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## **We Don't Always Mean What We Say: Attitudes Toward Statutory Exclusion of Juvenile Offenders From Juvenile Court Jurisdiction**

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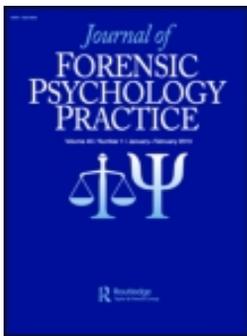
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## **We Don't Always Mean What We Say: Attitudes Toward Statutory Exclusion of Juvenile Offenders From Juvenile Court Jurisdiction**

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*In the United States, juvenile offenders are often excluded from the jurisdiction of juvenile court on the basis of age and crime type alone. Data from national surveys and data from psychological research on support for adult sanction of juvenile offenders are often at odds. The ways in which questions are asked and the level of detail provided to respondents and research participants may influence expressed opinions. Respondents may also be more likely to agree with harsh sanctions when they have fewer offender- and case-specific details to consider. Here, we test the hypothesis that attitudes supporting statutory exclusion laws measured in the absence of specific case-specific details may not be the best indicator of agreement with such laws in practice. We found that support for statutory exclusion was affected by exposure to information about an offender's unique situation and by exposure to general scientific information about adolescent development. These results suggest that despite apparent widespread agreement with automatic exclusion statutes, laypersons consider factors other than those allowed by the law when they are asked how to treat an individual offender.*

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*KEYWORDS* attitudes toward juvenile offenders, automatic waiver, juvenile justice, juvenile offenders, public opinion, statutory exclusion

Since its inception in 1899, the juvenile court system in the United States has endured numerous political challenges and has never, in practice, operated entirely according to the progressive principles on which it was founded (Tanenhaus, 2000). The most recent of these political challenges began in the mid to late 1980s and has resulted in a more punitive juvenile justice system and in a shrinking of the jurisdiction of many juvenile courts, as more and more adolescent offenders are transferred to adult court. From the mid-1920s until the late 1980s, judicial waiver was the primary (although not the only) mechanism by which a juvenile who committed a serious offense could be transferred from the juvenile justice system to criminal court (Dawson, 2000). Although the history of judicial transfer is a complicated one (see Tanenhaus, 2000 for a review), and jurisdictions vary considerably, in general it can be said that judicial waiver evolved as a mechanism by which a minority of refractory and serious juvenile offenders, whose needs were considered beyond the capacity of the juvenile justice system, could be transferred to adult criminal court. The decision to waive a juvenile to criminal court was made by a judge, usually at the request of the state.

In response to the claim that transfer decisions could be capricious, the U.S. Supreme Court held in *Kent v. U.S.* (1966) that judicial waiver should provide for the evaluation of individual characteristics of an offender, such as maturity, amenability to treatment, and blameworthiness, before a decision is made to transfer a youth to criminal court. The Court suggested eight criteria that judges should consider in making a transfer decision. Of the eight criteria, the first three deal with the type of crime committed; criteria 4 and 5 concern procedural issues unrelated to the offender (e.g., ease of prosecution); and criteria 6 through 8 refer to the sophistication and maturity of the offender, his or her amenability to treatment, and situational factors that may have contributed to the juvenile's criminal behavior. Specifically, criterion 6 suggests that judges consider the sophistication and maturity of the juvenile as determined by his or her home, environmental situation, emotional attitude, and pattern of living. *Kent* did not ignore issues of public safety, but suggested a balanced assessment of needs, whereby the judge should consider both the prospects for adequate public protection and whether the offender had a reasonable likelihood of rehabilitation within the juvenile court system (criterion 8).

While almost all states still have some form of judicial waiver in place, legislative changes over the 1980s and 1990s led to a reduction in the reliance on traditional waiver and a move toward statutory exclusion—the automatic

exclusion of some juveniles from juvenile court jurisdiction on the basis of offense type, age, and sometimes prior record (see Dawson, 2000, for a review; Griffin, Torbet, & Szymanski, 1998; Snyder & Sickmund, 1995; Torbet et al., 1996). Automatic transfer statutes essentially bypass all but the first three *Kent* criteria: A juvenile is automatically waived, without a hearing, if he or she is of a certain age and is alleged to have committed a specific kind of offense. Thus, these laws obviate any consideration of offender characteristics that pertain to his or her sophistication and maturity, environmental situation, or amenability to treatment, and do not weigh public safety concerns with the possibility of rehabilitating the offender.

Automatic transfer statutes, along with other punitive and discretionary changes not discussed here (e.g., prosecutorial direct file), have contributed to a substantial increase in the number of juveniles who are processed and tried as adults in the United States (Bishop & Frazier, 2000a; Loughran et al., 2010). According to the U.S. Department of Justice Bureau of Justice Statistics there were 6,759 juveniles housed in adult jails across the nation and an additional 2,266 in state prisons as of June 30, 2005; 85% of these offenders were adjudicated in adult court. The ramifications of these changes are far-reaching and include higher recidivism rates for juveniles detained in adult facilities compared to those in juvenile detention centers (even after controlling for offense type and offense history; e.g., Bishop, Frazier, Lanza-Kaduce, & Winner, 1996; Fagan, 1996; Winner, Lanza-Kaduce, Bishop, & Frazier, 1997).

This legislative shift toward harsher treatment of juveniles occurred in response to several egregious and highly publicized crimes committed by young offenders (e.g., Willie Boskett in New York State; Butterfield, 1995) and to the dramatic increase in juvenile offending that occurred during the 1980s, alongside a general rise in violent crime that has been attributed to the crack cocaine epidemic (Blumstein, 1995). Legislators and politicians relied on public sentiment that the juvenile courts were ineffective (e.g., Dao, 1996; Gray, 1997) as support for the “get-tough” juvenile crime legislation of the 1980s and 1990s (Finkel, Hughes, Smith, & Hurabiell, 1994). Indeed, the relatively high level of consensus among public opinion surveys accumulated during this time period suggests that the public was strongly in favor of these measures (e.g., Sprott, 1998).

