Judges’ Treatment of the Knowing and Intelligent Requirements for

*Miranda Waivers*

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To my family.
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Abstract

Judges’ Treatment of the Knowing and Intelligent Requirements for Miranda Waivers
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The United States Supreme Court requires that waivers of constitutional rights, including the rights described by the Miranda warnings, be made knowingly, intelligently, and voluntarily. The Court and state courts have repeatedly invoked the requirements when determining the validity of Miranda waivers; however, the distinction between the two cognitive requirements (knowing and intelligent) has not been clearly delineated. The current study examined whether judges distinguish between knowing and intelligent when they make determinations of Miranda waiver validity. It was hypothesized that judges would distinguish between the knowing and intelligent requirements, which would be reflected by differences in judges’ ratings of waiver validity for hypothetical defendants with different levels of Miranda rights comprehension. It was hypothesized that defendant’s age would moderate the relationship between Miranda comprehension and judges’ ratings of Miranda waiver validity. Participants were 124 judges randomly selected from 49 U.S. states, each of whom received a packet of materials by mail containing a hypothetical capacity to waive Miranda rights evaluation report, a questionnaire about the validity of the hypothetical defendant’s Miranda waiver, and a demographics survey. Analysis of variance of judges’ ratings of waiver validity on a continuous scale revealed that judges distinguished between knowing and intelligent, but suggested that defendant age may not moderate the relationship. Logistic regression of a
dichotomous valid/invalid rating indicated that *Miranda* comprehension and defendant age were significant predictors of judges’ decisions about waiver validity.
CHAPTER 1: BACKGROUND AND LITERATURE SURVEY

The United States Supreme Court established the concept of *Miranda* warnings as a mechanism for protecting individuals from unwittingly waiving the constitutional rights that are implicated during custodial interrogation (*Miranda v. Arizona*, 1966). The Court was primarily concerned with assuring that the 5th Amendment protection against self-incrimination was not circumvented during custodial interrogation. The Court reasoned that suspects would be able to make informed decisions about whether to talk with police if they were first informed of the rights relevant to police interrogation (*Miranda v. Arizona*, 1966). As a result, the *Miranda* warnings emphasized individuals’ comprehension of their rights and invoked the historical standard for the waiver of constitutional rights, which requires that an individual knowingly, intelligently, and voluntarily relinquish the right (*Escobedo v. Illinois*, 1964).

1.1 Knowing, Intelligent, and Voluntary Waivers

In *Johnson v. Zerbst* (1938), the Court noted that constitutional protections should not be lost because a suspect failed to claim his rights. Waivers are defined as “intentional relinquishment[s] or abandonment[s] of a known right or privilege” (p. 464, emphasis added). In other words, waivers must be active relinquishments of rights; a failure to act to assert one’s rights cannot constitute a waiver. Concerned with assuring that rights waivers were not predicated on suspect’s ignorance and failure to act, the *Johnson* Court held that when a constitutional right is waived, the trial court must determine whether the waiver was “intelligent and competent” (p.465).

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1 The Court later clarified that, in the context of *Miranda*, an explicit waiver is not “necessary or sufficient to establish waiver” and that the intent to waive can be inferred from a suspect’s actions (e.g., if the suspect demonstrates an understanding of the rights and chooses to talk with police) (*North Carolina v. Butler*, 1979, p. 373).
The Court, in *Escobedo v. Illinois* (1964), reaffirmed the focus on an accused’s understanding of his constitutional rights, noting that constitutional rights must be held to apply until a suspect “intelligently and knowingly” waives them (p. 490, FN14). In *Brady v. United States* (1970), the Court further explained that waivers of constitutional rights must be made “with sufficient awareness of the relevant circumstances and likely consequences” (p. 748). Some courts and scholars have treated the first aspect (awareness of relevant details) as constituting the knowing requirement and the second aspect (awareness of consequences) as constituting the intelligent requirement (e.g., *Clay v. Arkansas*, 1994; Frumkin & Garcia, 2003; Grisso, 1981, 2003; Oberlander, Goldstein, & Goldstein, 2003; *Pennsylvania v. DeJesus*, 2001). In this way, the distinction between knowing and intelligent parallels the distinction between factual and rational understanding established by the *Dusky* standard for competence to proceed (Frumkin & Garcia, 2003).

Voluntariness focuses on whether a waiver was coerced by police. Cases like *Brown v. Mississippi* (1936) and *Chambers v. Florida* (1940) established protections against physically coercive interrogation practices. *Ashcraft v. Tennessee* (1944) expanded that protection to address psychologically coercive practices (e.g., a 36 hour interrogation). Overall, courts’ determinations of voluntariness have been based on police conduct and whether inherently coercive interrogation strategies may have overborne a suspect’s free will (*Ashcraft*, 1944).

The knowing, intelligent, and voluntary requirements apply to the waiver of constitutional rights and, therefore, to the relinquishment of the 5th Amendment right against self-incrimination in the context of custodial interrogation. If the validity of a
Miranda waiver is challenged, a judge must consider the characteristics of the defendant and the circumstances of the interrogation to determine whether the waiver was provided knowingly, intelligently and voluntarily.

1.2 Translating Legal Requirements into Psychological Constructs

Psychological testing is often conducted to aid in determining whether a defendant had the capacity to waive his or her rights (Grisso, 1981, 1998). Forensic evaluators typically assess whether a defendant appears to meet the knowing and intelligent requirements (Goldstein & Goldstein, 2010; Oberlander, Goldstein, & Goldstein, 2003; Oberlander & Goldstein, 2001). Voluntariness may also be assessed by forensic evaluators; however, there is a qualitative difference between voluntariness (a primarily situational requirement) and knowing and intelligent (primarily cognitive requirements). As a result, voluntariness challenges do not necessarily contain cognitive questions for clinicians to assess (Grisso, 1998).

The legal constructs of knowing and intelligent correspond to the psychological constructs of understanding and appreciation, respectively (Goldstein & Goldstein, 2010; Grisso, 1981). Understanding denotes an individual’s ability to understand the basic meaning of the warnings, and appreciation refers to an individual’s ability to grasp the importance of the warnings in the legal context and to recognize the consequences of waiving the rights (Grisso, 1981, 2003). The distinction is theoretically significant because it provides two separate constructs that require independent measurement. In addition, the distinction is practically meaningful because it reflects the fact that a suspect can meet the knowing requirement but fail to meet the intelligent requirement (Frumkin & Garcia, 2003; Grisso, 1998). For example, a suspect may understand that he has the
right to have counsel present during interrogation, but he may mistakenly believe that
counsel works for the state. Such an error would cause the suspect to misinterpret the
consequences of waiving his right to counsel, and, therefore, he would fail to meet the
appreciation requirement. In contrast, it appears theoretically impossible for an
individual to fail the knowing requirement and pass the intelligent requirement. The
theoretical distinction between understanding and appreciation suggests that
understanding is foundational because an individual cannot appreciate the significance of
the rights without first understanding their basic meaning. For example, how can an
individual appreciate the benefit of asserting the right to counsel during an interrogation
if the individual does not possess a basic understanding of the role of a lawyer or that he
has the right to request a lawyer’s presence?

Grisso (1998) developed instruments for assessing understanding and appreciation
of Miranda rights. Based upon the theoretical distinction between understanding and
appreciation, he created four individual tools that target the two constructs separately
(Grisso, 1998). Each of the instruments is scored independently from the others and
normative data is available for each. The tools therefore help evaluators to assess
understanding and appreciation independently and to compare an individual examinee’s
scores to those of his or her peers.

Recently, the theoretical distinction between understanding and appreciation was
statistically validated. Exploratory and confirmatory factor analyses of a revised version
of the instruments indicated that the two constructs, while related, are distinct (Zelle,
Goldstein, Riggs Romaine, & Kemp, in preparation). The results of the analyses support
the construct validity (specifically, the content and face validity) of the instruments,
indicating that the instruments measure two constructs that appear to correspond to the legal concepts for which the instruments were developed. Nonetheless, the construct validity of the instruments would also be bolstered by clarifying the legal distinction between knowing and intelligent – that is, whether judges view the cognitively-based legal requirements of a valid waiver as separate constructs.

1.3 Distinction between Knowing and Intelligent by Courts

Prior to reviewing whether and how courts distinguish between knowing and intelligent, two developments in case law and legislation should be noted. The first involves recent developments in the Supreme Court’s treatment of the *Miranda* warnings and the second involves the development of juvenile-specific *Miranda* warning administration procedures by some states. Both areas have the potential to narrow the pool of *Miranda* waivers that can be challenged by determining waiver validity based on factors other than whether a suspect comprehended the warnings.

