

Children's perceptions of court outcome 1

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Children's perceptions of outcome and the decision-making process in Children's Court criminal cases

Children's courts to a greater extent than adult criminal courts have an underlying philosophy of rehabilitation. There is a stronger expectation for children than adults that they can be reformed and a belief that they may not be fully responsible for their behaviour (Ruby, 1980). The rehabilitative approach, however, has come under attack with a call for a "return to justice" (Asquith, 1983) with an accompanying plea for the protection of children's rights to procedural justice. Regardless of the underlying philosophy adopted and the continuing debate about the role and function of children's court (Asquith, 1983; Leon, 1978; Rosenheim, 1976), what really matters is how the children who are the clients of the system perceive the court's role. If the court is actually to function in accord with its rehabilitative philosophy, it needs to take account of children's perceptions in order for these policies to work in practice.

Not surprisingly, children have their own perceptions about the way the system operates and their main concern is the outcome -- what will happen to them (Martin, Fox, & Murray, 1983; O'Connor & Felton, 1987). The outcome is the most salient and concrete aspect of what happens in court and most attention in the literature has focussed on children's expectations of the outcome and its perceived fairness. Few studies, however, have gone beyond a general assessment of the fairness of the outcome (Baum & Wheeler, 1968; Scott, 1968; Snyder, 1971). Hence, the main purpose of this study is to investigate children's perceptions of the decision-making process and the extent to

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which children believe they can have an impact on the decision-making process that leads to the outcome. The relationship of their role in the process and their perceived responsibility for their court appearance are investigated as possible determinants of their appraisal of the outcome. A further purpose of this study is to examine the effect of the court experience on children by comparing the perceptions of children with and without previous experience at court.

Dealing first with children's perceptions of the court's decision-making process, previous studies have indicated that children expect the outcome to be determined mainly on the basis of offence-related evidence. Both parents and children questioned the relevance of information about their family background and behaviour at school or work (Martin, Fox & Murray, 1981; Morris & Giller, 1977). Although children perceived non-offence-related information about school, home and recreational activities to be more important to the decision-makers than it is in their own eyes (Martin et al., 1981), it is unclear how children think that information is used and why they think it is irrelevant. The first aim of the current paper is therefore to explore the way that children think background information is used in decision-making by the court, and more generally to examine the factors that they believe affect the magistrate's decision.

The second aim of the paper is to examine children's perceptions of their own role and influence in court. Do they want to participate and does their level of participation have any effect on the perceived fairness of the outcome? Procedural justice findings indicate that judgments of fairness and outcome satisfaction are increased by decision-making processes that

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allow those affected by a decision the chance to express their views (Earley & Lind, 1987, p. 1148). Influence may be exerted through two processes: through choice or decision control which is control over the actual decision, and through voice or process control which is the opportunity to state one's case (Thibaut & Walker, 1975; Earley & Lind, 1987). Although there has been considerable debate about the mechanisms involved, several studies have reported that "voice" alone -- the chance to have one's views heard -- is associated with outcome satisfaction even when the views expressed have no influence on the decision. Satisfaction with the opportunity to express one's views might therefore be related to perceived fairness of the outcome.

Several studies have addressed the relationship between children's perceptions of the fairness of the outcome and their participation in court proceedings but the results are equivocal. Martin et al. (1981) found no relationship between satisfaction with the hearing and children's level of participation. However, as Martin et al. (1981) point out, "children 'getting their say' may be more important than any absolute amount of participation" (p. 197). Lipsitt (1968) reported that 74% of first-timers and 68% of recidivists said that they had had the chance to say what they wished and that this response was associated with an "increased evaluation of the judge"; his study did not include a measure of perceived satisfaction with the hearing. The current study therefore aims to examine the relationship between children's perceptions of the fairness of the outcome, of their own influence on the decision, their wish to participate in the proceedings and their perceptions about their chance to express their view. Specifically, it is hypothesised that there is a

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positive relationship between children's satisfaction with their level of participation in the hearing and the perceived fairness of the outcome.

The third aim of the study was to examine the effect of court experience on children's perceptions of the magistrate's role and decision-making process and on their perceptions of their own role in that process. In particular, what are the expectations of children who have never appeared in court and, in particular how do the expectations of inexperienced children prior to their hearing compare with the expectations of repeat offenders who have appeared in children's courts on multiple occasions? One possibility is that court experience may result in increased knowledge of the system (Flavell, 1977). On the other hand, multiple court experiences may result in an increased sense of powerlessness and little increase in knowledge of the system (Dweck & Reppucci, 1973).

This study therefore involved interviews with three groups of children -- school-children who have had no experience of Children's Courts, and two groups of children at court, one with and one without previous experience at Children's Court. The interviews with school-children were based on a vignette about a child involved in a typical alleged offence and a model of the court-room was also used to make it easier for children to imagine the situation and to make it more concrete for them. Pre-hearing interviews were conducted at court with children who had not previously appeared at Children's Court (first-timers), and with children who had at least two previous appearances (repeat offenders). Post-hearing interviews were also conducted for first-timers so that comparisons could be drawn between the pre-

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and post-hearing perceptions of first-timers to test the effect
of the first court experience. Their pre- and post-hearing
perceptions will also be compared with those of repeat offenders
to test whether their post-hearing views become more like those
of repeat offenders.

METHOD

Participants

Children at court

The sample consisted of 60 children appearing before two specialist children's courts in Sydney, Australia on criminal matters. The sample consisted of two groups. The first comprised 40 children appearing for the first time (first-timers), interviewed before and after their hearing; 10 of them pleaded not guilty. (An additional 26 children appearing for the first time were interviewed before their hearing only because they failed to appear for an adjourned hearing or for the post-hearing; their responses were included in the analysis where appropriate.) The second group consisted of 20 children who had previously appeared at Children's Court on at least two occasions (repeat offenders); they had been to Children's Court an average of 7 times prior to their current hearing; 5 of them pleaded guilty. They were interviewed before their hearing only.

