

The Competence-Related Abilities of Adolescent Defendants in Criminal Court

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Increasing numbers of youths are being tried in criminal court because of statutory measures that have decreased the use of judicial review as the primary mechanism for transfer. The relative immaturity of adolescents suggests that transferred youths might have impaired competence-related abilities compared to adults. To test this hypothesis, we compared the competence-related abilities and developmental characteristics of a sample of direct-filed 16–17-year-olds charged in criminal court in the state of Florida (Direct File sample) to a sample of 18–24-year-old adults charged in criminal courts (Adult Offender sample) and to a separate sample of 16–17-year-olds charged in juvenile court (Juvenile Court sample). Results indicated that there were few differences between the Direct File youths and Adult Offenders. The differences that were observed suggested that the Direct Filed youths performed slightly better than the Adult Offender group and the Juvenile Court youths charged in juvenile court. These findings suggest that as a group, 16–17-year-old Direct File adolescents do not have significant deficits in competence-related abilities due to age or immaturity.

KEY WORDS: juvenile competence; juvenile transfer; competence to stand trial.

The functional criteria that have long defined competence to stand trial in criminal courts include that a defendant be able to assist his or her attorney with a reasonable degree of rational understanding, and, further, have a rational as well as factual understanding of the adjudicatory proceedings (*Dusky v. U.S.*, 1960). About two-thirds of the states also recognize that juveniles tried in juvenile court must be competent to stand trial (Bonnie & Grisso, 2000), and some states have developed juvenile court adaptations of the substantive and procedural provisions pertaining to adjudicative competence of adult offenders in criminal

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court, including a downward extension of the *Dusky* criteria cited earlier. A few states have adopted rules for clinical evaluations of juveniles' competence to stand trial and for the restorative treatment of those deemed by the juvenile court judge to be incompetent (Redding & Frost, 2001).

Yet, laws regarding competence in juvenile court are still relatively undeveloped and in evolution. For example, it is unsettled whether juvenile defendants must exhibit the same level of functional capacity as adults in order to be competent (Bonnie & Grisso, 2000). Especially important for purposes of this paper, some courts as well as statutes are beginning to recognize not only mental illness or mental retardation but also cognitive or developmental immaturity as bases for adjudicative incompetence in juvenile court proceedings. For example, Florida Rules of Juvenile Procedure instruct forensic examiners, in cases in which they believe the juvenile might be incompetent, to report specifically on "the mental illness, mental retardation, or *mental age* causing incompetence" (FRJP 8.095(d)(2)(A), emphasis added). A related statute governing the disposition of incompetent youths acknowledges that juveniles may be adjudicated incompetent due to mental illness, mental retardation or "because of age or immaturity, or for any reason other than for mental illness or retardation . . ." (F.S. 985.223(2)).

Similarly, although empirical studies reveal that mental illness and, particularly, mental retardation, are the most common conditions underlying juveniles' incompetence (McGaha, Otto, McClaren, & Petrila, 2001), one study (Baerger, Griffin, Lyons, & Simmons, 2003) found that neither mental illness nor mental retardation was present in nearly one-quarter of youths found incompetent to proceed in juvenile court. This suggests that other conditions—presumably immaturity—are acceptable predicates for incompetence in some juvenile courts. Recognition of immaturity as a legitimate basis for adolescents' impaired competence-related abilities is consistent with concerns expressed by developmental psychologists that some adolescents may have impaired functional capacities in a legal context due to immature judgment and decision making (e.g., Cauffman, Woolard, & Reppucci, 1999; Grisso, 1997; Steinberg & Cauffman, 1996; see generally, Grisso & Schwartz, 2000). It is also consistent with the growing number of studies reporting age-related differences in juveniles' competence-related abilities (e.g., Cooper, 1997; Grisso et al., 2003; Warren, Aaron, Ryan, Chauhan, & DuVal, 2003).

Adjudicative Competence of Juveniles in Criminal Court

There have always been provisions for removing some juveniles' cases from juvenile court jurisdiction and assigning them to criminal court (Bishop, Frazier, Lanza-Kaduce, & White, 1999; Feld, 2001; Frazier, Bishop, & Lanza-Kaduce, 1999; White, Frazier, Lanza-Kaduce, & Bishop, 1999; see generally, Fagan & Zimring, 2002). The traditional mechanism for this "transfer" process has been judicial waiver, typically requiring certain threshold conditions pertaining to age and charges, followed by a hearing concerning whether the youth meets certain criteria for transfer (Fagan & Zimring, 2002). Following *Kent v. U.S.* (1966), most courts have applied criteria that focus on youths' danger to the community, amenability to rehabilitation in the juvenile justice system, and degree

of sophistication and maturity (Grisso, Tomkins, & Casey, 1988; Leistico & Salekin, 2003).

A process of judicial waiver might be argued to provide adequate protection against the transfer of potentially incompetent youths to criminal court, given its focus on the level of maturity of the youth and the potential need for treatment as a juvenile due to specific mental disorders. Nevertheless, in most states, a specific finding that a youth is competent to proceed in criminal court has not generally been required for judicial waiver.⁶ Thus, it is possible that a juvenile defendant lacking the functional legal capacities required for participation in criminal court proceedings (due to immaturity) could nevertheless be transferred to that venue for prosecution. Moreover, having reached criminal court, a youth's incompetence due to immaturity is less likely to be recognized, since most criminal court definitions of incompetence focus on mental illness or mental retardation, not including immaturity as a potential predicate of incompetence.

New transfer laws established in many states in the 1990s provide even greater reason for concern, because they do not require any judicial review of youths' capacities (Griffin, 2003). Frazier, Bishop, Lanza-Kaduce, and Marvasti (1999) reported that between 1992 and 1995, 41 states enacted provisions of two types that transfer adolescent defendants to criminal court "automatically," virtually without judicial discretion. One is *statutory exclusion*, which removes specific offenses from juvenile court jurisdiction (Feld, 2000). The other is *direct file*, permitting prosecutors at their discretion to file certain types of cases (usually based on offense type and/or prior offending history) in either juvenile court or criminal court.

In many states, these new provisions have made judicial waiver almost superfluous. Florida, the state in which the present study was conducted, enacted direct file provisions in 1978, after which "... the proportion of transfer cases handled by judicial waiver declined steadily to only one percent of all transfers in any given year" (White et al., 1999, p. 274). Florida leads the nation in the transfer of juveniles to criminal court, averaging between 6000 and 7000 transferred youths per year (Frazier et al., 1999). The overwhelming majority of these cases (about 90%) involve youths ages 16–17, and only a few direct-file youths (about 0.5%) are below age 14.

The Competence-Related Abilities of Adolescents in Criminal Court

Given the relative immaturity of adolescents compared to adults, as well as direct file to criminal court without judicial "screening" of youths, there is reason for concern that youths direct filed to criminal court might be at greater risk of incompetence to stand trial than adults in criminal court. This concern is augmented by the lesser likelihood that their immaturity will be recognized as a predicate for incompetence in criminal court than in juvenile court.

The present study was designed to test the extent to which that concern has merit. We examined the competency-relevant abilities of a sample of Florida youths

⁶Only a few states have protections against the transfer of incompetent youths: Virginia by statutes, and at least two other states (Alabama and Michigan) by recent appellate court decisions (Bonnie & Grisso, 2000).

who had been direct filed to criminal court, focusing on 16–17-year-olds (because the vast majority of direct filed youths were of those ages). Recent research evidence (Grisso et al., 2003) suggests that 16–17-year-olds in *juvenile* court on average do not differ significantly from young adults in criminal court in terms of competency-relevant abilities. However, those results do not resolve the question of the capacities of 16–17-year-olds direct filed to criminal court. Direct file may transfer a subset of 16–17-year-olds who are less or more mature, or less or more likely to have mental disorders or mental retardation, than is true for 16–17-year-olds in general in the juvenile justice system. Therefore, the present study examined the competence-related abilities and developmental psychosocial characteristics of 16–17-year-old adolescents in Florida whose cases were direct filed, compared to 16–17-year-olds in juvenile court, and 18–24-year-old adults in criminal court.

METHOD

The direct-file sample was collected as a secondary sample associated with the MacArthur Juvenile Adjudicative Competence study (Grisso et al., 2003). The primary study included male and female adolescents and young adults drawn from the justice system and surrounding communities in Los Angeles, Philadelphia, central Florida, and northern and eastern Virginia. To maintain consistency across sites vis-à-vis incarceration status, only individuals who were detained were approached for study participation. Details of the original study's instruments and procedures, which were employed also with the secondary sample in the present study, have been published elsewhere (Grisso et al., 2003) and are available in an archival report at www.mac-adoldev-juvjustice.org.

Participants and Sites

Direct File Group

Two public defender offices in west-central Florida referred adolescents on whom charges had been filed directly in criminal court.⁷ Adolescents of both genders and all racial/ethnic backgrounds were eligible for the study; however, due to the very small number of adolescent females referred ($n = 3$), our analyses were limited to male participants.

Potential participants had to be under the age of 18 at the time of arrest and they had to be detained in the jail. From a total referral pool of 124 male adolescents who met these criteria, two declined to participate, one did not speak English sufficiently to complete the study protocol, one was judged by the research assistant (RA) to be incompetent to consent to research participation, and two could not be located in the jail computer when the RA went to attempt enrollment. Of the

⁷Florida Statute 985.227 provides for two types of direct file: prosecutors' discretion (pertaining primarily to youths 14–17 years of age) and mandatory (applied only to youths 16–17 years of age). Between the two types of direct file, types of charges that may be direct-filed range from misdemeanors (with certain prior adjudicated offenses) to a wide range of felonies with or without prior adjudications.

remaining 118 eligible males, 105 who had been 16 or 17 years old at the time of arrest were selected as the study's Direct File group.⁸

Comparison Groups

The study employed two comparison samples of males drawn from the original study by Grisso et al. (2003). One comparison sample, the Juvenile Court group, included all 16- and 17-year-old males in the original study who were charged in juvenile court ($n = 118$) and were residing in juvenile pretrial detention centers at the time of their participation in the study. These participants were similar in age to the Direct File group, but charged in the juvenile court. The second comparison sample, the Adult Defendant group, included all 18–24-year-old male defendants in the original study who had been charged in criminal court ($n = 165$) and were residing in jails at the time of their participation in the study. These participants were charged in the criminal court setting but were older than the Direct File group.