The Supreme Court recently revisited its *Miranda* precedent in *Berghuis v. Thompkins* (2010). In *Berghuis*, the Court addressed what constitutes an invocation of the right to silence and held that in order to invoke the right, a suspect must make “simple, unambiguous statements” of his intention to do so (p. 2260). Anything less than a clear statement of intent not to speak with police can be viewed as a waiver of the right. This shift may signal a retreat from a more active analysis of whether a defendant comprehended the rights before waiving them, and it is unclear how it will impact challenges under the knowing and intelligent requirements. Challenges may be limited to cases involving active rights waivers or may apply to “passive” waiver cases, as well.

Regardless of how *Berghuis* impacts *Miranda* waiver determinations, it is still important
to clarify the knowing and intelligent standard to better inform psychologists’ and psychiatrists’ evaluations of *Miranda* comprehension.

Another issue that may precede examination of the knowing and intelligent requirements arises from state law variations concerning administration of the *Miranda* warnings to juveniles. Ten states inform juveniles of a right to parent access as part of their enhanced warnings for juveniles (Cruise, Pitchal, & Weiss, 2008). Five states statutorily require parental (or legal guardian) presence during the interrogation of all juveniles, and another seven states statutorily require parental presence for juveniles of specified ages. Of these states, eight require automatic suppression of a juvenile’s statements if the specialized procedures were not followed (Cruise, Pitchal & Weiss, 2008). The presence of such state laws and standards may result in some *Miranda* waiver determinations being resolved without challenges to the knowing and intelligent requirements because courts may find parental presence alone sufficient to satisfy the waiver requirements. Nonetheless, as Cruise and colleagues (2008) note, it is unclear whether parent involvement facilitates a knowing and intelligent waiver. Thus, clarifying the standard is important for those cases in which police complied with juvenile custodial interrogation standards, yet questions remain about the juveniles’ and/or parents’/guardians’ *Miranda* comprehension.

Whereas the concepts of understanding and appreciation have been clearly distinguished in psychological theory (Grisso, 1981, 1998; Zelle et al., in preparation), the distinction between knowing and intelligent is less clear in case law (Viljoen, Zapf, & Roesch, 2007). Appellate decisions in many states appear to hold a waiver valid when a suspect meets two requirements: 1) understanding of the basic factual elements of the
Miranda rights, and 2) appreciation of the consequences of the rights waived (e.g., Pennsylvania v. DeJesus, 2001; Arkansas v. Bell, 1997; Clay v. Arkansas, 1994; Tennessee v. Stephenson, 1994; In re Patrick W., 1978). A distinction between the knowing and intelligent requirements can also be found in United States Supreme Court opinions (e.g., Moran v. Burbine, 1986; Fare v. Michael C., 1979; Brady v. United States, 1970; Escobedo v. Illinois, 1964). In particular, the Moran Court noted that an individual must be aware of both the nature and consequences of a Miranda waiver. Frumkin and Garcia (2003), drawing on Moran v. Burbine, summarized the Court’s treatment of rights waivers as consisting of two factors: uncoerced choice and rights comprehension. The second factor, in turn, entails a two-fold awareness of both the nature of the right and the consequences of waiving it (Frumkin & Garcia, 2003).

Some state courts, however, have explicitly ruled that a basic understanding of the Miranda rights is sufficient for finding a waiver valid (e.g., Michigan v. Daoud, 2000; Michigan v. Cheatham, 1996; Illinois v. Bernasco, 1990). Despite these rulings, the required level of comprehension remains unclear, and two recent opinions by the Appellate Court for the First District of Illinois demonstrate the ambivalence with which some courts approach Miranda waivers. In Illinois v. Young (2006), the Appellate Court, citing Moran v. Burbine (1986), indicated that a waiver is valid if (1) it is uncoerced, and (2) the suspect knew he could remain silent and request a lawyer and that the State intended to use his statements against him. Two years later, the same court held that a knowing and intelligent waiver is one in which the suspect had “a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it” (In re Dante W., 2008, p. 1044).
Other courts have taken an intermediate approach. For example, some courts have clarified that a suspect does not need to understand every potential consequence of a waiver decision but should have some understanding of waiver consequences (e.g., *Colorado v. Al Yousif*, 2002; *New Hampshire v. Bushey*, 1982). Similarly, the Supreme Court held in *Colorado v. Spring* (1987, p. 574) that a suspect does not need to “know and understand every possible consequence of waiver of the Fifth Amendment privilege” in order to fulfill the waiver requirements. The Court indicated that a valid waiver requires that the suspect both understand the relevant rights and recognize at least some consequences of abdicating those rights. At the same time, however, the Court also seemed to suggest that recitation of the *Miranda* warnings was sufficient to protect the 5th Amendment privilege (*Colorado v. Spring*, 1987), even though the warnings do little to explain the consequences of a waiver. It appears from this opinion that the use of a suspect’s statements against him is the only consequence of importance for determining waiver validity, as this was the only consequence described in the warnings used in that case (*Colorado v. Spring*, 1987; King, 2006).

Overall, it appears that the Court does not consider the terms knowing and intelligent to be synonymous, yet the Court has never specifically delineated the distinction between the terms in its opinions (Grisso, 2003). Similar to psychological interpretation of the terms, it appears possible that the Court considers knowing to consist of a foundational, basic understanding and intelligent to consist of an additional level of abstract comprehension. Yet case law suggests that the Court may not requirement much appreciation beyond recognizing that statements can be used against an individual. Consequently, it remains unclear what fulfills the requirements and, specifically, whether
judges view a basic understanding of the rights as sufficient for a waiver determination or whether they require the higher level of understanding and appreciation.

1.4 Current Study

Using a vignette-based format and experimental design, the current study examined whether judges distinguish between the concepts knowing and intelligent when they determine waiver validity. Determining whether judges typically view knowing and intelligent as separate requirements is important for: 1) clarifying the general expectations of suspects in custodial interrogations, 2) determining whether there is a policy-based need to specify a more explicit distinction between the knowing and intelligent requirements, and 3) providing guidance to attorneys and forensic evaluators on the critical information to present to judges during *Miranda*-based suppression hearings.

1.5 Hypotheses

1.5.1 Primary hypothesis.

It was expected that judges would distinguish between the knowing and intelligent requirements, which would be reflected by differences in judges’ ratings of waiver validity for defendants with different levels of understanding and appreciation. Specifically, it was hypothesized that judges would view defendants with good understanding and good appreciation as having provided significantly more valid waivers than defendants with good understanding and poor appreciation (or with poor understanding and poor appreciation). Through the remainder of the dissertation, these varying levels and combinations of understanding and appreciation will be referred to as “*Miranda* comprehension conditions.”
1.5.2 Secondary hypothesis.

It was expected that defendant’s age would moderate the relationship between Miranda comprehension condition and judges’ ratings of Miranda waiver validity. Specifically, it was predicted that judges would rate adult defendants’ waivers as significantly more valid than juvenile defendants’ waivers within the same Miranda comprehension condition.

1.5.3 Exploratory analyses.

Exploratory analyses would examine whether judges’ validity ratings differed significantly across U.S. geographic regions and by judges’ demographic factors.²

CHAPTER 2: METHODS

The research involves a 2 (defendant’s age: 15 years, 25 years) x 3 (Miranda comprehension conditions: good understanding-good appreciation; good understanding-poor appreciation; poor understanding-poor appreciation) between subjects design (see Figure 1).

2.1 Participants

Participants were 124 judges³ (101 male, 20 female, and 3 who did not report sex) randomly selected from 49 U.S. states;⁴ responses were received from judges in 41 states.⁵ Judges ranged in age from 42-77 years (\(M = 60.88, SD = 6.98\)), and reported 2-36 (\(M = 15.29, SD = 8.49\)) year judgships. The sample was 85.5% Caucasian, 1.6%

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² Exploratory analyses were initially planned to examine the degree to which judges conform to the controlling standards for waivers in their states. However, there were insufficient data for these analyses; no/few judges responded from states (e.g., Michigan) with such standards.
³ Two additional judges completed the demographic questionnaire but returned the waiver validity survey without responding to any questions; these judges were excluded from the study.
⁴ New Jersey was excluded from this selection because the state restricts its judges from participation in research.
⁵ No judges in Alabama, California, Georgia, Louisiana, Michigan, Minnesota, Oklahoma, or Rhode Island returned surveys.
African-American, 0.8% Asian-American, 0.8% American Indian, 1.6% Hispanic, and 3.2% multiracial participants. Eight participants (6.4%) did not indicate racial or ethnic identification.

Of respondents, 67.7% reported presiding over criminal court, 61.3% over civil court, 35.5% over juvenile court, and 37.9% over appellate court. Judges also reported presiding over other types of court, such as family court (8.8%), traffic court (2.4%), and probate court (2.4%), or having general jurisdiction (4.0%). Regarding location, 43.5% reported hearing cases in an urban area, 16.1% in a suburban area, 27.4% in a rural area, 2.4% in both urban and rural areas, 1.6% in both suburban and rural areas, 4.8% in urban, suburban and rural areas, and 4.0% provided no information on this topic. Judges also reported the position(s) they held before becoming a judge: 42.7% were prosecutors, 41.9% criminal attorneys, 15.3% public defenders, 19.4% transactional lawyers, and 68.5% civil trial lawyers. Judges also reported other previous positions, such as military officer (1.6%) and professor (2.4%).