However, as noted by others (e.g., Scott, Reppucci, Antonishak, & deGennaro, 2006; Stalans & Henry, 1994), public support for statutory exclusion and other “get-tough” measures has been established primarily through phone surveys using general questions about nonspecific juvenile offenders who committed nonspecific crimes. For example, Schwartz (1992) asked respondents in a national phone survey to indicate how strongly they agreed or disagreed with adult prosecution for a juvenile who was charged with committing a serious violent crime (68% were in favor). Similarly, a question from a Gallup poll given in 2000 and again in 2003 reads as follows:

“In your view, how should juveniles between the ages of 14 and 17 who commit violent crimes be treated by the criminal justice system—should they be treated the same as adults, or should they be given more lenient treatment in a juvenile court?” (67% and 59% of respondents in 2000 and 2003, respectively, were in favor of adult sanction; Ray, 2003). While these kinds of questions might have the potential to elicit the explicit attitudes of the respondents, research has shown that the public tends to favor harsher dispositions when presented with general descriptions of crimes and offenders than when presented with specific details about a case or individual characteristics of the offender (e.g., Roberts & Doob, 1990; Stalans & Diamond, 1990). The way in which general questions are asked also impacts response. A recent Campaign for Youth Justice survey (CFYJ, Arya, 2011) found overwhelming support (76%) for traditional waiver relative to statutory exclusion. Such results seem to suggest an extraordinary shift in attitudes from the 2003 Gallup poll indicating more than 60% of the nation in favor of adult sanction. But, the questions on the CFYJ survey were very detailed and each item was always presented as a choice between pairs of statements:

*Which statement do you agree with more?*

Instead of a rigid policy for determining when youth are tried in adult courts,

judges should make the decision on a case-by-case basis after a hearing, and

take into account the seriousness of the offense and circumstances of the individual child. | OR

When a youth is charged with a serious offense, the decision to try a youth in

adult court should not be discretionary. For some crimes, youth should automatically be charged as adults and tried in adult courts with no exceptions.

In contrast, in a study that was designed to test the impact of question type, Steinberg and Piquero (2010) found that support for adult sanction depended on age, prior record, and offense but that there was no difference between agreement with statements that suggested adult sanction should be discretionary (apply to some offenders) and agreement with statements that adult sanction should be automatic (apply to all). However, the questions used in their survey lacked specific detail and were not pitted against other options:

“How much do you support trying [all/some] [first-time/repeat] [14/17 year-old] offenders arrested for [theft/rape] in adult court?”

When people are asked general questions about nonspecific crimes committed by nonspecific offenders, they may rely on the most accessible specific example that can be brought to mind (Stalans, 1993; Stalans & Henry, 1994). Given that most people do not have extensive experience with juvenile offenders, Stalans (1993) has suggested that the “most-accessible offender” is likely to resemble offenders whose crimes are most often depicted in the media and, therefore, to be nonrepresentative of the average juvenile facing exclusion from juvenile court (i.e., we rely on an “availability heuristic”; Tversky & Kahneman, 1974). Since the typical adolescent offender rarely makes the evening news, high levels of agreement with adult sanction may be a result of a false belief that most juvenile offenders are super-predators. Recently, Salerno and colleagues (2010) demonstrated this phenomenon with respect to support for the public registry of juvenile sex offenders; support for juvenile registration was a result of participants’ spontaneous production of a “serious offender” prototype. Participants who envisioned less severe prototypes (or had less severe prototypes activated) were less likely to do so. However, Haegerich, Salerno, and Bottoms (2013) found support for the existence of at least two prototypes with respect to juvenile offenders (i.e., wayward youth and super-predator). In their sample, most participants did *not* appear to hold super-predator prototypes, although participants who did (or who had this prototype activated) were more inclined to find a juvenile defendant guilty and more likely to agree with adult sanction for the offender.

Since statutory exclusion laws do not allow for mitigation based on an offender’s amenability to treatment, maturity, or environmental situation,<sup>1</sup> it seems logical to assume that anyone who expresses explicit support for statutory exclusion must believe that the decision to try a juvenile as an adult should be made solely on the basis of the type of crime committed and the age of the offender. But, research on factors that influence support for adult sanction suggest that the public has a rather complex view of which juveniles should be transferred. Although most studies have focused on age and crime type (Garberg & Libkuman, 2009; Ghetti & Redlich, 2001; Steinberg & Piquero, 2010), a few studies have examined factors that would be part and parcel of a judicial review, but not likely to be codified by exclusion statutes, such as abuse history and cognitive function (Najdowski, Bottoms, & Vargas, 2009; Nunez, Dahl, Tang, & Jensen, 2007; Stalans & Henry, 1994). Others have also examined extralegal factors such as gender, race, and apparent physical maturity (Nunez et al., 2007; Scott et al., 2006). There is also a fairly robust body of literature that has shown that individual offender

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<sup>1</sup> Many states have procedural protections in place to mitigate the risk of decision errors; for example, decertification, whereby a judge can transfer a juvenile back to juvenile court (Feld, 2000). However, it appears these mechanisms are rarely used in practice (Feld, 2000; Brannen et al., 2006).

characteristics, in addition to age and crime type, influence participants' likelihood to find hypothetical juvenile defendants guilty, and their likelihood to agree with punitive sanction (e.g., Crosby, Britner, Jodl, & Portwood, 1995; Haegerich et al., 2010) The results of these studies are at odds with widespread support for exclusion on the basis of age and crime type alone.

Four studies have specifically attempted to examine support for automatic transfer laws by manipulating contextual information about the offender's situation while also controlling for crime type (Najdowski et al., 2009; Nunez et al., 2007; Scott et al., 2006; Stalans & Henry, 1994). Two of these studies (Nunez et al., 2007; Stalans & Henry, 1994) examined the effect of abuse history (abused or nonabused) and offender's relationship to the victim (parent/stranger) on preference for adult adjudication for the offender. Stalans and Henry (1994) reported that abuse history of the offender reduced the likelihood that participants would recommend adult court for the offender. Nunez et al. (2007) found that abuse history and younger age predicted preference for juvenile court jurisdiction, and that these effects were qualified by interactions with gender (i.e., participants were least likely to recommend juvenile court for nonabused, older males). Najdowski et al. (2009) examined the effects of intellectual capacity and abuse on mock jurors' perceptions of female juvenile offenders and found abuse to be a mitigating factor, but only for juvenile offenders who committed self-defense murders of their abusers. With regard to intellectual functioning, mildly mentally retarded offenders were perceived as less blameworthy, less deviant, and more influenced by their environments than offenders with average intellectual functioning (in their first study); however (in their second study) this held only for the offenders who committed drug offenses and not for those who committed more serious crimes (Najdowski et al., 2009). Finally, Scott et al. (2006), while not examining factors that could be explicitly considered in judicial review, manipulated the extralegal factors of race and apparent maturity in the context of identical crime. Results revealed that apparent maturity, but not race, influenced participant agreement with adult sanction for the offender.

