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## The Impact of Waiver to Adult Court on Youths' Perceptions of Procedural Justice

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### Abstract

The current study examined perceptions of fair treatment in a past court experience among a sample of incarcerated youth ( $n = 364$ ). Perceptions were compared for youth whose cases were processed through the juvenile ( $n = 261$ ) versus adult court ( $n = 103$ ) systems. In general, youth who were adjudicated in adult court felt more justly treated by legal authorities than youth adjudicated in juvenile court. Specifically, youth in adult court rated judges as only marginally more just than youth in juvenile court, but rated their defense attorney's treatment as significantly more just. Youth rated the prosecutor's treatment as relatively unjust regardless of where their case was handled. Differences in perceptions of procedural justice were also observed based on prior arrest history and race, with minority youth and repeat offenders perceiving the process to be less procedurally just. Our findings should not be used as support for the increased transfer of youth into adult court, as other studies have demonstrated these youth tend to have worse outcomes. However, our findings do suggest that improvements should be made to increase elements of procedural justice in juvenile court settings.

### Keywords

procedural justice; waiver to adult court; juvenile court; juvenile justice; juvenile transfer

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On June 25, 2011, the body of a 16-year-old boy was found on a trail beside a housing complex. The family of the slain youth reported he was murdered over a dice game. Tromonte Rice, 14, and Mikael R. Crumes, 16, were charged in connection with the crime with murder, first-degree robbery and tampering with physical evidence. Both were charged as adults and face up to life in prison if found guilty of the charges

(Hannah, 2011).

On March 1, 2011, a 12 year-old boy shot and killed his parents and attacked two younger siblings with a knife. His motives are unknown, although a surviving older sibling denies rumors of abuse. Despite the desire of the youth's own family to try him as an adult, the prosecutor charged the boy with first degree murder in juvenile court (which ensures his name remains confidential) due to a lack of maturity. The youth pled guilty and was sentenced to seven years in a juvenile detention facility.

After he is released he will be placed on probation for 21 months

(Powers, 2011; Steffen, 2011).

As these two cases demonstrate, youth who commit serious offenses face two distinct paths in the justice system. Although the juvenile justice system handles the majority of cases involving minors, all states have enacted mechanisms for trying certain youth as adults in criminal court (Adams & Addie, 2012). As rules governing transfer to adult court vary by state, it is possible that two minors who commit the same crime may experience a very different justice system. Due to judicial and prosecutorial discretion, this can even happen to youth who reside in the same state.

Minors may be tried as adults in criminal court through four separate processes. In nearly all states, judges may authorize the transfer of cases that meet certain criteria from juvenile to criminal court, a decision referred to as *judicial waivers*. Some states allow *prosecutorial waivers*, where prosecutors may file charges against youth in criminal court without the need for judicial approval. A majority of states have also enacted *statutory exclusion laws* that mandate certain types of cases involving youth must be filed in criminal court. Finally, some states have set the *age of criminal responsibility* to less than 18 years, meaning individuals as young as 16 or 17 are excluded from the juvenile justice system simply due to their age (Griffin, Addie, Adams, & Firestone, 2011). Although "Raise the Age" campaigns have seen many successes in recent years (Caffman, Donley, & Thomas, 2017), five states (GA, MI, MO, TX, and WI) still prosecute juveniles as young as 16 the same as adults, regardless of offense or criminal history (Juvenile Justice, Geography, Policy, Practice & Statistics, 2018).

## Implications for Procedural Justice

Statutory exclusion laws and juvenile justice systems that exclude youth 16 or 17 years old are designed to ensure uniform treatment of all youth who fit certain criteria, while judicial and prosecutorial waivers allow for individual circumstances to affect the transfer decision. In effect, both methods attempt to achieve fair treatment (among other goals) through opposite methods. The first method is meant to enhance fairness through standardization while the second is meant to enhance fairness by taking individual characteristics of the defendant and crime into account. However, it is unclear if the method of transfer impacts a juvenile's perceptions of procedural justice, which in turn could potentially impact other outcomes.

As a plethora of literature shows, perceptions of fair treatment are extremely important to the justice system (e.g., Gau & Brunson, 2010; Penner, Viljoen, Douglas, & Roesch, 2013; Reisig & Mesko, 2014; Tyler, 1984). Although some scholars argue that a causal relationship has not yet been established whereby implementing procedurally just policies

leads to changes in legal compliance (Nagin & Telep, 2017), studies consistently show perceptions of procedurally just treatment are closely tied to a variety of outcomes. In fact, research has demonstrated that individuals who believe they are unfairly treated by the justice system display worse outcomes than those who believe they were treated fairly, even when the individuals have similar negative distributive outcomes (e.g., were found guilty of a crime) (Casper, Tyler, & Fisher, 1988). Perceptions of unjust treatment increase feelings of anger, sadness and depression, while perceptions of just treatment increase positive feelings such as happiness and satisfaction (Krehbiel & Cropanzano, 2000; Murphy & Tyler, 2008; Tatar, Kaasa, & Cauffman, 2012). Increased feelings of depression and anger due to perceived unjust treatment may exacerbate already high levels of internalizing and externalizing mental health disorders in justice-involved populations (e.g., Heaton, 2018; Sedlak & McPherson, 2010). Perceptions of procedural justice are also linked with attitudes toward the legitimacy of authorities and rules (Gau & Brunson, 2010; Tyler 1990; 2000). Finally, perceptions of injustice also influence behavior. Rule breaking and offending tend to be higher among individuals after a perceived unfair experience with the legal system (Bouffard & Piquero, 2010; Penner et al., 2013; Reisig & Mesko, 2014; Tatar et al., 2012).

Research indicates that the same four factors influence evaluations of procedural justice in different settings. These are: voice, respectfulness, trustworthiness, and neutrality (Lind, Kanfer, & Earley, 1990; Tyler, 1990, 1994). In other words, individuals perceive a process as fair if they: 1) are given a say or are actively involved, 2) are treated with respect, 3) feel the authority can be trusted to act in a fair and ethical manner, and 4) believe the authority is unbiased in his or her decision-making.