An a priori power analysis (power = .80, medium effect size, α = .05) indicated that 216 participants would be required for ANOVA analyses. Survey research suggested that response rates of 20-35% could be expected for judges (Redding, Floyd, & Hawk, 2001; Redding & Reppucci, 1999). Based upon a conservative 20% estimate, 1080 surveys were mailed to judges. The return of 124 surveys resulted in an 11.5% return rate. Post-hoc power analyses indicated that a power of 1.00 was achieved for the Miranda comprehension condition analyses, but only powers of .45 and .18 for the primary ANOVA analyses of the age and interaction effects.
2.2 Measures

2.2.1 Hypothetical reports.

A hypothetical psychologist’s capacity to waive *Miranda* rights evaluation report was mailed to each judge. The hypothetical report was modeled on sample capacity to waive *Miranda* rights reports presented by Heilbrun, Marcyzk, and DeMatteo (2002). The hypothetical reports were identical across conditions, with the exception of details about the variables of interest, the two independent variables: defendant’s age (15 years, 25 years) and *Miranda* comprehension (good understanding/good appreciation, good understanding/poor appreciation, poor understanding/poor appreciation; see Appendix C). Based upon the theoretical conceptualization of understanding and appreciation in which understanding is a foundational capacity that must precede appreciation, only three levels of *Miranda* comprehension are included. Inclusion of a poor understanding-good appreciation condition was considered and ruled out because it 1) conflicted with the theoretical construction of the requirements in psychology and the law, and 2) presented a counterintuitive set of responses in which the hypothetical defendant could not articulate the basic meaning of the rights, but could provide well-articulated responses about how the rights function. It was reasoned that data collected in response to such a vignette would likely be difficult to interpret.

The use of a hypothetical psychologist’s report does not necessarily replicate typical cases involving *Miranda* waiver challenges, as many cases do not involve psychological evaluations. In many cases, judges rely upon information about how the suspect interacted with the police after arrest to determine whether the defendant understood and appreciated the rights before waiving them. Nonetheless, a hypothetical
report was selected for the current study because it provided a structured method of providing information specifically addressing a defendant’s performance on questions about the *Miranda* warnings as well as some background information about the defendant. The hypothetical reports provided much of the defendant’s background information typically included in psychologists’ reports, but, notably, information about the defendant’s intellectual functioning was omitted. Although including an IQ score for the defendant in each vignette was considered, the score would need to be held constant across vignettes in order to vary only the variables of interest in this study. Thus, if the typical IQ score for a detained population (i.e., about 85; Bove, Goldstein, Appleton, & Thomson, 2003; Colwell et al., 2005; Goldstein, Condie, Kalbeitzer, Osman, & Geier, 2003; Richardson, Gudjonsson, & Kelly, 1995; Viljoen & Roesch, 2005) was selected, critical portions of the data would be illogical. That is, describing a defendant with an IQ score in the Low Average range and presenting information that this individual scored in the 5th and/or 95th percentile on measures of *Miranda* comprehension would not represent typical performance and would likely confuse participants.

Differences in *Miranda* understanding and appreciation were conveyed through descriptions of the defendant’s performance on measures of understanding and appreciation, as well as transcribed examples of the defendant’s responses to *Miranda*-related questions. The hypothetical responses provided by the suspect were based on responses detailed in the model reports (Heilbrun, Marcyzk, & DeMatteo, 2002) and example responses included for scoring purposes in the *Miranda* instruments manual (Grisso, 1998). The defendant’s performance on *Miranda* instruments was described quantitatively by reporting the defendant’s percentile rank in comparison to his peers. To
present the same raw score for both the juvenile and the adult suspect would result in
different peer comparison (i.e., the identical raw score for a juvenile and an adult would
place the juvenile at a higher level relative to his peers). The use of percentile ranks
allowed the juvenile and adult suspects to be described identically within the relevant
peer group without relying upon raw scores. In order to examine whether judges
theoretically and legally distinguish between knowing and intelligent, the reports were
written to present either very good (95th percentile) or very bad (5th percentile)
understanding and appreciation. The percentile ranks were chosen based upon
performance that is approximately two standard deviations above and below the mean.

2.2.2 Waiver questionnaire.

Judges were also provided with a survey that contains questions about the
defendant’s Miranda waiver validity (see Appendix D). The survey included questions
rating how the judge would rule on the waiver’s validity, how confident the judge was in
the decision, and how valid the hypothetical suspect’s waiver was on a scale. The survey
also asked about the sufficiency of the suspect’s understanding and appreciation of 1) the
Miranda warnings, 2) the right to silence, and 3) the right to counsel. Judges were also
asked to rate the importance of defendant characteristics (e.g., IQ, age, scores on Miranda
instruments) in their waiver determination. Finally, the questionnaire asked judges to
indicate whether knowing and intelligent refer to two distinct types of comprehension,
whether only one or both are required for a valid waiver in their states, and whether only
one or both should be required for a valid waiver.
2.2.3 **Demographics questionnaire.**

The demographics questionnaire included questions about judges’ personal and professional demographics (e.g., over what type of court the judge presides, years serving as a judge, gender, experience with suppression hearings, familiarity with *Miranda* requirements, experience with juvenile and adult court, and whether his/her state distinguishes between knowing and intelligent) (see Appendix D).

**2.3 Procedures**

The study materials were mailed as a packet to each judge. Each packet contained a cover letter with consent information and general study completion instructions (see Appendix D), a hypothetical evaluation report, a waiver questionnaire, and a demographics questionnaire. A pre-addressed envelope was provided in which judges could return the questionnaires. A second wave of packets containing the same study materials was mailed to those same judges approximately one month after the initial mailing (because of the anonymous nature of the surveys, the second mailing was sent to all judges).

**CHAPTER 3: RESULTS**

**3.1 Analyses of Primary and Secondary Hypotheses**

A two-factor analysis of variance (ANOVA) was conducted to determine whether judges’ ratings of waiver validity differed significantly by *Miranda* comprehension and age. Means and standard deviations for the six conditions are reported in Table 1. A main effect was observed for *Miranda* comprehension, $F(2, 121) = 65.06$, $p < .01$, $\eta^2 = .52$, and post-hoc analyses revealed significant differences across all three *Miranda* comprehension conditions (see Table 2 and Figure 2). A main effect for defendant age
approached significance but did not meet the $\alpha = .05$ criterion, $F(1, 121) = 3.38, p = .07, \eta^2 = .01$. The interaction effect was not significant $F(2, 121) = .77, p = .47, \eta^2 < .01$.  

Additionally, logistic regression was used to examine the effects of *Miranda* comprehension level and defendant age on the bivariate outcome variable of judges’ valid or invalid rulings on the suspect’s waiver. Waiver validity was regressed on *Miranda* comprehension and age, and results indicated that both *Miranda* comprehension and defendant age significantly affected waiver validity. Waiver validity was negatively related to defendant age and positively related to *Miranda* comprehension. That is, the odds of an adult’s waiver being held valid were 4.17 times greater than the odds of a juvenile’s waiver, and judges were 17.28 times more likely to hold a waiver valid if the defendant had good understanding and poor appreciation than if he had poor understanding and poor appreciation (see Table 3). Because no judges rated the waiver in the good understanding and good appreciation condition invalid, logistic regression analyses involving the good understanding and good appreciation condition could not be performed. 

In order to further examine judges’ treatment of the good understanding and good appreciation condition, Chi-square analyses were undertaken. An initial omnibus chi-square test of independence revealed a significant relationship between *Miranda* comprehension condition and dichotomous waiver validity, $\chi^2 (2, N = 124) = 54.94, p < .01$. Post-hoc Chi-square tests using a Bonferroni correction ($\alpha = .02$) indicated that the difference between the good understanding and good appreciation condition and the good understanding and poor appreciation condition approached significance but did not meet
the conservative $\alpha = .02$ criterion, $\chi^2(1, n = 82) = 4.60, p = .03$. All other post-hoc analyses were significant (see Table 4).

3.2 Exploratory Analyses

3.2.1 Sufficiency of defendant’s understanding and appreciation by *Miranda* comprehension and age.

Judges also were asked to rate the sufficiency of the defendant’s understanding and appreciation of individual rights (i.e., rights to silence and counsel) from the *Miranda* warnings. A multivariate analysis of variance (MANOVA) examined whether judges’ ratings of the defendant’s *Miranda* rights comprehension sufficiency differed significantly by *Miranda* comprehension condition and defendant age condition. A significant main effect was observed for *Miranda* comprehension (Pillai’s Trace = .92, $F(12, 222) = 15.86, p < .01$). Post-hoc analyses revealed significant differences among judges’ ratings of defendants in all three *Miranda* comprehension conditions on each of the comprehension sufficiency variables. No significant age effect (Pillai’s Trace = .07, $F(6, 110) = 1.33, p = .25$) or interaction between *Miranda* comprehension and age was found (Pillai’s Trace = .09, $F(12, 222) = .91, p = .53$). See Tables 5 and 6.