An unknown number of subjects may have been “screened out” by staff or youth advocates because of their vulnerable condition at the time of data collection (see “Procedure” section). An additional group of youths were excluded because of their parents’ objection to the youths’ participation. Subjects of any age who expressed disinterest in participation were not referred by staff and were not approached by research assistants.

Demographic and Background Variables

Table 1 presents the self-reported information on demographic variables and self-reported prior justice-involvement and current offense variables for the three groups. Ethnic composition varied significantly by group, in that there was a smaller proportion of Hispanic participants in the Direct File group ($n = 6$, 6.1%) than in the Juvenile Court ($n = 25$, 21.2%) and Adult Offender ($n = 47$, 28.5%) groups. The majority of subjects (about 80%) in all three groups fell in the three lowest socioeconomic categories. About two-thirds of participants in all three groups reported that they had prior experience with the justice system.⁹ Regarding current offenses, 36% of participants were charged with property offenses, 25% were charged with offenses against persons, 26% were charged with drug offenses, 6% were charged with probation violations, and 7% were charged with other types of offenses. These proportions were similar across the three groups.

Mean intelligence test scores (Wechsler Abbreviated Scale of Intelligence, Psychological Corporation, 1999) were in the low average range for all groups. The Direct File group ($M = 87.61$, $SD = 10.86$) did not differ significantly from either the Adult Offender group ($M = 87.15$, $SD = 13.44$; $t(270) = .30$, ns) or the Juvenile Court group ($M = 87.54$, $SD = 11.95$, $t(223) = .04$, ns).

⁸This group included eight adolescents who were 18 years and 1 month old at the time of interview. These youths were retained in the sample for all of the analyses reported later; the results did not differ when the analyses were repeated excluding these youths.

⁹Whether the participant had (a) ever before been found guilty of a delinquency or crime and (b) ever before been kept overnight in a detention center or jail. Juvenile Justice records for the Direct File group indicates a higher level of prior involvement than these youths self-reported—98% of the sample had a prior arrest and 95% had at least one juvenile justice adjudication.

Table 1. Sample Demographics

	Criminal court		
	Direct File (<i>n</i> (%))	Adult Offender (<i>n</i> (%))	Juvenile court (<i>n</i> (%))
Ethnicity			
African-American	62 (59)	70 (42)	47 (40)
Caucasian	37 (35)	48 (29)	46 (39)
Hispanic	6 (6)	47 (28)	25 (21)
Socioeconomic status			
I—Highest	1 (1)	1 (1)	4 (3)
II	3 (3)	12 (7)	10 (8)
III	14 (13)	25 (15)	26 (22)
IV	34 (32)	51 (31)	39 (33)
V—Lowest	53 (50)	76 (46)	38 (32)
Prior justice involvement			
Pled or found guilty	81 (77)	118 (72)	83 (70)
Locked up overnight	69 (67)	106 (65)	71 (61)
Current charges			
Property offenses	38 (36)	53 (32)	50 (42)
Personal offenses	27 (26)	30 (18)	40 (34)
Drug offenses	32 (30)	50 (30)	18 (15)
Probation violation	4 (4)	14 (8)	5 (4)
Other	4 (4)	17 (10)	5 (4)

Measures of Competency Abilities and Developmental Capacity

MacArthur Competence Assessment Tool—Criminal Adjudication (MacCAT-CA; Poythress et al., 1999)

We administered the MacCAT-CA to assess the competence-related abilities of all study participants although, for reasons described later, an a priori decision was made not to utilize its *Appreciation* subscale. The *Understanding* subscale (8 items) and *Reasoning* subscale (8 items) assess capacities using a vignette that describes a hypothetical crime and defendant. The *Understanding* subscale relates to the *Dusky* requirement that defendants have a *factual understanding* of the proceedings. Its items describe the personnel (e.g., judge, jury, attorneys) and procedural issues (e.g., jury deliberations, sentencing) that arise in resolving criminal charges, either by going to trial or by entering a guilty plea. Defendants' responses reveal their general comprehension of courtroom personnel, legal procedures, and a defendant's rights in the legal system.

The *Reasoning* subscale relates to the *Dusky* requirement that a defendant be able to *assist counsel*. Five items challenge a defendant to recognize relevant information (RRI), that is, to distinguish information that is more, or less, relevant to constructing a legal defense and be able to explain why that information has potential legal relevance. Three items require a defendant to compare, contrast, and describe risks-and-benefits associated with options available to the hypothetical defendant—either going to trial or pleading guilty.

For both subscales, item responses are scored “0” (*no credit*), “1” (*partial credit*), or “2” (*full credit*) against explicit criteria and summed to yield subscale scores, that are interpreted using norms from a large national adult sample of pre-trial adult defendants (Otto et al., 1998). Although the summed item scores yield a

dimensional index of capacity, and the MacCAT-CA manual provides cut-off scores indicating “clinically significant impairment” on each subscale.

When impaired performance on *Understanding* or *Reasoning* is observed in clinical practice, clinicians must judge whether, and the extent to which, impaired mental functioning (e.g., mental illness, mental retardation) is a contributing factor. Sufficient information to make such judgments or inferences may not necessarily be found in the item responses themselves; for example, a defendant may incorrectly describe the role of a court participant (e.g., “The bailiff decides whether the defendant is guilty or innocent”) but the response alone may not be sufficient to reveal whether mental impairment or some other factor (e.g., ignorance of the legal system; poor effort) is the “cause.” Additional data about the defendant’s mental functioning (e.g., mental status examination or other testing) is often required to inform these judgments.