While some scholars have argued that additional factors should be included to best understand how procedural justice operates within all groups, cultures, and societies (Tankebe, 2009), these elements are considered integral for judging fairness across gender and ethnicity (Higgins & Jordan, 2005; Tyler, 1990, 2001). Perceived injustice affects males and females, youth and adults (e.g., Bouffard & Piquero, 2010; Murphy & Tyler, 2008; Tatar et al., 2012). Effects have also been found in community (e.g., Engel, 2005; Johnson, 2004) and incarcerated (e.g., Reisig & Mesko, 2014) samples. In fact, the effects of procedural justice appear to be ubiquitous, as shown by a substantial body of literature investigating these effects in employment settings (e.g., Cohen-Charash & Spector, 2001).

However, certain background characteristics of individuals are associated with higher perceptions of unjust treatment, including ethnicity/race and previous contact with the justice system. Whites have reported more positive perceptions of their personal treatment by legal authorities than Latino and Black youth (Buckler, Wilson, Hartley, & Davila, 2011; Gau & Brunson, 2010; Tartar et al., 2012). These perceptions are likely due to real disparities in treatment and outcomes among minority groups in the justice system, with research indicating that minority offenders are more likely to be arrested, face greater odds of being charged and prosecuted, and are sentenced more harshly than their white counterparts (Bonnie, Johnson, Chemers, & Schuck, 2013; Gau & Brunson, 2010; Lytle, 2014; Mitchell, 2005; Wu, 2016). Although prior experience with the justice system has been less well studied, there is some evidence that individuals with more convictions perceive personal contacts as less just (Otto & Dalbert, 2005). Fine et al. (2017) found that a

youth's first contact with the justice system is likely the most impactful, as many Black and Latino youth's attitudes towards the system became more negative over time, especially with subsequent arrests. Additional research shows that minorities and individuals with greater justice system experience view legal authorities as less just in their general dealings with the public and expect them to be less just during future personal contacts (Buckler et al., 2011; Fine & Cauffman, 2015; Hagan, Shedd, & Payne, 2005; Woolard, Harvell, & Graham, 2008). There is even evidence that experiences in one legal context can impact perceptions in other situations. One observational study of juvenile proceedings found that most youth who experienced a court atmosphere of confusion and unprofessionalism tended to view the entire justice system as less legitimate (Greene, Sprott, Madon, & Jung, 2010).

## Perceptions of Juvenile vs. Adult Court

Because of the serious negative implications that perceptions of unjust treatment have on individuals' emotions, attitudes, and behaviors, it is crucial that different aspects of the justice system are evaluated based on their procedural justice. One unexplored area is the difference in perceptions of fair treatment that youth experience in juvenile versus adult criminal justice systems. This is an important topic for several reasons. First, due to the fact that youth are cognitively (Steinberg & Scott, 2003) and psycho-socially immature (Steinberg et al., 2008; Steinberg & Monahan, 2007), early experiences with the justice system may substantially impact their future development. For example, there is evidence that transferred youth experience "cumulative disadvantage", including fewer work opportunities and lower paying jobs, both of which can lead to higher risk of reoffending (Augustyn & Loughran, 2017). Their personalities (Murrie, Cornell, & McCoy, 2005) and orientation to authority and the legal system (Otto & Dalbert, 2005; Piquero, Fagan, Mulvey, Steinberg, & Odgers, 2006) are still being formed, thus making negative effects of perceived injustice especially troublesome in this population.

Second, while juvenile waivers have decreased since their peak in the mid-1990s, transfer laws and mechanisms have become more common and more far-reaching, allowing for offenders to bypass the juvenile court altogether (Hockenberry & Puzanchera, 2014). In recent years, the pendulum has swung back with some states amending their transfer laws to keep more youth within the juvenile court system. Between 2005 and 2015, the number of cases waived had decreased by 53% (Hockenberry & Puzanchera, 2018). The Juvenile Justice Geography, Policy, Practice & Statistics website on jurisdictional boundaries describes how juvenile transfer laws across the country have changed over time (Juvenile Justice, Geography, Policy, Practice & Statistics, 2018). Despite these legal changes, the effects of these mechanisms on youth experiences in the justice system is not yet clear. As adolescence is a heightened time for engaging in criminal behavior, questions regarding youth's perceptions of treatment in the justice system have wide-reaching implications (Farrington, 1986; Moffitt, 1993).

There is some support for the idea that the rehabilitative and less-adversarial nature of juvenile court would enhance youth's perceptions of fair treatment, as compared to the adult criminal court. Youth in criminal court generally have worse outcomes than youth tried for similar offenses in the juvenile system (Kurlychek & Johnson, 2004). These youth are more

likely to be convicted and more likely to be incarcerated and receive longer sentences than youth tried as juveniles (Griffin et al., 2011; Kupchik, 2006; Kupchik, Fagan, & Liberman, 2003). In addition, transferred youth have been found to receive harsher sentences than adults in criminal court, an effect termed the “juvenile penalty” (Kurlychek & Johnson, 2004). Research indicates that waivers stigmatize transferred youth by signaling increased culpability, dangerousness, and incorrigibility to adult court judges (Jordan, 2014; Kurlychek & Johnson, 2004). Griffin et al. (2011) found that youthful defendants in criminal court were more likely than adults to receive prison terms and on average received longer sentences for prison and probation. Furthermore, research indicates that juveniles are sentenced more harshly than their young adult counterparts aged 19–29 years old (Jordan, 2014; Kurlychek & Johnson, 2004). Experiencing the “juvenile penalty” in adult criminal court may result in transferred youth having increased perceptions of unfair treatment. Finally, transfer may result in a harsher experience of incarceration when juveniles that have been waived to the adult system are housed in adult correctional facilities. This adult incarceration experience in turn results in more negative outcomes for transferred youth, who are more likely to recidivate when compared with youth sentenced to detention through the juvenile system (Augustyn & McGloin, 2018). Although these findings all point to increased negative *outcomes* for youth in adult criminal court, it is plausible to expect increased negative perceptions of the justice *process* as well. For example, if judges are affected by the stigma surrounding transferred youth, it is possible that they may appear less neutral and may offer youth less voice in proceedings. Also, increased negative outcomes in adult court may indicate decreased attention or effort by defense attorneys to their transferred youth clients. Finally, it is possible that transferred youth may perceive judges and/or prosecutors as behaving more unjustly in the criminal system due to the fact that they are indeed being tried as adults.