Five of the 40 first-timers (12.5%) and two of the repeat offenders (10%) were girls. The children ranged in age from 11 to 17 years, with an average age of 15.3 years for first-timers and 15.5 for repeat offenders.

All children were interviewed before their hearing but after they had seen their legal representative. Fifty-one (85.0%) children were represented by Duty Solicitors provided free of

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charge to children by the Legal Aid Commission; three children were represented by solicitors from community legal centres, and two by private solicitors organised by their families. Four of the five young people who pleaded guilty to offences against the State Rail Authority (e.g. fare evasion and trespassing) were not represented because duty solicitors are not made available for children pleading guilty to these offences. One 17 year-old represented himself on a not guilty plea for a railway matter.

The majority of children (70.0%) were appearing in court in relation to stealing charges, the most common being break, enter, and steal (23.3%). The other charges included assault (8.3%), driving (3.3%) and drug offences (3.3%), and offences against good order including fare evasion (15.0%). The sample was fairly representative of the total population of children appearing in Children's Court on offence type and sex. However, a greater proportion of children under 16 (Bureau of Crime Statistics and Research, 1986) were deliberately included because we expected more problems of understanding to emerge in this age group.

School-children

Forty school-children whose parents provided written consent participated in the study. They were matched on age and sex with the 40 first-timers and were drawn equally from two suburban high-schools in Sydney whose catchment areas included the suburbs with the highest proportion of first-timers. Their average age was 15.5 years and five were girls (12.5%).

Materials

Children at court

The pre- and post-hearing interviews included rating scales and open-ended questions which focussed on three main areas:

Outcome and perceived fairness. The question concerned with children's expectation of the outcome in the pre-hearing interview was: What do you think the magistrate will decide about you today? The post-hearing questions were (1) How did it go? What decision was made about you? (2) Do you think that decision was fair? How fair/unfair do you think it was? (6-point scale: 1 = very unfair and 6 = very fair) (3) Was it what you expected? If not, was it better or worse than you expected? How much better/worse was it? (6-point scale: 1 = a lot worse, 6 = a lot better).

Magistrate's decision-making process. The questions dealing with the magistrate's decision-making process included a rating scale and several open-ended questions, asked in both the pre- and post-hearing interview. The rating scale presented 11 items (see Table 3), to be rated by children on a 4-point scale (1 = not at all, 4 = a lot) according to the extent each was considered to influence the magistrate's decision. The open-ended questions were (1) How do you think the magistrate/judge makes his/her decision about what is going to happen to you? (2a) Do you think the magistrate/judge always makes the same decision for all kids who (use child's term to refer to own offence)? If no: Why not? (2b) Do you think the magistrate/judge should always make the same decision for all kids who (use child's

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term to refer to own offence)? Why should/shouldn't he/she? The third question asked only in the post-hearing interview was: Do you think the magistrate should know what your home background is like? Why?

Children's perceptions of their own role. The following questions concerned with children's perceptions of their own role in court, their influence on the decision, and their attributions of responsibility for their court appearance were asked in both the pre- and post-hearing interviews. The first rating scale required children to rate the extent to which they themselves, their friends, their parents and the police were responsible for their appearance at court on a four-point scale (1 = not at all responsible, 4 = totally responsible). Other questions were: (1) Is/was there anything you can/could do to affect what the magistrate decides about you? (2) Do/did you want to say anything in court? (3) Did you have a chance to say everything you wanted to say?

Observation schedule. The schedule for completion in court included a diagram of the court-room which enabled the seating arrangement of those present in court to be recorded. Other information recorded included the main content of the conversation between the participants, and the duration and the outcome of the hearing.

School-children. The questionnaire consisted of a vignette followed by questions similar to those asked in the pre-hearing interview with defendants, except that the questions referred to the protagonist of the vignette (John/Jane). The vignette related a story about a person of the same age and sex as the child

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(Jane/John) who was involved in an alleged offence (shop-lifting or joy-riding) and a Children's Court hearing. A wooden scale model of the court-room (40cm x 50cm x 15cm) with court-room furniture and figures to represent court personnel was used to make the court situation more concrete for school-children who were not present at court.

Procedure

Children at court (defendants)

Pre-interview. Young people in the waiting area outside the court-room were approached by one of two female interviewers who was casually dressed so as not to be confused with court personnel. The interviewer introduced herself, explained the purpose of the study, and asked the child if he/she was willing to participate in the study. Most children were accompanied by a parent or other relative¹ and the consent of both the young person and the parent was requested. For the majority of children (82%) who were appearing for the first time and pleading guilty, this interview was conducted immediately before their first and only appearance for the matter at hand. Some 19% of all cases, however, had been listed on a previous occasion but had not been heard, and a number of cases, especially defended matters, were not concluded on the day that the pre-hearing interview was conducted. When cases were adjourned to a later date, the same interviewer followed the case through all appearances (as far as possible), and a subset of questions from the full pre-hearing

¹ Children were most frequently accompanied by their mother (alone or with another relative: 37.8%), by both parents together (17.0%), or by their father (14.6%). Repeat offenders were less likely than children appearing for the first time to be accompanied by both parents (5% and 21%, respectively) and more likely to be unaccompanied (12.9% and 20% respectively).

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interview, mostly dealing with expectations about that day's outcome, were asked before each subsequent appearance. Several matters were listed on four or five different occasions because reports were called for, or papers were not available or because there was not sufficient time for a defended matter to be fully heard.

The pre-hearing interviews were generally conducted in the waiting area or just outside the court so that the child could hear when their case was called. Six children who were in custody prior to their hearing were interviewed in the holding room at the court; these children were repeat offenders and had all appeared at Children's Court on at least three previous occasions. Children were interviewed alone unless the child wanted parents or friends nearby during the interview. The interview took, on average, about 20 to 25 minutes, and was audio-taped with the consent of the child for later transcription. Eight children did not consent to audio-taping so detailed notes were taken during these interviews.

Observation. The interviewer went into court and took notes during the child's hearing according to the observation schedule detailed earlier.

