JUVENILE DEFENDER

2016

RESOURCE GUIDE

To promote justice for all children by ensuring excellence in juvenile defense.

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NATIONAL JUVENILE DEFENDER CENTER

2016

Juvenile Defender Resource Guide

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BRAIN SCIENCE AND THE THEORY OF JUVENILE MENS REA

Jenny E. Carroll, 94 N.C. L. REV. 539 (2016) (62 pages)

This article argues that the mens rea standard for juveniles should reflect emerging neuroscience regarding adolescents' cognitive abilities and thought processes. The article discusses how the U.S. Supreme Court, in categorically sparing juveniles the death penalty, relied on scientific evidence of juveniles' immature thought processes that render them less culpable than their adult counterparts. The article outlines how courts have routinely failed to extend the application of scientific studies about adolescent behavior and development to areas of guilt and culpability, especially in interpreting mens rea, and calls for the establishment of a juvenile-specific mens rea.

JUVENILE JUSTICE POLICY AND PRACTICE: A DEVELOPMENTAL PERSPECTIVE

Kathryn Monahan et al., 44 CRIME & JUST. 577 (2015) (28 pages)

This article thoroughly reviews behavioral and neuroscientific research from the past twenty years that illustrates the developmental immaturity of juvenile offenders. All of the research reviewed supports the view that juvenile offenders should be treated differently from adult offenders and are more likely to be rehabilitated under less punitive means. The authors use the research to examine juvenile offenders' criminal culpability, their competence to stand trial, and the effect of punitive sanctions on development and adolescent behavior. The authors also explore how past research has incrementally impacted court opinions and juvenile justice policy as a whole. In order to improve the juvenile justice system, the authors call for attorneys, legislators, judges, and police officers to become more knowledgeable about adolescent capabilities and adolescent development, and for researchers to further examine the effects of adolescence on youth crime.

STATE V. ROBERT C., AMICUS BRIEF OF JUVENILE LAW CENTER

Amici Curiae Brief of Juvenile Law Center in Support of Appellant, Robert C., State v. Robert C. (Wash. Ct. App. 2015) (No. 32956-9-III) (31 pages)

Amici argue that the "reasonable child" standard must be applied to the standard for self-defense. The case at hand deals with a ten-year-old defendant who suffered from years of physical abuse and, moments before the alleged incident, was slapped by an adult relative and had a bucket knocked from underneath him. The brief explains that the justification for self-defense rests on whether the defendant had a reasonable, good faith belief that the use of force was necessary. The brief argues a juvenile's "reasonable belief" about the necessity of use of force is intertwined with his immature judgment and must be measured against the standard of other children, not that of adults.

CONSTITUTIONAL RIGHTS

Access to Counsel and Waiver of Counsel

IN RE TAVIONE H.
Nos. 1433 & 2286, 2016 WL 3129962 (Md. Ct. Spec. App. June 3, 2016) (4 pages)

This case addressed abuse of discretion by the juvenile court of Prince George's County, Maryland in foregoing juveniles' right to counsel at disposition and release hearings. Two juveniles admitted to their involvement in their respective crimes and in both incidents, the juvenile court did not allow the defenders to argue the totality of the issues on their clients' behalf in court during their disposition and release hearings. The juvenile court refused to listen to the juvenile defenders, and the Court of Special Appeals of Maryland held that a juvenile's right to counsel extends to disposition and release hearings, and vacated the juveniles' disposition orders accordingly.

***KUREN V. LUZERNE CNTY.*, AMICUS BRIEF OF THE U.S. DEPARTMENT OF JUSTICE**
Brief for the United States as *Amicus Curiae* in Support of Appellants, Kuren v. Luzerne Cnty. (Pa. Sept. 10, 2015) (Nos. 57 MAP 2015 & 58 MAP 2015) (29 pages)

The Department of Justice (DOJ) filed an amicus brief on behalf of the United States in support of appellants, named plaintiffs for a civil rights class action on behalf of all indigent adults in Luzerne County, Pennsylvania. The lawsuit sought injunctive relief, asking the county to provide adequate funding for the Office of the Public Defender to provide constitutionally required representation. DOJ asserts that a civil claim for constructive denial of counsel is viable when systemic and structural limitations (e.g., lack of resources and unreasonably high workloads) limit representation. Though this brief focuses on the rights of an indigent adult to bring a civil claim, this is an important step forward in ensuring meaningful access to counsel for indigent juvenile defendants as well.

***PEOPLE V. YBANEZ*, AMICUS BRIEF OF JUVENILE LAW CENTER ET AL.**
Brief of *Amici Curiae* Juvenile Law Center et al. on Behalf of Petitioner Ybanez, People v. Ybanez (Colo. 2015) (No. 2014SC190), 2015 WL 929996 (37 pages)

The Juvenile Law Center, joined by NJDC and others, argues in this amicus brief that under the Sixth Amendment, a child's attorney has the duty to provide "diligent, unbiased and effective representation as he would any other adult client." A child represented by an attorney hired by his or her parents faces a conflict of interest in representation because the attorney has an ethical duty to the child's best interest but may choose to serve the interest of the parent who pays for the service instead. Amici note that a child should be informed of the right to waive representation if there is a conflict of interest and to be free from any parental coercion, either directly or indirectly, on behalf of the attorney. The court itself has a duty to

inquire about the effectiveness of a child's representation to reduce the risk of injustice and to ensure the Sixth Amendment right to effective counsel. The brief maintains that every child should be presumed indigent and receive court-appointed counsel to prevent coercion and possible conflicts of interest.

STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA, *N.P. EX REL. DARDEN V. STATE*, NO. 2014-CV-241025 (GA. SUPER. CT. MAR. 13, 2015)
Recent Court Filing, 129 HARV. L. REV. 875 (2016) (8 pages)

This article discusses children's due process right to counsel by exploring the Department of Justice (DOJ) Statement of Interest in *N.P. ex rel. Darden v. State*, a class action lawsuit that alleged systemic deprivation of juveniles' right to counsel. This article outlines recent DOJ actions around the right to counsel for youth as well as ways in which DOJ may address the constitutional shortcomings children face in juvenile court. The article illustrates this idea by explaining the necessity of proper structural support, resources, and specialized training for public defenders to effectively advocate for their clients, thus preventing "de facto nonrepresentation."

Double Jeopardy

IN RE A.G.
No. 2014-2190, 2016 WL 3196663 (Ohio June 9, 2016) (17 pages)

In this case, the Ohio Supreme Court held that Ohio's "allied offense of similar import" statute, which protects defendants from double jeopardy, applies to juvenile proceedings because juveniles receive constitutional protection from double jeopardy under the Fifth Amendment of the U.S. Constitution. Similar to adult proceedings, a juvenile court must conduct a three-factor merger analysis under *State v. Ruff*, 34 N.E.3d 892 (Ohio 2015), to determine if multiple adjudications and conduct constitute allied offenses of similar import, by evaluating separately: the juvenile's conduct, the juvenile's purpose, and significance/result of the juvenile's conduct. The court reasoned that by allowing double jeopardy protection for juveniles, juveniles would receive rehabilitation and treatment in the shortest time possible and without unnecessary imprisonment.

Equal Protection

IN THE STREET TONIGHT: AN EQUAL PROTECTION ANALYSIS OF BALTIMORE CITY'S JUVENILE CURFEW
Andrew Middleman, Comment, 46 U. BALT. L.F. 10 (2015) (39 pages)

This article argues that the City of Baltimore's juvenile curfew, which restrains children's unsupervised presence in public places depending on their age, time of day, and time of year, violates their equal protection rights because of the disproportionate impact of the curfew on

racial minorities. Though the statute is facially neutral, the author points to discriminatory enforcement, overall impact, and historical context of the juvenile curfew as grounds for an equal protection violation. The article highlights alternative methods for accomplishing the goals of curfew, which include promoting youth employment, limiting the application of the curfew to the juvenile justice system, developing recreational activities, and focusing on community improvement.

Freedom of Speech

STATE V. E.J.J.
354 P.3d 815 (Wash. 2015) (en banc) (18 pages)

The Supreme Court of Washington held that a juvenile's charge of obstruction violated the defendant's First Amendment rights. The juvenile was arrested and charged for yelling profanities at officers who were trying to restrain his intoxicated sister. The court held that even though the juvenile gave officers a difficult time, words alone are not enough to substantiate an obstruction conviction, which warrants more of an interference with the officers' duties. Thus the court dismissed the juvenile's charge of obstruction based on the juvenile's First Amendment right to free speech.

Interrogation and Miranda

DASSEY V. DITTMANN
No. 14-CV-1310, slip op. (E.D. Wis. 2016) (91 pages)

On August 12, the United States District Court for the Eastern District of Wisconsin overturned Brendan Dassey's murder conviction, giving the state ninety days to decide whether to retry him or release him. Brendan's case was featured in the Netflix documentary series *Making a Murderer*, which highlighted interrogation tactics that were used to elicit a confession from Brendan. The court's decision rested on the fundamental principle that interrogation tactics, which may not be coercive when used on adults, are coercive when used on children, particularly a young person with "borderline to below average intellectual ability" like Brendan. The court noted that when such interrogation tactics are used on children, the risk of a false confession increases exponentially.

DO JUVENILES UNDERSTAND WHAT AN ATTORNEY IS SUPPOSED TO DO WELL ENOUGH TO MAKE KNOWING AND INTELLIGENT DECISIONS ABOUT WAIVING THEIR RIGHT TO COUNSEL?: AN EXPLORATORY STUDY
M. Dyan McGuire et al., J. APPLIED JUV. JUST. SERVICES, 2015, at 1 (30 pages)

The conductors of this study interviewed 253 committed male and female juveniles between the ages of fourteen and nineteen to assess how well juveniles understand attorney-client privilege and the concept of zealous representation. Only half of the youth studied knew that

defense attorneys are prohibited from disclosing client communications to parents or others without their permission. The data also shows that juveniles who have more experience with the criminal justice system and live in urban areas tend to know more about defense attorneys and their responsibilities. Juveniles who live in urban areas also tend to distrust their attorneys and restrain from telling them the whole story, however. The authors conclude that juveniles' lack of knowledge invalidates *Miranda* waivers because juveniles do not fully understand the protections they are waiving.

IN RE J.H., LETTER IN SUPPORT OF PETITION FOR REVIEW

Letter from Jessica R. Feierman et al., Juvenile Law Ctr. et al., to Tani Cantil-Sakauye, Chief Justice, and Associate Justices, Cal. S. Ct., (Aug. 14, 2015) (13 pages)

The authors ask the California Supreme Court to consider a ten-year-old's ability to understand and intelligently waive his *Miranda* rights. The letter focuses on child development—from social, biological, and psychological perspectives—and argues that youth have deficits in their ability to understand the consequences of waiving their rights, especially without an attorney or other competent and interested adult present. *In re J.H.* was denied review by the California Supreme Court; a petition for certiorari was filed in the United States Supreme Court on January 14, 2016.

IN RE S.W.

124 A.3d 89 (D.C. 2015) (39 pages)

The D.C. Court of Appeals held that a juvenile's *Miranda* waiver was not voluntary, in consideration of the impact of interrogation tactics on juveniles. The juvenile defendant was questioned at the Juvenile Processing Center with his foot cuffed to the floor, and the detective told the juvenile that the "lions out there" would come after him and he would be charged with "a whole bunch of stuff." Subsequently, the juvenile waived his *Miranda* rights and confessed to entering a car with the intention of taking it. The D.C. Court of Appeals reversed the trial court's ruling that the detective did not violate *Miranda*, and deemed the statement inadmissible.

MIRANDA WARNINGS AND WAIVERS: OFTEN HEARD BUT SELDOM UNDERSTOOD

Richard Rogers & Eric Y. Drogin, CHAMPION, May 2016, at 38 (13 pages)

This article aims to demonstrate that *Miranda* warnings are not effective in protecting a child's right against self-incrimination. The article shows that juveniles do not typically understand much of the vocabulary or complex grammar used in the *Miranda* warnings nor are they able to remember the warnings after a short delay. Further, most juveniles have preconceived misconceptions about the warnings that may cloud their judgment when deciding whether to waive their *Miranda* rights. In particular, children are likely to believe

that authorities are always looking out for their best interest. Thus the authors urge attorneys to abandon the notion that many juvenile arrestees fully understand their *Miranda* rights.

STATE V. DeANGELO M.
360 P.3d 1151 (N.M. 2015) (11 pages)

The Supreme Court of New Mexico held that the state must prove by clear and convincing evidence that a child had the maturity and intelligence to understand his rights and possessed the willpower to assert his rights in order to rebut the presumption of inadmissibility for statements made by a thirteen- or fourteen-year old child to a person of authority. The defendant, a thirteen-year-old child, made inculpatory statements connecting him to a murder. The court found that the child's statements made during interrogation must be suppressed because the child did not possess the maturity to waive each right when he continued to answer questions after asserting his right to remain silent. Once the officer adequately advises the child of his *Miranda* rights, the child's answers must be more than "yes" or "no" and articulated by the child's own understanding to satisfy the knowing, intelligent, and voluntary requirement for a waiver.

STATE V. LEE
782 S.E.2d 249 (Ga. 2016) (3 pages)

The Georgia Supreme Court held that the child defendant did not knowingly and intelligently waive his *Miranda* rights because he was distraught and not in a state of mind to understand his rights, and his mother could not waive his rights for him. The fifteen-year-old defendant was questioned about his involvement in a shooting. His mother was present and requested a lawyer, at which point the officers began to relay the details of the shooting to his mother. The juvenile and his mother began sobbing for about an hour; then, without his rights being revisited or an attorney present, the juvenile began answering the officers' questions at his mother's encouragement. The court suppressed the juvenile's statements in light of the child's invalid waiver.

THE TRUTH ABOUT FALSE CONFESSIONS
Megan Crane et al., INSIGHTS ON L. & SOC'Y, Winter 2016, at 10 (6 pages)

This article exposes issues with juvenile interrogation and discusses why interrogation can push children to make false confessions. The article emphasizes that adolescent brain development makes children more likely than adults to make false confessions. The authors specifically address the Reid Technique and argue that it exploits juvenile development in a way that encourages false confessions. The authors identify current opportunities for reform, such as advocating against training school administrators on Reid interrogation techniques, which can lead to false confessions and questioning without requisite *Miranda* warnings.

Right to Appeal

B.H. V. COMMONWEALTH
No. 2013-SC-000254-DG, 2016 WL 1068299 (Ky. Mar. 17, 2016, revised Apr. 13, 2016) (7 pages)

In this case, the Kentucky Supreme Court held that a defendant's guilty plea was knowing, intelligent, and voluntary, and that he therefore waived the right to appeal. The defendant had entered into a guilty plea in order to reduce his charge. On appeal, the court held that even though a juvenile's plea is not an actual guilty plea—since juveniles are not convicted of crimes—admission to allegations is sufficient to be considered a guilty plea. Here, in determining that the waiver was knowing, intelligent, and voluntary, the court considered the record, which showed that the defendant responded that he understood the consequences of admission.

Search and Seizure

IN RE ERICA R.
192 Cal. Rptr. 3d 919 (Ct. App. 2015) (10 pages)

The California Court of Appeals held that a probation condition that allowed for the search of a child's password-protected electronic device was unreasonable. Citing *People v. Lent*, 541 P.2d 545 (Cal. 1975) (en banc), the court ruled that a probation condition is invalid if the condition: (1) does not relate to the specific crime, (2) is not itself criminal, and (3) does not relate to future criminal activity. Here, a child was charged with possession of ecstasy and was ordered to give passwords to her electronic devices in order to search her text messages and social media accounts for signs of drug usage at the request of a Probation or Peace Officer. The court reasoned that the search of the defendant's password-protected devices was not reasonably related to her drug charge or future criminal activity. Thus a child's probation order must be tailored to fit the juvenile and the offense at hand.

***IN RE ERICA R.*, APPELLANT'S OPENING BRIEF**
Appellant's Opening Brief, In re Erica R. (Cal. Ct. App. 2015) (No. A143215) (30 pages)

This brief asserted that the child's privacy and expression rights were violated under her probation order. Appellant argued that the probation condition to search the child's phone applications, call list, and text messages infringed on her rights to privacy and freedom of expression. By such a search, Probation Officers could be exposed to detailed and intimate information such as familial, political, professional, religious, and sexual associations, potentially leading to intrusion and abuse of that information. Finally, the appellant argued that the condition was overbroad because it infringed upon her privacy interest and chilled other personal use that the child may have for the electronic device due to government eavesdropping.

IN RE MALIK J.
193 Cal. Rptr. 3d 370 (Ct. App. 2015) (11 pages)

The California Court of Appeals held that a probation condition allowing the search of electronic devices in the child's custody is reasonable when the offense is related to the electronic device itself. In this case, a child was charged with stealing cell phones and he claimed that he did not own a cell phone. The court reasoned that the probation condition was acceptable as long as the child was not exposed to unfettered, harassing, or capricious searches of his personal information. The court clarified that the search of a cellular device in the child's custody only extends to determining the ownership of the electronic devices, in light of the charged offense against him.

J.B. EX REL. BENJAMIN V. FASSNACHT
801 F.3d 336 (3d Cir. 2015) (9 pages)

The Court of Appeals for the Third Circuit held that intake strip searches by juvenile detention centers are reasonable. Parents of the juvenile defendant filed an action on his behalf asserting that their child was subject to an unreasonable search when he was arrested for terroristic threats and summary harassment. The child was searched in compliance with the detention facility's policy. The court found that despite the fact that strip searches are dehumanizing and could ultimately have a damaging psychological impact on children, the needs of detention facilities do not differ by age because there is no way to distinguish potential security risks between juveniles and adults. In considering the risks of disallowing strip searches, even when dealing with children, the court held that the overall interest of the safety of employees, staff, and individuals housed in the facilities outweigh the privacy interest of a child.

***S.R. V. KENTON CNTY.*, DOJ STATEMENT OF INTEREST**
Statement of Interest of the United States, S.R. v. Kenton Cnty. (No. 2:15-CV-143) (39 pages)

The Department of Justice (DOJ) filed a Statement of Interest about the appropriate limits on the role of School Resource Officers (SROs) and the rights of children under the Fourth Amendment and Title II of the Americans with Disabilities Act (ADA). Here, two elementary school students with disabilities were handcuffed for misbehavior related to their disabilities. The case was brought under the Fourth and Fourteenth Amendments as well as the ADA. DOJ discusses the role of SROs and calls for: (1) SROs to stop criminalizing student behavior that isn't an immediate threat; and (2) the importance of training SROs to use non-coercive, non-punitive methods and to understand adolescent development and disabilities. DOJ advises that the court must consider the children's ages, disabilities, and types of offenses to determine the lawfulness of the seizure. Finally, DOJ applies Title II of the ADA to interactions between SROs and school children with disabilities, explaining that: (1) handcuffing children has a discriminatory effect on those children with disabilities, and (2) the SRO failed to make reasonable accommodations to avoid disability discrimination.

COURT FEES AND FINES

A RESOLUTION PLACING A MORATORIUM ON THE ASSESSMENT AND COLLECTION OF ALL JUVENILE PROBATION FEES AND THE JUVENILE PUBLIC DEFENDER FEE

Res. 2016-66 (Alameda Cnty., Cal. Bd. of Supervisors, Mar. 29, 2016) (5 pages)

The Board of Supervisors of Alameda County, California, suspended the assessment and collection of juvenile probation fees and the juvenile public defender fee for all county residents, effective June 28, 2016. Specifically, the act suspends fees for: the time juveniles spend in Juvenile Hall and at Camp Wilmont Sweeney; the Public Defender's and court-appointed counsel's representation of juveniles; the Probation Department's investigation of juvenile cases; the Probation Department's supervision of juveniles; the electronic GPS monitoring of juveniles; and drug testing of juveniles. In its recommendation for adoption, the Board pointed out that these fees are not a significant source of income for the county and that they result in financial hardships and family disruptions. The Board also recognized the disproportionate impact of these fees on youth of color. The resolution provides for county staff to study the effects of repealing these fees outright and to identify alternative sources of revenue for the county. The moratorium is in effect until the fees are repealed entirely.

CHARGING THE POOR: CRIMINAL JUSTICE DEBT & MODERN-DAY DEBTORS' PRISONS

Neil L. Sobol, 75 MD. L. REV. 486 (2016) (46 pages)

This article details the relationship between incarceration and non-payment of criminal justice debt; the types of criminal justice debt and how they are accrued; the protections intended for poor individuals who are unable to pay; and the way that indigent citizens are routinely incarcerated in spite of those protections, creating a modern-day debtors' prison. Recently there has been an increase of incarceration of citizens, who are often poor, for non-payment of criminal justice debt such as fines, restitution, court costs, and fees. For example, forty-three states currently charge indigent defendants for their "free" public defender. The author cites varying reform efforts the states should consider, such as abolishing the practice of imposing monetary sanctions, basing fines on income levels, assessing whether the nature of the charge calls for fines, and prohibiting incarceration for failure to pay fines and fees. Additionally, the author calls for enforcement of current laws that prohibit incarceration for failure to pay, and the creation of guidelines to determine indigency for debt.

HIGH PAIN NO GAIN: HOW JUVENILE ADMINISTRATIVE FEES HARM LOW-INCOME FAMILIES IN ALAMEDA COUNTY, CALIFORNIA
JEFFREY SELBIN & STEPHANIE CAMPOS-BUI, BERKELEY LAW POLICY ADVOCACY CLINIC (2016) (26 pages)

This in-depth research study reveals harmful effects of juvenile administrative fees in Alameda County, California and compares the fees against peer counties in California. The report finds that Alameda County lacks a fair, consistent, lawful process for determining families' ability to pay juvenile administrative fees. As such, many families struggling to maintain financial stability are left to decide between paying the county and meeting basic necessities. According to the report's findings, this financial strain in turn disrupts family relationships and causes societal harm, both of which the report finds to be counterproductive to the rehabilitative purpose of the juvenile justice system. Ultimately, the report recommends that the Alameda County Board of Supervisors end the practice of assessing and collecting administrative fees against families of youth in the juvenile system. Soon after the release of this report, the Board of Supervisors of Alameda County placed a moratorium on the assessment and collection of certain juvenile administrative fees.

RODRIGUEZ V. PROVIDENCE CMTY. CORR., INC.
No. 3:15-cv-01048, 2015 WL 9239821 (M.D. Tenn. Dec. 17, 2015) (order granting preliminary injunction and denying evidentiary requests) (20 pages)

The United States District Court for the Middle District of Tennessee granted a preliminary injunction for a class of adult probationers whose sole probation violation was non-payment of their supervision fees. The probationers alleged that their Fourteenth Amendment rights were violated when the probation services failed to account for their ability to pay. Though this case does not address juveniles, it is important to monitor the arguments and outcome of this case, as it may implicate the rights of juveniles who also face supervision fees for juvenile probation.

STATE V. JUAREZ
356 P.3d 384 (Idaho 2015) (5 pages)

The Supreme Court of Idaho held that the juvenile court, like every other court, has the jurisdiction to hold a contempt hearing arising from the failure to comply with a court order pertaining to an act of delinquency, even if the offender is over twenty-one. The defendant admitted to committing an offense in 2002 when he was a minor. After several court orders, he failed to pay his court fees and restitution, and in 2010, when he was twenty-two years old, he was held in contempt by the juvenile court for failure of payment. The court decided that the juvenile court may retain jurisdiction over an individual who is over eighteen for purposes of holding the individual in contempt of the juvenile court order.

THE NEW PEONAGE

Tamar R. Birckhead, 72 WASH. & LEE L. REV. 1595 (2015) (53 pages)

The author explains how modern day criminal justice debt continues to detrimentally impact the juvenile and criminal justice systems similarly to the post-Civil War system of peonage that kept black people in a cycle of coerced labor. Minor crimes and offenses can impose legal financial obligations on low-income juvenile defendants and their families, especially when such fees and fines are assessed without a determination of their ability to pay. Further, the lack of guaranteed counsel in non-payment hearings results in potential consequences of imprisonment, garnishment of wages, more debt through additional fines and interest, inability to receive public assistance, additional court appearances, driver's license suspension, and other significant consequences. The author calls for a reformation of the criminal and juvenile justice systems in relation to debt to include job placement and training as well as the right to counsel in non-payment hearings in order to keep low-income juveniles out of financial and physical prison.

DETENTION AND CORRECTIONS

54,000 CHILDREN: THE GEOGRAPHY OF AMERICA'S DYSFUNCTIONAL & RACIALLY DISPARATE YOUTH INCARCERATION COMPLEX
YOUTH FIRST INITIATIVE, http://www.youthfirstinitiative.org/the54000 (retrieved Aug. 10, 2016) (13 pages)

This interactive online publication focuses on the racial, ethnic, gender, and geographic disparities impacting America's incarcerated youth. It highlights where America's largest youth prisons are located, features images depicting the difficulties that incarcerated youth face, and describes state-specific costs of incarceration. The publication is a compelling call to end youth incarceration that contains state-specific facts to help advocates fight against youth incarceration.

CORRECTIONAL CONTROL: INCARCERATION AND SUPERVISION BY STATE
Bernadette Rabuy & Peter Wagner, PRISON POLICY INITIATIVE (June 1, 2016), http://www.prisonpolicy.org/reports/50statepie.html (9 pages)

This interactive online report compiles pie charts for each of the fifty states and the District of Columbia depicting: (1) incarceration rates; and (2) rates of involvement in the larger criminal justice system, including parole and probation. By showing the volumes of youth and adults on parole and probation, it tells a full story of the number of people under state supervision, as many states have thousands of people in correctional control who are not actually incarcerated. This report can help advocates understand the landscape of correctional control in their state.