However, it is also likely that many features of juvenile court decrease perceptions of procedural justice. Because the juvenile court was originally based on the *parens patriae* ideal of the state acting in the best interests of youth, established procedural safeguards mandated for adult defendants were deemed unnecessary (Worrell, 1985). In practice, this lack of safeguards led to serious instances of injustice and, over time, many procedural protections have been granted to youth in the juvenile system. For example, the landmark case of *Kent v. United States* (1966) explicitly rejected the argument that the rehabilitative ideals of the juvenile courts justified arbitrary procedures. *In re Gault* (1967) gave juveniles right to counsel, privilege against self-incrimination, and the right to confront and cross-examine accusers at a hearing. *In re Winship* (1970) established the “beyond reasonable doubt” standard for the juvenile system. Court decisions have also re-affirmed that the juvenile system is different from the criminal system, explicitly denying youth important procedural protections granted to adults. For instance, *In re Gault* (1967) stated that juvenile courts were not obligated to adopt all the rules and requirements of criminal court procedure, and in later cases such as *McKeiver v. Pennsylvania* (1971) the court ruled that youth were not entitled to a jury trial. Therefore, youth charged in the juvenile justice system enjoy some, but not all, of the procedural protections guaranteed in criminal court. Youth who are charged as adults, on the other hand, enjoy all of the same procedural protections as their

older counterparts. Therefore, it is possible that these youth experience their treatment by the justice system as more fair than youth tried as juveniles.

In addition to procedural disparities, there have also been numerous studies examining the role of criminal justice actors in the juvenile justice system and the transfer process. Studies have shown that, in addition to legal factors, juvenile court judges take their own attitudes about the offender and their beliefs about transfer effectiveness into consideration when making waiver decisions (D'Angelo, 2007; Redding & Hensl, 2011). In other words, juvenile court judges are likely to take numerous factors into account when considering a juvenile waiver, which could affect youth's perceptions of fair treatment in the juvenile system. Additionally, there is some evidence that juvenile status affects the use of judicial departures above the sentencing guidelines (Johnson & Kurlychek, 2012). These judicial upward departures could make youth feel that they are being treated unfairly by the adult system. Further, studies looking at defense attorneys have indicated that juvenile courts often receive fewer resources than criminal courts (Humes, 1997), and are viewed as less desirable and prestigious work environments than criminal courts (Puritz & Majd, 2007; Sanborn, 2001). In fact, juvenile courts are seen as training grounds because they are "low stakes" (Humes, 1997). These differences in judicial and defense attorney behaviors and attitudes may also translate into greater perceptions of unjust treatment for youth in juvenile court.

To address these issues, the current study examined perceptions of fair treatment in a past court experience among a sample of incarcerated youth. Perceptions were compared for youth whose cases were processed through the juvenile versus adult court systems. Individual differences in youth characteristics related to perceptions of procedural justice were also examined. Finally, the perceived fairness of specific aspects of court treatment were compared for youth in juvenile vs. adult systems. The aims of this study are to: 1) identify youth characteristics associated with perceptions of procedural justice, 2) determine whether youth in the juvenile vs. adult court systems perceive their treatment as more procedurally just, and 3) identify system characteristics associated with perceptions of procedural justice.

## Method

### Participants

The sample was comprised of 364 adolescent male offenders between the ages of 14 and 17 ( $M = 16.42$ ,  $SD = .80$ ,  $Median = 17$ ), incarcerated at a secure juvenile facility in southern California. Of these youth, 261 were processed through juvenile court and 103 were processed through adult court. The ethnic and racial representation of the sample was consistent with incarcerated youth in similar juvenile justice facilities in California at the time data was collected (California Department of Justice, 2002): 53.6% Latino, 29.1% Black, 6.0% White, and 11.3% of primarily biracial origin. Seventy percent of the sample was adjudicated on a violent committing offense, 12% with a property offense, 7% with a public order offense, 3.5% each with a weapon or drug charge, and 5% with an unclassified crime.



At the time of the data collection period, California's upper age of juvenile court jurisdiction was 17 years. Transfer provisions created exceptions to this age boundary that permit or require jurisdiction of the adult court. Youth could be transferred from juvenile to adult court through discretionary waiver and presumptive waiver options. Juveniles could also initially face charges in adult court through statutory exclusion of certain offenses from juvenile court, prosecutorial discretion to file charges in adult court, and "once an adult/always an adult" consideration of a youth's prior history in adult court (Juvenile Justice, Geography, Policy, Practice & Statistics, 2018). Data was not available on transfer mechanisms for individual youth in our sample.

As court of adjudication served as our central variable, we first conducted a series of chi-square and t-test analyses to determine if any variations in race or arrest history were present between youth convicted in juvenile court and those convicted in adult court (see Table 1). Chi-square analysis revealed a trend-level race difference between groups [ $\chi^2(3) = 6.823, p = .078$ ]. Youth adjudicated in juvenile court were somewhat more likely to be White (7.3% vs 2.9%) and Latino (55.6% vs. 48.5%) than youth adjudicated in adult court. Youth convicted in adult court were more likely to be Black than youth convicted in juvenile court (37.9% vs. 25.7%).

A chi-square analysis was also conducted to gauge group differences in prior experience with the justice system, operationalized as whether or not the youth had been arrested prior to their current charge (yes/no) and whether the youth had been to that facility before (yes/no). Results revealed no group differences in whether or not youth had been to the facility previously. However, youth who were adjudicated in juvenile court were more likely [ $\chi^2(1) = 14.485, p < .001$ ] to have been previously arrested than youth adjudicated in adult court (89.7% vs. 73.5%).

## Procedures

Youth who were newly admitted to the facility over the course of the data collection period (between the spring of 2005 and the spring of 2007) were eligible to enroll in the study. Of youth approached, 95% assented to participate. Parental consent was obtained over the telephone in an audio-taped procedure. Of parents contacted, 97% provided consent. To guarantee privacy of responses, a Confidentiality Certificate was obtained from the Department of Health and Human Services. After the consent/assent process, participants were administered a baseline interview within 48 hours of arrival to the facility ( $N = 364$ ). In the following two months, participants completed four more interviews: two weeks ( $N = 355$ ), three weeks ( $N = 355$ ), one month ( $N = 347$ ), and two months ( $N = 273$ ) after the baseline interview. The interviews took between one and two hours to complete, were conducted individually, and consisted of a series of behavioral, attitudinal, and environmental measures. The interviewers read each question aloud to the participant, offered any clarification that was necessary, and recorded his response. Institutional records were also gathered to serve as collateral reports for each participant. IRB approval was obtained prior to recruitment activities.