Post-interview. At the end of the pre-hearing interview, children were asked if they would be willing to participate in another interview some time after the hearing to discuss what happened in court. They were offered the incentive of a McDonald's voucher and/or \$5 to participate in the post-hearing interview to minimise the attrition rate.

The post-interview was generally conducted several days after the hearing because children and parents were anxious to

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leave as soon as the hearing had finished and also because this gave children time to reflect on the hearing and its outcome. When the case involved several appearances, the post-hearing interview took place after the matter was finalised. Most interviews (28) were conducted at the child's home within a week of the (final) court appearance, but 7 took place at a coffee lounge, in a park or at a railway station, and 5 were conducted at court immediately after the hearing because of the difficulty of arranging another time or place for the interview.

School-children

Children who agreed to participate in the study were matched on age and sex with the first-timers and were interviewed individually. They were read one of the two vignettes about shop-lifting or joy-riding and were asked questions which related to the incident to test comprehension. They were then shown a wooden model of the court-room and asked the questions about the court hearing.

RESULTS

Perceptions of the outcome

Expected outcome

The most common response by first-timers was a bond or probation (39.6%); 20.8% expected a warning or to "be let off" and 18.8% expected a fine. Three expected to be committed. The rest did not know or expected their case to be adjourned. These expectations were quite accurate since most children (71.2% of children appearing for the first time) did, in fact, get what they expected. The majority were given a bond (35.4%), probation (14.6%) or were admonished and discharged (22.9%); 10.4 % were fined and one was committed to an institution.

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Surprisingly, repeat offenders were less accurate in their predictions, with 7 of the 20 children saying they did not know what to expect, and only 40% (of those for whom an outcome was known) getting what they expected; their responses were evenly divided between committal, adjournment and "not knowing what to expect". Three of the four who received committals or suspended committals expected that outcome.

The most common outcome predicted by school-children for "Jane/John" was a "lecture" by the "judge" (37.5%); 20% predicted either a bond or a fine, and 12.5% thought that a "short stay in jail" was in order; 15% did not know, and in contrast with the children at court, 15% referred to community service or some form of compensation.

Table 1 presents the mean ratings for all three groups of children for the level of punishment represented by the common outcomes of committal, fine, bond, probation and the acquisition of a criminal record. Multivariate analysis of variance with group as the single factor (school-children, first-timers, and repeat offenders) was significant overall ($F(8, 164) = 3.22, p = .002$). Contrasts indicated that first-timers rated a bond as more punishing than did school-children ($p = .007$) and that school-children rated committal as more punishing than did repeat offenders ($p = .011$). Committal was rated as the greatest and a bond as the least punishment by all three groups.

Perceived fairness of the outcome

The majority of first-timers (82.5%: 24/30 who admitted guilt, and 9/10 who pleaded not guilty) thought the outcome was fair ($M = 4.62, s.d. = 1.16$). The same numbers of children thought the court process was fair. The fairness of the outcome

Children's perceptions of court outcome 14 was correlated .388 ($p < .05$) with the fairness of the court process, and .465 ($p < .02$) with the extent to which the outcome was rated better or worse than expected. The majority of first-timers said in the post-hearing interview that their outcome was what they had expected (13/30 who admitted guilt, 6/10 who pleaded not guilty) or better than expected (10/30, 4/10 respectively). For the remaining 7/30 who admitted their guilt, it was worse than expected (e.g. committal or a longer bond).

Several reasons were given to justify the fairness of the outcome. The most common reasons were the appropriateness of the punishment (e.g., "it was OK for what I'd done") and the justness of "paying" for what they had done (e.g., "I done the wrong thing and I have to pay for it"). Those given a bond said it was fair that they had been given a second chance. Another common reason was that the outcome was better than expected. Although few children actually expected to be committed to a "home", 55% mentioned that it was a possibility. Relief that this did not happen may have contributed to their positive feelings about the outcome.

The main reason given by the minority (17.5%) who perceived the outcome as unfair was that the outcome was worse than expected, and worse than others had received for similar or lesser offences. Surprisingly, however, several (3) defendants who were admonished and discharged thought that their outcome was not fair for others because they had really deserved to be punished.

Magisterial decision-making

Rating scale on factors affecting the magistrate's decision

Factor analysis on the pre-hearing ratings given by all

Children's perceptions of court outcome 15 children (excluding two items (items 2 and 5 because of missing data) revealed three factors which together explained 57.4% of the variance. Loadings of the items on the three factors produced by orthogonal rotation are shown in Table 2. The variables have been ordered and grouped by size of loading to facilitate interpretation and loadings under .35 have been replaced by zeros. The first factor loads most heavily on four items which all deal with the child's own influence on the magistrate. The second is basically a function of two items, the magistrate's mood and what sort of family they come from, both of which are concerned with either arbitrary or discretionary aspects of the magistrate's decision. The third factor loads highly on two evidentiary items. These relate to the child's current charge and the child's history of prior offences.

Comparison of pre- and post-hearing ratings for first-timers. The mean pre- and post-hearing ratings given by the 30 first-timers who pleaded guilty are shown in Table 3. One-factor repeated measures MANOVA yielded a significant difference between the two sets of ratings ($F(9, 21) = 3.75, p = .006$). Three items were univariately significant: item 4, "whether you promise to stay out of trouble", $F(1, 29) = 16.52, p = .0003$; item 7, "what you do or say in court", $F(1, 29) = 25.19, p = .0000$; and item 10, "whether you say you're sorry", $F(1, 29) = 6.85, p = .01$. The mean ratings (see Table 3) indicate that children appearing in court for the first time rated these items markedly lower after their hearing than before it. These three items all represent dimensions of the children's own influence on the magistrate's decision, and indicate clearly that children's perception of their own influence on the magistrate's decision

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was significantly less after the hearing than before it.