Taken together, these studies suggest that people have complex views about which juveniles should be transferred and that contextual information, *other than* age and crime type, is important when making these decisions; however, the total number of studies is small, and the results in at least two (Stalans & Henry, 1994; Nunez et al., 2007) may have been confounded by inadvertent crime-type manipulations. In the Stalans and Henry (1994) paper, the abused adolescent killed a parent during an argument, whereas the nonabused adolescent killed a stranger during a robbery. The Nunez et al. (2007) paper attempted to correct for this confound by maintaining the parent as the victim across conditions, but it is possible that participants inferred differences in motivation (i.e., self-defense) between a child killing an abusive parent versus a child killing a nonabusive parent. This seems particularly

compelling in light of Nadjowski et al.'s (2009) finding that abuse was mitigating only in the context of self-defense crimes. Moreover, these studies did not measure participants' a priori views or attitudes toward juvenile offender policy prior to exposing them to contextual or character manipulations. Such measurement would be useful in establishing whether explicit agreement with harsh sanction for offending juveniles, in general, accurately reflects approval of the outcomes of these laws in practice. Although not achieving perfect ecological validity, it would certainly expand our understanding of public sentiment to measure general levels of support for harsh sanction before measuring participants' agreement with exclusion as applied in specific cases.

In this study, we extend work from two earlier pilot studies (Zottoli & Zapf, 2006; Zottoli, Daftary, Rodriguez, & Zapf, 2009) in which we found that knowledge of offender characteristics other than age and crime type predict agreement with exclusion above and beyond participants' a priori support for exclusion statutes. Specifically, we hypothesized that participants would be less inclined to agree with statutory exclusion for a youth for whom mitigating case information was available, compared to youth for whom aggravating case information or no case information was presented.

Moreover, we wanted to explore whether we could affect explicit support for adult sanction by exposing participants to *general* information about adolescent offenders. Presumably, support for or against any public policy is a result of personal and vicarious experience, as well as exposure to information (and misinformation) about the policy and its impact. A substantial body of research has examined the impact of information in the media on attitudes toward criminal justice policy and has consistently shown that attitudes toward various criminal justice policies (e.g., death penalty, gun control) are influenced by the media (e.g., Altheide, 2002; Chiricos, Padgett, & Gertz, 2000). Furthermore, existing research suggests that a more sophisticated understanding of policy outcomes and offender attributes is associated with weaker support for empirically unsound policies (e.g., Stevenson, Smith, Sekely, & Farnum, 2013).

Thus, we hypothesized that exposure to factual, scientific information about adolescent development and juvenile justice policy might render participants more lenient than unexposed participants when asked about their level of support for the adult sanction of an offender. To test this, we used an unrelated studies design through which we exposed half of our participants to scientific information about juvenile offenders before comparing preference for adult sanction between those who were and were not exposed to the information. Given the suggestion of Stalans and colleagues (Stalans, 1993; Stalans & Diamond, 1990) that the apparent disconnect between dispositional decisions made with and without case-specific information may be a result of reliance on the most available, but not necessarily most accurate, example that can be brought to mind (i.e., "most accessible exemplar";

hereafter, “mental model”), we further hypothesized that the effect of information exposure in our study would only be present when there was no other offender-specific information, apart from age and crime type, to rely on. That is, when there was enough case and offender detail available to obviate a need to rely on preconceptions, participants would form a very specific picture of the offender that would be moderated only minimally by general knowledge about adolescent offenders. Finally, we hypothesized that both the effect of being made aware of specific details about offender characteristics and the effect of information exposure on support for adult sanction would be explained by how these variables affected participants’ perceptions of the offender’s maturity (that is, how adult-like the offender was perceived to be).

## METHOD

### Participants

Participants were 293 self-selected U.S. residents recruited from the community (New York City) via an online classified advertisement service. Two participants were excluded because they were non-U.S. residents and 17 participants were excluded because their scores on one or more of the measures were determined to be outliers based on their median absolute deviations (Wilcox, 2005).<sup>2</sup> The final sample consisted of 274 participants, of whom the majority (79%) was female. Sixty-five percent of the sample identified as White, 15% as Hispanic, and 15% as Black. Participants ranged in age from 18 to 71 years, with an average age of 32.7 years ( $SD = 11.8$ ), and the sample had an average of 15.3 years of education ( $SD = 1.8$ ). Fifty-two percent of the sample identified as liberal, 41% identified as moderate in their political views, and 7% as conservative. Participants had the chance to enter their email addresses into a drawing for a chance to win a \$50 gift card at the end of the study. Participants, who took part in what they were told were two separate studies, had two opportunities to enter drawings. E-mails for the drawings were kept in separate databases from study data and the drawings for the two (ostensibly separate) studies were independent of each other.

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<sup>2</sup> Inspection of the data revealed that outlying data points were a result of inconsistent responding or a biased pattern of responding (e.g., all responses were at the endpoint of the scale, regardless the direction of the question). The decision to remove extreme outliers was made prior to data analysis, according to preestablished criteria.

## Study Design

We employed a 3 (Offender Characteristics: Abstract, Mitigating, Aggravating)  $\times$  2 (Information: Exposed, Unexposed) between-subjects design, with a priori Attitudes Toward Juvenile Transfer as a covariate, to test for the effects of Information Exposure and Offender Characteristics on support for adult sanction and perception of offender's maturity. To minimize demand characteristics, we used an unrelated studies technique to expose half of our participants to factual, scientific information about juvenile offenders. These participants, and those who were not exposed to this information, were then enrolled in an ostensibly different study on juvenile justice, during which they were randomly assigned one of three vignettes about a felony-murder committed by a 14-year-old offender. Participants were asked to give their opinions on how adult-like the offender appeared and how likely they were to agree with a law that excluded the offender from juvenile court without judicial review. Age and crime type were identical across vignettes, which differed according to sophistication and maturity of the juvenile as determined by his home, environmental situation, emotional attitude and pattern of living (*Kent* criterion 6).