## Measures

**Background characteristics and experiences.**—Participants self-reported their age, race/ethnicity, prior arrest history, whether they had been to that specific facility before, and whether they had been adjudicated in adult or juvenile court. All of this descriptive information was obtained during the baseline interviews (within 48 hours of arrival to the facility).

**Procedural justice.**—Perceived fairness of a youth's last court appearance was assessed using an expanded version of the Fairness Assessment in Response to Court Experiences scale (FAIR-CE) (Tatar et al., 2012). The scale is composed of 20 items that ask about perceptions of participant treatment by the judge, prosecutor, and the participant's own defense lawyer ( $\alpha = .86$ ; current sample). Perceptions of procedural justice were obtained during the Week 4 interviews.

One critical aspect of the justice system is the behavior of different types of court staff toward defendants. It is less meaningful to simply ask how youth were treated by “the court” than to ask about specific legal staff individually. Youth may feel they had been treated well by one type of court staff (e.g., judge) and poorly by another (e.g., prosecutor). Therefore, all items reflect elements of procedural justice, but were tailored to fit separate court roles (7 items regarding the judge, 2 items regarding the prosecutor, 4 items regarding the defense attorney, and 2 items regarding the overall fairness of the trial process). Separate subscales were created to assess procedural justice perceptions about three distinct legal actors: the judge ( $\alpha = .78$ ; current sample), the prosecutor ( $\alpha = .75$ ; current sample), and the defense attorney ( $\alpha = .94$ ; current sample).

For each item, emphasis is on perceptions of the court process, not the outcome. All four elements of procedural justice are incorporated into the scale questions (i.e., voice, neutrality, respectfulness, and trustworthiness of authorities). Responses range on a 5-point scale from “Strongly Agree” to “Strongly Disagree”. Sample items include: “The judge did not let me tell all of the side of my story,” and “The judge made up his/her mind prior to receiving any information about the case.” Responses to each of the items were summed such that higher scores on the measure indicated more negative perceptions of procedural justice (or higher levels of perceived injustice).

## Results

### Youth Characteristics Associated with Perceptions of Procedural Justice

Associations between each of the variables included in the present study can be found in Table 2. To begin, we examined the impact of youth's background characteristics and justice system experiences on their perceptions of procedural justice. We began by conducting an ANOVA that included race/ethnicity as a predictor of procedural justice. Results indicate an association between race and perceptions of procedural justice [ $F(3, 324) = 2.771, p < .05, \eta^2 = 0.025$ ]. Specifically, paired contrasts revealed that White youth evaluated their last court appearance as more fair than either Black [ $t(324) = -2.586, p = .01$ ] or Latino [ $t(324) = -2.508, p < .05$ ] youth. Black and Latino youth did not differ significantly from each

other. This is consistent with prior research findings that Black and Latino youth perceive the system as less fair (Fine et al., 2017). Due to these differences in race between youth in juvenile vs. adult court, a dummy coded race variable (White vs. non-white) was included as a covariate in all further analyses.

A linear regression was conducted to test the association between arrest history and procedural injustice. Results revealed that youth who had been arrested before the current charge reported more procedural injustice than youth who had never been arrested previously ( $\beta = .146, p < .01, r^2 = .021$ ). In addition, regression analyses indicated that youth who had never been to the facility before reported more negative justice system attitudes than those who had been there previously ( $\beta = -.116, p < .05, r^2 = .013$ ). Therefore, prior arrest history (yes/no) and previous incarceration at the facility (yes/no) were also included as covariates in the remaining analyses.

### Perceptions of Court of Adjudication

To address the second study aim regarding the impact of court of adjudication on youth's perceptions of procedural justice, we conducted a multiple linear regression using the court of adjudication (juvenile vs. adult) as the primary independent variable of interest. Race (White vs. non-White), prior arrest history (yes/no), and prior incarceration at the facility (yes/no) were also included to serve as covariates. Overall perceptions of procedural justice towards the court served as the dependent variable. Controlling for the effects of covariates, results revealed youth adjudicated in juvenile court reported higher perceptions of injustice than those adjudicated in adult court ( $\beta = -.113, p < .05, r^2 = .012$ ). The covariates in the equation also impacted perceptions of procedural justice, with White youth expressing less injustice ( $\beta = -.158, p < .01, r^2 = .025$ ), youth with a prior arrest history expressing higher levels of injustice ( $\beta = .157, p < .01, r^2 = .024$ ), and youth with prior incarceration at the facility expressing less injustice ( $\beta = -.154, p < .01, r^2 = .024$ ).

### Perceptions of Judges, Prosecutors, and Defense Attorneys

To test whether perceptions of procedural justice varied by type of court staff, we conducted a series of multiple regression analyses. Each analysis included a separate subscale from the FAIR-CE as the dependent variable; the first included perceptions of the judge, the second perceptions of the prosecutor, and the third perceptions of the defense attorney. We also conducted a multivariate regression analyses to examine all procedural justice perceptions toward criminal justice actors (judges, prosecutors, and defense attorneys) in the same model. All analyses included race, prior incarceration history, and prior arrest history as covariates.

The first multiple regression analysis examined the impact of justice system experiences on youth perceptions toward their judge (overall model  $r^2 = .080$ ). White youth felt marginally more justly treated ( $\beta = -.096, p = .085, r^2 = .009$ ), youth who had previously been arrested felt they had been treated significantly less fairly by the judge ( $\beta = .209, p < .001, r^2 = .042$ ), and youth who been incarcerated at the facility before felt more fair treatment by the judge ( $\beta = -.114, p < .05, r^2 = .013$ ). Finally, there was a trend-level association for

youth adjudicated in juvenile court to report less just treatment by the judge than youth adjudicated in adult court ( $\beta = -.095$ ,  $p = .095$ ,  $r^2 = .009$ ).

The next multiple regression analysis examined perceptions of the prosecutor (overall model  $r^2 = .048$ ). Race ( $\beta = -.126$ ,  $p < .05$ ,  $r^2 = .016$ ) and prior facility incarceration ( $\beta = -.133$ ,  $p < .05$ ,  $r^2 = .018$ ) covariates were related to perceptions of the prosecutor in the same manner as the judge. Further, youth with prior arrest history expressed marginally higher perceptions of injustice from the prosecutor than those who had never been arrested ( $\beta = .097$ ,  $p = .091$ ,  $r^2 = .009$ ). However, youth's court of adjudication revealed no significant association with perceptions of prosecutor treatment ( $\beta = -.063$ ,  $p > .10$ ,  $r^2 = .004$ ).

The last multiple regression analysis examined perceptions of just treatment by youth's own defense attorney (overall model  $r^2 = .044$ ). Prior arrest history bore no significant association with perceptions toward the defense attorney ( $\beta = .053$ ,  $p > .10$ ,  $r^2 = .003$ ). However, those who had been to the facility before had marginally more positive perceptions of procedural justice from the defense attorney than those who had never been to the facility ( $\beta = -.100$ ,  $p = .075$ ,  $r^2 = .010$ ). White youth were again more positive toward their own defense attorney than minority youth ( $\beta = -.133$ ,  $p < .05$ ,  $r^2 = .018$ ). Finally, youth adjudicated in juvenile court reported more unjust treatment by the defense attorney than those adjudicated in adult court ( $\beta = -.115$ ,  $p < .05$ ,  $r^2 = .013$ ).

Finally, we conducted a multivariate regression analysis examining perceptions of all justice system actors (judges [overall model  $r^2 = .082$ ], prosecutors [overall model  $r^2 = .050$ ], and defense attorneys [overall model  $r^2 = .046$ ]) as a function of court of adjudication and all other previously-considered covariates (race, prior incarceration history, and prior arrest history) in one complete model. The results of this analysis were generally consistent with those of the multiple regression analyses, with youth adjudicated in juvenile court reporting significantly greater perceptions of injustice from defense attorneys ( $b = .333$ ,  $p < .05$ , partial  $\eta^2 = .014$ ) and marginally more unjust treatment from judges ( $b = .171$ ,  $p = .084$ , partial  $\eta^2 = .010$ ) than youth adjudicated in adult court. The results indicated no significant relation between court of adjudication and perceptions of injustice from prosecutors ( $b = .152$ ,  $p > .10$ , partial  $\eta^2 = .005$ ). With regard to race, White youth expressed lower perceptions of injustice towards prosecutors ( $b = -.528$ ,  $p < .05$ , partial  $\eta^2 = .017$ ) and defense attorneys ( $b = -.704$ ,  $p < .05$ , partial  $\eta^2 = .018$ ) and marginally lower injustice from judges ( $b = -.317$ ,  $p = .080$ , partial  $\eta^2 = .010$ ) than minority youth. Youth who had been to the facility previously expressed lower injustice from judges ( $b = -.446$ ,  $p < .05$ , partial  $\eta^2 = .014$ ) and prosecutors ( $b = -.664$ ,  $p < .05$ , partial  $\eta^2 = .019$ ) and marginally less injustice from defense attorneys ( $b = -.640$ ,  $p = .75$ , partial  $\eta^2 = .011$ ) than those incarcerated at the facility for the first time. Finally, youth who had been arrested previously reported more unjust treatment from judges ( $b = .488$ ,  $p < .001$ , partial  $\eta^2 = .045$ ) and marginally greater injustice from prosecutors ( $b = .291$ ,  $p = .088$ , partial  $\eta^2 = .010$ ) than those who were not previously arrested. No differences in prior arrest experiences were observed for perceptions of procedural justice from defense attorneys ( $b = .248$ ,  $p > .10$ , partial  $\eta^2 = .004$ ).

Overall, results from the analyses indicated that youth who had been arrested before felt they had been treated more unfairly than those who had no previous arrest history by the judge

and experienced marginally higher injustice from the prosecutor (but not their defense attorney). Youth adjudicated in juvenile court felt they had been treated somewhat more unjustly by the judge and had experienced significantly less procedural justice during interactions with their own defense attorney than youth adjudicated in adult court. White youth felt more justly treated by all three types of court staff than minority youth, though the connection between race and perceptions of injustice by the judge were only marginally significant.

## Discussion

The consequences of trying youth as adults are important for several reasons. Over time, most states have increased the ease with which youth can be transferred from juvenile to criminal court, either by providing additional methods for transfer or by lowering the age of criminality. For example, only eight states prior to 1970 had enacted some form of automatic transfer law; by 2000, 38 states had implemented such laws. In recent years, there have been changes to these laws, but the pace of change has been slow and youth in many states remain vulnerable to transfer (Juvenile Justice, Geography, Policy, Practice & Statistics, 2018). Adolescence is a time of developmental and social growth, and youth rely on the adults in their lives and in the systems with which they come into contact to help guide them through difficult circumstances. How legal authorities interact with youth can affect key decisions they make regarding plea bargains and other critical issues (Redlich, 2014; Viljoen, Klaver, & Roesch, 2005), their subsequent views about legitimacy of the justice system (Fine et al., 2017; Piquero et al., 2006), and their emotional and behavioral adjustment after adjudication (e.g., Tartar et al., 2012). Therefore, one critical factor to understand about the consequences of adjudicating youth in juvenile versus adult justice systems is how treatment by legal authorities may differ between these two systems. In addition, it is important to understand whether perceptions of just treatment vary among different types of youth and different types of legal authorities.

### Perceptions of Legal Authorities in Juvenile and Adult Courts

Our findings provide insight into these three points. In general, youth who were adjudicated in adult court felt more justly treated by legal authorities than youth adjudicated in juvenile court, even controlling for race and prior arrest disparities among these two groups. Upon closer inspection, however, it is clear that these findings are driven by certain legal authorities rather than others. Youth in adult court rated judges as only marginally more just than youth in juvenile court, but rated their defense attorney's treatment as significantly more just. Youth in both juvenile and adult courts rated the prosecutor's treatment as relatively unjust ( $M = 3.60$  and  $M = 3.46$ , respectively) compared to their ratings of the judge ( $M = 3.34$  and  $M = 3.17$ , respectively) and defense attorney ( $M = 3.20$  and  $M = 2.85$ , respectively). This is not surprising given the prosecutor's role and likely explains the lack of difference between these two groups for this particular legal authority.

Our findings that youth adjudicated in adult court reported more just proceedings than youth in juvenile court may be surprising given that youth in adult courts are more likely to receive worse distributive outcomes (e.g., Kurlychek & Johnson, 2004). However, other research

showing the importance of procedural justice to individuals' emotional and behavioral adjustment means that these findings have important implications for improving how the juvenile justice system functions. Over time, the juvenile justice system has incorporated many, but not *all*, of the procedural safeguards that are hallmarks of the adult criminal justice system (e.g., *In re Gault*, 1967).

Some research conducted on the behaviors and attitudes of these legal actors suggest that the less adversarial orientation of the juvenile justice system has produced a distinct legal culture from that of criminal court. These cultural influences have in some cases led to differences in role expectations between the two courts that may affect how youth perceive their treatment by legal authorities. For example, research has found general hostility in some juvenile courts towards the adversarial process and pressures for judges, prosecutors and defense attorneys to work in a cooperative fashion, which differs greatly from role expectations in the adult criminal court (Puritz & Majd, 2007). A de-emphasis on the adversarial process may result in defense attorneys creating a less rigorous defense for youth, and the feeling among youth that their attorney is working for the *court* rather than working for *them*. This discouragement of the adversarial process appears to stem from the stated emphasis in juvenile court on dual goals of rehabilitation and punishment of juvenile offenders (Hemmens, Fritsch, & Caeti, 1999); the goal of rehabilitation is typically more subtle for adult offenders, although recent trends towards specialized courts and other rehabilitation-focused practices may be lessening this gap (Ward & Brown, 2004; Gendreau, 1996).

Although research in this area is lacking, some authors suggest that the greater emphasis on rehabilitation in juvenile court has led to role conflicts for legal actors. For example, Drizin and Luloff (2007) argue that judges act less like objective fact finders when presiding over juvenile courts and Guggenheim and Hertz (1998) state that case law suggests judges are less likely to follow the legally mandated "beyond a reasonable doubt" standard of proof in juvenile courts. These findings may be due to differences in role expectations for judges in juvenile vs. adult criminal court. One survey of court workers (including judicial and non-judicial staff) found that judges were expected to be neutral fact-finders during adjudication, but to switch orientations during detention and disposition stages and focus on the best interests of youth by matching their unique needs to available rehabilitative resources (Sanborn, 2001). In fact, over half of these workers declared that youth's rehabilitation should be the judge's top priority. Problems with these disparate role expectations were acknowledged, with nearly 75% of respondents reporting perceptions of internal conflict among judges during adjudication hearings. Judicial role conflict may be apparent to youth in juvenile court when they observe judges departing from their objective fact-finder role, thus leading to lower perceptions of fair treatment.

Role conflict has also been found with attorneys. Sanborn (1995) demonstrated that prosecutors in juvenile courts, but not criminal courts, experienced internal conflict between promoting the best interests of the accused vs. promoting public safety. However, research suggests that the greatest differences in court roles are experienced by defense attorneys. Professional standards and ethical guidelines obligate defense attorneys to follow the stated preference of their clients and offer the most rigorous defense possible (IJA-ABA, 1996).

These tenants of client-attorney relationships technically relate both to juvenile and criminal courts (Guggenheim, 1984; Henning, 2005). However, the non-adversarial culture of juvenile courts and procedural differences that reflect a *parens patrie* orientation present a potential conflict of interest for defense attorneys when the youth they represent may benefit from rehabilitative services if adjudicated delinquent. Studies have shown that juvenile defense attorneys indeed feel this conflict (Genden, 1976; Sanborn, 1994), which can result in a less vigorous defense than criminal defense attorneys (ABA, 1995; Fedders, 2010). Indeed, research suggests that youth in juvenile court were dissatisfied with their representation (Catton, 1978; Grisso, 1981; Grisso, 1997; Rafky & Sealey, 1975; Walker, 1971). Altogether, it is possible that differences in legal authorities' experience, resources, and perceived roles could significantly lower levels of perceived just treatment by youth in juvenile court than those in criminal court. Youth processed through juvenile court may not have direct experience with adult criminal court to compare their own treatment, but they do have expectations about fair treatment that may be violated by the way that legal authorities resolve these role conflicts.

### Individual Differences in Perceptions of Procedural Justice

Our study also examined differences in perceptions of procedural justice based on prior arrest history and race. Results indicated that both factors were related to perceptions of procedural justice.

Overall, results from the analyses indicated that youth who had been arrested before felt they had been treated more unfairly than those who had no previous arrest history by the judge and felt marginally more unfair treatment by the prosecutor, but not their defense attorney. Although research in this area is lacking, this finding is consistent with prior research that has found individuals with more convictions perceive personal contacts with legal authorities as less just (Otto & Dalbert, 2005). Further, D'Angelo (2007) found that prior criminal history affects actual treatment by judges, who used this information to inform juvenile court transfer decisions. Other research has found that attitudes towards the justice system are a product of accumulated social experiences, both personal and vicarious (Fine et al., 2016). Greater justice experience has also been linked with perceptions that legal authorities are less just in their general dealings with the public and expect them to be less just during future personal contacts (Buckler et al., 2011; Hagan, Shedd, & Payne, 2005; Woolard, Harvell, & Graham, 2008).

However, our findings provide a more nuanced examination of this issue, and suggest that experience with the justice system affects perceptions of some court authorities more than others. One limitation of our findings is that we examine the association of *prior arrests* on perceptions of just treatment rather than prior *adjudications*. It is possible that many of the youth in our sample were diverted or did not have charges filed for prior arrests, and therefore did not have much contact with a defense attorney. Additional research should be done to investigate how different levels of contact with the justice system affect subsequent perceptions of procedural justice, and the mechanisms by which the effects occur.