DECLINES IN YOUTH COMMITMENTS AND FACILITIES IN THE 21ST CENTURY
JOSHUA ROVNER, THE SENTENCING PROJECT (2015) (7 pages)

This report shows that the number of children in juvenile commitment facilities has decreased by 50% from 2001 to 2013. The report discusses rates of juvenile commitment by state and finds that one third of juvenile facilities in the United States closed between 2002 and 2012. The report found that despite the closure of 970 juvenile facilities within the past decade, racial and ethnic disparities continue to persevere, especially with unnecessary detention for low-level and non-violent offenders. The article calls for greater investments in rehabilitative programs and alternatives to commitment as well as the sparing use of confinement as a last resort to combat juvenile misbehaviors as the most effective method in decreasing the number of children in the juvenile justice system.

DOJ ORDER REGARDING *S.H. V. REED* & *UNITED STATES V. OHIO*

Order Terminating the Consent Decree, S.H. v. Reed (S.D. Ohio 2015) (No. 2:04-CV-1206) & United States v. Ohio (S.D. Ohio 2015) (No. 2:08-CV-00475) (5 pages)

This order terminated a consent decree initiated by the Department of Justice (DOJ) after the Ohio Department of Youth Services (DYS) made improvements in the conditions of its juvenile correctional facilities. DOJ entered into negotiations with DYS to ensure compliance with several standards, including: abolishing disciplinary seclusion, undergoing major improvements in health services (including mental health), and developing standardized criteria to regulate youth release. The standards outlined in the order highlight federal priorities for correctional facilities.

JUVENILES IN RESIDENTIAL PLACEMENT, 2013

SARAH HOCKENBERRY, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Statistics National Report Series Bulletin, Ser. No. NCJ 249507) (2016) (16 pages)

This bulletin highlights data about the placement of youth in detention from the 2013 Census of Juveniles in Residential Placement (CJRP) and compares data from the 1997 and 2013 administrations of the CJRP. The 2013 data shows gender and racial disparities—for example, males accounted for 86% and black youth accounted for 40% of juvenile offenders in residential placement. The bulletin also contains a chart that shows the racial and ethnic breakdowns of detained and committed youth by state. The data is helpful for understanding the demographic breakdown of youth held in residential placement, the types of facilities they are held in, and the offenses for which they are placed.

JUVENILE SOLITARY CONFINEMENT: NEW JERSEY MAKES AN IMPORTANT FIRST STEP

Sandra Simkins, N.J. LAW. MAG., Oct. 2015, at 22 (5 pages)

This article discusses the harmful effects of solitary confinement on juveniles and commends New Jersey for banning the practice, while outlining further areas for reform. Because children are still developing mentally, emotionally, and physically, the article reasons that they are much more vulnerable to harm from solitary confinement than adults. Relying on various research studies, the article maintains that solitary confinement harms youth by creating or exacerbating mental illness, increasing suicide rates, and increasing aggression and rage. In addition, the article finds that solitary confinement has negative consequences for public safety because it does not reduce violence and likely increases recidivism. Although the author believes New Jersey's ban on the practice of solitary confinement is an important step, she argues that additional protections are needed, such as greater oversight to the ban's "safety exception," as well as clarification on what constitutes permissible use of solitary confinement for those who meet this low-barrier safety exception.

LOCKED OUT: IMPROVING EDUCATION AND VOCATIONAL OUTCOMES FOR INCARCERATED YOUTH

COUNCIL OF STATE GOV'TS JUSTICE CTR. (2015) (16 pages)

This data set based on a survey of state juvenile correctional agencies in all fifty states illustrates: (1) the educational and vocational services provided to incarcerated youth; (2) data on student's performance in such programs that are collected, analyzed, and reported; and (3) actions taken to ensure that youth receive educational and vocational services after incarceration. Notably, the data shows that most incarcerated youth do not have access to the same services as their non-incarcerated peers, most states do not collect or report student outcome data for youth in facility schools, and most states have policies that hinder incarcerated youth from participating in education or vocational programs post-release.

PROTECTING THE CONSTITUTIONAL RIGHTS OF MINORITY YOUTH ON RIKERS ISLAND

Loretta A. Johnson, Note, 6 COLUM. J. RACE & L. 48 (2015) (29 pages)

Adolescent jails generally harbor a culture of violence and code of silence among correctional officers. One such jail is New York City's Rikers Island, which was recently investigated by the U.S. Attorney's Office for the Southern District of New York. The investigation revealed that adolescent inmates' constitutional rights were consistently violated. Adolescent inmates were subjected to excessive and inappropriate uses of punitive segregation, excessive force by correctional officers, and an unmitigated and unsupervised violent environment. The resulting federal lawsuit settlement advanced important reforms including improvements in staff member training, increased video surveillance, appointment of an independent monitor, amendments to use-of-force policies, and improved tracking systems. While other advocates for improving the conditions of adolescent jails can look to these reforms as a model, the settlement also had certain limitations which are highlighted in this article. For example, many of the correctional officers who committed violations were promoted, and any who might have been fired were protected by New York's civil service laws, which greatly shield state employees from transfer or termination. The author concludes that the New York law that permits adolescents to be placed in harsh prison and jail environments, like Rikers, should be repealed. Other states with similar permissive laws should heed the lessons gleaned from the investigation into Rikers Island.

PSYCHIATRIC DISORDERS IN YOUTH AFTER DETENTION

LINDA A. TEPLIN ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Bulletin, Ser. No. NCJ 246824) (2015) (20 pages)

The authors discuss the prevalence and persistence of psychiatric disorders in youth following their detention in Chicago's Cook County Juvenile Temporary Detention Center. Looking at juveniles with at least one psychiatric disorder when detained, the study finds that five years after detention, psychiatric disorders persisted in more than 45% of males and

nearly 30% of females. According to the study, substance use disorders were most common, most likely to persist, and most prevalent in males. Females, over time, had higher rates of depression than did their male counterparts. The authors recommend additional substance use disorder intervention programs for young males who account for 71% of youth arrests and 85% of youth in correctional facilities.

REDUCING RECIDIVISM OF VIOLENT OFFENDERS THROUGH VICTIM-OFFENDER MEDIATION: A FRESH START

Laura Ravinsky, Note, 17 CARDOZO J. CONFLICT RESOL. 1019 (2016) (19 pages)

This note calls for the use of Victim Offender Mediation (VOM) to reduce recidivism as an alternative to punitive prison systems. The author provides an overview of the criminal justice system in the United States by highlighting mass incarceration and its ineffectiveness, as well as an overview of VOM and its success with juvenile and non-violent offenders. The author details VOM, a form of restorative justice, as focusing on crimes being committed against individual victims and the community rather than the state. VOM emphasizes repairing the harm of the crime through cooperation and collaboration between the victim and the wrongdoer by use of a mediator conducting separate and joint sessions to determine the best way to suit each party's needs. By using VOM as an alternative to incarceration, the author argues that the system would operate more effectively, as it would emphasize repairing harm, empowering individuals, and reducing crime in the future.

SEXUAL VICTIMIZATION REPORTED BY JUVENILE CORRECTIONAL AUTHORITIES, 2007-2012

ALLEN J. BECK & RAMONA R. RANTALA, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE (Special Report, Ser. No. NCJ 249145) (2016) (27 pages)

This article reports the sexual victimization of youth within publicly and privately owned juvenile correction facilities. The results show a double increase in sexual abuse allegations from 2005 to 2012. Sexual victimization is defined in this report to include: (1) youth-on-youth sexual victimization, (2) nonconsensual sexual acts, (3) abusive sexual contacts, (4) staff-on-youth sexual victimization, (5) staff sexual misconduct, and (6) staff sexual harassment. The report shows that juvenile correctional administrators reported 9,500 allegations of sexual victimization in publicly and privately funded facilities between 2007 and 2012, 55% of which involved youth-on-youth sexual victimization and 45% of which dealt with staff-on-youth sexual victimization.

THE 48-HOUR RULE AND OVERDETENTION IN CALIFORNIA JUVENILE PROCEEDINGS

Sue Burrell, 20 U.C. DAVIS J. JUV. L. & POL'Y 1 (2016) (38 pages)

This article contends that children are not afforded constitutional protection from unreasonable searches and seizures when they are not given prompt hearings for

determination of probable cause prior to detention under *Gerstein v. Pugh*, 420 U.S. 103 (1975). In most states, a prompt hearing is held within twenty-four to forty-eight hours, excluding weekends and holidays. In practice, however, with the omission of weekend and holiday hearings, children may be held unlawfully in temporary detention for three to seven days. The author discusses how unnecessary detention can cause children to fall behind in their education and can contribute to mental illnesses, expose children to negative peer culture, and cause familial strife. The author advocates that state statutes be amended to require probable cause and detention hearings to occur on weekends and holidays by a neutral, detached judicial officer in juvenile court to prevent unnecessary detention of children.

THE BEGINNING OF THE END: USING OHIO'S PLAN TO ELIMINATE JUVENILE SOLITARY CONFINEMENT AS A MODEL FOR STATUTORY ELIMINATION OF JUVENILE SOLITARY CONFINEMENT

Elizabeth M. Rademacher, Note, 57 WM. & MARY L. REV. 1019 (2016) (37 pages)

Ohio vowed to eliminate the use of solitary confinement as part of a settlement agreement with the Department of Justice, in light of Ohio's excessive use of confinement as a means of punishment for minor misdeeds or at times for pure convenience. This article recommends that Ohio implement the settlement agreement through legislation rather than a piecemeal approach through state courts, due to their traditional allowance of punishments that are not entirely rehabilitative. The author also warns Ohio against following the design of many existing national and state standards on solitary confinement as they have been broadly worded, easily misinterpreted, and inadequately designed to prevent the damage that solitary confinement incurs. The author argues that Ohio has the opportunity to become the foremost model for the statutory elimination of juvenile solitary confinement that could be replicated across the nation.

THE (UNFINISHED) GROWTH OF THE JUVENILE JUSTICE SYSTEM

Conor Walsh, Note, 50 NEW ENG. L. REV. 237 (2016) (26 pages)

The author argues that educational reforms must be implemented in juvenile justice facilities to provide effective rehabilitation. The author points to the high rates of recidivism among juvenile offenders to show that the current juvenile justice system is failing to prepare children for effective reentry upon release. Further, the costs of recidivism are far greater than the costs of rehabilitation both in terms of state spending and economic growth in the community. Because juvenile offenders' education is interrupted by incarceration and there is a shortage of well-trained educators for prisons, most incarcerated youth leave facilities at a low level of education, which impacts future prospects for employment and makes recidivism more likely. The author suggests that states should allot more funds to education in facilities, juvenile justice systems should provide more vocational training, and facilities should seek out trained and experienced teachers.

DISPOSITION AND SENTENCING

Generally

GROWING MOMENTUM TOWARD AGE-APPROPRIATE SENTENCING OF CHILDREN

Heather Renwick, N.J. LAW. MAG., Oct. 2015, at 34 (3 pages)

This article identifies guidelines that juvenile defense attorneys should follow to effectively represent children facing life sentences. The identified guidelines include the American Bar Association's *Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases*, the Campaign for the Fair Sentencing of Youth's *Trial Defense Guidelines: Representing a Child Client Facing a Possible Life Sentence*, and the National Juvenile Defender Center's *National Juvenile Defense Standards*. These guidelines outline defense qualifications, defense approaches, and resources to understand adequate representation of youth facing life sentences. The article notes that using these guidelines as a standard will guide and assist in achieving age-appropriate sentencing of children tried in adult court.

THE INBETWEENERS: STANDARDIZING JUVENILENESS AND RECOGNIZING EMERGING ADULTHOOD FOR SENTENCING PURPOSES AFTER MILLER

Kevin J. Holt, Note, 92 WASH. U. L. REV. 1393 (2015) (22 pages)

The author describes the unsettled issues remaining after *Miller v. Alabama*, specifically around the varied definition of a juvenile and inconsistencies with neurological science and social science, which show that the brain does not fully develop until age twenty-five. The author proposes two solutions: (1) eighteen should be the national age limit for juvenile jurisdiction; and (2) courts should recognize the "emerging adulthood" age group between eighteen and twenty-five. The author notes how adolescent development research shows that cognitive development continues until the age of twenty-five. In light of the U.S. Supreme Court's rationale that children are different due to their cognitive development, the author argues that, similarly, emerging adults should be treated in line with their respective levels of cognitive development.

TWO TARGETED, BACK-END REFORMS FOR THE FEDERAL CRIMINAL JUSTICE SYSTEM

Jonathan J. Wroblewski & Sean M. Douglass, 28 FED. SENT'G REP. 264 (2016) (7 pages)

When considering comprehensive criminal juvenile justice reform, the authors argue that there should be more back-end reforms, which are reforms that generally offer youth a chance to reduce their prison sentence and promote their successful transition back into society. One back-end reform that could be successful is the "second look," which would review the sentences of juvenile offenders who are punished as adults with lengthy terms of imprisonment after a fixed amount of time has been served. The second look reform is in line

with the Supreme Court's recognition that juveniles are uniquely well suited for rehabilitation. The authors argue that this reform has advantages over traditional methods for early release, which may not be as transparent.

STATE V. O'DELL
358 P.3d 359 (Wash. 2015) (en banc) (11 pages)

The Supreme Court of Washington held that a defendant's youthfulness can be a possible mitigating factor that justifies a sentence below the standard sentencing range. In this case, the defendant was convicted of second-degree rape of a child just after his eighteenth birthday. The supreme court found that the case should be remanded based on the trial court's failure to consider whether the defendant's age diminished his culpability, stating that recent developments show that age can mitigate culpability, even if the defendant is over eighteen. The court cited findings of recent psychological and neurological studies that show how parts of the brain involved in behavior control continue to develop well into a person's twenties. The court noted that these neurological differences make young people less culpable for their crimes and may serve as a factor for reduced sentencing because the legislature did not have these studies available when it drafted the original sentencing laws. Youthfulness, therefore, can amount to a substantial and compelling factor in particular cases to justify a sentence below the standard range even when the defendant is legally an adult. This case may be helpful in developing arguments around adolescent development and its effects on sentencing and culpability.

Z.L. V. STATE
478 S.W.3d 207 (Ark. 2015) (2 pages)

The Supreme Court of Arkansas held that the circuit court lacked jurisdiction to conduct a hearing and impose an adult sentence once a juvenile who was previously under extended jurisdiction turned twenty-one. In this case, after the defendant turned twenty-one years old, the circuit court set the juvenile's case for a hearing and imposed an adult sentence related to a previous rape charge from when the juvenile was fifteen years old. The circuit court held that the juvenile division lost jurisdiction over the defendant when he turned twenty-one. Because the circuit court did not hold a hearing to determine whether to release the defendant, amend or add to the disposition, or impose an adult sentence before his twenty-first birthday, it lacked jurisdiction in this case. The supreme court reversed the adult sentence and dismissed the case.

Eighth Amendment Considerations

ATWELL V. STATE
No. SC14-193, 2016 WL 3010795 (Fla. May 26, 2016) (9 pages)

The Supreme Court of Florida held that a juvenile's life without the possibility of parole sentence violated the Eighth Amendment, as it effectively resembled a mandatory sentence under a statutory parole process. In this case, a minor was convicted of first-degree murder in 1990. At his parole hearing twenty-five years later, it was determined that he would be parole eligible in 2130. Thus, although the defendant was technically parole-eligible, it was certain that he would spend his life in prison. The court held that this sentence effectively resembles a mandatorily imposed life without parole sentence and that the defendant did not receive the type of individualized sentencing consideration that *Miller v. Alabama* requires. The case was remanded for resentencing under a sentencing framework where the court is authorized to impose a sentence from forty years to life imprisonment after considering youth-related sentencing factors.

COMMONWEALTH V. PHILLIPS
131 A.3d 485 (Pa. 2016) (mem.) (1 page)

The Supreme Court of Pennsylvania granted petitioner's request for appeal to determine whether the petitioner's sentence violated the prohibition against mandatory life sentences for juvenile offenders under *Miller v. Alabama.* In 2016, along with this case, the Supreme Court of Pennsylvania granted over thirty petitions for appeal. In all of these cases, the court vacated the superior court's order and remanded for further proceedings consistent with *Montgomery v. Louisiana*.

CREATING MEANINGFUL OPPORTUNITIES FOR RELEASE: *GRAHAM, MILLER* AND CALIFORNIA'S YOUTH OFFENDER PAROLE HEARINGS
Beth Caldwell, 40 N.Y.U. REV. L. & SOC. CHANGE 245 (2016) (60 pages)

This article presents findings from a study focused on the implementation of California's new Youth Offender Parole Hearing law, which aims to give juvenile offenders opportunities to be released from adult prison when they have exhibited good behavior. The study contributes to the debate about how to apply the "meaningful opportunity to obtain release" standard, which the Supreme Court left open to interpretation in *Graham v. Florida*, *Miller v. Alabama,* and *Montgomery v. Louisiana*, all of which reinforced the idea that juveniles who demonstrate they are capable of change should be entitled to release. The article concludes that the new state law in California gives youth offenders a more realistic chance of being released but does not go far enough. The author recommends further guidelines currently not included in the law that would provide youth offenders more meaningful opportunities for release in parole hearings and more specific guidelines to ensure that the diminished capacity of youth is emphasized when analyzing criminal behavior. Although the law analyzed in this

article is specific to California, its implementation along with the article's recommendations can assist other state advocates and leaders on how to implement similar reform in their states.

HILL V. SNYDER
821 F.3d 768 (6th Cir. 2016) (15 pages)

This case clarifies that under Michigan statue, Michigan Public Act. No. 22, courts may not sentence juveniles to mandatory life without parole and that the ban on mandatory life without parole sentences are retroactive to the class of previous offenders pursuant to *Miller v. Alabama* and *Montgomery v. Louisiana*.

IN RE DAVIS
No. 15-1072, 2016 WL 2640909 (6th Cir. May 9, 2016) (order granting motion for leave to file a second or successive habeas petition and motion to proceed *in forma pauperis*) (1 page)

In this case, the Court of Appeals for the Sixth Circuit granted a motion for leave to file a second or successive habeas corpus petition for a prisoner who was sentenced to life without parole as a sixteen-year-old. The court relied on *Montgomery v. Louisiana*, which recognized *Miller v. Alabama* as a substantive constitutional rule with a retroactive effect, thus allowing a second or successive habeas petition under 28 U.S.C. § 2254.

JUVENILE LIFE WITHOUT PAROLE IN LAW AND PRACTICE: CHRONICLING THE RAPID CHANGE UNDERWAY
John R. Mills et al., 65 AM. U. L. REV. 535 (2016) (50 pages)

This article analyzes juvenile life without parole (JLWOP) sentencing data. Since *Miller* and *Montgomery* have not made all JLWOP sentences per se unconstitutional, this article considers Eighth Amendment concerns surrounding JLWOP. The article discusses state policies and trends around state legislation for JLWOP as well as racial disparities in sentencing. This article is helpful for understanding the current policy landscape surrounding JLWOP and for state-specific information. The appendix has a helpful state-by-state breakdown with recent data about JLWOP, including whether the state has abolished JLWOP and the number of persons who are serving JLWOP sentences.

JUVENILE SENTENCING IN A DEVELOPMENTAL FRAMEWORK: THE ROLE OF THE COURTS
MODELS FOR CHANGE (2015) (4 pages)

This brief evaluates three recent U.S. Supreme Court decisions— *Roper v. Simmons*, *Graham v. Florida*, and *Miller v. Alabama*—that reframed juvenile sentencing and affirmed that adolescents are less mature than adults in ways that make them less culpable, less competent to participate in criminal proceedings, and more likely to become rehabilitated. This report

also demonstrates how these three ideas are grounded in law and science. Because jurisdictions that allow juveniles to be sentenced to life without parole must carefully evaluate mitigating factors that may reduce culpability or demonstrate the ability to rehabilitate, the report also lists and explores some important mitigating factors, such as decreased decision-making capacity or impaired legal competency that most offenders share according to principles of law and science.

LANDRUM V. STATE
No. SC15-1071, 2016 WL 3191099 (Fla. June 9, 2016) (9 pages)

The Supreme Court of Florida held that a non-mandatory life without parole sentence imposed for second-degree murder was unconstitutional due to a sentencing scheme that did not require the trial court to take into account the individualized sentencing considerations of the juvenile offender's youth. In this case, the defendant appealed her sentence of life in prison without parole for second-degree murder, which she was convicted of at age sixteen. The court stated that the proper remedy for a violation of *Miller v. Alabama* is an individualized sentencing proceeding, as mandated by the Florida Legislature in 2014, which provides explicit guidelines for juvenile offenders convicted of a life felony.

MARTINEZ V. UNITED STATES
803 F.3d 878 (7th Cir. 2015) (6 pages)

The Court of Appeals for the Seventh Circuit held that juveniles sentenced to life in prison for Racketeer Influenced and Corrupt Organizations Act (RICO) offenses, including murder, were not entitled to resentencing under *Miller*. *Miller* did not retroactively apply here because the life without parole sentence was not mandatory; rather, the district court considered the offenders' ages and other mitigating factors at the time of sentencing.

McKINLEY V. BUTLER
809 F.3d 908 (7th Cir. 2016) (9 pages)

The Court of Appeals for the Seventh Circuit held that *Miller* applies retroactively. In this case, the life without parole sentence was not a mandatory sentence; however, the district court judge had failed to take into account the defendant's age and the ways children are constitutionally different from adults. The Seventh Circuit stated that a sentencing judge must always consider the defendant's age. This opinion discusses what it means for children to be different from adults with regard to constitutional protections and is a strong case for defenders to reference in arguing that children are constitutionally different from adults in the criminal justice system.

***MILLER V. ALABAMA*: A PROPOSED SOLUTION FOR A COURT THAT FEELS STRONGLY BOTH WAYS**
Liza Little, Note, 88 S. CAL. L. REV. 1493 (2015) (28 pages)

The author argues that judges should determine whether an offender should be tried as a juvenile in juvenile court based on modern neurological studies, social science, and parental knowledge, as opposed to considering the age of the offender alone. If judges properly incorporate science in their decision making, the author argues that they would find that many offenders in their early twenties should also be tried in juvenile court. Additionally, when considering sentences for juveniles being tried in adult courts, the author argues that judges should apply a "youth discount," meaning whenever an offender exhibits the hallmark features of a youth, judges should proportionately and appropriately reduce the defendant's sentence.

MONTGOMERY V. LOUISIANA
136 S.Ct. 718 (2016) (50 pages)

The U.S. Supreme Court held that the holding in *Miller v. Alabama*, which prohibited mandatory life without parole for juveniles, has retroactive effect. *Miller* reasoned that judges must consider how children are constitutionally different from adults and thus a mandatory life without parole sentence is inappropriate for all children. Here, the Court deemed that *Miller* announced a substantive rule of constitutional law because it affects what punishments can be imposed when sentencing a class of defendants because of their status as youth. In order to apply *Miller* retroactively, the Court clarified that states need not necessarily resentence juvenile offenders who received a mandatory life without parole sentence, but they must at the very least provide some remedy—such as a parole hearing.

STATE V. MONTGOMERY
No. 2013-KP-1163, 2016 WL 3533068 (La. June 28, 2016) (4 pages)

On remand from the United States Supreme Court's decision in *Montgomery v. Louisiana,* the Louisiana Supreme Court vacated the defendant's sentence and remanded the case to the lower court for resentencing. This case dealt with a state prisoner who had been convicted of murder and sentenced to life without parole when he was seventeen. He moved to correct his sentence under *Miller v. Alabama,* leading to the decision in *Montgomery*, which held that *Miller* applies retroactively, giving defendants who were sentenced to mandatory life without parole as juveniles an opportunity to determine whether the defendant is eligible for parole.

STATE V. BOSTON
363 P.3d 453 (Nev. 2015) (7 pages)

The Supreme Court of Nevada held that non-homicide aggregate sentences that essentially become a functional equivalent to life without the possibility of parole are unconstitutional under the Eighth Amendment. In this case, a child was sentenced to an aggregate sentence of 100 years in prison. The court pointed to *Graham v. Florida* to clarify that the life without parole prohibition was not limited to single non-homicide offenses, but rather encompassed a child's overall sentence. The court concluded that aggregate sentences are functional equivalents to cruel and unusual punishment for a juvenile because the excessive sentence does not provide the juvenile a meaningful opportunity for release based on his or her maturity and rehabilitation.

STATE V. CARDEILHAC
876 N.W.2d 876 (Neb. 2016) (10 pages)

This case concerns a juvenile defendant's appeal of his conviction of second-degree murder and sentence of imprisonment for sixty years to life. The court held that this sentence was not excessive because it was within the statutory limits for the offense. Additionally, the state demonstrated that the defendant was a dangerous threat to society because he committed a senseless act of violence and did not appear to have remorse. Mitigating factors such as his age, impetuosity, family environment, community environment, and his inability to understand risks were considered but ultimately dismissed as non-material.

STATE V. SWEET
No. 14-0455, 2016 WL 3023726 (Iowa May 27, 2016) (31 pages)

The Supreme Court of Iowa held that under the Iowa Constitution, juvenile offenders may not be sentenced to life without the possibility of parole. In this case, a seventeen-year-old minor who had a documented history of emotional and development disorders was convicted of first-degree murder for killing his grandparents. The court extensively discusses the substantial evolution of the U.S. Supreme Court's opinion on life imprisonment for juveniles, culminating in *Montgomery*'s holding that life without parole should be reserved for only the rarest of juvenile offenders. The majority concludes that sentencing courts should not be required to make speculative upfront decisions on a juvenile's prospects for rehabilitation because they lack adequate predictive information supporting such a decision. The court, therefore, adopts a categorical rule that juvenile offenders may not be sentenced to life without parole under the Iowa constitution. The court notes, however, that a juvenile offender could still spend his or her life in prison after a determination of irredeemable corruption is made at a later parole hearing once the "juvenile character is not a work in progress."

