



2004

Juvenile Defender Resource Guide

1. Advocacy in Juvenile Court

- A. Juries
- B. Role of Parents
- C. Confidentiality
- D. Expungement

2. Advocacy in Adult Court

- A. Transfer
- B. Lionel Tate
- C. Apprendi

3. Evidence

- A. Miranda
- B. False Confessions
- C. Interrogations
- D. DNA

4. Child and Adolescent Development

- A. Brain Science
- B. Competency

5. Children by Status

- A. Girls
- B. Racial and Ethnic Minority Youth
- C. Sex Offenders

6. Detention and Corrections

- A. Overuse
- B. Sentencing
- C. Life Without Parole
- D. Conditions

7. Death Penalty

- A. *Roper v. Simmons*
- B. Other Cases
- C. Culpability

8. Mental Health

9. Education

- A. Zero Tolerance
- B. Exclusion
- C. Public School Searches
- D. Special Education

10. Ethics

11. Systemic Issues

- A. Access to Counsel
- B. Indigent Defense
- C. Public Opinion
- D. Victims
- E. Collateral Consequences
- F. Funding

12. Promising Approaches

- A. New Initiatives
- B. State Juvenile Indigent Defense Assessments
- C. Sample Legislative Testimony

13. Supreme Court Review

Table of Contents

Complete



1. Advocacy in Juvenile Court

A. Juries

Why Do They Continue to Get the Worst of Both Worlds? The Case for Providing Louisiana's Juveniles with the Right to a Jury in Delinquency Adjudications

Sandra M. Ko, 12 *American University Journal of Gender, Social Policy and the Law* 161 (2004)

An argument for guaranteeing the right to a jury in delinquency proceedings. The author maintains that the benefits to youth accused of crimes – including checking judges' discretion, promoting accurate fact-finding, and improving quality of defense counsel – outweigh the potential problems with allowing juries in juvenile court.

B. Role of Parents

In the Interest of V.M.

363 N.J.Super. 529, 833 A.2d 692, New Jersey (October 30, 2003)

The Superior Court of New Jersey considered whether sequestering a juvenile's mother during his adjudicatory hearing, as well as admitting and excluding certain testimony, was appropriate. Noting that "the presence of an accused juvenile's parents at critical stages of the juvenile delinquency process is firmly established," the court held that a youth's parents have "the same right as the juvenile to remain in the courtroom during the juvenile's trial," even if they will testify during the proceedings.

C. Confidentiality

Eroding Confidentiality in Delinquency Proceedings: Should Schools and Public Housing Authorities Be Notified?

Kristin Henning, 79 *New York University Law Review* 520 (May 2004)

An examination of how schools and public housing authorities obtain juvenile records and an explanation of how such institutions may use those records to exclude children and their families from education and housing. The article concludes that legislators should protect confidentiality by denying housing authorities access to juvenile records and allowing schools to see them only through liaisons whose goal is to promote safety while enabling rehabilitation.

D. Expungement

Rethinking Expungement of Juvenile Records in Massachusetts: The Case of Commonwealth v. Gavin G.

Luz A. Carrion, 38 *New England Law Review* 331 (Winter 2004)

An exploration of expungement of records in Massachusetts, in particular in light of the 2002 case *Commonwealth v. Gavin G.*, which limited the juvenile court's power over probation records. The article considers the implications of expungement on the purposes of "systems of juvenile justice" and the significance of legislation facilitating the expungement of a juvenile's record.

2. Advocacy in Adult Court

A. Transfer

Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws

Patrick Griffen, *Technical Assistance to the Juvenile Court Special Project Bulletin*, National Center for Juvenile Justice (October 2003)

A survey of laws providing for juvenile transfer to criminal court and blended sentencing laws in the 50 states and the District of Columbia. The author includes information on judicial waiver, direct file, statutory exclusion and juvenile blended sentencing. Provides links to summaries of each state's laws.

B. Lionel Tate

Teen Serving Life Granted New Trial

Alan Gomez, *The Palm Beach Post* (December 11, 2003)

A newspaper article reporting that an appellate court in Florida threw out the conviction of Lionel Tate, who had been sentenced to life in prison without the possibility of parole at the age of 12.

Tate v. State of Florida

864 So.2d 44, 28 Fla. L. Weekly D2853, No. 4D01-1306, Florida (December 10, 2003)

The decision of the Fourth District Court of Appeal in Florida holding that the failure of the trial court to order competency evaluations of defendant Lionel Tate violated his due process rights and so invalidated his conviction. The Court disagreed with other arguments offered on Tate's behalf regarding the relevant statute, transfer to adult court, and his life sentence.

C. Apprendi

Should Juvenile Adjudications Count as Prior Convictions for Apprendi Purposes?

Jeremy W. