ADOLESCENT PLEA BARGAINS: DEVELOPMENTAL AND CONTEXTUAL INFLUENCES OF PLEA BARGAIN DECISION MAKING

A Dissertation
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By

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Problem. Plea-bargaining is the most common conviction process in the United States yet there is a lack of research on how plea bargain decisions are made within the judicial process. By accepting a plea bargain, a defendant is ultimately agreeing to waive their right to trial. To submit a trial waiver, defendants must be competent to stand trial. Research suggests that compared to adults, adolescents are less likely to have the capacities required to be competent to stand trial. This study takes a first step toward examining adolescent capacities to make intelligent, knowing, and voluntary trial waiver decisions. Additionally, this study examines contextual factors (i.e., parental engagement) that are unique to juvenile defendants and that may play a role in adolescent decision making. 

Aims. This dissertation takes a mixed methods approach (using a combination of quantitative and qualitative methods) to accomplish two primary objectives. The primary objectives are to (1) understand the plea bargain process adolescents are expected to navigate and to (2) examine the knowing, intelligent, and voluntary nature of adolescent plea bargain decisions. 

Method. Through two studies this dissertation uses multiple research methods to evaluate the plea bargain process, the context in which decision making occurs, and the decision-making process adolescents engage in. Study one is exploratory and qualitative in nature and aims to accomplish primary objective one through interviews with 18 defense attorneys. Interviews cover topics such as the plea bargain process, duration and
frequency of consultation, preparation for plea bargain decision making, and parental engagement. Study two accomplishes primary objective two by using semi-structured interviews with 72 justice-involved youth (ages 11-17) and one of each of their parents. Data was collected on plea-bargain decision-making, understanding of pleading, measures of intelligence, and basic demographics. **General Results.** Findings suggest that juvenile plea bargain decisions are made quickly, with limited information, and are motivated by short-term outcomes. Parents are involved in plea bargain discussions and, per attorneys, are essential to the plea. Finally, some adolescents were more likely than others to acquiesce to their parent’s decisions. Results and implications of this work will be discussed.
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**Introduction**

There is a dearth of research examining the most common conviction process in the United States’ justice system, the plea bargain. Approximately 95% of all criminal convictions are obtained through plea negotiations and these rates are similar for juveniles (Redlich & Summers, 2012). Surprisingly, psycholegal research has not focused on plea bargains until recently (Redlich, 2010). As a result, not much is known about the plea process or how defendants, particularly juvenile defendants, make plea bargain decisions. Previous research on adolescent decision-making in other legal contexts (e.g., waiving *Miranda* rights) has shown that adolescents’ normative development leaves them vulnerable to poor decision-making (Grisso, 1980; Grisso, et al., 2003; Cauffman et al., 2010). Although many have examined adolescent legal capacities, there is scant research on adolescent decision-making in the context of plea-bargaining (Redlich, 2010).

**Legal Requirements for Trial Waiver**

To accept a plea bargain, or waive the right to a trial\(^1\), a defendant must satisfy the legal requirements of competency to stand trial and therefore must waive their right to a trial in a *voluntary, knowing* and *intelligent* way (Godinez v. Moran, 1993). By highlighting that the waiver be *knowing* and *intelligent*, the Supreme Court emphasized the importance of understanding the consequences associated with the waiver as well as the significance of waiving the right to trial. Nevertheless, defendants may accept a plea bargain to receive a more lenient sentence, while possibly overlooking a host of collateral consequences (e.g., deportation, sex offender registration, difficulties with public housing, inability to own a handgun, etc.). By accepting a plea bargain, the defendant not only accepts the consequences associated with having

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\(^1\) Accepting a plea bargain and waiving the right to trial, while not entirely the same, will be used interchangeably from here on out.
a criminal record, but also waives their (a) right to confront witnesses (b) right to a trial, and (c) their right to appeal (unless allowing for specific appeals is agreed upon as part of the plea offer). Given these facts, it is critical that decisions to waive the right to trial be made intelligently and with full understanding of the consequences typically through counsel with a defense attorney (though defendants not represented by an attorney may still be offered and accept plea bargains).

By highlighting that the waiver be voluntary, the Supreme Court is emphasizing that this decision be made independently and not coerced in any way. In 1970, the Supreme Court established that plea bargains are indeed constitutional as long as the plea deal is not coercive (Brady v. U.S., 1970). If the plea benefit is so great (or the potential sentence so severe) that it coerces an individual to give up their right to a trial, the plea may be doing more harm than good. This decision begs the questions: “What is considered coercive?” and “Are some plea bargains unduly coercive when presented to a young adolescent as compared to an adult?”

Judges are required to confirm that defendants have made knowing, intelligent, and voluntary plea bargain decisions (Sanborn, 1992). Typically, defendants make these decisions through consultation with their defense attorney. The lawyer is responsible for counseling the juvenile client regarding the possible outcomes associated with a plea bargain and their best assessment of the plea offered (Shepherd, 2001). According to Shepherd (2001), defense counsel “must be fully aware of the client’s competency to understand what is being said and to make a considered decision about the plea” (p.47). Therefore, when counseling their juvenile clients, they should ensure their clients understand the rights being waived as well as the short and long-term consequences of waiving those rights while keeping in mind the decision making differences that exist between adolescent and adults (Shepherd, 2001). Once defendants have agreed to accept a plea bargain, judges examine whether or not the defendant has entered into the
plea decision knowingly, intelligently, and voluntarily in court (Sanborn, 1992). One study examining this process in juvenile court found that judges’ examination (i.e., the plea colloquy) typically lasts two minutes in suburban and rural counties or an average of five to ten minutes in urban counties (Sanborn, 1992). Additionally, judges observed by Sanborn varied in how they chose to determine these legal requirements were met. Specifically, in some courts, Sanborn found that judges overlooked this examination and instead assumed the lawyer had ensured these decisions were both intelligent and voluntary before the plea bearing.

Developmental science sheds light on whether adolescents have the capacities to be found competent to stand trial and therefore make knowing, intelligent, and voluntary waiver decisions. Previous research suggests that adolescents are more likely than adults to lack the capacities required to be competent to stand trial (Grisso et al., 2003); therefore, previous research implies there is a greater possibility that as a class adolescents are also more likely than adults to be found incompetent to waive their right to trial.

**Developmental Capacities: Adolescent Judgment and Decision Making**

Compared to adults, adolescent decisions are riskier, short-sighted, and highly influenced by social (i.e., peer) pressures (see Steinberg, 2009). Developmental science offers explanations regarding these factors. Specifically, developmental science highlights the fact that a lack of future orientation and increased reward sensitivity undermines mature decision-making in adolescents (Grisso et al., 2003; Cauffman et al., 2010). Additionally, developmental science reveals adolescents are highly sensitive to outside pressures from peers (Gardner & Steinberg, 2005) and authority figures (Grisso et al., 2003) compared to adults. Therefore, risk preference, peer influence, and future orientation will be reviewed as three salient factors relevant to
adolescent judgment and decision making (Scott, Reppucci, & Woolard, 1995, Steinberg & Cauffman, 1996).

According to the dual systems model, it is the interaction between the prolonged development of the cognitive control system (which relies primarily on the prefrontal cortex) with the rapid early development of the socioemotional system (which involves the limbic system) that leads to increases in risky decision-making during adolescence (Steinberg, 2010). It is due to this gap in development that risky decisions are likely to increase during adolescence. This finding parallels behavioral research in cognitive and psychosocial development, which show immature judgment and heightened risk taking as normative during adolescence (Scott, Reppucci, & Woolard, 1995).

Adolescents are characterized by their risky decisions, which have contributed to their increased mortality rate (Dahl, 2004); however, it is a myth that adolescents are incapable of making adult-like decisions (Casey & Caudle, 2013). Previous research has highlighted adolescents’ abilities to make adult-like decisions in “cool” contexts (i.e., environments that are non-emotional or non-social) but this finding does not extend to “hot” contexts (i.e., environments that are emotional or social in nature). In other words, consider older adolescents (i.e., 16 and older) as more mature decision-makers when those decisions are purely cognitive. While psychosocial affects still exist, they are less likely to overwhelm the adolescents’ decision making.

Adolescents who are 16 and older can exert cognitive control and identify behavioral risks under cool non-emotional conditions, however, they place a higher value on the potential social benefits of their actions and struggle to exert control in emotionally salient contexts. Response inhibition, or being able to suppress impulses and control behavior, increases with age.
However, this is only true in cool settings, when placed in emotionally arousing contexts adolescents are less able than adults to inhibit behavior (Somerville, Hare, & Casey, 2011). Their engagement in risky behavior is not because they do not understand the risks associated with their actions. When presented with potential risky behaviors, adolescents identified as many risks associated with those behaviors as adults did. Interestingly, but not surprisingly, adolescents were better at identifying the social risks associated with their behaviors than were adults (Beyth-Marom et al., 1993). What is ultimately a better predictor of engagement in adolescent risky behavior is the perceived social benefits or positive consequences associated with those behaviors (Peters et al., 2009). In a meta-analysis examining predictors of risky behaviors, Peters and colleagues (2009) found that for adolescents between the ages of 10-18 what was most predictive of engagement in risky behavior (e.g., smoking, drinking alcohol, or condom use) was the perceived immediate gratification or social advantages that might result from engaging in those behaviors (Peters et al., 2009).

In summary, adolescent decision-making in social and emotional contexts (e.g., in the presence of peers) is unique because of the slower developmental trajectory of psychosocial capacities (e.g. resistance to peer influence, immature future orientation, etc.) compared to cognitive ones (e.g. risk perception). Adolescent decisions that are cognitive in nature closely resemble those of adults by age sixteen. Recent advances in developmental neuroscience suggest that adolescent decision-making and engagement in risk taking might be especially affected by social and emotional contexts (Blakemore & Robbins, 2012). In line with the dual systems model, it is when decisions occur in an emotionally salient context, and therefore involve both the cognitive control and the socioemotional systems, that adolescents exhibit poor judgment (Steinberg, 2010).
Peer influence has salient effects on adolescent decisions. The ability to resist peer influence (i.e., in general and not specifically for antisocial behaviors) has been shown to develop across adolescence until about age 18 (Steinberg & Monahan, 2007). Therefore, even outside of risky decision making, adolescents are normatively more likely than adults to be susceptible to peer influence. This influence has been tested several times in the context of risky decision making. Studies have shown that when placed in a driving simulation task, adolescents make riskier decisions in the presence of peers compared to when driving alone. This pattern was not found for adults whose behavior did not change based on peer presence (Gardner & Steinberg, 2005). This reaction to peers is hypothesized to stem from alterations to the reward processing system in the brain when peers are present. For example, researchers had adolescents and adults complete the same driving task in an fMRI machine when peers were either present or absent. While adults showed no differences, adolescents exhibited greater activation in the reward processing systems in the presence of peers compared to alone. Specifically, adolescents exhibited greater activation in the ventral striatum and the orbitofrontal cortex while they made decisions about taking risks but only when their peers were observing them (Chein, Albert, O’Brien, Uckert, & Steinberg, 2011). These findings highlight the influential and rewarding effect that peer presence has on adolescent decision making.

Adolescent decisions are also shortsighted compared to adults’. Adolescents are more sensitive to the positive and immediate versus the long term and negative consequences of their actions. During adolescence, individuals are developing an appreciation of long term consequences (Olson, Hooper, Collins, & Luciana, 2007; Steinberg, Graham, O’Brien, Woolard, Cauffman, and Banich, 2009). In a study examining the development of future orientation skills and appreciation for long term consequences, Steinberg and colleagues (2009) provided 930
individuals aged 10-30 with the opportunity to select between a smaller immediate financial reward versus a larger award later. Their results revealed that adolescents were more willing to accept smaller rewards today as opposed to greater rewards later. These differences were specific to individuals 13 and younger and those 16 and older suggesting that the time between 13 and 16 is a crucial one for the development of the appreciation for long-term rewards. Their findings are similar to other studies that also found that compared to older adolescents, future rewards lost their value quicker for younger adolescents (Olson, Hopper, Collins, & Luciana, 2007). In the previously mentioned study, Steinberg and colleagues (2009) also examined self-reported future orientation scores and found that future orientation increased with age. They measured individuals’ self-reported ability to plan ahead, ability to anticipate consequences, and time perspective (e.g., deciding to give up happiness now in order to have happiness later).

Adolescents aged 12-15 scored significantly lower on planning than individuals younger than 12 and older than 15 years old. Additionally, time perspective and the ability to anticipate consequences increased linearly with age (Steinberg et al., 2009). In addition to their preference for immediate rewards, adolescents have also been shown to be more motivated by the positive instead of the negative consequences of their decisions (Cauffman, Shulman, Steinberg, Claus, Banich, Graham, & Woolard, 2010). Taken together, adolescents prefer immediate positive rewards and are less motivated by long-term or potentially negative consequences when making decisions. This preference for immediate positive outcomes suggests they are much more likely than adults to make decisions that result in immediate gratification.

Behavioral and neuroscience studies support a dual systems model that helps clarify why adolescent decisions are often shortsighted and influenced by social pressures. In cool or non-emotional contexts, older adolescents are almost indistinguishable from adults in their ability to
make optimal decisions. However, in social or emotional contexts, the ability to exert cognitive control is diminished resulting in riskier decision-making. In these contexts, adolescents are more likely to make riskier decisions in part because they are highly susceptible to peer influence and place a higher value on the immediate positive consequences associated with their actions.

What the dual systems model clarifies is the differential processes that adolescents and adults use to make decisions. With developmental maturity, adults can account for the long-term and negative consequences of their decisions in neutral and emotional contexts. Adults are also able to resist the undue influence of their peers. Therefore, when adults make a risky decision, they are developmentally able to base their decision on a measured consideration of all of these factors. However, due to their normative developmental immaturity, when adolescents make decisions in emotional contexts they are influenced by heightened sensitivity to peer influence and the immediate rewards of their decision and normatively place lesser value on the future and negative consequences of those decisions. Therefore, while adults are capable of making risky decisions, adolescent capacities to make decisions are not completely developed and make them prone to riskier decision making than they might have if their abilities to resist peer influence and value long-term and negative consequences were fully developed.

**Adolescent Legal Capacities: Pre-adjudicative and Adjudicative Competence**

Developmental science research on decisional capacity development suggests that making a *knowing* and *intelligent* waiver of legal rights is likely to be more difficult for adolescents than adults. In addition to lacking an understanding of legal concepts, adolescents are psychosocially immature meaning they are more likely to rely on short-term (i.e., immediate), positive, and social consequences (e.g., peer approval) when making decisions (Steinberg, 2009; Cauffman et al., 2010; Chein, Albert, O’Brien, Uckert, & Steinberg, 2011).
This presents concerns in the legal context where there are many long-term consequences. Research examining the effects developmental immaturity has on legal competencies reveals that adolescents are more likely than adults to struggle in multiple legal domains. Particularly, research has focused on the capacities required for pre-adjudicative competence (e.g., competence to waive *Miranda* and competence to provide a confession) and adjudicative competence (i.e., competence to stand trial) and has shown that adolescents are more likely than adults to be impaired in the capacities relevant to being found competent in these situations (see Grisso, 1980; Grisso et al., 2003, Viljoen, Klaver, & Roesch, 2005, Woolard, Cleary, Harvell & Chen, 2008). Specifically, research has shown that compared to adults, adolescents struggle to understand and appreciate the significance of their *Miranda* rights and are also more likely to waive those rights (e.g., Grisso, 1980). Additionally, adolescent defendants are also less likely than adults to have the necessary capacities relevant to competence to stand trial (e.g., Grisso et al., 2003). Taken together, compared to adults, adolescents are at a greater risk of making legal decisions based on misunderstandings of the legal system and their constitutional rights to a fair trial. Developmental science provides evidence that adolescents’ lack of capacity are not simply the result of individual differences but instead define adolescents as a class and result, in part, from developmental immaturity. This is known as developmental incompetence, which refers to a lack of (pre)adjudicative competence that is as a result of normative cognitive and/or psychosocial immaturity (Steinberg, 2009).

**Pre-adjudicative competence: Understanding and waiving *Miranda.*** Miranda v. Arizona (1966) resulted in a landmark decision that required an individual to be informed of their right to counsel and to silence for information gained from a custodial interrogation (i.e., different from an interview, a custodial interrogation occurs when an individual is in custody and
has their freedom withheld in any way), to be considered admissible in court. Miranda (1966) argued to the Supreme Court that his confession to police was not voluntary because he was never made aware of his right to an attorney or his right against self-incrimination. The Court decided that anyone in police custody (i.e., when you are placed under arrest or your freedom is withheld for any reason) must be informed that they can remain silent or else their statements can be used against them in court. The Court also held that individuals in police custody should be made aware that they are entitled to assistance of counsel. It is as a direct result of this case that all suspects in police custody as defined for purposes of Miranda are made aware of their rights.

Adolescents under 16 years of age are known to struggle with comprehension of the Miranda warnings. In one of the first studies of youth capacities, Grisso (1980) evaluated the extent to which adolescents and adults understood their Miranda rights using different measures to assess comprehension of either (1) the vocabulary used in Miranda and (2) understanding of the meaning of each Miranda warning. Grisso (1980) sampled 430 juveniles and 250 adults and found that adults were twice as likely to understand the vocabulary used in the Miranda warnings; conversely, adolescents were more likely to have an inadequate understanding of their rights (a score of zero) as compared to adults (55% vs. 23%). In a second study, approximately 200 juveniles and 250 adults were tested on their understanding of the actual significance of the Miranda warnings. Results showed that juveniles without prior experience in the justice system struggled with a functional understanding of the Miranda warnings. For example, compared with 6% of adults, 28% of juveniles believed that their attorney worked for the juvenile court, which undoubtedly could serve as an impediment to the attorney-client relationship. The same juveniles believed that their attorneys decided who to defend based on actual innocence and would determine who would be let go and who would be tried in court. Indeed, these juveniles
may have grasped the fact that the attorney plays an advocacy role, however, it seemed many of them found this to be the case only for innocent clients. Additionally, juveniles were almost thrice as likely as adults to believe that the judge could punish them for invoking their right to silence (Grisso, 1980). This suggests that not only do juveniles not understand the warnings and rules themselves, but they also have difficulty comprehending the significance of those rights and the consequences of forfeiting them.

Since Grisso’s landmark study, adolescents’ struggle to comprehend and appreciate their Miranda rights has been well documented (Grisso, 1980; Grisso et al., 2003; Redlich, Silverman, & Steiner, 2003; Goldstein, Condie, Kalbèitzer, Osman, & Geier, 2003; Woolard, Cleary, Harvell, & Chen, 2008) and persists in the face of various court competency standards (Viljoen, Zapf, & Roesch, 2007). Some courts only require that adolescents understand the warnings (e.g., People v. Daoud, 2000) while others prefer that adolescents can understand and appreciate their Miranda rights (e.g., In re Patrick W., 1978) before they can waive them. Not surprisingly, when the standard requires adolescents understand and appreciate their Miranda warnings, more adolescents met the level of impairment. Nevertheless, when held up to either standard, Viljoen, Zapf, and Roesch (2007) found that adolescents 15 and younger were much more likely than older adolescents to be impaired.

Developmental immaturity results in adolescents not having the capacities to fully appreciate Miranda which ultimately increases the likelihood adolescents will waive those rights. Younger adolescents in particular are more likely than older adolescents and adults to make legal decisions such as waiving the right to remain silent and confessing to police or waiving the right to an attorney. Grisso and colleagues (2003) interviewed approximately 1400 adolescents and young adults to see if there were age differences in legal decision-making. When provided with
the option to assert their right to silence or to confess to police and waive their right to silence, approximately 60% of 11-13 year olds recommended waiving their right to silence and confessing to the police. As age increased, this percentage dropped dramatically such that only 20% of young adults (18-24) offered the same recommendation (Grisso et al., 2003). In another example, Viljoen, Klaver, and Roesch (2005) examined the legal decisions of approximately 150 adolescent defendants who were being held in pretrial detention. Their results showed younger adolescents (<16 years old) were more likely to waive their rights to silence and counsel during an interrogation. A surprising statistic from this study revealed that not one juvenile under the age of 15 requested an attorney, which is unfortunate given that such consultation may improve understanding in various legal contexts, including trial waiver (Viljoen & Roesch, 2005).

**Adjudicative competence: Competence to stand trial.** Adjudicative competence, or competence to stand trial, refers to an individual’s ability to participate effectively as a trial defendant and to aid their attorney in their defense (e.g., being able to consult with your attorney, understanding the charges brought against you, etc.) (Dusky v. US, 1960). Adjudicative competence is legally required to try a defendant in court meaning individuals must have “sufficient present ability to consult with one’s attorney with a reasonable degree of rational understanding, and…a rational, as well as factual understanding of the proceedings against” him (Dusky v. US, 1960, p. 402). In other words, individuals must be able to participate in their own defense and understand the consequences of pleading guilty (among other things) when the outcome may result in a loss of liberty (Scott & Grisso, 2004). Defendants cannot be tried if they are found incompetent to stand trial and action must be taken to restore competence to continue pursuing charges against that person. According to the *Dusky* criteria for competence to stand trial, attorneys must be able to communicate with their clients about the case and the client must
be able to understand the proceedings against him/her (Dusky v. United States, 1960; Scott & Grisso, 2004). Therefore, adolescents must have a factual and rational understanding of the charges and implications against him/her as well as be able to assist counsel (Steinberg, 2009).

While the decision to waive *Miranda* is qualitatively different from the ability to stand trial, similar capacities are necessary to navigate both contexts. In the context of *Miranda*, the importance of ensuring competence is directly related to the fact that suspects are being asked whether they would like to waive their constitutional rights in an interrogation setting (i.e., right to silence or to counsel). Without assistance from counsel, impaired understanding of *Miranda* can impact their waiver decisions. However, even with legal clarification from counsel, the inability to appreciate the long term consequences of their decisions could result in decisions that do not meet the *knowing* and *intelligent* standards. In the context of adjudicative competence, defendants must be competent (i.e., understand and appreciate the adjudicative proceedings and be able to consult with their lawyer) because ultimately they must decide how to plead and argue their case. Although they are not necessarily being asked to waive any rights (i.e., outside of a plea bargain scenario) these decisions regarding how to plead and how to argue their case require an appreciation of the long term consequences that may result from having a criminal record (for example). Similar to the *Miranda* scenario, while lawyers can assist juvenile defendants with regards to their understanding of their rights, for juveniles (and not adults) the added risk of incompetence is tied to their immature decision making capacities. Without a proper appreciation of the consequences of pleading (for example), their decision on how to plead will not be *knowing* and *intelligent* and could potentially be *involuntary* if they opt to blindly acquiesce to their lawyer’s recommendations absent any input of their own.
Adolescents who struggle with *Miranda* may also show similar impairments in capacities relevant to being competent to stand trial (Redlich, Silverman, & Steiner, 2003). Redlich and colleagues found that a similar pattern of impairment existed across two legal contexts: *Miranda* and competence to stand trial. Interestingly, this pattern only existed for adolescents. In fact, adults’ scores on measures of *Miranda* comprehension and competence to stand trial showed no consistency at all. The authors hypothesized that the divergent findings are likely due to the ongoing development of capacities relevant to being found competent. Although on average juveniles performed worse than adults on measures of *Miranda* competence and competence to stand trial, adults’ scores were not at ceiling. Combined with the lack of consistency across adults’ measures of competence, these findings suggest that individual differences exist beyond adolescence which explain some of the variability in adults’ capacities. Of course, the consistency across juvenile scores does not indicate that *Miranda* comprehension in any particular juvenile is sufficient to qualify that juvenile as competent to stand trial. Instead, it highlights the ongoing developmental changes that influence juveniles’, but not adults’, decisional capacities that are relevant to *Miranda* and competence to stand trial.

As a class, adolescents are less likely than adults to possess the requisite capacities for adjudicative competence. Younger adolescents in particular are at a heightened risk for being found incompetent to stand trial. In order to examine age-differences in adjudicative competence, Cooper (1997) tested 112 detained juveniles aged 13-16 years old. The Georgia State Competency Test (GCCT-MSH) was revised for juvenile populations and administered to all 112 juveniles. Their results show all but two juveniles scored below the designated cut-point for competence and would have been found incompetent to stand trial. A closer look at the data supported the hypothesis that competency scores increased with age. However, although 13-
year-olds underperformed compared to the older juveniles. 98% of all juveniles sampled were still found incompetent. This is especially concerning considering their sample of detained youths had already been tried in court and likely was never tested for competency. Interestingly though, in their study, the authors had a training period after the initial competence assessment. The training covered the roles of various legal actors, including the defense attorney’s and the juvenile’s role, as well as information concerning various types of charges and the possible penalties associated with those charges. The training session did increase competency scores on post-tests. However, even with the training, only 10% of those who were originally found to be incompetent were able to increase their scores to levels of competence. In other words, these youths who had already been through a trial or had successfully completed a plea colloquy were not only being found incompetent after the fact but also were unable to reach competence post-training.

Younger adolescents’ normatively lower cognitive capacities leave them at an increased risk of being significantly impaired in their legal understanding relevant to adjudication. Viljoen and Roesch (2005) examined which risk factors might influence adolescents’ legal understanding. In addition to examining these risk factors’ effects on Miranda comprehension, they analyzed how they might influence legal capacities relevant to adjudicative competence. Specifically, the authors were interested in evaluating the effect cognitive capacities (using the Woodcock-Johnson III Cognitive Assessment Battery) and legal learning opportunities on adjudicative competence (using the FIT, revised). They interviewed approximately 150 male and female pre-trial defendants (aged 11-17) and found that cognitive capacities, especially verbal abilities, were especially strong predictors of capacities related to adjudicative competence (such as appreciation of adjudicative proceedings and the capacity to consult with their attorney) for
preadolescent and young adolescent individuals. Similar to its effects on Miranda comprehension, the amount of time spent with attorneys predicted understanding of legal capacities relevant to adjudication. This was especially true for youths with lower cognitive abilities, which the authors explained as likely being due to those individuals having “more room for improvement” (Viljoen & Roesch, p.737, 2005).

These impairments exist in both justice and community samples, strengthening the argument for normative developmental contributors to adjudicative incompetence. Grisso and colleagues (2003) examined capacities relevant to competence to stand trial in adolescents and young adults with and without justice-system experience. By testing a wider sample of adolescents (i.e., in age and justice experience) and comparing that sample to young adults, Grisso and colleagues were able to examine (1) whether adolescents as a class differ from young adults in their abilities to participate in their own defense; and (2) whether adolescents who are detained perform differently from adolescents who have never had experience with the justice system. They were also careful to consider differences between adolescents and younger adults to minimize the potential that they would find effects (i.e., it might be easier to see a difference between 15-year-olds and 45-year-olds than between 15-year-olds and 20-year-olds). This also allowed researchers to test for differences between adolescents who fall within juvenile jurisdiction (<18 years old) and adult jurisdiction (>17 years old). Grisso and colleagues examined adjudicative competence in approximately 1400 individuals (aged 11-24) from four different states across the United States (i.e., California, Pennsylvania, Florida, and Virginia). Data was collected on everyone’s general intellectual ability (WASI), Mental Health (MAYSI-2), Competence to Stand Trial (MacCAT-CA), and Judgment and Legal Decision-Making (JILC). Their results parallel those of Grisso (1980): juveniles 15-years-old and younger were
significantly more likely than older adolescents and young adults to be impaired in ways that affect competence to stand trial. This was true for juveniles with and without justice system experience. However, their findings revealed that juveniles with lower intelligence scores were the most likely to show evidence of diminished competence. Interestingly, low intelligence scores had a greater effect on comprehension among adolescents compared to adults with equally low intelligence scores. Although the effects of intelligence on competence exist in both detained and community samples, it highlights the fact that individuals who are in contact with the justice system are at an increased risk for incompetence because a greater proportion of them are of below-average intelligence (as compared to community samples).

Adolescents show immature judgment due to psychosocial immaturity when making legal decisions in adjudicative proceedings. Unlike many other studies that solely looked at cognitive capacities, Grisso and colleagues (2003) also examined decision making components not included in the competence to stand trial standard, but potentially relevant for adolescents’ decision making; specifically, they examined the effect of psychosocial capacities have on adolescent legal decision-making. When considering adolescents’ abilities to make adult-like decisions, their results suggest that psychosocial immaturity indeed affects judgment and legal decision-making. Specifically, adolescents were more likely to make decisions that complied with authority figures’ requests and were less likely to consider the risks and future consequences of their decisions. Specifically, adolescents under 14 were less likely to report any long term reasons for the choices they made. Their findings also revealed that as age increased, so did the likelihood that individuals would resist authority figures’ requests. For example, when presented with a hypothetical plea offer, almost 80% of 11-13 year olds, over 60% of 14-15 year olds, and more than half of 16-18 year olds recommended taking the deal. This pattern of
acquiescence also exists in the context of confessing to police where more than half of 11-13 year olds recommended providing police with a full confession. Unfortunately, younger adolescents’ susceptibility to pressure from authority figures increases the likelihood that their waiver decisions are being made involuntarily.

An important psychosocial factor for predicting adjudicative competence is the development of orientation towards future consequences. In their study, Kivisto, Moore, Fite, & Seidner (2011) examined the mediating role of future orientation in the relationship between age and adjudicative competence. Using the MacArthur Competence Assessment Tool (MacCAT-CA), they examined the understanding, reasoning, and appreciation abilities of the 927 youth interviewed in Grisso and colleagues’ 2003 study. Half of their sample contained detained youth while the other half were recruited from the community. Their findings revealed that the age differences in the ability to reason about legal decisions and appreciate the consequences of those decisions (Grisso et al., 2003) were mediated by future orientation skills. In other words, those adolescents with a higher level of future orientation were better able to weigh and appreciate the consequences of their decisions.

**Adolescent plea-bargains: Waiving the right to trial.** While there is a dearth of research examining adolescent plea bargain decisions, what exists suggests plea bargain decisions are similarly influenced by cognitive and psychosocial factors relevant for preadjudicative and adjudicative competence (Grisso et al., 2003; Daftary-Kapur & Zottoli, 2014). Interestingly, and in line with the theory of developmental incompetence, preliminary evidence suggests that as adolescents mature (i.e., by late adolescence) they become more strategic when making plea bargain decisions (Viljoen, Klaver, & Roesch, 2005). The decision to accept a plea bargain is ultimately a decision to waive the right to trial. Competence to stand trial
is a legal requirement for defendants to validly waive their right to trial (Godinez v. Moran, 1993). It is therefore not surprising that the developmental capacities required to waive *Miranda* and to be found competent to stand trial would also underlie the decision to waive the right to trial (i.e., to accept a plea bargain) which can carry a host of long-term and negative consequences.

Younger adolescents think less strategically than older adolescents about taking a plea (Viljoen, Klaver, & Roesch, 2005). Viljoen, Klaver, and Roesch (2005) surveyed 152 defendants between the ages of 11-17 who were being held in a pre-trial detention facility about their willingness to accept a plea if it became available. Although the authors found no age differences in the rate of proposed acceptance of plea bargains, adolescents aged 15-17 were more likely than 11-14 year olds to rely on the strength of the evidence against them when determining whether to accept a plea. Although there were no age differences in the rate of acceptance of a plea bargain (52% overall), there were age differences in what factors predicted their decision to accept a plea or not. Their findings suggest that there are underlying development factors that influence how young adolescents think about plea bargains, which results in a less thoughtful and less strategic decision making process (Viljoen, Klaver, & Roesch, 2005). In another example, Peterson-Badali and Abramovitch (1993) evaluated children and adolescent’s reasoning about plea decisions. They provided participants with general information about the quality of the evidence against them (i.e., strong vs. weak) and found that when the evidence was strong, individuals made reasonable plea decisions regardless of age. However, when the evidence was described as weak, younger participants (those in the 5th grade) made plea decisions that were rated by attorneys as being significantly less reasonable. In other
words, these young students were more likely to plead guilty regardless of weak evidence against them.

Adolescents may be more likely than young adults to recommend waiving their right to trial in order to accept a plea offer. Grisso and colleagues (2003) surveyed a much wider (in age) sample than Viljoen, Klaver, & Roesch (2005) and found that compared to young adults, adolescents were more likely to accept a hypothetical plea bargain. As part of the measure on judgment and decision-making in legal contexts (the JILC), individuals were asked to respond to a vignette where a plea agreement offered a reduced sentence in exchange for testimony against co-defendants. The decision to accept a plea decreased with age such that 75% of 11-13 year olds recommended taking a plea compared to only 50% of young adults aged 18-24. Their findings parallel that of Viljoen, Klaver, & Roesch, (2005) which demonstrate that the youngest adolescents think differently about whether to accept a plea-bargain. However, unlike previous research, theirs is the first to examine adolescents and adults and show an increase in acceptance rate by younger adolescent defendants.

When deciding to accept a plea bargain, many adolescents may be relying on short-term consequences and ignoring long-term consequences. In a recent study examining adolescents’ understanding of the plea bargaining process, Daftary-Kapur & Zottoli (2014) conducted interviews with 40 adolescents (ages 13-18) who were tried as adults and waived their right to trial. The adolescents were interviewed about various aspects of accepting the plea bargain such as their basic legal understanding, their appreciation of the terms and consequences of their plea, and the voluntariness of the plea decision. When asked about the terms of their plea, the majority of the adolescents could only identify two to three (out of five possible) terms (e.g., admission of guilt). Only 45% mentioned reduced charges and only 12.5% identified the waiver of the right to
trial as a term of their plea agreement. When describing why they decided to accept a plea, 25% of adolescents indicated it was to receive a reduced sentence, another 25% indicated to get out of jail as soon as possible, and about 12.5% to avoid jail all together. The majority of responses (66%) indicated their decisions were based on avoiding short-term consequences (Daftary-Kapur & Zottoli, 2014). When asked about the potential consequences of accepting or rejecting their plea deals most adolescents only listed consequences associated with rejecting the plea deal. Of the 25% of adolescents who could describe any outcomes associated with accepting plea deals (e.g., collateral consequences) most (80%) mentioned having a criminal record. Conversely, 65% of youth could describe outcomes associated with rejecting a plea deal. Of those individuals, 100% mentioned receiving a higher penalty for their crime, 15% mentioned going to trial, and 11.5% mentioned being sent back to jail. When interviewees were asked about why they decided to take the plea deal they were offered, 70% mentioned being able to go home after they accepted the deal as opposed to staying in jail; 50% mentioned not wanting to stay in jail for the remainder of the trial process; 40% mentioned not wanting to lose friends; and 60% mentioned wanting to finalize the court process. Only 17% of youth mentioned any sort of long-term justification for accepting the plea bargain. Daftary-Kapur and Zottoli’s (2014) findings align with one attorney’s experience counseling adolescent clients to take a plea bargain. Specifically, Smith (2007) found her adolescent clients were reluctant to accept a plea when jail time was part of the offer. Smith described that these clients would rather risk going to trial for the chance to go home. Smith’s clients were also motivated by the short term, potential positive consequences of their decisions and perhaps underestimated the risk of trial. Taken together, adolescent decisions to accept or reject a plea bargain may be primarily motivated by immediate gratification.
Adolescents may be more likely than adults to falsely plead guilty when they are actually innocent (Redlich & Shteynberg, 2016; Zottoli, Daftary-Kapur, Winters, & Hogan, 2016). One study examined the plea bargain decisions of adolescents and young adults who were prompted to either assume they were an innocent or a guilty defendant (Redlich & Shteynberg, 2016). While their analyses did not distinguish between older and younger adolescents, they found that only when their participants were asked to assume innocence were adolescents (ages 13-17) as a group more likely to accept a plea than young adults (ages 18-24). For those participants who were told to assume they were guilty, adolescents and young adults did not differ in their rates of plea bargain acceptance (Redlich & Shteynberg, 2016). Additionally, other research has recently shown that approximately a quarter of adolescents and adults who accepted a plea bargain in New York City self-reported that they falsely admitted guilt when accepting the plea bargain (Zottoli, Daftary-Kapur, Winters, & Hogan, 2016).

These few studies suggest that when making decisions about accepting or rejecting a plea bargain (1) unlike older adolescents, the younger ones do not consider the strength of the evidence (Viljoen, Klaver, & Roesch, 2005); (2) younger adolescents are more likely to give in to pressure from authority figures and accept a plea bargain when compared to young adults (Grisso et al., 2003); (3) most adolescents made plea decisions based on the consideration of short-term and not long-term consequences (Daftary-Kapur & Zottoli, 2014); and (4) juveniles may be more susceptible to false guilty pleas than adults (Redlich & Shtenyberg, 2016). These findings are not surprising given what we know about adolescent development. In fact, they fall in line with what we know about decisions adolescents make in emotionally salient contexts: they tend to be shortsighted and the younger adolescents struggle the most.
Summary. Compared to adults, younger adolescents are myopic, more susceptible to influence from peers and authority figures, and thus are more likely to be impaired in capacities relevant to competence in multiple legal scenarios. They are more likely than adults to waive their *Miranda* rights and their right to a trial. Moreover, evidence suggests that younger adolescents (15 and under) were the most likely to concede to authority figures, including failing to bring up disagreements with their attorneys (Viljoen, Klaver, & Roesch, 2005), recommending full disclosure to the police, and recommending trial waiver (accepting a plea offer) (Grisso et al., 2003). This evidence of increased likelihood of acquiescence compared to adults brings the *voluntary* nature of their trial waiver decisions into question. The *knowing* and *intelligent* quality of trial waivers is also of concern given adolescents’ shortsightedness and misunderstanding in other legal scenarios (Grisso et al., 2003; Woolard, Harvell, Cleary, & Chen, 2008) as well as the preliminary evidence that the majority of adolescents seem to focus on the immediate consequences of plea bargain decisions and struggle to identify long-term consequences (Daftary-Kapur & Zottoli, 2014).

Decision Making in Context: Parental Involvement

In addition to decisional capacities it is important to consider the contextual factors that affect adolescent decisions. The influence proximal processes, or the interaction between a person and their environment, have on individual development has been well established (e.g., Bronfenbrenner, 1979; Bronfenbrenner, 1994; Bronfenbrenner & Ceci, 1994; Steinberg & Morris, 2001). According to classic work by Bronfenbrenner (1979), the adolescent’s development is influenced by social systems such as the family, peers, school, and the community (for an update see Bronfenbrenner & Ceci, 1994; Bronfenbrenner & Morris, 1998). For example, adolescents usually live with a parent, parents, or a legal guardian. That family unit
lives within a larger societal context influenced by laws, policies, and beliefs about the justice
system. Adolescents’ decisions likely do not occur without input from other actors and
misunderstandings and beliefs are likely partially influenced by those actors as well.

Parents will likely influence (directly or indirectly) their child’s decision making process. Separate from having an indirect influence on their children’s knowledge, adolescents require
direct input through parental consent for many of the decisions they make (Woolard & Scott, 2009). Parents must consent to many of their children’s decisions from attending school trips, participating in research, and getting married among other things. The law presumes that parents or legal guardians hold a stable role in an adolescent’s life and are usually the most familiar with
the child’s abilities. Adolescents, especially younger adolescents, may be dependent on the
adults in their lives to help them get to school, court, or meetings with their attorney or probation officer. Therefore, parents are likely aware of, and perhaps directly involved, when an adolescent
must make a difficult decision.