STIFLING THE SHOT AT A SECOND CHANCE: FLORIDA'S RESPONSE TO GRAHAM AND MILLER AND THE MISSED OPPORTUNITY FOR CHANGE IN JUVENILE SENTENCING

Megan McCabe Jarrett, Student Work, 45 STETSON L. REV. 499 (2016) (31 pages)

This article argues that recent legislative efforts in Florida failed to comport with the spirit of *Graham v. Florida* and *Miller v. Alabama* as House Bill 7024 failed to provide youth with second chances and did not embrace the U.S. Supreme Court's reasoning that children are different. The article also provides a brief history of juvenile sentencing that led to the invalidation of mandatory life without parole sentences for juveniles. It discusses the *Graham* and *Miller* decisions and Florida's subsequent struggle to implement them. Finally, the author describes what Florida could have done differently, such as allowing judges more discretion in terms of years for sentencing, and makes predictions and recommendations for the future of juvenile sentencing. Although this article focuses on the missed opportunities for juvenile reform in Florida, the lessons learned and recommendations may be helpful for other states looking to enact similar juvenile reform bills.

THE SUPREME COURT AND THE TRANSFORMATION OF JUVENILE SENTENCING

ELIZABETH SCOTT ET AL., MODELS FOR CHANGE (2015) (40 pages)

This report focuses on the recent development of the U.S. Supreme Court's view that children are different for purposes of criminal punishment and the Eighth Amendment, specifically as seen in the Court's opposition to harsh criminal sentences as outlined in *Roper v. Simmons*, *Graham v. Florida*, and *Miller v. Alabama.* The report addresses key issues facing courts and legislatures under this developing constitutional jurisprudence and provides guidance to sentencing courts and lawmakers based on the Supreme Court's Eighth Amendment analysis and articulated principles. It starts with an explanation of the underlying developmental framework that supports the conclusion that juveniles are less culpable based on scientific evidence from both psychology and neuroscience. It also details how courts and legislatures have implemented the Supreme Court's Eighth Amendment cases around juvenile life without parole sentences. The report offers courts and clinicians guidelines under *Miller* on how to properly structure sentencing hearings to incorporate developmental research. Finally, the report looks at the broader implications of the Supreme Court's decisions and urges further legislative reform to ensure the progress made thus far is not dismantled by political pressure.

THE YOUNG AND THE REDEMPTIONLESS? JUVENILE OFFENDERS BEFORE MILLER V. ALABAMA
Katherine Johnson, Supreme Court Commentary, 11 DUKE J. CONST. L. & PUB. POL'Y SIDEBAR 113 (2016) (15 pages)

This article discusses the tension that *Montgomery* resolved: whether *Miller* was a substantive rule—and therefore retroactive under *Teague*—or merely a procedural one (this article was written before the *Montgomery* decision). The article clearly explains the legal issues examined in *Montgomery* and is a helpful resource for attorneys seeking to better understand the recent decision regarding *Miller* retroactivity.

UNITED STATES V. JEFFERSON
816 F.3d 1016 (8th Cir. 2016) (4 pages)

Following the *Miller v. Alabama* decision, the defendant filed a motion to vacate his 600-month sentence for a homicide offense he committed as a juvenile. The Court of Appeals for the Eighth Circuit decided that the sentence did not fall within the categorical ban in *Miller*. The defendant argued that the sentence was a de facto life sentence, thus violating the Eighth Amendment and the constitutional ban on life without parole sentences. However, the court reasoned that the 600-month sentence was reasonable because: (1) *Miller* banned *mandatory* sentences on the grounds that they prevented judges/juries from considering individual factors of the defendant, and (2) the lower court in this case made an individualized decision that considered all distinctive attributes of the defendant.

UNITED STATES V. PETE
819 F.3d 1121 (9th Cir. 2016) (10 pages)

The Court of Appeals for the Ninth Circuit held that a minor was entitled to have a neurological expert appointed, using public funds, to assist his defense. In this case, the defendant moved for resentencing after the U.S. Supreme Court decided *Miller v. Alabama*. The trial court granted the motion but denied the defendant's request for new expert testimony. The Ninth Circuit noted that the likelihood of psychological change over time is heightened when, as here, the defendant was a juvenile both at the time of the crime and at the earlier psychological evaluation. Therefore when the district court ruled that an expert testimony was not necessary, it ignored *Miller*'s reasoning and directives. The defendant's sentence was vacated and remanded for resentencing with instructions to grant the defendant's request for expert services.

VASQUEZ V. COMMONWEALTH
781 S.E.2d 920 (Va. 2016) (13 pages)

The Supreme Court of Virginia held that *Miller* does not retroactively apply for defendants with multiple term-of-years sentences that aggregate to exceed life expectancy. The court

then evaluated the sentences under *Graham* and determined that they were not cruel and unusual under the Eighth Amendment.

VEAL V. STATE
784 S.E.2d 403 (Ga. 2016) (8 pages)

The Supreme Court of Georgia held that under *Montgomery v. Louisiana,* a minor could not be sentenced to life without parole without a determination that he was irreparably corrupt or permanently incorrigible. In this case, the minor was seventeen years old at the time of the crime, but the trial court did not explicitly mention the minor's age or characteristics in the sentence hearing. The minor raised a claim that his sentence was unconstitutional under *Miller v. Alabama* two years after his original disposition, and the claim was denied for being untimely. The supreme court noted that if this case had been decided before *Montgomery,* it might have upheld the trial court's ruling denying defendant's *Miller*-based Eighth Amendment claim given the court's broad discretion under *Miller*. However, the supreme court interpreted the majority's decision in *Montgomery* as permitting life without parole only in exceptional circumstances and for the worst juvenile offenders. As the trial court failed to determine that the minor is irreparably corrupt, the Supreme Court of Georgia held that the sentence is vacated and the case remanded.

WILLIAMS V. PEOPLE
S. Ct. Crim. No. 2015-0006, 2016 WL 2869055 (V.I. May 12, 2016) (9 pages)

The Supreme Court of the Virgin Islands upheld a juvenile's sentence to life with the possibility of parole following the decision under *Miller v. Alabama*. The court found that the defendant was properly sentenced given *Miller's* individualized sentencing factors, and that because he was correctly sentenced under the *Miller* decision, *Montgomery v. Louisiana* would not apply to the defendant.

EDUCATIONAL RIGHTS AND SCHOOL-TO-PRISON PIPELINE

Educational Rights

INVESTIGATION OF COMPLIANCE WITH THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AT LEFLORE COUNTY, MISSISSIPPI, JUVENILE DETENTION CENTER

Letter from Vanita Gupta, Principal Deputy Assistant Attorney General, Civil Rights Div., U.S. Dep't of Justice, to Phil Bryant, Miss. Governor & Jim Hood, Miss. Attorney General (Jan. 12, 2016) (19 pages)

The Department of Justice (DOJ) investigated the Leflore County Juvenile Detention Center and found that the State of Mississippi violated the federally mandated right to education of detained children with special educational needs. First, DOJ found that the detention center lacked "Child Find" policies to identify children with disabilities. Second, DOJ asserts that the Detention Center school did not promptly obtain Individualized Education Programs (IEPs) from the children's schools. Third, DOJ found that the Detention Center did not provide students with the educational services described in their IEPs, which deprived them of their right to education under the Individuals with Disabilities Education Act (IDEA). Since many children in the juvenile justice system also have special educational needs, this investigation can help juvenile defenders advocate against detention and, in cases where youth clients are detained, raise challenges to support their clients in obtaining adequate education while in detention.

School-to-Prison Pipeline

BUT WHAT CAN WE DO? HOW JUVENILE DEFENDERS CAN DISRUPT THE SCHOOL-TO-PRISON PIPELINE

Jonathon Arellano-Jackson, 13 SEATTLE J. FOR SOC. JUST. 751 (2015) (28 pages)

The author discusses the history of the school-to-prison pipeline and the populations that suffer most because of biased disciplinary procedures, and makes recommendations for change. Four policies are outlined as the foundation of the school-to-prison pipeline: (1) zero-tolerance discipline policies, (2) increased law enforcement presence in schools, (3) placement of disruptive students in alternative schools, and (4) racial profiling of minority students with disabilities. The author argues that juvenile defenders must advocate for the educational needs of youth by asserting the child's rights under the Individuals with Disabilities Education Act, interviewing school officials involved in incidents, educating judges, advocating for legal alternatives to incarceration in the juvenile justice system during plea negotiation, and participating in local and national policy development.

COUNSEL IN SCHOOL EXCLUSION CASES: LEVELING THE PLAYING FIELD
Julie K. Waterstone, 46 SETON HALL L. REV. 471 (2016) (33 pages)

This article explores extending *Gideon v. Wainwright*, which granted the right to state-appointed counsel for criminal defendants, to students in school disciplinary hearings. The author argues that education is an interest that should not be taken away from a child, through school exclusion, without due process of law. Specifically, legal counsel should be provided for students before removing them from school. Often, the child is forced to undergo complex disciplinary hearings without legal help. The author recommends that to provide students with legal services, law school clinics should be appointed as counsel to guide students during disciplinary hearings. By ensuring legal counsel through law school clinics, a student's interest will be adequately represented and defended, increasing the chance that the student will be granted continued education without social and educational deprivation and decreasing the severity of student punishment.

ELIMINATING ZERO TOLERANCE POLICIES IN SCHOOLS: MIAMI-DADE COUNTY PUBLIC SCHOOLS' APPROACH
Jeremy Thompson, Note, 2016 BYU EDUC. & L.J. 325 (2016) (19 pages)

The author advocates for alternatives to zero-tolerance policies by describing the history of zero-tolerance policies in Florida and the success of Miami-Dade County's alternative program, which focuses on supporting positive behavior. The author argues that zero-tolerance policies have disproportionately impacted Hispanic and African-American students, resulting in higher rates of suspension, expulsion, and eventual entry into the criminal justice system. The author also addresses the school-to-prison pipeline and the fiscal burdens that it has placed on society. From 2003 to 2006, Florida statute forced all school districts to adopt a zero-tolerance policy for crime, substance abuse, and victimization of students. The zero-tolerance policy forced schools into a contract in which they had to report all crimes committed to local law enforcement. In response, the Miami-Dade County Public School system implemented the School-Wide Positive Behavior Support system, which focuses on promoting "principles of positive reinforcement, instruction of appropriate social behaviors, and modification on a macro-system-wide level encompassing all students and staff." The Miami-Dade model has improved test scores among Hispanic and African-American students while decreasing its student arrests by 69% and suspensions by at least 40% through its alternative policy and implementation of school discipline.

EXAMINING AND DISMANTLING THE SCHOOL-TO-PRISON PIPELINE: STRATEGIES FOR A BETTER FUTURE
Judith A.M. Scully, 68 ARK. L. REV. 959 (2016) (37 pages)

The author outlines the harms of the school-to-prison pipeline, which disproportionately affects youth of color, and advocates for a wide-ranging approach of legislation, litigation, education, and community empowerment to dismantle the pipeline and its harmful effects.

The author examines how the school-to-prison pipeline was constructed through harsh punishments on crime, tough school disciplinary systems that included the addition of school resource officers, and the expulsion of low-performing students by teachers enabled by the No Child Left Behind Act. The author also discusses the psychological impact of criminalization and excessive discipline on children as well as various strategies used by governments and non-profit organizations as an attempt to eliminate the pipeline. The article outlines many facets of a complex phenomenon and highlights several successful and failed attempts at policy reform, while including suggestions for future reform, such as prioritizing teacher training on children's developmental needs.

FROM THE PRINCIPAL'S OFFICE TO PRISON: HOW AMERICA'S SCHOOL DISCIPLINE SYSTEM DEFIES BROWN

Jerrad M. Mills, Comment, 50 U.S.F. L. REV. 529 (2016) (11 pages)

The author argues that racially discriminatory enforcement of school discipline policies and increased use of school resource officers in the public school system have led to disparate disciplinary results against black students and effectively results in segregation of schools. According to the author, these disparate disciplinary actions against black students result in lower academic achievement, higher dropout rates, and increased criminalization of black youth. The comment specifically illustrates the current discriminatory distribution of student discipline and arrests made against black students in public schools. It also focuses on discretionary and vague school discipline policies and state statutes that allow for disproportionate distribution of student discipline. Finally, the author suggests options for reforming the school discipline system, such as informing parents and students about their rights and fixing unclear policies that give administrators too much discretion.

KEEP ALL OUR KIDS IN THE CLASSROOM: REMEDYING DISCIPLINE IN EDUCATION

Amanda M. Gracia, 15 WHITTIER J. CHILD & FAM. ADVOC. 89 (2016) (21 pages)

The author analyzes the problems with harsh zero-tolerance policies in education. The author focuses on racially discriminatory effects and proposes alternative methods to zero tolerance, including: reassessing the presence and roles of police officers in schools, finding alternative discipline policies for minor misbehavior, and using data collection and analysis to be race-conscious in reducing the discriminatory consequences of zero-tolerance policies. The article also discusses how zero-tolerance policies violate the International Convention on the Elimination of All Forms of Racial Discrimination, a treaty to which the U.S. is a state party, and which outlaws programs that have racially discriminatory effects.

KEEPING OUR KIDS IN SCHOOL AND OUT OF COURT: ROOTING OUT SCHOOL SUSPENSION HEARINGS AND A NEW ALTERNATIVE
Rachel Klein, Note, 17 CARDOZO J. CONFLICT RESOL. 633 (2016) (36 pages)

This note introduces an alternative choice to school suspension and disciplinary zero-tolerance policies, which cause children to suffer emotional and educational deficiencies. The author identifies the concept of Board of Education Arbitration as an alternate solution to combat student misbehavior. Under this method, instead of conducting suspension hearings, students have the opportunity to speak openly and freely about their behavior to arbitrators and are evaluated individually based on their educational, mental, and familial backgrounds. By granting the student an opportunity to provide such information, the author argues that the arbitrator will be required to look beyond the student's actions to help achieve a proper resolution that will benefit the child, without taking him or her out of school thus avoiding suspension.

OVER-DISCIPLINING STUDENTS, RACIAL BIAS, AND THE SCHOOL-TO-PRISON PIPELINE
Jason P. Nance, 50 U. RICH. L. REV. 1063 (2016) (13 pages)

This article examines how racial groups are affected at varying levels by the growing trend of over-disciplining students. The article discusses the concept of implicit bias, which appears to be one of the causes of such racial disparities, and describes the role that national and state government entities, including the U.S. Department of Education and state departments of education, can play in addressing the implicit biases of educators to create more equitable and inclusive schools. The author credits existing recommendations, such as eliminating zero-tolerance policies, scaling back the use of strict security measures like metal detectors and random searches, and reserving the use of suspensions, expulsions, and referrals to law enforcement for only extreme offenses, such as physical endangerment of other students. Additionally, the author proposes three recommendations to tackle the racial disproportionality of school discipline: (1) school officials and teachers must receive training on implicit bias and techniques for neutralizing its effect; (2) national, state, and local governments must invest more in understanding how to address implicit bias; and (3) the U.S. Department of Education and state departments of education should play a more active role in reducing the effects of implicit bias by, for example, requiring better practices of collecting and disseminating data to school districts to help identify disproportionate outcomes.

RE-ENGAGING YOUTH WITH THE PROTECTIVE POWER OF EDUCATION
Daniel T. Satterberg et al., 13 SEATTLE J. FOR SOC. JUST. 857 (2015) (43 pages)

The authors argue that criminal justice reform begins by ending the school-to-prison pipeline. In this article, the authors first expose the current failures of school disciplinary policies and explain the profound and far-reaching implications of these failures. Exclusionary discipline

practices, excessive policing in the classroom, and performance-based funding all disproportionally affect minority youth and create an educational gap, allowing some youth to fall through the cracks and turn to delinquency and crime. The article also highlights some of the efforts that have been made in the state of Washington to combat the school-to-prison pipeline. For example, educators have successfully taken a collective impact approach to education, whereby schools and non-profits encourage cross-sector partnerships in the community to provide resources to schools. Furthermore, prosecutors in Washington have also found success with the 180 Diversion Program, which is a pre-filing program that allows low-level offending youth to participate in community workshops instead of court adjudication. Advocates are encouraged to incorporate Washington's comprehensive and alternative approach to juvenile discipline in their home states.

SCHOOL HOUSE GATES: PLEASE REMOVE YOUR RIGHTS
Kimberly Davis, 52 WILLAMETTE L. REV. 353 (2016) (15 pages)

This article traces the history of students' constitutional rights in schools, specifically the Fourth Amendment right to be free from unreasonable search and seizure. The author notes how students' Fourth Amendment rights have been severely limited in response to the perceived threat of gun violence in schools. She additionally discusses the competing policies that led to this limitation on students' rights and the media's role in perpetuating fear of violence in schools. The author argues for greater protection of students' Fourth Amendment rights in schools, as unreasonable search and seizure contributes to the school-to-prison-pipeline. Finally, the author outlines alternative proposals for creating safer schools and reducing school violence, such as stopping the fear mongering created by the media, encouraging schools to involve law enforcement only as a last resort, and pushing for legislative reform focused on child development rather than incarceration.

SCHOOLING THE POLICE: RACE, DISABILITY, AND THE CONDUCT OF SCHOOL RESOURCE OFFICERS
Amanda Merkwae**,** Note, 21 MICH. J. RACE & L. 147 (2015) (42 pages)

This note discusses the increase of minority children, children with learning disabilities, and children with emotional and behavioral disorders who are disproportionately caught up in the school-to-prison pipeline. The author argues that the lack of special education services and improper training of police and school resource officers contribute to the adoption of zero-tolerance policies, which lead to arrest, suspension, or expulsion of students without considering their social, cultural, or behavioral needs. The author calls for specialized training of school resource officers on their scope of authority and obligations under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, each of which outlines free and proper educational services that resource officers can make available to eligible students.

SCHOOLYARD COPS AND ROBBERS: LAW ENFORCEMENT'S ROLE IN THE SCHOOL-TO-PRISON PIPELINE

M. Alex Evans, 37 N.C. CENT. L. REV. 183 (2015) (27 pages)

This article explores the correlation between the racially discriminatory aspects of the criminal justice system and the growing presence of school resource officers (SROs) in schools. Specifically, the article examines North Carolina's Wake County Public School System (WCPSS), which the author finds to have a particularly aggravating history of inflicting discriminatory practices on students. The article examines data on the school-to-prison pipeline and uses WCPSS's security and policing policies as a model to highlight the challenges that many school districts face nationwide. The article then explores policies enacted by other states that have proven successful in improving school discipline and policing policies, such as referral of student offenders to mediation programs rather than to law enforcement; better training for SROs; and the RECLAIM Ohio program that works to keep low-risk youth in the juvenile justice system connected with their friends, schools, communities, and most importantly, their families.

THE ROAD TO PRISON IS PAVED WITH BAD EVALUATIONS: THE CASE FOR FUNCTIONAL BEHAVIORAL ASSESSMENTS AND BEHAVIOR INTERVENTION PLANS

Stephanie M. Poucher, Comment, 65 AM. U. L. REV. 471 (2015) (39 pages)

This author argues that having clearly defined Functional Behavioral Assessments (FBAs) and Behavioral Intervention Plans (BIPs) will help schools end the school-to-prison pipeline. According to the author, the Individuals with Disabilities Education Act (IDEA) requires schools to create academic plans that are reasonably likely to provide educational benefits for students with special needs. For this requirement to be met, schools must evaluate a student's behavior and create an intervention plan (i.e., FBA and BIP) for when a student with special needs misbehaves. Due to the zero-tolerance policies that most schools have, however, students with special needs are denied access to these evaluations, interventions, and ultimately educational benefits, increasing their likelihood to get pulled into the school-to-prison pipeline. To rectify this issue, the author recommends that Congress clarify the FBA and BIP standards and requirements. The author argues that substantive FBA and BIP standards that utilize "positive, inclusive, and least restrictive approaches" will ensure equal access to education for students with special needs thus, improving the overall quality of education for all students. Finally, the author recommends an increase in school funding to educate teachers about creating substantive and beneficial FBAs and BIPs.

TRUANCY TRANSFORMED: HOW HOUSE BILL 2398 DECRIMINALIZED FAILURE TO ATTEND SCHOOL

Sarah Orman & Cristina Blanton, 78 TEX. B.J. 870 (2015) (3 pages)

The authors explain how the Texas Legislature has undertaken effective juvenile justice reforms, significantly decreasing the number of truancy cases filed with the courts in recent years. One substantial reform measure is H.B. 2398, which was enacted in 2015. H.B. 2398 allows educators to elect not to refer a student to truancy court for unexcused absences, redefines the definition of truancy in a more lenient way, requires school districts to take preventive measures and appoint a truancy prevention facilitator for each district, and gives greater discretion to judges to make exceptions for special circumstances. This bill serves as an example of a successful school-to-prison reform that other state legislators should follow and out-of-state advocates should champion in their home states.

USING CALIFORNIA STATE ANTI-DISCRIMINATION LAW TO COMBAT THE OVERUSE OF SCHOOL SUSPENSIONS

Allison Fisher, Note, 88 S. CAL. L. REV. 1197 (2015) (42 pages)

The author explains how advocates in California can use the state's anti-discrimination statute to combat the pervasive effects of zero-tolerance school disciplinary policies on minority students, particularly African-American students. First, school disciplinary policies are facially neutral, but the data clearly shows that they have a disproportionate adverse impact on a protected class. This adverse impact is not justifiable because data shows that such policies have not achieved their intended objectives and have negatively altered the school environment. The author also points to studies that show that less discriminatory alternatives exist. Advocates can mirror the author's arguments in many other states by relying on similar state anti-discrimination statutes or Title VI of the Civil Rights Act to fight against zero-tolerance policies in schools.

EXPUNGEMENT AND SEALING

A PROPOSAL TO ALLOW THE PRESENTATION OF MITIGATION IN JUVENILE COURT SO THAT JUVENILE CHARGES MAY BE EXPUNGED IN APPROPRIATE CASES

Katherine I. Puzone, 36 PACE L. REV. 558 (2016) (38 pages)

Recognizing the complexities around the current expungement process and the grave effects of a juvenile record, the author proposes a new process that would allow a juvenile court to declare whether a case should be expunged at the time of adjudication. This new process would require a juvenile court to hear mitigating evidence, such as evidence of mental illness or of an abusive living situation, to determine whether the delinquency record should be expunged upon the juvenile's completion of sentence or treatment. The author argues that this automatic expungement procedure would make it easier for juveniles from disadvantaged backgrounds or who have other mitigating qualities to lead more productive lives and achieve rehabilitation.

FUTURE INTERRUPTED: THE COLLATERAL DAMAGE CAUSED BY PROLIFERATION OF JUVENILE RECORDS

RIHA SAHA SHAH & JEAN STROUT, JUVENILE LAW CTR. (2016) (35 pages)

The authors of this report call on policymakers to increase juvenile record confidentiality and opportunities for expungement. The report demonstrates, through personal accounts, how the existence of juvenile records can carry devastating collateral consequences when they remain unprotected. Additionally, juvenile records are increasingly available to the public through state police databases or private background check company databases, which may provide inaccurate or outdated information. The report finds that recent efforts in both the public and private sectors, such as Fair-Chance Hiring and Ban-the-Box policies, are important steps toward increasing opportunities for juveniles with a criminal background. It also encourages employers, educational institutions, and housing authorities to better understand that children grow up and the mistakes of their past should not follow them for their lifetime.

REFORMING THE LAW OF REPUTATION

Frank Pasquale, 47 LOY. U. CHI. L.J. 515 (2015) (25 pages)

In this article, the author discusses how electronic search engines cache information about juvenile offenders even if their official records are expunged or sealed. This information can negatively impact decision makers despite a sealed or expunged record. Juvenile defense professionals should be aware of how a criminal record may impact their clients when people are able to access information about their offenses online, even when the record has been sealed or expunged. The author encourages Google and other companies to respond to this concern by using algorithms that suppress sites that harm the reputation of individuals with a criminal record and calls for lawmakers to advocate for policies that require these algorithms.

JUVENILE COURT

DELINQUENCY CASES IN JUVENILE COURT, 2013

JULIE FURDELLA & CHARLES PUZZANCHERA, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Offenders and Victims National Report Series Fact Sheet, Ser. No. NCJ 248899) (2015) (4 pages)

This fact sheet illustrates the changes in juvenile delinquency court cases since 1985, noting a decline in delinquency cases since 1997. It outlines the variances in race, age, and gender. The fact sheet also illustrates shifts in caseloads at different stages of the delinquency process, including intake, detention, waiver, and adjudication. Notably, the number of delinquency cases involving juveniles has decreased by 44% from 1997, which is the most substantial decline since the 1960s.

JUVENILE COURT STATISTICS 2013

SARAH HOCKENBERRY & CHARLES PUZZANCHERA, NAT'L CTR. FOR JUVENILE JUSTICE (2015) (114 pages)

This report describes delinquency cases and status offense cases handled by U.S. courts with juvenile jurisdiction. The report focuses on what constitutes a referral to a juvenile court, including intake, waiver to adult court, adjudication, disposition, and detention, tracking the flow of cases through all stages of processing. In the last ten years, the number of cases handled by juvenile courts has decreased for almost all offenses, with a 9% decrease since 1985 and a 29% decrease in the past five years. The report also contains more detailed breakdowns by each type of offense and describes the gender and racial demographics of the juveniles involved while noting the respective disparities.