3.2.2 Validity of *Miranda* waivers by geographic regions and demographic factors.

ANOVA results indicated that, while controlling for *Miranda* comprehension, judges’ ratings of the validity of the defendant’s waiver did not differ significantly by region, $F(4, 120) = .26, p = .90$, $\eta^2 < .01$, or by judges’ gender, $F(1, 119) = .04, p = .84$.

---

Using a less conservative variant of the Bonferroni correction identified by Holm (1979) results in all comparisons being significant. Holm’s method is sequential such that when three comparisons are being made, the smallest $p$ value must meet a .05/3 criterion to be considered significant, the second smallest $p$ value must meet a .05/2 criterion to be considered significant, and the third most significant $p$ value must meet a .05/1 criterion to be considered significant. Under this variant, $p = .03$, as the third smallest $p$ value, would meet the $p < .05/1$ criterion.
Because the majority of judges identified as Caucasian, insufficient sample size in several cells of the $3 \times 7$ (Miranda comprehension condition by race/ethnicity) matrix prevented analysis of waiver validity ratings by race/ethnicity.

### 3.2.3 Importance of defendant characteristics to Miranda waiver determinations.

Judges were asked to rate the importance of various characteristics of the defendant to their waiver validity decisions, and mean ratings are reported in Table 7. A MANOVA indicated that judges’ ratings differed significantly by Miranda comprehension condition (Pillai’s Trace = .25, $F(14, 214) = 2.20$, $p = .01$), with post-hoc analyses revealing significant differences in judges’ ratings of the importance of the understanding measure and of the appreciation measure by Miranda comprehension condition. Ratings of the characteristics did not differ significantly by geographic region (Pillai’s Trace = .40, $F(7, 106) = .64$, $p = .72$). See Tables 8 and 9.

### 3.2.4 Judges’ self-reported perception of knowing and intelligent standard.

Several questions on the demographic questionnaire and waiver validity questionnaire asked judges to share their knowledge about the knowing and intelligent standard and about how their states define the standard. See Figures 3 – 6 for complete results. The majority of judges (68.5%) reported that their states have case law or legislation establishing standards beyond those described in Miranda v. Arizona. The majority of judges (78.2%) reported that the phrase “knowing and intelligent” describes two types of comprehension and 16.9% reported that the phrase describes one type of comprehension (4.0% endorsed the “Don’t know” response, 0.8% left the item blank).

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7 Due to the unequal group sizes when analyzing gender as a variable (101 men and 20 women), analyses were underpowered (observed power = .06). Therefore, the current results may underestimate the relationship between gender and waiver validity ratings.
The majority of judges (79.0%) reported that their states require both types of comprehension and over three-quarters of judges (77.4%) indicated that both types of comprehension should be required for valid waivers. Finally, 81.5% of judges responded that a defendant could provide a waiver that met the knowing requirement but not the intelligent requirement, and 56.5% indicated that a defendant could provide a waiver that met the intelligent requirement but not the knowing requirement.

CHAPTER 4: DISCUSSION

Results from the current study suggest that despite some recent case law, judges distinguish knowing and intelligent as two separate requirements for a valid *Miranda* waiver in the context of suppression hearings. Mixed evidence was found regarding the impact of defendant’s age on judges’ ratings of waiver validity, with results differing based on format of outcome measures. Notably, judges rated the good understanding and good appreciation (“good/good”) waiver as significantly more valid than the good understanding and poor appreciation (“good/poor”) waiver. The different treatment of these two *Miranda* comprehension conditions suggests that judges consider appreciation separately from understanding and distinguish between the knowing and intelligent requirements. Moreover, when asked explicitly, the majority of judges distinguished two types of comprehension and indicated that both should be required for a valid waiver.

4.1 Implications for Defining the Waiver Standard

The results highlight a need for a clearer definition of the knowing and intelligent standard, given discrepancies between judges’ treatment of the requirements as separate and recent judicial decisions that require fulfillment of only the knowing requirement. Cases like *Michigan v. Daoud* (2000) and *Illinois v. Bernasco* (1990), in which state
supreme courts held that a basic understanding of the *Miranda* rights is sufficient, define a distinctly lower threshold than other state courts that require both understanding and appreciation (e.g., *Pennsylvania v. DeJesus*, 2001; *Arkansas v. Bell*, 1997). Although state courts are free to interpret state constitutions as providing greater protections than those derived from the federal Constitution, they may not interpret their constitutions as providing less protection (*Arizona v. Evans*, 1995; *Cooper v. California*, 1967; *Oregon v. Hass*, 1975). The *Miranda* Court noted this principle when it stated, “Congress and the States are free to develop their own safeguards for the privilege [against self-incrimination during custodial interrogation], so long as they are fully as effective as those described [in this decision]...” (p. 490). In order to abide by this principle, states must implement informative warnings and apply a waiver standard that at least meets the basics required by the Court in *Miranda*. With regard to defining the waiver standard, this suggests that a “floor” definition of what level of comprehension is sufficient to make a knowing and intelligent waiver would be helpful for identifying the lowest constitutionally acceptable threshold that states may set for *Miranda* waivers.

Clear definition of a minimum level of comprehension required by the knowing and intelligent standard is important for encouraging consistent application of the standard across defendants. Under the current circumstances, a defendant with only a basic understanding could be found to have validly waived *Miranda* rights in one jurisdiction, while a similar defendant with the same interrogative circumstance could be found to have provided an invalid waiver in another jurisdiction. In the first jurisdiction, the defendant’s statements, which are often the most potent evidence in a case (Kassin, 1997), would likely be admitted, whereas in the second jurisdiction, the defendant’s
statements would be found inadmissible. Distinguishing knowing from intelligent would promote consistent treatment of defendants’ *Miranda* waivers across jurisdictions by encouraging the application of a baseline set of expectations for suspects in custodial interrogation.

The results of the current study support defining a “floor” threshold; however, judges appeared to differentiate between types of comprehension less when asked to rule a waiver dichotomously than when asked to identify a degree of validity. Using a less conservative alpha adjustment resulted in significant differences between all *Miranda* comprehension conditions, as was found for the continuous waiver validity rating. Nevertheless, this contrast suggests that despite judges’ distinction between knowing and intelligent, they may ultimately err on the side of finding a waiver valid in cases in which a defendant demonstrates at least basic understanding. Outlining more explicit expectations for what meets the knowing and intelligent requirements may have little effect in practice. Alternatively, a more explicit definition, particularly one that is empirically supported, may indicate that at least some appreciation is required and turn the tide on the practice of erring on the side of holding a waiver valid when a defendant shows only basic understanding. The finding also raises questions about whether judges are influenced, consciously or unconsciously, to find waivers valid. The current ambiguous nature of the knowing and intelligent standard allows for the influence of irrelevant and inappropriate considerations, and clearer definition of the standard could help to promote more thoughtful evaluation of waiver validity.
4.2 Implications for Psychology

The current study has implications for psychologists, forensic evaluations, and psycholegal measurement. The field of psychology has traditionally conceptualized the knowing and intelligent standard to identify two levels of comprehension, much like in other areas of competency (Frumkin & Garcia, 2003; Grisso, 2003). Based upon established models of competency and case law language, the psycholegal constructs of understanding and appreciation were defined in a manner suggesting related but distinct types of comprehension. The current study shows that the majority of judges interpret, at least intuitively, the knowing and intelligent standard in a manner similar to how psychologists inferred its conceptualization (Goldstein & Goldstein, 2010). This similarity lends validity to the approach to Miranda waiver evaluations in which psychologists measure and describe a defendant’s basic understanding of the rights and appreciation of the consequences of waiving rights. The psychological conceptualization of the standard is also supported by the fact that judges appear to have extrapolated information relevant to the knowing and intelligent requirements from a hypothetical report that discussed the defendant’s comprehension in terms of understanding and appreciation. The similarity between judges’ interpretation of the legal standard and psychology’s conceptualization of the relevant capacities suggests that evaluators should distinguish between understanding and appreciation during their assessments and in their presentation of evaluation data, as courts may reach holdings differentially based on levels of both understanding and appreciation.

Beyond identifying two types of comprehension, psychology has traditionally considered understanding and appreciation to be hierarchical, in that appreciation cannot
be acquired without first having a basic understanding of relevant concepts (Frumkin & Garcia, 2003; Grisso, 2003). Recent research provided support for the hierarchical nature of the constructs by showing restricted variability in appreciation for juveniles with poor understanding and greater variability in appreciation for juveniles with good understanding, although the results were not significant (Zelle et al., 2011). In contrast, the current study revealed mixed results from judges. No judges indicated that they thought only intelligent comprehension is or should be required of defendants and over 80% of judges indicated that a suspect could provide a knowing but not intelligent waiver, suggesting that they recognized a qualitative difference between the types of comprehension. Nevertheless, the majority of judges indicated that a suspect could provide an intelligent but not knowing waiver, reflecting ambiguity about how the types of comprehension might be related.

