

**“WHY CAN’T YOU GUYS JUST TALK LIKE ME?”:  
AN EXPLORATION OF COURT-INVOLVED YOUNG ADULTS’  
RESPONSES TO LANGUAGE BARRIERS**

by

Megan Terry Demarest

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## **ABSTRACT**

While existing scholarship has established that younger justice-involved populations tend to experience language difficulties to a greater degree than their nondelinquent peers (Anderson, Hawes, & Snow, 2016), there are limited attempts in the literature exploring how younger populations experience and respond to language barriers in the courtroom. Moreover, questions regarding how language barriers may influence younger justice-involved populations' perceptions of fairness and legitimacy of the court process remain underdeveloped. I explore these gaps through ten in-depth qualitative interviews with male court-involved young adults within an alternative to incarceration program. Findings show that respondents attribute language barriers as consequences of varied sources; however, the recognition of these sources all illustrate the disadvantaged social location of respondents in comparison to court officials. Similarly, language barriers appear to exacerbate respondents' feelings of procedural injustice, leading respondents to enact various coping strategies when faced with instances of perceived bias and mistreatment by the court. As a result, this study provides needed insight into the lived realities of court-involved young adults in relation to experienced language barriers, while also demonstrating the key role that language plays in younger justice-involved populations' responses to procedural injustice.

## **Chapter 1**

### **INTRODUCTION**

Language has been largely recognized as the quintessential fabric that assists individuals in their understanding of the world around them (LaVigne & Van Rybroek, 2013). Moreover, the use of language allows for the expression of thoughts, communication with others, and the navigation of social interactions. Consequently, language comprehension emerges as an essential skill and aspect of normative social development (Donaldson, 2003). In accordance, language serves a key role in the law such that it operates under the basic assumption that individuals within society are able to use language in an appropriate manner while also understanding and abiding by rules outlined by the law (LaVigne & Van Rybroek, 2011; LaVigne & Van Rybroek, 2011). Consequently, individuals, who experience language barriers are likely to encounter increased obstacles in experiencing the protective mechanisms of the law.

In acknowledgement of the often abstract vernacular embedded within legal discourse, scholars argue that the law fails to account for varying linguistic abilities and competencies of youthful criminal justice involved populations (LaVigne & Van Rybroek, 2011). Similarly, existing scholarship acknowledges that the law often remains blind to the presence of cultural differences that might impede one's ability to understand courtroom discourse (Chin, 2004; Norgren & Nanda, 1996). As a result, increased efforts have been devoted to understanding the extent to which younger justice-involved populations experience language difficulties within the court process. However, most of these efforts have predominantly been concentrated on quantitative



assessments regarding rates of language impairments among younger populations (Anderson et al., 2016; Sanger, Moore-Brown, Magnuson, & Svoboda, 2001; Snow & Powell, 2011). Findings reveal a greater prevalence of language impairments among youthful offender populations in comparison to their non-delinquent counterparts (Anderson et al., 2016). While these efforts provide increased attention to the magnitude in which language difficulties occur among criminal justice involved youths, there is still little understanding of how language barriers are actually experienced and in what ways such barriers are navigated within the context of the courtroom.

The lack of recognition of language barriers within this environment is problematic due to the potential for injustice for younger populations that are not able to understand the language employed therein (LaVigne & Van Rybroek, 2011). Moreover, such language barriers can pose increased obstacles to achieving justice and might ultimately inhibit a defendant's ability to fully assist counsel in defending his or her case (LaVigne & Van Rybroek, 2011). Overlooking language barriers can be detrimental to interactions within the criminal justice system as well, which scholars argue is paramount in determining people's evaluations of their court experiences (Lind & Tyler, 1988; Tyler, 1990; Tyler, 2007). Research suggests that individuals who perceive that they are not treated fairly during the process are more likely to display a diminished commitment to normative values regarding legal compliance (McLean & Wolfe, 2016; Tyler, 1990). Studies investigating procedural injustice provide further evidence that individuals, particularly those who are marginalized within society, may rely on self-help strategies to compensate for unfair processes (Gau & Brunson, 2015). Consequently, scholars persist in their demand for

further empirical investigations to demonstrate the need for increased safeguards for younger justice-involved populations (Grisso, 1980; LaVigne & Van Rybroek, 2013).

As a result, I aim to fill in existing gaps in the literature through exploring how the language of the law, influenced by hegemonic notions of the dominant class, perpetuates existing power differentials through maintaining the subordinate status of younger justice-involved populations. I examine how language within the courtroom may play a key role influencing young adults' perceptions of fairness and legitimacy of the courts and how such perceptions may subsequently contribute to coping responses. To explore these ideas, I ask: how do court-involved young adults perceive the role of language in the courtroom?; how do court-involved young adults experience language barriers in the court process?; to what extent do court-involved young adults perceive the language and process of the court to be fair?; and how do court-involved young adults respond to language barriers experienced in the court process?.

I will begin by introducing the theoretical contributions of hegemony to guide my investigation of the first three posed research questions, followed by an overview of the procedural justice literature that will guide my investigation of the fourth posed research question. Next, I will provide a brief summation of the existing scholarship regarding language difficulties among younger justice-involved populations, with a particular focus devoted to the hegemonic constructions of the law (Charrow, Crandall, & Charrow, 1982). Finally, drawing upon the narratives of court-involved young adults, I will examine the factors contributing to language barriers identified by respondents and the ways in which language serves as a contributing factor to

perceived procedural injustice throughout the court process and related coping responses.

## Chapter 2

### THEORETICAL FRAMEWORK

#### Hegemony

Scholarship has contested that law is a vehicle in which compliance is enforced, such that the law ultimately serves a hegemonic function within society (Litowitz, 2000). This function of the law has been traced back to the writings of Antonio Gramsci (Gramsci, 1971) as well as within earlier Marxian developments (Marx, 1977; Marx & Engels, 1989). Gramsci (1971) depicted hegemony as an overarching phenomenon that aided a group in its domination of the masses (Litowitz, 2000), leading scholars to acknowledge hegemony as a form of ideological consensus (Gramsci, 1971; Phillips, 1998). In his development of the concept of hegemony in the *Prison Notebooks*, Gramsci argued that a ruling class assumes control over the masses through two mechanisms, including domination and moral leadership. More specifically, he suggested that power is acquired through the domination of other groups through physical force or coercion, as well as the reinforcement of ruling class ideals as universal norms. In this way, the interests of the ruling group become internalized as the interests of all social groups (Litowitz, 2000).

While Gramsci's (1971) conceptualization of hegemony articulated an ideological struggle among various competing entities, other scholars have used the writings of Gramsci to further explore the hegemonic role of law through the adoption of a dualistic lens of domination and subordination (Phillips, 1998). Accordingly, scholars argue that ideological apparatuses are at work within the court system

(Althusser, 1971; Philips, 1998). Existing scholarship suggests that the law ultimately serves as a method of control, which is facilitated by the workings of a powerful group (Litowitz, 2000). Mattei (2003) argues, “law is a detailed and complex machinery of social control that cannot function with any degree of effectiveness without some cooperation from a variety of individuals staffing legal institutions. These individuals usually consist of a professional elite which either already exists or is created by the hegemonic power” (p. 385). Therefore, these legal actors, who are typically comprised of white, well-educated, members of the middle class, serve to reinforce the hegemonic ideals of those in power (Litowitz, 2000; Mattei, 2003).

Other scholarly developments acknowledge, however, that a pluralism exists in legal ideologies (Fineman, 1988), such that the role of language is often viewed as constitutive (Conley & O’Barr, 1990; Phillips, 1998). Phillips (1998), in exploring ideology within the language of judges, argues that judges are ideological and do not solely implement and enforce the writings of the law. She contests, “spoken law enacts the political authority of the state, and judges enact diverse concepts of that state. Spoken law exerts direct control over defendants. Legal speech can even be thought of, in its materiality, as a form of physical control” (p. 123). As a result, scholars offer supporting evidence of law as ideology (Fineman, 1988; Phillips, 1998) and further recognize that language informs such ideologies (Phillips, 1998).

