Procedural justice: Why it matters when dealing with juveniles

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Juvenile clients.

- The quality of juvenile defense plays a crucial role in the criminal justice system. Why?
Juvenile defendants.

- Rates of contact with the police and courts are highest during adolescence.
- The disposition of those contacts has the strongest influence on attitudes toward the law, the police and the courts.
  - Shapes later criminal conduct.
Teachable moments.

- Think of these experiences as teachable moments.
- Adolescents learn about the law and what they learn shapes their later conduct.
  - They learn during the period of primary socialization, before attitudes and conduct are established.
What shapes that impact?

- Research suggests that the influence of involvement with the justice system is primarily shaped by evaluations about how authority is exercised by the police, the courts, and correctional authorities.

- The key is judgments about Procedural justice.
Key research finding.

- How fairly juveniles and their problems are managed has more influence than case outcome upon key issues.
  - Whether they accept and continue to abide by decisions.
  - How they evaluate judges, the court system, the criminal justice system and the law.
  - Their later criminal conduct.
Defenders.

- A key role of juvenile defenders is to help ensure that those who go through the justice system feel that their case was handled through fair procedures; that they received fair treatment.
Looking at the public.

- What can research on how juveniles evaluate the courts and their courtroom experiences tell us that is helpful?
Why should you be interested?

- Procedural justice works:
  - It leads to positive views about the legal system.
  - It encourages future law abiding behavior.
  - It promotes the well-being of young people (self-esteem; respect and pride).
An example showing that it works.

- Study of the *decision acceptance* involving courts in Oakland and Los Angeles.
  - Both those who seek help and those being regulated.
  - White; Hispanic; African-American respondents
Factors that could matter.

- Outcome favorability – Did I win?
- Outcome fairness – Did I get what I deserve?
- Procedural justice – Was my case handled through fair procedures?
Why do people accept court decisions?

![Bar chart showing decision acceptance and feelings about the authority.]

- Decision acceptance:
  - Outcome favorability: 0.19
  - Outcome fairness: 0.07
  - Procedural justice: 0.71

- Feelings about the authority:
  - Outcome favorability: 0.15
  - Outcome fairness: 0.06
  - Procedural justice: 0.81
Willingness to accept decisions by race.

- White
- African-American
- Hispanic

Strength of connection
Outcome favorability
Outcome fairness
Procedural justice
Willingness to accept decisions based upon reason for being in court.

-Bringing problem to court (plaintiff)
-Required to come to court (defendant)

Strength of connection

<table>
<thead>
<tr>
<th></th>
<th>Outcome favorability</th>
<th>Outcome fairness</th>
<th>Procedural justice</th>
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<tr>
<td>Bringing problem to</td>
<td>0.21</td>
<td>0.12</td>
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<tr>
<td>court (defendant)</td>
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Age influences.

- The findings just shown are for all ages.
- Juveniles are found to be especially influenced by the fairness or unfairness of their experiences.
Importance of procedural justice.

- Study of young men in New York City (18-26).
  - Those whose experiences with the police involved unfair procedures were twice as likely to be engaged in criminal behavior.
  - Effect found beyond the influence of other factors predicting likelihood of engaging in criminal conduct.
Procedural justice is defined in terms of four issues.

- Quality of decision making.
  - Voice.
  - Neutrality.

- Quality of treatment
  - Respect for people and their rights.
  - Trust decision maker to take case seriously.
Voice

- People want to have an opportunity to tell their side of the story in their own words.
- Give people a reasonable chance to state their case in their own words.
- A frequent cause of complaint: The judge did not listen to me.
Case management implications.

- Give young people the chance to state their case before making decisions.
- Create forums in which they can voice their side of the story.
- Study of young felony defendants.
  - Time spent with attorney key predictor of whether they felt they had had an opportunity to tell their story; explain their views.
Neutrality

- Young people generally view judges as neutral, principled, decision makers.
  - Want decisions based on facts and rules, not personal opinions.
  - Apply rules consistently across people and over cases.
Case management implications.

- Explain actions/decisions.
- Explain court procedures so that defendants know what is going to happen, what they are supposed to do. Legal rules are confusing.
- Explain the basis upon which decisions are being made.
Respect.

- Take people and their concerns seriously.
- Show respect for them as people and as citizens who have the right to address the court about their issues.
Case management implications.

- Courtesy; Politeness; Respect for people.
  - Make eye contact; address people by name.
  - Say hello to defendant.

- Respect for rights.
  - Give defendants information about what their rights are.
  - Emphasize that they have the right to be dealt with fairly.
Trust

- The central attribute influencing defendants' evaluations of judges/mediators is an assessment of the character of the decision maker (sincere, caring). People focus on whether they think the authorities are:
  - Listening to and considering their views.
  - Taking their case seriously/
  - Trying to do what is right.
  - Acting in their interests.
Case management implications.

- Give evidence that you are listening to defendants/taking them seriously.
  - Give evidence of listening: eye contact, not distracted, multitasking.
  - Acknowledge people’s needs and concerns, even when you cannot act on them.
  - Express awareness of and empathy for defendants situation.
  - Treat the matter seriously.

- Explain your decision.
  - Demonstrate that you considered people’s arguments by referring to them.
Importance of interpersonal treatment

- The quality of interpersonal treatment plays a particularly strong role in shaping the impact of the experience on young people’s attitudes about the law; trust in legal authorities; later criminal conduct.

- care about:
  - Treatment with respect and dignity.
  - Respect for their rights.
  - Their trust that authorities care about their needs and concerns.
  - Feel that they are listened to and views considered when decisions are made.
Adjudication.

- Traditional justice system has problems dealing with young people.
- Research shows that the general effect is to increase the likelihood of future criminal behavior.
  - Diversionary programs popular.
Many alternatives have developed.

- ADR, e.g. mediation, arbitration.
- Community courts;
- Drug courts;
- Problem solving courts;
- Restorative justice conferences.
Why are alternative approaches better?

- Procedural justice is central to the appeal of many types of diversionary courts.
  - Drug courts; problem solving courts; restorative justice conferences. ADR procedures (mediation).
  - Defendants experience these procedures as fairer.
Key points.

- Procedural justice is robust.
- Simple fair procedures can promote trust, confidence and law abidingness.
- Procedures can lead to these gains even when delivering negative outcomes.
- Effects found with the involved in violent offenses.
Defense attorneys.

- Defense attorneys can play a key role in whether juvenile defendants have experiences with the criminal justice system that they experience as fair.
- Were they listened to; did they understand what happened; did they feel treated respectfully; did anyone care about them and their concerns?
- Voice of caring in an impersonal, indifferent system.
Thank you.
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