Assuming the parent has the capacities relevant to competence to stand trial (although
they are not required to), they may be able to assist their child to better understand and appreciate
the plea bargain process and the outcomes associated with it. Given their familiarity with their
child’s abilities, parents may be best suited to interpret between attorneys and their juvenile clients (Henning, 2006). Based on the legal presumption of involvement, some states have tried to implement a parent as advocate model by requiring that parents or an interested adult be present before a child can make a valid waiver decision (Szymanski, 2002). Policies such as
these are created under the assumption that parents are not only competent legal actors
themselves but that they are also able to hold their child’s interest in mind even if at the expense
of their own. For example, parents may prefer that their children take responsibility for their
actions and may recommend the child admit guilt and accept a plea bargain. However, the child and their defense attorney may feel there is a lack of sufficient evidence against them and thus would rather try the case (Fountain & Woolard, 2017). In this situation, the parent is put in the position where their decision to support their child’s expressed interest (i.e., the child’s own decision on how to proceed) or not will require them to decide between prioritizing the role of parent or legal advocate.

Parents must not only choose between supporting their child’s expressed interests over their own, but also should ideally be competent themselves in order to maximize their effectiveness in assisting their children. It is not clear whether parents themselves understand legal processes or whether they can provide unbiased counsel to their children when they may be liable for certain aspects of the child’s sentence (e.g., restitution or monetary charges owed to the victim for financial hardship resulting from the crime) (Fountain & Woolard, 2017). In interviews with defense attorneys, Tobey, Grisso, & Schwartz found that families often disagreed on the appropriate course of action to take. Additionally, they found that parents lacked the appropriate understanding of the various legal processes and as a result provided inaccurate information and advice to their children (Tobey, Grisso, & Schwartz, 2000). Indeed, research has shown that parents misunderstand their rights within the interrogation context. For example, one study found that most parents believed police could not interview their children without parents being present (Woolard, Cleary, Harvell, & Chen, 2008). Misunderstandings such as these could hinder parents’ abilities to protect their children’s legal interests.

**Current Study: Adolescent Plea Bargain Decisions**

Research on adolescent development and adjudicative competence suggests it is critical to expand the current literature on plea-bargains to include a greater focus on young defendants.
There is a plethora of research on *Miranda* waivers and adjudicative competence. However, the plea bargain context and the very process itself have been largely overlooked, which is striking given that approximately 95% of all criminal justice convictions are the result of a plea bargain (Cohen & Kyckelhahn, 2010). These rates are likely to be similar for juvenile convictions as well (Redlich & Summers, 2012). Additionally, the Supreme Court states that competence to stand trial and the ability to waived the right to trial require the same capacities, yet no research has tested that fact. The next step is to examine what happens after an individual is presented with the option of going to trial or pleading guilty in exchange for a reduced sentence.

**Goals and objectives.** The current project takes a two-pronged, mixed methods, approach to accomplish seven main goals. The primary objectives of these studies are to clarify the plea bargain process adolescents are expected to navigate and to examine the *knowing, intelligent, and voluntary* nature of adolescent plea bargain decisions. Using multiple research methods allows for different levels of analysis and thus, understanding, of a particular phenomenon. Specifically, using qualitative methods elicits a rich, descriptive, micro-level analysis while quantitative methods allow for an empirical, macro-level analysis (Onwuegbuzie & Leech, 2005). Further, combining qualitative and quantitative research methodologies to examine the same phenomenon results in triangulation, or corroboration, of results across methods (Greene, Caracelli, & Graham, 1989). Defense attorneys, justice involved youth, and their parents were interviewed across two studies (one qualitative and one quantitative) to better understand these constructs.

**Study one.** Study one is exploratory and qualitative in nature and aimed to accomplish three objectives through interviews with defense attorneys:

1. Elucidate the process underlying juvenile plea bargains; and
(2) Examine the knowing and intelligent nature of adolescent plea bargain decisions
(a) By identifying what relevant information attorneys provide to adolescents when considering a particular plea offer;
(b) By learning adolescents’ main reasons for choosing to accept or reject a plea bargain as witnessed by their defense attorney.

(3) Examine the voluntary nature of adolescent plea bargain decisions
(a) By identifying practices attorneys take to handle disagreements regarding trial waiver decisions
(b) By identifying what role parents play in the plea bargain decision

Study two. The main objectives of study two are aimed at examining the knowing, intelligent, and voluntary nature of adolescents’ decisions:

(1) Examine how adolescents respond to plea bargain decisions;
(2) Examine age-based differences in understanding about plea decision-making;
(3) Examine how psychosocial factors (i.e., peer influence, valuation of future consequences) influence those decisions.
(4) Examine the role parent’s recommendations has on adolescent decisions.

Hypotheses. The main hypotheses for study two are as follows:
(H1) Trial Waiver Decision: Younger adolescents will be more likely than older adolescents to waive their right to trial and accept a plea bargain (Grisso et al., 2003).
(H2) Understanding of Pleading: Younger adolescents will be less likely than older adolescents to understand their constitutional right to decide how to plead and understanding will increase as IQ increases.

(H3) Future Orientation: Adolescents will be less likely than adults to consider long-term consequences associated with pleading guilty. More cognitive capacities will be related to greater consideration of future consequences.

(H4) Peer Influence: Adolescents will be more likely than adults to consider the role of their peers in their trial waiver decisions.

(H5) Parent Influence: Younger adolescents will be more likely than older adolescents to acquiesce to their parent’s recommendations regarding accepting a plea bargain. Understanding of pleading and higher IQ will be associated with a decrease likelihood that adolescents acquiesce to their parent’s recommendations.
Study 1: Adolescent Plea Bargains from the Attorney’s Perspective

Method

Participants. Juvenile defense attorneys in the Mid-Atlantic region were invited to participate in this study. Attorneys were recruited through public defender offices and local law schools. While twenty-three attorneys were interviewed, eighteen attorneys focused the majority of their time on juvenile defense and were included in the final sample. Of the five attorneys who were excluded due to a lack of focus on juvenile defense: two attorneys worked specifically with youth tried as adults in the criminal justice system; two attorneys held supervisory roles resulting in low caseloads; one attorney no longer worked primarily with juvenile defendants. The final sample (n = 18) included only those attorneys who worked primarily with juveniles tried in juvenile court and spent most of their time counseling clients. These attorneys were from an urban jurisdiction in the Mid-Atlantic region, were primarily white (78%; Black: 11%; Asian: 11%), female (72%), and approximately 40 years of age (M = 39.9 years; SD = 8 years). Additionally, they reported an average of 11.4 years (SD = 7.2 years) of legal experience and estimated their caseloads (i.e., total number of cases they were actively overseeing) to be approximately 46 cases (M = 46.1 cases; SD = 17.7 cases). Those not included in the analysis (n = 5) were primarily white (80%) and male (60%) with an average of 11 years of legal experience (M = 11 years; SD = 3.7). Those excluded because of their administrative or other responsibilities (n = 3) reported lower caseloads (M = 5; SD = 4.2) or estimated that only a small proportion of their time was dedicated to juvenile defense (i.e., 25%).

Procedure. All protocols and procedures were approved by Georgetown University’s Institutional Review Board (IRB #2014-1268). Attorneys participated in a one-hour interview on the juvenile plea bargain process. The interviews were conducted by the doctoral student and
took place at a location convenient to the participant, usually in their office or in a conference room within their division. Once informed consent was obtained and approval to record interviews was received, the research assistant began recording the interview. Interviews focused on five aspects of plea bargains:

1. The plea bargain process and preparation for accepting/rejecting a plea offer;
2. Preparation for the plea hearing and the hearing itself;
3. Their client’s rationale for accepting/rejecting the plea;
4. Their perception of client understanding; and
5. Parental engagement in the process.

Additionally, attorneys answered questions about the attorney-client relationship, demographic questions about themselves, and their experience as an attorney. Finally, participants were debriefed and paid $75.00 for their time. Participant payments were funded through the Student Grant-in-Aid co-sponsored by the American Psychology-Law Society and the MacArthur Foundation.

**Data storage.** Demographic data and consent forms were kept separate and were stored in a filing cabinet within a locked lab space in the Georgetown University Psychology department. Audio recorded data was stored in a password protected folder. All data was transcribed by either the doctoral student or one of two research assistants. Transcripts were stored in a password protected folder and within Dedoose; a web-based, secure, mixed methods analysis software. Analysis and coding were performed using both Dedoose and Excel.

**Measures.**

*Semi-structured interviews (Appendix A).* The interviewee answered questions regarding plea bargains with two frames of mind: general and with a specific case in mind (i.e., their most
recent juvenile case). For example, the interviewer might ask a general process question such as, “How does the plea offer usually come about?” or “How, if at all, do juveniles participate during the hearing?” After answering general questions, the interviewee answered questions that were specific to their most recent juvenile client. These questions covered the decision making process (e.g., “Approximately, how much time did you spend discussing the plea with your client?”; “What did you talk about with your client when you discussed the plea offer?”); the plea hearing (e.g., “Before the hearing, did you talk with your client about the plea hearing?”; “What happened at the plea hearing?”); their client’s rationale for accepting/rejecting the plea offered (e.g., “Did your client ever express why they decided to take or not take the plea?” If yes: “What was their reason?”); the attorney’s evaluation of their client’s understanding of different aspects of the plea bargain decision (e.g., “In your opinion, did your juvenile client understand they were waiving their right to a trial when they pleaded guilty? Can you tell me a little bit about what led you to that conclusion?”); as well as questions regarding parent engagement in the process (e.g., “Were parents present during the meetings with your client? How if at all were they involved?”).

**Demographics Questionnaire.** All participants filled out a demographics questionnaire where they provided details about their age, gender, race/ethnicity, and their legal experience.

**Data analysis.** Study one does not set out to test any hypotheses; the goal of study one is to uncover a previously understudied process by answering research questions regarding juvenile plea bargains. Analysis of interview data takes a *direct realist* approach to interpreting the data (Willig, 2013). This approach allows the researcher to assume statements made by participants generally reflect reality and analysis of those statements should not require the researcher to interpret beyond what study participants say (Willig, 2013). In line with this theoretical approach to data analysis, *thematic analysis* was used to code data and explore for themes; more
specifically, data coding was conducted using an *inductive* and *semantic* approach to thematic analysis (Braun & Clarke, 2006). Thematic analysis as defined by Braun and Clarke (2006) involves a six-phase process of coding the data to explore for themes (described in detail below). Inductive and semantic approaches refer specifically to how themes are identified (inductively) and at what level themes are coded (semantically) within thematic analysis. Taking an *inductive* approach to thematic analysis allows theme and code creation to be data-driven instead of based on a theoretically driven coding plan (Boyatzis, 1998; Braun & Clarke, 2006). An inductive approach is ideal when exploring an understudied process or phenomenon to ensure no data is overlooked or undervalued. Taking a *semantic* approach (Braun & Clarke, 2006) allows themes and codes to be identified at the semantic, or explicit, level as opposed to at a more latent or interpretive level (underlying the fact or experience) (Boyatzis, 1998). Taking a semantic approach allows a direct realist perspective to be maintained throughout data analysis.

Braun and Clarke (2006) outlined six phases of coding and theme creation that make up the basic guidelines to thematic analysis. These guidelines are inherently flexible allowing the researcher to mold each phase to the data and research questions. For this study, each research question was examined individually, following each phase until themes were named and defined. The first phase of thematic analysis requires the researcher to become familiar with their data. This initial process took place by transcribing the audio recorded data and reading through each individual interview while taking notes of any observations or interesting aspects of the data. During phase two, the researcher generates the initial codes. During this phase, participant responses were read through again while attaching descriptive or semantic codes to the data without focusing on how these codes might collate into themes. During phase three, the researcher searches for themes based on the initial coding scheme. During this phase the analysis
occurs at a broader level, organizing the codes into categories based on their relationship to each other. During phase four, the themes developed during phase three are reviewed and refined. Phase five allows for themes to be further refined and ultimately defined and named. Theme definitions should be succinct and simple to “identify the ‘essence’” (Braun & Clarke, p.92, 2006) of each theme without expecting a theme to be too complex. During this phase, the researcher should define the theme further by writing a detailed description of it. Phase six takes place when the researcher writes up the report or final paper describing the results of thematic analysis; this dissertation is phase six.

Data from the qualitative interviews were reviewed to answer five general questions about the juvenile plea bargain process. Generally, these data were used to understand more about the plea process and to determine how attorneys facilitate a knowing, intelligent, and voluntary plea bargain decisions. The following goals and research questions were kept in mind while analyzing the data:

1. Elucidate the process underlying juvenile plea bargains.

2. Examine the knowing and intelligent nature of adolescent plea bargain decisions:
   (a) By identifying what relevant information attorneys provide to adolescents when considering a plea offer; and
   (b) By learning adolescents’ main reasons for choosing to accept or reject a plea bargain as witnessed by their defense attorney.

3. Examine the voluntary nature of adolescent plea bargain decisions:
   (a) By identifying practices attorneys take to handle disagreements regarding trial waiver decisions; and
(b) By identifying what role parents play in the plea bargain decision.

Results

The juvenile plea bargain process. Attorneys described how the plea bargain process unfolded in their most recent juvenile case where their client agreed to accept a plea bargain and waive the right to trial. These cases included drug crimes such as possession with intent to distribute, serious property crimes such as motor vehicle theft or burglary, and serious person offenses such as armed robbery and sexual assault. Data from these descriptions was used to create an overview of the plea bargain process (Figure 1). Attorney descriptions of this process revealed that attorney strategies can vary but certain elements of the process remained consistent across attorneys.

Most of the plea bargain process occurs on the day of trial. For most of the cases discussed, the plea bargain process began once the state’s attorney relays the plea offer to defense counsel; this overwhelmingly occurred on the morning of trial (72%). Eighty five percent of those attorneys who received the offer on the morning of trial also initiated plea discussions with their clients on the same day; only two attorneys had met with their clients previously to discuss a potential plea bargain. These discussions vary greatly in length, indeed the estimated time spent discussing pleas ranged from 5 minutes to 150 minutes; on average discussions lasted an estimated 46 minutes ($M = 45.9$ minutes; $SD = 35.2$ minutes) and sometimes across multiple days. For those attorneys who only discussed the plea on the day of trial ($n=11$), they estimated their conversations lasted approximately 38 minutes ($M = 37.7$ minutes; $SD = 24.1$ minutes). Most attorneys (83%) included a parent or family member in the conversation. Attorneys who did not include family in discussions suggested this was because
the client was either detained during those conversations (n=2) or was a ward of the state (n=1). The level of involvement parents had in those discussions is varied and will be discussed below.

**Negative effects of time constraints.** Defense attorneys were concerned that they were not provided with enough time to ensure their clients understand and are competent to make these legal decisions. At the end of the interviews, all attorneys were asked if there was anything additional they thought would be important to cover regarding plea bargains generally (i.e., not necessarily specific to the case being discussed). Of those who answered this question, many believed they needed more time with their clients because the lack of time made it difficult to truly ascertain whether their clients were indeed competent to make this decision (even though they made the decision anyway).

> “It's hard to evaluate a child's competency on the fly...you know you have to be very careful about how you're explaining things to them because they'll just parrot it back or they'll just say ‘yes, yes I understand’. Well, really, do you?”

- Attorney #13

While it meant attorneys struggled to truly ascertain competence, attorneys also described this time constraint as having negative effects on their ability to properly inform their clients about the process and negotiate on behalf of their clients.

**Knowing and intelligent pleas.** The second goal of this study was to understand how attorneys facilitate knowing and intelligent plea bargain decisions. Therefore, attorneys were asked to describe the discussion they had with their most recent juvenile client regarding the plea bargain decision.

**Plea conversations focus on disposition, charges, evidence, and parents.** When attorneys prepared their clients to make the plea bargain decision (i.e., in the specific case being
discussed), anywhere between 1 and 21 topics were covered (Figure 2). Within that specific conversation, the most common topics discussed were the disposition or sentence the client would be facing (82%), what charges the client was being accused of (59%), what evidence the state could use against the client in trial (53%) and whether parents should be considered or consulted on the plea decision (47%). For example,

“...I said um you know they're gonna have police officers testifying Joe (defendant’s name changed) and they have multiple police officers testifying and they actually have video of you when the police stopped you and put you you know handcuffed you...So I said so um you know the state's gonna make you an offer... I said, you know um is that something you'd be interested in doing, admitting to lesser charges to avoid the bigger ones and he said yeah I can do that. ...And you know we went through the charges and he understood and I said generally what happens is if it's a motor vehicle theft they'll usually offer unauthorized use and that means you borrowed someone's car without permission...um it's a misdemeanor and it's what they're most likely to offer. Would it be OK if I went to them and asked them for that? And you know he agreed to that and then we talked about um possible consequences...Um and then we talked about restitution, he'd never been through a restitution hearing and it's important that dad understood it too because the father, the parents can be held financially responsible... I talk to the father I said if you can bring forth evidence that um you have a low income or if you truly can't afford to pay anything that's something the court will take into consideration. And we sort of went back and forth on it.” – Attorney #13
Only 35% of attorneys mentioned that they reviewed the rights their clients would have to give up to plead guilty and only 29% of attorneys alerted their client to the fact that the judge did not have to accept the plea. Also, 29% of attorneys reviewed what collateral consequences could result from pleading guilty. Fewer attorneys (6%) mentioned considering their client’s understanding or asking their clients if they needed to review or ask any questions.

“Um well what it means to give up your right to a trial first. What the potential consequences are and that the court doesn't have to accept the plea. That it's just between us and the state. Uh what uh the consequences-the collateral consequences could be especially in a case like that. That was pretty much the crux of negotiation was really what charge because of registry... Whether confidentiality is preserved as far as court records are concerned, who else is gonna know about this, what to expect in treatment, what kind of treatment he'd be getting, what probation means, um... Gosh. All of those. I mean and the risk of competency issues, there weren't but my evaluation as to what he understood before we actually got into the plea.” – Attorney #3

This example highlights the importance of considering known collateral consequences, such as the risk of the client’s name ending up on the sex offender registry (i.e., certain charges disqualify the defendant from being registered as a sex offender). Though, unlike the very concrete consequence of resulting on a sex registry in the previous example, collateral consequences can also be more abstract and based on a set of future probabilities (e.g., certain juvenile charges may increase criminal history points for the defendant if and when they are charged as an adult).
“What's going to happen for disposition, what's going to happen for collateral consequences in the future. So I think it's our job to protect young people as best we can while they are with us in the building, but also I think we have a greater duty to try to protect their rights as they get older. And so talking with young people about what's your game plan after this? Like after this is all done and school is done, like what are you thinking about? Because if they're thinking about um military or if they're thinking about college, if they're thinking about anything where a delinquency might impact, we talk about it. And we talk about it in general anyway, but if they have a specific issue, "I want to go into the air force" I know that they can't have any delinquency record whatsoever. So in that instance I might try that case and hope to get lucky on um an officer doing something stupid on the stand. Ya know?” – Attorney #11

**Plea conversations regarding trial rights.** Although most discussions focused on potential dispositions, charges, evidence, or parental involvement, and less often concerned what rights would be waived, nearly all attorneys believed their clients understood that they were giving up their trial rights (e.g., right to trial, to confront witnesses, etc.). Therefore, given the discrepancy between how many attorneys reported their clients understood the rights being waived and how few of them actually acknowledged this as part of the plea discussions with their clients, a broader analysis of the dataset was conducted to see if attorneys were having this discussion at some other time. Specifically, instead of just focusing on what attorneys discussed with their clients while they were relaying and discussing the plea offer with their client; the analysis was expanded to include how attorneys prepared their clients for the plea hearing (i.e., the hearing in court where the plea colloquy is read before the judge) that would occur once the
client has agreed to accept the plea offer. Indeed, by including this additional discussion, results indicate most (72%) defense attorneys did review what rights would be waived if defendants accepted a plea bargain. However, almost all of those attorneys who explained what rights the client would be waiving acknowledged that they waited until after the client had decided they wanted to accept a plea bargain to explain what rights they would be waiving.

