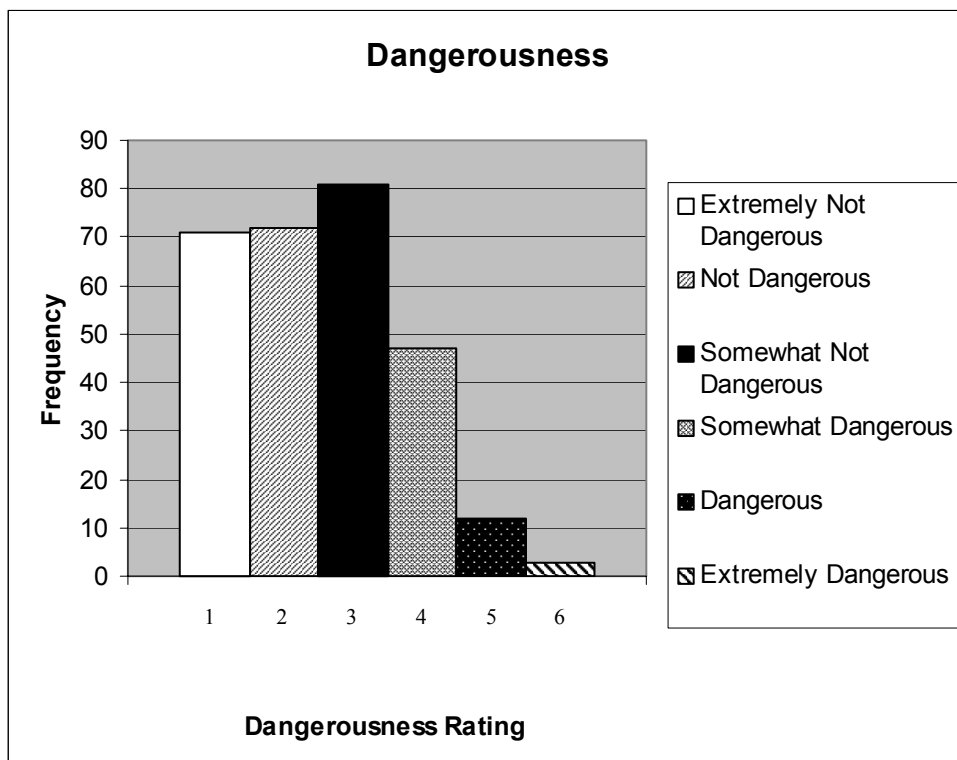
**APPENDIX B: Figures**

Figure 1. Normality of Judges' Ratings of Responsibility



*Note.* Mean = 2.83, St. Dev. = 1.60, Skewness = .50, Kurtosis = -.80.

Figure 2. Normality of Judges' Ratings of Dangerousness



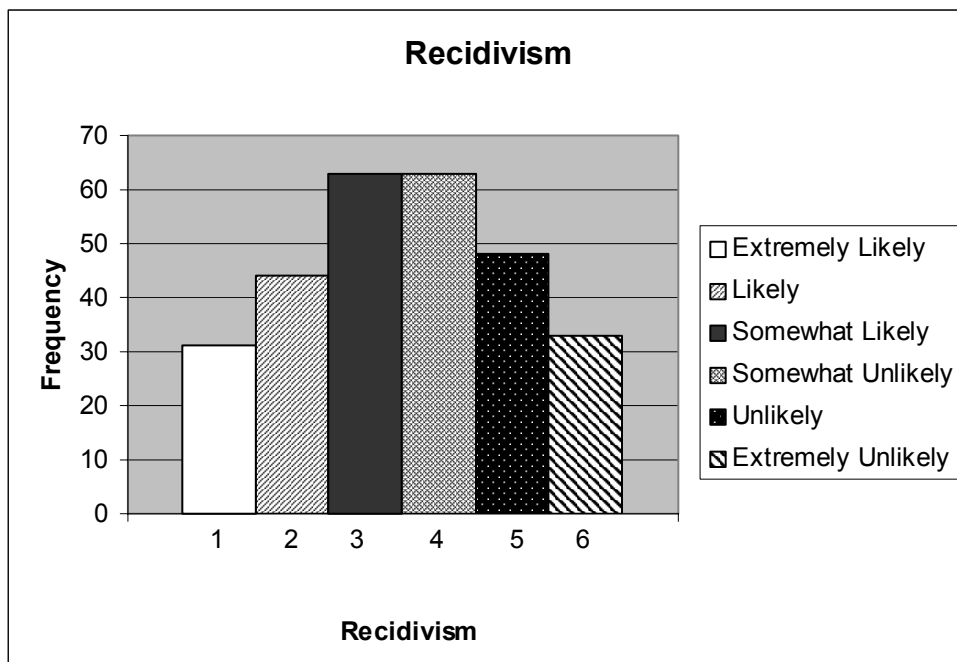
*Note.* Mean = 2.53, St. Dev. = 1.21, Skewness = .39, Kurtosis = -.50.