PROMOTING PARENTAL GUIDANCE: AN ARGUMENT FOR THE PARENT CHILD PRIVILEGE IN JUVENILE ADJUDICATIONS

Brittany Libson, Note, 53 AM. CRIM. L. REV. 137 (2016) (40 pages)

This note addresses the need for a parent-child privilege in juvenile and criminal proceedings in order to maintain familial relationships and preserve the child's constitutional liberty and privacy interest. Without a parent-child privilege, children cannot seek guidance from their parents and parents may adversely testify against the child, thus leading to strained and broken parental relationships. The author argues that this negatively affects the child's mental development and hinders proper rehabilitation because it hinders communication with parents and instills fear that information could be disclosed to the court. The author advocates for statutory legislation or judicial efforts to prevent courts from compelling parents to testify against their children.

JUVENILE JUSTICE REFORM

BENDING THE CURVE: REFLECTIONS ON A DECADE OF ILLINOIS JUVENILE JUSTICE REFORM

Diane Geraghty, 36 CHILD. LEGAL RTS. J. 71 (2016) (19 pages)

The author discusses a decade of successful juvenile justice reform in Illinois and the lessons learned about successful advocacy over this time period. The reform movement focused on establishing developmentally appropriate responses to youth offenses, fostering youth potential, and recognizing community and system responsibility. Significant achievements highlighted include raising the age of juveniles kept in juvenile court from seventeen to eighteen, limiting automatic transfer to adult court, reducing incarceration rates, and increasing reliance on alternatives to confinement. The author then discusses lessons learned about effective reform, including the importance of having a wide network of reformers, understanding how the legislature works, focusing on local communities, and planning for sustainability. This article can help juvenile justice reformers consider how to effectively advocate for important changes in juvenile justice.

COUNTY OF LOS ANGELES: ANALYSIS OF THE COUNTY'S JUVENILE INDIGENT DEFENSE SYSTEM

Letter from Sachi A. Hamai, Chief Exec. Officer, L.A. Cnty., to Hilda L. Solis, Chair, L.A. Cnty. Bd. of Supervisors et al. (Mar. 28, 2016) (258 pages)

The Los Angeles County Board of Supervisors directed the county's Chief Executive Officer to hire an outside consultant to conduct an analysis of the county's juvenile indigent defense system in an effort to improve the system. The consultant, the Warren Institute on Law and Social Policy at the University of California, Berkeley, School of Law, found that the County's juvenile indigent defense system is not up to date on the expanding role of defense counsel in delinquency proceedings. In particular, the report outlines the unique and specialized role of the juvenile defender in both defending a child against criminal allegations and advocating for the child's broader care and treatment both before and after disposition. The report cites national standards in juvenile defense, including the National Juvenile Defense Standards, in outlining the ethical framework for juvenile defense and calls for greater specialization, accountability, and training of juvenile defense attorneys in the county.

DATABASING DELINQUENCY

Kevin Lapp, 67 HASTINGS L.J. 195 (2015) (51 pages)

In this article, the author discusses the harmful effects of the rapid increase of data collected, stored, and distributed by the criminal justice system about juveniles. The article uses a range of data and anecdotes to offer a comprehensive look at the evolution of databasing juveniles in the modern culture of "dataveillance." The author claims that this data has become too

readily available to audiences outside of law enforcement, such as schools, employers, public housing authorities, colleges, and the general public. This has profound implications on youth, especially minorities; it not only stigmatizes individual youth, but it also distorts public perceptions of juveniles in a way that will have lasting policy consequences. The author is mindful of the public safety benefits and inevitability of information gathering on juveniles, but calls for significant reforms around data collection to add appropriate limitations around law enforcement data collection and distribution so that public safety gains do not come at the expense of juvenile development.

DECLARATION—JUVENILE JUSTICE AWARENESS MONTH
Gary R. Herbert, Utah Governor (Oct. 23, 2015) (1 page)

Utah Governor Gary Herbert proclaimed October 2015 as Juvenile Justice Awareness Month. In his proclamation, the Governor acknowledged the U.S. Supreme Court's recognition that children are developmentally different from adults and the importance of specialized juvenile defenders to advocate for age-appropriate services in juvenile court. The Governor also recognized that "the juvenile justice system is best equipped to work with teenagers in making meaningful changes that maximize opportunities for youth offenders to realize their full potential." Finally, the Governor's declaration applauds the work of the thousands of professionals who serve in the juvenile justice system who enable Utah's youth to succeed through intervention, supervision, and rehabilitation programs while ensuring public safety. The Governor's declaration coincides with a Presidential Proclamation establishing October 2015 as National Youth Justice Awareness Month.

***IN LOCO* JUVENILE JUSTICE: MINORS IN MUNIS, CASH FROM KIDS, AND ADOLESCENT *PRO SE* ADVOCACY—FERGUSON AND BEYOND**
Mae C. Quinn, 2015 BYU L. REV. 1247 (2015) (63 pages)

The author argues against the practice of prosecuting juveniles in municipal courts and using the court system *in loco parentis* for children in the justice system. The author specifically looks at the court system in St. Louis, Missouri as a case study. Juveniles tried in municipal courts are subject to municipal court standards such as a lack of representation, no opportunities for bail, and high sanctions that are impossible for children to pay. The author emphasizes that children are deprived of their constitutional rights and are stigmatized because of the lack of juvenile law regulation in Missouri. The author calls for greater reform efforts in the Missouri justice system and beyond to strengthen protections under *In re Gault* and address children facing delinquency proceedings appropriately in light of the scientific research that has been adopted by the U.S. Supreme Court on adolescent development.

PRESIDENTIAL PROCLAMATION—NATIONAL YOUTH JUSTICE AWARENESS MONTH, 2015

Press Release, Barack Obama, U.S. President (Sept. 30, 2015) (3 pages)

In this Presidential Proclamation, President Obama established October 2015 as National Youth Justice Awareness Month. In doing so, the President outlines many troubling juvenile justice policies that plague America's youth and maintains that involvement in the justice system, even if it does not result in a conviction or adjudication as a delinquent, can significantly impede a person's ability to pursue a higher education, obtain a loan, find employment, or secure quality housing. Further, the President cites that it can cost upwards of $100,000 to hold a young person in a state-operated facility, money that could instead be invested in children in ways that help keep them out of the juvenile and criminal justice systems in the first place. The President discusses the benefits of the Smart on Juvenile Justice initiative and the My Brother's Keeper initiative. The President also calls on Americans to recommit to ensuring our justice system acts as a framework for uplifting young people with a sense of purpose so they can contribute to America's success.

REFORMING THE JUVENILE JUSTICE SYSTEM

Laura Cohen & James Moeser, N.J. LAW. MAG., Oct. 2015, at 42 (5 pages)

This article considers the shortcomings of New Jersey's juvenile justice system and the efforts of the New Jersey Juvenile Justice Reform Coalition to achieve meaningful reform. The authors examine one youth's troubling upbringing and the circumstances that brought him to the New Jersey Training School for Boys at Jamesburg (NJTS), where he was confined to isolation and became paranoid and depressed. Citing a study conducted by the Annie E. Casey Foundation, the authors detail how facilities like NJTS are dangerous, ineffective, wasteful, unnecessary, and obsolete. For example, incarcerated youth face greater risks of frequent physical and sexual abuse and alarmingly high recidivism rates. Further, the average cost of incarcerating one youth in New Jersey is nearly $200,000 per year. The authors discuss the efforts of the New Jersey Juvenile Justice Reform Coalition, which focuses on reducing the number of children in custody and protecting those who remain in the care of the state. To date, the coalition has successfully advocated for the enactment of an expansive juvenile justice reform measure that bans punitive solitary confinement in juvenile facilities, overhauls the laws governing waiver of children for adult prosecution, and requires due process for youth threatened with administrative transfers. As reform efforts in New Jersey begin to take hold, other states can and should look to New Jersey as an example for reforming their own juvenile justice systems.

SMART ON JUVENILE INDIGENT DEFENSE

NAT'L JUVENILE DEFENDER CTR. (2016) (2 pages)

The National Juvenile Defender Center developed an infographic on the importance of effective juvenile indigent defense systems. The infographic provides three compelling

reasons to invest in juvenile indigent defense systems: (1) effective juvenile defenders save money by keeping youth in the community; (2) effective juvenile defense systems increase public safety; and, (3) effective juvenile defense systems lead to youth success. Under each heading, the infographic displays data to support each assertion on why effective juvenile defense systems are important. This resource may help advocates push for juvenile defense reform in their local jurisdictions and achieve greater buy-in from various stakeholders on investing in juvenile defense reform.

STUDYING DETERRENCE AMONG HIGH-RISK ADOLESCENTS

THOMAS A. LOUGHRAN ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Bulletin, Ser. No. NCJ 248617) (2015) (16 pages)

This report examines findings from the Pathways to Desistance study and presents that the recidivism of serious adolescent offenders is directly tied to their perceptions of how certain they are that they will be arrested. At the same time, the authors explain that the threat of more severe punishments has no meaningful reduction in offending or arrests. The study followed more than 1,300 juvenile offenders from Philadelphia and Phoenix for seven years after being adjudicated delinquent or found guilty of a serious violent crime, property offense, or drug offense. The report suggests that policing strategies that recognize the role of juveniles' perceptions of the certainty of being arrested in crime deterrence may help curtail future offending.

THE FRAGMENTED STATE OF JUVENILE INDIGENT DEFENSE

NAT'L JUVENILE DEFENDER CTR. (2016) (2 pages)

The National Juvenile Defender Center developed an infographic highlighting the fragmented state of juvenile indigent defense in the country. The infographic includes a map of the United States that highlights statewide delivery systems and the level of oversight by each state. The infographic displays twenty-one states with statewide juvenile indigent delivery systems (i.e., where juvenile defenders are largely controlled, funded, trained, and supervised by a statewide public defender) and eighteen states with full oversight bodies. Additionally, the infographic details the level of state contribution to juvenile defense, noting four states with no state contribution, fourteen states with less than half, six states with more than half, and twenty-six states with juvenile defense systems that are solely based on state funding. The infographic also highlights twenty-nine states with statewide appellate offices and six states with statewide conflict offices. This resource may guide system leaders on the state of juvenile indigent defense delivery systems across the country as well as juvenile defense reform practices moving forward.

THE PENDULUM SWINGS: LOOKING BACK AT MORE THAN A CENTURY OF JUVENILE JUSTICE REFORM IN THE UNITED STATES
Marsha Levick, N.J. LAW. MAG., Oct. 2015, at 11 (7 pages)

This article traces the history of the United States' juvenile justice system, highlighting pivotal cases and arguing that there has been a recent expansion of juvenile rights. The author asserts that recent U.S. Supreme Court cases, such as *J.D.B.* and *Miller*, offer courts and legislatures opportunities for continued reforms. For example, New Jersey and Texas have halted unfettered prosecutorial discretion on waiving juveniles into the adult system, and Colorado and Illinois have given youth the opportunity to seek judicial review of a decision to try them as adults. In addition, the respective Supreme Courts of Pennsylvania and Ohio have ruled juvenile sex offender registration schemes unconstitutional. Solitary confinement of juveniles is also facing increased scrutiny in light of New Jersey's reform legislation that substantially reduces the imposition of juvenile solitary confinement. Although harmful policies continue to plague juveniles in today's system, the author reasons that the future looks bright because of ample signs of judicial and legislative retrenchment from the punitive excesses of the past.

THE REBIRTH OF REHABILITATION IN JUVENILE AND CRIMINAL JUSTICE: NEW WINE IN NEW BOTTLES
Mark R. Fondacaro et al., 41 OHIO N.U. L. REV. 697 (2015) (34 pages)

In this article, the authors discuss how recent social, psychological, legal, scientific, and policy considerations have kindled a rebirth of rehabilitation in juvenile and adult criminal justice systems. The article provides an overview of the historical background of rehabilitation and punishment. Specifically, the authors discuss the "death" of rehabilitation in the twentieth century, which has culminated in our present levels of mass incarceration and racial disparities. The authors suggest that the ingredients necessary for a renewed focus on rehabilitation include recent advances in behavioral science, neuroscience, and intervention research that are informing effective, evidence-based intervention strategies. According to the authors, this "new wine" is being poured into "new bottles"—legal procedures and policies aimed at promoting accuracy, fairness, and effectiveness in legal decision making and sentencing.

TRENDS IN JUVENILE JUSTICE STATE LEGISLATION 2011-2015
SARAH ALICE BROWN, NAT'L CONFERENCE OF STATE LEGISLATURES (2015) (16 pages)

This report outlines notable nationwide shifts and trends in juvenile justice policy towards alternatives to incarceration, strategies for prevention, greater due process protections, and detention reform since 2011. The report notes that most states are focusing on seven broad trends: (1) comprehensive omnibus reforms, (2) reverse transfer and raise the age of juvenile court jurisdiction, (3) prevention, (4) due process and defense reform, (5) mental health needs, (6) racial and ethnic disparities, and (7) reentry. The author outlines how individual

states are enacting policies following these trends and includes examples of both successful and failed attempts of reform. The author concludes that these recent trends represent a significant new direction to broadly reform the juvenile justice system.

U.S. AGE BOUNDARIES OF DELINQUENCY

ANGEL ZANG, NAT'L CENTER FOR JUVENILE JUSTICE (2015) (4 pages)

This report compares the upper, lower, and extended age boundaries in state juvenile statutes and details the age boundaries of each state. Recently several states with an upper age boundary below age seventeen have raised the age to conform to the federal standard. In 2014, seventeen was the upper age boundary of original juvenile court jurisdiction for delinquency cases in forty-seven out of fifty-six states and territories. New York and North Carolina are the only states that currently exclude sixteen-year-olds and seventeen-year-olds from juvenile court. Just eighteen states specified a lower-age boundary in 2014. Ten is the most common lower age boundary, and North Carolina has the lowest boundary at six years.

MARKERS OF INEQUALITY

Dual-Status Youth

NAVIGATING THE DUAL STATUS TERRAIN: TIPS FOR JUVENILE DEFENDERS

NAT'L JUVENILE DEFENDER CTR. & ROBERT F. KENNEDY NAT'L RES. CTR. FOR JUVENILE JUSTICE (2015) (12 pages)

This resource brief outlines the unique considerations associated with representing dual-status youth and offers practice tips for juvenile defenders to help navigate the practice. It also explores the growing reform trend of multi-system collaboration and coordination to improve outcomes for dual-status youth and offers further guidance for defenders in this area. This resource brief highlights studies that have shown that dually involved youth are more likely to be detained, more likely to be formally processed, and more likely to receive placement as a disposition than youth without child welfare system involvement. Thus, this resource emphasizes the importance for defenders to understand the unique circumstances of dual-status youth and the range of consequences that these youth may face in order to better defend youth and advocate for their futures.

WHEN SYSTEMS COLLABORATE: HOW THREE JURISDICTIONS IMPROVED THEIR HANDLING OF DUAL-STATUS CASES

NAT'L CTR. FOR JUVENILE JUSTICE (Douglas Thomas ed., 2015) (19 pages)

This report discusses how jurisdictions can best address the needs of youth and families that find themselves involved in both the dependency and delinquency systems. It provides case studies from three jurisdictions that have enacted important changes related to dual-status youth: San Diego County, California; Lehigh County, Pennsylvania; and Arkansas. The first case study focuses on delinquency referral intake and diversion in San Diego County, highlighting the county's expedited front-end information sharing, intake screening, and case identification systems designed to more quickly address the complex familial systems surrounding dual-status youth. The second case study focuses on community supervision or probation in Lehigh County for dual-status youth, including efforts to support shared case management. The final case study explores reentry and aftercare planning and community support across the entire state of Arkansas, including efforts to expedite reentry and expand community supports and advocacy for effective reintegration back into the community. These three jurisdictions were identified to serve as examples for other jurisdictions working on reform for dual-status youth.

Gender and the Juvenile Justice System

GENDER INJUSTICE: SYSTEM-LEVEL JUVENILE JUSTICE REFORM FOR GIRLS
FRANCINE T. SHERMAN & ANNIE BALCK, NAT'L CRITTENTON FOUND. & NAT'L WOMEN'S LAW CTR. (72 pages)

This article discusses how, despite a recent wave of juvenile justice reforms, juvenile justice systems routinely fail adolescent girls. The authors propose several policy recommendations, which include ending the criminalization of offenses common to girls living in traumatic situations, such as prostitution, and reforming zero-tolerance and other detrimental policies, to support rather than punish girls in need. The authors also maintain that only through an informed understanding of the problems facing girls in each jurisdiction, data-driven analysis of the impact of each reform on girls, and intentional and ongoing gender-responsive modifications, will girls benefit from reform efforts.

GIRLS' COURT: A GENDER RESPONSIVE JUVENILE COURT ALTERNATIVE
Wendy S. Heipt, 13 SEATTLE J. FOR SOC. JUST. 803 (2015) (54 pages)

This article reviews practices and programs designed to meet the unique needs of girls in the juvenile justice system and proposes a "Girls' Court" to administer these programs. The author notes that over the last ten years, the number of girls arrested, on probation, and in secure detention has risen dramatically. Despite this increase, the article finds that the current juvenile justice system does not account for the fact that girls are much more likely than their male counterparts to suffer from mental illness, sexual victimization, and trauma. The author proposes an alternative court system designed to address girls' unique needs and give them the best chance for out-of-system success. According to the author, critical components of the Girls' Court system would include reconnecting girls with educational programs, making sure that the program is staffed by well-trained professionals, involving a supportive adult for each participant, and having girls engage in community service.

Lesbian, Gay, Bisexual, Transgender, Questioning, and Gender Non-Conforming (LGBTQ & GNC) Youth and the Juvenile Justice System

FASHIONING CHILDREN: GENDER RESTRICTIVE DRESS CODES AS AN ENTRY POINT FOR THE TRANS* SCHOOL TO PRISON PIPELINE
Deanna J. Glickman, 24 AM. U. J. GENDER SOC. POL'Y & L. 263 (2015) (16 pages)

This article discusses dress codes within school settings and their impact on gender non-conforming youth. The author first provides a history on the influence of gender norms on dress codes and how dress code violations act as a precursor for entry into the juvenile justice system. The author argues that dress codes play a part in the school-to-prison pipeline for transgender children in that they promote conformity with social standards of sex and gender and punish children whose sex or gender identity does not conform to such standards. These

dress codes place children in a position to yield to the rules or face harassment, biased implementation of dress codes, and negative attention or discipline that potentially leads to low grades and future risk of incarceration.

LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH IN THE JUVENILE JUSTICE SYSTEM

SHANNAN WILBER, THE ANNIE E. CASEY FOUND. (2015) (52 pages)

This practice guide provides an overview of the prevalence of lesbian, gay, bisexual, and transgender (LGBT) youth in the juvenile justice system and provides guidance on a wide range of policies and practices, including broad organizational measures, such as staff training and non-discrimination policies, as well as specific practices such as, talking with youth about sexual orientation and gender identity and making individualized classification and housing decisions. The author maintains that this guidance is critical because LGBT youth are at a heightened risk of physical, sexual, and emotional abuse, particularly in secure settings. In addition, the author shares that LGBT youth represent up to 20% of detained youth—a far greater percentage than their share of the general population. Although the article is chiefly aimed at promoting the health and well-being of LGBT youth, the author maintains that its recommendations will benefit all justice-involved youth by exposing and challenging bias, promoting mutual respect, and increasing professionalism.

LOCKED IN: INTERACTIONS WITH THE CRIMINAL JUSTICE AND CHILD WELFARE SYSTEMS FOR LGBTQ YOUTH, YMSM, AND YWSW WHO ENGAGE IN SURVIVAL SEX

MEREDITH DANK ET AL., URBAN INST. (2015) (137 pages)

This report discusses lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ) youth who engage in survival sex (i.e., exchange sex for money and/or material goods, such as shelter, food, and drugs) and their interactions with the criminal justice, juvenile justice, and child welfare systems. The report relies on youth-reported experiences with arrest and court as well as sixty-eight interviews with criminal justice, child welfare, and youth-serving professionals and stakeholders. Two-thirds of LGBTQ youth reported being stopped, frisked or questioned at some point and 70% of youth had been arrested at least once. At least one-third of LGBTQ youth reported feeling unsafe during arrest, booking, and pre-arraignment procedures, citing physical, mental, and sexual abuse, including rape and propositions for sex in exchange for release from custody. Stakeholders reported a mistrust of police by the LGBTQ community and a need for an increase in funding, training, and education. A majority of law enforcement interviewed in the study had a bias against LGBTQ youth, viewing their participation in survival sex as an indicator of criminality more so than non-LGBTQ youth who engage in the same behavior. The authors discuss ways agencies can improve the system for LGBTQ youth, such as repealing prostitution laws, quality of life

laws, and misdemeanors associated with being homeless; improving police screening and recruitment; and increasing training on LGBTQ sensitivity and cultural competency.

SALVAGING "SAFE SPACES": TOWARD MODEL STANDARDS FOR LGBTQ YOUTH-SERVING PROFESSIONALS ENCOUNTERING LAW ENFORCEMENT
Brendan M. Conner, 24 AM. U. J. GENDER SOC. POL'Y & L. 199 (2015) (30 pages)

This article speaks to ineffective "safe spaces" for lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth and the need for proper reform to protect youth from violence and harassment by law enforcement. Specifically, the article addresses police misconduct and abuse of power to enter into LGBTQ youth's safe spaces, which are intended to serve as safe havens free from abuse and open for dialogue, and which are maintained by educators, child welfare systems, and social service entities. The author recommends best practices, such as close monitoring of police encounters with safe spaces, the development of written protocols for service providers on how to deal with such encounters, and policy reform to appropriately and effectively protect LGBTQ youth.

THE OVERREPRESENTATION OF LESBIAN, GAY, BISEXUAL, QUESTIONING, GENDER NONCONFORMING AND TRANSGENDER YOUTH WITHIN THE CHILD WELFARE TO JUVENILE JUSTICE CROSSOVER POPULATION
Angela Irvine & Aisha Canfield, 24 AM. U. J. GENDER SOC. POL'Y & L. 243 (2015) (12 pages)

This article discusses the overrepresentation of lesbian, gay, bisexual, questioning, gender non-conforming, and transgender (LGBQ/GNCT) youth in both the juvenile justice and child welfare systems. The authors report youth survey results, which show that LGBQ youth are three times more likely to be removed from their home and more than seven times likely to be placed in a group home or foster care than straight youth. GNCT youth are also three times as likely to be removed from their home and five times more likely to be placed in foster care or a group home than gender conforming youth. The report draws the connection between LGBQ and GNCT youth experiencing rejection from family, to child welfare involvement, homelessness, survival crimes, and ultimately contact with the juvenile justice system.

TRANSITIONS: FROM DANIELLE TO DANIEL, FROM VICTIM TO ADVOCATE
Daniel Bryner & Starcia Ague, 13 SEATTLE J. FOR SOC. JUST. 799 (2015) (4 pages)

One of the authors of this article, a member of the lesbian, gay, bisexual, transgender, questioning, and intersex (LGBTQI) community, gives a personal account of his difficulties staying out of the juvenile justice system and articulates the lingering consequences a juvenile record can have on one's life. The authors use that story as an example of the challenges many LGBTQI juveniles face and argues for policy reforms that will help keep young people in the classroom and out of trouble during their formative years. Specifically, the authors advocate for juvenile courts to enact holistic, assets-based solutions to the

problems facing troubled youth, giving them the opportunity to come out of their incarceration as leaders, advocates, and community activists. Furthermore, the authors maintain that education and positive role models can have a significant impact in shaping lives for the better.

UNJUST: HOW THE BROKEN CRIMINAL JUSTICE SYSTEM FAILS LGBT PEOPLE
CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT (2016) (194 pages)

This report takes an in-depth look at the overrepresentation of the lesbian, gay, bisexual, and transgender (LGBT) population in the justice system. This report details factors leading to the increased criminalization of LGBT people, the harsh treatment LGBT people face during incarceration, and the challenges LGBT people may face after incarceration. The report focuses on the LGBT population broadly, but there are several sections that discuss problems that are specific to youth. The following issues are specifically discussed: family rejection, the child welfare system, the school-to-prison pipeline, homelessness, the portrait of youth in the criminal justice system, and reentry challenges related to education and connecting with family. For example, the report discusses how bullying at school and rejection at home may contribute to both homelessness and involvement in the delinquency system. This report is helpful for developing a well-rounded understanding of the issues LGBT youth face.

Race and the Juvenile Justice System

CHAINING KIDS TO THE EVER TURNING WHEEL: OTHER CONTEMPORARY COSTS OF JUVENILE COURT INVOLVEMENT
Candace Johnson & Mae C. Quinn, Response, 73 WASH. & LEE L. REV. ONLINE 159 (2016), http://scholarlycommons.law.wlu.edu/wlulr-online/vol73/iss1/4/ (16 pages)

This article argues that prisons and courts perpetuate second-class citizenship for people of color by shackling and shaming children, depriving children of education, and imposing financial sanctions against children. The authors explain how shackling and shaming are practices reminiscent of slavery and the Jim Crow laws and serve no rehabilitative function. Moreover, the authors also explain how already impoverished and vulnerable children in the juvenile justice system, who are also frequently persons of color, desperately try to work off court fines, fees, and restitution to avoid imprisonment, yet still have difficulty extracting themselves from "the ever-turning wheel of servitude" when they are unable to pay and end up in jail or prison nonetheless. Further, the authors note that when juveniles are not able to pay off their fines or restitution, their parents are often held accountable as well. Such practices percolate into the larger minority community, perpetuating the second-class citizenship for people of color. The authors call upon the criminal justice community to take action to reform these practices.