“Usually I don’t go over all the ins and outs of giving up, you know, your rights to the pleas until, until my client has said he wants a plea deal and I’m sure that’s what he wants” – Attorney #9

In another example, a defense attorney again describes waiting until after the client has decided to take the plea. However, in this example, the attorney goes further and describes this process as a practice to ensure the client can successfully be qualified to accept the plea in court (i.e., the plea colloquy).

“Yes. So once he decided to take the plea then I go through exactly what happens in the plea hearing. And so going through, cause all, you have to ask them a laundry list of questions to make sure they understand what... So the judge knows they understand all the rights that they’re waiving um and the plea that they’re entering into. So it's like do you understand you have the right to a trial? And do you understand you have the right to call your own witnesses?” – Attorney #7

Most notably, however, is the finding that even after considering the preparation for the plea hearing, there were still some defense attorneys who did not describe reviewing what rights would be waived with their clients before listing them on the record in the plea hearing.

Adolescents accepted plea bargains so they could go home and avoid a trial. During the interview, attorneys were asked to reflect on their most recent juvenile case and recall if their
client ever expressed why they wanted to take the plea deal. Attorneys often recalled several reasons that led to the decision. Most commonly, attorneys recalled their client’s decision to accept the plea bargain being influenced by the potential disposition; specifically, how the potential disposition would allow their client to go home and not be incarcerated (e.g., if their disposition was probation, they would be allowed to return home and serve their time on probation in the community). The second most common reason was the client’s desire to avoid trial. Attorneys described this as their client’s desire to avoid seeing witnesses testify against them.

“He did express like; oh, no I don't want the witness to come here and say all what happened and point me out in the courtroom. Um I'd rather just take the plea.” – Attorney #7

Interestingly, the third most common reason referenced was to avoid being charged in the adult system; four attorneys described cases where the transfer from or to the adult system was negotiated as part of the plea agreement.

“Yeah, to get back to juvenile court! Her reason for taking it was very largely because we weren’t going to win at trial and we had a lot to gain, she had a lot to gain from going to juvenile court.” – Attorney #10

Some attorneys noted that their juvenile clients wanted to leave court or just get the process over with as quickly as possible.

“I was like I think we’re gonna lose but let's make them prove it, um and by that time he was like ‘this is gonna take forever, I have places to be’. That was - that’s the number one reason my kids take a plea, it's because they want to leave.” – Attorney #14
Finally, some attorneys also recalled their clients taking the advice of their parents or doing what they believed would satisfy their parent’s wishes.

“Yeah…he wanted to stay at home and was willing to do what he needed to do to satisfy Mom…Mom said you know you’re playing with your freedom if you take the case to trial and I think that you know I don’t know if I would have said it that way but I think that that you know he understood that. And it’s the truth I think it’s the truth haha” – Attorney #16

**Voluntary pleas.** To learn how juvenile clients make voluntary decisions (i.e., ones that were not forced by anyone else), attorneys were asked how they balanced their role as legal advisor with empowering their clients to make their own decisions and how parents engaged in the plea discussion and decision process.

**When attorneys and clients disagree.** Attorneys were asked how they would typically handle a situation when their client was making a legal decision that was contrary to their recommendation. For this particular question, attorneys did not have to discuss their most specific case but rather were asked to think about how they handle these situations generally. Thematic analysis resulted in three main strategies attorneys employed. Attorneys were evenly divided across these three strategies that are described below: (1) Are you sure?; (2) Ok, you’re right; (3) Ok, but you’re wrong.

“Are you sure?” One third of attorneys took an approach to counseling their clients that relied on the notion that adolescents make decisions differently than adults do. Specifically, attorneys identified several known developmental factors as justifications for their decision to spend extra time with the client, expand their discussion of the future consequences of their decisions, or hold back on pushing their client in any direction. These developmental factors
included references to the myopic nature of adolescent decisions or the increased likelihood that adolescents (compared to adults) would give in to the pressures of authority figures or would be “easily subverted”.

“So it's very very hard and it takes a lot of conversation...and I always say, "I'm not trying to convince you either way.. I'm your lawyer, I'm just trying to make sure you understand all the possibilities and all the options."... So it's just like really breaking it down and explaining to them, and I always if I think that they're making, if I have time and I think that they're making a bad decision, I'm always like, "Ok let's take a break. You think about it. I want you to think about it. Write down pros and cons of each if we need to and we can talk about it a little bit more. But, I don't want you to just make this decision immediately because you-that's what you think is going to get you to go home or it's just gonna get the case over with. Let's think about this. This is an important decision that's going to affect your life." – Attorney #7

In this next example, the attorney acknowledges that they often struggle to balance helping their clients make what they believe is the right legal decision and pushing them too hard to make a decision the juvenile does not initially want to make. Here the attorney indicates they believe juveniles specifically can be easily coerced into making a decision that is not their own.

“It is [hard] like cause you, and then you push him but you don't want to push him too hard right? And so I think I think a lot of us question ourselves sometimes. “Are we pushing too hard? Are we not pushing enough? And I think that's very inherent in juvenile work specifically. Um because we can just sometimes just subvert our clients will so easily. Yeah, you have to be very
careful. Kids aren't very forward thinking. So it's hard because you know they're making their decision based on the very immediate factors that maybe they're not thinking three, six, nine months ahead. Yeah and how this might affect them later on. So yeah. And that's always hard.” – Attorney #5

“Ok, you’re right.” A second group of attorneys described their reluctance to try and change their client’s mind. Some of these attorneys also made sure to note that they did not believe in a best interest model of representation, or a model where the attorney decides what is in the best interest of the juvenile defendant. In other words, if after their explanation of the potential outcomes their client still chose something that did not align with what the attorney thought was the best legal decision, attorneys were not interested in convincing their client otherwise.

“If a young person is making a truly bad decision, that I think is a bad decision, but um is something that is within the realm of possibilities, they are entitled to make that bad decision. They are the ones that are running, this is direct representation, this is not best interest. And so, even against my, ya know, better judgement. And usually that example is like, if I think I can win something at trial when the kid's like "ugh I don't want to do that, I don't want to be here, I'm not staying, I'm not doing it." And I think I could probably win, and it's like really? You'd rather go on probation? And they say "well that's going to happen anyway” It might, it might. But, it, at the end of the day it's direct advocacy. So what they want, unless they tell me what they want includes harming themselves or harming someone else, it's pretty much it.” – Attorney #11
In this example, the attorney explains that their client is the expert of their own life and as such may in fact be making the right decision.

“They're the ones that have to live with it. And it's entirely possible that they know things about the circumstance about their lives, that that make the decision that they're making more rational than it might seem to me.” – Attorney #10

“Ok, but you’re wrong.” The last strategy described by attorneys is similar to the second strategy insofar as the attorneys agree this decision is up to their clients. However, it differs because this group of attorneys all identified that they wanted their clients to know they believed the client was wrong; some making this belief known on the record, in open court.

“Generally speaking I let them know I think they're making a bad decision. A lot of them make it for short-term gain, like I just want to go home today… I just want to do this today. Sometimes the parents force them into it. No, you’re doing this today because I’m not coming back or you need to admit to this because you need to you know, bare your soul, or whatever it is. I'm very clear with the child and the parent, I think you're making a bad decision as your attorney, I disagree with it. I understand why you're making it. I don’t feel that that's a good reason to make it, but ultimately, it is your decision and if that’s what you’re choosing to do, my job as your attorney is to do what my client asks me to do. That's how I handle it. And if it's really egregious, I’ll even make a comment on the record.” – Attorney #17

These attorneys were also different from the other groups because they described trying to convince their clients to make different decisions, for example,
“I advise them strongly, um to make a decision that's not what they're trying to do.” – Attorney #2

or,

“Umm if I think a juvenile client is making a bad decision I usually tell them. And then you know I'll do my best to try and change their mind, but ultimately whether or not they take the plea is their decision.” – Attorney #18

Interestingly, the attorneys whose strategies were aligned with the “Are you sure?” theme were the ones with the least amount of legal experience (no more than 6 years). Attorneys who identified with one of the two other consultation strategies were more likely to have more legal experience (an average of 15 years).

**Parent engagement in the plea bargain process.** Parents are responsible for making many decisions for their children and often must provide consent for the decisions children make on their own (Woolard & Scott, 2009). For example, unless they are emancipated, adolescents must have had parent consent to participate in the second study of this dissertation. Given parents’ likely role in adolescent decision making, a deeper understanding of the role parents play in the plea discussion and/or decision is essential. This is especially true given adolescents’ unique constitutional right in this context to make their own legal decisions. For example, are parents involved in the decision-making process? Are parents serving as legal advisors to their children? Do parents keep their children’s expressed interest in mind when consulting with the attorney and their child? Alternatively, do parents consider what is in their child’s best interest and motivate that recommendation? To gain insight into these questions, attorneys were asked to describe whether and how parents participated in the plea bargain discussions with their client. Themes from those conversations can be found in Figure 3 and described below.
Rate of parent involvement. Most attorneys reported that parents were included in the plea discussion; usually that discussion happened with the child but sometimes it occurred separately. For those attorneys who did not speak with parents at all, one had a client that did not have parents and was in the care of child services, while the other two attorneys did not speak with parents because the conversations took place in pre-trial detention and the interview was not coordinated with the parent’s visit. Most attorney accounts were consistent with each other in that, to maintain confidentiality between the attorney and the client, the parent was invited into plea conversations after the child had disclosed what their involvement was in the crime.

“In the initial meeting I always meet with the client alone. Um whatever we're talking about, confidential stuff. The terms of a plea agreement are um less significant than the "what happened" part in the case. And so a youth may not want to talk about what happened in front of their parents and legally they [youth] have a right to confidentiality.” -Attorney #11

Parents are needed to ensure the plea is successful. Slightly more than half (53%) of those attorneys who met with parents described parents’ involvement as essential to ensure the success of the plea. This was then described in one of two ways. Either the judge would not allow the plea to go forward without knowing that the parents understood and agreed with the components of the plea; or, the parents needed to know what they were going to be required to do (e.g., make restitution payments) because of the terms of the plea.

Judge wants parent agreement. Attorneys described situations where the judge would not accept a plea if the parent was not in agreement with the terms of the plea or where the parent had concerns about their children’s understanding of those terms.
“Sometimes I will talk to the kid without the mom about the plea first just to kind of feel them out. Cause I feel like I want the kid to make the decision, the problem is it’s tricky for kids because they live with their family, so their family kinda has to be on board. It’s very hard to do when they’re not. Cause then it tanks in court, because the magistrate’s like no, we’re not doing that. Um.. So I try to include them if not the whole time, at least they'll come in at the tail end of the time... cause even if I exclude them, which some people, I mean some people choose to do that and that’s their own practice. When you walk into court, they are 100%, the magistrate goes, "What's your opinion? Do you know what's happening at home? Should I put them on probation?" So mom’s, they're always getting a say, so I kind of want to know what they're going to say before they get to say it. Good or bad it's better to know” – Attorney #4

In another example, an attorney describes why a parent might need to be included as early as the plea negotiation to ensure the judge would accept the plea. In this example, the attorney describes a case where the parent wanted a more severe disposition for the child,

“When it comes to the plea I will usually talk to the child alone. Unless I know there's going to be a real problem... I had a real problem where the state wanted to offer basically a postponement, a mutual postponement. Basically, for my kid to do well, and my kid's mom was like, "I want him locked up in detention and sent away." And he had never had a case that had stuck before and I can't go into court and accept a mutual postponement and the court's going to be like, "Mom how do you feel?" and she's like, "I want him sent away to a youth camp."...The court's not going to take that plea, it's a problem. So I ended up working out um a
plea that did include a short term of probation…then was like, ‘Hey mom he's on probation! So he's gonna get like a probation officer! And a curfew, and isn't that awesome?’” – Attorney #5

Parents are being sentenced too. Another common theme apparent in the data was the notion that often parents are being held responsible or could be found liable if their children failed to succeed. Therefore, for pleas to be successful in court, the parent needed to agree with the terms they were going to have to abide by themselves.

“Um you often need the support of a parent in a plea agreement mostly because the parent is on probation too. I mean they're not signing a paper but they're agreeing to bring their child back for regular hearings, to transport their kids to various programs, to be available in the middle of the night when the police knock on their door to see if their kid is in their bed. And so um in order to, to make sure my client understands and to make sure the family understands what they're signing on to we'll bring parents in on the conversation...It doesn't help anything to explain it to a young person and say nothing to the parent and then have everyone leave...Parents can be ordered, um, can be found in contempt. There could be show-cause hearings for them to appear and talk about why they aren't helping their child be successful. The most serious intervention would be taking the child out of their custody and filing a department of social services complication, saying they are abusing and neglecting as you know, basically an absent parent. Yeah you really want to get their buy in, and you want them to be able to ask questions, and you also want them to know the expectations so your client, who is a minor, who isn't listening because they're in the courthouse and
they're scared they're going to get locked up because last time they came they got locked up and so they're not listening. And I say ‘8 o'clock curfew’ and they hear ‘no curfew’ and then go tell mom, ‘they didn't tell me I had a curfew’” - Attorney #11

While parents are essentially being asked to assist with their children’s probation, as attorney #11 described, other parents have a more concrete sentence to deal with. Specifically, if a child has committed a crime that results in restitution payments, parents are liable for those payments as well. Therefore, if plea negotiations are going to include restitution, parents are likely to be included in those conversations and potentially will have competing interests with the interests of their child. In other words, while a lesser sentence may attract the child to the plea, if restitution is also a part of the offer, the parent may prefer their child take the case to trial for the possibility of not incurring any fines or added cost of additional representation and hearings.

“Mom was there, yes. Especially because restitution was part of it which is like the money ... and usually restitution is joint with the respondent um and the parent. And so the parent should know that they might be on the hook for the money. So we'll actually when we go into court they're usually advised of their right to counsel, not me, but separate counsel. Um you're not entitled to free counsel though so they would have to bring in their own attorney but usually they understand that. And it's like if it's $80-100 they know that it's a lot of money for a lot of our clients but it's something that over several months they can probably do it and like it would be more money to have an attorney there.” - Attorney #1

Parent roles. Aside from being included to ensure agreement on the terms of the plea, attorneys also described parent participation in one of two ways. Some attorneys described the
parents as trying to convince their child to either accept the plea or go to trial. Other attorneys described the parents they met with as primarily asking questions and trying to learn more about the process and the situation.

*Advising client: (Dis)agreeing with attorney.* Attorneys described their client’s parents as either being helpful to convincing their child to accepting a plea or as being resistant to their child accepting a plea. For example, this attorney recalled the client’s parent as being helpful in getting the child to plea.

“Mom was involved because she was nervous number one and two, mom, I think, wanted him to realize this probably wouldn’t look good for him being on probation picking up this new charge if we had a trial and all the information came out. Whereas taking a plea I could control the information because I knew what the state was gonna say. So mom was helpful for that.” – Attorney #4

However, sometimes the parent might disagree with the attorney and try to convince their child to go to trial instead because they don’t agree with the terms of the plea,

“Dad is you know in this case he offers advice and has some real limitations and Joe (child’s name changed) like just is like what should I? Asks me and asks dad ‘what should I do?’. Like he’ll do whatever we tell him to do...um so he definitely was like ‘Dad should I do, what should I do?’ And dad tried to talk him out of it and out of taking the plea cuz he felt like the probation was too long” – Attorney #14

In the following example, however, unlike the previous one where the father felt the plea was not in their child’s best interest, the attorney describes a case where the parent doesn’t feel the plea is in *their* best interest.
“Sometimes the parent is way too involved. "You ain’t taking any no plea."

"You're not admitting, you know, we're going to trial." ..."I don't want to pay the
restitution so we're taking it to trial." ....You really have to sit down. And it's
tough to be a defender because you... have to start um explaining what your role
is and that I represent the kid and not you. And you know, "Well he's just a child.
How can he... You know, you do what I tell you to do and if you don't I'm going to
hire a private attorney who will.” -Attorney #12

Advising themselves: Q&A with the attorney. Other attorneys described the parents as
instead being curious and wanting to learn more about the process and the outcomes of their
child’s situation.

“They had a lot of questions obviously, and, but they absolutely allowed me to
have confidential conversations with him too. Um then they would come in later
and ask questions um and I would explain to them what was going on.” -Attorney
#3

Discussion

This study expands the current literature on plea bargains by describing the context
within which the juvenile plea bargain process unfolds and by investigating how attorneys
facilitate their juvenile client’s ability to make a knowing, intelligent, and voluntary plea
decision. For these attorneys, the plea bargain process is ultimately a quick one that typically
involves consultation with the client and their parents on the day of trial. The amount of
information provided to clients varied across attorneys but ultimately focused on the facts of the
case and parent’s agreement with the plea. Discussions regarding what rights were being waived
were often deferred until after the child had agreed to the plea offer; collateral consequences
were rarely discussed. Attorneys recalled their juvenile clients often made plea bargain decisions for short-term gain such as to go home, to avoid listening to witness testimony in court, or to get the process over with. Additionally, and unique to juvenile defendants, was the added threat of being tried as an adult, which was cited as another factor that motivated juvenile plea decisions. Through these interviews three distinct strategies were identified to handle disagreements between attorneys and their juvenile clients. These strategies varied in how forceful the attorney was in motivating their preferred legal decision while all ultimately agreeing the decision was the child’s to make. Finally, the role of parents was explored, and interestingly, attorneys described parent agreement in the outcome as essential to ensuring the plea bargain would be accepted by the court. These results are discussed further below.

**The plea bargain process.** Conversations with defense attorneys regarding how the plea bargain process unfolds revealed that most of this process occurs on the day of trial. Most commonly, plea offers are made by the state’s attorney on the morning of trial at docket call. Docket call occurs when the judge or magistrate views their calendar, assesses who is ready for trial, and organizes hearings for the day. Ultimately, if the plea is accepted, a plea hearing is held on that same day. Therefore, any conversations regarding whether the child should accept the plea are constrained to take place during the time between docket call and trial. We do not have specific details about how much time passes between docket call and the plea hearing, but interviews suggest that this is no more than a few hours. During that time, the defense attorney will convey the plea to their clients, often including parents in that conversation, and may negotiate the plea with the state. Conversations with the client and their family about the plea offer and the plea hearing were estimated to take less than 40 minutes on average.
Defense attorneys described this process as “rushed” and led to their inability to truly evaluate their client’s competence, negotiate on behalf of their client, and properly inform their client about the process. Attorneys also found this time constraint was even burdensome for them and did not allow them to fully consider the consequences of the child’s decision,

“We don’t have a lot of time, they’re asked to make it quickly. They can’t take time to really think about it in advance. There’s not a lot of time for me to really think about it and go back with counteroffers if my kid has concerns or questions.” – Attorney #5

If attorneys suggest they lack time “to really think about it”, how can the adolescent defendant have sufficient time to consider their options? Adolescents are already known to make riskier, more impulsive decisions (Steinberg et al., 2008) that are influenced by the immediate consequences of their actions (Steinberg et al., 2009). It is possible this time limitation exacerbates an already emotional situation, further ensuring adolescent decisions are made in a “hot context” fueled by time pressure.

“He kept saying I wasn’t driving the car I wasn’t driving the car...I fully expected him to say no, but I was required to present it [the plea] to him and I did and I didn't push it at all it was just like you know here's what it is. You'd have to admit to driving this car without permission. He's like OK. Soo I'm like are you sure because before you were telling me that you weren't driving the car. He's like it's fine let's just get it over with”– Attorney #13

It is unclear whether or not this defendant was falsely pleading guilty; only the defendant himself truly knows. However, the adolescent in this example maintained their innocence until the day of trial. Even on that day, the defendant ultimately refused to admit guilt, but instead agreed to an
Alford plea (a guilty plea where the defendant does not admit guilt but instead admits the state has enough evidence to convict) to move the process along. Adolescents are more likely to prioritize the short-term, positive consequences of their admission (i.e., “get it over with”) and place a lesser value on the long-term consequences (e.g., having a delinquency on your record), and some attorneys believe they would be better able to aid their clients in weighing the consequences if they had more time. One study provides promising results suggesting this might be true (Viljoen & Roesch, 2005). Their results showed that when juvenile defendants spent time with their attorneys they performed better on measures of adjudicative competence; this was true especially for those with poor cognitive abilities. Attorneys in this study think additional time would at least allow them the time they need to identify the relevant consequences, and make them better able to assess their client’s competence and understanding. Might a better strategy for facilitating knowing and intelligent pleas involve providing attorneys enough time to investigate the plea, negotiate the plea, advise their clients about the plea, and avoid having them evaluating their client’s competency “on the fly”? Future research should examine if this is indeed the case.