Therefore, the language of the law is reflective of its hegemonic functions and the promotion of normative ideals held by those in power, more specifically those of white middle-class adults. According to Swett (1969), the American legal system operates to maintain the prevailing sociocultural order, which is influenced by internalized norms and ideological stances of the professionals controlling the criminal

justice system. He argues, “regardless of their origins, members of the legal profession as a group must by reason of their professional status be considered part of the upper-middle-class stratum of American society. As such, they have an even greater personal stake than the police in the preservation and maintenance of the existing sociocultural order” (p. 94). Thus, existing scholarship finds that conformity to upper and middle class American norms, often contingent on one’s appearance, speech, and behavior, is privileged within the courts (Chin, 2004; Swett, 1969). With this in mind, scholars argue that a linguistic and cultural bias exists within the courts towards those individuals, predominantly minorities, who depart from normative cultural ideals internalized by criminal justice professionals (Chin, 2004; Norgren & Nanda, 1996; Swett, 1969). Cultural differences, including varying styles of speech and language, in addition to social and socioeconomic gaps that exist between lawmakers and younger justice involved populations could potentially pose increased barriers in the court process. Individuals, like the current sample, who deviate or do not align with the normative ideal promoted within the court system will likely face greater barriers to achieving justice as a result (Swett, 1969). Therefore, the hegemonic function of the law serves as a valuable lens to explore the presence and impact of language barriers among court-involved young adults within the context of the courtroom.

### **Procedural Justice**

The concept of normative procedural justice, coined by Tom Tyler (1990, 2007), contends that the manner in which courts handle cases serves as a strong influencer of people’s evaluations of courts’ effectiveness (Tyler, 2007). According to this perspective, the treatment and quality of interactions within the court experience supersedes the influence of court outcomes (Lind & Tyler, 1988). Research

demonstrates that individuals who perceive procedures to be fair are more likely to be accepting of court decisions (Thibaut & Walker, 1975; Tyler, 2007; Tyler & Blader, 2003; Tyler & Huo, 2002). As a result, Tyler (2007) argues that procedural justice can serve as a strategy to maintain the authority of the justice system and enhance the legitimacy of courts.

Within the model of procedural justice, four key factors have been posited to contribute to people's evaluations of procedures and interactions within the criminal justice system, including neutrality, respect, voice, and trust (Tyler, 2007). The principle of neutrality builds upon ideals of transparency and impartial decision-making practices. Demonstrations of respect within the court process, including displays of deference, protecting one's rights, and affording information about the court process, affirms the importance of people's legal matters and concerns. Similarly, providing individuals with the opportunity to voice their concerns communicates to people that their perspective is considered and valued within the decision-making process. Finally, trust in the court process and personnel, built through honest, caring and impartial experiences, emerges as a core factor that influences individuals' perceptions of procedural justice and/or injustice (Tyler, 2007). The convergence of these four key tenets of procedural justice demonstrate the significance of styles of communication adopted by criminal justice officials (Trammell, Cook, Marquez, Hinkle, Protze, & Rodriguez, 2018), which makes this particular conceptual framework a well-suited lens to examine how court-involved young adults respond to perceived procedural injustice due to language barriers.

Mounting research contests that perceptions of procedural justice and/or injustice shapes individuals' commitment to normative and prosocial values within

society (Tyler, 2007; Tyler & Blader, 2003). More specifically, Tyler (2007) argues that perceptions of procedural justice and fairness bolsters individuals' compliance with the law and investment in conventional values. In contrast, perceived injustice is likely to deteriorate one's commitment to conventional norms (Tyler, 2007), which has been shown to also impact offending behaviors (Paternoster, Brame, Bachman & Sherman, 1997; Reisig, Bratton, Gertz, 2007; Tyler & Fagan, 2008).

In accordance with such findings, increased efforts have been devoted to exploring how procedural injustice and eroded legitimacy may condition individuals' subsequent emotional responses (Chory, Horan, Carton, & Houser, 2014; Gau & Brunson, 2015; Kubrin & Weitzer, 2003; Murphy & Tyler, 2008). Findings from investigations suggest that when individuals perceive procedural injustice, strong emotional responses can result (Chory et al., 2014) and can often lead individuals to employ self-help strategies (Gau & Brunson, 2015; Murphy & Tyler, 2008). Moreover, using longitudinal survey data, Murphy and Tyler (2008) demonstrate that perceptions of procedural justice not only contribute to emotional responses, but that emotional reactions mediate subsequent compliance behaviors. With these findings in mind, the current study adopts a procedural justice framework to investigate how language barriers and perceptions of procedural injustice may influence court-involved young adults' responses to such obstacles.



### **Chapter 3**

## **LITERATURE REVIEW**

### **Language of the Law**

The language employed within the law is often recognized as a sublanguage used by court professionals that is distinct from everyday speech (Black & O’Barr, 2014; Crandall & Charrow, 1990; Mellinkoff, 2004). Examinations of legal language reveal several underlying features that account for these distinctions (Mellinkoff, 2004). The continual reliance on these features within legal language contributes to the incomprehensibility of legal discourse for individuals that are not members of the legal field (Charrow et al., 1982; Mellinkoff, 2004). Despite this knowledge, increasing evidence demonstrates that attempts to simplify the language of the law are often met with resistance due to the force of the law and its ritualistic nature (Charrow et al., 1982). As a result, scholars contend that the language of the law and the training of lawyers serves to ultimately reproduce hierarchies (Kennedy, 1982).

The lexical nature of the legal language has received greater attention in linguistic assessments (Charrow et al., 1982). Findings reveal that the vocabulary employed within the law emerges as a source of differentiation from everyday speech (Black & O’Barr, 2014; Charrow et al., 1982; Mellinkoff, 2004). Elements including terminology with uncommon meanings, the usage of Middle English, Old English, Latin, and French words, as well as a reliance on technical legal jargon furthers the separation between legal discourse and everyday speech (Mellinkoff, 2004). As a

result, scholars find that individuals are not able to comprehend this style of language saturated throughout the court process (Black & O'Barr, 2014; Charrow et al., 1982).

While scholars recognize the potential challenges associated with comprehension of legal discourse, attempts to simplify the language of the law have been met with resistance (Charrow et al., 1982; Kennedy, 1982). Scholars largely attribute this resistance to the force of the law and its primary role in the communication of legal rulings (Charrow et al., 1982). Litowitz (2000) contests that the law ultimately serves a hegemonic function. He argues that the language of the law has produced a predetermined set of resolutions and possibilities to legal matters according to legal precedents that have been historically established. Therefore, all disputes are framed within the conceptual framework outlined by the law to arrive at a solution within the parameters of the law. In doing so, Litowitz (2000) asserts that, “whenever the law recasts a series of events in the conceptual grid of the law, the law makes reference to itself and legitimates itself” (p. 515), which ultimately reifies the hegemonic power of the law.

In addition, Kennedy (1982) acknowledges that legal education and training of lawyers contributes to the legitimation of the law through the reproduction of hierarchies. He asserts that law students are integrated into the existing power structure of the law due to varying aspects of law schools, including the curriculum, skills taught, and teacher modeling. These teachings orient students to the dominant expectations of lawyers within the existing hierarchical structure of the law, which includes the adoption of legal terminology (Kennedy, 1982). Moreover, he argues that through the mystification of legal reasoning and the justification of existing ideologies within the legal profession, law schools ultimately breed lawyers that legitimize the

power of the law and its associated language (Kennedy, 1982). Therefore, scholars recognize the difficulty that is likely to be encountered within attempts to alter the existing hierarchical nature of the law (Charrow et al., 1982).

As a result, it is to be expected that those who experience language difficulties or possess varying cultural competencies and/or linguistic abilities are likely to incur increased barriers due to the rigidity of the legal sublanguage within this realm (Chin, 2004; LaVigne & Van Rybroek, 2011). Existing scholarship finds that varying cultural backgrounds influences various aspects of language use, including dialect, vocabulary, and communication styles among others (Banks, 2006; Carter, 2005; Chin, 2004). Therefore, varying cultural competencies may shape differences in how individuals communicate and interpret language (Chin, 2004). While such differences do not imply that certain cultures are better or worse, a lack of understanding for varying competencies and linguistic abilities disadvantages certain groups within different realms (Chin, 2004).