Comparison of ratings given by first-timers, repeat offenders and school-children. Multivariate analysis of variance was carried out to test the difference between the ratings given by children who admitted their guilt and were appearing in court for the first time², repeat offenders and school-children.³ The overall MANOVA was significant ($F(18, 140) = 4.08, p = .0000$), and four items were univariately significant: item 4, "whether you promise to stay out of trouble or not" ($F(2, 78) = 6.22, p = .003$); item 6, "what sort of mood the magistrate is in", $F(2, 78) = 13.00, p = .0000$); item 8, "how well you are dressed" $F(2, 78) = 6.89, p = .00018$); and item 10, "whether you say you're sorry", $F(2, 78) = 8.40, p = .0005$). Multiple comparisons indicated that school-children rated the "mood of the magistrate" and "dressing well" as having less influence on the magistrate's decision than did first-timers or repeat offenders (Table 3). First-timers and school-children also rated "saying sorry" more highly than did repeat offenders, but first-timers rated "promising to stay out of trouble" more highly than school-children.

Children's responses to open-ended questions concerned with magisterial decision-making

The frequency of children's responses to several open-ended questions about the magistrate's decision-making process are

² Children who pleaded not guilty were not included because most expected to be found not guilty so that the question of influences on the disposition was not relevant to them.

³ When the ratings given by children at court were compared with those given by duty solicitors, children rated arbitrary factors such as the mood of the magistrate and the child's dress as more influential, and their own criminal record as less influential than duty solicitors did.

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presented in Table 4. Each question will be dealt with in turn.

How does the magistrate make his/her decision? The two items rated most highly by children in the rating scale for their effect on the magistrate's decision -- what the children had done and whether they had a criminal history -- were the most common responses given by children at court to this question. The main change from the pre to post-hearing interview for children appearing in court for the first time was an increased emphasis on both offence-related evidence and on home and school background factors. Not surprisingly, repeat offenders mentioned previous offences more often than those appearing for the first time. The main difference between school-children and children at court was the greater number of school-children who referred to case law and penalties being "laid out in law books". No school-children referred to arbitrary factors like the mood of the magistrate or the defendant's appearance.

Does/should the magistrate make the same decision ...?

There was little effect of experience in children's responses to these questions; there was little difference between the three groups of children, nor between the first-timers' pre- and post-hearing responses. The majority of defendants (71%) and school-children (52.5%) said the magistrate does not and should not make the same decision for all children who have committed the same offence. School-children were, however, more likely than children at court to say they did not know (about 30% and 5%, respectively). The minority of all children (ranging from 17.5% to 30%) who said that the magistrate does and should give the same decision almost invariably justified their response in terms of "fairness" and "consistency". For example, "Why should they get different

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punishments when they've done the same thing. It's only fair." Several first-timers and school-children referred to prescribed guidelines for magistrates (for example, "it's all set out in the books") or to the need for such guidelines.

By far the most common reason given by all children to explain why different decisions are and should be made was the person's criminal history. For example,

It depends on who it is, and how much you've been in trouble. Like if it's your first offence, then he goes easy on you. When you've been in trouble a couple of times, they go hard on you. (Should the magistrate make the same decision?) No. (Why?) 'Cos if you do it once, he might let you off, but if you do it again, you haven't learnt your lesson so you should get punished further.

This reason was given somewhat more frequently by more first-timers after their hearing than before it. Other factors which children believed, especially prior to their hearing, that magistrates do take into account were the defendant's family background and age, the reason for the offence (need or fun), and the personal appearance and attitude of the defendant in court.

The main change between the pre- and post-hearing was the marked increase in the number of children who referred to the influence of the personal appearance and attitude of the defendant and the attitude of the magistrate toward the defendant. Other changes from the pre- to post-hearing interview were decreases in the number of references to both the age of the defendant and the reason for the offence. There was little change, however, in the number of children mentioning the influence of home background.

Do you think the magistrate should know about your home background? The response to this question was fairly evenly divided, with 55.2% of defendants saying "yes" and 44.8% saying

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"no". About half of those who said the magistrate should know thought that their own good background might help them "get it a bit easier", and a third of those who rejected the magistrate's right to know said that their own home background might make the decision "go worse for them". There was therefore a common belief underlying the reasons given to justify both responses. A good family background was generally seen as beneficial and a poor family background as detrimental to the prospects of a lenient decision. For example,

If you've got a background with a family that's been in a lot of trouble, they think that you're going to turn out the same way, but if your family has never been in trouble before, they say, "This kid's OK, no worries." If it's like a broken family, he might feel sorry for you or he might put you in for a while till you straighten up. (Should the magistrate make the same decision?) Yes, he should forget all about all those things because you did all the same mistake as the other people, so you should deserve as much as what other people get.

Only six children indicated that a "bad" home background might be seen as an excuse or as a mitigating factor rather than a reason for harsher treatment; these were generally the same children who said (in response to Question 2) that those who committed an offence for fun rather than need received and deserved harsher treatment. The most common reason given by 85% of those who rejected the magistrate's need to know about their home background was that it was "none of the magistrate's business".

For example,

I think all he should be worrying about is whether you're guilty or not. Cos really ... it's got nothing to do with what I'm going to court about... What's my parents got to do with it, anyway?

(School-children were not asked this question.)

Children's perceptions of their own role

Several questions were concerned with children's perceptions of their own responsibility for having to go to court and their own influence on the court's decision.

Rating scale for attribution of responsibility

The mean ratings of responsibility given by children for their appearance at court for themselves, the police, their friends and their parents are shown in Table 5. For all groups, the highest ratings were for "self" and the lowest for "parents". Planned pairwise contrasts showed that the ratings for "parents" were significantly lower than the other three ratings for all groups (school-children, first-timers and repeat offenders and for those who admitted guilt and those who pleaded not guilty). The ratings for "self" were significantly higher than those for "friends" and "parents" in all groups, and were also higher than the "police" ratings for school-children and first-timers who admitted their guilt.