**Knowing and intelligent decisions.** For a defendant to make a knowing and intelligent decision, they must not only (a) have the capacity to do so, but they must also (b) have enough information needed to make the decision, and must also (c) actually understand the information provided to them (Redlich, 2016). In regards to point (a), adolescent defendants are known to be more likely than adults to be impaired in the capacities necessary to be competent in pre-adjudicative and adjudicative contexts (see Grisso, 1980; Grisso et al., 2003, Viljoen, Klaver, & Roesch, 2005, Woolard, Cleary, Harvell & Chen, 2008), which suggests they may also struggle in the plea bargain context. This study provides some insight into point (c), that defenders may
have difficulty evaluating understanding in such a short period, possibly resulting in trial waivers that are not made intelligently and knowingly. Additionally, this study is one of the first to examine from the defender’s perspective component (b) of a knowing and intelligent plea described above: whether juvenile defendants have the information needed to make a valid plea bargain decision assuming most of that information comes from defense counsel.

According to Bibas (2011), one of the largest concerns that exists when determining the validity of a guilty plea is that defendants are making these decisions without sufficient information. When attorneys described their conversations with their juvenile clients, most of them focused on disposition, charges, evidence, and parent involvement. These topics are essential to the plea bargain and if not discussed would likely leave their client uninformed. However, as Bibas (2011) notes, there are additional complex factors that should also be included when considering how to proceed when faced with a plea offer; factors that the attorney should inquire about to ascertain the best defense strategy (e.g., potential employment consequences).

The conversations described in this study focused less on what rights were being waived or the collateral consequences of waiving those rights and pleading guilty than on the facts of the case or the terms of the plea. Collateral consequences for juveniles can include enhanced penalties as an adult defendant, deportation, sex offender registration, inability to own a handgun, inability to join the military, barriers to employment, difficulty enrolling in university or securing federal funds, and even removal from school or public housing (see Henning, 2004). Recently, the Supreme Court decided that counsel must inform clients about the risk of deportation when relevant (Padilla v. Kentucky, 2010). Given the number of factors they must juggle, including additional factors unique to juveniles (e.g., parental agreement to the plea), and
the limited amount of time they have, it is understandable that the more abstract consequences might be left out of these conversations. Nevertheless, for many defendants, these consequences are real and indeed should be considered. However, with the exception of deportation, defenders are not legally required to inform clients of them. Beyond that, attorneys who misadvise their clients about potential collateral consequences are committing a graver error (legally) than those who provide no advice (Roberts, 2009). This is because defendants are only legally required to know the direct consequences associated with their plea decision (Brady v. United States, 1970). However, if attorneys misadvise their clients about collateral consequences, this could be considered a violation of the client’s due process rights because they did not make a knowing and intelligent guilty plea and could open the door for a client to argue for ineffective assistance of counsel. Roberts (2009) argues, that this creates an incentive structure that understandably, may render attorneys fearful to provide any advice at all. Given that compared to adults, juveniles tend to value short term consequences over long term ones (Steinberg et al., 2009), by completely ignoring collateral consequences these discussions fail to provide the scaffolding that increases the likelihood that youth might at least learn about them, if not also value them.

Additionally, a third of attorneys never mentioned discussing what rights were being waived with their client before listing them in open court (i.e., during the official colloquy) (i.e., their right against self-incrimination, their right to confront witnesses, and most appellate issues). However, even for those attorneys who did inform clients about these rights, this process took place only after their client had verbally agreed to take the plea.

Theories about sunk costs suggest waiting until after committing to a decision may undermine full consideration. Bibas (2011) explains that defendants need this information when they are actually weighing alternatives. Otherwise, waiving one’s rights may be perceived as a
“sunk cost”. Given the time pressures defense attorneys described and some defendants’ interest in getting the process over with, Bibas’ assertion that these delayed discussions might be perceived as sunk costs may facilitate a defendant’s decision to not restart the entire decision making process. Indeed, research examining the use of decision making heuristics during adolescence shows that although reasoning ability increases throughout adolescence, in “hot” or stressful contexts, adolescents are more likely to rely on heuristic processing (Albert & Steinberg, 2011). This issue becomes even more concerning when considering adolescents’ increased susceptibility to authority figures and findings that younger adolescents (15 and under) tend to be more compliant than older adolescents and do not address disagreements with their defense attorneys (Viljoen, Klaver, and Roesch, 2005).

**Reason for taking the plea.** Of the reasons attorneys identified, many were short-term in nature and highlight the additional complexities involved in the juvenile plea bargain process. While most attorneys identified disposition, or sentencing, as justification for why juveniles wanted to plea, interestingly, they described this rationale as being motivated not by having a shorter sentence but rather by going home. If juveniles accepted the plea agreement, these attorneys described many of those agreements included a guaranteed probation so that the child could return home that day.

“He took the plea because it was going to allow him to go home. If he had had a trial, the likelihood that he was found not guilty when they had the police officer who saw him driving the stolen car and everything... and so it would have been open season. But with the deal, he had the magistrate promising not to lock him up.” – Attorney #9
Attorneys believe that their juvenile clients are very motivated to go home and are prioritizing that result even if it means agreeing to probation.

“The most important thing is they get home; they get off the box and they have to be put on probation to do it. Then that's what they're going to do.” – Attorney #7

However, while the immediate consequence of accepting a probation disposition is the freedom to go home, violating probation in the future could result in a commitment.

“If they violate probation by not following through with the terms then it can lead to a violation of probation hearing and then a commitment. I explain in a commitment means that they actually have given up legal custody to the department of juvenile services. They have the right to either keep them in the community or remove them from their home without even having a hearing.” – Attorney #17

Unfortunately, studies suggest that most juveniles struggle to succeed on probation. Indeed, one such study found that out of over 100 juvenile probationers, 77% had at least one technical violation (e.g., missed meetings with their probation officer, did not attend school, etc.) and 58% picked up new delinquency charges (Vidal & Woolard, 2016).

While disposition, or going home, was the most common reason cited for accepting the plea, several other short-term factors emerged as being particularly motivating for juvenile clients. Many juvenile defendants wanted to avoid going to trial for one of two reasons: either to avoid having to watch witnesses give statements against them in trial or to simply get the process over with; these are both reasons that are immediately gratifying. Some defendants were simply interested in avoiding a trial to save a few hours and get the process over with.
“If I think I can win something at trial when the kid's like "ugh I don't want to do that, I don't want to be here, I'm not staying, I'm not doing it." And I think I could probably win, and it's like really? You'd rather go on probation?” – Attorney #11

However, other defendants wanted to avoid the immediate discomfort of having to rehash their misbehaviors by not having to listen to the witness describe what they did in front of their families and the judge.

“He did not want to have a trial. He didn't want his mom to necessarily hear everything and he didn't want that lady to testify cause he didn't want to sit there and watch the poor old lady testify.” – Attorney #4

or another example,

“He did express like, oh no I don't want the witness to come here and say all what happened and point me out in the courtroom. Um I'd rather just take the plea” - Attorney #7

The immediate gratification in these examples comes from being able to avoid what these juvenile defendants may have perceived as negative stressors embedded within the trial procedure (and unrelated to the inherent “penalty” associated with losing at trial). Specifically, for these youths the trial may be stressful because it requires confrontation with those in positions of authority (e.g., older adults, police, their parents) accusing them of criminal behavior. One study found that amongst detained adolescents (ages 11-17), as age increased so did the youths’ eagernessness to please others and avoid confrontation with authority figures (as measured by the Gudjonsson Compliance Scale (GCS); Richardson & Kelly, 2004).

Additionally, other research has shown that youth with a history of conduct problems use more avoidant coping strategies than youth without conduct problems when dealing with stressful
situations (Ebata & Moos, 1991). Perhaps some adolescents see their right to confront witnesses within a trial situation as a stressful event to be avoided. In other words, for more avoidant adolescents, a plea may be a welcome alternative. Adolescent decisions are more likely than adults’ to be based on the immediate and positive consequences (Steinberg et al., 2009), and these decisions are illustrative of that. Of course, without an adult sample to compare to it is impossible to know based on this study alone whether adults would be equally focused on short-term gain or to rely on avoidant coping strategies in the plea bargain context.

Findings from this study do bring to light the unique complexity included in juvenile plea bargaining; namely, the consideration of parents and the threat of the adult system. Parents are actively making many of the legally relevant decisions (e.g., medical care) in their children’s lives when they are still under juvenile jurisdiction (Woolard & Scott, 2009) yet now their children are being given the constitutional right to make their own legal decisions (i.e., to plead guilty or not). Additionally, certain juvenile defendants are faced with the threat of adult court, and the role that threat plays in the plea bargain process. Prosecutors have been accused of “charge bargaining”, where multiple charges are stacked on one offense, only to be able to bargain a few away (Bibas, 2011). However, in juvenile court, some attorneys described a situation where either the prosecutor or the judge offered the juvenile to remain in juvenile court in exchange for a guilty plea. Therefore, the “stacking” of factors for eligible juveniles includes charges, dispositions, and the added potential to be tried and sentenced as an adult. In these situations, attorneys believed that the offer to remain in juvenile court was the state’s way of assuring a conviction; an offer some attorneys believed would be very difficult to refuse.

“As a broader issue, I think it renders the plea kind of involuntary, frankly... On the one hand, any way you can get them back to juvenile court is a good thing, on
"the other hand it's hard not to look at this situation and say, 'That is a coerced plea'." – Attorney #10

**Voluntary Decisions.** So long as the plea bargain is agreed to absent threats, force, or promises (outside of what is offered within the terms of the plea) then it is has been entered voluntarily (Brady v. United States, 1970). The court often measures voluntariness by having a judge or defense attorney ask the defendant at the plea hearing if anyone forced them to make this decision. Assuming the defendant says no, the plea is determined to be valid (Redlich, 2016).

This study took a different approach to examining the voluntariness of juvenile plea bargain decisions. Specifically, given adolescents’ increased susceptibility to pressures from authority figures, this study examined the context in which these decisions were being made to better understand how juvenile defendants were being empowered to make their own decisions. Research has shown that adolescents are more likely than adults to give in to the recommendations of authority figures (Grisso et al., 2003). Therefore, it is possible that attorney consultation strategies that may not be coercive for adults could result in a situation where a juvenile is more likely to acquiesce. This is especially possible given that research has also shown younger adolescents are less likely to bring up disagreements with their attorneys than older adolescents (Viljoen, Klaver, & Roesch, 2005). Thus, this study examines the decision making process to determine if attorneys use strategies to empower juvenile clients to make their own decisions or if adolescents receive leading recommendations from their attorneys. Additionally, this study examines how involved parents, a primary authority figure in children’s lives, were in the plea bargain process.
**Attorney strategies.** Attorneys’ strategies for handling disagreements with their clients varied in how forcefully they chose to advise their clients. Specifically, some attorneys were not at all forceful and instead allowed their clients to make their own decisions (“Ok, You’re Right”); other attorneys took the position of telling the clients they were wrong and trying to convince their clients of making a different decision (“Ok, You’re Wrong”); and finally, some attorneys described their process as ensuring they were not at all forceful while trying to provide the clients with additional time and information with which to make their decisions (“Are You Sure?”). As a result, attorneys in the “Are You Sure?” group provided additional time for questions and promoted strategies which allowed their clients to think through the consequences of their decision. In their narratives, the “Are You Sure?” attorneys purposely did not tell the clients they disagreed (based on an understanding that the disagreement might influence youth’s decisions) but instead extended their time together, provided additional context, and slowed down the process for them. One of these attorneys described their ability to employ these strategies varying by whether there was enough time. These were the closest examples of what could be described as developmentally appropriate strategies because they (a) address issues of susceptibility to authority figures; (b) attempt to eliminate time pressures; (c) and attempt to increase clients’ understanding and awareness of the consequences of their decisions by answering questions and providing additional time for reviewing these topics. In contrast, the group of attorneys who ensured their clients knew they disagreed with their decision (“ok, but you’re wrong”) actively tried to alter their client’s decision. While, ultimately agreeing to abide by the client’s decision, these attorneys’ approaches bordered on a best-meets-expressed interest approach because while they eventually follow the client’s expressed interest, they do so only after actively trying to convince their client to make the decision they believe is best. The third
group took an “ok, you’re right” approach and did not confront their differing opinions or try to convince their clients alter their decision. This group chose to assume that the client was doing what was best for them, and that the client had additional information which might make their decision the better one for them. This strategy aligns with National Juvenile Defender Center’s standards for juvenile defense attorneys, “Juvenile defense counsel enables the client, with frank information and advice, to direct the course of the proceedings in…whether to accept a plea offer” (NJDC, 2009, p.9). However, these attorneys do not describe taking any precautions to ensure that their client’s decision is indeed based on full understanding of the consequences they have explained.

Given time pressures, and that some attorneys described having difficulty evaluating their client’s understanding in the moment, it’s possible to assume that the first strategy (“Are you sure?”) is the best way to ensure clients are making informed decisions. It also addresses the National Juvenile Defender Center’s recommendation that juvenile defense counsel should ensure the juvenile client has the “sufficient time to understand and weigh the offer” (p. 22). The “are you sure” group of attorneys discussed trying to provide additional time when they could, which ultimately might allow for more thorough conversations with their client and a better sense of their client’s understanding. They also were careful not to force their own decisions on their client’s, which speaks to their willingness to ultimately allow their clients to decide how they want to plead. Taken together, these attorneys’ strategies allowed for additional time to counsel their clients and ensure they understood the process in order to assist their client in making their own decisions. Of course, future research is needed into the effects of these strategies on juvenile’s understanding of the plea bargain process, their acquiescence, and their resulting decisions.
**Parent engagement.** The unique status of adolescents as *dependent minors* who are also being asked to make independent decisions and sign legal waivers begs the question: What about their parents? In these interviews, attorneys made it clear that parents are very much involved in the plea bargain discussion and can take various roles within those conversations.

*Parents are essential.* Although parents are not legally required to consent to their children’s decisions, attorneys identified that parents were not only included in the process but parents were *needed* for the plea bargain process to succeed. While scholars have previously discussed parents as potentially having an advocacy role in legal contexts or serving as a natural interpreter between lawyer and child (Henning, 2005), these interviews provide insight into a different task: parents as expert and executor of their child’s disposition.

Attorneys consistently expressed that without a parent’s approval, judges would not accept the plea decision their children had made. Of course, these requests are informal, as the parents were not signing any legal documentation but instead providing the judge with assurances they also agreed with the disposition their child was agreeing to. These requests are informal and not legally required, which is why children are still able to plead guilty without their parents present. However, this suggests that attorneys are reluctant to discuss the plea without parents present, and may feel motivated by the judge to take into consideration the parent’s interests as well as the interests of their client.

“In that case I had to bring that mom in… I had to get her buy in because she's going to sit in court and blow my deal and that was a great deal... It's frustrating... I mean I was in a court that definitely would have given mom a lot of deference and would have rejected the plea.” - Attorney #5

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This raises concern regarding (a) the attorney’s ability to properly counsel their client and focus on their expressed interests; (b) whether parents are unintentionally diverting resources (e.g., time with attorney) away from the juvenile client; and (c) the voluntariness, or the independence of juvenile plea bargain decisions. Regarding the first point, this concern is not new and the National Juvenile Defender Center has highlighted the importance of maintaining their obligation to the juvenile client and not their parents (NJDC, 2013). However, the NJDC recommendation addresses how to proceed when parents want the attorney to agree with their decisions as opposed to the juvenile client’s. It does not address how the attorney should proceed when parent and client interests do not align and the judge ultimately wants parent agreement. In other words, if the client would like to accept a plea, but the judge wants the parent to also agree to the terms of the plea, who ultimately has the final say on those terms? In this same example, is the attorney’s time therefore spent explaining the terms of the plea and negotiating with the parent? Given that attorneys already expressed frustration with the time constraints inherent in the plea bargain process, how much of the total time is spent negotiating with parents and not counseling the client? Finally, if parents are involved in determining the terms of the plea, or at least the potential disposition, how much of the final decision is actually being made by the juvenile defendant? Future research should explore these questions.

Additionally, attorneys suggest that the success of the juvenile’s disposition (e.g., success on probation) is ultimately partially reliant on the parent’s involvement in that disposition. For example, if not for parents taking them, how will younger defendants attend probation meetings? Therefore, attorneys do not want parents to first hear about their responsibilities in front of the judge for fear that parental disapproval could ruin the chance of a successful plea. Parental responsibilities can also be financial; parents can be held liable for their children’s restitution
fines (that can amount to $10,000.00). Parents are entitled to a hearing where they can argue financial hardship. However, they are not, in this circumstance, entitled to free counsel and are thus left with the option of representing themselves or incurring a financial cost to hire counsel for their hearing. Many of these factors could understandably influence parents to want a say in their child’s plea negotiations, especially if restitution is negotiable. Additionally, even if parents do not have a say in how the attorney handles their child’s case, it is not surprising to assume that parents might express their concerns to their child who ultimately makes the decision to accept a plea or go to trial. This, therefore, adds to the list of consequences the youth must balance when determining how to proceed. If, for example, a favorable plea is one that also requires parents to abide by their child’s probation schedule, a schedule the parent cannot meet due to work constraints, this may result in the child feeling compelled to reject the offer due to adolescents’ increased susceptibility to authority figures (Grisso et al., 2003; Viljoen, Klaver, & Roesch, 2005).

Parental roles in juvenile plea bargains. While not mutually exclusive, attorneys described two roles parents often filled during the plea bargain process: inquisitive parents and assertive parents. Inquisitive parents were interested in learning about the process and asking questions. Parents may want to ensure their child is being treated fairly and may want to make sure they can assist their child adequately. Parents might also want to facilitate understanding or serve as an interpreter between the attorney and the child (Henning, 2005) and may try to increase their own understanding in order to do so. Other parents were described as assertive and attempted to provide alternate legal advice to their child. By agreeing or disagreeing with the attorney with regards to the child’s plea decision, parents could place additional pressure on the child to make a decision the child has not had time to think through. More assertive parents, as
observed in this study and others (e.g., Tobey, Grisso, and Schwartz, 2000) potentially put juvenile clients at risk for making involuntary decisions.

“I feel that there are certainly kids, and you could say the younger it's more likely to happen, but even some older kids, who are totally influenced by their parent. And do not listen to what I have to say or what the court has to say and you see the very aggressive parents, where they know more than your attorney does because maybe they've been through the process many times themselves maybe they're family has been or whatever...and they influence the kids to take deals they shouldn't or not take deals they should. And that does happen a decent amount where um a parent really is forcing their child's hand” – Attorney #17

There is a difference between “forcing their child’s hand” and offering advice that is helpful and is informed by the parent’s knowledge of their child’s life and plans. Indeed, some parents are likely to advise their children and taking parents’ advice is not always problematic. One attorney described the parent’s advice and understanding of the trial scenario as useful in helping the child understand the consequences of not accepting a plea,

“Mom said ‘you know you're playing with your freedom if you take the case to trial’ and I think that that you know I don't know if I would have said it that way but I think that that you know he understood that. And it's the truth I think it's the truth.” – Attorney #16

So while assertiveness can be problematic if parents’ advice is not legally sound or if they indeed “force their child’s hand”; if parents are more informed and understand the consequences, they may help by serving as an “interpreter” for their child and could potentially assist counsel. Additionally, if parents base their recommendations on knowledge about the child’s life, perhaps
identify points the child has yet to consider, they might be able to augment what the attorney knows.