It appears that judges are inclined to view knowing and intelligent as referring to different areas of comprehension but that the majority of them also treat the two cognitive requirements interchangeably. Such an approach may fit well within, and help explain, the larger trend of requiring only basic understanding. It may be that many judges interpret the waiver standard to require two things, cognitive comprehension and voluntary action, and cognitive comprehension can be satisfied by meeting either the knowing or intelligent requirement. Given that basic understanding is the type of comprehension that can occur independently, it follows that the approach may reduce to interpretations of the standard as requiring only basic understanding because judges are seeing defendants meet that type of comprehension in most cases. Regardless of the reason, judges’ apparently contradictory treatment of the relationship between knowing
and intelligent, in which no judges reported that only intelligent should be required yet more than half reported that a waiver can meet the intelligent requirement alone, likely plays a role in the varied application of the requirements across jurisdictions.

Given this ambiguous conceptualization by judges, a question is raised regarding the importance of psychology’s conceptualization of the standard. Legal standards in similar areas suggest that discussing capacities above basic understanding is relevant and meaningful. For example, in the competency to stand trial context, the analogous standard of factual and rational understanding has long been viewed as describing basic knowledge and the capacity to appreciate concepts and how they apply to one’s own case (Frumkin & Garcia, 2003; Grisso, 2003), and recent social science research has supported this model through factor analysis (Jacobs, Ryba, Zapf, 2008; Viljoen, Vincent, & Roesch, 2006; Zapf & Roesch, 2005).

It would appear that psychology’s model of understanding and appreciation is better informed because it is based upon examination of both legal precedent and social science knowledge related to intellectual functioning and the abilities needed to grasp abstract concepts. Judges’ responses in the current study may reflect a confusion about the relationship between knowing and intelligent stemming from, in part, a lack of information about comprehension abilities. Therefore, it is important for psychologists to inform judges and lawyers about the empirically supported hierarchical model of understanding and appreciation. Further research should be undertaken and presented to legal practitioners to make clear that knowing and intelligent are not interchangeable requirements, which will also underscore the importance of requiring both when applying the standard.
4.3 Implications for Attorneys

Defense attorneys may find it persuasive to highlight the distinction between the types of comprehension when presenting evidence of their clients’ understanding and appreciation. Clear presentation of deficits in a client’s rights appreciation may persuade a judge that, although the defendant exhibits a basic understanding of his *Miranda* rights, he has important deficits in appreciating the function of his rights. Such an argument may increase the likelihood that the judge will rule the waiver invalid. This type of approach may be helpful in making headway in cases of “passive” waivers, where the defendant did not explicitly invoke his rights and eventually made a statement to police. An attorney may find it helpful in those cases to raise the capacity to waive *Miranda* rights issue and present evidence that her client did not fully appreciate the right to silence because he did not know about its protected nature or how to invoke it.

Alternatively, prosecuting attorneys may prefer to downplay the distinction when persuading the court that a defendant’s *Miranda* comprehension was sufficient to meet the waiver standard. Such an approach could be particularly viable in jurisdictions with case law suggesting that only a basic understanding of rights is required. Nevertheless, there may be times when highlighting the distinction could be to a prosecutor’s advantage because the defendant appears to have an appreciation of the rights. Pointing to the need for basic understanding in order to achieve appreciation, the prosecuting attorney could potentially use the evaluation results to make a more compelling argument that the defendant’s waiver should be held valid and any inculpatory statements should be admitted.
4.4 Role of Defendant Age

Unexpectedly, the effect of *Miranda* comprehension condition on waiver validity rating was not moderated by defendant age in the current study, as defendant age approached significance but did not meet the significance criterion in the primary ANOVA analyses. Although this outcome may be the result of low power, a very small effect size was found for age in the primary analyses, suggesting a weak relationship. Over 30 years of empirical studies have generally revealed a strong relationship between age and *Miranda* comprehension (e.g., Abramovitch, Peterson-Badali, & Rohan, 1995; Colwell et al., 2005; Grisso, 1981; Viljoen & Roesch, 2005), but some studies have observed a fairly weak relationship (e.g., Goldstein et al., 2011). Regardless of this more recent qualified data about the strength of the relationship, it is unlikely that judges are changing their approach to waiver determinations after years of practice and research have supported age as relevant to *Miranda* waiver validity. In fact, recent U.S. Supreme Court decisions regarding juveniles in criminal/juvenile justice settings have explicitly raised age as a relevant and important factor for consideration (e.g., *J.D.B. v. North Carolina*, 2011; *Graham v. Florida*, 2010; *Roper v Simmons*, 2005). In *J.D.B. v. North Carolina* (2011), the Court specifically noted the importance of considering age when determining whether a person is in custody for purposes of *Miranda*.

Ultimately, defendant age emerged as significant in the logistic regression analyses, indicating that it did have a meaningful impact as a predictor of waiver holding. Significant age effects in past research have typically been found for younger adolescents, especially those under 14 years old (e.g., Grisso, 1981), and the juvenile described in the current study was 15 years old. It may be that constraints, such as
having only a brief description of a 15-year-old defendant rather than a live, younger defendant at a suppression hearing, limited the ability of the current study to realistically simulate the influence of age on judges’ waiver determinations.

4.5 Limitations

Although the sample size was smaller than expected, the obtained sample does not appear to have limited the study’s power for all analyses. Several studies have suggested that the estimated 20% response rate for mail surveys with judges was reasonable (e.g., Redding, Floyd, & Hawk, 2001; Redding & Reppucci, 1999); however, the range of response rates obtained by mail surveys of judges is wide. For example, a recent mail survey of judges conducted by Kwartner and colleagues (2006) obtained a similarly low response rate of 12.7%. In a review of survey research with judges, mail surveys were the most frequently used method despite low average response rates, and response rates ranged from 5% in a study with over 100 participants to 100% in two studies – one with five participants and one with 35 participants (Merlino, 1998 as cited in Dobbin et al., 2001). Although an electronic mail survey may have allowed for wider sampling in the current study, there was no research regarding the use of electronic surveys with judges and the response rates that could be expected. The small sample may not be as representative as possible of judges across the country and may have limited the power of secondary analyses, including examination of interaction effects. Nonetheless, the current sample was geographically diverse and was sufficient in size to examine the primary hypothesis regarding the effect of Miranda comprehension type on judges’ ratings of waiver validity.
The current study also may be limited by the fact that it utilized an evaluation report to convey information about a hypothetical defendant. The vignette-type format could not present elements that would be present during a suppression hearing involving various forms of information, such as the presence and appearance of the defendant (which, notably, may be an influential factor for age effects) and arguments by the prosecution and defense. However, the vignette-type format provided opportunities for an experimental design that allowed for manipulation of only the independent variables.

A potentially interesting area of analysis may have been missed by not including a poor understanding/good appreciation condition in the experimental design. As noted earlier, there appeared to be no basis for including an apparently illogical depiction of a defendant with poor understanding and good appreciation. More than half of judges, however, responded that it is possible to meet the intelligent requirement without meeting the knowing requirement, and it would have been valuable to examine whether that theoretical indication would be reflected in judges’ decision making when presented with a vignette of such a defendant. Finally, the defendant’s levels of understanding and appreciation were described as very high or very low in order to generate a clean design with clear distinctions between conditions. Although such extremes may have sensitized judges to considering knowing and intelligent as distinct capacities, the goal of this study was to examine whether judges would distinguish between good/good and good/poor *Miranda* comprehension conditions when evaluating waivers, and results indicated that judges did distinguish between these two clearly described conditions.
4.6 Conclusions

The current study provided support for conceptualizing the knowing and intelligent *Miranda* rights waiver standard as requiring two types of comprehension: 1) a basic understanding of the *Miranda* rights, and 2) an appreciation of how the rights function and the consequences of waiving them. It appears that the majority of judges distinguish between knowing and intelligent, both when asked directly about their interpretation of the requirements and when reaching a waiver validity decision. The study results suggest that there is reason to develop and promulgate clearer definitions distinguishing the knowing and intelligent requirements. Although states are free to interpret greater protections from their own constitutions, it seems that a “floor” threshold for what the knowing and intelligent standard requires of suspects is needed. A critical consequence of finding a *Miranda* waiver valid is the admission of inculpatory statements that may have followed the waiver. Given that inculpatory statements are often the most powerful piece of evidence in a case (Kassin, 1997), there is an important interest in clarifying the analysis of waiver validity to promote thorough and consistent evaluation across jurisdictions.