In contrast, scoring the MacCAT-CA *Appreciation* subscale, which focuses on the defendant’s own legal case (i.e., does not use the vignette), is based largely on the extent to which the defendant’s verbal responses reveal evidence of impaired mental functioning. The *Appreciation* subscale is conceptually linked to the *Dusky* criterion of *rational understanding* of legal proceedings, and its items solicit the defendant’s beliefs about his or her case (e.g., whether he or she will be treated fairly; whether he or she will be helped by the attorney) and the reasons for these beliefs. Embedded in the scoring criteria for *Appreciation* is an explicit emphasis on delusional thinking that impairs a defendant’s reasoning about his or her legal situation. Because explicitly delusional thinking is not characteristic with nonclinical samples, the *Appreciation* subscale is less applicable when the focus is on impairment secondary to immaturity. In Grisso et al. (2003), adolescent participants’ responses rarely reflected delusional thinking and poor scores were obtained mainly for adolescents who responded “I don’t know” when asked to explain their reasons. Because the meaning of *Appreciation* responses is unclear with nonclinical adolescent samples, results for this subscale are not reported.

In the multi-state norming study with adult defendants, internal consistency was excellent ($\alpha > .80$) for each MacCAT-CA subscale. In subsequent studies with adolescent participants, internal consistency has been variable with α s ranging from excellent (.78–.92, Warren et al., 2003) to poor (.37–.54, Boyd, Poythress, & Jenkins-Hall, in press). Alphas for the Direct File group in the present study were satisfactory for *Understanding* (.71) but poor for *Reasoning* (.37).

MacArthur Judgment Evaluation (MacJEN)

The MacJEN was designed as a research tool for the original MacArthur Juvenile Adjudicative Competence Study (Grisso et al., 2003) to examine whether psychosocial immaturity may affect the performance of youths as defendants in ways that extend beyond the elements of understanding and reasoning that are explicitly relevant to adjudicative competence.¹⁰ Extensive consideration of a large number

¹⁰The MacJEN was developed by experts in the field of adolescent development and juvenile justice and was intended to assess youths’ and adults’ decision making in various legal contexts that defendants encounter (Woolard, Reppucci, Steinberg, Grisso, & Scott, 2003). Its general format was patterned after earlier instruments with similar intent (Grisso, 1981; Woolard, Reppucci, & Scott, 1996). More details on the development of MacJEN are available at www.mac-adoldev-juvjustice.org.

of possible dimensions, together with a review of the very modest body of research on adolescent decision making, led to the selection of three dimensions that, in theory, continue to mature throughout adolescence and have a potential influence on individuals' judgment when making decisions (Scott, Reppucci, & Woolard, 1995; Steinberg & Cauffman, 1996). These dimensions were *future time perspective*, *risk orientation*, and *resistance to peer influence* (Woolard, Reppucci, Steinberg, Grisso, & Scott, 2003). Thus, the MacJEN assesses immaturity of judgment, especially the potential relation between immaturity and choices. It allows for examination of differences across groups for choices and for aspects of decision making that are influenced by development (Grisso et al., 2003).

Like the MacCAT-CA, the MacJEN employs vignettes to assess judgment capacities of individuals in the context of decisions made in hypothetical legal scenarios. In the vignette, a particular youth (Joe) and three of his friends had robbed a storekeeper with a gun. Joe is later arrested. Respondents to the MacJEN are asked to nominate "best" and "worst" choices available to Joe, and to describe possible outcomes associated with three legal situations: (a) responding to police interrogation, (b) disclosing information in consultation with a defense attorney, and (c) responding to a plea agreement for reduced consequences in exchange for a guilty plea and testimony against other defendants. Choices in the vignettes included (a) police interrogation vignette: confessing to the offense, denying the offense, and refusing to speak; (b) attorney consultation vignette: full disclosure, partial disclosure, denying the offense and refusing to cooperate; and (c) plea agreement vignette: accepting or rejecting the offer. Analyses examined group differences in the proportions of participants indicating a preference for the various choices.

For the MacJEN attorney consultation and plea vignettes, responses are also scored according to criteria for aspects of psychosocial maturity that might have an influence on decision making (Woolard et al., 2003). First, youths might differ as a function of maturity in their capacity to anticipate possible risks associated with a particular choice in a legal situation. Thus, for each vignette a participant was asked to describe the risks associated with his or her choices for that scenario. The total number of risks identified across individual's choices in each vignette are then averaged across vignettes to yield a *Risk Recognition* index. Second, youths might differ in their judgments of the probability that potential negative consequences would actually occur. The sum of participants' Likert-type responses to questions about the likelihood that possible negative consequences would occur yields a *Risk Likelihood* index. Finally, youths are asked to rate on a 4-point Likert scale "how bad" it would be if a particular negative consequence (e.g. spending a night in detention; getting a criminal record) occurred. The sum of participants' responses to these questions regarding how unpleasant the negative consequences would be if they did occur yields a *Risk Impact* index. Collectively, these three indices constituted youths' capacity for *risk appraisal*.