Repeated measures MANOVAs yielded no significant differences between the pre- and post-hearing ratings. There were also no significant differences (established by between-groups MANOVA) between school-children, first-timers (for either the pre- or post-hearing ratings) and repeat offenders, although there was a trend for first-timers to give higher ratings than either repeat offenders or school-children. A comparison of ratings for first-timers who admitted their guilt and those who pleaded not guilty found that those who admitted their guilt rated their own responsibility higher than those who pleaded not guilty in both the pre- and post-hearing interviews ($F(1, 38) = 12.71, p = .001$, and $F(1, 38) = 5.38, p = .026$, respectively).

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Children who admitted their guilt explained their rating of their own responsibility ("self") by saying "I did it, it was my own fault". Half of those who pleaded not guilty explained their low ratings of their own responsibility by saying that they were with others and that they did not know what was happening; the other half accepted responsibility because they were "there" and "should have known better". The reasons children gave for attributing responsibility to the police referred to the police role ("they were the ones who charged me, it's their job": 50%) or the choice that police exercised in charging them ("they didn't have to charge me", or "they're out to get kids": 40%). When responsibility was assigned to friends, they were blamed for both their ideas and their actions in the committal of the offence. Those who admitted their guilt were more likely than those who pleaded not guilty to say that "we were all in it together".

Only nine defendants attributed any responsibility to their parents. There were two main reasons for these attributions. The first was that their parents had made negative comments about the child's behaviour to the police or in court (5). The second was that they had family problems.

Children's responses to open-ended questions about their perceptions of their own role

Is/was there anything you can/could do or say to influence what the magistrate decides about you? Just over 40% of the children at court believed they could have some influence on the magistrate's decision. There was little or no difference associated with children's court experience, except that once again school-children were more uncertain, with 37.5% saying they

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did not know. Defendants who pleaded not guilty, however, were more likely to say they could have some influence than those who admitted their guilt ($F = 3.86, p < .05$) (Table 6).

Those who said they could have some impact on the decision mentioned three main aspects of their behaviour that they thought could have and, for defendants, did have an effect -- their attitude and whether they said they were sorry, their appearance and style of dress, and what they said and the way they said it. For example,

Be polite and respectful, and let them know that he won't do it again if they give him a chance. (15 year old school-boy)
and

The way you talk, the way you're dressed, and the way you stand when you're talking to them. You know, say "Oh yes, sir" rather than just "Oh yeah". If you dress in rags, you'll do it again, won't respect the law ... things like that. (14 year old defendant)

The main change from the pre- to post-hearing interview was a marked drop in the number of children who mentioned the importance of attitude or saying sorry (from 47.4% to 15.4% of those who said they could have some influence on the decision). This change is consistent with the significant reduction in the rating of item 10 in the rating scale analysis.

The main reason given by school-children to explain why the child protagonist in the vignette could not have any influence in court was that "it's all out of his hands once it gets into court". Similarly the two most common reasons given by defendants prior to their hearing were that they did not know what they could do (57.5%) and that their own influence would be illegitimate (55%) -- that is, "it's up to the magistrate" to decide on the evidence alone, not up to them. The other response was that "it's up to their duty solicitor" to influence the magistrate, not them (33.3%). After their hearing, the main

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reasons for their lack of influence were that they had not said anything in court (45.8%), that they had no right to influence the decision (33.3%), or that their duty solicitor did it for them (20.8%).

Do/did you want to say anything? Only about a third of first-timers, both before and after their hearing, and 25% of repeat offenders wanted to say anything in court. Similarly, only 30% of school-children thought that the child protagonist would want to say anything in court. The majority, however, expected that they would have to say something (57.5%) or answer questions from the magistrate (85%). Data from the observation schedule indicated that less than half of the children (43.3%) actually did say anything, and this was generally single-word responses to questions from the magistrate. The frequency of reasons for not wanting to say anything are shown in Table 6. The main reason given by school-children (76.5%) and first-timers (44.4%) was that they were too scared or too embarrassed to say anything. Only 13.3% of repeat offenders gave this reason; they were much more likely to say they had nothing to say or that there was no point in saying anything (53.3%). More first-timers gave this response after their hearing (35.7%) than before it (14.8%). Wanting to explain what happened or say they were sorry were the main reasons for wanting to say something.

Did you have a chance to say everything you wanted to say? Nearly 60% (58.8% of those who responded to this question in the post-hearing interview) said "Yes" and 41.2% said "No". The main reason for the negative response (71.4% of responses) was "No-one asked me"; four said that they thought they would get into trouble for speaking up.

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There was a significant relationship between responses to this question and the rating for the fairness of the outcome ($r = .492$, $p = .001$). Children who said they had been given a chance to say what they wanted rated the outcome as significantly fairer than those who did not ($M = 5.25$ and 4.18 , respectively, $t = 2.86$, $p = .011$). Whether or not children thought they had influence over the decision was not, however, significantly related to perceived fairness of the outcome.

DISCUSSION

The majority of young offenders judged the outcome as fair and this finding is generally in line with other studies in Britain and the United States (Baum & Wheeler, 1968; Martin, Fox & Murray, 1981; Morris & Giller, 1971; Snyder, 1971). For most young offenders in the current study, the outcome was a bond, probation or discharge and that was what they expected or better than expected. Although most children's expectations of the outcome were quite accurate, their perceptions of the possible outcomes ranged from "being let off" to "being put in a home". Few expected to be "let off" but most hoped to be. Similarly, few said they expected to be committed but the majority mentioned that committal was a possibility, and hoped it would not happen to them. To some extent, then, their positive appraisal of the outcome may have resulted from their underlying fear of being "sent to a home" or "put away" not being realised. This is consistent with Snyder's (1971) finding that the predominant feeling prior to the hearing was fear about the outcome. It is also in line with O'Connor and Felton's (1987) comment that children construe court in terms of its potential to put them in a home.