EDUCATION CONNECTION: THE EFFECTS OF RACE, CULTURE, AND SPECIAL EDUCATION ON MINORITY DISPROPORTIONALITY IN THE JUVENILE JUSTICE SYSTEM

Lisa Wiggin, Featured Practice Perspective, 36 CHILD. LEGAL RTS. J. 66 (2016) (5 pages)

This article highlights how both African-American youth and juveniles receiving special education services are disproportionately represented in the juvenile justice system. The author concludes that African-American youth who receive special education services are discriminated against at three different levels. First, city-specific ordinances and the drug war disproportionately affect urban minority youth. Second, heightened school disciplinary actions contribute to the overrepresentation of youth with special education needs in the juvenile justice system. Third, the author argues that African-American youth are disproportionately placed in special education due to cultural biases, institutional racism, and poverty.

INVESTIGATING THE ROLE OF RACE AND CULTURE IN THE U.S. JUVENILE JUSTICE SYSTEM

Brenda McKinney, 36 CHILD. LEGAL RTS. J. 45 (2016) (13 pages)

This article reviews the racially disparate experiences of youth in the juvenile justice system. The author discusses indigence and race as well as the historical factors and implicit biases that lead to racially unfair systems. Federal funding requirements are shown to be a potential catalyst for change and the author encourages states to consider race-based and indigence-based differences among youth in the juvenile justice system in light of societal divides and inequality. Such practices lead to disparities in how youth of different races and backgrounds are treated in the juvenile justice system. Finally, the article highlights pilot programs that are paving the way for developing race-focused criminal justice systems—which advance systemic concerns about race as a significant part of their advocacy on a larger scale.

RACIAL AND ETHNIC FAIRNESS IN JUVENILE JUSTICE: AVAILABILITY OF STATE DATA

LAUREN VESSELS, NAT'L CTR. FOR JUVENILE JUSTICE (2015) (4 pages)

This article discusses the importance of collecting and publicly reporting data about ethnic disparities in juvenile justice systems, as reporting data on disparate minority contact is a requirement for federal funding from the Office of Juvenile Justice and Delinquency Protection. The report states that just fifteen states share data about the disproportionality of juvenile justice online. Increased tracking of racial disparities in juvenile justice is important so that states may develop data-driven strategies for addressing racial unfairness.

RACIAL CUMULATIVE DISADVANTAGE: THE CUMULATIVE EFFECTS OF RACIAL BIAS AT MULTIPLE DECISION POINTS IN THE CRIMINAL JUSTICE SYSTEM

William Y. Chin, 6 WAKE FOREST J. L. & POL'Y 441 (2016) (14 pages)

In this article, the author discusses how racial bias plays a role at many stages throughout the criminal justice system and how the effects of bias are cumulative. The article highlights racial disparities surrounding stops, searches, the use of force, arrests, charging, incarceration, bail, diversion, and disposition. The author calls for solutions that fight against the cumulative disadvantage arising out of racial bias in the juvenile justice system, including dismantling the school-to-prison pipeline and aiding youth of color by taking a holistic approach to discipline that avoids the cumulative racial disadvantage in the criminal justice system. The author also calls for more states to require racial impact statements in court. This article may help juvenile defenders raise the issue of race throughout proceedings and advocate for policies that mitigate racially disparate effects in the criminal justice system.

RACIAL DISPARITIES IN YOUTH COMMITMENTS AND ARRESTS

JOSHUA ROVNER, THE SENTENCING PROJECT (2015) (16 pages)

This policy report methodically examines racial and ethnic disparities in the juvenile justice system over the past decade. In many states African-American, Hispanic and American Indian youth are overrepresented in the committed juvenile population. While commitments of all juveniles have decreased by 47% nationwide, in many states racial disparities have remained the same or even increased. Similarly, minority youth are consistently treated more harshly than white youth at nearly every stage of the justice process. The author concludes that past juvenile justice reforms have had substantial effects, but have not solved the problem of racial disparity in the juvenile justice system.

THE CONDITIONING EFFECTS OF RACE AND GENDER ON THE JUVENILE COURT OUTCOMES OF DELINQUENT AND "NEGLECTED" TYPES OF OFFENDERS

Jennifer H. Peck et al., JUST. Q., Nov. 7, 2015,
http://dx.doi.org/10.1080/07418825.2015.1080851 (29 pages)

Whereas most studies on juvenile offending have focused on juvenile delinquency, this study examines juvenile status offenses, probation violations, and contempt of court violations, which the authors refer to collectively as "neglected offenses." Specifically, this study examines the varying severity of courts' rulings on delinquency cases as opposed to neglected offense cases. The authors found that delinquency offenses were treated more harshly than neglected offenses at earlier stages of the justice process, but that neglected offenses were often more severely punished at the final adjudication phase. The authors theorize that this may be because judges wish to use the opportunity of adjudicating neglected offenses to "teach a lesson." The authors also found that race and gender influence

decision making at various points in court processing and ruling of neglected offense cases. The authors call for a more thorough investigation on how race and gender affect court processing for low-level offenses, to influence informed policies that increase equal treatment of youth in the juvenile court.

THE FATE OF BLACK YOUTH IN THE CRIMINAL JUSTICE SYSTEM: THE RACIALLY DISCRIMINATORY IMPLICATIONS OF PROSECUTORIAL DISCRETION AND JUVENILE WAIVER

Gabrielle M. Thomas, Note, 17 RUTGERS RACE & L. REV. 267 (2016) (17 pages)

This note details how the increased allowance of prosecutorial discretion and the role of implicit bias lead to a greater number of black youth who are prosecuted or waived to adult court than white youth. The note outlines the states that have prosecutorial discretion laws and highlights the negative effects of these laws by analyzing the impact of prosecutorial discretion in Florida specifically. For example, when statutes consider whether a youth is a "danger to society," the author notes that there is a lot of gray area for biases, and as a result, children of color are more likely to be waived into adult court. The author argues that prosecutorial discretion should not be used in juvenile cases involving misdemeanor or non-violent offenses and instead there should be a prosecutorial review board that reviews waivers and keeps discretion in check.

Tribal Youth and the Juvenile Justice System

HABEAS CORPUS PETITIONS IN FEDERAL AND TRIBAL COURTS: A SEARCH FOR INDIVIDUALIZED JUSTICE

Carrie E. Garrow, 24 WM. & MARY BILL RTS. J. 137 (44 pages)

This article discusses Eighth Amendment issues in the Navajo justice system and the benefit of minors filing habeas corpus petitions in juvenile tribal courts as a judicial mechanism to improve the treatment of Navajo children in pre-adjudication detention. Similar to the U.S. Constitution, the Navajo Bill of Rights protects youth from cruel and usual punishment. The Navajo Supreme Court asserted in *H.M. v. Greyeyes*, 8 Navajo Rptr. 572, 579–80 (Navajo 2004), that courts must strictly apply the habeas corpus doctrine to juvenile cases because children are not mentally or emotionally mature enough to endure lengthy detainment. The author notes, however, that Navajo juveniles are not entitled to an attorney during detention hearings because in Navajo culture, a child is considered an adult at puberty, which allows for a child to speak for himself or herself. The author advocates for the acceptance of tribal due process in the aspect of habeas corpus in the U.S federal system because Navajo law allows for individualized justice for children who file habeas corpus petitions.

UNTANGLING THE WEB: JUVENILE JUSTICE IN INDIAN COUNTRY
Addie C. Rolnick, 19 N.Y.U. J. LEGIS. & PUB. POL'Y 49 (93 pages)

This article analyzes the injustices that American Indian and Alaskan native minors face in juvenile court systems, as juveniles are caught between tribal justice systems and a U.S. federal system that does not fully incorporate native or tribal justice systems. The author notes the difficulties that tribal justice systems face because of the lack of judicial autonomy and limited authority over juveniles and criminal matters. To reform tribal juvenile systems, the author proposes that tribal and the U.S. government judicial systems must work to adapt coherent policies that conform to the needs of youth, differentiate federal jurisdiction of juveniles with tribal territory, and provide tribes with more resources and flexible funding for its juvenile justice system. Further, the author calls for amendments to current laws to improve the tribal juvenile justice system by clarifying legal rules between the systems, implementing new approaches for juveniles caught in both systems, and supporting the development of tribal systems.

MENTAL HEALTH AND DISABILITIES

AGGRESSION, SUBSTANCE USE DISORDER, AND PRESENCE OF A PRIOR SUICIDE ATTEMPT AMONG JUVENILE OFFENDERS WITH SUBCLINICAL DEPRESSION

Tamara Kang et al., 39 LAW & HUM. BEHAV. 593 (2015) (14 pages)

This study highlights the shortcomings of relying on the Diagnostic and Statistical Manual of Mental Disorders (DSM) when determining a juvenile offender's eligibility for community mental health services. Currently, access to mental health services is often granted only to those juvenile offenders who meet the DSM criteria for mental illnesses, which means those who have mental illnesses, but do not meet the threshold of a DSM diagnosis are overlooked and denied access to necessary resources. Specifically, the study established that juvenile offenders with subclinical depression, which falls below the DSM threshold, exhibit similar behavior as juvenile offenders with major depression, such as self-harming, suicide attempts, suicidal ideation, increased irritability, continued delinquency, aggression, and substance abuse. Furthermore, juvenile offenders with subclinical depression tend to be more aggressive, more likely to abuse substances, more irritable, and more likely to reoffend than juvenile offenders without a mood disorder. However, these youth are often left without access to mental health services due to the DSM criteria. The authors argue that the lack of access to community mental health services for youth with subclinical depression will likely lead to worsening depressive symptoms, increased risk of reoffending, and reduced efficiency of correctional interventions. Therefore the authors suggest screening all juvenile offenders for mental health risks, educating correctional staff so that they can better identify/pinpoint juvenile offenders in need of community mental health services, and advocating on behalf of those juvenile offenders who do not meet the DSM criteria for mental illnesses.

CALIBRATING THE EIGHTH AMENDMENT: GRAHAM, MILLER, AND THE RIGHT TO MENTAL HEALTHCARE IN JUVENILE PRISON

Sara McDermott, Comment, 63 UCLA L. REV. 712 (2016) (35 pages)

This comment addresses the enormous need for sufficient mental health care among incarcerated youth, the current failings and lack of uniformity within the juvenile justice system, and the necessary improvements that must be made in the system. The author points to studies that show that 70% of all incarcerated youth suffer from a mental illness and 20% suffer from an illnesses that diminishes their ability to function. The author also notes that a large number of correctional facilities do not provide children the proper therapy and medication for their respective illness. Instead, facilities often overmedicate children without any regard to side effects, place them in solitary confinement for suicide attempts and self-injury, and ultimately punish them for behaviors that are a result of their mental health disorder. The author calls for attorneys to challenge inadequate mental health services in the

juvenile justice system under the Eighth Amendment in conjunction with the reasoning of *Graham* and *Miller* to assert a juvenile's right to mental health services. By emphasizing the differences between a child and an adult that justified more lenient treatment in *Graham* and *Miller*, the author suggests that similarly, an argument for a more protective, broader standard of the Eighth Amendment should be used to protect a juvenile's right to mental health services.

COMPARING THE STABILITY OF PSYCHOPATHY SCORES IN ADOLESCENTS VERSUS ADULTS: HOW OFTEN IS "FLEDGLING PSYCHOPATHY" MISDIAGNOSED?

Elizabeth Cauffman et al., 22 PSYCHOL. PUB. POL'Y & L. 77 (2016) (15 pages)

This study shows how psychopathic traits in juveniles may be overemphasized when compared to the same traits in adults. Specifically, this study shows that impulsiveness, irresponsibility, and antisocial behavior, all common psychopathic traits, decrease as adolescents mature into adults. The study utilized the Psychopathy Checklist (PCL), which is commonly used to diagnose both adolescents and adults, and which measures psychopathy on "Interpersonal," "Affective," "Lifestyle/Impulsive," and "Antisocial" scales. The study shows that the PCL does not capture the psychosocial development of children that accounts for the decrease in the overall psychopathic score among adolescents, suggesting the need for new diagnostic tests that are more developmentally appropriate and consistent with adolescent development. Utilizing these new developmentally appropriate diagnostic measures will improve accuracy in diagnosing children, ultimately affecting their treatment in court and future outcomes.

DETAINED YOUTH PROCESSED IN JUVENILE AND ADULT COURT: PSYCHIATRIC DISORDERS AND MENTAL HEALTH NEEDS

JASON J. WASHBURN ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Bulletin, Ser. No. NCJ 248283) (2015) (16 pages)

This report analyzes the prevalence of psychiatric disorders among youth transferred to adult court and youth who remain in juvenile court. The study is based on the Northwestern Juvenile Project's study of 1,829 youth located in the Cook County Juvenile Temporary Detention Center in Chicago. The study found that there were no psychiatric differences between children convicted in juvenile court and children transferred to adult court; however, the study noted that transferred youth have a greater need for clinical services than detained adults. Moreover, the study found that African-American and Hispanic youth were more likely to be processed in adult court than non-Hispanic white youth. The study calls for reform efforts to juvenile assessment procedures to help courts determine mitigating psychiatric factors during transfer determinations.

MENTAL HEALTH SCREENING IN JUVENILE JUSTICE SERVICES

ANDREW WACHTER, NAT'L CENTER FOR JUVENILE JUSTICE (2015) (4 pages)

This report presents a fifty-state survey on juvenile mental health screening during intake for detention, probation, and placement. According to the report, there are twenty-four states that are statutorily required to screen for mental illness prior to detention, thirteen states required to screen prior to probation, and thirty states required to screen prior to being placed in a corrections facility. The report emphasizes that screening minors prior to physical custody will provide critical information about a child and keep children from risk of harm to themselves or others.

PERCEIVED BARRIERS TO MENTAL HEALTH SERVICES AMONG DETAINED YOUTH

KAREN M. ABRAM ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Bulletin, Ser. No. NCJ 248522) (2015) (12 pages)

This report discusses the barriers that juveniles face in obtaining mental health services while detained. The study is based on the Northwestern Juvenile Project's study of 1,829 youth located in the Cook County Juvenile Temporary Detention Center in Chicago. The study finds that the most common barriers identified for juveniles are: (1) the lack of services outside of the school setting, (2) the lack of clarity on who to contact for help, and (3) the belief that a child's problems would go away on its own. Further, this study shows that African-American and Hispanic juveniles received fewer services than their white counterparts. The study recommends that mental health staff participate in referring juveniles to proper services and educate juveniles on the positive effects of mental health services.

PSYCHIATRIC DISORDERS IN YOUTH AFTER DETENTION

LINDA A. TEPLIN ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (Juvenile Justice Bulletin, Ser. No. NCJ 246824) (2015) (20 pages)

This article examines the prevalence of psychiatric disorders among youth who were studied by the Northwestern Juvenile Project, which evaluated youth at Cook County Juvenile Temporary Detention Center in Chicago. The study found that at intake, 60% of all juvenile detainees met the standard for at least one psychiatric disorder. This number grew to 90% among youth incarcerated for nine months. Despite the fact that most psychiatric disorders generally decrease as youth age, this study shows the persistence of psychiatric disorders among youth in the delinquency system. The authors suggest that in order to help youth achieve successful reentry, mental health policy should appropriately respond to the mental health needs of youth in the delinquency system. In particular, the authors emphasize the need to focus on assessing and treating substance abuse disorders in correctional facilities and after release, especially given that alcohol and drug abuse disorders were one of the most common and persistent disorders youth faced in and out of the system.

UTILIZING PROSECUTORIAL DISCRETION TO REDUCE THE NUMBER OF JUVENILES WITH DISABILITIES IN THE JUVENILE JUSTICE SYSTEM

Mary Willis, Note, 2016 BYU EDUC. & L.J. 191 (2016) (16 pages)

The author discusses how prosecutors have the discretionary power to eliminate the school-to-prison pipeline and how they should use their power to reduce the number of juveniles with disabilities in the juvenile justice system. The author advocates for prosecutorial guidelines that mandate dismissal of non-violent and status offenses when: (a) misconduct is a result of a disability, (b) the school district has failed to identify a disabled child for a special education evaluation, or (c) the school district has provided services to a juvenile below the standards of the Individuals with Disabilities Education Act (IDEA). The author notes that the purpose of IDEA is to protect the rights of disabled individuals within the education setting. Thus the author argues that prosecutors should have a thorough understanding of IDEA and incorporate its principles within the juvenile justice system to reduce children with disabilities from being disparately prosecuted for disability-related behavior.

PROBATION

MEASURING SUBSEQUENT OFFENDING IN JUVENILE PROBATION

TERI DEAL ET AL., NAT'L CTR. FOR JUVENILE JUSTICE (2015) (4 pages)

This report shows the types of data that states have collected on recidivism rates among youth adjudicated to probation. Many states have structural issues, such as de-centralized juvenile defense systems, that limit their ability to track juvenile recidivism. The report includes data from fourteen states and discusses the different ways states tracked such data. The authors call for state systems to measure data carefully and to track outcomes for all youth that come in contact with the juvenile justice system.

MONITORING YOUTH: THE COLLISION OF RIGHTS AND REHABILITATION

Kate Weisburd, 101 IOWA L. REV. 297 (2015) (50 pages)

This article highlights problems with electronic monitoring of youth, which has been used increasingly as an alternative to detention. It discusses how electronic monitoring may subject children to court control for longer than detention and lead to cycles of youth being in and out of monitoring and detention. The article also discusses how electronic monitoring is developmentally inappropriate for youth because: (1) as youth tend to make impulsive decisions, electronic monitoring can expose them to punishment for typical adolescent behavior; and (2) for youth in poverty, electronic monitoring fails to account for the realities of their day-to-day lives. Finally, the article calls for electronic monitoring to be categorized as punishment so that there is stronger oversight and judicial scrutiny.

PREDICTING PROBATION REVOCATION AND RESIDENTIAL FACILITY PLACEMENT AT JUVENILE PROBATION REVIEW HEARINGS: YOUTH-SPECIFIC AND HEARING-SPECIFIC FACTORS

Amanda NeMoyer et al., 40 LAW & HUM. BEHAV. 97 (2015) (14 pages)

This article discusses factors that place youth at a greater risk for commitment following probation revocation. Predictors of probation revocation include: re-arrest, failure to appear at a review hearing, and failure to comply with school-based sanctions. By understanding factors that make a youth more likely to face probation revocation, juvenile defense professionals can step in and intervene in the process. The authors also add that attorneys can help facilitate a better understanding of what obstacles will exist if their client misses court-ordered appointments by explaining the adverse effects.

PROBATION OFFICER ROLES: A STATUTORY ANALYSIS

Ming-Li Hsieh et al., FED. PROBATION, Dec. 2015, at 20 (18 pages)

This article analyzes state statutes and considers how probation officers' roles are described in the statutory language, determining if their tasks are described as rehabilitation-oriented,

law enforcement-oriented, or case manager-oriented. The study found that probation officers are increasingly taking on case manager tasks, such as intake and risk assessment. Case management is described as the intersection between social work and law enforcement. It concludes that the trend towards case management is a positive one and helps reduce recidivism.

PUTTING THE PRO IN PROBATION: RETHINKING STANDARD PROBATION ORDERS

NAT'L JUVENILE DEFENDER CTR. (2016) (1 page)

The National Juvenile Defender Center developed an infographic highlighting the significance of juvenile probation and calling for reform of standard probation orders. The infographic shows that nearly one in four youth are detained for technical violations, spending an average of thirteen days in detention. Noting the severe consequences that may result from probation, this infographic calls on juvenile justice stakeholders to reconsider standard probation orders by limiting conditions to those that are tailored and individualized to the needs of the youth.

STATEWIDE RISK ASSESSMENT IN JUVENILE PROBATION

ANDREW WACHTER, NAT'L CTR. FOR JUVENILE JUSTICE (2014) (4 pages)

This publication discusses the importance of statewide risk assessment tools for purposes of assisting with probation administration and organization. The author also describes how these tools, which measure the likelihood that a juvenile will reoffend, can help juvenile court professionals make decisions about diversion programs, pretrial detention, and other issues. The report then discusses the different types of tools used by individual states, which vary widely in practice. This is helpful for juvenile defenders to understand their state's risk assessment tools and to advocate for more effective risk assessment processes.

SEX-RELATED OFFENSES

Juvenile Sex Offenses

A LIFETIME LABEL: JUVENILE SEX OFFENDER REGISTRATION
Lisa Ann Minutola & Riya Saha Shah, DEL. LAW., Winter 2015-2016, at 8 (7 pages)

This article argues against subjecting juveniles to the same registration requirements as adults under the Sex Offender Registration and Notification Act (SORNA). It highlights the issues with juvenile sex offender registration, such as the harmful lifetime stigma on children and the lack of data illustrating the effectiveness of registration to prevent future harm. The authors focus specifically on Delaware's problematic history of strict laws regarding the registration of children as sex offenders, which includes harsh retrospective changes in state law as well as the state's current compliance with SORNA. The article calls for continued reform attempts nationwide through research, litigation, and policy advocacy to limit the harmful effects of registration.

ADOLESCENT SEX OFFENDER REGISTRATION POLICY: PERSPECTIVES ON GENERAL DETERRENCE POTENTIAL FROM CRIMINOLOGY AND DEVELOPMENTAL PSYCHOLOGY
Cynthia J. Najdowski et al., 22 PSYCHOL. PUB. POL'Y & L. 114 (2016) (20 pages)

This article discusses the recent expansion of sex offender registration policies, particularly in regard to adolescent offenders. It examines the latest changes in federal and state registration policies and reviews scientific evidence on the efficacy of such policies, specifically evidence that suggests that registration laws do not deter adolescents from committing sexual offenses due to their lack of awareness of such laws. It also discusses research regarding the psychosocial limitations of juveniles in connection to the inefficacy of such registration policies. The authors argue that developmental psychology theory must be integrated to gain a better understanding of whether sex offender registration can have a general deterrent effect on adolescents and call for further research to address the general deterrence gap and its role in guiding empirically driven policy reform.

"FRIGHTENING AND HIGH": THE SUPREME COURT'S CRUCIAL MISTAKE ABOUT SEX CRIME STATISTICS
Ira Mark Ellman & Tara Ellman, 30 CONST. COMMENT. 495 (2015) (10 pages)

This article explores the U.S. Supreme Court's affirmation in *McKune v. Lile*, 536 U.S. 24 (2002), that the recidivism rate of untreated sex offenders is "frightening and high" and estimated to be as high as 80%, an inaccurate and inflammatory statement that has detrimentally impacted sex offender registry laws. The authors argue that as a result, there have been misinterpretation and misuse of "statistics" on recidivism rates among individuals charged with sex offenses. This has created a lack of consideration of other important factors,

such as the social impact of such laws on offenders and the community. The authors highlight California and Pennsylvania courts, which have held that sex offender registry requirements violate due process because they fail to consider the risk of reoffending on an individual basis, especially as it relates to juveniles. The authors argue that courts should change their implementation of sex offender registries by using accurate facts and applying mandates on an individualized basis.

IN RE D.S.
No. 2014-0607, 2016 WL 1061664 (Ohio Mar. 16, 2016) (9 pages)

The Supreme Court of Ohio held that the imposition of sex offender registration requirements on juveniles does not violate due process because the state offers sufficient procedural protections, such as periodic review and opportunity for modification, that satisfy the due process requirement of fundamental fairness. The court found in this case that the juvenile's due process rights were not violated because the sex offender registration requirement was imposed after a hearing and was not an automatic lifetime classification; rather, the court reasoned that the imposition of the requirement had sufficient procedural protections that comport with the rehabilitative purposes of the juvenile justice system. Additionally, the court recognized that considerations of the defendant's age at the time of the offense must be made before applying sex offender registration requirements to a juvenile.

JUVENILE SEX OFFENDERS—MEGAN'S LAW AND BEYOND
Philip H. Witt et al., N.J. LAW., Oct. 2015, at 26 (9 pages)

This article discusses the psychological development of children that should be considered when assessing whether or not they should be placed on the sex offender registry in compliance with Megan's Law, a federal law that requires sex offender registration and community notification. The authors outline practical considerations and steps that defense attorneys, prosecutors, and mental health experts could take to ensure the best outcome for juveniles subject to sex offender registry requirements. For defense attorneys specifically, the authors describe the importance of promptly seeking a forensic opinion from a child psychologist who can provide an accurate assessment of the child's risk and amenability to treatment as well as analyzing discovery materials for viable defenses.

STATE EX REL. K.L.A.
172 So.3d 601 (La. 2015) (5 pages)

The Supreme Court of Louisiana held that an individual who committed a sex offense as a juvenile is not required to comply with sex offender registry identification requirements as a matter of statutory interpretation. The issue in this case is whether a child who was adjudicated delinquent for a sex offense was required to adhere to the sex offender registry

requirements that mandate an identification card displaying one's offender status. Even though the defendant agreed to submit to the sex offender registry identification law as part of a plea agreement, the court held that the defendant was not required to do so because the registration statute specifically pertained to individuals *convicted* of enumerated sex crimes as opposed to juvenile adjudications.

THE COSTS AND BENEFITS OF SUBJECTING JUVENILES TO SEX-OFFENDER REGISTRATION AND NOTIFICATION

RICHARD B. BELZER, R STREET INST. (R Street Policy Study No. 41) (2015) (22 pages)

This report explores the costs and benefits of applying sex offender registration and notification laws to juveniles. The author finds that notification laws approximate social costs of 200 million to one billion dollars per year. In light of the enormous costs associated with these laws and the lack of deterrent effect they have on juveniles, the author calls for cost efficiency reform, better risk assessments to determine the likelihood of recidivism, and policy reform.