Future orientation is assessed by coding all of the risks identified by a participant to reflect the short-range or long-range nature of their consequences and averaging the long-range risks across vignettes. A short-range consequence to accepting a plea agreement is defined as any consequence that would follow the defendant's choice

with little delay, such as “because I get to go home sooner,” or “so they will set a date for the hearing soon.” A long-range consequence is any consequence that would follow only after a delay of at least several days, such as “I would have a conviction on my record” or “I won’t get an education.”¹¹

A final set of hypothetical situations is used to assess *Resistance to Peer Influence*. Participants are asked to imagine that they are suspected in a crime in which a group of friends also participated and that they will (a) be questioned by the police, (b) meet with a defense attorney, and (c) be offered a plea agreement. Participants are told to assume that they want to exercise the same choice that they had earlier nominated as the “best” choice for Joe; for example, if they earlier said that Joe’s “best” option would be to “confess to the police,” they are told to assume that they want to confess. They are then told to imagine that their friends want them to take some other course of action (e.g., to remain silent). Participants are then asked to decide again what they should do in the face of their friends’ contrary advice. For each decision-making vignette, peer resistance is measured as a dichotomous variable (retained original choice versus switched to peers’ choice).

Grisso et al. (2003), reported that adolescents are generally more likely than young adults to make choices that reflect a propensity to comply with authority figures, such as confessing to the police rather than remaining silent, or accepting a prosecutor’s offer of a plea agreement. In addition, when being interrogated by the police, consulting with an attorney, or evaluating a plea agreement, younger adolescents are less likely, or perhaps less able, than others to recognize the risks inherent in the various choices they face or to consider the long-term, and not merely the immediate, consequences of their legal decisions. To date, construct validity has not been demonstrated for the MacJEN variables. That is, the choices made in response to vignettes have not been compared to choices made in actual legal decision-making settings. Studies of the relation of the psychosocial variables (risk appraisal, future orientation, and resistance to peer influence) to similar constructs in nonlegal settings are currently being conducted.

Procedure

The site director and research assistants for the Direct File sample site were trained by the project coordinating team of the original study to ensure consistent data collection procedures (for details, see Grisso et al., 2003). This training included didactic presentation on all study measures and supervised observation of protocol administration, including feedback on administration and scoring of the MacCAT-CA.

For the Direct File sample, two public defender offices provided notice of eligible youths for the study. One public defender office referred youths only after obtaining a parent’s approval for their child’s participation, whereas the other referred direct-filed adolescents without first requiring parent approval. Participants

¹¹An instructional manual for the coding of Future Orientation is available from Thomas Grisso (thomas.grisso@umassmed.edu).

were interviewed and tested in private rooms at the county jails where they were detained pending adjudication of their cases.

Similar procedures were used to obtain the comparison samples. Prior to data collection, all site project directors and research assistants met at one location for several days of training by the project coordinating team. Research assistants visited the participating juvenile detention centers and adult jails once or twice a week for about 11 months. They were assisted by staff to identify new detainees who had arrived since the previous visit, and to determine whether any detainees had been “screened out” by staff or participant advocates regarding potential research participation. In addition, parents in some sites were notified by mail prior to approaching detained youths, and youths whose parents responded indicating that they objected were not included (Grisso et al., 2003).

All human participants procedures were approved by the IRB of the university at which the coordinating site was located (University of Massachusetts Medical School) as well as the IRB of the university associated with each data collection site. Special protections for human subjects in research were required because detained participants were identified as belonging to “vulnerable” populations. Independent participant advocates monitored the solicitation of detained youths, assuring conditions of voluntary youth assent and vetoing specific youths’ participation if it might pose unnecessary stress.

Youths in the Direct File group received \$25 for their participation. Youths and adults in the comparison groups received \$10 for their participation. Participants in facilities that did not allow monetary awards were offered snacks instead. Confidentiality was assured, except in cases of the researchers’ obligation to report to facility authorities instances of information that suggested imminent risk of harm to self or others, or danger of harm from others.

RESULTS

MacArthur Competence Assessment Tool–Criminal Adjudication

Previous findings of age-related competence abilities suggest that socioeconomic status, ethnicity, mental health symptoms and prior justice system experience are not predictive of differences in performance on the MacCAT-CA (Grisso et al., 2003). Nevertheless, preliminary analyses examined group differences on these variables. The three groups in the present study did not differ significantly with respect to intelligence, socioeconomic status, previous guilty pleas, or previous overnight detentions. As noted earlier, there was a significant difference in ethnicity due to the small number of Hispanic youth in the Direct File group.¹² When ethnicity was dichotomized into minority (African-American and Hispanic) and nonminority (non-Hispanic white) youth, there were no significant differences between groups.

¹²To control for this potential confound, the MANOVAs described later were run a second time using Hispanic ethnicity as a covariate. Results were unchanged.

Table 2. Group Comparisons on Measures of Competence-Related Abilities

	Juvenile Court	Direct File	Adult Offender
Dimensional subscale score (<i>M</i> (<i>SD</i>))			
Understanding	11.84 (3.02)	12.41 (2.47)	11.32 (3.09)
Reasoning	12.19 (2.41)	12.67 (2.03)	12.19 (2.59)
RRI	8.11 (1.77)	8.74 (1.50)	8.02 (1.88)
Impaired understanding (%)			
Not impaired	55.1	64.8	52.1
Mildly impaired	33.1	32.4	36.4
Significantly impaired	11.9	2.9	11.5
Impaired reasoning (%)			
Not impaired	75.4	89.5	73.9
Mildly impaired	16.1	8.6	17.6
Significantly impaired	8.5	1.9	8.5
Impaired on either (%)			
Mildly or not impaired	83.9	95.2	83.6
significantly impaired	16.1	4.8	16.4

Therefore, there was no need to employ demographic, intelligence or history variables as covariates in subsequent analyses.