Figure 3. Normality of Judges' Ratings of Sentence Length



*Note.* Mean = 1.28, St. Dev. = .56, Skewness = 1.87, Kurtosis = 2.50.

Figure 4. Normality of Judges' Ratings of Recidivism



*Note.* Mean = 3.53, St. Dev. = 1.50, Skewness = -.04, Kurtosis = -.93.

## APPENDIX C: Letter Introducing Study, Consent, and Instructions

The current study is being conducted as part of the JD-PhD program in law and psychology at Villanova University School of Law and Drexel University. We are conducting research on judges/ jurors decision-making and would very much appreciate your participation. The enclosed survey is **very brief** requiring only **10-15 minutes** to complete and is anonymous so you will not be asked to provide any identifying information. Your participation is completely voluntary. By completing the survey and returning it in the envelope provided, you are considered to have provided your consent to participate in the study.

If you would like to participate, please read the following short trail vignette and answer the questions in the brief questionnaire that follows. The vignette provides a hypothetical opening statement for both a defense attorney and a prosecutor. The brief questionnaire following it will ask you to answer questions based upon the vignette followed by a demographics questionnaire. Please answer all items in the order that they are presented and do not skip ahead. Also, please do not return to previously answered questions to change your response once you have read the additional sections. Further, please attempt to answer all of the questions contain in the questionnaire. If you experience any irritation and discomfort in answering any question, please skip that question.

After you have completed the survey, please place it back into the envelope that has been provided and return it. Thank you in advance for your participation in this study. Your participation is greatly appreciated and will provide valuable information about the judicial process.

## APPENDIX D: Follow-up Letter Introducing Study, Consent, and Instructions

The current study is being conducted as part of the JD-PhD program in law and psychology at Villanova University School of Law and Drexel University. **This packet is being sent as a follow-up to one sent two weeks ago, however, due to the anonymity of the research study it is not possible for the researchers to determine whether you have already completed the previous packet. If you already completed the previous survey, thank you for your participation, please discard this survey. If you have not completed the previous survey, we hope that you will consider completing the survey below.**

**If you have not completed the previous survey,** we are conducting research on judges/jurors decision-making and would very much appreciate your participation. The enclosed survey is **very brief** requiring only **10-15 minutes** to complete and is anonymous so you will not be asked to provide any identifying information. Your participation is completely voluntary. By completing the survey and returning it in the envelope provided, you are considered to have provided your consent to participate in the study.

If you would like to participate, please read the following short trail vignette and answer the questions in the brief questionnaire that follows. The vignette provides a hypothetical opening statement for both a defense attorney and a prosecutor. The brief questionnaire following it will ask you to answer questions based upon the vignette followed by a demographics questionnaire. Please answer all items in the order that they are presented and do not skip ahead. Also, please do not return to previously answered questions to change your response once you have read the additional sections. Further, please attempt to answer all of the questions contain in the questionnaire. If you experience any irritation and discomfort in answering any question, please skip that question.

After you have completed the survey, please place it back into the envelope that has been provided and return it. Thank you in advance for your participation in this study. Your participation is greatly appreciated and will provide valuable information about the judicial process.



## APPENDIX E: Trial Vignette

The following is a hypothetical case summary. Please read the summary and then complete the questions that follow. Please do not read ahead. Following the case summary, answer each question in the order that it is presented.

### Case Summary

The defendant, [John/Joan], is a [13,15,17,24] year old [male / female] who has been charged with assault and possession of an instrument of crime. The defendant was 13 years old when he / she committed the alleged crime. The defendant was arrested approximately five hours after the alleged offenses, a pre-adjudication hearing was held the following day, and the youth was released on bail. The defendant jumped bail and was not found until [10 months, 2 years 10 months, 4 years 10 months, 6 years 10 months] later when he/she was arrested on charges of underage drinking and disturbing the peace.