Scholars find that courtrooms are environments in which cultural differences emerge, leading to greater problems for minority populations due to a lack of cultural understanding within this environment (Chin, 2004). In fact, existing scholarship argues that the American court system fails to consider culture and ultimately operates under the assumption that a cultural homogeneity reflected in its ritualized nature and standard application (Chin, 2004; Norgren & Nanda, 1996). As a result, individuals that possess varying cultural competencies and linguistic abilities are likely to experience greater difficulties in interpreting and using language in the court process (Chin, 2004). Consequently, this unfortunate dynamic has the ability to fracture

relationships and communication between defendants and court officials (Chin, 2004) and ultimately contribute to feelings of procedural injustice (Tyler, 1990).

### **Language Barriers and the Criminal Justice System**

In recognition of the complex sublanguage employed by legal professionals, scholars have increased efforts to examine how younger justice-involved populations are impacted by the employment of legal discourse (Grisso, 1980; LaVigne & Van Rybroek, 2011; Lount et al., 2018; Snow & Powell, 2004). More specifically, studies devote greater attention to understanding how the language of the law might impact youthful populations that experience linguistic difficulties (LaVigne & Van Rybroek, 2013; Snow, Bagley, & White, 2018; Snow & Powell, 2004). In doing so, the existing scholarship acknowledges that youthful offenders with language difficulties might face increasing challenges within interviews with law enforcement (Snow & Powell, 2004), attorney-client relations (LaVigne & Van Rybroek, 2013), and within correctional settings (Snow et al., 2018).

The *Miranda* warnings represent an area of increased scholarly attention devoted to exploring younger populations' comprehension abilities of legal language and associated rights. More specifically, Grisso (1980), through administering testing instruments requiring a sample of detained juveniles to interpret the warnings (Grisso, 1980), finds that younger juveniles within the sample were unable to comprehend the significance of the *Miranda* warnings. More recent developments reveal that the language of the warnings require individuals to comprehend lengthy sentences with complex syntactical structuring and abstract meanings (Rogers, Hazelwood, Sewell, Harrison, & Shuman, 2008). Consequently, scholars contend that the language of the law could pose substantial obstacles to the comprehension of one's rights within the

legal process (LaVigne & Van Rybroek, 2011), especially for those that might experience language difficulties.

Prior literature also demonstrates that language difficulties can be detrimental to one's oral competency within forensic interviewing of juveniles (Snow & Powell, 2004; Snow & Powell, 2012). More specifically, Snow & Powell (2004), upon assessing the oral competency of approximately 70 male juvenile offenders in comparison to a non-offending group through varied language measures, find that juvenile offender populations exhibit greater difficulty in understanding abstract language and have a hard time relaying narrative information. They argue that this is largely problematic due to the increased pressure placed on younger offenders during interviewing, which might propel youths to disguise their oral competency difficulties and supply answers without a full understanding of the question (Snow & Powell, 2004). As a result, scholars argue that such deficits make defendants more vulnerable to coercive police interviewing (LaVigne & Van Rybroek, 2011; Snow & Powell, 2011; Snow & Powell, 2012). LaVigne & Van Rybroek (2011) purport that language difficulties can also be detrimental to perceptions of youthful defendants, often leading to misconstrued assumptions about defendants, including beliefs that defendants are being defiant, possess a negative attitude or are being impolite during the court process. Furthermore, the literature finds that language deficiencies largely go unnoticed due to the contextual aspect of these comprehension differences and youthful offenders' disguising competency difficulties due to embarrassment (LaVigne & Van Rybroek, 2011; Snow & Powell, 2004).

Repeatedly studies show that youth offenders score significantly lower on language measuring assessments (Anderson et al., 2016). More specifically, Blanton

& Dagenais (2007) report that approximately a quarter of their sample of incarcerated youthful offenders experienced a language impairment through the use of a standardized language measurement tool. Such findings echo results found within prior studies indicating community-based youth offender populations score significantly lower on language assessments in comparison to non-offender matched groups (Anderson et al., 2016; Snow & Powell, 2004). However, scholars criticize the reliance on such measures due to the potential conflation of linguistic impairments with cultural differences (Norbury & Sparks, 2012). Similarly, scholars recognize that such quantitative tools may fail to uncover the impact of language barriers on lived experiences within the criminal justice system, while also potentially overlooking youths who experience language barriers that are not captured within the constraints of the assessment (Norbury & Sparks, 2012).

As a result, scholars acknowledge a greater need for qualitative developments exploring the presence and consequences of language barriers on younger populations as a supplement to quantitative findings (Lount et al., 2018). Such investigations are of increasing importance due to more recent developments providing evidence that youths perceive judges, court workers, and attorneys as having a language bias (Miller & Foster, 2002). More specifically, through administering a booklet survey to a sample of court-placed youth, Miller and Foster (2002) find that minority youths showed greater indications of agreement that language bias is a present feature within the criminal justice process and within court interactions (Miller & Foster, 2002). While these results provide important contributions to the extant research, the survey instrument failed to provide further insight into the underlying reasons why minority youths' report greater perceived language bias within the court process. As a result,

the demand for qualitative research to investigate the presence and consequences of language barriers among younger justice-involved youths persists.

Among the limited number of qualitative explorations investigating language obstacles, findings reveal that youthful defendants with language difficulties indicate having trouble understanding parts of the court process, while also experiencing feelings of inferiority (Sanger et al., 2003). In addition, studies indicate that youths with language difficulties often report being treated differently than those without language difficulties (Lount et al., 2018; Sanger et al., 2003). Sanger and colleagues (2003), through reliance on qualitative interviewing strategies, demonstrate that incarcerated female youths who experience language impairments often feel less intelligent, inferior, and looked down upon due to experienced language difficulties. In a more recent qualitative development exploring communication, Lount et al. (2018) find that male youthful offenders express feelings of frustration in their inability to understand and comprehend the language within the criminal justice system, causing them to feel like they had no voice within the process at all.

While such qualitative developments make significant contributions to the existing scholarship through illuminating the consequences of language barriers on younger justice-involved populations, they fail to uncover the sources and varying manifestations of language barriers and how these populations navigate and respond to language difficulties. In addition, such investigations do not explore how encountered language difficulties may contribute to the perceived legitimacy of the courts and related responses. This is problematic due to increasing evidence that if individuals perceive that they have been treated unfairly and with disrespect during the court process, they will be less likely to be cooperative with authoritative rulings and

decisions (Tyler, 1990) and might resort to a reliance on self-help behaviors (Gau & Brunson, 2015).

As a result, the current study contributes to the extant scholarship in three keyways. First, the current research does not confine its inquiry to only those individuals who are linguistically impaired as prior quantitative investigations have done in the past (Anderson et al., 2016). Instead, the current study examines language barriers overall and how such obstacles are experienced within the courtroom environment. As a result, the current study offers further insight into the role of language barriers in the lives of individuals who have been absent from prior scholarly developments due to its focus on young adults' experiences within adult felony courts. Second, the current research through the use of qualitative interviewing strategies investigates the sources and manifestations of language barriers within the courtroom environment. Greater awareness of the factors contributing to language barriers within the court process has the ability to better inform policy recommendations. This knowledge can aid in minimizing encountered language obstacles for younger justice-involved populations with varying linguistic abilities. Lastly, the current investigation adopts a procedural justice framework in order to explore how language barriers may contribute to court-involved young adults' perceptions of fairness and related coping strategies. As a result, the current study prioritizes the role that language barriers have in fostering feelings of procedural injustice, leading respondents to resort to alternative mechanisms to navigate the court process.



## **Chapter 4**

### **METHODS**

Due to prior scholarship predominantly investigating language barriers through the use of quantitative assessments (Lount et al., 2018), scholars have called for qualitative investigations exploring contextualized experiences among younger justice-involved populations in order to gain further insight into the lived realities of language barriers (Lount et al., 2018). With this in mind, I conducted ten in-depth qualitative interviews with court-involved young adults from an alternative to incarceration program<sup>1</sup>, located in a highly populated Northeastern state, in which access was facilitated through my past employment.