We conducted group comparisons using both dimensional and categorical scores on the MacCAT-CA, which are shown in Table 2. A three-group multiple analysis of variance (MANOVA) using the MacCAT-CA *Understanding* and *Reasoning* dimensional scores as dependent variables was significant (Wilks's lambda = .973, $F(4, 762) = 2.58, p = .036$). Univariate ANOVAs revealed significant group differences for *Understanding* ($F(2, 383) = 4.517, p = .012$), but not for *Reasoning* ($F(2, 383) = 1.653, p = .193$). Pairwise comparisons of means scores on *Understanding* using Tukey's HSD revealed only one significant difference; the mean score for the Direct File group was significantly higher than that of the Adult Offender group ($p = .008$).

Retrospective power analysis was conducted to evaluate the reliability of failure to reject the null hypotheses of no differences between groups in this study. We estimated an effect size of .20 from the comparisons of 14–15-year-old youths with 18–24-year-old adults in the previous study (Grisso et al., 2003). Because Grisso et al., found no differences between samples of 16–17-year-old detained and community youths and 18–24-year-old detained and community adults, the effect size of .20 was deemed a generous estimate of meaningful differences for the present study. Power was very modest (.38 at $p < .05$ and .53 at $p < .10$, both one-tailed) to detect a significant difference between the Direct File youths ($n = 105$) and the Adult Offender adults ($n = 165$), and similarly (.33 at $p < .05$ and .47 at $p < .10$, both one-tailed) to detect a significant difference between the Direct File and Juvenile Court youths ($n = 118$).¹³

Based on recommended cut-off scores in the MacCAT-CA manual, each participant was also classified as having “no impairment,” “mild impairment,” or

¹³To test the replicability of our results, we re-ran the analyses of this study comparing the Direct File youth to the entire sample of male and female detained and community subjects from the original study. Although power was increased because of the larger sample sizes (18–24-year-olds at $n = 472$; 16–17-year-olds at $n = 491$), our results were no different for comparisons on the MacCAT-CA.

“significant impairment” on the *Understanding* and *Reasoning* subscales. Groups were then compared using χ^2 analyses. No significant differences were found on *Understanding* ($\chi^2(4) = 8.65, p = ns$). The groups differed significantly in the proportion of individuals who were impaired on *Reasoning* ($\chi^2(4) = 10.91, p < .03$), with smaller proportions in the Direct File group (2%) than in the Juvenile Court (8%) or Adult Offender groups (8%). The proportion that was “not impaired” was greater in the Direct File group (90%) than in the Juvenile Court (75%) or Adult Offender (74%) groups.

Significant impairment on either *Understanding* or *Reasoning* could raise doubts about competence. Therefore, we examined the proportions in each group that scored in the “significant impairment” range on either (or both) scales. The Direct File group (5%) had a smaller proportion of individuals scoring in the “significant impairment” range on either or both subscales than either the Juvenile Court group (16%) or Adult Offender group (16%) ($\chi^2(2) = 8.86, p < .02$).

Supplemental Analyses for MacCAT-CA Reasoning Subscale

Because internal consistency indices were particularly poor for the MacCAT-CA *Reasoning* subscale in the Direct File sample ($\alpha = .37$, mean inter-item correlation (MIC) = .08), we conducted a scale analysis in order to identify a more reliable index of reasoning ability. This analysis suggested a 5-item scale made up of the items (items 9–13) that comprise the Recognizing Relevant Information (RRI) portion of the *Reasoning* scale (see Measures section). For the RRI scale, alpha improved considerably (to .49) despite the substantial reduction in scale length (from 8 to 5 items). Arguably MIC is a better index of reliability because it is independent of scale length (Clark & Watson, 1995). For the RRI scale, MIC doubled to .16.

We then conducted a three-group MANOVA using dimensional scores from the MacCAT-CA *Understanding* and this revised 5-item *Reasoning/RRI* subscale scores as dependent variables and groups as the independent variable. This yielded a significant result (Wilks’s lambda = .961, $F(4, 762) = 3.87, p < .01$). Univariate ANOVAs revealed significant group differences for *Understanding* ($F(2, 383) = 4.52, p < .02$), and for *Reasoning/RRI* ($F(2, 383) = 5.79, p < .01$). Pairwise comparisons of means scores on *Understanding* using Tukey’s HSD revealed significant differences only between means for the Direct File group and the Adult Offender group. These groups differed significantly on both *Understanding* ($p < .01$) and *Reasoning/RRI* ($p < .01$). For both measures, the mean score was higher for the Direct File group.