THROWAWAY CHILDREN: THE TRAGIC CONSEQUENCES OF A FALSE NARRATIVE

Catherine L. Carpenter, 45 SW. L. REV. 461 (2016) (27 pages)

This article argues that we have created a false narrative that inspires fear of children who have been adjudicated for a sex offense and that by requiring children to register to a sex offender registry, we have failed to account for developmental differences between children and adults. The article focuses on the line of U.S. Supreme Court cases that hold that children are constitutionally different from adults and highlights research that shows that sexual offenses committed by children are best explained by poor social competency or impulse control, which is more closely tied to a lack of developmental maturity than to the characteristics that drive adult sexual offenders, such as paraphilic interests and psychopathic characteristics. This article has helpful developmental data for defenders to argue for a reasonable child standard when their clients are charged with sex offenses.

Trafficking and Prostitution-Related Offenses

(E)RACING CHILDHOOD: EXAMINING THE RACIALIZED CONSTRUCTION OF CHILDHOOD AND INNOCENCE IN THE TREATMENT OF SEXUALLY EXPLOITED MINORS

Priscilla A. Ocen, 62 UCLA L. REV. 1586 (2015) (55 pages)

This article explores the race, gender, and class dynamics that contribute to harsh anti-trafficking law enforcement practices but which simultaneously fail to protect adolescent African-American girls. The article finds that African-American girls who are subject to sexual exploitation are often labeled as offenders rather than victims. In particular, the author

points out the glaring contradiction that in some ways adolescent girls can be viewed as dependent with limited rights, while at the same time be imbued with adult characteristics such as sexual maturity, individual agency, and criminal responsibility. The author proposes decriminalization of girls who are subject to trafficking and calls on states to focus on preventative efforts for at-risk populations, such as homeless youth. The author also advocates for training of law enforcement officials on implicit bias that may contribute to the disproportionate frequency with which African-American girls are designated offenders rather than victims.

FINDING SAFE HARBOR: ELIMINATING THE GAP IN COLORADO'S HUMAN TRAFFICKING LAWS

Jessica A. Pingleton, Comment, 87 U. COLO. L. REV. 257 (2016) (50 pages)

This comment takes issue with the fact that Colorado lacks a "safe harbor law" to shield minors from unjust prosecution for prostitution-related offenses. The author argues that as a result of having no such law, Colorado has created a legal inconsistency that simultaneously allows a person who sells a minor for sex to be convicted of child trafficking, and the child victim to be arrested and charged with prostitution. The author argues for Colorado to pass a safe harbor law to ensure that the state's sexually exploited youth are consistently treated as victims and are provided the services and support they need. For a safe harbor law to be effective long-term, the author maintains that the law must entail: full decriminalization of minors arrested for prostitution-related offenses; recognition by state actors that minors arrested for prostitution-related offenses should be treated as trauma victims, not delinquents; specialized training for local law enforcement, first responders, and health services providers; and victim-centered and trauma-informed services, record sealing, and safe housing.

***IN LOCO AEQUITATIS*: THE DANGERS OF "SAFE HARBOR" LAWS FOR YOUTH IN THE SEX TRADES**

Brendan M. Conner, 12 STAN. J. C.R. & C.L. 43 (2016) (65 pages)

This article contends that not all safe harbor laws operate in the same manner and many come with unintended consequences. The article challenges the assumption that the majority of youth in sex trades would be well-served by safe harbor laws and presents evidence of widespread abuse perpetrated by the very officials designated to protect young people in the sex trades under safe harbor laws—law enforcement, courts, and social services personnel. The author finds that many safe harbor laws suffer from a lack of clarity or uniformity with respect to placement options, conditions of confinement, quality of care standards, and periodic review procedures. The author outlines an alternative model for victims of trafficking, proposing full immunity from criminal and juvenile delinquency prosecutions, prohibition on arrest, temporary protective custody, and an equalization of victims' procedural due process rights, which can differ greatly depending on whether they are processed as a status offender or as a delinquent.

SHACKLING

ALASKA: USE OF RESTRAINTS ON THE JUVENILE

Alaska Delinquency R. 21.5 (20 pages)

In April 2015, Alaska amended its Delinquency Rules to prohibit the use of restraints on a juvenile during a court proceeding unless the restraints are necessary because the juvenile is otherwise uncontrollable or constitutes a serious and evident danger to self or others, there is reason to believe that the juvenile will try to escape, or there is no less restrictive alternative available to maintain order and safety in the courtroom. If a juvenile appears at a court proceeding in restraints and there is an objection to the restraints or the juvenile is without counsel, the judge will rule on the necessity of the restraints and shall consider the following factors: (1) any threats that the juvenile has made to cause harm to self or others, or to cause a disturbance; (2) any behavior of the juvenile indicating that the juvenile presents a current threat to the juvenile's own safety, to the safety of other people in the courtroom, or to the orderly course of the proceedings; (3) any past escapes or attempts to escape, and the seriousness of the current charge, to the extent it raises a concern that the juvenile has an incentive to attempt to escape; (4) the existence of any less restrictive alternative to maintain order and safety in the courtroom, taking into account available security resources; and (5) the recommendations of security personnel charged with custody of the juvenile.

INDIANA: AN ACT TO AMEND THE INDIANA CODE CONCERNING CRIMINAL LAW AND PROCEDURE

H.E.A. 1304, 119th Gen. Assemb., 1st Reg. Sess. (Ind. 2015) (57 pages)

Effective July 2015, Indiana's Code is revised to prohibit restraining a juvenile in court unless the court has determined on the record, after considering the recommendation of the sheriff or transport officer, that the juvenile is dangerous or potentially dangerous. However, a court may order a juvenile to be restrained without considering the recommendation of the sheriff or transport officer if the juvenile has caused a physical disruption while in open court.

MAINE: AN ACT TO PREVENT THE SHACKLING OF PREGNANT PRISONERS

S.P. 353, 127th Leg., 1st Reg. Sess. (Me. 2015) (6 pages)

This bill creates a law to prohibit use of restraints on a juvenile known to be pregnant while in prison or in transport absent extraordinary circumstances. A correctional officer may shackle a pregnant juvenile if there is a substantial flight risk or extraordinary medical or security circumstances require safety and security. Leg or waist restraints may not be used on a pregnant juvenile at any time and no restraints may be used during labor or childbirth. Furthermore, corrections officers may not be present in the room during labor or childbirth unless requested.

MAINE: PHYSICAL RESTRAINT OF JUVENILES
Me. R.U. Crim. P. 43(a) (3 pages)

Maine's Supreme Judicial Court adopted an amendment to Rule 43A of the Maine Rules of Unified Criminal Procedure to prohibit the use of physical restraints on a juvenile in a courtroom except when ordered by the court prior to or during the juvenile's appearance in the courtroom. If there is a request from the state that physical restraints be used on a juvenile in court, the court must find that there are no less restrictive alternatives reasonably available as well as one of the following: (a) the present behavior of the juvenile creates a current and substantial threat to the juvenile's safety or to the safety of others in the courtroom, or that it creates a substantial risk of flight; or (b) the juvenile's past behavior, including but not limited to behavior and conduct in a courtroom, creates a current and substantial risk that the juvenile will threaten his or her own safety or the safety of others in the courtroom.

MARYLAND*: IN RE D.M.*
No. 2712, 2016 WL 3557219 (Md. Ct. Spec. App. June 29, 2016) (24 pages)

The Court of Special Appeals of Maryland held that juveniles should not be shackled while appearing at juvenile court hearings, unless and until there has been a finding on the record that the child poses a security concern or threat that would disrupt proceedings or involve danger to the child or others. In this case, the court found no prejudice when the lower court denied a defense counsel's request to remove a minor's shackles during a hearing without making any findings about the need for the minor to remain shackled. In the lower court, defense counsel raised the issue multiple times, arguing that the minor was not violent, the handcuffs indicated premature guilt to witnesses, and the handcuffs prevented the youth from writing things down and assisting with his defense. The court of special appeals noted that extending to children the right guaranteed to adult criminal defendants to appear in court free of shackles, absent a specific finding of need, would not impede the objectives of the juvenile justice system. The court held that a presumption against shackling would best serve the objectives of juvenile court because indiscriminate shackling threatens the goal of rehabilitation. The court listed practical consequences of shackling juveniles in court, such as its psychological effects, which may inhibit a child's ability to assist counsel and subsequently affect the outcome of the case. This decision creates a statewide ban against indiscriminate shackling of juveniles during hearings in Maryland.

NEBRASKA: AN ACT RELATING TO JUVENILES
L.B. 482, 104th Leg., 1st Sess. (Neb. 2015) (6 pages)

This enacted legislation, amending Section 43-251.01 of the Revised Statutes Cumulative Supplement, adds language to Nebraska's code regarding the use of restraints on juveniles. It states that instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a juvenile during a court proceeding and shall be removed prior to the juvenile's appearance before the court unless the court finds that there are no less restrictive alternatives

to restraints and one of the following conditions applies: (a) the use of restraints is necessary to prevent physical harm to the juvenile or another person; (b) the juvenile has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or (c) there is a reasonable belief that the juvenile presents a substantial risk of flight from the courtroom. The legislation also provides that the court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order. Additionally, the bill states that a juvenile may not be placed in a detention facility unless available community resources have been exhausted, and keeping the juvenile at home presents significant risk to the youth or the community.

NEVADA: AN ACT RELATING TO CHILDREN
A.B. 8, 78th Sess. (Nev. 2015) (8 pages)

This enacted legislation amends Chapter 62D of the Nevada Revised Statutes, adding restrictions regarding the use of restraints on juveniles. Specifically, the law provides that an instrument of restraint may be used on a child during a court proceeding only if the restraint is necessary to prevent the child from: (a) inflicting physical harm on himself or herself or another person, or (b) escaping from the courtroom. Whenever practical, the judge must provide the child, his or her attorney, and the prosecuting attorney with an opportunity to be heard regarding the necessity of restraints. The court must then consider the following factors: (1) any previous escapes or attempted escapes by the child; (2) evidence of a present plan of escape by the child; (3) a credible threat by the child to harm himself or herself or another person; (4) a history of self-destructive tendencies by the child; (5) any credible threat of an attempt to escape by a person not in custody; (6) the question of whether the child is subject to a transfer proceeding or a separate proceeding outside of juvenile court; and (7) any other factor that is relevant in determining whether the use of an instrument of restraint on the child is necessary. The determination of the judge must contain specific findings of fact and conclusions of law supporting the determination.

OHIO: LOCAL CHILD RESTRAINT RULES
Ohio Sup. R. 5.01 (1 page)

The Supreme Court of Ohio adopted Rule 5.01 as an amendment to the Rules of Superintendence for the Courts of Ohio. The rule, adopted by the Supreme Court of Ohio on March 8, 2016 and effective July 1, 2016, requires each court or division in Ohio to adopt a local rule governing the use of physical restraints on children appearing in court. Each court’s local rule must create a presumption that physical restraint shall not be utilized unless the judge makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because either: (a) the child presents a threat to the child’s self or to others in the

courtroom, or (b) there is a significant risk that the child will flee the courtroom. Local rules must also ensure that the judge permit any party to be heard on the issue, and that if physical restraint is used, it is the least restrictive restraint necessary to meet the determined risk.

TENNESSEE: USE OF RESTRAINTS ON CHILDREN IN THE COURTROOM
Tenn. R. Juv. Prac. & Proc. 204 (3 pages)

This court rule, effective July 2016, provides that children appearing in juvenile court may not be restrained unless the court determines that: (1) the child is a threat to his or her own safety or the safety of those in the courtroom, or (2) the child presents a substantial risk of flight from the courtroom, and (3) there are no less restrictive alternatives to mitigate the risk of flight. Any party may request to be heard regarding the use of restraints, and the judge shall make the decision of whether to restrain the child. The rule lists factors that the judge may wish to consider, including: the seriousness of the charges, the child's delinquency history, any past disruptive behavior, any past attempts by the child to escape, and any security risks to those in the courtroom. The rule only speaks to children in the courtroom; it does not address transportation to and from the courthouse or to and from the courtroom.

UTAH: RESTRAINT OF JUVENILES
Utah Code Ann. § 78A-6-122 (2015) (1 page)

This law required Utah's Judiciary Council to address the circumstances under which a juvenile may be restrained while appearing in court. Subsequently, the Judiciary Council adopted rules on the restraint of minors in juvenile court that provide that, absent exigent circumstances, a minor shall not be restrained while present in a juvenile courtroom unless the court finds by a preponderance of the evidence that: (a) restraints are necessary to prevent physical harm to the minor or a third party present in the courtroom; (b) the minor is a flight risk; (c) the minor is currently in jail, prison or a secure facility; (d) the seriousness of the charged offense warrants restraints; or (e) other good cause exists for the minor to be restrained. The Council's rules also provide that any person with an interest in the case may move to restrain a minor during court proceedings. The court shall permit all persons with a direct interest in the case the right to be heard on the issue of whether to restrain the minor. If the court orders that a minor should be restrained, the court shall reconsider that order at each future hearing regarding the minor.

SPECIALIZATION OF JUVENILE DEFENSE

CHILDREN'S INTERESTS: AN ANNOTATED BIBLIOGRAPHY, 2013-2015

Nancy Levit, 28 J. AM. ACAD. MATRIMONIAL LAW. 321 (2015) (38 pages)

This annotated bibliography identifies hundreds of law review articles written on children's interests and rights. The bibliography is divided into several topics including adoption; bullying; child abuse; custody; child support; domestic violence; education; estates; foster care; guardianship; health care; immigration; rights of lesbian, gay, bisexual, transgender, and questioning youth; parental rights; legal representation; reproductive rights; and more. Nearly all of the cited articles were published after 2012.

HOLISTIC REPRESENTATION: A RANDOMIZED PILOT STUDY OF WRAPAROUND SERVICES FOR FIRST-TIME JUVENILE OFFENDERS TO IMPROVE FUNCTIONING, DECREASE MOTIONS OF REVIEW, AND LOWER RECIDIVISM

Susan Ainsley McCarter, 54 FAM. CT. REV. 250 (2016) (12 pages)

Recognizing that juveniles' mental health diagnoses, substance abuse issues, and school problems are rarely evaluated or addressed before entering the juvenile justice system, this study evaluated whether providing court-appointed social work services in addition to legal services would improve functioning, decrease motions for review, and lower recidivism for first-time juvenile offenders. The study analyzed 121 juveniles and found that youth receiving these services improved significantly on scales measuring withdrawal/depression, somatic complaints, thought problems, attention problems, rule-breaking behaviors, and aggressive behaviors. The study called for holistic representation services, which aim to comprehensively rehabilitate an offender and utilize collaborative efforts by social workers to provide varied services like holding group meetings, arranging for physical and mental health treatments, coordinating educational services, and connecting offenders to substance abuse services. The article finds that such holistic services can bolster existing client strengths and address the underlying risk factors that weaken youth functioning and contribute to additional court involvement or reoffending.

JUVENILE DEFENSE SELF ASSESSMENT TOOL

NAT'L JUVENILE DEFENDER CTR. & NAT'L ASS'N FOR PUB. DEF. (2016) (8 pages)

The National Juvenile Defender Center and the Juvenile Committee of the National Association for Public Defense developed this self-assessment tool to help public defense leaders evaluate whether their office strategy and practice comply with the national standards for best practices in juvenile defense. The self-assessment encourages organizations to focus on having juvenile specialists whose salaries and advancement opportunities are equal to adult defenders, juvenile-specific procedures and services, training and caseload controls, and relationships with clients' parents and community organizations.

REPRESENTING THE WHOLE CHILD: A GEORGIA JUVENILE DEFENDER TRAINING MANUAL

RANDEE J. WALDMAN, BARTON JUVENILE DEFENDER CLINIC, EMORY UNIV. SCH. OF LAW (2d ed. 2015) (187 pages)

This training manual details the Georgia Juvenile Court's delinquency process while emphasizing a holistic approach to juvenile defense and providing valuable generalized advice, guidance, and information that would be useful to any juvenile defender. The author recognizes that defenders' ability to zealously advocate is enhanced by specialized knowledge of juvenile law, adolescent development, and the unique challenges their clients face. As such, the manual explains best practices pertaining to attorney-client relationships, case preparation, transfers to adult court, and competency of the defendant. It also provides information on adolescent development, mental health, learning and developmental disabilities, race, gender, sexual orientation, immigration status, and other areas of potential client advocacy needs.

STATES PUSH TOUGHER STANDARDS FOR JUVENILE PUBLIC DEFENDERS

Rebecca Beitsch, THE PEW CHARITABLE TRUSTS (May 5, 2016), http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/05/05/states-push-tougher-standards-for-juvenile-public-defenders (10 pages)

This article details some of the shortcomings of public defender systems, namely the lack of training given to juvenile defenders, and also describes efforts states have taken to bolster training for juvenile defenders. The article notes that under many states' public defense systems, juvenile defense work is handled by young, inexperienced lawyers who are told to utilize the juvenile justice system as a training ground for adult defense work, or by lawyers in private practice who are paid by the government to take overflow cases or cases that pose conflicts of interest and often face insufficient resources and high caseloads for effective representation. The article also highlights how states are trying to change the perception of juvenile defense from a training ground to an area of specialty. In Massachusetts, for instance, juvenile defenders are required to have at least one year of experience in litigating adult court cases and are also required to undergo a five-week intensive training program, which includes teachings on adolescent development. The article notes that although other states have similar training requirements, many do not have enforcement mechanisms to ensure that juvenile defenders have actually done the required training. The author surmises that because it is the justice system's duty to appoint juvenile defenders, it should be equally responsible for providing that those same defenders are properly trained and effective.

THE PEDAGOGY OF TRAUMA-INFORMED LAWYERING

Sarah Katz & Deeya Haldar, 22 CLINICAL L. REV. 359 (2016) (37 pages)

This article posits that trauma-informed lawyering should be taught in law schools, especially in the context of clinics. The authors define trauma-informed lawyering as putting the

realities of the client's trauma at the forefront of engaging with the client and adjusting a lawyer's practice approach accordingly. The article identifies the four key characteristics of trauma-informed lawyering as: (1) identifying trauma, (2) adjusting the attorney-client relationship, (3) adapting litigation strategy, and (4) preventing vicarious trauma through direct examples of pedagogical approaches. The article also thoroughly explains how lawyers can understand trauma and vicarious trauma while discussing ways in which lawyers can be better trauma-informed in their practice.

TRANSFORMATION THROUGH ACCOMMODATION: REFORMING JUVENILE JUSTICE BY RECOGNIZING AND RESPONDING TO TRAUMA

Eduardo R. Ferrer, 53 AM. CRIM. L. REV. 549 (2016) (40 pages)

This article advocates for the juvenile justice system to recognize how trauma harms youth's decision-making capacities and to consider trauma as a legally significant part of a child's social and cognitive development. The article first lays the groundwork for how criminal law recognizes children as neurologically and physiologically different from adults. It then discusses how childhood trauma can impair normal adolescent development, with a focus on studies showing show that trauma functionally affects a developing brain. The article then argues that, just as age must be accommodated in the juvenile justice system, trauma should also be given special weight. The article advocates for a juvenile system that recognizes trauma and focuses on diverting youth to trauma-appropriate resources rather than continuing them in the system. This type of reform, the author argues, will result in a smaller, more focused justice system.

TRAUMA INFORMED JUVENILE JUSTICE

Samantha Buckingham, 53 AM. CRIM. L. REV. 641 (2016) (53 pages)

This article argues that traumatic experiences that a juvenile faces throughout his or her childhood are a cause of reoccurring delinquency and should be considered as a mitigating factor in trial and sentencing hearings. Trauma can be defined as sexual abuse, domestic violence, drug abuse, abandonment, parental incarceration, community violence, etc., all of which can lead to poor decision-making by the child. The author introduces a trauma-informed approach to consider a child's trauma as an underlying reason for his or her delinquent behavior, as a method to argue for reduced culpability. The author asserts that instead of punishing a child who has experienced trauma by committing them to residential placement, the court should instead consider the child's delinquent behavior as a cry of help for treatment. The author presents four reforms that the juvenile court should consider: "(1) create a presumption of trauma, (2) mandate trauma identification of youth in the juvenile justice system, (3) implement trauma-informed procedures, and (4) utilize trauma-informed dispositions, which will dramatically reduce our over-reliance upon incarceration in favor of safe-settings in a youth's community."

VIEWING LAW AND ORDER: MOTHERS' AND SONS' JUSTICE SYSTEM LEGITIMACY ATTITUDES AND JUVENILE RECIDIVISM

Caitlin Cavanaugh & Elizabeth Cauffman, 21 PSYCHOL. PUB. POL'Y & L. 432 (2015) (10 pages)

This study focuses on the influence that a mother's attitude of the justice system has on her child's attitude and behavior towards the justice system. The study takes a sample of 315 pairs of mothers and sons and examines their attitude change from the son's first arrest to another arrest within a twelve-month period. The study found that a mother with a negative attitude towards the system slightly increases the chances that a child would reoffend and reduces the likelihood of the child's probationary success. The findings of this study suggest that attorneys may want to work closely with families to instill in them the legitimacy of the justice system, which may help reduce juvenile reoffending.

YOUTH IN ADULT COURT

BALANCING REHABILITATION AND PUNISHMENT: COMBINING JUVENILE COURT WAIVER MECHANISMS TO CREATE A BALANCED JUSTICE SYSTEM
Brandon Weston, 53 AM. CRIM. L. REV. 235 (2016) (19 pages)

This article discusses the procedural and systematic issues with the system of juvenile waiver to adult court in the United States, which often misapplies the goals of rehabilitation to punishment. The author discusses the evolution of the juvenile justice system in the United States, with a particular focus on how the Supreme Court has helped define the system's goals. It also compares and contrasts the effectiveness of state waiver systems that have been implemented, particularly judicial waiver, statutory exclusion, and prosecutorial waiver. Finally, the author argues for a new approach to the waiver of juveniles to adult criminal court that balances the juvenile court's goals of rehabilitation with the concerns of retribution, protection, and deterrence in the adult criminal system. The author calls for states to adopt procedures that satisfy a two-prong waiver analysis: (1) an assessment of a juvenile's rehabilitation potential, and (2) an evaluation of society's interest in punishing the alleged conduct.

IN RE J.C.N.-V.
359 Or. 559 (2016) (42 pages)

The Supreme Court of Oregon held that a juvenile must possess sufficient adult-like intellectual and emotional capabilities in order to be transferred to adult court. The state's evaluation in this case indicated that the defendant, who was thirteen, exhibited average sophistication and maturity for his age. Based on this, as well as the youth's criminal record that included prior violent conduct and problems in school, the juvenile court waived the defendant into adult court. The juvenile court found that the child understood and acknowledged his own role in the crime and knew that it was a crime with criminal consequences. On appeal, the supreme court reexamined the legislative intent behind Oregon's juvenile transfer statute and concluded that, based on the statute's text and context, the transfer statute does not require that a youth merely have criminal capacity. Rather, to authorize a waiver of youth who is otherwise eligible for transfer, a juvenile court must find that the youth has an adult-like understanding of the significance of his or her conduct, including its wrongfulness and its consequences for the youth, the victim, and others. Furthermore, a court will need to evaluate a youth's maturity on an individual basis, considering a variety of factors, because maturity is not a unified concept and many youth, especially in later adolescence, may be relatively mature in some ways and not in others. Because the juvenile court did not undertake such an analysis and relied on a finding that the juvenile possessed the maturity of his biological age, as opposed to adult-like capabilities, the Oregon Supreme Court held that the juvenile court's findings do not support the ruling to transfer the youth to adult court; thus the case was reversed and remanded.

***IN RE J.C.N.-V.*, AMICUS BRIEF OF THE JUVENILE LAW CENTER**
Confidential Brief on the Merits of Amici Curiae, Filed in Support of Appellant, Petitioner on Review, In re J.C.N.-V. (Or. 2016) (No. CA A147958, SC S063111) (47 pages)

The Juvenile Law Center, joined by NJDC and other juvenile justice organizations, filed an amicus brief in support of a thirteen-year-old defendant who had been tried, convicted, and sentenced as an adult. The brief calls for the court to consider relevant scientific research about adolescent development in determining the "sophistication and maturity" of a youth who may be prosecuted as an adult. It also discusses the rehabilitative nature of the juvenile system and the importance of protecting youth from the harsh consequences of the adult system so that they may outgrow offending behavior. This brief may be a valuable resource for defenders who are arguing against waiver, as it lays out legal and scientific research against transferring a child to adult court.

IT TAKES A VILLAGE TO WAIVE A CHILD . . . OR AT LEAST A JURY: APPLYING *APPRENDI* TO JUVENILE WAIVER HEARINGS IN OREGON
Mark Kimbrell, 52 WILLAMETTE L. REV. 61 (2016) (27 pages)

This article argues that Oregon's juvenile waiver statutes are unconstitutional. The article relies on the U.S. Supreme Court's *Apprendi* decision, which held that a jury, not a judge, determines whether facts that are essential to a criminal defendant's punishment are established beyond a reasonable doubt. It explains that this principle is violated whenever an Oregon judge waives a juvenile to adult court based on judicial fact-finding under a preponderance of the evidence standard. The article calls on practitioners to challenge juvenile waiver proceedings on this basis, which, when paired with other needed policy changes, can help reform Oregon's juvenile transfer laws for the better.

MORE HARM THAN GOOD: HOW CHILDREN ARE UNJUSTLY TRIED AS ADULTS IN NEW ORLEANS
S. POVERTY LAW CTR. (Jamie Kizzire ed., 2016) (44 pages)

This report examines the New Orleans district attorney's practice of prosecuting juveniles in adult court. The report argues that the default transfer of children who do not have a prior delinquency record or who played a minor role in the alleged crime is unfair and ineffective because it fails to protect public safety, conserve finances, and respond appropriately to juvenile crime. The report advocates for keeping children in the juvenile court system, as the juvenile system is more likely to divert the child from future crime and has significant long-term financial savings for the jurisdiction. The report recommends that the district attorney's office consider a child's maturity, mental health, delinquency history, and prospects for rehabilitation in the juvenile court system before sending a child to adult court. This report outlines areas of reform, such as the collection of outcome data, to limit the use of transfer

and serves as a valuable example of how investigation and publication can push for local and national reform.