## Materials

### ATTITUDE MEASURES

Prior to being enrolled in our study, participants filled out three attitude surveys online and were told they would be contacted, randomly, when studies at the John Jay College of Criminal Justice became available.

The Juvenile Waiver Scale (Levett, Crocker, & Kovera, 2010) was used to assess participants' a priori attitudes toward adult sanction of juvenile offenders and their beliefs about the sophistication and dangerousness of juvenile offenders. The scale consists of 16 items rated on a 6-point Likert-type scale from *strongly disagree* to *strongly agree*. Item content is intended to tap such things as belief about the capacity of juveniles to form intent and the degree to which youthful offenders recidivate, as well as the belief that adult sanctions deter crime. Higher scores on the scale indicate harsher attitudes toward juvenile offenders. Although internal consistency of the scale in our sample was satisfactory ( $\alpha = .71$ ), 3 items were negatively correlated with the total score, whereas the remaining 13 item-total correlations were positive and high ( $> .5$ ). Removal of the three weak items increased scale variance and internal consistency ( $\alpha = .83$ ), but did not change the pattern of results obtained in a significant way. Therefore, the scale used in our analyses contained only 13 of the original 16 items.

## FAUX SCALES

Two additional scales were administered to lend veracity to the idea that participants would be participating in two or more unrelated studies. On these scales, participants rated their level of agreement with a series of items reflecting the reliability of eyewitness testimony and their attitudes toward the death penalty. The items on the faux scales were written in a format similar to the items on the Juvenile Waiver Scale. These data were not tabulated.

## INDEPENDENT VARIABLES

*Information Exposure (Hereafter Exposure).* Videotaped depositions were used to expose half of the participants to psycholegal information on juvenile offenders and adolescent decision making, as well as data on the effect of adult sanctions on adolescent offenders. These participants, selected at random, were asked to participate in a study for which they would watch experts testify in a deposition and then rate the quality and persuasiveness of the expert's testimony. To maintain the fiction that this study was not about juvenile justice issues, two videotaped depositions were used (participants were told that they would watch two of three different videos that would be randomly selected). In the first deposition, an expert provided testimony in a juvenile reverse-waiver hearing; in the second deposition, the expert witness provided testimony on the reliability of eyewitness evidence in a burglary trial. All participants watched videos on line. The expert witness in the videotaped deposition was played by a local amateur actor who represented a psychologist testifying in a reverse-waiver hearing of a youth who was removed from family to adult court. In the course of the testimony, the psychologist answered general questions posed by the retaining attorney about (a) typical adolescent development and decision making, (b) typical time-course patterns of adolescent offending, including base rates, and (c) statistics on comparative outcomes of youth processed in adult versus family court. All data were sourced from peer-reviewed journal articles in the disciplines of developmental, forensic and neuropsychology, cognitive neuroscience, and criminal justice.

## ENVIRONMENTAL AND SITUATIONAL CHARACTERISTICS OF THE JUVENILE OFFENDER (HEREAFTER CHARACTERISTICS)

Participants were randomly assigned a crime vignette about a 14-year-old male who committed a felony murder (charge consistent with New York State criminal code). There were three vignettes (Abstract, Mitigating, and Aggravating) that varied only insofar as the offender's environment and situation. Following Stalans (1993), the Abstract vignette included no details about the offender apart from his age, the crime he was charged with, and his relationship to the victim.

*Abstract Vignette:* PK is a 14-year-old boy charged with the murder of his 15-year-old classmate, AJ, who classmates say taunted PK for being dumped by his girlfriend. At 3 PM, on April 7, PK robbed AJ at gunpoint in a parking lot adjacent to the schoolyard. According to a witness, AJ complied with PK's demands and handed over the contents of his pockets (\$12 and a Swiss Army pocket knife). While PK was putting the money and knife in his backpack, someone yelled for the police. PK was startled and the gun went off. AJ was shot just below his left shoulder and died six hours later in the local hospital.

The Mitigating and Aggravating vignettes included these identical facts presented in exactly the same format, but followed by a brief addendum describing the social histories, interpersonal functioning, and current environmental situations of the juveniles. The Aggravating addendum was designed to activate a serious-offender mental model and the Mitigating addendum was designed to activate a wayward-youth mental model, but care was taken to ensure that vignettes depicted realistic and complex pictures of juvenile offenders. Factors selected for the vignettes included attributes that have been previously described in the literature as reflecting wayward-youth and serious-offender stereotypes (e.g., Gluck, 1997) and that have been shown to influence judicial waiver decisions (e.g., Brannen et al., 2006). We were not concerned with the effects of any specific factor that contributed to overall valence of the vignette, but rather with creating vivid pictures of a sympathetic and an unsympathetic case. Importantly, it was essential that the included details would have no bearing on where the case would be heard; in New York State, offenders in all vignettes would be charged as adults automatically, by virtue of age and offense alone.

*Mitigating Addendum:* PK was described as quiet and nondisruptive by his teacher. Fellow students described him as nice. PK has been in and out of protective services since he was 3 years old because his mother, who was 16 at the time of his birth, has had difficulty maintaining employment and was arrested twice for intent to sell controlled substances and once for prostitution. PK was physically abused while in foster care when he was between the ages of 5 and 7. PK was returned to his mother's custody in June of 2003 after his mother had successfully completed rehab for alcohol addiction and obtained a steady job at a local fast food restaurant. The two now live in a studio apartment in the Bronx. PK is not in contact with his father, and has no other relatives in the area. Although not a disruptive student, he has consistently struggled in school and was diagnosed with a learning disability when he was in the fourth grade. PK confessed to shooting AJ, and claims to have found the gun inside a shoebox in his friend's closet. He has been withdrawn and uncommunicative since the shooting, unable to make eye contact. On assessment by a forensic psychologist, PK was tearful and remorseful. He said that his girlfriend was the only person who loved him and he didn't understand why she left him. He said he didn't mean to shoot

AJ, but he got scared when he heard the scream and the gun went off. He kept repeating that he did not know there were bullets in the gun. He told the psychologist that he wishes he had never been born. The report by the psychologist suggested that PK was in need of treatment and that with proper help it was very unlikely that he would commit similar crimes in the future.