I relied on verbal recruitment strategies and convenience sampling in order to recruit participants from the program. The reliance on convenience sampling was driven by the ability of this sampling technique to gain access to a hard-to-reach target population within the current research (Faugier and Sargeant, 1997; Padgett, 1998). Eligibility criteria to participate included being court-involved and between the ages of 18 to 24 years. Youths that were below the age of 18 were excluded from sampling recruitment due to potential challenges that could arise from working with this

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<sup>1</sup> The alternative to incarceration program is a 12 to 18 month transitional living program. Residents are referred to placement at the facility by the court system and maintain monthly court check-ins while at the program. The program assists residents finish schooling, obtain employment, pursue further education, and develop financial skills.

population as indicated by prior research, including obtaining parental consent (Abrams, 2010). The sample consisted mostly of African American and Hispanic young adult males, which is representative of the program's demographic makeup. Ages varied among the sample. Age at first court appearance, according to respondent recall, varied as well with the earliest court interaction being at the age of 13 and the oldest being at the age of 22 (see Table 1).

I began recruiting participants beginning in August 2019 using a script in which I explained the purpose of the current research. Recruitment and data collection took place predominantly between the months of August 2019 and March 2020. I conducted all interviews on the site of the facility within a private office reserved by the facility in order to maximize respondent confidentiality and comfortability. Interviews ranged between 30 and 60 minutes, with an average interview length of 45 minutes. I relied on a semi-structured interview guide, in which I posed questions regarding respondents' perceptions of the court experience, language used, and any barriers encountered. While respondents were directed to focus on relevant court experiences, respondents often volunteered additional barriers they faced in encounters with law enforcement and probation. At the end of each interview, I compensated each respondent with a donut.

All interviews were audio recorded and transcribed verbatim. To begin with, I read all transcripts in their entirety. Next, I engaged in deductive coding by developing an initial coding scheme, informed by prior scholarship, which emphasizes concepts of power, control, domination, and bias through the language of the law (Lount et al., 2018; Sanger et al., 2003). In addition, I engaged in inductive coding strategies in order to allow for themes to emerge from respondents' narratives. All transcriptions

were entered into the qualitative software program NVivo 12 Plus for these coding strategies. Reliance on the software program allowed for further analysis and In Vivo coding of transcripts to discover themes that emerge organically from the interview data (Bazeley & Jackson, 2013; Strauss, 1987). I created thematic memos, which allowed for further analysis to determine the contextual experiences of language barriers as well as any similarities or differences among participants' responses to encountered barriers.

Table 1 Sample Demographics

Pseudonym	Race/Ethnicity	Age at Interview	Age at First Court Appearance*
Hector	Puerto Rican	20	15
Andrew	African American	18	15
William	White	20	14
Louis	Hispanic	18	16
Miguel	Hispanic	23	22
Charles	African American	24	17
Sebastian	African American	19	13
Garrett	White	19	16
Jamal	African American	22	21
Elijah	African American	24	14

\*Refers to age at first court appearance according to respondent recall.

## **Chapter 5**

### **FINDINGS**

The data offer direct responses to my research questions about court-involved young adults' perceptions of language, language barriers, and fairness. In response to the first posed research question, respondents prioritize the pivotal role that language plays in their court experiences, shaping not only their comprehension of courtroom discourse, but also influencing interactions with courtroom officials. More specifically, language barriers emerge as a reoccurring obstacle experienced by respondents, further exacerbating misunderstandings, frustration, and perceptions of unfairness throughout the court process. Upon further exploration of these barriers, the data reveal how and why language barriers are experienced, which offers further insight to my second posed research question.

While several respondents appear to attribute language barriers as consequences of educational differences, styles of language employed by court actors, and the complexity of language mechanics used, these sources of language barriers appear to highlight the disadvantaged social location of respondents in comparison to court officials. The underlying mechanisms leading to language barriers appear to be a consequence of the power differentials in society, such that respondents recognize that language barriers are inevitable due to who they are as individuals. Consequently, the narratives provide supporting evidence for the hegemonic function of the law, in which the legal language employed by court officials ultimately serves to maintain the subordination of court-involved young adults.

In response to my third research question, language barriers also appear to be a key contributing factor to perceptions of unfairness in the court process. Respondents reveal that language barriers and perceived language biases present in the courtroom fuel distrust in the criminal justice system, causing respondents to rely on alternative strategies to navigate the court process, which lends insight into my fourth research question. As expected, due to prior evidence demonstrating that individuals often resort to self-help strategies in response to procedural injustice (Gau & Brunson, 2015), the current study finds that various coping strategies are commonplace within the courtroom environment in response to language barriers. While these strategies do not eliminate encountered language barriers, reliance on these coping tactics ultimately demonstrates court-involved young adults' agency within this highly restrictive realm.

### **Sources of Language Barriers**

#### **Power Differentials**

Language barriers emerge largely in response to the disadvantaged social locations assumed by respondents which are in direct contrast to those assumed by legal professionals. Members of the legal field oftentimes are white, well-educated, members of the middle class (Chin, 2004). In contrast, respondents in the current study are predominantly comprised of low-income youth of color who are not as well-educated. As a result, language barriers appear to be an inevitable consequence of the stark power differentials between the court-involved young adults within the alternative to incarceration program and the legal actors within the courtroom. Such narratives illustrate the struggles, identified by scholars, in which the hegemonic

discourse embedded within the language of the law conflicts with the social locations of younger justice-involved populations (Kennedy, 1982; La Vigne & Van Rybroek, 2011).

One disjuncture identified by respondents that appears to intensify language comprehension difficulties is educational background. The recognition of respondents' inferior educational status in comparison to court officials demonstrates respondents' unwavering acknowledgement that they do not have the knowledge necessary to comprehend the language used in the courtroom. Sebastian reflects:

Yeah that is what I would feel like because you know obviously they're part of the law that is tip top and the way they speak I am guessing they learned to speak that way as like a law enforcement person or a lawyer. I understand why they talk like that, but at the same time I honestly don't know what you guys are saying. Why can't you guys just talk like me?

Respondents attribute the court officials' employment of complex language to be a direct result of their training and educational background, which aligns with existing scholarship that asserts that the training of legal professionals to adopt specific mannerisms, phrases, and behaviors that are lawyerlike reinforces hierarchies and power differentials (Kennedy, 1982). Moreover, respondents frequently acknowledge that the experience of language barriers was unavoidable due to their membership in a lower class, which was often characterized by lower educational attainment. As a result, narratives suggest that language barriers are perceived to be just normal features of the court process. For example, Garrett acknowledges:

I think they were trained to speak that way to me because sometimes to none, I don't understand...it is just the way the court process is.

Respondents, like Garret, acknowledge that difficulty understanding the language within the courtroom can be expected due to their lack of training and education. The narratives reveal that the sublanguage used within courtrooms ignores the social locations of respondents and their corresponding linguistic abilities, which ultimately excludes younger justice-involved populations from participating in the legal dialogue.

Respondents also frequently acknowledge the position of the judge as being distinct from their own social locations. In doing so, the narratives speak to the authority afforded to judges as members of the professional elite. More specifically, narratives reveal that judges are viewed as assuming an almighty role within the court process, such that some respondents even equate the judge to God. Respondents divulge that speech, style of communication, and one's presence all contribute to the perceived power that judges possess in the courtroom. For example, Jamal recounts:

Even though it was scary, I'm not going to lie, I was kind of nervous in front of the judge. I feel like I was about to get judged, like I was getting judged by God. Standing in front of a powerful person... 'cause it is the way they come off, they come off all strict and as a person not to mess with. They also have deep voices too.

While respondents recognize that they are able to provide valuable contributions to the court process, the elevated style of speech adopted by powerful figures, like judges, within the court process emerges as an intimidating obstacle for court-involved young adults. This dynamic frequently leads respondents to refrain from asking clarification questions about the legal dialogue from court actors. As a result, the language of the law emerges as a primary vehicle in which the subordinate status of younger criminal justice involved populations are maintained, while reinforcing the privileged status of court officials (Wildman & Davis, 1995).