While voluntariness is vaguely defined by legal standards (Redlich, 2016), parents are legally prohibited from demanding their child make a specific choice. However, what is a less clear area is whether parental input or advice crosses the line into coercion, especially given what is known about adolescents’ likelihood of acquiescing to authority figures and their parents. Whether parents could render a plea decision involuntary is questionable not has it been formally addressed by the courts. However, given what developmental science suggests about adolescent susceptibility to external pressure compared to adults, combined with the power differential that exists between parent and child, it is possible that some children feel pressured into decisions by their parents. It is also possible to imagine the rebellious teenager not trusting their parents and going against their parent’s advice. The influence parents have on their children’s legal decisions, and adolescents’ likelihood to acquiesce, is indeed an open area for research.

Limitations

Several limitations exist within this study. First, while attorneys gave indications that they were being honest and straightforward about their experiences and practices consulting with juvenile clients it is always possible that study participants were less than honest or unclear in their descriptions. The researcher took measures to ensure clarity, for example, if responses seemed vague or unclear, the researcher attempted to achieve an accurate and straightforward explanation of the attorney’s experience through follow-up questions and further conversation. Secondly, while some interviews lasted over an hour, it is possible that richer data could have been derived from conducting multiple interviews with each participant. The ability to conduct multiple, hour-long interviews was constrained by attorney’s schedules. Finally, qualitative
methods are employed to gain a deep, micro-level analysis of a particular phenomenon, in order to gain knowledge around a particular phenomenon (e.g., in this study, juvenile plea bargains). While this results in small sample sizes by quantitative standards, it is necessary to stress that small sample sizes are not a limitation of qualitative research methodologies in the way they are for quantitative methods. Quantitative methods require large, representative samples to be generalizable. However, qualitative methods are used to reach *transferrable* findings. Transferability is based on the perspective that it is the constructs derived from micro-level analysis that are transferrable to other unique samples. Qualitative methods allow patterns or themes to be transferrable to various groups while the specific content found within those themes can vary. In other words, while the findings from this study should be transferrable to other examinations of juvenile plea bargains, the specific experiences of juvenile defenders in urban and rural districts (for example) will likely vary. According to Morse (1999) with qualitative research what is generalized is the knowledge gained, which is not limited to demographic variables.
Study 2

Juvenile Plea Bargains: The Influence of Parents and Developmental Factors

Method

Participants. Adolescents (aged 11-18)\(^2\) with justice-system experience and one of their parents or legal guardians (referred to simply as parents from now on) from the DC Metro area were invited to participate in this study. Justice system experience was defined as any experience which resulted in having contact with the courts, charges brought against them, or having been found guilty or adjudicated delinquent; a guilty finding was not required for participation in this study. The study sample is made up of 132 participants from 60 families (72 youth and 60 parents). Adolescents were approximately 15 years old \((M = 15.2, SD = 1.5)\) including 26 young adolescents (12-14 years), 28 middle adolescents (15-16 years), and 18 older adolescents (17-18\(^1\)). Parents were approximately 41 years of age \((M = 41.2, SD = 9.27)\) Eight families had two siblings with justice system experience, and four youth who participated without their parents. Of those who participated alone, parent or legal guardian consent was obtained prior to their participation in the study. A slight majority of youth were female (51%) and the majority of parents or legal guardians were also female (92%). The ethnic composition of the sample was 94% African American and 8% of the sample identified as Hispanic or Latino/a. This sample is similar to the Washington D.C. area’s racial and ethnic breakdown of juvenile justice involved youth which, in 2014, was 93% African American, 7% Latino/a (DYRS, 2014). Within our sample, 42% of youth and 28% of parents self-reported that they had been found guilty previously. Of those who had been found guilty, 50% of youth and 65% of adults self-reported being detained as part of their disposition (i.e., they were detained in or

\(^2\) Two juvenile participants had recently completed their 18\(^{th}\) birthdays prior to participating in the study (ages: 18yrs, 1d and 18yrs, 3m). While legally they would no longer be considered “juveniles”, these participants were considered acceptable for developmental purposes.
committed to a residential placement facility post-conviction). The majority (44%) of parents had completed high school, 36% had some college experience, 8.5% had finished college, 3% had some graduate training, and 8.5% had not finished high school.

**Measures.**

*Plea bargain vignette (Based on JILC; Woolard, Reppucci, Steinberg, Grisso, & Scott, 2003)* (*Appendix B*). Modeled on the Judgement in Legal Context (JILC) measures used in a previous study of competence to stand trial (Grisso et al., 2003), the measure for this study describes a hypothetical adolescent involved in a robbery who is given a plea offer in exchange for testimony against codefendants. Through a series of open-ended and closed-choice questions, the participant was asked to describe the potential options available once a plea has been offered, the choice they themselves would make in that scenario, the plea bargain decision they would recommend for the hypothetical vignette, the consequences of the plea, and what they would do if their family member recommended the alternate decision. Parents and children received the same protocol except questions varied slightly when asked how they themselves would decide. Specifically, when asked how what choice they would make for themselves, adolescents were instructed to answer as if they were in the defendant’s same situation. Alternatively, parents were asked to consider how they believed their child would decide as well as what decision they would want their child to make if their child was in the same situation. The JILC codebook was used to score the following sub-measures.

*Plea bargain decisions.* All participants were asked how they would recommend the hypothetical defendant in the vignette should proceed with regards to accepting/rejecting the plea bargain and why they believed the hypothetical defendant should accept or reject the plea.
Additionally, adolescent participants were asked if they were in the same situation as the hypothetical defendant, if they would accept or reject the plea bargain themselves in that situation and their rationale for that decision. Parents were asked what decision they would want their child to make if they were in that situation and why. Decisions reflecting the participants’ own choices (or for parents, their preferred choices for their children) and their recommended best choice for the hypothetical defendant were used in data analysis.

*Future orientation: Short-term and long-term consequences.* Participants were asked to identify the potential positive and negative consequences of accepting and rejecting the plea bargain (e.g., What good things might happen if Joe decides to accept the plea and waive his right to trial? What bad things might happen if Joe decides to accept the plea and waive his right to trial?). Their responses were coded as short-term or long-term. For example, short term consequences might include having to go to trial or being held in jail pre-trial. Long-term consequences might include receiving a shorter sentence, having a criminal record, or any collateral consequences associated with pleading guilty such as potential barriers to education or employment. The total number of short-term and long-term consequences identified as well as the proportion of total consequences that were long term were used in data analysis.

*Peer consideration.* Through open-ended questions, participants were asked to provide a rationale for their own decision (or for parents, their preferred decision for their child) to accept or reject the plea and for their recommended best choice for the hypothetical defendant. Reasons were coded into a dichotomous variable where 1 represented that their choice included reference to their peers and 0 if it did not. For example, if participants mentioned avoiding testifying against their codefendants their response was coded as 1. If participants mentioned their decision
was based on the ability to receive a lesser sentence, or to win at trial, but no mention of peers was made, their response was coded as 0.

_Acquiescence_. To examine how participants might be influenced by the parent/guardian participating with them in the study, the interviewee asked the juvenile participant what decision they would make assuming their parent recommended the opposite of the youth’s earlier decision. Therefore, for this measure, the interviewee relies on the participant’s _own_ choice for themselves if they were in the same situation as the vignette character. For example, if a juvenile participant said they themselves would take the deal, interviewees asked what they would choose if their parent then recommended that they should go to trial. If in response, juvenile participants changed their original answer to align with the recommendation of their parents, they were coded as having conceded or acquiescing to their parent’s decision. Coding resulted in a dichotomous variable (1: acquiesced; 0: did not acquiesce).

_Understanding of pleading_. Three questions measured participants’ understanding of defendants’ constitutionally protected decisions about pleading guilty; specifically, that the decision is legally required to be made by the defendant. Each item asked the participant to identify who was ultimately responsible for deciding how the juvenile defendant to plead under different circumstances. For example, “If your parents pay for a lawyer, who makes the decision of whether you plead guilty or not guilty: the judge, the lawyer, the youth, or the youth’s parents?” (correct answer: the youth). Two other questions assessed who the participant believed should decide when there was no lawyer and when the lawyer was court appointed. Full understanding of the juvenile’s legal right to decide how to plead was determined by correct answers to all three questions (scored as 1); fewer than three correct answers was scored 0.
**Intellectual capacity.** The Wechsler Abbreviated Scale of Intelligence (WASI; Psychological Corporation, 1999) estimates general intellectual ability using two of four subtests that can be administered in a short period of time. This study will use the two-subtest format which includes the Vocabulary and Matrix Reasoning subtests, which produces a full-scale IQ score that correlates .81 and .87, respectively, with the Weschler Intelligence Scale for Children (WISC) and Weschler Adult Intelligence Scale (WAIS). In line with the WASI scoring practices, participant scores were categorized as: Borderline/Extremely Low (79 and below); Low Average (80-89); Average (90-109); or High Average/Superior (110 or higher). Only one participant fell into the “high average/superior” category and thus one category was used to encompass average and high average/superior scores. Variables were coded such that “average” served as the default reference group in data analyses.

**Demographics and justice system experience.** Age, gender, race and ethnicity, and highest level of educational attainment were self-reported by participants. Participants were asked to identify what race they considered themselves to be (1: African American, 2: Asian, 3: Caucasian, 4: Other) before being asked if they also identified as Hispanic or Latino/a (1: yes). Household educational attainment was measured by the highest completed grade level among persons living in the household (1-11: represents individual grade levels; 12: High School Degree; 13: Partial College; 14: College Degree; 15: Graduate Education) and was used as a proxy for socioeconomic status. Additionally, participants’ level of involvement in the justice system was measured by whether they reported having ever pled or been found guilty of a charge and whether they had been detained after being found guilty (i.e., were you locked up after that?)

**Procedure.** Flyers were distributed at or placed in community (e.g., public libraries, Craigslist) and legal (e.g., courthouses, probation offices, youth service agencies) settings.
Research assistants were trained on how to administer the protocol by rehearsing protocol scripts in the lab and shadowing graduate student interviewers in the field before administering it themselves. Additionally, interviewers were trained on how to administer the WASI, which is required to be scored in real time. Psychological clinicians trained to use the WASI protocol provided sample scored protocols and answer keys to use as training materials for research assistants. These materials were supplemental to the WASI scoring manual, which describes full credit, partial credit, and no credit answers. All research assistants reviewed the WASI scoring manual and practiced administering the WASI until they could accurately score the measure per the clinician’s key. Research assistants began conducting interviews in the field once they could reliably score the WASI protocol. Finally, after interviews were conducted, the WASI responses were re-scored in the lab with the WASI manual by a second research assistant to ensure scoring accuracy.

For the families’ convenience, in person interviews were conducted in private meeting spaces either at community-based organizations where the families regularly meet (e.g., diversion or treatment programs) or within local public libraries near the participant’s home. Youth and parents were interviewed separately for approximately one and a half hours each by a trained research assistant. Since juveniles are not legally required to provide consent for their own participation in this study, parental consent was obtained for all underage (under 18) participants before youth provided assent to participate in the study. Parents also consented to their own participation. Once informed consent and assent were obtained, a research assistant began the interview process by collecting demographic information. The participant was then read a hypothetical scenario in which a juvenile was arrested, charged, and presented with a plea offer. Then the participant was asked a series of questions regarding how the participant would
respond, how the defendant should respond, as well as the consequences associated with that
response. If the participant was a parent, the same questions are asked but instead of asking how
they themselves would respond, they were asked how they believed their child should respond,
how the hypothetical defendant should respond, and the consequences associated with that
response. Then, all participants were administered the WASI intelligence scale. Finally,
participants were debriefed, compensated $50 each, and thanked for their time. Data collection
was funded through an NIJ award to the applicant’s advisor. This study is based on a subset of
measures from the NIJ-funded research into the waiver of counsel in juvenile court.

Results

Data analytic plan: Individual level and family level analyses. Some study hypotheses
focus solely on adolescent participants, others predict differences between adolescents and their
adult parents. Therefore, some analyses were conducted with only the adolescent sample while
others included the full sample of parents and adolescents.

Within the adolescent group, logistic regression analyses were employed to predict age
differences in dichotomous outcomes (i.e., H1: plea bargain acceptance, H2: full understanding;
and H5: acquiescence). These analyses use data from all the adolescents (n = 72). Post hoc
power estimations were examined for each hypothesis using the sample size and the expected
outcome rates. Given that this is a relatively new area of research, and thus there is little to no
consensus on the rates of plea bargain acceptance across adolescence or the rates of juvenile
acquiescence, the rates found by Grisso and colleagues (2003) were selected among others due to
the large-scale nature of their study. Woolard and colleagues’ (2008) rates of rights
understanding were used to estimate expected rates of understanding for this study given the
similarity in measures of understanding. A post-hoc power analysis suggests that using logistic
regression to predict plea bargain decisions when \( n = 72 \) results in a power estimate of \(.70\) (with categorical predictors). Using logistic regression to predict likelihood of acquiescence to parental recommendations when \( n = 72 \) results in a power estimate of \(.70\) (with categorical predictors). Finally, using logistic regression to predict likelihood of obtaining full credit on understanding of pleading when \( n = 72 \) resulted in a power estimate of \(.90\) (with categorical predictors) and \(.80\) (with continuous predictors).

To test the hypotheses which required the full sample of parents and their children (H3: Future Orientation; H4: Peer Consideration), the nesting of participants within families had to be addressed. Standard linear regression analyses assume that individual observations are unrelated so standard errors are uncorrelated. Because our parent and adolescent participants are related (i.e., parents and adolescents are members of the same family), their responses cannot be assumed to be uncorrelated. For example, it is possible to assume that family members will have more similar knowledge and experiences than non-family members. Therefore, to account for the relatedness between parents and adolescents in the sample, multilevel modeling was used. Multilevel modeling allows for the analyses of multilevel data structures (Heck, Thomas, & Tabata, 2012), or data that is nested within categorical groups (i.e., individuals within families). Multilevel modeling therefore controls for the shared variance between groups, or in this case between families. If these analyses were conducted without controlling for the shared variance between family members the standard errors within the regression model would likely be underestimated which elevates the chance of finding significant effects (Heck, Thomas, & Tabata, 2012). Hypothesis 1, 2, and 5 are therefore able to be tested using traditional logistic regression methods. However, hypothesis 3 and 4, which predict differences between children and their parents, were tested using linear and logistic multilevel modeling. Cohen’s kappa (for
categorical outcomes) and intraclass correlation (ICC; with interval outcomes) are used to measure the level of relatedness, or non-independence, between parents and adolescents. When testing for non-independence of future orientation scores on parent-youth dyads, no correlations were significant (Percent Long-term: ICC = .105, p = .205; Total Long-term: ICC = -.065, p = .696; Total Short-term: ICC = .032, p = .398). Similarly, when testing for non-independence of peer consideration scores on parent-youth dyads, Cohen’s kappa was not significant (Consideration of Peers: Kappa = .085, p = .339). While these findings suggest that multilevel modeling may not be needed (i.e., due to the lack of significant dependence within families), analyses using the full sample still employed multilevel modeling to account for any non-significant dependence that may exist within families.

**Age differences in plea bargain decisions.** Logistic regression analysis was conducted to determine whether younger adolescents (12-14 year olds) were less likely than middle (15-16 year olds) and older (17-18 year olds) adolescents to recommend rejecting the plea offer (or more likely to accept a plea). Logistic regression results are presented in odds ratios (OR), which reflect the odds of a particular outcome occurring given different conditions. If an odds ratio is equal to 1, then there is no relationship between the outcome variable and the predictor. Put differently, the odds of either outcome occurring are the same. If the odds ratio is significant and greater than 1, then there are greater odds of the outcome occurring. If the odds ratio is significant and less than 1, then there are lesser odds of the outcome occurring. In this analysis, age group, gender, IQ category, and justice system experience (i.e., ever been found guilty or not) were regressed on the child’s recommended plea decision for the hypothetical defendant. Race and ethnicity were not included in these models because there was not enough variation within the sample. Results show that the youngest adolescents (12-14 year olds) were less likely
than the oldest adolescents (17-18 year olds) to reject the plea offer (see Table 1 for plea acceptance rates across age groups) (OR = 0.20, \( p = .032 \)) (Table 2). Specifically, the youngest group of adolescents were 80% less likely than older adolescents to reject the plea and go to trial; they were the most likely to recommend the defendant accept the plea (Figure 4).

Chi square analysis was used to determine if there were any differences between the choice participants recommended for the hypothetical defendant and the choice they said they themselves would make in the same situation. Results showed that these responses were different X² (1, \( N = 72 \)) = 42.2, \( p < .001 \), suggesting that some adolescents recommended a different response for the hypothetical defendant than for themselves. Therefore, a logistic regression analysis was conducted to examine if the model varied for the participants’ decisions by regressing the same independent variables on the child’s own decision (i.e., the decision the child indicated they would make in the same situation). Again, the youngest adolescents were 79% less likely to reject the plea when compared to older adolescents (OR = 0.21, \( p = .035 \)) (Figure 5).

Given that some participants decided their own choice should be different from the best choice, a third logistic regression was run to examine if these changes varied by age. In this analysis, age group, gender, IQ category, and justice system experience, and the participants’ recommended “best choice” for the vignette character were regressed on whether the participant decided to switch their response (1= best choice is different from own choice, 0 = best and own choice are the same). Results showed that middle adolescents (aged 15-16) were more likely than young adolescents to choose a different choice for themselves than for the hypothetical defendant (OR = 13.6, \( p = .026 \)). Interestingly, those who believed the best choice was to accept the plea were also more likely than those who believed the best choice was to reject the plea to
change their answer (OR = 11.6, \( p = .040 \)). In other words, participants were more likely to choose a different decision for themselves if they believed that accepting the plea was the best decision.

**Age differences in understanding of pleading.** Logistic regression analysis was conducted to determine whether understanding of pleading increased with age. Age (continuous), gender, IQ, and justice system experience were all regressed on whether adolescents received full credit on the three understanding questions. Results show that understanding indeed increased with age (OR = 1.91, \( p = .017 \)). Performance on the WASI was also related with an increase in understanding such that compared to “Average” scorers, participants with “Borderline/Extremely Low” scores were less likely to have full understanding (OR = 0.10, \( p = .011 \)) (Table 3).

**Age differences in acquiescence.** Logistic regression analysis was conducted to determine whether acquiescence to parents’ recommendations varied by age group. Recall that once youth identified what decision they would make if they were in the same situation, they were then told their parents recommended the opposite. If participants changed their answer to correspond with their parent’s recommendation, they were coded as acquiescing. Age group, gender, IQ, justice system experience, the child’s own decision, understanding of pleading, and parent’s education were regressed on whether the youth acquiesced. Contrary to the hypothesis, middle adolescents were more likely than the youngest group to acquiesce to their parent’s recommendations (OR = 9.66, \( p = .025 \)) (Table 4) (Figure 6). No other predictors were significant.

**Family level analyses: Psychosocial factors.** To examine if psychosocial factors such as future orientation and peer influence were relevant in the context of plea bargain decision
making, adolescents’ and parents’ consideration of long term consequences and peer impact were examined. I predicted that parents would be more likely than adolescents to identify more long term consequences. Specifically, all participants were asked to describe the consequences associated with accepting and rejecting the plea bargain. Responses were coded as short and long-term. Additionally, I predicted that youth would be more likely than their parents to mention peers in their plea bargain decision making. Each of the hypotheses about future orientation and peer influence was analyzed using two-level multilevel modeling in which individual’s characteristics were identified within the first level and family membership was included in the second level. Multilevel modeling accounts for the statistical dependencies that exist between members of groups (e.g., families) who are likely more similar to each other than to other random participants within the sample (Heck, Thomas, & Tabata, 2012).