*Aggravating Addendum:* PK has two prior delinquency findings and a history of misconduct in school. Despite being an above-average student who is considered “popular” by fellow students, he often broke school rules and was suspended once for the use of threatening language with a teacher. One student described him as popular, but “kind of a bully toward the nerds.” Teachers describe him as disruptive in class and defiant towards authority. He lives with his mother and grandmother in a small house in Chappaqua, NY. His parents never married, but he sees his father one night a week, and every other weekend. There are no reports of any family disruption. By all reports, his parents are loving and generous people who get along amiably with each other and in the community. PK confessed to the shooting and claims to have stolen the gun two weeks earlier from his friend’s brother’s truck, where he saw it stored in a case. PK has not expressed remorse for his actions. On assessment by a psychologist, PK said, “I should not have let my pride get the best of me because now I am stuck in jail! I wanted to make him see how it feels to have someone steal something from you. So I stole his money!” A report by the forensic psychologist suggested that PK is not suffering from any mental illness and there is no indication that he has any history of abuse or trauma.

#### OUTCOME VARIABLES

*Perception of the Offender (Hereafter Perception).* After reading the vignettes, participants responded to eight items rated on a six-point Likert-type scale (from 1, Much More Likely, to 6, Much Less Likely). The items measured participants’ opinions as to how likely the individual in the vignette was to understand the consequences of his actions, to change with treatment, to commit future offenses, and to participate competently in his own defense, compared to a similarly offending adult (4 questions) and a nonoffending same-age juvenile (4 questions).

Compared to [nonoffending juveniles of the same age/adults who committed similar offenses], is PK more or less likely to: (a) be competent to stand trial, (b) have understood the long-term consequences of what he was doing, (c) respond to treatment, (d) commit another crime?

The aggregate of these items was used as a measure of the participant’s perception of the offender as more or less adult-like. Higher scores indicated that the offender was viewed as being more similar to a nonoffending juvenile than a similarly offending adult. Internal consistency of the scale was

acceptable ( $\alpha = .73$ ) and all items but one were positively and robustly correlated with the total score. Removal of the item that was weakly but positively correlated with total score did not substantially improve scale variance or internal consistency, so this item was retained.

#### AGREEMENT WITH EXCLUSION (HEREAFTER AGREEMENT)

Participants rated, on a six-point Likert-type scale (from 1, Strongly Agree, to 6, Strongly Disagree), how strongly they agreed or disagreed with a law that automatically excluded the offender in the vignette from juvenile court without a judicial evaluation.

In many states, including NYS, this offender would be excluded automatically from the juvenile court based solely on the offense he committed, without an evaluation of individual factors such as maturity and amenability to treatment. If tried as an adult he faces adult sanctions and is less likely to receive the rehabilitative benefit the juvenile justice system is intended to provide. How strongly do you agree or disagree with the law that automatically excludes this juvenile from the jurisdiction of the juvenile justice system without an individual evaluation?

Higher scores indicated lower levels of agreement.

#### Procedure

The entire study was completed online, using SurveyMonkey. We eliminated duplicate IP addresses and e-mail addresses, and reviewed responses for identical demographic details and response patterns. By signing up online, participants agreed to enroll in a subject pool at the John Jay College of Criminal Justice whereby they would be eligible to participate in several different studies taking place at the college. When they signed up, they provided demographic information and filled out several attitude surveys, which included the Juvenile Waiver Scale (Levett et al., 2010) and the faux scales on the death penalty and eyewitness testimony.

Participants who completed the surveys were selected at random to complete one or two studies. Of course, all participants were enrolled in a single study, but in order to expose half of our participants to information that we thought would influence their support for or against exclusion, we needed to ensure that they did not associate exposure to this information with the aims of our investigation. Thus, half of our participants were contacted and asked to participate in a study evaluating the effectiveness of expert testimony. Those who consented watched videotapes of experts testifying in court and answered questions about the style, clarity, and persuasiveness of the experts, including four attention check items. Participants were told that all facts in the testimony had been checked and that they only

needed to be concerned with the communication style and effectiveness of the expert. All subjects in this condition watched two videos, the first of which was *always* the expert testifying in the juvenile case. Approximately two to five days later, participants who completed the expert effectiveness questionnaires and who correctly answered at least three of four attention check questions were contacted again and asked if they were interested in participating in another study at [the college]. At this time, these participants were told they were being enrolled in a study on juvenile justice issues. The other half of our participants were not asked to participate in the expert-evaluation study, but were contacted only about participating in the study on juvenile justice issues. The participants who watched the videos (hereafter *exposed participants*) and those who did not (hereafter *unexposed participants*) were randomly assigned to one of the three vignettes (Abstract, Mitigating, and Aggravating) that, as described above, varied in environmental and situational factors other than age and crime type. (Note that participants were randomly assigned to exposure conditions at the time they entered the subject pool; subsequently, exposed participants were randomly assigned to vignette condition at the time they completed the exposure portion of the study.) After reading the vignette, participants responded to the eight questions that were aggregated into a measure of the participants' *Perception* of the offender as more or less adult-like. The participants also rated their level of *Agreement* with a law that would automatically exclude the juvenile in the vignette from the juvenile justice system.

All participants were subsequently debriefed. Exposed participants were told that the videotaped information was presented to them under false pretenses in order to test whether their responses to the crime vignettes were affected by the information they received through that presentation. These participants were told they could request that their data be destroyed if they felt uncomfortable by this manipulation. No participant objected.

## RESULTS

### Data Checks

Two hundred and ninety-three participants completed the study and correctly responded to attention checks. Two hundred and seventy-four were included in the analyses. Sample sizes differed among experimental conditions as a result of random assignment (i.e., original groups were unequal in size by chance) and different rates of attrition. We oversampled for the Exposure conditions given our expectation of greater attrition for participants taking part in two studies; nonetheless, we still retained fewer participants across all three Exposure conditions relative to other conditions. Inspection of our data revealed no identifiable systematic biases between participants whom we lost and those whom we retained.

Data were examined for violations of the assumptions underlying the analytic methods employed (i.e., ANOVA/ANCOVA). Data points deemed missing at random were estimated using linear regression. Outliers were identified using the median absolute deviation method as described by Wilcox (2005).