The experiencing of language barriers also drives some respondents to emphasize their own lack of intelligence within the courtroom environment, furthering the divide between respondents and those in power. Prior scholarship suggests that interactions with the justice system can have an impact on one's sense of identity, status, and self-worth, particularly for those that possess more vulnerable or uncertain identities (De Cremer & Tyler, 2005; Sedikides, Hart, & De Cremer, 2008; Tyler & Lind, 1992). Granot & Tyler (2019) argue that, "...the quality of interactions with the justice system has the power to actively promote or to undermine their sense of belonging" (p. 5). Consequently, the way in which defendants are treated during the court process may not only exacerbate perceived unfairness in the court process but may also affirm one's status and identification within a particular group (Granot & Tyler, 2019; Sedikides et al., 2008). For example, Hector states:

For people that have lower education, yeah. It is not fair because some people are more puzzled and the way the vocabulary is like in the courtroom you know someone who is not educated even people that finish high school don't even understand it because it is high level college words. It should be dumbed down for lack of better words.

Respondents frequently recount that they desired a simplification of the language used within the court process; however, they often verbalized this through acknowledging that the words need to be "dumbed down". In doing so, respondents demonstrate the perceived intelligence and prestige that lawyers and judges display in their language, causing respondents to belittle their own intelligence and identify themselves as "dumb". This diverts attention away from the legal actor's failure to consider the social location of respondents and accommodate accordingly, but instead places blame on respondents for not possessing the necessary skills to understand legal discourse. The presence of language barriers, as a result, leads younger justice-involved



populations to experience greater feelings of inferiority due to a perceived lack of intelligence (Miller & Foster, 2002; Sanger et al., 2003). Therefore, the sublanguage of the law seemingly reinforces class divisions through reifying respondents' identification with their subordinate status and normalizing the presence of language barriers during the court process.

### Incomprehensible Language

The narratives of the respondents also align with past scholarship in identifying the lexical aspects of legal language as common sources of confusion and difficulty during court proceedings (Lount et al., 2018; Sanger et al., 2003). More specifically, respondents recognize that the vocabulary, styles of language employed by court actors, and the use of technical terminology made participating in the court process a daunting experience that they were not prepared for. Andrew reflects:

They'll be using, uh, really sophisticated words. They be using these big words. It was just the whole vibe, the whole thing...I didn't really get that.

The use of such language mechanics exacerbate the incomprehensibility of the legal language for these court-involved young adults, fostering misunderstandings and dissatisfaction with the court process overall. For example, Hector states:

Some words are bigger than what I am used to dealing with. Once and a while I will catch a word and I don't know what it means but I can use it in context to try and understand it. It is a lot of words I don't know, pretty big words... words that more people that are educated or have an average life and an average place in life, haven't gotten in trouble and have grown up in school and hasn't had any encounters with the law, live a straight life will understand.

All respondents acknowledge that the vocabulary employed within legal language were difficult terms to define and were often greater in length than what respondents were used to. The employment of such legal terminology by court actors not only increases the likelihood that respondents encounter language barriers, but also furthers the divide between respondents and those in power. Consequently, respondents, like Hector, feel alienated within the court process and ultimately come to view language barriers as an unavoidable feature of the court process.

While language barriers appear to be commonplace knowledge among respondents, the haste in which court proceedings unfold seemingly disregards these struggles. Louis reflects:

I was just confused because sometimes I don't understand what they are saying. The way they were saying it. It was kind of fast paced.

Respondents identify the quick-paced nature of court proceedings to also be a detriment to their comprehension of the legal discourse. Such speed in which cases are resolved communicates to respondents that their own particular cases and needs are not worthy of increased time and consideration, furthering respondent dissatisfaction with the court process and the lack of clarity in the legal discourse.

In addition, respondents articulate a clear distinction between the type of speech used by court actors and the style of speech they themselves speak. Respondents define the speech used by court officials as “proper”, whereas respondents typify their own language as “street”, “slang” or “short term”. Respondents reveal that differences in styles of speech makes it difficult for them to

comprehend the elevated style of speech employed by court actors. Sebastian recounts:

Sometimes when the legal aid and the judge talk, so like some of their words cause they speak so proper, and like I am so used to speaking short term I don't know short term words because I abbreviate my words even in person. I say weird stuff so just them talking so proper, I honestly don't know what you guys are talking about and I am really lost and then the next thing you know, I just get told you are going to the program, it's okay and then they say other things.

This disconnect between styles of language solidifies respondents' perspectives that language barriers are to be expected because of who they are and the social positions they assume. For example, Jamal recounts an internal struggle that he experiences when entering the courtroom, causing him to battle between whether he should employ a proper style of speech desired by court actors or remain true to himself:

English was just too rough for me to learn how to say proper English. I don't want to be perfect. I just want to be me. And you know you need English to speak certain words or speak a proper way when you go to an interview. I understand that, but I don't like to be perfect. I just want to be me.

Respondents recognize the importance of language in the courtroom and frequently describe instances in which they have to choose between conformity to dominant ideals held by court actors or remain true to themselves and their own style of speech. This unfortunate situation reinforces power differentials present within the court process that often forces these court-involved young adults to make sacrifices due to their lack of power and control over the language employed in the court process.

Another instance in which language becomes an increasing barrier for respondents arises in court actors' frequent use of numbers and codes throughout legal discourse. Respondents recount being confused and lost as court officials rattle off an

endless list of numbers and legal jargon. The employment of technical terms and jargon makes participation in the legal dialogue almost impossible for respondents.

William provides a powerful depiction of this:

When they announce your charges, most of the courtroom don't even know what is going on because they use penal code numbers so like they will go like pc number number number dot number letter something like that. It is all weird the way they announce it, if you don't have the sheet of paper or your lawyer doesn't have the sheet of paper sitting next to you, you wouldn't know.

Thus, while respondents recognize the importance of language throughout the court process, they also emphasize their inability to understand the language employed throughout court interactions. This largely strips respondents of their ability to knowingly participate in the proceedings despite their desire to and leads respondents to view the legal language as inherently unfair. Consequently, the incomprehensibility of the language used by court actors emerges as an unavoidable aspect of a typical court experience among these court-involved young adults.

#### Lawyers as Failed Interpreters

The role of counsel also emerges across respondent narratives as a contributing factor to language barriers and misunderstandings. Respondents recount repeated instances in which lawyers fail as interpreters, resulting in increased language barriers and limited understandings of court proceedings. While some respondents acknowledge lawyers' occasional attempts to simplify the language employed in the courtroom, such attempts largely fail to eliminate respondents' confusion with the legal language. Consequently, dissatisfaction and distrust in lawyers' abilities to resolve language barriers emerges across all respondent narratives. The narratives

reveal it is commonplace for attorneys to go extended periods of time without communicating with their clients. This lack of communication leaves respondents feeling abandoned and uninformed about their case. Miguel recounts:

Yeah because it was for a few months while I was locked up, he didn't come or contact me and the case kept getting adjourned and I didn't know what was going on or anything.

As a result, the lack of contact with attorneys fuels frustration with the process and diminishes the ability of respondents to knowingly understand the legal dialogue and associated paperwork within court interactions. This causes several respondents to desire better representation within the court process with the hope that a new attorney would interpret the legal jargon into more relatable terms. For example, Garrett states:

If I had a different attorney maybe he could honestly help me to understand things a lot better and get off of probation earlier.

Moreover, for several respondents, the disconnect between respondents and their respective attorneys leads respondents to portray lawyers as uncaring actors within the court process. Respondents largely regard attorneys as disingenuous individuals, who are working to close the case as quickly as possible, regardless of the outcome. For example, William recounts:

I mean I had one attorney that didn't know nothing. I swear she was special like she didn't know nothing and she didn't care.

The narratives demonstrate that lawyers do not interpret the legal language for respondents, causing respondents to remain questioning what specific legal terms and charges mean during the court process. Accordingly, respondents divulge an overwhelming dissatisfaction with attorneys' failure to devote the time necessary to explain the legal discourse present within court proceedings, regardless of the outcome. This findings aligns with prior scholarship that suggests individuals often evaluate the courts based on whether they determine the process to be fair, not based on the outcome (Tyler, 1990; Tyler, 2007). Jamal provides a powerful summation of this sentiment:

I didn't get the answers I needed. I don't know if that is necessarily fairness. So that I didn't have the questions that I needed to be answered, I feel like I wasn't looked at the right way, meaning like I didn't get no eye contact, no form of listening, only answer the questions yes or no, guilty or not guilty, that's about it.