This study presents an initial investigation of how judges apparently view and apply the knowing and intelligent requirements, and additional research is needed to further develop this area. Replication of this study using a mixed-method survey design would be worthwhile to potentially widen the sample of judges surveyed and support or refine the current results. Replication or similar experimental studies would allow for further examination of the effect of defendant age as well by presenting descriptions of younger juveniles. Research on age effects may be a critical entree for making
arguments about the importance of requiring both understanding and appreciation, as attention to the vulnerabilities of juveniles in the justice system is likely to be persuasive. It is worth noting that the current project was undertaken before the U.S. Supreme Court’s *J.D.B. v. North Carolina* (2011) opinion was handed down – an opinion that not only noted the importance of considering age in justice contexts, but also demonstrated a step forward in the Court’s acceptance and use of social science research to support its opinions. After *J.D.B.*, it seems that the Court is increasingly open to considering social science evidence in its deliberations, particularly when it comes to issues affecting juveniles.

Other future research may include reviewing suppression hearing transcripts to examine how defendants are evaluated by judges, including how a defendant’s *Miranda* comprehension is described by attorneys or experts, as well as how judges are actually ruling in cases in which defendants appear to have differing levels of *Miranda* comprehension. In addition, review of transcripts may highlight which characteristics of defendants are actually associated with, and even predictive of, validity rulings. Such research will be important for further identifying how judges are applying the knowing and intelligent standard, and whether their practices are consistent with the psycholegal model of understanding and appreciation. It appears that case law does not lead to the interpretation of knowing and intelligent as distinct requirements reliant upon hierarchical capacities, yet initial research around the understanding and appreciation capacities supports the hierarchical model. It will be important to identify what it is that judges are doing in waiver validity cases, as well as ground the hierarchical model in empirical data,
in order to present a persuasive argument for the adoption of the model by legal practitioners.

Finally, clearer definitions of the knowing and intelligent standard and/or what suspects are expected to comprehend about the *Miranda* rights could be drafted and submitted to panels of judges and legal experts for review. Review of such definitions could provide further insight into how judges interpret the standard. Feedback may highlight how the standard could best be explicated by indicating what legal practitioners view as descriptive of the standard and where additional interpretive guidance is necessary. In addition, results of such feedback could, perhaps, provide model definitions that jurisdictions could choose to implement if they so wished.
List of References


Arkansas v. Bell, 948 S.W.2d (Ark., 1997).


Colorado v. Al Yousif, 49 P.3d 1165 (Colo., 2002).


Cooper v. California, 386 U.S. 58 (1967).


In re Dante W., 890 N.E.2d 1030 (Ill.App. 1 Dist., 2008).
In re Patrick W., 84 Cal.App.3d 520 (Cal. App., 1978).


Tennessee v. Stephenson, 878 S.W.2d 530 (Tenn., 1994).


## Appendix A: Tables

### Table 1

*Mean (SD) Waiver Validity Scores for Miranda Comprehension Condition x Age Conditions*

<table>
<thead>
<tr>
<th>Conditions</th>
<th>Age</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Juvenile Defendant</td>
<td>Adult Defendant</td>
<td></td>
</tr>
<tr>
<td>Good Understanding, Good</td>
<td>4.63 (.65)</td>
<td>4.64 (.63)</td>
<td></td>
</tr>
<tr>
<td>Appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good Understanding, Poor</td>
<td>3.47 (.94)</td>
<td>4.00 (.82)</td>
<td></td>
</tr>
<tr>
<td>Appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poor Understanding, Poor</td>
<td>2.04 (1.26)</td>
<td>2.44 (1.04)</td>
<td></td>
</tr>
<tr>
<td>Appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Table 2

*Post-hoc Results: Main Effect of Miranda Comprehension Condition on Waiver Validity Rating*

<table>
<thead>
<tr>
<th></th>
<th>Good understanding, Poor appreciation</th>
<th>Poor understanding, Poor appreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good understanding, Good</td>
<td>Mean difference = .85***</td>
<td>2.41***</td>
</tr>
<tr>
<td>appreciation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good understanding Poor</td>
<td>1.57***</td>
<td></td>
</tr>
<tr>
<td>appreciation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*p < .05. **p < .01. ***p < .001.
Table 3

*Logistic Regression of Waiver Validity Ruling*

<table>
<thead>
<tr>
<th>Predictor</th>
<th>$b$</th>
<th>$SE_b$</th>
<th>Wald’s $\chi^2$</th>
<th>$df$</th>
<th>$p$</th>
<th>$e^b$ (odds ratio)</th>
<th>IOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>-.01</td>
<td>.43</td>
<td>&lt; .01</td>
<td>1</td>
<td>.98</td>
<td>.99</td>
<td>---</td>
</tr>
<tr>
<td><em>Miranda Comprehension</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1)</td>
<td>22.27</td>
<td>6350.29</td>
<td>&lt; .01</td>
<td>1</td>
<td>1.00</td>
<td>&lt; .01</td>
<td>---</td>
</tr>
<tr>
<td>(2)</td>
<td>2.85</td>
<td>.61</td>
<td>21.67</td>
<td>1</td>
<td>&lt; .01</td>
<td>17.28</td>
<td>---</td>
</tr>
<tr>
<td>Defendant age</td>
<td>-1.44</td>
<td>.58</td>
<td>6.19</td>
<td>1</td>
<td>.01</td>
<td>.24</td>
<td>4.17</td>
</tr>
</tbody>
</table>

Test $\chi^2$ $df$ $p$

Goodness-of-fit test

Hosmer & Lemeshow

.30  4  .99  

Table 4

*Differences between Miranda Comprehension Conditions on Dichotomous Validity Rating*

<table>
<thead>
<tr>
<th>Conditions</th>
<th>$\chi^2$</th>
<th>$p$</th>
<th>$\phi$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good understanding and good appreciation</td>
<td>4.60 (1, $n = 82$)</td>
<td>.03</td>
<td>.32</td>
</tr>
<tr>
<td>Good understanding and poor appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good understanding and good appreciation</td>
<td>39.92 (1, $n = 81$)</td>
<td>&lt; .01</td>
<td>.70</td>
</tr>
<tr>
<td>Poor understanding and poor appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good understanding and poor appreciation</td>
<td>28.73 (1, $n = 87$)</td>
<td>&lt; .01</td>
<td>.58</td>
</tr>
<tr>
<td>Poor understanding and poor appreciation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 5

*Main Effect of Miranda Comprehension Condition on Comprehension Sufficiency*

<table>
<thead>
<tr>
<th>Sufficiency variable</th>
<th>$F$</th>
<th>$p$</th>
<th>$\eta^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehension of warnings</td>
<td>105.30(2, 120)</td>
<td>&lt; .001</td>
<td>.64</td>
</tr>
<tr>
<td>Comprehension of right to silence</td>
<td>87.04(2, 120)</td>
<td>&lt; .001</td>
<td>.60</td>
</tr>
<tr>
<td>Comprehension of right to counsel</td>
<td>124.63(2, 120)</td>
<td>&lt; .001</td>
<td>.68</td>
</tr>
<tr>
<td>Comprehension of waiving rights</td>
<td>96.58(2, 120)</td>
<td>&lt; .001</td>
<td>.63</td>
</tr>
<tr>
<td>Comprehension of waiving right to silence</td>
<td>76.00(2, 120)</td>
<td>&lt; .001</td>
<td>.56</td>
</tr>
<tr>
<td>Comprehension of waiving right to counsel</td>
<td>85.63(2, 120)</td>
<td>&lt; .001</td>
<td>.59</td>
</tr>
</tbody>
</table>
Table 6

*Post-hoc Results: Main Effect of Miranda Comprehension Condition on Comprehension Sufficiency*

<table>
<thead>
<tr>
<th>Comprehension of warnings</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>Mean difference = .84***</td>
<td>2.82***</td>
</tr>
<tr>
<td>Good/Poor</td>
<td></td>
<td>1.98***</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comprehension of right to silence</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>.57*</td>
<td>2.72***</td>
</tr>
<tr>
<td>Good/Poor</td>
<td></td>
<td>2.15***</td>
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<th>Comprehension of right to counsel</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>.64**</td>
<td>2.87***</td>
</tr>
<tr>
<td>Good/Poor</td>
<td></td>
<td>2.22***</td>
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<table>
<thead>
<tr>
<th>Comprehension of waiving rights</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
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</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>1.08***</td>
<td>2.78***</td>
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<tr>
<td>Good/Poor</td>
<td></td>
<td>1.70***</td>
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<thead>
<tr>
<th>Comprehension of waiving right to silence</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>1.32***</td>
<td>2.69***</td>
</tr>
<tr>
<td>Good/Poor</td>
<td></td>
<td>1.36***</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comprehension of waiving right to counsel</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>1.03***</td>
<td>2.68***</td>
</tr>
<tr>
<td>Good/Poor</td>
<td></td>
<td>1.65***</td>
</tr>
</tbody>
</table>

*p < .05.  **p < .01.  ***p < .001.
Table 7

Mean Importance Ratings of Defendant Characteristics

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Mean (SD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mental health</td>
<td>3.76 (.96)</td>
</tr>
<tr>
<td>Intelligence</td>
<td>3.63 (.98)</td>
</tr>
<tr>
<td>Performance on understanding measure</td>
<td>3.37 (1.26)</td>
</tr>
<tr>
<td>Performance on appreciation measure</td>
<td>3.32 (1.23)</td>
</tr>
<tr>
<td>Age</td>
<td>3.14 (1.14)</td>
</tr>
<tr>
<td>Previous experience with criminal justice system</td>
<td>2.96 (1.11)</td>
</tr>
<tr>
<td>Academic performance</td>
<td>2.79 (.94)</td>
</tr>
</tbody>
</table>

Note. The range of scores for all variables was 1 – 5.