### Demographic Variables

All six experimental groups were roughly equivalent in age, education, gender, and race; therefore, we did not include any of these variables as covariates in our models. In contrast, despite random assignment, the political affiliation of participants was not equivalent across groups and political affiliation was significantly associated with the dependent variable, such that self-identified liberal participants were less inclined to agree with exclusion than were self-identified conservative participants. However, the effect of political affiliation on Agreement with Exclusion was entirely accounted for by scores on the Attitudes Toward Juvenile Transfer scale. Since our purpose was to test whether or not information exposure and characteristics affected agreement with statutory exclusion, controlling for a priori attitudes toward adult sanction, all analyses of the effects of the IVs were repeated with Attitudes Toward Juvenile Transfer as a covariate, thus controlling for political affiliation in our models.

### A Priori Attitudes Toward Adult Adjudication for Juvenile Offenders

Despite the fact that the majority of our respondents described themselves as liberal or left-leaning, scores on the Attitudes Toward Juvenile Transfer scale were centered at about the midpoint of the scale's range,  $X = 41.3$ , showed substantial variability, ranging from 20 to 75 ( $SD = 8.8$ ), and did not deviate markedly from normal. Thus, our participants seem to have entered the study with a range of opinions with respect to adult sanction.

### Agreement With Exclusion of the Offender From Juvenile Court Jurisdiction

To examine the effect of offender Characteristics and information Exposure on participants' Agreement with a law that automatically excludes the offender from the juvenile justice system, a two-way ANOVA was run with Agreement as the dependent variable and with Characteristics and Exposure as independent variables. Results revealed a significant effect for Characteristics,  $F(2,268) = 6.9$ ,  $p < .001$ ,  $\eta_p^2 = .05$  and, as shown in Table 1, planned a priori comparisons of the three conditions confirmed our hypothesis that participants were less likely to agree with exclusion of the offender in the Mitigating condition as compared with either the

**TABLE 1** Means and Standard Errors for Agreement With Exclusion and Perception of the Offender as Adult-Like for Each Experimental Condition

	Abstract			Mitigating			Aggravating		
	<i>Exposed</i> ( <i>n</i> = 42)	<i>Unexposed</i> ( <i>n</i> = 52)	<i>Combined</i> ( <i>n</i> = 94)	<i>Exposed</i> ( <i>n</i> = 46)	<i>Unexposed</i> ( <i>n</i> = 56)	<i>Combined</i> ( <i>n</i> = 102)	<i>Exposed</i> ( <i>n</i> = 27)	<i>Unexposed</i> ( <i>n</i> = 51)	<i>Combined</i> ( <i>n</i> = 78)
Agreement	4.7 (.2)	3.8 (.2)	4.2 (.2)	5.0 (.2)	4.8 (.2)	4.9 (.1)	4.1 (.3)	4.6 (.2)	4.5 (.2)
Perception	31.8 (.8)	28.6 (.7)	30.0 (.7)	34.2 (.8)	33.8 (.7)	34.1 (.6)	28.5 (1.0)	27.2 (.7)	27.6 (.6)

Abstract or Aggravating conditions, which were not significantly different from each other. In addition, although the effect of Exposure on Agreement was not significant, as predicted, the Characteristics  $\times$  Exposure interaction was significant,  $F(2,268) = 5.8$ ,  $p = .003$ ,  $\eta_p^2 = .04$ . Post-hoc analysis of the interaction (alpha set at .016) supported our hypotheses. Exposure had a significant effect on Agreement in the Abstract condition,  $t(92) = 3.2$ ,  $p = .002$ , such that participants in the Abstract condition who were exposed to scientific information about juvenile offenders were significantly less likely to agree with exclusion than participants in the control condition. Exposure was not significant in the Mitigating,  $p = .46$ , or Aggravating,  $p = .16$ , conditions.

Since a primary hypothesis was that the effect of Characteristics and Exposure would persist even after controlling for a priori attitudes to juvenile transfer, we ran an ANCOVA using Attitudes as a covariate. Expectedly, individuals who scored higher on Attitudes (i.e., expressed harsher views of juveniles who offend) were significantly more likely to agree with exclusion ( $F(1, 267) = 22.6$ ,  $p < .0001$ ,  $\eta_p^2 = .08$ ), and the effects reported above remained significant.

### Perception of the Offender as Adult-Like

Similar analyses were performed to examine the effect of Characteristics and Exposure on participants' Perception of the offender as more or less adult-like. Characteristics had a significant effect on Perception,  $F(2,268) = 29.5$ ,  $p < .0001$ ,  $\eta_p^2 = .18$ , and, as shown in Table 1, planned a priori comparisons of the three conditions again confirmed our hypothesis that participants were less likely to perceive the offender in the Mitigating condition as adult-like compared with either the Abstract or Aggravating conditions. In addition, offenders in the Abstract vignette were perceived as less adult-like than offenders in the Aggravating vignette. Participants who were exposed to scientific data relevant to adolescents in the criminal justice system were also less likely than unexposed participants to perceive the offender as adult-like,  $F(1,268) = 6.1$ ,  $p = .014$ ,  $\eta_p^2 = .02$ . The interaction between Characteristics and Exposure did not reach significance,  $F(2,268) = 1.8$ ,  $p = .17$ ,  $\eta_p^2 = .01$ . Again, we next ran an ANCOVA with Attitudes entered as the covariate. Attitudes was significant ( $F(1, 267) = 57.2$ ,  $p < .0001$ ,  $\eta_p^2 = .18$ ). The effects of Characteristics and Exposure remained, and the interaction term was marginally significant,  $F(2,268) = 3.1$ ,  $p = .05$ ,  $\eta_p^2 = .02$ . Analysis of the interaction supported our hypothesis that Exposure would have a significant effect on participants' perception of the offender as adult-like in the Abstract condition,  $F(2,268) = 12.0$ ,  $p = .001$ ,  $\eta_p^2 = .12$ , but not in the Mitigating,  $p = .69$ , or Aggravating,  $p = .53$ , conditions.