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How then do children think that the magistrate decides what to do with them, and what influence do they think they have over that decision? Are these perceptions changed by children's involvement in the court hearing? Dealing first with the effect of court experience, the main difference between children at court and school-children was the perception by child defendants that arbitrary factors such as the mood of the magistrate and the child's dress had a greater effect on the decision than school-children believed they had. This difference is probably related to the defendants' anxiety and sense of powerlessness associated with the fact that they are "actors" rather than "observers", like the school-children, in the court hearing. The main difference between first-timers before and after their court hearing was in their perception of their own influence on the magistrate's decision. In particular, their perceived influence of what they did or said in court, of whether they said they were sorry and whether they promised to stay out of trouble was significantly less after their hearing than before it. After their hearing, their views moved closer to those of the repeat offenders. First-timers, however, still perceived that saying you are sorry had more influence than repeat offenders believed it had. Thus, the main effect of the court experience was a decrease in their own perceived power to influence the magistrate's decision.

To some extent, this reduction in children's own perceived influence on the outcome may reflect their lack of actual participation in the proceedings. The majority of defendants felt that they had not said or done anything to influence the decision but most did not expect to do so, either because they did not

know how to or because they believed it was inappropriate for them to do so. Most children, in fact, did not want to say anything and there was an increase after the hearing in the proportion not wanting to say anything. The effect of the court experience on first-timers was therefore to make them more similar to repeat offenders such that they revised their expectations of their own participation and influence downward.

On the other hand, most children felt they had the chance to say what they wanted to say, and this opportunity was significantly related to their ratings for the fairness of the outcome, although perceived influence over the outcome was not. This fits with procedural justice findings that "voice" or the opportunity to be heard is associated with the perceived fairness or satisfaction with a decision even when those views have no effect on the decision (Tyler, Rasinski, & Spodick, 1985; Tyler, 1987). In fact, the majority of children did not expect to influence the decision and many believed that it was inappropriate to do so. Children's satisfaction with having been heard, either personally or by means of legal representation, is therefore more important than the extent to which children actually participate. It is worth noting Martin et al.'s (1981) warning about "over-estimating the importance, from the child's point of view, of his or her level of verbal involvement. Too great an emphasis on this factor may reflect the adult's, not the child's values." (p. 197)

So what factors do children believe do and should affect the magistrate's decision? The two main factors that children believed had the most influence on the magistrate's decision were offence-related. They were the seriousness of the offence and prior criminal history. These factors were given the highest

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ratings overall for their influence on the magistrate's decision, and when the offence was held constant by asking children whether the magistrate makes the same decision for all children who commit the same offence, prior criminal history was mentioned most frequently to justify different decisions being made. This strong emphasis on offence-related evidence was not changed by experience. There was little difference between repeat offenders, first-timers and school-children, or between first-timers before and after their hearing.

There is some evidence that children's perceptions of the factors that do affect the magistrate's decision may in fact be accurate (Kraus, 1975; Rutter & Giller, 1983) but the emphasis on offence-related factors was also evident in children's beliefs about the way in which such decisions should be made. Although several other factors, such as family background, court reports, the duty solicitor, and several idiosyncratic factors like the mood of the magistrate, were seen as having some influence, they were generally not regarded as being very important or legitimate determinants of the magistrate's decision. Again, the offence and any history of prior offences were seen as the main factors that magistrates should consider in making their decision about the outcome (Morris & Giller, 1971; Anderson, 1978; Martin et al., 1981).

The perceptions of children at court concerning the decision were therefore inconsistent with the welfare or rehabilitative model, and closer to the justice model of sentencing in which the outcome is based on the seriousness of the offence and the frequency of offending. Little allowance was made for any other differences between offenders (such as age or family background)

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or for the needs of offenders being taken into account. In fact, it seems that because the vast majority of children attributed primary responsibility for their court appearance to themselves, they discounted the importance of other factors in line with attributional principles (Kelley & Michela, 1980). For example, their comments about their own responsibility and that of their parents made it very clear that since they accepted the blame for the offence, they could see no reason why the magistrate should consider or even know about their family background when determining their outcome. These perceptions changed little as a result of children's court involvement since there was no significant difference between school-children, first-timers and repeat offenders nor between first-timers' responses before and after their hearing.

Although children assigned relatively little importance to personal background factors, when they did take them into consideration, the way they construed them was quite different from their conceptualisation in either the welfare or justice model. According to the welfare or rehabilitative model, social background factors may be indicators of the child's needs, which are of paramount importance in decisions about the disposition. In the justice model, social background factors may be taken into account in mitigation of the sentence. In both models, then, such factors are seen as having a compensating effect but only a few children in the current study perceived them this way. The majority perceived a good family background as having a beneficial effect on the outcome, whereas a bad family background was perceived to have a deleterious effect. These perceptions regarding the influence of family and occupational background

Children's perceptions of court outcome 29 are, however, not unique to young offenders. A survey of adult prisoners also found strong support for the belief that a person from "a good area" with a higher status occupation was likely to receive a more lenient sentence than a person from a "poor area" or with a lower status job (Law Reform Commission, 1980). This thinking then is more likely to reflect the prior social experience of offenders than their age.

In general, then, it seems that children and magistrates may operate in "two mutually unrecognisable worlds" in terms of their views of justice, similar to Voelcker's (1960-61) conclusion for magistrates and parents. The rhetoric underlying the rehabilitative approach concerning "the best interests" and "needs" of children seems to make little difference to the children who are the clients of the system because there is good evidence that children dealt with under a wide range of systems adopt a "modified" justice model which does not contain the notion of mitigating circumstances (Anderson, 1978; Martin, Fox & Murray, 1981; Morris & Giller, 1977; Scott, 1958-59). Their model is in conflict with the view that the provision of justice for children must take account of "the way in which life opportunities and experiences are socially distributed" (Asquith, 1983, p. 17; Harris, 1985).

Given that some account will continue to be taken of children's "life opportunities", can and should an attempt be made to communicate such a view to children with respect to the reasons underlying the decision about their outcome? The evidence suggests that such an approach is unlikely to be very successful (Martin et al., 1981). There is also the danger that doing so may diminish the young offender's sense of responsibility for his or her actions (Dillon, 1985; McFatter, 1978). The problem then is

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to help young offenders separate the two issues of responsibility for the behaviour that brought them to court and the factors, including their "needs" and "life opportunities" which influence the court's decision about the outcome so that they do not trade one off against the other.