An investigation concerning the original offense was conducted immediately following its occurrence. The investigation resulted in a number of findings. First, approximately half an hour prior to the crime, the defendant was seen in the area by an eyewitness who was a neighbor who knew [John/Joan] well. Second, around the time of the alleged offense, another nearby witness heard a noise that aroused suspicion. The witness described a person similar to [John/Joan's] description. Specifically, the witness stated that the perpetrator was an African American male / female who was about 13 years old wearing loose fitting blue jeans, a red t-shirt shirt, and a black baseball cap with a white logo on the front. The defendant was apprehended and arrested for the alleged

crime. The defendant was allowed out on bail, jumped bail and was not rearrested until [10 months, 2 years 10 months, 4 years 10 months, 6 years 10 months] later.

The defendant is now [13, 15, 17, 24] years old. He / She is an African American male / female with an IQ of 80, which is about average for juveniles involved in the justice system, but falls at the bottom of the Low Average range of IQ for people in the general population. In other words, compared with the general population, roughly 11% of people scored lower than the defendant and about 89% of people scored higher than the defendant on standard IQ measures. At the time that [John / Joan] allegedly committed the crime he / she was roughly [males = 127 lbs. and 5'3" inches tall; females = 118 lbs. and 5'3 inches tall]" with short brown hair and eyes and a scar on his / her right arm.

The defendant has now come to his/her hearing. It is [X = 10, 22, 34, 46] months later and he/she is 2 months short of his/her [14<sup>th</sup>, 16<sup>th</sup>, 18<sup>th</sup>, 25<sup>th</sup>] birthday. [John/Joan] is now [average height and weight for age (female) = 5'3" and 132 lbs.; 5'4" and 139 lbs., 5'4" and 143 lbs., 5'4" and 157lbs.; average height and weight for age (male) = 5'5" and 131 lbs., 5'8" and 157 lbs., 5'9" and 172 lbs., 5'9" and 189 lbs.] and appears his / her stated age. He / She has been diagnosed with Major Depression and is considered to be of lower-middle socioeconomic (SES) status. Prior to his / her arrest, the defendant completed the 8th grade and did odd jobs for neighbors, such as mowing lawns, shoveling snow, and washing cars.

## APPENDIX F: Brief Questionnaire Regarding Trial Vignette

**Instructions:** Please answer the questions below where indicated. Your answers are completely anonymous. There is no way that we can link your response to you, however, if you feel uncomfortable about providing any information, please leave that question blank.

1. Based on the circumstances described above, do you believe the [13, 15, 17, 24] -year-old male / female should be found guilty of the crime?

\_\_\_\_\_ Guilty \_\_\_\_\_ Not Guilty

2. Based on the circumstances described above how long of a sentence do you believe this [13, 15, 17, 24] -year-old male / female should receive (the Sentencing Guidelines used to make similar decisions suggest a range of 15 – 21 for those who commit assault with a weapon)?

\_\_\_\_\_ Below 15 \_\_\_\_\_ Above 21

\_\_\_\_\_ Between 15 and 21

3. If Between 15-21 (please specify number of years)\_\_\_\_\_

4. How responsible do you think this [13, 15, 17, 24] -year-old male / female was for the crime?

1                      2                      3                      4                      5                      6

Not  
Responsible

Extremely  
Responsible

5. How dangerous is this [13, 15, 17, 24] -year old male / female?

1

2

3

4

5

6

Not Dangerous

Extremely Dangerous

6. How likely is this juvenile to commit additional crimes in the future?

1

2

3

4

5

6

Unlikely

Extremely Likely

## APPENDIX G: Demographic Survey

**Instructions:** Please answer the questions below where indicated. Your answers are completely anonymous. There is no way that we can link your response to you, however, if you feel uncomfortable about providing any information, please leave that question blank.

**1. Your Age:**

21 and under     26 – 30                       41 – 50                       65+  
 22 - 25                       31 – 40                       51 – 65

**2. Your Gender:**  male  female

**3. Your Race/Ethnicity:**

African American (non-Hispanic)                       American Indian or Alaskan  
 Native  
 Asian                       Hispanic or Latino                       White (not Hispanic)  
 Native Hawaiian or Other Pacific Islander                       Other (please specify)  
 \_\_\_\_\_

**4. Your Annual Income:**

\$24,999 and under     \$75,000 - \$99,999  
 \$25,000 - \$49,999     \$100,000 and above  
 \$50,000 - \$74,999