### Perception as Mediator

As expected, Perception significantly predicted Agreement,  $F(1,271) = 67.7$ ,  $p < .0001$ ,  $\eta_p^2 = .20$ , such that those who viewed the offender as more adult-like were significantly more likely to agree with excluding the offender from juvenile court. We initially hypothesized that the effects of Characteristics and Information on Agreement would be explained by their influence on how *adult-like* participants perceived the offender in the vignette to be; however, as reported above, Exposure did not independently affect Agreement, and the effect of the interaction term on Perception was only marginally significant. Mediation of Characteristics by Perception was estimated by adding Perception as a covariate to the model that tested the effects of Characteristics and Exposure on Agreement, controlling for Attitudes. Perception was significant,  $F(2, 266) = 53.1$ ,  $p < .0001$ ,  $\eta_p^2 = .17$ , and appears to have fully explained the effects of Characteristics on Agreement. According to the method described by Sobel (1982), the effect of mediation was significant,  $z = 2.15$ ;  $p = .03$ . The Characteristics  $\times$  Exposure interaction effect, although reduced, remained significant,  $F(2,266) = 5.5$ ,  $p = .005$ ,  $\eta_p^2 = .04$ .

## DISCUSSION

Results of this study are in line with a growing body of literature suggesting that explicit agreement with the automatic adult adjudication of juvenile offenders who commit some crimes may obscure the complexity of public opinion. First, we have shown that characteristics of an offender other than age and crime type appear to play a role in whether and when a participant would agree with exclusion for an offender. This was true regardless of participants' attitudes toward adult sanction for juvenile offenders, which was measured prior to any experimental manipulations.

The results of our study also shed light on a reason why some surveys suggest that support for automatic exclusion remains relatively high. Specifically, when no information at all about an offender was provided, participants were as likely to agree with automatic exclusion from juvenile court as were participants who read a vignette that included additional aggravating information about an offender; in contrast, participants who read a vignette that included mitigating information were less likely to agree with exclusion. That the responses of participants in the Abstract and Aggravating cases were not different from each other, but were both different from the Mitigating case, suggests that the participants' mental models of juvenile offenders (i.e., the example of a juvenile offender that is brought to mind when no other information is available) might have been closer to the offender we describe in the Aggravating vignette than the one we describe in the Mitigating vignette. This result is consistent with other reports that have suggested that the somewhat homogenous and high level of support

for “tough on crime” legislation measured via opinion surveys that invoke general, nonspecific offenders becomes far more heterogeneous when those polled are provided with specific information about offenders. Stalans and Diamond (1990) suggest that, in the absence of specific information, participants rely on the most accessible model that they can bring to mind (the prototypical offender); as mentioned earlier, this “prototypical” juvenile offender may very well be atypical of the average offender, as the crimes reported in the news tend to be extreme crimes of remorseless child criminals. This may be why the Aggravating and Abstract cases yielded the same results.

However, this interpretation is in apparent conflict with Haegerich et al. (2013), who assessed spontaneous juvenile offender prototypes in their participants prior to enrolling them in a mock trial study with an adolescent defendant, and found a higher rate of “wayward youth” prototypes relative to “super-predator” prototypes in their sample. Given their results, we might have expected the Abstract vignette to have been more similar to the Mitigating vignette. But Haegerich et al. (2013) elicited prototypes prior to crime exposure. We did not attempt to elicit existing prototypes in our study, and given that our offense was violent, it may have been more likely to activate a serious-offender prototype in the Abstract condition. Of course, discrepancies may also be a result of population differences and history; we sampled community adults in New York City between 2007 and 2008, whereas Haegerich et al. (2013) sampled undergraduates at the University of Illinois at Chicago, and their data appears to have been collected before 2003.

We also found support for our second hypothesis: Previous exposure to scientific and legal information about juvenile offenders reduced agreement with adult sanction, and as expected, this effect was limited to the Abstract condition. When the participants received no other information about the offender (i.e., Abstract condition), exposure to the information had a fairly robust effect in reducing support for automatic exclusion. Among participants who received the Abstract vignette and who were not exposed to information about juvenile offenders, agreement with exclusion was on par with participants who received the Aggravating case. This effect was fairly strong ( $d = .65$ ). Without any other specific details to go on, these participants may have relied on the recent information they received about juvenile offenders. It appears that this shifted them to a more lenient position relative to those who were not exposed to this information. We further hypothesized that both the effects of exposure and offender characteristics would operate via the perception of the offender as more or less adult-like. This was true for offender characteristics, which was completely mediated by perception of the offender as adult-like. When available for review by participants, factors other than crime type and age contributed to how adult-like an offender was

perceived to be, which in turn contributed robustly to the likelihood that participants would agree with statutory exclusion for the offender. In addition, regardless of the vignette, exposure to information rendered participants less likely to see the offender in the vignette as adult-like. However, exposure to information only had an effect on agreement with automatic exclusion in the Abstract condition, and perception of offender as adult-like does not appear to explain the interaction effect of Exposure and Characteristics on Agreement with exclusion.

This pattern of results suggests that information exposure operated through some other mechanism, besides perception of maturity, in weakening agreement for statutory exclusion (or that we measured perception of maturity imprecisely). This raises a question as to whether or not we affected something other than perception of the juvenile's maturity or sophistication with our information exposure manipulation. To enhance the realism of the expert testimony used to expose unwitting participants to information about juvenile offenders, the testimony included information relevant to various aspects of adolescent development and juvenile law, not just maturity. For example, the witness cited evidence to suggest that adolescents processed as adults are more likely to recidivate than those processed as juveniles (Fagan, 1996). Perhaps it was this, or other pieces of information, that weakened support for exclusion, more so than the information on adolescent development and legal capacities. Indeed, another reason to doubt that apparent support for exclusion statutes reflects the real sentiment of the voters is that many people may actually misunderstand how statutory exclusion laws work. For example, Moon, Sundt, Cullen, and Wright (2000) reported preferences for adult sanction along with attitudes favoring the rehabilitation of juvenile offenders. The authors suggested that those who express support for statutory exclusion may well be unaware that adult sanction of a juvenile very often means that the offender will not have access to the rehabilitative services offered to offenders who remain in the juvenile system. Similarly, Piquero and Steinberg (2009) reported data from four states (Illinois, Louisiana, Pennsylvania, Washington) that suggest the public is willing to pay more for rehabilitation than incarceration; this, despite their study the following year, which suggested that respondents expressed support for adult sanction of juveniles for at least some crimes (Steinberg & Piquero, 2010). If this is the case, then the effect that exposure to scientific data had on participants' support for automatic exclusion might have had more to do with a correction of misinformation about adult adjudication rather than misperceptions about the maturity of juvenile offenders. While it is not possible for us to make a definitive statement as to the mechanism by which information exposure affected agreement with exclusion, it is clear that, in the Abstract case, unexposed participants viewed the offender in the vignette as more deserving of adult sanction than exposed participants. This is congruent with previous research: people tend to be less lenient when given