MacArthur Judgment Evaluation

MacJEN: Legal Decision Making

“Best choice” decision-making responses to the MacJEN vignettes are shown in Table 3. There were no significant differences between groups for best choices in the MacJEN police interrogation vignette ($\chi^2(4) = 6.21, ns$) or for consultation with a public defender ($\chi^2(6) = 5.61, ns$). There were significant differences for consultation with a private attorney ($\chi^2(6) = 20.54, p < .01$); the Juvenile Court group

Table 3. “Best Choice” Responses to MacJEN Vignettes

Recommended response	Juvenile Court (%)	Direct File (%)	Adult Offender (%)
Police interrogation vignette			
Refuse to talk	71.2	77.1	81.2
Deny the offense	16.1	8.6	10.3
Admit to offense	12.7	14.3	8.5
Private attorney consultation			
Fully disclose	66.1	84.9	89.4
Partially disclose	28.8	9.4	8.2
Deny/refuse to disclose	5.1	5.7	2.4
Public defender consultation			
Fully disclose	60.3	73.1	68.4
Partially disclose	22.4	15.4	22.8
Deny/refuse to disclose	17.2	11.5	8.9
Plea agreement vignette			
Accept plea offer	45.8	70.5	40.0
Refuse plea offer	54.2	29.5	60.0

was less likely to recommend full disclosure to a private attorney and more likely to recommend only partial disclosure. Significant group differences were also found for the plea agreement vignette ($\chi^2(2) = 25.06, p < .01$), with the Direct File group comparatively more likely to accept the plea offer.

MacJEN: Psychosocial Factors

We conducted group comparisons using dimensional and categorical scores of the psychosocial variables of the MacJEN. A three-group MANOVA using all five MacJEN psychosocial variables (including *risk recognition*, *risk likelihood*, *risk impact*, *future orientation*, and *resistance to peer influence*) as dependent variables was significant (Wilks's lambda = .948, $F(10, 762) = 2.05, p < .03$). Univariate ANOVAs revealed significant group differences for *risk likelihood* ($F(2, 385) = 4.48, p < .02$) and for *resistance to peer influence* ($F(2, 385) = 4.37, p < .02$), but not for *risk recognition* ($F(2, 385) = .984, p = .38$), *risk impact* ($F(2, 385) = .051, p = .95$) or *future orientation* ($F(2, 385) = 1.18, p = .31$). Pairwise comparisons of means scores on *risk likelihood* using Tukey's HSD revealed that the mean score for the Adult Offender group was significantly higher than that of the Juvenile Court group ($p = .01$). The mean score of the Direct File group was slightly but not significantly higher than that of the Juvenile Court group ($p = .10$). Pairwise comparisons of means scores on *resistance to peer influence* revealed that the mean score of the Direct File group was significantly higher than that of the Juvenile Court group ($p < .02$) and the Adult Offender group ($p < .05$).

Additional group comparisons were conducted using the categorical scores of *resistance to peer influence* for each of the vignettes (Table 4). There were no significant differences between the groups for the police interrogation vignette ($\chi^2(2) = .47, ns$). For the attorney consultation vignette, a larger proportion of the Direct File group (68.7%) retained their original choice compared to the Adult Offender group (54.4%) and the Juvenile Court group (52.2%) ($\chi^2(2) = 7.0, p = .03$).

Table 4 Group Comparisons on MacJEN Psychosocial Variables

	Juvenile Court	Direct File	Adult Offender
Risk appraisal variables (<i>M</i> (<i>SD</i>))			
Risk recognition	3.22 (1.31)	3.3 (1.11)	3.44 (1.37)
Risk likelihood	12.88 (2.05)	13.51 (2.2)	13.68 (2.49) ^a
Risk impact	15.32 (1.98)	15.25 (1.74)	15.32 (2.02)
Future orientation	8.3 (3.3)	8.23 (3.07)	8.78 (3.28)
Resistance to peer influence	1.82 (.84)	2.13 (.84)	1.88 (.83) ^b
Resistance to peer influence, categorical scores (original choice retained) (%)			
Police vignette	77.4	81.2	78.9
Attorney vignette	52.2	68.7	54.4
Plea vignette	57.8	72.5	59.6

^a $F(2, 385) = 4.48, p < .02.$

^b $F(2, 385) = 4.37, p < .02.$

Similarly, for the plea agreement vignette, a larger proportion of the Direct File group (72.5%) retained their original choice compared to the Adult Offender group (59.6%) and Juvenile Court group (57.8%) ($\chi^2(2) = 6.08, p < .05$).

DISCUSSION

This examination of 16–17-year-old defendants transferred to criminal court by direct file found few differences between them and 18–24-year-old criminal defendants in competence-related abilities and developmental characteristics with potential significance for decision making in the legal process. Where differences existed, they suggested somewhat better performance for the Direct File sample than for the Adult Defendant sample. The results of this study, therefore, provide no basis for concern that direct-file mechanisms result in the transfer to criminal court of 16–17-year-old male adolescents who, as a result of immaturity, have impaired competence-related abilities relative to those of adults.

Unfortunately, the results also provide no clear explanation for the fact that the Direct File youths in some instances performed better than the Adult Defendants. We consider briefly here six factors that might contribute to such findings.

First, one might find this effect in some jurisdictions that select for placement in adult court youths with greater maturity and sophistication in relation to their peers. If such a selection process uses a high threshold to judge sophistication and maturity, it could result in a higher average level of maturity for transferred youths than is found on average among jailed young adults.