Table 8

Main Effect of Miranda Comprehension Condition on Importance of Defendant Characteristic

<table>
<thead>
<tr>
<th>Importance variable</th>
<th>$F$</th>
<th>$p$</th>
<th>$\eta^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mental Health</td>
<td>.31 (2, 116)</td>
<td>.73</td>
<td>.005</td>
</tr>
<tr>
<td>Intelligence</td>
<td>.66 (2, 116)</td>
<td>.52</td>
<td>.01</td>
</tr>
<tr>
<td>Performance on understanding measure</td>
<td>4.13 (2, 116)</td>
<td>.02</td>
<td>.07</td>
</tr>
<tr>
<td>Performance on appreciation measure</td>
<td>7.30 (2, 116)</td>
<td>&lt; .01</td>
<td>.12</td>
</tr>
<tr>
<td>Age</td>
<td>.56 (2, 116)</td>
<td>.57</td>
<td>.01</td>
</tr>
<tr>
<td>Previous experience with criminal justice system</td>
<td>1.34 (2, 116)</td>
<td>.27</td>
<td>.02</td>
</tr>
<tr>
<td>Academic performance</td>
<td>.25 (2, 116)</td>
<td>.78</td>
<td>.004</td>
</tr>
</tbody>
</table>
Table 9

*Post-hoc Results: Main Effect of Miranda Comprehension Condition on Judges’ Ratings of Defendant Characteristic*

<table>
<thead>
<tr>
<th>Performance on understanding measure</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>Mean difference = .51</td>
<td>.24</td>
</tr>
<tr>
<td>Good/Poor</td>
<td>.75*</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Performance on appreciation measure</th>
<th>Good/Poor</th>
<th>Poor/Poor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good/Good</td>
<td>.71*</td>
<td>.24</td>
</tr>
<tr>
<td>Good/Poor</td>
<td>.95**</td>
<td></td>
</tr>
</tbody>
</table>

*p < .05.  **p < .01.  ***p < .001.
Appendix B: Figures

<table>
<thead>
<tr>
<th>Miranda comprehension condition</th>
<th>Age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Juvenile</td>
</tr>
<tr>
<td>Good Understanding</td>
<td>Good Understanding</td>
</tr>
<tr>
<td>Good Appreciation</td>
<td>Good Appreciation</td>
</tr>
<tr>
<td>Good Understanding</td>
<td>Good Understanding</td>
</tr>
<tr>
<td>Poor Appreciation</td>
<td>Poor Appreciation</td>
</tr>
<tr>
<td>Poor Understanding</td>
<td>Poor Understanding</td>
</tr>
<tr>
<td>Poor Appreciation</td>
<td>Poor Appreciation</td>
</tr>
</tbody>
</table>

*Figure 1.* Between subjects research design: Defendant age x *Miranda* comprehension condition.

*Figure 2.* Judges’ mean waiver validity scores for *Miranda* Comprehension Conditions and Defendant’s Age Conditions.
Figure 3. Percent of judges reporting their state has case law or legislation establishing standards beyond *Miranda v. Arizona* (1966) for 1) juveniles, 2) adults, 3) juveniles and adults, 4) neither, or 5) don’t know. Four percent left the item blank.

Figure 4. Percent of judges reporting the type of comprehension required by their state to be 1) only knowing, 2) only intelligent, 3) both knowing and intelligent, 4) the term knowing and intelligent describes only one type of comprehension, or 5) don’t know. Of respondents, 1.6% left the item blank.
Figure 5. Percent of judges reporting that the type of comprehension that should be required for a valid waiver is 1) only knowing, 2) only intelligent, 3) both knowing and intelligent, 4) the term describes only one type of comprehension, or 5) don’t know. Of respondents, 1.6% left the item blank.

Figure 6. Percent of judges that responded a defendant can make a knowing but not intelligent waiver and the percent of judges that responded a defendant can make an intelligent but not knowing waiver.
Appendix C: Hypothetical Evaluation Report for Adult Defendant with Good Understanding and Good Appreciation

PSYCHOLOGICAL EVALUATION OF JOHN S.

REFERRAL
John S. is a 25-year-old male charged with Aggravated Assault. The police read the Miranda warnings to him when he was arrested. John’s attorney filed a motion challenging the validity of John’s Miranda waiver. A mental health evaluation was ordered to provide the court with information relevant to John’s capacity to waive Miranda rights.

RELEVANT HISTORY
John is the second of three children. He reported that his parents divorced when he was 5 years old and that he lived with his mother after the divorce. According to John’s school records, he never repeated a grade, generally received Cs in his classes, and had an average number of absences (approximately 12 per school year). Both John and his school records indicated that he was involved in two fights at school for which he was suspended. John completed the 8th grade, but dropped out of school in the 9th grade. After dropping out, John worked a series of unskilled jobs, such as mowing lawns and fast food preparation. John indicated, and his records confirmed, that he has no prior legal history.

CURRENT CLINICAL CONDITION
At the time of the evaluation, John was 25 years old. He was oriented to person, place, and time, and his thought processes were clear and goal-directed. John denied the presence of hallucinations, and there was no evidence of delusions. John was cooperative throughout the evaluation. A previous psychological report indicated that John had never been diagnosed with any mental, emotional, or behavioral problem.

ABILITIES ASSOCIATED WITH CAPACITY TO WAIVE MIRANDA RIGHTS
John completed the Instruments for Assessing Understanding and Appreciation of Miranda Rights, a set of standardized, well-researched tests designed to evaluate abilities associated with the capacity to waive Miranda rights. On an instrument that required John to describe the meaning of each right in his own words, he scored in the 95th percentile of the normative peer sample, indicating that he scored better than 95% of his
peers. On an instrument that required John to respond to a series of questions about the function of *Miranda* rights in relevant legal contexts, he scored in the 95th percentile of the normative peer sample, indicating that he scored better than 95% of his peers.

John was asked to explain his understanding of the meaning and implication of each *Miranda* warning. John explained the right to remain silent as meaning “that I can decide not to say anything if I don’t want to.” He was asked about the consequences if he chose to remain silent. He replied, “The police have to let me not talk because it’s my choice to not talk. They can’t force me or anything, they have to leave me alone.” John was asked to explain the consequences of giving up the right to remain silent. He stated, “The things I say, the police put it down in their records, then later they can repeat it in court. Staying silent means I won’t give them information that looks bad for me, so talking means I could end up giving them information they could use as evidence.” John was asked to explain what it meant for his statements to be used against him. He stated, “Whatever I say can be used in court to make it look like I did it. What I say can be evidence that hurts my case.”

He explained that the right to an attorney meant that he could “ask to have an attorney there with me at the police station, to talk to me and explain things.” John was asked when he could have the attorney with him. He replied, “before I answer any questions and while the police ask me questions, too.” John was asked about the meaning of the right to appointed counsel. He stated, “I can still have a lawyer, even if I don’t have enough money to pay for one. The court gives me one.” When asked about the role of a defense attorney, John stated that the attorney “is there to help the person who was arrested – to explain what is going on, help out the person to make decisions about what to say. He’s there to defend you and keep you from going to jail.” John was asked to explain the consequences of giving up the right to an attorney during questioning. John replied, “Then I’d be talking to the police by myself with no one to help me figure out what to say or explain what’s going on.”

When asked about asserting the rights after beginning to talk with police, John replied that the warning meant “I can decide to stop talking after I started – to talk to my lawyer or if I think the questions will bring up things I don’t want to talk about.” John was also asked about the purpose of the *Miranda* rights more broadly. He replied, “They’re rights, like protections for you...they tell you that you can say nothing, that you can talk to a lawyer. They are things you can do and no one can tell you that you can’t do them.”
Appendix D: Cover Letter to Judges, Waiver Questionnaire, and Demographics Questionnaire

Dear Judge [insert name],

As part of the JD-PhD program in Law and Psychology at Drexel University, we are conducting a research study on judges’ determinations of Miranda waiver validity. Your unique knowledge and insight is vitally important for informing psychologists about what they should include in their reports. In order to improve the reports that psychologists prepare for courts like yours, we are interested in learning about what judges deem sufficient to meet Miranda waiver requirements.