REFERENCES

- Asquith, S. (1983). Children and justice: Decision-making in children's hearings and juvenile courts. Edinburgh: Edinburgh University Press.
- Baum, M. & Wheeler, S. (1968). Becoming an inmate. In S. Wheeler (Ed.), Controlling delinquents. New York: John Wiley & Sons.
- Catton, K. & Erickson, P. (1975). The juvenile's perception of the role of defence counsel: A pilot study. Working paper of the Centre of Criminology, University of Toronto.
- Dillon, H. (1985). Kids, courts & cops: Problems kids face in the legal system. NCOSS Issues Paper, No. 4.
- Dweck, C.S., & Bush, E.S. (1976). Sex differences in learned helplessness: I. Differential debilitation with peer and adult evaluators. Developmental Psychology, 12, 147-156.
- Earley, P.C., & Lind, E.A. (1987). Procedural justice and participation in task selection: The role of control in mediating justice judgments. Journal of Personality and Social Psychology, 52, 1148-1160.
- Flavell, J.H. (1977). Cognitive development. New Jersey: Prentice-Hall.
- Harris, R.J. (1985). Towards just welfare. British Journal of Criminology, 25, 31-45.
- Heider, F. (1958). The psychology of interpersonal relations. New York: Wiley.
- Jones, E.E., & Nisbett, R.E. (1971). The actor and the observer: Divergent perceptions of the causes of behavior. In E.E. Jones, D.E. Kanouse, H.H. Kelley, R.E. Nisbett, S. Valins, & B. Weiner (Eds.), Attribution: Perceiving the causes of behavior. Morristown, N.J.: General Learning Press.
- Kelley, H.H., & Michela, J.L. (1980). Attribution theory and research. Annual Review of Psychology, 31, 457-501.
- Kraus, J. (1975). Decision process in Children's Court and the social background report. Journal of Research in Crime and Delinquency, 12, 17-29.
- Langley, M., Thomas, B.J., & Parkinson, R. (1978). Youths' expectations and perceptions of their initial juvenile court appearances. Canadian Journal of Criminology, 20, 43-53.
- Lawrence, R.A. (1983-84). The role of legal counsel in juvenile's understanding of their rights. Juvenile and Family Court Journal, 34, 49-58.
- Lipsitt, P.D. (1968). The juvenile offender's perceptions. Crime and Delinquency, 14, 49-62.

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- McFatter, R.M. (1978). Sentencing strategies and justice: Effects of punishment philosophy on sentencing decisions. Journal of Personality and Social Psychology, 36, 1490-1500.
- Maher, B. & Stein, E. (1968). The delinquent's perception of the law and the community. In S. Wheeler (Ed.), Controlling delinquents. New York: John Wiley & Sons.
- Martin, F.M., Fox, S.J., & Murray, K. (1981). Children out of court. Edinburgh: Scottish Academic Press.
- Morris, A., & Giller, H. (1977). The juvenile court -- the client's perspective. Criminal Law Review, 26, 198-205.
- O'Connor, I., & Felton, J. (1987). The "prostitute" and the "wayward" child: Children's construction of their involvement in the Children's Court process. Paper presented to the Australian Institute of Criminology's Biennial Research Seminar, Canberra, 16-19 February 1987.
- Ross, L. (1977). The intuitive psychologist and his shortcomings: Distortions in the attribution process. Advances in Experimental Social Psychology, 10, 173-220.
- Rutter, M., & Giller, H. (1983). Juvenile delinquency: Trends and perspectives. Harmondsworth: Penguin.
- Snyder, E.C. (1971). The impact of the juvenile court hearing on the child. Crime and delinquency, 17, 180-190.
- Tyler, T.R. (1987). Conditions leading to value-expressive effects in judgments of procedural justice: A test of four models. Journal of Personality and Social Psychology, 52, 333-344.
- Tyler, T.R., Rasinski, K., & Spodick, N. (1985). The influence of voice on satisfaction with leaders: Exploring the meaning of process control. Journal of Personality and Social Psychology, 48, 72-81.
- Voelcker, P. (1960-1961). Juvenile courts: The parents' point of view. British Journal of Delinquency, 1, 154-166.

Table 1

Mean ratings for degree of punishment of various outcomes

	Repeat offenders (n=20)		First-timers (n=28)		School-children (n=40)	
	<u>M</u>	s.d.	<u>M</u>	s.d.	<u>M</u>	s.d.
Committal	3.35	0.93	3.68	0.63	3.80	0.42
Criminal record	2.75	1.21	3.34	0.92	2.95	0.97
Fine	2.85	1.04	2.75	1.03	2.33	0.85
Probation	2.65	0.99	2.87	0.96	-*	-*
Bond	2.20	1.09	2.69	0.85	2.05	0.94

* Not included in school-children's questionnaire.

Table 2
 Factor loadings and per cent of variance for three factor extraction
 and varimax rotation on items concerned with perceived influence
 on the magistrate's decision

	Factor 1	Factor 2	Factor 3
10. Sorry	0.827	0.000	0.000
8. Dress	0.698	0.396	0.000
4. Promise	0.692	0.000	0.000
7. Say	0.509	0.000	0.000
6. Mood	0.000	0.843	0.000
9. Family	0.000	0.572	0.000
3. Done	0.000	0.000	0.759
1. Previous	0.000	0.000	0.730
11. Like	0.000	0.390	-0.350
% of total variance	29.3	16.6	11.5

Table 3
 Mean ratings of factors* affecting the magistrate's decision
 by repeat offenders, by first-timers before and after
 their court appearance, and by school children