While studies show that lawyers recognize younger populations often experience comprehension difficulties and possess underdeveloped skillsets to understand courtroom jargon (LaVigne & Van Rybroek, 2013), respondents' narratives reveal that their court-appointed lawyers are unable to devote the time and effort required to explain the unfamiliar legal terminology to clients. The narratives demonstrate that the ritualistic employment of legal jargon co-opted by limited clarifications produces insurmountable obstacles for this population in achieving justice. Andrew's experience demonstrates this unfortunate dilemma:

It was like not knowing like why and how long the sentence was or whatever it was at the placement because I really didn't know why I got sent away for so long, that was the confusing part. It [the court process] was really quick.

Andrew's experience is commonplace among many participants in which language barriers often led to participants feeling that they were not able to achieve the justice that they deserved. Uncommon phrases and elevated diction fuels comprehension difficulties for respondents, leading them to still ponder over unresolved questions. As a result, language barriers ultimately foster misunderstandings and an overall lack of clarity of the decisions made during court interactions (Lount et al., 2018; Sanger et al., 2003). Therefore, lawyers' roles as failed interpreters emerges as a key contributor to encountered language barriers, misunderstandings, and beliefs that the legal language and court process is not fair.

#### Restricted Voice

The narratives also reveal that the language employed within the court process ultimately restricts the voices of respondents. More specifically, the complicated legal discourse prevalent within the sublanguage often prevents respondents from being involved in the court process to the extent they desire, leaving respondents frustrated and disheartened in the ability of the court system to handle their cases in a fair and impartial way. Several respondents recount instances in which they were silenced from speaking up to pose questions. They largely attribute this restriction of voice to a lack of consideration of their linguistic abilities and a bias towards their styles of speech. Hector illustrates this point poignantly:

No, one time I was trying to speak something and my attorney told me to shut up because I was speaking out of line. They tell me I have to let the attorney speak for me. I have to speak through the attorney.

The silencing of respondents through preventing clients from asking questions of the court process demonstrates the power struggle present within the court. Respondents acknowledge that due to their social location and their linguistic preferences, attorneys assume the role of speaking for the clients, despite respondents' desire to speak for themselves. Andrew speaks of this desire:

I would have liked to say my side. Like could I say my side, could I talk?

The continual reliance on the legal sublanguage by court actors restricts younger justice-involved populations' voices (Lount et al., 2018), while also increasing feelings of inferiority and subordination to those in power (Sanger et al., 2003). Legal professionals are able to use the language of the law to exert control and influence over others, reifying the hegemonic nature and power of the law (Litowitz, 2000). Moreover, restrictions placed on respondents' voices during the court process increased respondents' perceptions of unfairness. Miguel states:

The whole case didn't seem fair... Yeah I wish I could have told the judge in my own words instead of telling the attorney.

The narratives illustrate an underlying belief that the court process is not fair and that a pervasive language bias exists towards individuals that do not conform to the normative ideal internalized by court actors. Elijah provides a powerful depiction of this sentiment:

Some judges think how you talk is, they are from the hood or they been in the streets a lot. In my opinion people really don't know the real background until somebody tells you their background. Yeah, they think he came from streets.



This finding supports past scholarship suggesting that the court system operates under the assumption of cultural homogeneity (Chin, 2004), privileging those that conform to normative ideals. The court-involved young adults within the current sample depart from these internalized norms and are aware that their different styles and usage of language places them at a disadvantage in the court process. Thus, restrictions placed on the voices of court-involved young adults reaffirms the role that legal language plays in maintaining the sociocultural order present in courtroom and the power of the professional elite (Chin, 2004; Norgren & Nanda, 1996; Swett, 1969).

Consequently, the aforementioned findings answer my first three research questions by highlighting the incremental role that legal language plays in the court experiences of the current sample. Language barriers, exacerbated by the disadvantaged social location of respondents in comparison to court officials, reinforces respondents' subordination to the professional elite. As a result, the complex legal jargon embedded within courtroom interactions and limited clarifications afforded to court-involved young adults not only fosters misunderstandings and increased perceptions of unfairness, but also serves as an exclusionary device that prevents respondents from actively participating in the legal dialogue. Therefore, the narratives ultimately provide supporting evidence for the hegemonic function of the law.

### **Coping Strategies**

While language barriers were consistently experienced and perceived as inevitable by respondents, further exploration of the data respond to my fourth research question by demonstrating three main coping strategies that respondents enact in response to language obstacles. More specifically, respondents' experiences

with incomprehensible legal jargon, restrictions on their voices, and failed legal interpreters leads respondents to be distrustful of the courts. Similarly, respondents recognize that view the legal language and the court process as unfair. Accordingly, respondents' lack of trust and critical evaluations of the courts supports prior scholarship finding that a court's effectiveness is often evaluated through examining whether the process was fair (Tyler, 1990).

Procedural justice scholars contend that when individuals feel that they are treated fairly, they are more likely to comply with authoritative decisions and be cooperative (Murphy, 2005; Tyler, 1990; Tyler & Huo, 2002). In contrast, the experience of procedural injustice has been shown to produce negative emotional responses (Weiss, Suckow, & Cropanzano, 1999), while also compelling individuals to adopt self-help behaviors (Gau & Brunson, 2015; Kubrin & Weitzer, 2003). The narratives within the current study offer supporting evidence for these findings. More specifically, when respondents perceive the court process to be unfair due to encountered biases and language barriers, the legitimacy of the court erodes and respondents resort to various coping strategies, including resistance, reliance on others, and playing the part, to navigate procedural injustice.

### Resistance

A coping strategy that emerges from the data is the use of various expressions and techniques to resist the power and influence of the court. Due to respondents' perceptions of procedural injustice and unfair language barriers, respondents resort to enacting the coping strategy of resistance for a variety of reasons. Some respondents predominantly employ resistance through emotional reactions to their court experiences. Andrew illustrates this form of resistance:

I did little something something. I might have screamed, cursed a little bit after. They had to restrain me. I was really disappointed. I was screaming to myself.

Andrew's statement demonstrates how his resistant reaction was emotionally charged. His inability to understand the language used during the court process and not being able to voice how unfair the situation was bred feelings of disappointment and anger. Such emotional responses align with prior scholarship which finds individuals who feel they have been treated unfairly are more likely to experience negative emotions (Cropanzano & Folger, 1989; Krehbiel & Cropanzano, 2000; Weiss et al., 1999). While respondents appear to be consistent in voicing disappointment and frustration due to language barriers and perceived procedural injustice, only a few respondents, like Andrew, have emotional reactions that translate into verbally and physically aggressive responses. Recent developments exploring emotions and procedural justice offer potential reasons for why this might be the case (Murphy, 2005; Van den Bos, Maas, Waldring, & Semin, 2003). More specifically, scholars provide supporting evidence that variations in affect intensity due to individual differences might impact emotional responses to unfair events (Murphy, 2005; Van den Bos et al., 2003). Therefore, while several respondents employ resistance tactics to grapple with procedural injustice, various individual factors that influence affect intensity might explain why only some respondents resort to explicit demonstrations of anger.

In contrast to such emotionally driven resistance strategies, other respondents acknowledge that the legal language and court processes are not fair and actively resist such biases through taking justice into their own hands to minimize encountered language barriers. These respondents educate themselves by seeking out informational

resources regarding legal discourse and court processing in order to actively fight against the bias and language barriers perceived to be embedded within the courtroom interactions. For example, Charles reflects:

I used to read. When I was like um when I knew I had this [legal aid] and I knew he wasn't working in my best interest, I started going to the law library everyday so I knew a lot of stuff and I would go to court and I would have to tell them not even in thirty seconds, like in ten seconds that I know my rights and you like baffle them.

This reinforces findings from prior scholarship suggesting that individuals often employ self-help strategies when they believe the process to be unfair (Gau & Brunson, 2015; Kubrin & Weitzer, 2003). Similarly, Elijah, in acknowledging the presence of foreign legal concepts and bias within the court process, took the initiative to educate himself to improve his knowledge of unfamiliar terminology:

Racism nowadays they are just locking Black kids up, Spanish kids... Yeah I read about it. See how the lawyers was talking.