**Future orientation: Consideration of long-term consequences.** To test the hypothesis that adolescents would identify fewer long-term consequences than adults three separate multilevel models were run using the dependent variables (1) total number of short-term consequences participants identified; (2) the total number of long-term consequences participants identified, and (3) the percentage of total consequences that were long-term (long-term/total consequences) (Table 5).

In the first model, age group, gender, IQ category, justice system experience, and parent education level were regressed on the summed amount of short-term consequences participants identified. Results revealed that the number of short-term consequences identified did not differ by age. Those participants in the “Borderline/Extremely Low” WASI category identified fewer consequences than those in the “Average” IQ category (b = -1.42, p = .007).
In the second model, age group, gender, IQ category, justice system experience, and parent education level were regressed on the summed amount of long-term consequences participants identified. Results revealed that compared to adults, young (b = -1.71, \( p = .002 \)) and middle (b = -1.35, \( p = .011 \)) adolescents identified fewer total long-term consequences. Those who had pled or been found guilty identified fewer total long-term consequences than those who had never been found guilty (b = -1.06, \( p = .013 \)).

In the third model, age group, gender, IQ category, justice system experience, and parent education level were regressed on the percentage of long-term consequences identified. Adolescents and adults did not differ in the proportions of long-term consequences identified compared to short-term ones. Participants who were in the “Borderline/Extremely Low” IQ category identified proportionally more long-term compared to those in the “Average” category (b = 0.13, \( p = .015 \)). Additionally, participants who had previously been found guilty referenced a smaller proportion of long-term consequences than those who had not been found guilty (b = -0.10, \( p = .036 \)).

**Consideration of peers.** Participants were asked to provide a main reason to justify their own plea bargain decision (i.e., adolescents’ own decision for themselves and parents recommended decision for their children) and their recommended plea bargain decision for the hypothetical defendant. After coding these decisions, a new variable was created to account for whether the participant had identified the hypothetical codefendants or friends as part of their rationale to either accept or reject the plea. For example, if the participant justified their decision to reject the plea because they did not want to testify against the codefendants, this participant was coded as basing their decision off the consideration of their peers. If a participant based
their decision to reject the plea on their chance at trial, then they were not coded as having referenced their peers.

Two logistic multilevel models were conducted to estimate the effect age group, gender, IQ category, justice history, and parent education had on whether participants considered peers when justifying their own plea bargain decisions and their recommended decision for the hypothetical vignette character (Table 6). Adults were 83% less likely than adolescents to mention peers, or the codefendants, as a justification for their decisions (OR = 0.17, p = .025) (Figure 7). However, when regressing the independent variables on whether participants based their recommended best choice for the hypothetical vignette character on peers, there were no differences by age group. In other words, only when adolescents were considering their own decisions, were they more likely than adults to consider their peers in making that decision. When thinking hypothetically about the best possible options for a hypothetical defendant, adolescents were no more or less likely than adults to identify the impact of the decision on the defendant’s peers. Socioeconomic status, as measured by household education, did predict consideration of peers. Specifically, compared to those with graduate education, having a college degree was related to being 94% less likely to reference peers. However, this last result should be interpreted with caution given the small number of families with higher education experience.

Discussion

This study examined how plea bargain decisions are made by juvenile defendants and their parents. Findings suggest that the youngest adolescents were the most likely to recommend waiving their right to trial in favor of accepting a plea offer. This was true when they were considering how they themselves would decide and when recommending how the hypothetical defendant in the vignette should decide. As age increased, adolescents were better at
understanding that the plea bargain decision was theirs alone to make. However, an interesting pattern emerged with regards to acquiescence to parent’s recommendations. Specifically, middle adolescents (aged 15-16) were more likely than younger and older adolescents to acquiesce to their parent’s recommendations. Across age groups, adolescents identified fewer long term consequences of plea bargain decision making compared to their parents and were more likely than parents to identify their peers as a justification for their plea bargain decision making. These results are discussed below.

In support of the first hypothesis and in line with Grisso and colleagues’ (2003) findings, the youngest adolescents (65%) were the most likely to recommend accepting the plea offer; however, older adolescents were more likely to endorse going to trial. Unlike Grisso et al.’s (2003) findings where the majority of adolescents recommended accepting the plea offer, the youngest adolescents were the only ones who overwhelmingly preferred accepting the plea. Indeed, a majority of middle (64%) and older adolescents (78%) in this study decided to reject the offer in favor of going to trial. It seems that this preference for rejecting the deal occurs even when they believe the best legal decision is to accept it. Indeed, believing the best choice is to accept the deal is the only predictor aside from age for choosing to reject the deal themselves. In other words, it seems that even in the face of a good deal (as perceived by the juvenile, for the hypothetical defendant) most older adolescents decided to reject the deal in favor of a trial.

Adolescents are known to make riskier decisions than children and adults (Steinberg, 2004) therefore it is possible that middle and older adolescents were more likely to reject the offer because of increased risk taking. In one review, an attorney described cases where young defendants were unwilling to accept pleas that involved any prison time in favor of taking a chance at trial, “I ain’t takin’ no plea cause we’re gonna beat this case and then I’m goin’ home”
Smith explained that, in line with developmental theory, these clients seemed to be underestimating the true risks associated with going to trial (i.e., most trials result in a guilty conviction) in favor of the potential immediate rewards (i.e., the ability to go home). However, while many of the adolescents in this study who chose to accept the plea cited the reduced sentence as the main reason for doing so (81%), those who rejected the plea did so primarily for other reasons that were unique to the plea scenario in this study. For adolescents who decided to reject the plea, half (51%) decided to take their case to trial because they did not want to testify against their peers. Similar to Smith’s (2007) account, these youth seemed to value the immediate consequences and social gains (i.e., preserving friendships) over the potential long term consequences (i.e., losing at trial and adult imprisonment). One explanation for the increased risk taking could be that given adolescents increased susceptibility to peers (Steinberg & Monahan, 2007) and their preference for immediate rewards (Cauffman et al., 2010), these plea conditions may have created a “hot” context which facilitated increased risk taking amongst older adolescents (15 and older). Further research should examine whether other plea bargain scenarios promote “hot” contexts that facilitate risky decision making for juvenile defendants.

As age increased, so did adolescents’ understanding that they were legally required to make their own plea bargain decisions (hypothesis 2). This increase in understanding is in line with previous research which shows adolescent legal understanding increases with age (e.g., Grisso et al., 2003, Viljoen, Klaver, & Roesch, 2005). This age difference notwithstanding, a majority of each group did not answer these questions correctly. While youngest adolescents struggled the most (4% had full understanding), only 39% of older adolescents understood that they were entitled to make this decision. In fact, the majority of parents also misunderstood who
ultimately decided how the child should plead (70% of parents did not know their children were ultimately responsible for making this decision). Additionally, recall that all participants have some justice system experience and approximately 40% of youth and 30% of parents had themselves pled or been found guilty. Having gone through the justice system process, however, was not related to greater understanding. It is important for attorneys to consider that justice system experience does not equate with greater understanding of the legal process.

Compared to their parents, adolescents considered fewer long term consequences associated with plea bargain decision making (hypothesis 3). While there were no differences in the number of short term consequences parents and adolescents identified, parents could identify more long term consequences of accepting and rejecting the plea offer. What this may suggest is that adolescents are less aware of the long-term consequences that are associated with pleading guilty. Previous research has shown that there are no differences between the number of decisional risks older adolescents and adults are able to identify (Beyth-Marom et al., 1993). However, it could be that the complexities involved in plea bargain decisions (especially considering collateral consequences) leave adolescents unaware simply due to a lack of knowledge of how the legal system works and how far reaching its effects can be. Ignorance of the consequences of accepting or rejecting a plea offer may undermine a valid waiver decision. Without counsel from an attorney, and a thorough explanation of what consequences are associated with pleading guilty, adolescents may be more likely to make uninformed and unintelligent decisions.

Adolescents were more likely to consider their peers in their own decision making than were their parents (hypothesis 4). Parents were less likely to consider the codefendants, or their children’s peers, when justifying their decision regarding how their child should plead. Previous
research has shown that when older adolescents (15 and older) knew how their peers wanted them to plead, they were more likely to make decisions that agreed with peer advice (Viljoen, Klaver, & Roesch, 2005). While this study does not measure direct peer advice or influence, it shows that adolescents are more likely than their parents to consider the effects of their own decisions about pleading on peer relationships. I hypothesized that this is due to adolescents’ ongoing development of resistance to peer influence (Steinberg & Monahan, 2007) and their increased risky decision making when peers are involved (Gardner & Steinberg, 2005; Chein, Albert, O’Brien, Uckert, & Steinberg, 2011). When adolescents made recommendations for the hypothetical defendant they were not more likely than their parents to mention the defendant’s peers. This difference could be due to the ongoing development of individuals’ ability to take the perspective of others; specifically, perspective taking increases between adolescence and adulthood (Eisenberg, Cumberland, Guthrie, Murphy, & Shepard, 2005; Van der Graaff et al., 2014). Given that youths’ ability to consider their own perspective and that of another improves during adolescence, future research should consider the effect perspective taking might have on their methodologies. It is possible that when asking youth to respond to hypothetical vignettes they may struggle to take the perspective of the vignette character if not strictly asked how they might choose to behave in the same situation.

Finally, given the unique status of juvenile defendants as minors (Woolard & Scott, 2009) analyses tested the effects of parental recommendations and found that some adolescents, but not all, acquiesced to their parents. Specifically, middle adolescents (ages 15-16) were more likely than young (12-14) and older (17-18) adolescents to forego their original decision in favor of one their parent recommended. This was not in line with the hypothesis, which assumed the youngest adolescents would be the most likely to acquiesce. However, while some research has
shown compliance with authority decreases with age, others’ results show a different pattern may emerge with parents. For example, Grisso and colleagues (2003) found that compliance with legal authority figures (e.g., police and defense lawyers) decreased with age. Specifically, they saw that adolescents 15 and younger were more likely to make legal decisions that were compliant than adolescents who were older. However, another study by Viljoen, Klaver, and Roesch (2005) found that adolescent defendants were more likely to plead guilty if they had been advised by their parents to do so; this was true irrespective of adolescent age. While neither of those studies tested specifically what might happen if the parent offered contrary advice to what the child was thinking, they both show slightly different relationships between age and compliance and provide insight into this complex phenomenon. Perhaps parents are unique; compliance or acquiescence to the requests of authority figures might vary based on who is in the position of authority. Future research should explore the role parents play in plea bargain decision making.

Limitations

The final sample of families for this study was a convenience sample subject to the effects of selection bias. Flyers were distributed digitally, and in person, across multiple types of sites over a long period of time. Indeed, every effort was made to reach as many potential families as possible. However, it is nevertheless possible that the resulting sample of families were made up of only those who were comfortable answering questions about the legal system and trusting of the research process. It is also possible that findings could be biased towards families who are more involved or who have more time to participate in research studies suggesting parental influence may look different for families who did not participate. Additionally, because power was constrained by sample size more nuanced interactions were not
testable. Future research should include a wider sample to examine the potential of additional, more nuanced, effects. Additionally, future research would benefit from a more diverse sample to examine how cultural and socioeconomic status influences how adolescents and their parents understand and think about plea bargaining.
General Discussion

This dissertation explored adolescent plea bargain decision making by examining the context within which these decisions are typically made as well as the developmental factors underlying these decisions. Adolescents do not make these decisions in a vacuum and, given their status as dependent minors are likely to have input from their parents. Additionally, it is important to remember that adolescents tend to make riskier decisions than adults when in social or emotionally salient contexts and they tend to be more susceptible than adults to authority figures.

Findings from these studies show that adolescents are being asked to make plea bargain decisions quickly and sometimes with limited information (study 1). Indeed, attorneys themselves described the process as rushed and believed the time constraints made it difficult to truly assess their client’s understanding around the plea bargain decision. It is possible that these time constraints influenced attorneys to prioritize the terms of the plea or the case facts when discussing the plea with their client at the expense of a fuller discussion of what rights were being waived or the consequences of waiving those rights (i.e., collateral consequences).

Time constraints and a narrow focus on immediate consequences (i.e., disposition) may exacerbate an already stressful situation, creating a “hot” context where adolescents are likely to engage in risky decision making based on the immediate and social rewards of their decisions. Indeed, study two found that adolescents identified fewer long-term consequences of plea bargain decisions and were more likely than adults to account for their peers when deciding how to plead. This inclination to focus on the social consequences combined with a lack of focus on the long-term suggests adolescents are at risk for making decisions that are overly reliant on social and emotional rewards and immediate gratification. Indeed, most older adolescents
identified they would take the riskier decision of rejecting the plea bargain and going to trial (study two). It is unclear whether attorneys could truly facilitate this process by creating a cooler context wherein adolescents (at least older adolescents) could have more time, be better informed, and properly weigh the consequences of this decision. However, future research should examine if the different strategies attorneys employ (study 1) are effective at “cooling” down the emotionally salient context and to determine their utility in facilitating knowing, intelligent, and voluntary decisions.

A unique aspect of juvenile plea bargain decision making is the presence of parents who are not only involved to provide guidance and support for their child, but also may play a crucial role in determining the success of their child’s plea (study 1). Specifically, attorneys suggested that judges may base their approval of the plea on parent approval of the terms of the plea (study 1). This begs the question of how independent and voluntary juvenile pleas truly are given the focus some courts have on parental approval of these decisions; decisions that, legally, are required to be made by the child themselves. This is further complicated by the finding that some adolescents are more likely to acquiesce to parents’ recommendations (study 2). If attorneys feel compelled to gain parental approval, and adolescents are susceptible to parent’s recommendations, future research should explore if this creates a situation where parental input or advice toes the line of being coercive for some youth. This is especially concerning for more assertive parents who may have competing interests and for those families do not understand children’s constitutional obligation to ultimately decide for themselves.
Implications for Policy and Practice

Greater time and resources for attorneys and families may facilitate a context where adolescents are better able to make plea bargain decisions. Merging qualitative and quantitative methods to study plea bargaining has many benefits, one being the introduction of the participants’ voices and experiences. Attorneys in this study described being constrained in their abilities to provide proper counsel by the amount of time they had with their client. Undeniably, structural barriers throughout the court process produce time constraints which hinder the abilities of defense counsel to adequately inform and assess their client’s understanding (Fountain & Woolard, 2017). Additionally, parents have been shown to struggle with their understanding of what rights they are entitled to (Woolard, Cleary, Harvell, & Chen, 2008), what roles they should play in the attorney-juvenile client relationship (Fountain & Woolard, 2017), and how parents can assist their children in making this difficult decision. These defense attorneys consistently described their obligation as to the juvenile client, yet, many of them also acknowledged that parents were an essential part of the plea bargain process. Thus, while attorneys felt limited by the time they had with their clients, they were also expending time consulting with parents. So, while additional time would likely help attorneys who are counseling their clients and informing parents, additional resources should also be available to parents who may misunderstand their child’s rights in this unique context. Promoting better understanding across children and parents may facilitate parents’ abilities to aid their children, and could relieve some of the burden from attorneys who may require additional time with juvenile clients.

While additional time has been shown to be helpful for juveniles (Viljoen, Klaver, & Roesch, 2005), that time may be most effective if paired with developmentally appropriate
consultation strategies. Within this study, attorneys identified three disparate strategies taken with juvenile clients. While some of the attorneys described strategies that attempted to account for adolescents’ myopia and susceptibility to authority figures in “hot” contexts, most attorneys did not address these factors when describing their consultation strategies. While future research is needed to understand how these strategies impact adolescents’ decision making and to best inform practical implications, it is not unreasonable to assume that not all time is equal, and that benefits of providing additional time will likely increase as quality also increases. Certainly, juvenile defender organizations such as the National Juvenile Defender Center already provide trainings to increase the use of developmentally appropriate strategies (e.g., NJDC, 2009). Research can further inform these strategies and trainings by examining the effectiveness of strategies attorneys report using with their clients.
References


Dusky v. United States, 362 U.S. 402 (1960)


*In re* Patrick W., 148 Cal. Rptr. 735 (1978).


People v. Daoud, 614 N.W.2d 152 (2000).


### Figures

| Attorney No. | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 |
|-------------|---|---|---|---|---|---|---|---|---|----|----|----|----|----|----|----|----|
| **Pre-Trial Day** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Charge Type | Pr | Pr | Pe | Pe | Pr | D | Pe | Pr | Pr | D | Pr | Pr | D | D | D | Pe | Pe |
| Investigation/Evidence |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Pre-trial Detention |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Transfer/Waiver Hearings |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Contact: Client |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Contact: Client Parent |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Contact: Prosecutor |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Trial/Hearing Day** |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Docket Call | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S |
| Identify Witnesses Present |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Restitution |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Negotiated with Prosecutor |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Negotiated with Client |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Negotiated with Parent |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Discussed Plea with Client | 10 | 30 | 60 | 15 | 60 | 75 | 20 | 5 | 60 | 15 | 20 | 30 | 40 |
| Discussed Plea with Family Together |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Discussed Plea with Parents Separately |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Prepared Client for Hearing |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

Figure 1. Overview of plea bargain process across individual juvenile cases. Charge Types: Pe (person), Pr(property), D(drug). Grey boxes identify items specific to the individual case or behaviors attorney engaged in; Red boxes identify when in the process the plea was offered Numbers within each highlighted box specify the approximate amount of time spent discussing the plea offered. Codes: H=hour or more; J = plea offered by Judge; S = plea offered by State’s Attorney.
Figure 2. Frequency distribution of topics discussed during the plea bargain discussion between attorney and client.
Figure 3. Thematic map of parent engagement in the plea discussion
Figure 4. Recommendations for the hypothetical vignette character to accept the plea bargain by age group.

*p < .05
Figure 5. Own choice to accept the plea across age groups.

* $p < .05$
Figure 6. Acquiescence by age group across adolescence.