nonspecific, abstract information about offenders and offenses than when they have other information to help them make dispositional decisions. Our study adds to this by showing that this information can be in the form of general educational material *or* case-specific details. This result has clear implications for policy advocates, but it may also have significance for practitioners acting as expert witnesses and their retaining attorneys. Of course, in a trial, case-specific information is ample, but this line of research could (and should) be extended to examine whether jury education on the part of experts can help combat preexisting biases or false beliefs as jurors evaluate the evidence presented in the context of legal proceedings.

Finally, it is important to note that a priori Attitudes was a significant predictor of agreement with exclusion and the effect of attitudes on agreement with exclusion was fully explained by perception of the offender in the vignette as adult-like. This suggests that, to a large degree, participants were predisposed to think of an offender one way or other (i.e., more or less adult-like) and that this predisposition (whether based on one's own experience or media reports) explained slightly more of the variance in the outcome than did Characteristics of the offender and exposure to information. Nonetheless, this does not diminish the fact that, when available, additional information about offenders strengthened or weakened positions toward exclusion.

### Limitations and Future Directions

This is one of only a handful of experimental studies (Najdowski et al., 2009; Nunez et al., 2007; Scott et al., 2006; Stalans & Henry, 1994) that have examined support for statutory exclusion for offenders as a function of offender characteristics *other than* age and crime type. Our results are consistent with these existing studies and suggest a nuanced and complex view of the adolescent offender; one that may be obscured by opinion polls that are relatively nonspecific. Nonetheless, interpretation of our results is constrained by several limitations. Among obvious weaknesses, we used a self-selected sample that was not representative of the general population. It was majority female, most participants were from the greater New York metropolitan area, and the majority described themselves as moderate to liberal in their political views.<sup>3</sup> While our results are in line with those of other research teams who used more diverse samples, it is still important to acknowledge that the impact of the information exposure manipulation may well vary accordingly to demographic attributes of the samples studied. While we think that these data still make an important contribution to the

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<sup>3</sup> Of note, we obtained nearly identical results in the two pilot studies we conducted with undergraduate students (Zottoli & Zapf, 2006; Zottoli, Daftary, Rodriguez, & Zapf, 2009). Our student samples were largely minority (Black and Hispanic) and of mixed gender, and expressed greater initial support for exclusion, on average, than our community sample).

body of knowledge, they are only generalizable to a small segment of the electorate. The scope of political and cultural differences within and among cities, states, and larger geographical regions necessitates the replication of studies like this one across a wide range of samples. We also did not include a similar expert testimony-evaluation task for the unexposed participants. It is possible that mere exposure to *any* psychological data with relevance for the law could have influenced participants' responses to the vignettes. While we think that our pattern of results renders this interpretation unlikely, it cannot be entirely ruled out. In addition, we (purposefully) did not manipulate age in our design, but it may be that as offenders get younger or older the strength of the influence of factors other than crime type will change. Beyond methodological weaknesses, it is also important to consider competing explanations for the results obtained. Although our results suggest greater support for traditional waiver than for statutory exclusion, we cannot entirely discount the possibility that the effect of offender characteristics was a result of participants viewing the offender in the Mitigating case as an exception to the rule. That is, in an ideal world, perhaps, participants would like these factors to be considered, but their actual political position may remain unchanged. They may still believe that most offenders who meet general exclusion rules are more like the youth in the Aggravating vignette than the youth in the Mitigating vignette (however incorrect such an assumption might be; e.g., Bishop & Frazier, 2000b) and that there is no reason to make these laws more flexible. In this study, we did not ask people if they wanted to see the law changed; we just asked whether they agreed with the law as applied to the specific offender in the vignette. Furthermore, attitudes toward juvenile transfer were not measured again at the completion of the study to determine whether they remained unchanged. Future studies should attempt to clarify this issue.

And of course, these data, and data from any study such as this, are only a snapshot in time. Our data were collected after the *Roper v. Simmons*, 2005, U.S. Supreme Court decision that rendered the death penalty unconstitutional for those who committed crimes as juveniles, but before *Graham v. Florida*, 2010, and *Miller v. Alabama*, 2012, which did the same for mandatory life sentences without possibility for parole; the shifting of media attention toward these issues is likely both a cause and a reflection of changing public sentiment.

Finally, while this study suggests that explicit attitudes in the absence of case-specific details do not map perfectly onto more informed decision making, it is explicit attitudes that the electorate makes heard at the ballot box. Thus, the extent to which a layperson's opinion reflects reality is important. The scientific community is aware that adult sanction has adverse consequences on recidivism rates of adolescent offenders (Bishop, Frazier, Lanza-Kaduce, & Winner, 1996; Winner, Lanza-Kaduce, Bishop, & Frazier, 1997), and that most adolescent offenders do not commit violent crimes: only

3.9% of juvenile arrests were for violent crimes in 2012 (Office of Juvenile Justice and Delinquency Prevention, 2014). The weight of psychological and neuroscientific research to date suggests that a separate system of justice, rather than criminal court, is appropriate for most adolescent offenders (e.g., Cauffman & Steinberg, 2000; Gardner & Steinberg, 2005; Grisso et al., 2003; Luna, Garver, Urban, Lazar, & Sweeney, 2004; Monk et al., 2003; Steinberg & Cauffman, 1996; van Duijvenvoorde, Jansen, Visser, & Huizenga, 2010). If the goal of psycholegal research is to shape a scientifically informed public policy, efforts designed to address common misconceptions among the lay public might be necessary. Attitude change is by no means an easy road (Fiske & Taylor, 1991; Petty & Cacioppo, 1996); however, this study provides a small glimpse into the possibility that behavioral change can follow direct exposure to scientific information. Whether this can serve to permanently alter explicit attitudes is unknown.

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