**5. Your Marital Status:**

\_\_\_ Single \_\_\_ Separated or Divorced

\_\_\_ Married \_\_\_ Widowed

**6. Area of Residence (please circle only one):**

Urban                  Suburban                  Rural  
\_\_\_\_\_

**7. On average, how often do you interact with individuals aged 13 to 19?**

\_\_\_ almost never  
\_\_\_ about twice a year  
\_\_\_ once every few months  
\_\_\_ once a month  
\_\_\_ once a week  
\_\_\_ every day

**8. Have you heard a case in which a juvenile has committed a crime with the past year?**

\_\_\_\_\_ Yes                                  \_\_\_\_\_ No

**9. In what type of court do you preside?**

Criminal Court                   Juvenile Court

Other (Please specify) \_\_\_\_\_

**10. Please rate your political views:**

1	2	3	4	5	6
Very Liberal		Moderate			Very Conservative

**CURRICULUM VITAE**  
**Kimberly Larson, M.S., J.D.**

---

**Education**

- Ph.D. candidate, Clinical Psychology, Drexel University, Philadelphia, PA, (Anticipated completion: September 2007)
- M.S., June 2003, Clinical Psychology, Drexel University, Philadelphia, PA
- Juris Doctorate, May 2006, Villanova University School of Law, Villanova, PA
  - Admitted to Pennsylvania and New Jersey Bar, Fall 2006
  - Honors: Order of the Coif (Top 10%), Magna Cum Laude, Villanova Law Review, Staff Writer & Associate Editor (2002- 2004)
- B.A. Psychology, May 1999, Johns Hopkins University, Baltimore, MD

**Experience**

- Postdoctoral Fellow in Forensic Psychology, University of Massachusetts Medical School, (Anticipated Completion August 2008)
- Predoctoral Psychology Intern, University of North Carolina and FCC Butner (2006 – 2007)
- Psychological Evaluator, Dr. Elliot Atkins, Marlton, NJ (2005-2006)
- Psychotherapist, Institute for Addictive Disorders (2005 – 2006)
- Adjunct Professor, Forensic Psychology, Drexel University (Summer 2005)
- Legal Intern, Mediation Works, (Summer 2005)
- Psychological Evaluator, Forensic Clinic, Drexel University (May 2004 – August 2005)
- Psychotherapist, Family Health Psychology Center, Mercy Fitzgerald Hospital (2003 – 2005)
- Legal Intern, National Clearinghouse for the Defense of Battered Women (Summer 2004)
- Psychotherapist, Student Counseling Center, Drexel University (July 2003 – July 2004)
- Adult Assessment, Family Health Psychology Center, Mercy Fitzgerald Hospital (2002-2003)
- Practicum Student, Delaware Psychiatric Center (July 2002 – July 2003)
- Legal Intern, Public Interest Law Center, Philadelphia, PA. (Summer 2002)

**Publications**

- Larson, K.A. & Griffin, M.P. (in press). Competence to be Sentenced. *The Encyclopedia of Psychology and Law*.
- Atkins, E., Peabody, J., Larson K., & Schanker N. (in progress). Forensic Psychological Consultation in United States Death Penalty Cases in State and Federal Courts.
- Larson, K.A. (2003). Improving the “Kangaroo Courts:” A Proposal for Reform in the Evaluation of Juveniles’ Waivers of *Miranda*. *Villanova Law Review*, 48, 629.

**Professional Presentations**

- Atkins, E., Peabody, J., & Larson, K.A. (2005). *Forensic Psychological Consultation in United States Death Penalty Cases in State and Federal Courts*. [Paper Presentation]. World Congress of Criminology, Philadelphia, PA.
- Larson, K.A. & Goldstein, N.E. (June 7, 2004). *Does simplification of the Miranda warning improve youths’ comprehension?* [Poster Presentation]. International Association of Forensic Mental Health Services.
- Boyer, B.A., Crittenden, K., Larson, K.A., Mayer, J., Gill-Price, A., Link, D.D. & Kraus, J. (March 2004). *Pre-surgical depression, posttraumatic stress, and appraisal among patients undergoing open heart surgery*. [Paper Presentation] 25<sup>th</sup> Annual Scientific Sessions of the Society of Behavioral Medicine.
- Larson, K.A. & Goldstein, N.E. (March 5, 2004). *Mental health courts: An historical lesson from the creation of the juvenile courts and its current implications*, [Paper Presentation]. American Psychology Law Society.
- Larson, K.A. (April 10, 2003). *A Proposal for Reform in the Evaluation of Juveniles’ Waiver of Miranda Rights*. [Paper Presentation]. International Association of Forensic Mental Health Services.