Our findings also revealed differences in perceptions of just treatment by race; White youth felt more justly treated by the prosecutor and the defense attorney and marginally more



justly treated by the judge than minority youth. This finding adds to a body of literature that shows minorities report perceptions of unjust treatment by a variety of different legal authorities at greater rates than Whites (Gau & Brunson, 2010; Tartar et al., 2012). Additionally, Fine et al. (2017) found that while White youth's attitudes remained largely stable throughout their experience with the justice system, Black and Latino youth's attitudes become more negative over time. These perceptions are likely due to real disparities in treatment and outcomes among minority groups in the justice system, with research indicating that minority offenders are more likely to be arrested, face greater odds of being charged and prosecuted, and are sentenced more harshly than their white counterparts (Bonnie et al., 2013; Gau & Brunson, 2010; Lytle, 2014; Mitchell, 2005; Wu, 2016). These real disparities have been shown to be a persistent issue in the last decade, even with the decreased use of transfers and judicial waivers. A recent report found that the likelihood of judicial waivers for cases involving White youth decreased between 2005 and 2015, whereas transfers of cases involving Black youth stayed the same during those years (Hockenberry & Puzanchera, 2018). Based on our findings and the findings of prior research, it appears that race and ethnicity play a significant role in sentencing decisions of youthful offenders in the adult criminal justice system. The use of extralegal factors in decision making likely impacts the perceptions of fair treatment and could have long term effects on the outcomes for youth who report experiencing unjust treatment.

### Strengths and Limitations

As with all studies, our findings do have limitations given the data collected. First, our sample included only males. Although the majority of youth transferred to adult court are male (Griffin et al., 2011; Johnson & Kurlychek, 2012), justice-involved female youth are an important and understudied population, and it is possible that their experiences in adult court may differ from their male counterparts. Future research should examine the potential for differential impacts of juvenile transfers on male and female youth. In addition, our entire sample was limited to one secure facility in Southern California. As juvenile justice systems can and do vary widely between jurisdictions, additional research should be conducted to investigate the effects of juvenile transfers on perceptions of procedural justice in diverse locations. Our study also shares a common limitation in the procedural justice literature, that we measure only *perceptions* of just treatment rather than observations of behavior. While it is important that additional research include more observation of courtroom interactions, it is also important to note that perceptions have a real and direct impact on emotional and behavioral outcomes. As research has shown time and again, "if [individuals] define situations as real, they are real in their consequences" (Thomas & Thomas, 1928, p. 572).

Despite these limitations, our study includes several strengths that support our findings. Although our sample is limited to males in a single facility, it is also a diverse sample that includes substantial minority representation. Our study also fills two key gaps in the current literature. First, it investigates differences in the experiences of youth adjudicated through juvenile vs. adult court systems. While some studies have addressed differences in outcomes for transferred youth, fewer studies have examined youth's' perceptions of this process. In addition, we examine differences in perceptions of three different court authorities. Most research does not take such a nuanced approach to measuring procedural justice of court



processes, and none to our knowledge has directly compared perceptions of judges, prosecutors, and defense attorneys. As the issue of juvenile transfers to adult court and treatment of youth within juvenile court continues to raise debate among justice practitioners, policymakers, and youth advocates, our findings can be used to inform future research and justice system best practices moving forward.

### Implications for Policy and Practice

Our findings should not be used as support for the increased transfer of youth into adult court, as other studies have demonstrated these youth tend to have worse outcomes (Augustyn & McGloin, 2018; Griffin et al., 2011; Kupchik, 2006; Kupchik et al., 2003; Kurlychek & Johnson, 2004). However, our findings do suggest that improvements should be made to increase elements of procedural justice within juvenile court settings. Although additional research is needed, our findings in combination with prior literature offer insight into specific areas for improvement.

**System processes and procedures.**—The twin goals of juvenile court are to provide accountability for youth offenders while supporting rehabilitation. While juvenile court procedures may by necessity differ from adult criminal court, the critical importance of fair and just treatment remains the same. Recently, the National Resource Counsel (NRC) provided a comprehensive report with recommendations on reforming the juvenile justice system (Bonnie et al., 2013), which is supported by the American Bar Association. This report includes the fair treatment of youth as one of the three main aims of a reformed juvenile justice system. One element that appears to distinguish procedures in juvenile vs. adult court is the de-emphasis on the adversarial process and more cooperative relationships between judges, prosecutors, and defense attorneys in the juvenile system (Puritz & Majd, 2007). Juvenile courts may need to consider how these relationships are perceived by youth as they interact with these legal authorities separately and together in the courtroom setting. Appearance of collusion between one's own defense attorney and the prosecutor may be especially harmful to perceptions of just treatment. Youth may benefit from more formalized separation between these legal authorities during the legal process. In addition, more formal procedural protections afforded in adult criminal courts such as the right to a jury trial could establish additional procedural protections. Members of the public who serve as jurors may be less likely to experience role conflict and therefore be more likely than judges to be objective fact-finders and follow the legally mandated "beyond a reasonable doubt" standard of proof in juvenile courts (Drizin & Luloff, 2007; Guggenheim & Hertz, 1998). Regardless of whether a youth is provided a jury or bench trial, the National Resource Council recommends that youth be represented by properly trained attorneys and be allowed to fully participate in proceedings to ensure they are treated fairly. Further, adjudications should not occur unless youth are able to understand the proceedings and assist counsel, and that youth have an opportunity to participate in the proceedings (Bonnie et al., 2013). These system-level changes can be enacted in ways that preserve the juvenile court's dual goals. Increased procedural protections would likely result in increased perceptions of just treatment, which in turn would likely increase youth receptiveness to rehabilitation.

**Racial and ethnic disparities.**—Additionally, NRC calls for the system to intensify its efforts to reduce racial and ethnic disparities and other patterns of unequal treatment (Bonnie et al., 2013). As stated previously, our findings that white youth felt more justly treated during the court process supports prior literature that shows minorities report perceptions of unjust treatment at greater rates and experience more negative justice outcomes (Bonnie et al., 2013; Gau & Brunson, 2010; Lytle, 2014; Mitchell, 2005; Tartar et al., 2012; Wu, 2016). In fact, prior research suggests that disparate perceptions of unjust treatment among incarcerated black vs. white youth increase after a court event, as these youth have time to think over the incident and discuss and compare their experiences with other youth in the facility (Tartar et al., 2012). Given the importance of neutral treatment to procedural justice, it is imperative that court systems actively promote equal treatment of youth regardless of background. As disparities can arise from unconscious behaviors and unintended consequences, they require conscious and sustained efforts to address (Mitchell, 2005). Courts should implement training on these issues for all legal authorities that interact with youth. In addition, courts should make a conscious effort to ensure that their hiring and promotion practices result in staff who reflect similar demographics as the communities they represent (Center for Children’s Law and Policy, 2015).