In Charles's and Elijah's experiences, they assume the responsibility to acquire a greater understanding of the court process and the legal jargon to minimize any encountered language barriers and in this way resist the perceived cultural, linguistic and racial biases prominent within this environment. While these responses may not be active resistance in the same mode of rebellion or refusing to consent to courtroom procedures, they do demonstrate respondents' efforts to combat the injustice they perceive. As a result, due to the respondents' recognition of their disadvantaged social location and the court's frequent use of legal jargon, respondents are able to exercise agency and maintain autonomy.

## Reliance on Others

Using others as a resource to understand the court process and the language employed therein also emerges as a dominant coping strategy enacted by some respondents. Respondents recount asking individuals within the courtroom, individuals within the bullpen, as well as others within the prison to bolster understandings of the legal sublanguage employed by court actors. Family members emerge as a key resource for respondents, reinforcing the role that family members play for the court-involved young adults. Respondents demonstrate that they often obtained most of their knowledge of the court process through contact with family members. As a result, expectations of the court are largely formulated prior to their first court appearance. This finding reinforces past scholarship indicating that the family often serves as a key socializing agent for youths (Luckenbill & Yeager, 2009). Respondents acknowledge that family members were needed to transform the legal sublanguage into more relatable terms for the respondent. Louis illustrates this idea:

No, it didn't make sense. My mom had to tell me or [staff person from the alternative to incarceration program] at the last court date. I would always have my mom in the back tell me.

As a result, several respondents recount instances in which their family members serve as the sole resource for understanding the court process and the language used by court actors. The reliance on family members as an information source could pose problems for younger justice-involved populations due to the potential for misunderstandings and misconceptions of the criminal justice process (Luckenbill, 2012). Despite this potential, respondents acknowledge family members' knowledge of the courts as a valuable tool to navigate language barriers encountered

in the court process. Similarly, respondents acknowledge that individuals that have experience in the criminal justice system can mitigate some of the language barriers during the court process. For example, Charles states:

So like it is older guys, so like if I am not understanding something, so you know I be like, I ask one of the old dudes like, ‘Yo what this mean?’, and they break it down.

Therefore, respondents, like Charles, turn to others who have experience in the system for clarifications of the legal language. While this strategy may itself cause additional obstacles, respondents depend on individuals that occupy similar social locations to combat language barriers and bias perceived to be inherent to the court process. As a result, this particular coping strategy reinforces respondent’s recognition of language bias and mistreatment present within the courtroom environment and ultimately represents a way that respondents are able to exert agency and greater control over the process.

### Playing the Part

The final coping strategy employed by some respondents is the strategic adoption of a different persona when entering the courtroom. Respondents acknowledge that playing the part is a necessary technique to navigate an unfair court process and the existing power differentials inherent within the courts. Their narratives illustrate the hegemonic norms that dictate what constitutes appropriate courtroom behavior and self-presentation within the courtroom environment. Due to respondents’ distrust of the criminal justice system and recognition of bias within this environment,

altering one's method of speech comes across as common sense for many of the respondents. For example, Hector states:

I mean cause I have a little street accent which they don't like which is hard to get out after being raised in the streets your whole life... they look down on you and look in disgust like he is one of those people. There are different levels and they think that the bracket they are in is better than everyone else. It is not like I chose this shit. I was born into it.

With this knowledge in mind, respondents adopt the coping strategy of altering the way that they talk in hopes of an improved treatment during the court process.

Charles recognizes this necessity:

When I go to court and stuff like I carry myself a certain way, like I speak a certain way. I worked at a private golf course for nine years so that really helped my social skills and being around people with authority and people in power. I knew how to carry myself in a certain way, that way I get treated by them a certain way opposed to me going in front of the judge with my pants sagging looking like you know like I just came from shooting dice or something.

Charles's statement reflects the need to present himself in a certain way that is agreeable to those in power and authority, reifying a power differential that exists between respondents and court personnel. Furthermore, Charles identifies that he needs to situationally employ these tactics to be treated in an appropriate manner, demonstrating an awareness that the process is not fair and he must make sacrifices to minimize the bias present within the court system. Similarly, Sebastian recounts:

So I try to change appearance like sometimes it matters and sometimes it doesn't, but when it comes to like court, job interviews or anywhere professional, I feel like it matters.

In acknowledging that a specific style of speech and presentation is expected within the courtroom, respondents abandon particular styles of dress and speech, including durags and other items that they perceive will be misconstrued as “street” style, which they recognize will carry negative connotations within the courtroom environment. This identification of a potential cultural and racial bias towards particular styles of language and dress reveals the perceived negative outcomes that could result from presenting oneself in a way that will be misconstrued as “street style”, such that several respondents engage in what Goffman (1959) identifies as the presentation of self. In doing so, court-involved young adults engage in impression management in order to reduce the likelihood of being perceived as from the “street” or being depicted as a “hoodlum”. For example, William recounts:

I mean like if I know that I could actually be in legitimate trouble, I’m going in there yes sir, yes ma’am, like spinning a whole web to them.

Similarly, Jamal acknowledges that altering one’s language in the courtroom is a strategic way to navigate language biases present within this environment:

One hundred percent. Yes ma’am, yes sir, no ma’am, no sir.

This finding reinforces court-involved young adults’ awareness of the hegemonic rhetoric dominant within the court system, which often affords privileges to those that conform to such hegemonic ideals (Swett, 1969).

As a result, narratives reveal that respondents largely perceive a racial, cultural and language bias within the courtroom that disproportionately targets individuals that fail to conform to the expectations of court actors (Miller & Foster, 2002; Swett, 1969). Swett (1969) contests that cultural similarities and cultural differences carry



weight in interactions with criminal justice officials, such that a suspect or offender's speech, dress, and behavior becomes subject to assessment. As a result, assessments performed by criminal justice officials often privilege those that display cultural similarities to the normative cultural ideal, while placing others, who depart from the normative cultural ideal, at a disadvantage (Swett, 1969). Respondents recognize this and often acknowledge a need to situationally conform to such ideals. For example, Garrett states:

The way you speak also attracts attention too. Just speak, no cursing, just keep your tone straight.

Thus, respondents reveal that one's method of dress and speech appear to be crucial in receiving improved court outcomes. This finding reifies the hegemonic notions that appear to be embedded within the court process that compel respondents to strategically conform to cultural ideals that privilege whiteness in order to improve their chances of receiving fair treatment within an environment that is largely perceived to be unfair.

## **Chapter 6**

### **DISCUSSION**

Throughout this thesis, I examine how court-involved young adults experience language barriers. While prior scholarship has devoted increased attention to the magnitude in which language barriers are experienced through quantitative assessments (Anderson et al., 2016), attempts to understand how language barriers are actually experienced in the courtroom and the consequences of such language barriers on younger populations remain limited (Lount et al., 2018; Sanger et al., 2003). As a result, the current investigation sought to fill in existing gaps through placing greater emphasis on exploring the key role that legal language plays in the court experiences of court-involved young adults. Moreover, through the use of qualitative interviewing strategies and the adoption of the theoretical frameworks of hegemony and procedural injustice, the current examination offers four key conclusions regarding language barriers encountered by court-involved young adults.

First, findings indicate that court-involved young adults prioritize the role that language plays in the court process and their own court experiences. The narratives reveal that respondents perceive the legal language used by court officials to be a reflection of the prestige and power that accompanies membership within a professional elite. More specifically, the respondents articulate a stark contrast between their own social locations and those of court officials, leading respondents to acknowledge that language barriers in the court process are to be expected because of who they are, their social locations, and their lack of education. This finding reinforces

prior scholarship that argues the hegemonic influences pervasive in the language of the law (Litowitz, 2000) emerge as a primary vehicle in which young adults from a lower class are excluded from legal dialogues. The ritualized employment of legal jargon throughout the court process (Charrow et al., 1982; Kennedy, 1982) ignores the varying cultural competencies and linguistic abilities of the sample, placing court-involved young adults who diverge from the normative ideal promulgated within the court system at a disadvantage (Chin, 2004). Thus, the narratives confirm expectations that the legal language and associated power differentials reaffirm respondents' subordinate status, while also normalizing language barriers within the court process.