NEW JERSEY'S JUVENILE WAIVER REFORM AND THE NEXUS BETWEEN ADOLESCENT DEVELOPMENT AND CRIMINAL RESPONSIBILITY
Ellen Torregrossa-O'Connor, N.J. LAW. MAG., Oct. 2015, at 16 (6 pages)

This article finds that New Jersey's recently passed statute reforming its waiver laws strikes the right balance between criminal responsibility and the need to account for the distinguishing characteristics of juveniles. The author discusses the historical expansion of waiver use in New Jersey, how these policies were at odds with neuroscience research, and the negative consequences of trying and punishing juveniles in the adult system. On August 10, 2015, New Jersey's Governor signed new legislation which, among other things, restricts the list of waivable offenses to the most serious and violent conduct, requires a hearing to consider a prosecutor's waiver request at which both the prosecutor and juvenile may submit evidence, and requires "waiver back" to the juvenile system when the juvenile is ultimately convicted in adult court of a non-waivable offense.

THE PROSECUTION OF YOUTH AS ADULTS: A COUNTY-LEVEL ANALYSIS OF PROSECUTORIAL DIRECT FILE IN CALIFORNIA AND ITS DISPARATE IMPACT ON YOUTH OF COLOR
LAURA RIDOLFI ET AL., W. HAYWOOD BURNS INST. ET AL. (2016) (21 pages)

This report analyzes the use of direct file by district attorneys in California and compares county rates against youth population and youth arrest rates, highlighting racial and ethnic disparities. The authors note that the district attorneys in California are increasingly relying on direct file prosecutions of youth, despite a 55% decline in serious juvenile felony arrests. The authors also find in this report that youth of color are significantly more likely to be subject to direct file prosecution than white youth in California. Specifically, for every white youth directly filed in 2014, 3.3 Latino youth and 11.3 black youth were directly filed in adult court. The authors call for restoring judicial discretion over decisions to prosecute youth as adults in California, allowing juvenile court judges to consider comprehensive information about the youth, including the youth's history with trauma, environment, and ability to rehabilitate.

UNITED STATES V. Y.C.T.
803 F.3d 356 (1st Cir. 2015) (3 pages)

In this case, the Court of Appeals for the First Circuit held that a court may rely on an incomplete factual record when deciding to transfer an offender from juvenile to adult court because the facts of the case are only a small part of what a judge should rely on when making this decision, in addition to the offender's amenability to rehabilitation, his or her development, etc. The court of appeals considered whether the district court abused its

discretion when it relied on an inadequate factual record from the magistrate judge that assessed the nature of the alleged offense. The magistrate judge prohibited the juvenile from testing the veracity of testimony against him because the judge erroneously believed that the court was required to accept the government's version of the facts. Though the court of appeals recognized that the magistrate judge erred, it found that the offender was still able to contest the value properly because a transfer hearing is not an adversarial process where the juvenile has a right to challenge the government's evidence in a manner concomitant to that of a defendant at a criminal trial. Ultimately, the First Circuit affirmed the decision because the nature of the alleged offense is only one statutory factor in considering whether to transfer a child and is not essential to the decision.

YOUTHFULNESS MATTERS: A CALL TO MODERNIZE JUVENILE WAIVERS
Chelsea Ellen Heaney, Note, 43 HASTINGS CONST. L.Q. 389 (2016) (34 pages)

This note calls for juvenile waiver statutes to follow the standards set by the U.S. Supreme Court and consider the maturity and amenability of juveniles as well as the long-term psychological and social impact of trying a child in the adult criminal justice system. The U.S. Supreme Court in *Kent v. United States* established a mandatory preliminary hearing requirement in which at least eight factors must be considered to determine if a juvenile's case should be waived to adult court. The author argues that for the most part, the current landscape of juvenile waiver and transfer laws ignores *Kent* and focuses solely on the age and offense as a basis for transfer. Thus the author calls for revisions in waiver laws across the country to bring them into accordance to the U.S. Supreme Court's decision in *Kent* and reflect modern understanding of adolescent development and the impact of transferring a juvenile's case to adult court.

ZERO TOLERANCE: HOW STATES COMPLY WITH PREA'S YOUTHFUL INMATE STANDARD
CARMEN E. DAUGHERTY, CAMPAIGN FOR YOUTH JUSTICE (2015) (60 pages)

This report details how states house youth who are under eighteen in adult prisons and the implications with the Prison Rape Elimination Act (PREA). It also highlights national trends in youth arrests, crime rates, and incarceration in the adult prison system, state laws protecting youth in custody, how youth end up in the adult prison system, disparities in the system, and conditions and consequences of confinement. It also includes an appendix of state statutes, laws, and regulations concerning PREA. The report highlights PREA's provision that "as a matter of policy, the Department [of Justice] supports strong limitations on the confinement of adults with juveniles," and notes that even though juveniles are at a higher risk than any other group of incarcerated persons to be sexually abused in adult prisons, thirty-seven states still house youth under eighteen in state prisons. While acknowledging the decrease of youth in the adult prison system, the Campaign for Youth Justice advocates for a complete bar of children in the adult prison system.

LEGISLATIVE DEVELOPMENTS

Alabama

AN ACT CREATING THE JUVENILE JUSTICE TASK FORCE
S.J.R. 91, 2016 Reg. Sess. (Ala. 2016) (8 pages)

This act creates the Alabama Juvenile Justice Task Force, which was required to meet no later than September 1, 2016. Recognizing the need for a comprehensive study of the state's juvenile justice system and its financial implications for the state, the legislature created a task force to collect data on the financial and administrative costs of providing housing, transportation, and services for juveniles in detention or participating in programs through the juvenile justice system. Additionally, the task force will review available alternatives to detention and identify opportunities for funding alternative programs that can reduce the number of juveniles currently held in detention. The task force's report is due at the beginning of the 2017 legislative session.

Arizona

AN ACT RELATING TO INTESIVE PROBATION
S.B. 1298, 52nd Leg., 2d Reg. Sess. (Ariz. 2016) (5 pages)

Every juvenile who has been adjudicated for delinquency or technical violation of probation may be placed on intensive probation as an alternative to commitment. To participate in intensive probation, juveniles must be employed or participate in school, community restitution work, or a treatment program in addition to following through with other probationary terms, such as fulfilling a community service requirement. The revised statute now allows juveniles to also serve their intensive probation by participating in any treatment program, not just those that are court-ordered, or by participating in any activity that improves the juvenile's prosocial skill development, including activities that improve the juvenile's relationship with his or her family. Additionally, juveniles who are employed or in a treatment program approved by the court or probation department may now be exempt from the community service requirement.

California

AN ACT TO ADD SECTION 634.3 TO THE WELFARE AND INSTITUTIONS CODE, RELATING TO JUVENILES
A.B. 703, 2015-16 Reg. Session. (Cal. 2015) (2 pages)

This enacted legislation revises the Welfare and Institutions Code and creates training requirements for appointed defense counsel in delinquency proceedings. The act requires counsel to establish a meaningful and professional attorney-client relationship with the

juvenile up to and including post-disposition proceedings, including appeals. Additionally, the act requires the Judicial Council to adopt court rules establishing standards to judge the competency of appointed defense counsel for juveniles and encouraging public defender offices to provide training for delinquency cases by July 1, 2016. *See* 5 Cal. R. Ct. 664. The act specifically recommends training in juvenile delinquency law and procedure, child and adolescent development, special education, competence and mental health issues, ethics, post-disposition advocacy, appellate issues, direct and collateral consequences of court involvement for a minor, and advocacy for rehabilitative resources.

AN ACT TO ADD SECTION 831 TO THE WELFARE AND INSTITUTIONS CODE, RELATING TO JUVENILES

A.B. 899, 2015-2016 Reg. Session. (Cal. 2015) (2 pages)

This enacted legislation revises the Welfare and Institutions Code and pertains to the confidentiality of juvenile records, which includes case files or personal information such as name, date and place of birth, and immigration status. Recognizing the importance of confidentiality with regards to juvenile court records regardless of immigration status, this act provides that only a court order can authorize the disclosure of juvenile information to federal officials even if the records are maintained by a probation office, child welfare agency, or law enforcement agency.

AN ACT TO AMEND SECTION 1203.45 OF THE PENAL CODE, AND TO AMEND SECTIONS 781 AND 903.3 OF THE WELFARE AND INSTITUTIONS CODE, RELATING TO COURT RECORDS

S.B. 504, 2015-2016 Reg. Session. (Cal. 2015) (6 pages)

This enacted legislation relaxes existing restrictions around juvenile record sealing. Specifically, the act provides that only persons over the age of twenty-six are required to reimburse the court, the county, or any city for the cost of services related to juvenile record sealing. Additionally, unfulfilled orders of restitution can no longer bar a juvenile from sealing his or her record; the act notes, however, that a minor is not exempt from court fines and fees as a result of record sealing.

Colorado

AN ACT CONCERNING UPDATES TO PROVISIONS RELATED TO SCHOOL DISCIPLINE REPORTING

H.B. 16-1098, 70th Gen. Assemb., 2d Reg. Sess. (Colo. 2016) (5 pages)

This enacted legislation concerns the use of juvenile delinquency data for research purposes. The legislation amends Colorado statute to require that any data gathered by a law enforcement agency and provided to an independent research or community-based organization must be in aggregate form, free from information that would identify any

individual student. The bill serves to protect the privacy of juveniles who otherwise might have their individual juvenile records, whether sealed or not, disseminated to certain research groups.

Delaware

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO FAMILY COURT JUVENILE EXPUNGEMENT
H.B. 75, 148th Gen. Assemb., 1st Reg. Sess. (Del. 2015) (1 page)

This enacted legislation lowers the standard for a Delaware court to grant discretionary expungement of juvenile records. Previously, it was required that the youth not have two or more adjudications of delinquency involving misdemeanors or felonies. Under this act, the law now requires that a juvenile not have two or more adjudications of delinquency where no more than one is a felony. In other words, two adjudications of delinquency for a misdemeanor or one for a misdemeanor and one for a felony no longer bar juveniles from having their records expunged. The act also establishes that a felony record cannot be the basis for prohibiting someone from buying a firearm if the felony was expunged under Del. Code Ann. tit. 10, § 1018.

Florida

AN ACT RELATING TO EXPUNCTION OF RECORDS OF MINORS
S.B. 386, 24th Leg., 2d Reg. Sess. (Fla. 2016) (5 pages)

This enacted legislation lowers the age from twenty-four to twenty-one years at which non-serious or non-habitual offenders may have their juvenile records automatically expunged. Under this legislation, other criteria for automatic expungement remain the same; namely, the juvenile still qualifies for automatic expungement five years after the last entry was made, if that date comes before the juvenile's twenty-first birthday, and where the person has been neither adjudicated delinquent for nor convicted of a forcible felony, nor adjudicated delinquent for a violation committed on or after July 1, 2007, involving certain sexual offenses. Further, automatic expungement of juvenile records for juveniles classified as serious or habitual juvenile offenders or who have been committed to a juvenile correctional facility or juvenile prison remains at twenty-six years of age. The legislation also preserves the option for non-serious or non-habitual offenders to petition to have their records expunged before they become eligible for automatic expungement but eliminates the requirement that petitions for expungement be filed within twelve months after the minor completes a diversion program, allowing instead for an application without a time limit.

AN ACT RELATING TO MENTAL HEALTH SERVICES IN THE CRIMINAL JUSTICE SYSTEM
H.B. 439, 24th Leg., 2d Reg. Sess. (Fla. 2016) (48 pages)

This enacted legislation expands the authority of courts to use treatment-based mental health and substance abuse court programs for juveniles at both the pre-adjudicatory and post-adjudicatory level. Specifically, the legislation authorizes counties to fund and establish mental health court programs for processing juveniles with a mental illness in a manner that provides appropriate treatment and services. In addition, it requires the state courts system, contingent upon appropriations by the state legislature, to establish a mental health coordinator for each county mental health court program. The legislation also establishes the Forensic Hospital Diversion Pilot Program to divert defendants found mentally incompetent to proceed to trial or not guilty by reason of insanity into a residential bed and community treatment setting. Ultimately, the specialized mental health treatment authorized by this legislation is intended to help defendants avoid returning to the criminal justice and forensic mental health systems.

AN ACT RELATING TO PUBLIC RECORDS
H.B. 293, 24th Leg., 2d Reg. Sess. (Fla. 2016) (22 pages)

This enacted legislation clarifies that juvenile records are not only confidential, but also are exempt from the public records requirements of Fla. Stat. § 119.07 and Article I, Section 24(a) of the Constitution of Florida, which permit any person to inspect and copy public records. Additionally, under this legislation, the records of juveniles found to have committed three or more misdemeanor violations are now confidential and exempt from those public records requirements, whereas previously they were not. The legislation makes clear, though, that when juveniles are either taken into custody for, charged with, or found to have committed an offense which, if committed by an adult, would be a felony, their records are not confidential and exempt. In addition, the legislation establishes a separate process to disseminate juvenile delinquency history, including information that is confidential and exempt, to criminal justice agencies.

Georgia

AN ACT TO AMEND CHAPTER 11 OF TITLE 15 OF THE O.C.G.A., RELATING TO THE JUVENILE CODE
H.B. 361, 153d Gen. Assemb., 2015-2016 Reg. Sess. (Ga. 2015) (12 pages)

This enacted legislation modifies the timeframe for detention hearings by removing "business days" from the statute. Accordingly, the statute now reads that a detention hearing must take place within two days if the child was placed in custody without an arrest warrant or five days if the child was placed in custody pursuant to an arrest warrant. Furthermore, this bill also removes "business days" from its subsequent provision, which now states that if a

detention hearing cannot be held within *two days* because the hearing date would fall on a weekend or legal holiday, the court must review the decision to detain the child and make a finding based on probable cause within forty-eight hours of being placed in pre-adjudicatory custody.

Illinois

AN ACT CONCERNING COURTS [MINIMUM AGE FOR DETENTION]
H.B. 2567, 99th Gen. Assemb. (Ill. 2016) (7 pages)

This enacted legislation raises the minimum age for detention of a delinquent or alleged delinquent minor from ten to thirteen years of age. It also raises the minimum age at which a minor may be detained in a county jail or a municipal lockup from twelve to thirteen years. It provides that an alleged delinquent minor under thirteen years of age shall not be admitted, kept, or detained in a detention facility unless a local youth service provider has been contacted and is not able to accept the minor.

AN ACT CONCERNING COURTS [REVIEW OF COURT TRANSFER]
H.B. 3718, 99th Gen. Assemb. (Ill. 2016) (35 pages)

This enacted legislation requires a juvenile judge to review all requests to transfer a juvenile to adult court, effectively eliminating direct file cases. In determining the proper court for the child, a juvenile judge must take into account the age, background, and individual circumstances of the child. Before passage of this law, children under the age of eighteen could automatically be transferred to adult courts. By eliminating direct file, this legislation seeks to protect youth from the physical, mental, and sexual abuse often associated with trying children as adults and subsequently incarcerating them in adult facilities.

AN ACT CONCERNING CRIMINAL LAW [JUVENILE JUSTICE COUNCILS]
H.B. 4044, 99th Gen. Assemb. (Ill. 2016) (6 pages)

This enacted legislation expands the list of entities that may establish local juvenile justice councils. The purpose of these councils is to analyze the risks, needs, and characteristics of youth in contact with the juvenile justice system, assess responses and resources available, and develop or strengthen policy and practice in order to prevent or mitigate juvenile delinquency, produce positive youth outcomes, and enhance public safety. Previously, only counties engaged in intergovernmental agreements could establish a juvenile justice council, whereas now counties with a population of three million or more, any township, and any group of townships also may establish a juvenile justice council. This legislation also provides guidelines for formulating a juvenile justice council, including the process by which chairpersons and other members shall be selected. Furthermore, the law now requires that such councils meet monthly, whereas previously no such timeline was set.

AN ACT CONCERNING CRIMINAL LAW [JUVENILE JUSTICE REPORTING REQUIREMENTS]
H.B. 3141, 99th Gen. Assemb. (Ill. 2016) (5 pages)

This enacted legislation requires the Director of Juvenile Justice to make an annual report concerning persons committed to the Department of Juvenile Justice, its institutions, facilities, and programs. It also requires that the report includes the ethnic and racial background data of youth in each of the Department's facilities. Furthermore, the legislation requires that the report includes: (1) the number of youth in each of the Department's facilities; (2) the demographics of sex, age, race and ethnicity, classification of offense, and geographic location from where the offense occurred; (3) the educational and vocational programs provided at each facility and the number of residents participating in each program; (4) the present capacity levels in each facility; and (5) the ratio of the security staff to residents in each facility.

AN ACT CONCERNING CRIMINAL LAW [RIGHT TO COUNSEL]
S.B. 2370, 99th Gen. Assemb. (Ill. 2016) (16 pages)

This enacted legislation requires that children under fifteen be represented by legal counsel during custodial interrogations for homicide and sex offenses. Under current law, only children under age thirteen are afforded this right. The bill also expands the requirement of videotaping interrogations of children under age eighteen to all felonies and misdemeanor sex offenses, whereas previously that requirement only applied to certain felonies. In addition, it requires a modified version of the *Miranda* warning for children which must state: "You have the right to remain silent. That means you do not have to say anything. Anything you do say can be used against you in court. You have the right to get help from a lawyer. If you cannot pay for a lawyer, the court will get you one for free. You can ask for a lawyer at any time. You have the right to stop this interview at any time." After reading this statement, the public official must then ask and wait for the minor's reply to each of the following: "Do you want a lawyer?" and "Do you want to talk to me?"

RESTORATIVE JUVENILE JUSTICE RESOLUTION
H.R. 396, 99th Gen. Assemb., 1st Reg. Sess. (Ill. 2016) (3 pages)

This resolution directs Illinois's Juvenile Justice Commission (JJC), an advisory group designated to ensuring Illinois's compliance with the Juvenile Justice and Delinquency Act, to review the current practice of restorative justice in Illinois's juvenile justice systems. It also directs the JJC to review restorative justice practices in other states' juvenile justice systems and report back to the Illinois General Assembly with recommendations for expanding the practice of restorative justice in Illinois. In doing so, the resolution seeks to restore public safety and incorporate the full range of due process and human rights

protections into the juvenile justice system, maximize community-based responses, and utilize incarceration only as a last resort for as short a time as possible.

Indiana

AN ACT TO AMEND THE INDIANA CODE CONCERNING CORRECTIONS
H.E.A. 1369, 119th Gen. Assemb., 2d Reg. Sess. (Ind. 2016) (6 pages)

This bill amends the Indiana Code and establishes additional duties for the Commission of Improving the Status of Children in Indiana. Under this revision, the Commission must immediately, no later than November 1, 2016, review and evaluate the state's juvenile justice programs and juvenile facilities. Additionally, the Commission must consult with the Justice Reinvestment Advisory Council to redistribute funds for developing and reforming juvenile justice programs and juvenile community correction centers. The Commission is required to submit a detailed juvenile justice evaluation to the Legislative Council, the Governor, and the Chief Justice of Indiana no later than December 1, 2016.

AN ACT TO AMEND THE INDIANA CODE CONCERNING CRIMINAL LAW AND PROCEDURE
H.E.A. 1304, 119th Gen. Assemb., 1st Reg. Sess. (Ind. 2015) (57 pages)

Effective July 2015, the Indiana Code is revised to prohibit restraining a juvenile in court unless the court has determined on the record, after considering the recommendation of the Sheriff or transport officer, that the juvenile is dangerous or potentially dangerous. However, a court may order a juvenile to be restrained without considering the recommendation of the sheriff or transport officer if the juvenile has caused a physical disruption while in open court.

Iowa

AN ACT RELATING TO THE CONFIDENTIALITY OF JUVENILE COURT RECORDS IN DELINQUENCTY PROCEEDINGS
S.F. 2288, 86th Gen. Assemb., 2d Reg. Sess. (Iowa 2016) (10 pages)

This bill establishes that juvenile records, juvenile court transcripts, and juvenile files of a juvenile justice agency are confidential and may no longer be considered public record, barring certain exceptions. The bill further specifies that such records may not be available through the Internet unless the child is adjudicated delinquent. Under prior law, any record alleging delinquency was public record unless the judge granted a request to seal the record or make the record confidential.

Kansas

AN ACT CONCERNING CHILDREN AND MINORS
S.B. 367, 2016 Reg. Sess. (Kan. 2016) (72 pages)

This omnibus juvenile justice reform act overhauls the current juvenile justice system in Kansas by fundamentally shifting the system's focus toward rehabilitation, community-based programming, and individualized interventions. The bill reforms a number of policies, including the length of juvenile cases, detention, and probation; the criteria for detention and custody; the requirements for transferring a case to adult court; and the consequences of probation violations. The bill creates the Kansas Juvenile Justice Oversight Committee to supervise juvenile justice reform, collect data, and make recommendations to Congress on ways to improve the juvenile justice system. The bill also raises the age for a child to be prosecuted in adult court from twelve years old to fourteen years old and removes all presumptions of an automatic waiver into adult court based on prior adult convictions. In this bill, the Department of Corrections and the Office of Judicial Administration are required to develop mandatory, semi-annual training for all individuals who work in the juvenile justice system ranging from topics such as adolescent development and crisis intervention to evidence-based practices to rehabilitate children. Additionally, under this bill, an officer may take a juvenile into custody only when he or she has probable cause that the child has committed a criminal act, probable cause to believe there is a warrant for that child to be taken into custody, and reasonable grounds to believe that custody is in the best interest of a child or that the child would pose a threat to public safety or property. Among other provisions, this bill also establishes a detention risk assessment tool to determine whether a child is eligible for community-based alternatives prior to a delinquency hearing.

Louisiana

JUVENILE JUSTICE ACCOUNTABILITY AND COST EFFECTIVENESS ACT OF 2016
S.B. 301, 2016 Reg. Sess. (La. 2016) (17 pages)

This bill requires Louisiana to compile data on juvenile demographics, recidivism, facilities, and programs in the juvenile justice system. The bill establishes the Juvenile Justice Reinvestment Program "to fund local efforts that enhance public safety while reducing juvenile justice system costs." Additionally, the bill amends the duration of juvenile dispositions for non-violent-felony-grade adjudications by limiting the duration a juvenile may spend in commitment to nine months, unless a modification hearing is held before the expiration of the time limit and the court finds by clear and convincing evidence that continued custody is necessary for treatment. Furthermore, the bill prohibits youth younger than thirteen years old from being detained in a juvenile detention facility for an alleged

misdemeanor. This bill also decreases the maximum probation period for a juvenile to one year and limits the length of time a child can be held in detention during probation.

RAISE THE AGE LOUISIANA ACT OF 2016
S.B. 324, 2016 Reg. Sess. (La. 2016) (7 pages)

This bill raises the age of juvenile court jurisdiction in the state to include seventeen-year-old youth. Previously, all seventeen-year-olds were subject to adult criminal court. This bill will also eventually increase the age of extended jurisdiction to twenty-one when the act is not a crime of violence and occurs before the child reaches eighteen years of age. This bill establishes a Juvenile Jurisdiction Planning and Implementation Committee, which is tasked with developing a plan for full implementation of this bill no later than January 1, 2017.

SAFE AND FAIR RETURN ACT OF 2016
S.B. 302, 2016 Reg. Sess. (La. 2016) (12 pages)

This bill protects indigent youth by ensuring counsel and providing resources and funding for quality representation. This bill creates the Safe Return Representation Program and the Louisiana Safe Return Representation Program Fund to administer and fund a statewide program for the representation of indigent children in the juvenile justice system. The Program will include the development of standards and supervision policies to ensure youth's safety, reentry, and wellbeing. The new law also creates a presumption of indigence for any child represented by a public defender. Additionally, all records and reports concerning the child in possession by the juvenile justice system must be presented to the child and the state upon request and without cost to either party. The bill further limits the maximum time for parole for felony-grade adjudications.

Maine

AN ACT TO AMEND THE LAWS REGARDING THE DEPARTMENT OF CORRECTIONS
S.P. 542, 127th Leg., 1st Reg. Sess. (Me. 2015) (8 pages)

This bill allows law enforcement officers and juvenile community corrections officers to refer a juvenile to a diversion program or restorative justice program at the time of the child's arrest. Moreover, any statements made by the child related to the program cannot be used as evidence in a child's adjudication hearing. Furthermore, this bill prohibits anyone under the age of eighteen from being incarcerated in an adult facility.

AN ACT TO PROVIDE FOR DIRECT APPEALS UNDER THE MAINE JUVENILE CODE TO THE SUPREME JUDICIAL COURT
H.P. 283, 127th Leg., 1st Reg. Sess. (Me. 2015) (4 pages)

This bill prohibits duplicative appeals from juvenile court by transferring juvenile appeals directly to the Maine Supreme Judicial Court. Previously, any appeals from juvenile court were first heard in superior court, with the possibility of appealing the superior court's decision to the supreme judicial court. This bill will only allow an appeal to be heard directly in the supreme judicial court.

AN ACT TO PREVENT THE SHACKLING OF PREGNANT PRISONERS
S.P. 353, 127th Leg., 1st Reg. Sess. (Me. 2015) (6 pages)

This bill creates a law to prohibit use of restraints on a juvenile known to be pregnant while in prison or in transport absent extraordinary circumstances. A correctional officer may shackle a pregnant juvenile if there is a substantial flight risk or extraordinary medical or security circumstances require safety and security. Leg or waist restraints may not be used on a pregnant juvenile at any time and no restraints may be used during labor or childbirth. Furthermore, corrections officers may not be present in the room during labor or childbirth unless requested by medical personnel.