* $p < .05$
Figure 7. Reference to peers when justifying own choice by age group.
* $p < .05$. ** $p < .01$. 
### Table 1. Descriptive Statistics of Dependent Variables

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<th>15-16 year olds</th>
<th>17-18 year olds</th>
<th>Adults</th>
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<td>12%</td>
<td>14%</td>
<td>11%</td>
<td>3%</td>
</tr>
<tr>
<td>Own Choice</td>
<td>23%</td>
<td>36%</td>
<td>27%</td>
<td>7%</td>
</tr>
<tr>
<td><strong>Future Orientation</strong></td>
<td>61 (25)</td>
<td>57 (20)</td>
<td>58 (25)</td>
<td>64 (21)</td>
</tr>
<tr>
<td>% Long-term</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total (Sum) Long-term</td>
<td>3.38 (1.24)</td>
<td>3.46 (1.53)</td>
<td>4.39 (2.11)</td>
<td>5.24 (2.3)</td>
</tr>
</tbody>
</table>
Table 2. Logistic Regression Analysis on Decision To Accept or Reject A Plea Bargain

<table>
<thead>
<tr>
<th>Best Choice: Accept or Reject Plea</th>
<th>B</th>
<th>SE</th>
<th>OR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oldest Adolescents(\text{R})</td>
<td>-1.02</td>
<td>0.70</td>
<td>0.36</td>
</tr>
<tr>
<td>Middle Adolescents</td>
<td>-1.02</td>
<td>0.70</td>
<td>0.36</td>
</tr>
<tr>
<td>Youngest Adolescents</td>
<td>-1.60 *</td>
<td>0.74</td>
<td>0.20</td>
</tr>
<tr>
<td>Female</td>
<td>-0.51</td>
<td>0.53</td>
<td>0.60</td>
</tr>
<tr>
<td>Average IQ Scores(\text{R})</td>
<td>-0.46</td>
<td>0.61</td>
<td>0.63</td>
</tr>
<tr>
<td>Borderline/Extremely Low IQ Scores</td>
<td>-1.07</td>
<td>0.69</td>
<td>0.34</td>
</tr>
<tr>
<td>Low Average IQ Scores</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ever Found Guilty</td>
<td>0.41</td>
<td>0.82</td>
<td>1.50</td>
</tr>
</tbody>
</table>

Note. Dependent Variable coded as 1= Accept Plea or 2=Reject Plea; \(\text{R}\) denotes the reference category.  
* \(p < .05\). ** \(p < .01\). *** \(p < .001\).
Table 3. Logistic Regression Analysis on Understanding of Pleading Full Credit Scores

<table>
<thead>
<tr>
<th></th>
<th>B</th>
<th>SE</th>
<th>OR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Age</strong></td>
<td>0.65</td>
<td>0.27</td>
<td>1.91</td>
</tr>
<tr>
<td><strong>Female</strong></td>
<td>0.26</td>
<td>0.65</td>
<td>1.30</td>
</tr>
<tr>
<td><strong>Average IQ Scores</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low Average IQ Scores</td>
<td>-0.91</td>
<td>0.73</td>
<td>0.40</td>
</tr>
<tr>
<td>Borderline/Extremely Low IQ Scores</td>
<td>-2.26</td>
<td>0.89</td>
<td>0.10</td>
</tr>
<tr>
<td>Ever Found Guilty</td>
<td>-0.27</td>
<td>0.75</td>
<td>0.76</td>
</tr>
</tbody>
</table>

*Note.* (R) denotes the reference category.  
*p < .05.  **p < .01.  ***p < .001.
Table 4. Logistic Regression Analysis on Acquiescence

<table>
<thead>
<tr>
<th></th>
<th>Acquiescence</th>
<th>B</th>
<th>SE</th>
<th>OR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Youngest Adolescents</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Middle Adolescents</td>
<td></td>
<td>2.27</td>
<td>1.01</td>
<td>9.66</td>
</tr>
<tr>
<td>Oldest Adolescents</td>
<td></td>
<td>0.89</td>
<td>1.15</td>
<td>2.43</td>
</tr>
<tr>
<td><strong>Female</strong></td>
<td></td>
<td>0.73</td>
<td>0.94</td>
<td>2.08</td>
</tr>
<tr>
<td><strong>Average IQ</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low Average IQ</td>
<td></td>
<td>1.73</td>
<td>0.99</td>
<td>5.66</td>
</tr>
<tr>
<td>Borderline/Extremely Low IQ</td>
<td></td>
<td>-0.41</td>
<td>1.02</td>
<td>0.66</td>
</tr>
<tr>
<td><strong>Ever Found Guilty</strong></td>
<td></td>
<td>-1.21</td>
<td>0.93</td>
<td>0.30</td>
</tr>
<tr>
<td><strong>Child’s Choice: Accept Plea Bargain</strong></td>
<td></td>
<td>0.20</td>
<td>0.64</td>
<td>1.22</td>
</tr>
<tr>
<td><strong>Understanding Pleading: No Credit</strong></td>
<td></td>
<td>1.78</td>
<td>1.10</td>
<td>5.91</td>
</tr>
<tr>
<td><strong>Parent Education: Graduate</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parent Education: College Degree</td>
<td></td>
<td>-1.11</td>
<td>2.03</td>
<td>0.33</td>
</tr>
<tr>
<td>Parent Education: Some College</td>
<td></td>
<td>-2.51</td>
<td>1.90</td>
<td>0.08</td>
</tr>
<tr>
<td>Parent Education: High School</td>
<td></td>
<td>-3.06</td>
<td>1.94</td>
<td>0.05</td>
</tr>
<tr>
<td>Parent Education: Some High School</td>
<td></td>
<td>0.61</td>
<td>1.94</td>
<td>1.84</td>
</tr>
</tbody>
</table>

_Note._ (R) denotes the reference category.

* $p < .05$. ** $p < .01$. *** $p < .001$. 

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Table 5. Multilevel Linear Model on Short-term and Long-Term Consequences

<table>
<thead>
<tr>
<th></th>
<th>Total Short Term</th>
<th>Total Long Term</th>
<th>% Long Term</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>SE(B)</td>
<td>B</td>
</tr>
<tr>
<td>Young Adolescents</td>
<td>-0.89</td>
<td>0.59</td>
<td>-1.71 **</td>
</tr>
<tr>
<td>Middle Adolescents</td>
<td>-0.79</td>
<td>0.57</td>
<td>-1.35 *</td>
</tr>
<tr>
<td>Older Adolescents</td>
<td>-0.65</td>
<td>0.71</td>
<td>-0.19</td>
</tr>
<tr>
<td>Adults (R)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>0.45</td>
<td>0.54</td>
<td>0.23</td>
</tr>
<tr>
<td>Average IQ (R)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low Average IQ</td>
<td>-0.33</td>
<td>0.58</td>
<td>-0.47</td>
</tr>
<tr>
<td>Borderline/Extremely Low IQ</td>
<td>-1.42 **</td>
<td>0.51</td>
<td>0.05</td>
</tr>
<tr>
<td>Ever Found Guilty</td>
<td>0.16</td>
<td>0.46</td>
<td>-1.06 *</td>
</tr>
<tr>
<td>Parent Education: Graduate (R)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parent Education: College Degree</td>
<td>0.96</td>
<td>1.57</td>
<td>0.27</td>
</tr>
<tr>
<td>Parent Education: Some College</td>
<td>1.45</td>
<td>1.45</td>
<td>-0.81</td>
</tr>
<tr>
<td>Parent Education: High School</td>
<td>0.99</td>
<td>1.47</td>
<td>-0.83</td>
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<td>Parent Education: Some HS</td>
<td>-0.20</td>
<td>1.55</td>
<td>-1.23</td>
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Note. (R) denotes the reference category.
* p < .05. ** p < .01. ***p < .001.
Table 6. Multilevel Logistic Model on Peer Consideration

<table>
<thead>
<tr>
<th></th>
<th>Best Choice</th>
<th></th>
<th></th>
<th>Own Choice</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$B$</td>
<td>SE</td>
<td>OR</td>
<td>$B$</td>
<td>SE</td>
<td>OR</td>
</tr>
<tr>
<td>Young Adolescents</td>
<td>1.20</td>
<td>0.92</td>
<td>3.32</td>
<td>1.77 *</td>
<td>0.78</td>
<td>5.84</td>
</tr>
<tr>
<td>Middle Adolescents</td>
<td>1.20</td>
<td>0.87</td>
<td>3.33</td>
<td>2.44 **</td>
<td>0.74</td>
<td>11.49</td>
</tr>
<tr>
<td>Older Adolescents</td>
<td>0.90</td>
<td>0.92</td>
<td>2.47</td>
<td>2.11 *</td>
<td>0.94</td>
<td>8.26</td>
</tr>
<tr>
<td>Adults (R)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>1.14</td>
<td>0.70</td>
<td>3.14</td>
<td>-0.15</td>
<td>0.62</td>
<td>0.86</td>
</tr>
<tr>
<td>Average IQ (R)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low Average IQ</td>
<td>0.39</td>
<td>0.87</td>
<td>1.49</td>
<td>0.59</td>
<td>0.79</td>
<td>1.86</td>
</tr>
<tr>
<td>Borderline/Extremely Low IQ</td>
<td>0.03</td>
<td>0.76</td>
<td>1.03</td>
<td>0.84</td>
<td>0.70</td>
<td>2.31</td>
</tr>
<tr>
<td>Ever Found Guilty</td>
<td>-0.03</td>
<td>0.70</td>
<td>0.97</td>
<td>0.15</td>
<td>0.58</td>
<td>1.16</td>
</tr>
<tr>
<td>Parent Education: Graduate (R)</td>
<td>-2.84 *</td>
<td>1.18</td>
<td>0.06</td>
<td>-1.42</td>
<td>1.68</td>
<td>0.24</td>
</tr>
<tr>
<td>Parent Education: College Degree</td>
<td>-2.06</td>
<td>1.40</td>
<td>0.13</td>
<td>-0.82</td>
<td>1.40</td>
<td>0.44</td>
</tr>
<tr>
<td>Parent Education: Some College</td>
<td>-2.49</td>
<td>1.38</td>
<td>0.08</td>
<td>-0.50</td>
<td>1.43</td>
<td>0.61</td>
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<tr>
<td>Parent Education: High School</td>
<td>-1.99</td>
<td>1.47</td>
<td>0.14</td>
<td>-1.38</td>
<td>1.62</td>
<td>0.25</td>
</tr>
</tbody>
</table>

Note. (R) denotes the reference category.
*p < .05. **p < .01. ***p < .001.
Appendix A: Semi-structured Attorney Interview

I. Questions regarding the Plea Process Generally:
1. First, would you describe the steps in the process from the point where you are hired or are assigned a juvenile case to its resolution?

2. Let's talk in a little more detail about that process. How does a plea usually come about? That is, how does the issue come up with you and your client? How does discussion with the Commonwealth Attorney/Prosecutor begin and proceed?

3. Next, how does the plea get presented and discussed in court?
   a. How if at all do juveniles participate during the hearing?
   b. Who else connected to the case is there?
      i. Are any parents usually present? How if at all do they participate?

II. Now I'd like to ask how this worked in your most recent juvenile case that involved your client taking a plea.
1. Would you briefly describe the characteristics of the case?

2. How did the plea offer come about?
   a. Approximately how much time did you spend talking about the plea with your client? Where did you meet? Was this in one meeting or broken up over several meetings (Q. If so, how many times do you meet)?
   b. What did you talk about with your client when you discussed the plea offer?
   c. Were parents present during the meetings with your client? How if at all were they involved?
   d. How would you describe the juvenile's decision process. For example, Was the juvenile's decision to take the plea a quick one or did they struggle with making a decision?
   e. Why did they decide to take the plea?

3. Now let's turn to the plea hearing itself.
   a. Before the hearing did you talk with your client at all about the hearing or what would happen? What did you talk about? (e.g., what happens in a plea hearing, what they should say, what they should expect, what the judge can do)? (Q. Does this typically occur at the same time as your meetings regarding the plea itself?)
   b. What happened at the plea hearing?
i. Are parents usually present during the plea hearing? What is their participation like if there is any?

4. Looking back at the case, let me ask a few questions about your client's understanding of the plea process and outcome.
   a. In your opinion, How well did your juvenile client understand the components of the plea hearing? (E.g., Judges can alter the plea agreement).
   b. In your opinion, how well did your client understand the collateral consequences associated with pleading guilty? Can you tell me a little bit about what led you to that conclusion?
   c. In your opinion, did your juvenile client understand they were waiving their rights to a trial when they pleaded guilty? Can you tell me a little bit about what led you to that conclusion?
   d. How fair or unfair did your client find the plea offered to them to be?
      If unfair: Did your client want to return a counter offer?
   e. Did your client ever express why they decided to take or not take the plea? What was their reason?

5. Now let me ask a few questions about your interactions with your client,
   a. How well did your client understand your role as his/her attorney? How did you deal with any misunderstandings?
   b. At any point, did you feel as though your client was not being honest with you? If yes: can you please explain why you felt that way and anything you may have done about it?
   c. Did you feel as though your client trusted you? Please explain why or why not.
   d. How typical was this case compared to your juvenile clients generally?

III. Wrap Up Questions
1. Finally, I'm sure some juveniles make bad decisions or decisions you don't agree with. How do you deal with situations where you think your juvenile client is making a bad decision?
2. Is there anything about juvenile pleas that we haven't talked about that you think is important for us to know?
Appendix B: Plea Bargain Vignette  
(Based on JILC; Woolard, Reppucci, Steinberg, Grisso, & Scott, 2003)

Robbery Vignette  
(Taken from: Attorney Waiver Measure – Youth)

Now I am going to read you a very short story about a guy named Joe who gets into some type of trouble and has to go to court. At the end of the story, I will be asking you what you think Joe should do. You are sort of giving him advice. Then we’ll talk about why you think he should do that. Now, there aren’t any right or wrong answers to these questions. It’s all a matter of opinion and everyone has their own opinion.

Do you have any questions about this? Okay, let me read you the first story. Listen carefully. If you want me to repeat any of it, I will.

Joe is 15 years old. He has been in trouble with the police in the past.

Last night, Joe and three of his friends robbed a storekeeper with a gun. The robbery wasn’t Joe’s idea, but he stood as a lookout inside the front door of the store.

The police think that Joe was involved in the robbery. They picked him up and took him to the police station.

Before I ask you any questions, I want to be sure that you understand the story. Can you tell me, in your own words, what I just told you about Joe?

On the scoring sheet, check off the “facts” which were reported by the examinee. Then, hand Exhibit 3 to the examinee.

If the examinee did not mention some of the “facts,” iterate the “facts” the examinee missed while pointing to them on Exhibit 3. For example:

That’s good, but don’t forget [missing fact]. Here is something you can look at to help you remember the story.

If the examinee mentioned all “facts,” say:

Good. Here is something you can look at to help you remember the story.

Plea Bargain Questionnaire:

Before Joe goes to court, the prosecutor who is charging Joe with robbery comes to Joe’s lawyer and says, “Let’s make a deal.” The prosecutor tells Joe if he testifies against the other guys involved, he will recommend to the judge that Joe only spend one year in a juvenile facility. However, if Joe decides not to take the deal, he will go to trial and will be
tried as an adult in criminal court. Most people are found guilty and are locked up for 4-6 years. Some people are found not guilty and go free.

1. OPTIONS

Now Joe is trying to decide what to do. What are all the possible things Joe could do at this point?

Probe for further choices. Depending on the situation, say:

**What else could he do?**

Don’t worry about what he should do—just think of all the things he might do.

Question until examinee can think of no more options

Q1: Say: *Anything else?* To probe for more options: no limit

Record these options verbatim on the Scoring Form. Also record whether examinee gave each of the primary options.

The two “Primary Options” are:

A. Accept the Plea Offer / Waive Right to Trial
B. Reject the Plea Offer / Wants to go to Trial

2. CHILD CHOICE

a) If you were in Joe’s situation, what do you think you would do?

Record examinee’s response

If examinee doesn’t make a choice, say: *It can be difficult to decide, but if you had to choose, what do you think you would do?* If examinee fails to make a selection, record “No Selection” on answer sheet.

b) Why do you think you would do that?

Record examinee’s response

3. CHOICES

Now, here are some of the things Joe is thinking about doing – he’s trying to decide which one to do.

Place Exhibit 8 in front of examinee, with the two Primary Options printed on it. Read them to the examinee.

| A. Accept the Plea Offer / Waive Right to Trial |
| B. Reject the Plea Offer / Wants to go to Trial |
a) What do you think is the best thing for Joe to do?

Record answer on Scoring Form as “best choice”

If examinee doesn’t make a choice, say: It can be difficult to decide, but if you had to choose, what do you think is the best thing for Joe to do? If examinee fails to make a selection, record “No Selection” on answer sheet.

4. CONSEQUENCES OF [BEST CHOICE]

a) What are all the potential good things that might happen if Joe decided to [best choice]?

Question until examinee can think of no more good things.
Q1. Say: Anything else? To probe for more good things: no limit
Q2. Say: What do you mean? To clarify ambiguous responses: no more than 2x

b) Now, what are all the possible bad things that might happen if Joe decided to [best choice]?

Question until examinee can think of no more bad things.
Q1. Say: Anything else? To probe for more bad things: no limit
Q2. Say: What do you mean? To clarify ambiguous responses: no more than 2x

5. CONSEQUENCES OF [WORST CHOICE]

a) What are all the potential good things that might happen if Joe decided to [worst choice]?

Question until examinee can think of no more good things.
Q1. Say: Anything else? To probe for more good things: no limit
Q2. Say: What do you mean? To clarify ambiguous responses: no more than 2x

b) Now, what are all the possible bad things that might happen if Joe decided to [worst choice]?

Question until examinee can think of no more bad things.
Q1. Say: Anything else? To probe for more bad things: no limit
Q2. Say: What do you mean? To clarify ambiguous responses: no more than 2x

6. MAIN REASON

You have just given me a number of good reasons why [best choice] is better than [worst choice]. What is the one more important reason that you think [best choice] is better than [worst choice].
Record the examinee’s reason verbatim.

7. **LIKELIHOOD OF TRUE OR FALSE CONSEQUENCES**

Okay, so let’s say Joe decides he **does not** want to take the plea deal and wants to go to trial.

*Place the exhibits 9.1-9.5 on the table face down.*

*Turn over exhibit 9.1 first.*

<table>
<thead>
<tr>
<th>Joe will go to jail/detention tonight</th>
<th>Joe will go home tonight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe will get locked up for a long time</td>
<td>Joe will go free</td>
</tr>
<tr>
<td>Joe will have a criminal record</td>
<td>Joe will not have a criminal record</td>
</tr>
<tr>
<td>Joe’s friends will have to get involved</td>
<td>Joe’s friends will not be involved</td>
</tr>
<tr>
<td>The case will take longer to finish</td>
<td>The case will take longer to finish</td>
</tr>
</tbody>
</table>

a) **Which one of these is more likely to happen?** (jail/home)

After examinee responds, say:

b) **So will that definitely happen? Or probably happen?**

Record answer on Scoring Sheet.

Repeat with second card. (go free)

Repeat with third card. (record)

Repeat with fourth card. (friends)

Repeat with fifth card. (take longer)

8. **IMPACT OF NEGATIVE CONSEQUENCES**

Next I want you to tell me how bad it would be if each of the following things happened.

Here are four ways to answer how bad it would be if these things happened.

Give exhibit 6 to examinee and read the four options.

<table>
<thead>
<tr>
<th>It would be</th>
<th>It would be</th>
<th>It would be</th>
<th>It would be</th>
</tr>
</thead>
<tbody>
<tr>
<td>extremely bad</td>
<td>somewhat bad</td>
<td>slightly bad</td>
<td>okay, no big deal</td>
</tr>
</tbody>
</table>
Place exhibits 10.1-10.5 on the table face down.
Flip over exhibit 10.1 first (jail tonight)
If necessary, read each statement, one at a time, to examinee.

**Now tell me, how bad would this one be?**

<table>
<thead>
<tr>
<th>Joe will go to jail/detention tonight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joe will get locked up for a long time</td>
</tr>
<tr>
<td>Joe will have a criminal record</td>
</tr>
<tr>
<td>Joe’s friends will have to get involved</td>
</tr>
<tr>
<td>The case will take longer to finish</td>
</tr>
</tbody>
</table>

Record answer on Scoring Sheet.
Repeat with second card. (locked up)
Repeat with third card. (criminal record)
Repeat with fourth card. (friends)
Repeat with fifth card. (take longer)

9. **PARENT INFLUENCE**

a) A few minutes ago you said that if you were in Joe’s situation you thought you would [Insert answer to Question 2: Self Choice]. What do you think (insert name of adult who brought child to study) would want you to do if you were in Joe’s situation: Take the Plea Deal or Not take the Plea Deal?

Record examinee’s response.

If examinee doesn't make a choice, say: **It can be difficult to decide, but if you had to choose, what do you think they would want you to do?** If examinee fails to make a selection, record "No Selection” on answer sheet

b) Why do you think (insert name of adult who brought child to study) would want you to do that?
Record examinee’s response

If answer to Question 2: Self Choice is “Don’t Take the Deal” go to (c1).
If answer to Question 2: Self Choice is “Take the Deal / I would waive my right, to trial, go to (d).

c1) Let’s say you talked to [insert name of the adult] about this and they said “Tell the lawyer you want to take the deal, that you want to waive your right to a trial.” Would you take the deal or not take the deal?

Record examinee’s response

c2) Why do you think you would do that?

Record examinee’s response. GO TO NEXT PAGE

d1) Let’s say you talked to your [insert name of adult] and they said “Don’t take the deal.” Would you take the deal or would you not take the deal?

Record examinee’s response

d2) Why do you think you would do that? Record examinee’s response