	Repeat Offenders (n=15)		First-timers (n=30)				School Children (n=40)	
	Mean	s.d.	Pre		Post		Mean	s.d.
1. What you've done	3.20	0.94	3.18	0.75	3.17	1.11	-	-
2. Whether you've been in trouble before	3.27	0.80	3.33	0.99	3.10	0.99	3.44	0.65
3. What any reports say about you **	3.08	0.90	3.29	1.05	2.94	1.06	-	-
4. Whether you promise to stay out of trouble # ##	2.53	1.12	3.15	0.83	2.30	1.12	2.41	0.74
5. What the duty solicitor does or says in court **	3.07	0.96	3.09	0.87	2.77	0.97	2.58	0.81
6. What sort of mood the magistrate is in ##	2.60	1.06	2.88	1.18	2.37	1.25	1.68	0.82
7. What you do or say in court #	2.27	1.09	2.72	0.98	1.77	0.97	2.29	0.93
8. How well you are dressed ##	1.33	0.49	2.42	1.17	2.37	1.21	1.86	0.80
9. What your family is like	2.33	1.29	2.45	1.12	2.43	1.25	2.14	0.71
10. Whether you say you are sorry # ##	1.40	0.63	2.11	0.99	1.63	0.89	2.38	0.68
11. Whether the magistrate likes you	1.33	0.62	1.92	0.98	1.77	0.86	1.78	0.76

* The items are ranked in order from highest to lowest rating based on overall data. The order of presentation was 11, 5, 1, 7, 4, 2, 9, 10, 8, 3, 6.

** These items were not included in the MANOVA because of missing data -- 15 children did not know whether there were any reports about them and did not respond to this item, and duty solicitors were not available for railway cases. There were no significant univariate effects on these items with the reduced number of cases.

These three items showed significant univariate effects ($p < .01$) on the pre-post comparison.

These three items showed significant univariate effects ($p < .01$) between school-children, first-timers and repeat offenders.

Table 4
Responses of children to open-ended questions about
the magistrate's decision-making process

(1) How does the magistrate make the decision?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
Evidence	9	56.3	23	71.9	27	90.0	15	41.7
Previous trouble	5	31.3	6	18.8	3	10.0	2	5.6
Home background	2	12.5	2	6.3	7	23.3	2	5.6
Appearance, mood	1	6.3	4	12.5	6	20.0	-	-
Experience, law	4	25.0	2	6.3	4	13.3	17	47.2
Total respondents**	16		32		30		36	

(2a) Does the magistrate always make the same decision for all ..?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
YES	5	25.0	7	17.5	10	25.0	7	17.5
NO	14	70.0	31	77.5	29	72.5	21	52.5
DON'T KNOW	1	5.0	2	5.0	1	2.5	12	30.0
Total	20		40		40		40	

(2b) Why doesn't the magistrate always make the same decision?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
Previous trouble	6	60.0	16	51.6	17	58.6	11	52.4
Family background	1	10.0	7	22.6	7	24.1	3	14.3
Motive	0	0.0	8	25.8	3	10.3	7	33.3
Age	1	10.0	7	22.6	2	6.9	-	-
Attitude/appearance	2	20.0	4	12.9	13	44.8	-	-
Total respondents**	10				29		21	

(2c) Should the magistrate always make the same decision for all ..?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
YES	7	35.0	12	30.0	14	35.0	10	25.0
NO	11	55.0	28	70.0	26	65.0	17	42.5
DON'T KNOW	2	5.0	0	0.0	0	0.0	13	32.5
Total	20		40		40		40	

Table 4 continued
 Responses of children to open-ended questions about
 the magistrate's decision-making process

(2b) Why doesn't the magistrate always make the same decision?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
Previous trouble	6	54.5	14	50.0	18	69.2	7	-
Family background	1	9.1	4	14.3	3	11.5	3	-
Motive	2	18.2	7	25.0	2	7.7	6	-
Age	1	9.1	3	10.7	2	7.7	-	-
Attitude/appearance	0	0.0	3	10.7	8	30.8	-	-
Total respondents**	11		28		26		16	

** These figures do not include children who said "Don't know" and may add to more than 100% because many respondents gave multiple responses.

Table 5
 Mean ratings of responsibility for child's court appearance

	Repeat Offenders		First-timers				School children (n = 40)
	Admit guilt	Plead NG	Admit guilt		Plead NG		
	(n = 15)	(n = 5)	Pre (n = 30)	Post	Pre (n = 10)	Post	
Self	3.13	3.40	3.53	3.52	2.70	2.90	2.84
Police	2.13	3.40	2.43	2.70	2.50	2.90	2.04
Friends	1.67	1.00	2.03	2.15	2.20	2.10	2.16
Parents	1.00	1.00	1.43	1.27	1.00	1.20	1.31

Table 6
Children's responses to open-ended questions
about their own role in court

(1) Is there anything you can do to affect what the magistrate decides about you? (Pre)

i. Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
YES	8	40.0	19	47.5	13	32.5	17	42.5
NO	12	60.0	21	52.5	27	67.5	8	20.0
DON'T KNOW	-		-		-		15	37.5
Total	20		40		40		40	

ii. Response	Admit guilt		Plead not guilty	
YES	17	37.7	10	66.7
NO	28	62.3	5	33.3
Total	45		15	

(2) Was there anything you did or said to affect what the magistrate decided about you? (Post)

Response	First-timers			
	Admit guilt		Plead not guilty	
YES	8	36.4	5	50.0
NO	22	63.6	5	50.0
Total	30		10	

(3) Why don't/didn't you want to say anything in court?

Response	Repeat Offenders		First-timers				School Children	
	n	%	n	Pre %	n	Post %	n	%
Scared/embarrassed	2	13.3	12	44.4	10	35.7	13	76.5
Not know what to say	1	6.7	7	25.9	2	7.1	3	17.6
D.S.'s job	5	33.3	3	25.9	5	17.8	1	5.9
Nothing to say/no point .	8	53.3	4	14.8	11	39.2	-	0.0
No. of respondents ***	15		27		28		17	

** These figures do not include children who said "Don't know".

*** Multiple responses allowed so number of responses does not equal number of respondents.