**Judges.**—Increasing formal procedural protections for youth may help address the issue of judicial role conflict in juvenile justice systems (Sanborn, 2001). However, additional attention may need to be paid to how judges consider youth prior criminal history during the court process. Our findings indicated that youth with prior arrests felt they had been treated more unfairly by the judge than those who had no previous arrest history. Other research has also shown that prior justice contact can influence treatment by judges and perceptions of the legal system (D’Angelo, 2007; Otto & Dalbert, 2005). Although prior criminal history may be an appropriate factor to inform justice *decisions*, judges should be careful to ensure they continue to treat all youth with the same respect, voice, neutrality, and fairness regardless of their background. It is especially important that judges retain their impartiality given the lack of jury trials in many jurisdictions. Courts may benefit from judicial training on how to incorporate prior history into decision-making without reducing perceptions of procedural justice.

**Prosecutors.**—Our findings showed that youth in both juvenile and adult criminal court rated prosecutor behavior as relatively unjust compared with judges and defense attorneys. Even with the de-emphasis on the adversarial process in juvenile court, the prosecutor role is unlikely to be viewed in a positive light by defendants. However, prosecutors in juvenile court must also grapple with role conflict issues (Sanborn, 1995). Additional training on these issues may benefit prosecutors as well.

**Defense attorneys.**—The main difference between perceptions of procedural justice among youth in juvenile vs. adult criminal courts was treatment by their own defense attorneys. A body of literature supports this finding by highlighting ways that role conflict can interfere with rigorous defense of youth in juvenile court, leading to dissatisfaction with attorney performance (ABA, 1995; Fedders, 2010; Genden, 1976; Sanborn, 1994). Juvenile defense counsel training should include guidance related to managing role conflict and

methods for engaging youth more in the process so that they feel they have a meaningful voice in proceedings. Professional standards and ethical guidelines obligate defense attorneys to follow the stated preference of their clients and offer the most rigorous defense possible (IIA-ABA, 1996), and this applies to youth defendants in juvenile as well as adult courts (Guggenheim, 1984; Henning, 2005). The National Reentry Resource Counsel also recommends increased engagement of youth in system decisions and processes to give them meaningful opportunities to shape their outcomes (Seigle, Walsh, Weber, 2014). Providing sufficient resources to support a rigorous defense and high-quality defense attorneys would also promote procedural justice by counteracting systemic barriers created by the perception that juvenile court is as a low-stakes training ground for attorneys (Humes, 1997).

**Community-based services.**—In addition to training, one crucial way to reduce perceptions of role conflict is to reduce the reliance on justice systems to address mental health and other service needs. Prior analysis of court referral practices have revealed that lack of services in the community may add pressure for well-intentioned legal authorities to divert youth further into the justice system to address these needs (PEW, 2014). Although rehabilitation is a goal of the juvenile justice system, best practices are to divert low-risk youth from the justice system rather than divert high-need (but low risk) youth into the system (Vincent, Guy, & Grisso, 2012). Jurisdictions should assess the level and type of community-based services to ensure they are sufficient and available to youth to avoid over-reliance on justice-system services.

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**Table 1**

## Descriptive Statistics for Juvenile versus Adult Court Youth

Variable	Descriptive	Juvenile Court	Adult Court	Significance Test
Age	<i>M</i>	16.387	16.495	---
	<i>SD</i>	.823	.726	$t(362) = -1.167, p = .244$
Race				---
White	<i>N</i>	19	3	---
Black	<i>N</i>	67	39	---
Latino	<i>N</i>	145	50	---
Biracial/Other	<i>N</i>	30	11	$\chi^2(3) = 6.823, p = .078$
Prior Arrest				---
No	<i>N</i>	25	26	---
Yes	<i>N</i>	218	72	$\chi^2(1) = 14.485, p < .001$
Prior Facility Exp.				---
No	<i>N</i>	246	97	---
Yes	<i>N</i>	15	3	$\chi^2(1) = 1.152, p = .283$
Procedural Injustice				---
Judge	<i>M</i>	23.392	22.185	---
	<i>SD</i>	5.542	5.193	$t(317) = 1.794, p = .074$
Prosecutor	<i>M</i>	7.191	6.925	---
	<i>SD</i>	1.982	2.071	$t(321) = 1.080, p = .281$
Defense Attorney	<i>M</i>	12.809	11.409	---
	<i>SD</i>	5.096	5.005	$t(321) = 2.247, p = .025$
Total	<i>M</i>	50.635	47.801	---
	<i>SD</i>	10.837	10.905	$t(319) = 2.115, p = .035$

**Table 2**

Associations between Core Study Variables

Variable	Age	Race (NonWhite/White)	Prior Arrest (No/Yes)	Prior Facility Experience (No/Yes)	Adjudication Court (Juvenile/Adult)	Procedural Injustice (Judge)	Procedural Injustice (Prosecutor)	Procedural Injustice (Defense)	Procedural Injustice (Total)
Age	1.000	.047	-.068	-.014	.061	.003	.007	.072	.046
Race (NonWhite/White)	---	1.000	-.029	-.009	-.083	-.081	-.093 <sup>†</sup>	.125*	-.137*
Prior Arrest (No/Yes)	---	---	1.000	.054	-.206***	200***	.079	.066	.152**
Prior Facility Experience (No/Yes)	---	---	---	1.000	-.056	-.076	-.106 <sup>†</sup>	-.072	-.116*
Adjudication Court (Juvenile/Adult)	---	---	---	---	1.000	-.100 <sup>†</sup>	-.060	-.124*	-.118*
Procedural Injustice (Judge)	---	---	---	---	---	1.000	.328***	.305***	.832***
Procedural Injustice (Prosecutor)	---	---	---	---	---	---	1.000	.155**	.500***
Procedural Injustice (Defense)	---	---	---	---	---	---	---	1.000	.718***
Procedural Injustice (Total)	---	---	---	---	---	---	---	---	1.000

<sup>†</sup>  $p < .10$

\*  $p < .05$

\*\*  $p < .01$

\*\*\*  $p < .001$