Nebraska

A BILL FOR AN ACT RELATING TO JUVENILES
L.B. 894, 104th Leg., 2nd Sess. (Neb. 2016) (12 pages)

Nebraska passed a new bill reforming several statutes about juvenile delinquency proceedings. Notable updates include: when considering alternatives to detention, the court must pick the least restrictive option available; juvenile *Miranda* warnings must be given in developmentally appropriate language; waiver of the right to counsel must be knowing, intelligent, and voluntary; and a juvenile must be eleven or older at the time an offense was committed to be tried in the juvenile court.

AN ACT RELATING TO JUVENILES
L.B. 482, 104th Leg., 1st Sess. (Neb. 2015) (6 pages)

This enacted legislation amending Section 43-251.01 of the Revised Statutes Cumulative Supplement adds language to Nebraska's code regarding the use of restraints on juveniles. It states that instruments of restraint, such as handcuffs, chains, irons, or straitjackets, may not be used on a juvenile during a court proceeding and shall be removed prior to the juvenile's appearance before the court unless the court finds that there are no less restrictive alternatives to restraints and one of the following conditions applies: (a) the use of restraints is necessary to prevent physical harm to the juvenile or another person; (b) the juvenile has a history of disruptive courtroom behavior that has placed others in potentially harmful situations or

presents a substantial risk of inflicting physical harm on himself or herself or others as evidenced by recent behavior; or (c) there is a reasonable belief that the juvenile presents a substantial risk of flight from the courtroom. The legislation also provides that the court shall provide the juvenile's attorney an opportunity to be heard before the court orders the use of restraints. If restraints are ordered, the court shall make findings of fact in support of the order. Additionally, the bill states that a juvenile may not be placed in a detention facility unless available community resources have been exhausted, and keeping the juvenile at home presents significant risk to the youth or the community.

Nevada

AN ACT RELATING TO CHILDREN
A.B. 8, 78th Reg. Sess. (Nev. 2015) (8 pages)

This enacted legislation amends Chapter 62D of the Nevada Revised Statutes, adding restrictions regarding the use of restraints on juveniles. Specifically, the law provides that an instrument of restraint may be used on a child during a court proceeding only if the restraint is necessary to prevent the child from: (a) inflicting physical harm on himself or herself or another person; or (b) escaping from the courtroom. Whenever practical, the judge must provide the child, his or her attorney, and the prosecuting attorney with an opportunity to be heard regarding the necessity of restraints. The court must then consider the following factors: (1) any previous escapes or attempted escapes by the child; (2) evidence of a present plan of escape by the child; (3) a credible threat by the child to harm himself or herself or another person; (4) a history of self-destructive tendencies by the child; (5) any credible threat of an attempt to escape by a person not in custody; (6) the question of whether the child is subject to a transfer proceeding or a separate proceeding outside of juvenile court; and (7) any other factor that is relevant in determining whether the use of an instrument of restraint on the child is necessary. The determination of the judge must contain specific findings of fact and conclusions of law supporting the determination.

New Hampshire

AN ACT RELATIVE TO ASSESSMENT OF AND DISCHARGE PLANNING FOR MINORS IN THE JUVENILE COURT SYSTEM
H.B. 305, 2015 Sess. (N.H. 2015) (4 pages)

This enacted legislation amends New Hampshire’s statute on waiver of counsel to provide that if a juvenile and his or her parent have not consulted with an attorney about the consequences of waiving the right to counsel, then the court may only accept the waiver after making “case-specific written findings with regard to each of the required conditions for waiver.” These conditions are: (1) the minor is represented by a non-hostile parent or guardian; (2) the minor and parent agree to waive counsel; (3) the waiver is made

"competently, voluntarily, and with full understanding of the consequences"; (4) the minor is not charged with first- or second-degree assault, burglary, homicide, sexual assault, interference with freedom, or robbery; and (5) the prosecution has informed the court that it will not seek certification of the minor to be tried as an adult. The court may appoint counsel for the child to consult with about his or her decision to request or waive counsel.

New Jersey

AN ACT CONCERNING JUVENILE JUSTICE, AMENDING AND SUPPLEMENTING VARIOUS PARTS OF THE STATUTORY LAW, AND REPEALING SECTION 7 OF P.L.1982, C.77

S. 2003, 216th Leg., 1st Ann. Sess. (N.J. 2014) (16 pages)

This bill establishes several important juvenile defense provisions, including statutory requirements for waiver to adult court and limitations on solitary confinement. The bill states that the juvenile court waives jurisdiction if: (1) the juvenile was at least fifteen when the offense occurred; (2) there is probable cause to believe the act would be one of the enumerated crimes if committed by an adult (including homicide, carjacking, and sexual assault); and (3) the prosecution proves, by a standard of clear and convincing evidence, that the public interest is best served by the waiver. The bill also states that even if the juvenile court waives jurisdiction, there is a presumption that any custodial sentence will be served at a state juvenile facility until the juvenile reaches the age of twenty-one, although the defendant may be required to show good cause. Finally, the bill adds a new section to the statute about solitary confinement, stating that a juvenile may not be subject to solitary confinement unless he presents "an immediate and substantial risk of harm to others or to the security of the facility, and all other less-restrictive options have been exhausted."

New York

AN ACT TO AMEND THE FAMILY COURT ACT, IN RELATION TO ADJUDICATION AND VIOLATION PROCEDURES IN JUVENILE DELINQUENCY AND PERSONS IN NEED OF SUPERVISION CASES

S.B. 5286, 2015-2016 Reg. Sess. (N.Y. 2015) (4 pages)

This bill amends New York statutes regarding juvenile admissions and hearings for a probation violation. Before accepting a juvenile's admission to an allegation, the court must advise the respondent of his right to a fact-finding hearing. When there is a petition and hearing for a probation violation, the petition must specify the violation and offer non-hearsay evidence in support of each allegation, and the respondent must be allowed to cross-examine witnesses and offer any evidence on his or her behalf.

North Carolina

AN ACT TO MAKE VARIOUS CHANGES TO THE JUVENILE CODE IN REGARD TO DUE PROCESS PROTECTIONS, REENTRY OF JUVENILES IN THE DELINQUENCY SYSTEM, AND CONFINEMENT OF JUVENILES
H.B. 879, 2015 Gen. Assemb., 2015 Reg. Sess. (N.C. 2015) (5 pages)

This bill amends the North Carolina juvenile code regarding juvenile interrogation, procedures to suppress evidence in adjudicatory hearings, and juvenile confinement. The bill changes the age of juveniles who must have a parent or attorney present during interrogation from fourteen to sixteen. It also establishes a procedure for motions to suppress evidence; for example, they must be made in writing and a copy must be served to the state. Finally, the bill makes two changes to the statute about juvenile confinement: (1) for juveniles in secure custody, hearings must be held at least every ten days to determine if there is a need for continued secure custody and they may be waived for no more than thirty days with the juvenile's consent; and (2) if a child under the age of ten is being transported to medical or psychiatric treatment, he or she may only be restrained if it is necessary for the safety of himself or herself or others.

Oklahoma

AN ACT RELATING TO CHILDREN AND JUVENILE CODE
H.B. 1834, 55th Leg., 1st Reg. Sess. (Okla. 2015) (7 pages)

This enacted legislation requires peace officers to inquire as to whether a child is of American Indian heritage, and if so, notify the child's tribe or nation within twenty-four hours of taking the child into custody. The provision also specifies that the child's records should remain confidential from the general public. Additionally, the bill notes that tribal courts may immediately intervene to ensure fair treatment in light of the child's best interest in the juvenile justice system.

AN ACT RELATING TO JUVENILE DETENTION
S.B. 1200, 55th Leg., 2d Reg. Sess. (Okla. 2016) (22 pages)

This enacted legislation removes an existing condition which allowed for a runaway child to be taken into custody if considered in need of supervision. Moreover, this bill allows for a juvenile detention facility to hold an eighteen-year old youth if a motion to certify him or her to adult court has not yet been filed. Additionally, this bill provides that juvenile hearings can only be held in the county of original jurisdiction and not the county where the violation occurred.

Oregon

AN ACT RELATING TO CRIME AND SEX OFFENDER CLASSIFICATION
H.B. 2320, 78th Leg. Assemb., 2015 Reg. Sess. (Or. 2015) (44 pages)

This enacted legislation amends sex offender classifications by stating that juveniles are no longer subject to automatic sex offender registration. Youth are now afforded a hearing where they must prove by a standard of clear and convincing evidence that they are not a threat to the public. The statute discusses the factors considered during the hearing. Factors considered include: the nature of the act and injury to the victim, the youth's completion of a treatment program, and the youth's willingness to accept personal responsibility, among other factors.

AN ACT RELATING TO YOUTH CARE CENTERS
S.B. 475, 78th Leg. Assemb., 2015 Reg. Sess. (Or. 2015) (3 pages)

This enacted legislation amends a statute regarding educational services in detention by stating that children in a youth care center, whether or not the center is within a detention facility, must receive educational services.

Rhode Island

AN ACT RELATING TO DELINQUENT AND DEPENDENT CHILDREN-PROCEEDINGS IN FAMILY COURT
S. 583, 2015 Leg. Sess. (R.I. 2015) (3 pages)

This enacted legislation prevents the family court from detaining a juvenile at the Rhode Island Training School based on allegations that he or she was in violation of a court order until a hearing is conducted and it is determined that the child intentionally violated the order and that the violation involves the failure of the child to engage in services or activities intended to promote the child's health and safety. This hearing must occur prior to an order for the child to be detained and before a probable cause hearing.

South Carolina

A BILL TO AMEND SECTION 63-19-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JUVENILE JUSTICE CODE DEFINITIONS
S. 916, 121st Sess. Gen. Assemb., 2d Reg. Sess. (S.C. 2016) (18 pages)

This enacted legislation raises the age for misdemeanor jurisdiction in juvenile courts to eighteen years. The legislation also extends juvenile court jurisdiction to age twenty-two, with the exception of probationary sentences, which extend to age twenty. Accordingly, this legislation makes clear that if, during criminal proceedings in adult court, it is ascertained that the child was under age eighteen at the time of allegedly committing an offense, it is the

duty of the circuit court to immediately transfer the case to family court. Also, this legislation eliminates prior law, which provided that a sixteen-year-old lost his or her "child" or "juvenile" status for purposes of court jurisdiction if charged with a Class A, B, C, or D felony carrying a maximum imprisonment of fifteen years or more. Under this bill, sixteen-year-olds accused of such crimes now maintain their status as juveniles, even if charged with a felony. Seventeen-year-olds accused of such crimes may still be transferred back to the juvenile court at the discretion of the Solicitor General of the South Carolina Office of the Attorney General.

AN ACT TO AMEND SECTION 63-19-2050 OF THE 1976 CODE, RELATING TO RECORD DESTRUCTION OF JUVENILE RECORDS
S. 133, 121st Sess. Gen. Assemb., 1st Reg. Sess. (S.C. 2015) (4 pages)

This enacted legislation modifies the process by which South Carolina youth can expunge their juvenile records. Specifically, it lowers the age at which juveniles can expunge non-violent and status offenses from their records to age seventeen. Previously, juveniles had to wait until they were eighteen years of age to receive an expungement, which threatened to impact their ability to apply to colleges or join the military. The legislation maintains the requirement that juveniles seeking expungement must successfully complete any dispositional sentence. Furthermore, the legislation removes the requirement that a juvenile must not have been subsequently *charged* with any criminal offense and replaces it with a restriction on a subsequent *conviction*, *adjudication*, or *pending* criminal charge instead.

South Dakota

AN ACT TO ELIMINATE LIFE SENTENCES WITHOUT PAROLE FOR DEFENDANTS UNDER THE AGE OF EIGHTEEN AT THE TIME OF THE CRIME
S.B. 140, 91st Leg. Assemb. (S.D. 2016) (3 pages)

This enacted legislation eliminates life sentences without parole for defendants who were under the age of eighteen at the time of the crime. This legislation goes a step further than *Miller v. Alabama*, which deemed *mandatory* life sentence without parole unconstitutional. Under this law, parole for a juvenile sentenced to life in prison is determined by the Class C violent felony column of the parole eligibility grid, which dictates that 50% to 70% of a sentence must be served before a defendant becomes eligible for parole, depending on the defendant's criminal history.

AN ACT TO REVISE PROVISIONS RELATED TO RESTITUTION IN CASES INVOLVING JUVENILES AND TO DECLARE AN EMERGENCY
S.B. 158, 91st Leg. Assemb. (S.D. 2016) (10 pages)

This enacted legislation revises provisions related to restitution in cases involving juveniles and requires the court to enter a decree of disposition according to the least restrictive

alternative available. Disposition may include requiring the child to pay restitution if payment can be enforced without serious hardship or injustice to the child, probation that includes community service if it does not deprive the child of education, or detention for less than ninety days. The bill also specifies that the court may only commit the child to the Department of Corrections if no viable alternative exists.

Tennessee

AN ACT TO AMEND TENNESSEE CODE ANNOTATED, SECTION 37-1-153, RELATIVE TO RECORD EXPUNCTION

H.B. 2193, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (2 pages)

This enacted legislation allows for the expunction of juvenile court files and records after dismissal or after one year of successful completion of an informal adjustment without adjudication, upon petition by the child. The bill specifies that the expunction must occur without cost to the child. It also allows a child who has been adjudicated unruly to petition the juvenile court for expunction.

AN ACT TO AMEND TENNESSEE CODE ANNOTATED, TITLE 37, CHAPTER 1, RELATIVE TO JUVENILE COURT

H.B. 2494, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (4 pages)

This enacted legislation makes several changes and additions to the current rules of juvenile court proceedings, including new requirements for juvenile court petitions and revised timelines for detention hearings. The new law specifies that the juvenile court petition should plainly explain reasonably ascertainable information about the facts of the matter that bring the child to court. The bill also moves up the timeline for detention hearings from three days to seventy-two hours.

AN ACT TO AMEND TENNESSEE CODE ANNOTATED, TITLE 37, RELATIVE TO JUVENILES

S.B. 2574, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (4 pages)

This enacted legislation revises and adds various provisions regarding juvenile court procedures. The bill adds provisions for pretrial and judicial diversion and revises other provisions regarding hearings, findings, and dispositions. Significant additions include a provision stating that before or after a petition is filed, a designated court officer may informally resolve a complaint containing delinquent allegations without adjudication by giving counsel and advice to the child if such an informal resolution would be in the best interests of the public and child. The bill also changes the notice requirement for transfer from three days to fourteen days and revises the standard for transfer from "reasonable grounds" to "probable cause." Finally, the bill allows the performance of community service work in lieu of a fine for traffic violations.

AN ACT TO AMEND TENNESSEE CODE ANNOTATED, TITLE 37, RELATIVE TO REPORTING AND ACCOUNTABILITY STANDARDS IN THE JUVENILE JUSTICE SYSTEM

S.B. 2584, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (3 pages)

The enacted legislation creates certain reporting requirements for the juvenile justice system and expands accountability throughout the system. It requires the Commissioner of Children's Services to report annually on probation and evidence-based treatment services offered through the juvenile justice system to the Governor, the Chief Clerk of the Senate, and the Chief Clerk of the House. Specifically, the reports must include data on the following: probation and custodial information, including the number of children served in each area and the cost per child; recidivism rates and system penetration information; and the percentage of children who are receiving evidence-based services. This bill also requires the board of a community service agency or other private probation services agency to develop a strategic plan and requires the department to maintain a specific accountability system for tracking funds to ensure that they are being used to make a positive impact on youth.

AN ACT TO AMEND TENNESSEE CODE ANNOTATED, TITLE 49, CHAPTER 6; TITLE 49, CHAPTER 1; TITLE 49, CHAPTER 2 AND TITLE 49 CHAPTER 5, RELATIVE TO STUDENT DISCIPLINE

S.B. 2256, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (2 pages)

This enacted legislation removes certain requirements governing removal to alternative schools and expulsion for students convicted of violent felonies. Formerly, the director of schools was required to expel students upon conviction of certain violent felonies and authorized to expel or remand students to an alternative school upon the issuance of a criminal complaint. This bill removes both of these provisions.

***IN RE AMENDMENTS TO THE TENNESSEE RULES OF JUVENILE PROCEDURE*, ORDER**

No. ADM 2015-01631 (Tenn. Dec. 29, 2015) (92 pages)

The Supreme Court of Tennessee has adopted significant revisions to its Rules of Juvenile Procedure that replaced the former rules in their entirety, effective July 2016. The rules have been reorganized and amended to significantly advance the protections provided for minors in the judicial system. The revisions combine and clarify procedural rules for efficiency, clarity, and uniformity across the state. The new rules also clearly establish that an attorney who has entered an appearance or has been appointed must continue such representation until relieved by the court and the court must comply with effective process to waive this right, which includes a requirement that the waiver must be in writing and signed by both the judge and the child and that the judge take into account the mental maturity, education, and experience of the child when determining if the child understands his or her right to representation. Other significant additions include individualized time limits for hearings

based on the needs of each child, probable cause requirements before a child is taken into physical custody, and clarification that detention should be used sparingly.

JUVENILE JUSTICE REALIGNMENT ACT
S.B. 2586, 109th Gen. Assemb., 2d Reg. Sess. (Tenn. 2016) (3 pages)

The Juvenile Justice Realignment Act creates a task force to study new approaches to the administration of juvenile justice, which may include the creation of a Department of Juvenile Justice to specifically monitor the system if the task force deems it necessary. The bill outlines the requirements for individuals on the task force and requires that they make a report to the Speakers of the Senate and House as well as the Governor on or before January 2017. The task force is also required to provide recommendations and a report to the National Council of Juvenile and Family Court Judges.

Utah

JUVENILE OFFENDER AMENDMENTS
S.B. 167, 61st Leg., 2015 Gen. Sess. (Utah 2015) (19 pages)

Utah has adopted several revisions to its juvenile offender laws that strengthen the rights and protections of children in delinquency court. Most significantly, the bill sets a new presumption against shackling of juveniles unless ordered by the court. Under this presumption, absent exigent circumstances, a minor shall not be restrained in the courtroom unless it is found that restraints are necessary to prevent physical harm to the minor or a third party, the minor is a flight risk, the minor is currently in jail, or if the seriousness of the offense warrants restraints. The bill limits the number of children charged in adult court by adding a specific list of previous offenses and conditions that must apply to directly file charges in district court. It also amends the language of the serious youth offender statute from mandatorily waiving jurisdiction to criminal court to waiving at the court's discretion. Under this act, youth who are transferred to criminal court will no longer be detained in an adult detention center but will be kept in a juvenile secure facility. Finally, the bill adds a requirement that a minor may not waive the right to counsel unless there has been a finding on the record that the waiver is knowing and voluntary and that the minor understands the consequences of waiving the right to counsel, taking into consideration the minor's unique circumstances and attributes.

Vermont

AN ACT RELATING TO JURISDICTION OVER DELINQUENCY PROCEEDINGS BY THE FAMILY DIVISION OF THE SUPERIOR COURT
H.B. 95, 2015-2016 Leg. Sess. (Vt. 2016) (41 pages)

In the 2016 legislative session, lawmakers in Vermont made several adjustments to the way youthful offenders are handled in the criminal justice system. This enacted legislation makes incremental changes over the next three years regarding how youth are adjudicated in Vermont by extending the ages that qualify to be handled on the juvenile docket for certain offenses. This bill mandates that any case involving a defendant younger than eighteen, with the exception of those charged with the most serious crimes, must begin in juvenile court, though some may still be transferred to criminal court after a hearing. Previously, cases involving sixteen- and seventeen-year-olds could directly begin in adult criminal court at the prosecutor's discretion. This bill also raises the minimum age for transfer to twelve and allows defendants younger than twenty-two to be eligible for extended juvenile jurisdiction. Finally, the bill directs the Joint Legislative Justice Oversight Committee to study further potential improvements that could be made to Vermont's juvenile court jurisdiction.

Virginia

AN ACT TO AMEND AND REENACT § 16.1-301 OF THE CODE OF VIRGINIA, RELATING TO CONFIDENTIALITY OF JUVENILE LAW-ENFORCEMENT RECORDS
H.B. 541, 2016 Reg. Sess. (Va. 2016) (2 pages)

This enacted legislation allows a juvenile's law enforcement records to be disclosed to a court authorized diversion program but prohibits further disclosure by the program.

AN ACT TO AMEND AND REENACT §§ 16.1-247, 16.1-259, 16.1-262, 16.1-263, 16.1-284, 16.1-291, AND 16.1-292 OF THE CODE OF VIRGINIA, RELATING TO RETAINED JURISDICTION OF JUVENILE COURT
S. 454, 2016 Reg. Sess. (Va. 2016) (5 pages)

This enacted legislation specifies procedures to be used for youth under the age of twenty-one who are subject to the juvenile court's retained jurisdiction. This bill requires that a proceeding against a defendant retained in juvenile court's extended jurisdiction be commenced by petition and specifies that parents or guardians of the defendant are not required to be summoned and cannot be punished for their failure to appear. It also identifies dispositional alternatives and increases the maximum jail sentence to twelve months for a single offense or for each offense in the case of multiple offenses, not to exceed thirty-six months.

AN ACT TO AMEND THE CODE OF VIRGINIA BY ADDING A SECTION NUMBERED 16.1-274.2, RELATING TO MINORS
H.B. 1213, 2016 Reg. Sess. (Va. 2016) (1 page)

This enacted legislation adds a provision to Va. Code Ann. § 16.1-274.2, which relates to disorderly conduct of minors at school. It provides that when a minor is alleged to have willfully disrupted the operation of any school or school-sponsored activity, the minor can introduce reports from health care providers or documents from individualized educational plans or behavior assessments as evidence that the minor did not intentionally or willfully disrupt school. It also stipulates that these reports, under motion of the minor, will be sealed by the court.

Washington

AN ACT RELATING TO MENTAL HEALTH AND CHEMICAL DEPENDENCY TREATMENT FOR JUVENILE OFFENDERS
H.R. 2746, 64th Leg., 2016 Reg. Sess. (Wash. 2016) (21 pages)

This enacted legislation modifies components of the Juvenile Justice Act related to court orders for residential treatment for inpatient mental health services for juvenile offenders. It expands disposition alternatives to include mental health and co-occurring disorder treatment. It also requires any costs incurred by mental health evaluations, treatment, and cost of supervision to be paid by the Department of Social and Health Services. A court may order residential treatment after a finding that the referral is necessary to rehabilitate the child and the child has been given the opportunity to engage in less restrictive treatment.

AN ACT RELATING TO STRENGTHENING OPPORTUNITIES FOR THE REHABILITATION AND REINTEGRATION OF JUVENILE OFFENDERS
H.R. 2906, 64th Leg., 2016 Reg. Sess. (Wash. 2016) (27 pages)

This enacted legislation revises the Juvenile Justice Act of 1977 to provide for the rehabilitation and reintegration of juvenile offenders. Specifically, it addresses fines, community service, and assessments. It also authorizes the state to choose not to file a domestic violence offense against the child if the alleged offense was committed against a family member. The act also adds the presumption for deferred disposition in all cases where the juvenile is eligible.

YOUTH EQUALITY AND REINTEGRATION (YEAR) ACT
S.B. 5564, 64th Leg., 2015 1st Spec. Sess. (Wash. 2015) (74 pages)

This legislation allows automatic sealing of juvenile offense records for youth in delinquency court without regard to the youth's ability to pay and eliminates many court fines and fees. Previously, there were twenty-two court fines and fees in Washington's juvenile statute. In addition, an interest rate of 12% was imposed on these court fines and fees. The previous

policy effectively barred low-income children without means for paying court fees from sealing their juvenile records. The YEAR Act eliminates twenty of the twenty-two court fines and fees and reduces the interest rate on these fees to zero. The two court fees that remain are for juveniles convicted of or who enter into a diversion agreement for patronizing or promoting prostitution. The YEAR Act also gives judges the discretion to modify restitution amounts based on ability to pay and to convert restitution into community service.

Wisconsin

AN ACT TO AMEND 48.396(3)(b)1., 48.396(3)(c)1r., 938.396(2m)(b)1. AND 938.396(2m)(c)1R. OF THE STATUTES; RELATING TO: THE DISCLOSURE OF ELECTRONIC JUVENILE COURT RECORDS TO A COUNTY DEPARTMENT OF HUMAN SERVICES OR SOCIAL SERVICES FOR THE PURPOSES OF PROVIDING INTAKE AND DEPOSITIONAL SERVICES
A.B. 574, 102d Leg., 2015-2016 Reg. Sess. (Wis. 2016) (4 pages)

This enacted legislation amends statutes relating to the disclosure of juvenile court records to allow disclosure of electronic court records to county department of human services or social services for purposes of providing intake and services. Previously, records of the juvenile court were confidential and not open for inspection except by a court order. This bill requires the court to make information available to a county department for the sole use of providing child welfare or dispositional services.

Wyoming

AN ACT RELATING TO JUVENILE DETENTION
H.B. 130, 63d Leg., 2016 Budget Sess. (Wyo. 2016) (3 pages)

This enacted legislation limits the definition of a "juvenile detention facility" to cover any facility that may legally and physically restrict and house a child and explicitly excludes any residential treatment facility that operates for the primary purpose of providing treatment to a child. In effect, this bill will exclude treatment facilities for substance abuse and mental health from the list of places where juvenile criminal defendants can be held.

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Commemorating the 50th Anniversary of *In re Gault*