Second, the findings demonstrate that language barriers are experienced in various ways throughout the court process. The narratives point to educational background, styles of language, language mechanics employed by legal professionals, and lawyers' roles as failed interpreters as contributing sources of language barriers throughout one's court experiences. The ritualized legal jargon, elevated diction, and limited interpretations and translations of the legal language afforded to the sample leads respondents to experience comprehension difficulties, confusion and misunderstandings due to language barriers. Due to such comprehension difficulties, language barriers prevent court-involved young adults from actively engaging in the legal discourse to the extent that they desire. The sources of language barriers identified by respondents ultimately illustrate the hegemonic function and power of the law in its exclusion of those that are marginalized within society (Litowitz, 2000). Despite respondents' desire for greater participation and voice in the process, the language of the law serves as a tool in which those in power are able to silence court-involved young adults and subsequently maintain hierarchies (Kennedy, 1982). As a

result, the language of the law reinforces divisions between those in power and those that assume more disadvantaged social locations, lending support to the hegemonic function of the law.

Third, findings indicate that court-involved young adults are cognizant of the language barriers they incur due to their social locations, which fosters greater feelings of procedural injustice and perceptions of unfairness. More specifically, the narratives reveal that respondents perceive the legal language to be unfair due to limited clarifications and interpretations afforded to respondents. Similarly, respondents convey that a language bias is pervasive within the court system, which privileges those who speak in a proper and sophisticated way. Respondents, on the other hand, possess varying accents and dialects, which they recognize places them at a disadvantage within the court process due to language biases internalized by court actors. This findings supports past scholarship which finds that the criminal justice system works to maintain the existing sociocultural order (Swett, 1969). Influenced by the ideological stances and norms of the professional elite created by the hegemonic power (Mattei, 2003), scholars argue that the court system privileges conformity to upper and middle class American norms, while placing those who deviate at a disadvantage (Chin, 2004; Swett, 1969). Therefore, the current findings garner support for the hegemonic function of the law and its ability to reinforce the power differentials, while also fueling court-involved young adults' perceptions of unfairness due to language barriers and linguistic biases.

Lastly, the narratives reveal that court-involved young adults often employ several coping strategies in which they attempt to navigate the court process to mitigate the consequences of language barriers and bias within the court system.

Several respondents illustrate the need to comply with court demands due to the power of the law and the pressure it can exert, while others adopt resistance tactics to equip themselves with a larger skillset to understand legal jargon. In addition, some respondents engage in impression management in order to convey the guise of conformity to the cultural standards that are privileged within the court environment (Swett, 1969). As a result, respondents largely alter their appearances and style of speech to distance themselves from the stereotypical conceptions of street-style characterizations. Reliance on others within the court process also becomes paramount in fostering greater understandings of the legal sublanguage, despite the accuracy of such clarifications. These findings support past scholarship exploring procedural injustice. Scholars find that individuals will often employ self-help strategies to combat against events that are perceived to be procedurally unjust (Gau & Brunson, 2015; Kubrin & Weitzer, 2003; Weiss et al., 1999). As a result, in recognition of the language bias pervasive in the courtroom, respondents strategically employ varying coping mechanisms to exercise agency and control in an attempt to achieve justice within a perceived to be procedurally unjust environment.

While findings are not generalizable to the broader population of court-involved young adults due to the small sample size generated through convenience sampling, the current study provides an important glimpse into the lived realities of court-involved young adults who experience language barriers throughout the court process. Moreover, the narratives reveal that the language of the law restricts young adults' participation in the legal dialogue, reaffirming their subordinate status to those in power and reinforcing feelings of inferiority shared among respondents (Sanger et al., 2003). Consequently, the current study provides important policy implications that

align with prior scholarship encouraging the adoption of increasing safeguards and screening for language difficulties among younger justice-involved populations (Grisso, 1980; LaVigne & Van Rybroek, 2013; Lount et al., 2018; Snow & Powell, 2004).

In addition, results echo prior findings that draw attention to the increased need for attorneys to provide clarifications for younger populations (LaVigne & Van Rybroek, 2013), while also checking for understandings in various ways (Grisso, 1980). While a total alteration of the language of the law might not be attainable due to the rigidity in which the legal sublanguage is embedded and legitimated within the court process (Charrow et al., 1982), the current study also calls for efforts to modify the language of the law to bolster understandings of the court process. Such adjustments may allow younger justice-involved populations to have a greater likelihood of being able to participate throughout the court process. Incorporating the family into the court process could also be a worthwhile endeavor to strengthen understanding of legal proceedings among family members, who serve as a resource and socializing agent for younger-justice involved populations (Luckenbill & Yeager, 2009).

The current study also contributes to the existing scholarship through demonstrating the key role that language plays in shaping respondents' perceptions of fairness within the court process. Due to respondents' feelings of procedural injustice, various coping strategies and emotional reactions emerge across participants. Such strategic employments of coping among respondents reinforces past scholarship that demonstrates the consequences of procedural injustice on individuals' responses (Gau & Brunson, 2015; Kubrin & Weitzer, 2003; Murphy, 2005; Weiss et al., 1999; Van

den Bos et al., 2003). As a result, continued efforts should be devoted to exploring how individuals respond to procedural injustice, the effectiveness of such strategies, and individual variations across coping strategies. Future research should also continue to explore the lived realities of court-involved young adults through qualitative investigations, with an increased focus on incorporating female youths into samples. Such efforts are needed to gain deeper insight into how younger populations experience language barriers, while also uncovering the different methods of enacting voice in the court process by this population (Pennington & Farrell, 2019).

The current research prioritized the role of language in the court process and sought to uncover how language barriers are experienced by younger justice-involved populations. Findings demonstrate that the court's failure to detect language difficulties coupled with its hegemonic function produces an environment in which justice is not guaranteed. The narratives of respondents reveal underlying power differentials present within the court process that normalize language barriers for these individuals and breed feelings of procedural injustice. Accordingly, respondents resort to the enactments of coping strategies to navigate a process that is perceived to be biased and inherently unfair. Thus, the language of the law should not be overlooked in future research due to the court-involved young adults' resounding acknowledgement of and experience with language barriers.

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## Appendix



**Institutional Review Board**  
210H HULLIHEN HALL  
NEWARK, DE 19716  
PHONE: 302-831-2137  
FAX: 302-831-2828

DATE: June 26, 2019

TO: Megan Demarest  
FROM: University of Delaware IRB

STUDY TITLE: [1416377-1] An Analysis of Linguistic Competency Among Court-Involved Young Adults within an Alternative to Incarceration Program

SUBMISSION TYPE: New Project

ACTION: APPROVED

EFFECTIVE DATE: June 26, 2019

NEXT REPORT DUE: June 25, 2020

REVIEW TYPE: Expedited Review

REVIEW CATEGORY: Expedited review category # (6,7)

Subpart C- 45 CFR 46.306 (a)(2)(i)

Thank you for your New Project submission to the University of Delaware Institutional Review Board (UD IRB). The UD IRB has reviewed and APPROVED the proposed research and submitted documents via Expedited Review in compliance with the pertinent federal regulations.

As the Principal Investigator for this study, you are responsible for, and agree that:

- All research must be conducted in accordance with the protocol and all other study forms as approved in this submission. Any revisions to the approved study procedures or documents must be reviewed and approved by the IRB prior to their implementation. Please use the UD amendment form to request the review of any changes to approved study procedures or documents.
- Informed consent is a process that must allow prospective participants sufficient opportunity to discuss and consider whether to participate. IRB-approved and stamped consent documents must be used when enrolling participants and a written copy shall be given to the person signing the informed consent form.
- Unanticipated problems, serious adverse events involving risk to participants, and all non-compliance issues must be reported to this office in a timely fashion according with the UD requirements for reportable events. All sponsor reporting requirements must also be followed.

The UD IRB REQUIRES the submission of a PROGRESS REPORT DUE ON June 25, 2020. A continuing review/progress report form must be submitted to the UD IRB at least 45 days prior to the due date to allow for the review of that report.

If you have any questions, please contact the UD IRB Office at (302) 831-2137 or via email at [hsrb-research@udel.edu](mailto:hsrb-research@udel.edu). Please include the study title and reference number in all correspondence with this office.