- Drexel University’s Institutional Review Board (IRB) has approved this research study (IRB #XXXX).
- Participation in this study is completely voluntary. Your return of the survey will constitute consent for your responses to be used in this research.
- This study will not request any identifying information. All data will be kept in a secure location.
- The survey materials will take approximately 15 minutes to complete.

The survey materials consist of excerpts from a capacity to waive Miranda rights evaluation report, a questionnaire about the evaluation, and a demographics questionnaire. The capacity to waive report provides information about a defendant, including a brief background of the case and personal history information. The questionnaire then asks about your judgments about the defendant’s capacity to have waived Miranda rights based on the information in the report.

If you are willing to participate:
- Please read the report and then answer the questions in the order they are presented. Please do not skip ahead or return to questions that you have already answered.
- If you are uncomfortable answering a question, please skip it.
- If you would like to provide additional feedback, please feel free to do so in the space provided on the last page of the materials.

After you have completed the forms, please return them in the envelope provided. Please do not write your name on any of the forms in the packet.

If you have any questions or concerns, please contact Naomi E. Goldstein, Ph.D. at [xxxx] or Heather Zelle, M.S. at [xxxx].

Sincerely,
Heather Zelle, M.S.
Ph.D. Candidate, Clinical Psychology
Drexel University

Thank you very much for your time.
Your participation in this study is very valuable and greatly appreciated.
1. How would you rule on the validity of John’s *Miranda* waiver?

☐ His waiver was invalid  ☐ His waiver was valid

2. Given the information provided, how confident are you about this ruling?

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not at all confident</td>
<td>Moderately confident</td>
<td>Completely confident</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. If you could rate waiver validity on a sliding scale, how would you rate the validity of John’s *Miranda* waiver?

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not at all valid</td>
<td>Moderately valid</td>
<td>Completely valid</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please answer questions 4 - 9 using the scale from “not at all sufficient” (1) to “completely sufficient” (5):

<table>
<thead>
<tr>
<th></th>
<th>Not at all sufficient</th>
<th>Moderately sufficient</th>
<th>Completely sufficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>4. How sufficient was John’s comprehension of the meaning of the <em>Miranda warnings</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>5. How sufficient was John’s comprehension of the meaning of the <em>right to silence</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>6. How sufficient was John’s comprehension of the meaning of the <em>right to counsel</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>7. How sufficient was John’s comprehension of the consequences of waiving the <em>rights</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>8. How sufficient was John’s comprehension of the consequences of waiving the <em>right to silence</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>9. How sufficient was John’s comprehension of the consequences of waiving the <em>right to counsel</em>?</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>
How important a role did each of the defendant characteristics listed below play in your *Miranda* waiver determination?

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Not at all important</th>
<th>Moderately important</th>
<th>Very important</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Age</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Intelligence</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12. Mental health</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Academic performance</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Performance on the instrument measuring comprehension of the meaning of the <em>Miranda</em> warnings</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. Performance on the instrument measuring comprehension of the consequences of waiving <em>Miranda</em> rights</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Previous experience with the criminal justice system</td>
<td>1 2 3 4 5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17. Were any other characteristics important to your determination?</td>
<td></td>
<td>□ Yes □ No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>If yes, please specify:</td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td></td>
<td>1 2 3 4 5</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td>1 2 3 4 5</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td>1 2 3 4 5</td>
<td></td>
</tr>
</tbody>
</table>

*Please continue on the back of this page if additional characteristics were important to your determination.*
18. Do the waiver requirements “knowing” and “intelligent” describe one legally required type of comprehension or two legally required types of comprehension?
   □ One type of comprehension
   □ Two types of comprehension
   □ Don’t know

19. In order for a waiver to be valid in your state, are both “knowing” and “intelligent” required?
   □ Only knowing is required
   □ Only intelligent is required
   □ Both are required
   □ The terms describe one requirement
   □ Don’t know

20. Should both “knowing” and “intelligent” be required?
   □ Only knowing should be required
   □ Only intelligent should be required
   □ Both should be required
   □ The terms describe one requirement
   □ Don’t know

21. Assume that knowing and intelligent constitute two different types of comprehension. In theory, could a defendant provide a waiver that meets the knowing requirement but not the intelligent requirement?
   □ Yes □ No

22. Continue assuming that knowing and intelligent constitute two different types of comprehension. In theory, could a defendant provide a waiver that meets the intelligent requirement but not the knowing requirement?
   □ Yes □ No

23. How old was the defendant? _______ (Please do not refer back to the report.)
1. In what state are you a judge? __________________________

2. Over what type(s) of court do you preside? (Check all that apply.)
   □ Criminal court
   □ Juvenile court
   □ Civil court
   □ Appellate court
   □ Your state’s highest court, specifically
   □ Other (please specify) ________________________________

3. What was/were your position(s) before becoming a judge? (Check all that apply.)
   □ Prosecutor
   □ Private criminal defense attorney
   □ Public defender
   □ Transactional lawyer
   □ Civil trial lawyer/litigator
   □ Other (please specify) ________________________________

4. How many years have you been a judge? __________________

5. Approximately how many *Miranda* waiver cases have you reviewed in the past year?
   □ 0
   □ 1-5
   □ 6-10
   □ 11-15
   □ 16-20
   □ 21 or more

6. Approximately how many *Miranda* waiver cases have you reviewed in your career?
   □ 0
   □ 1-25
   □ 26-50
   □ 51-75
   □ 76-100
   □ More than 100
7. Is there precedent or legislation in your jurisdiction that establishes detailed standards or requirements (beyond what is described in *Miranda v. Arizona*) for waiver validity determinations?

- □ Yes, for juveniles  □ Yes, for adults  □ Yes, for both
- □ No  □ Don’t know

7(a). If your state has additional standards for **juveniles**, do the standards require parent/guardian presence during custodial interrogation?

- □ Yes  □ No  □ Don’t know

7(b). If your state has additional standards for **juveniles**, do the standards allow juveniles to waive their *Miranda* rights?

- □ Yes  □ No  □ Don’t know

8. Have you presided over a **juvenile** case involving a *Miranda* waiver challenge?

- □ Yes (Please answer 8(a-c))  □ No (Please skip to question 9)

8(a). When you consider a juvenile’s comprehension of the *Miranda* warning, do you look only at the information and concepts the juvenile comprehends or do you compare the juvenile’s comprehension to the comprehension of others?

- □ Consider only the information and concepts the juvenile comprehends
- □ Compare the juvenile’s comprehension to the comprehension of others

8(b). If you compare the juvenile’s *Miranda* comprehension to that of others, against whom do you compare comprehension? (you may select more than one answer)

- □ Other juvenile justice-involved youth
- □ Community youth
- □ Criminal justice-involved adults
- □ Community adults
- □ I do not compare juvenile’s comprehension to that of others

8(c). Against whom do you believe juveniles’ *Miranda* comprehension **should** be compared?

- □ Other juvenile justice-involved youth
- □ Community youth
- □ Criminal justice-involved adults
- □ Community adults
☐ I do not compare juvenile’s comprehension to that of others

9. In what type of location do you hear cases?
   ☐ Urban   ☐ Suburban   ☐ Rural

10. What is your gender?
    ☐ Male       ☐ Female

11. What is your age? __________

12. What is your racial/ethnic identification? (Check all that apply.)
    ☐ American Indian or Alaskan Native
    ☐ Asian or Pacific Islander
    ☐ African American/Black
    ☐ Hispanic
    ☐ White
    ☐ Other
    ☐ Prefer not to answer

Thank you very much for your time.
Vita

Heather Zelle

Heather Zelle is a seventh year JD/PhD student on internship at the University of Massachusetts Medical School/Worcester State Hospital. Her research interests include juveniles’ and adults’ comprehension of Miranda rights, judicial interpretation of legal capacities, and clinical forensic assessment in juvenile and adult cases. She defended her dissertation entitled “Judges’ Treatment of the Knowing and Intelligent Requirements for Miranda Waivers” in May 2012 and expects to meet the requirements of the doctoral degree in August 2012. She has experience with mental health courts and mental health policy as well as clinical experience with adults in inpatient and outpatient settings. After internship, Heather will complete a two-year post-doctoral research fellowship at the University of Virginia and the Institute for Law, Psychiatry, and Public Policy. Heather earned her B.A. in Psychology from Lycoming College in May 2004, her M.S. in Clinical Psychology with a Forensic Concentration from Drexel University in December 2008, and her J.D. from Villanova University School of Law in May 2011.

Publications


Teaching Experience

Drexel University, Adjunct Faculty June – August 2009

Undergraduate Course: Psychological Tests and Measurements

Awards and Honors

American Psychology-Law Society Student Grant-in-Aid, 2010
Drexel University, Office of International Programs, International Travel Award 2010
Valedictorian, Lycoming College, Class of 2004
J. Milton Skeath Award in Psychology, For superior undergraduate achievement and potential for future work in psychology, 2003-2004
Lycoming College Scholars Program, 2000-2004