The process of transfer in Florida, however, does not favor this post-hoc hypothesis. As we noted earlier, virtually all of the Direct File youths in this study had been transferred by direct file (i.e., not by waiver), without formal evaluation of, or direct consideration given to their sophistication or maturity. We acknowledge, however, the possibility that prosecutors *implicitly* consider psychosocial maturity in cases in which they have discretion whether or not to direct file a youth in criminal court. Even in the absence of formal clinical assessments, prosecutors may have sufficient familiarity with many youths based on prior juvenile court contacts that they consider “street smarts” (Salekin, 2002) or some other proxy for maturity in

deciding whether to direct file. In the current study, for example, Direct File youths had an average of 13.7 ($SD = 6.07$, range = 2–29) juvenile justice arrests and 11.4 ($SD = 7.05$, range = 0–31) juvenile justice adjudications, thus many of our sample were likely well known to the prosecutors. Although this is a plausible factor in the present study, additional data regarding prosecutors' reasoning about these direct-file cases and about other adolescents whose cases were discretionarily filed in juvenile court would be needed to determine whether, and to what extent, some notion of maturity was weighed in reaching their decisions.

Second, many states have a process for “reverse waiver” that provides a mechanism by which criminal court judges may transfer “back” to juvenile court those youths whom they deem to have been inappropriately direct filed to criminal court. To the degree that such reverse waivers selectively remove less mature adolescents from criminal court, the residual sample of youths available for recruitment into a direct file research sample would be those youths with relatively greater maturity. This particular factor, however, could not explain the present findings because reverse waiver is currently not available in Florida.

Another possibility is that sophistication and maturity are greater among youths who commit more serious offenses, and that direct file—which is based largely on the nature of the offense—produced a more sophisticated group of youths. However, we are aware of no data from other studies suggesting that youths who commit more serious offenses are more psychologically mature.

Fourth, because we employed a correlational design it is possible that some factor that was not measured in the present study contributed to lower the scores in the adult sample. An anonymous reviewer suggested, for example, the possibility that the Adult Defendant sample might have included a number of individuals with serious mental illness, whose performance could thereby have been adversely affected. Obviously, hypotheses concerning the possible effects of unmeasured variables cannot be ruled out. We do have some reasons, however, for suspecting that the presence of serious mental illness in particular did not likely affect the performance of our Adult Defendant group. First, we recruited our adult defendant participants from the general populations at the jails. Insofar as jails often have some equivalent of “mental health units” for congregating prisoners with known mental problems of a serious nature, such practices would have excluded such inmates from our study. Second, we ran subsidiary analyses that compared our groups on the Massachusetts Youth Screening Inventory (MAYSI; Grisso & Barnum, 2000; Grisso, Barnum, Fletcher, Cauffman, & Peuschold, 2001). Across scales that assess a variety of problems including depression and anxiety, suicidal ideation, somatic complaints, and thought disturbance (among others), no significant group differences were observed.

Finally, it is possible that these results are simply peculiar to our sample. A similar study comparing 16- and 17-year-old adolescents in criminal court with adult defendants found no between-group differences in MacCAT-CA scores (Boyd et al., [in press](#)), so the higher mean MacCAT-CA scores for the Direct File group than for the Criminal Defendant group might be peculiar to the present sample or jurisdiction.

Relatedly, we wondered whether the results might be influenced by the fact that the entire Direct File group was obtained in Florida, whereas the comparison

groups were formed on the basis of data collection in Florida and three other states. However, our results were essentially unchanged when we reanalyzed our data, limiting the comparison groups to only those participants from the original study who were recruited from central Florida.

The results of this study must be interpreted and used carefully. Only male participants were involved, so the results may not generalize to females. The results do not necessarily apply to youths younger than 16 who are direct filed or in other ways are transferred to criminal court. Moreover, the results do not mean that all 16–17-year-olds direct filed to criminal court have adequate abilities to participate in their defense, or are competent to stand trial. The results simply support the conclusion that the risk of poor defense abilities and incompetence appears to be no greater than for adult defendants.

Further, direct-file criteria vary considerably from state to state. The results and conclusions reached here cannot be applied confidently in states with criteria very different from Florida's, which could result in a group of direct-file youths with different characteristics from those in this study.

Future studies in this area should aspire to obtain younger samples of adolescents with cases in adult court, although large samples are difficult to obtain because few youths below age 16 are waived or direct filed to criminal court. The implications of Grisso et al. (2003) are that substantial numbers of youths age 14 and younger may indeed be impaired in terms of psycholegal capacities needed to function in criminal court, although presently there are simply no data on such a sample. Similarly, although age will likely continue to be one proxy for level of psychosocial maturity in this type of research, comprehensive assessments of youths' cognitive abilities and maturation levels (Grisso, Vincent, & Seagrave, 2005; Salekin, 2002) would provide a more conceptually relevant basis for constructing groups for analysis.

Finally, existing measures such as the MacCAT-CA *Appreciation* scale (see also the Evaluation of Competency to Stand Trial–Revised; Rogers, Tillbrook & Sewell, 2004) have scoring criteria designed mainly to assess deficits related to psychopathology and may not be easily adapted for evaluating impairments related to immaturity in nonclinical samples. Also, as with the MacCAT-CA *Reasoning* scale in this study (see also, Boyd et al., *in press*), some existing adjudicative competence measures designed for use with adults may have poor reliability when extended downward for use with nonclinical adolescent samples. Thus, for both clinical and research purposes, the present study points to the need for the development of adjudicative competence measures designed to detect deficits in competence-related abilities associated with psychosocial and/or cognitive immaturity reliably in both adult and adolescent samples.

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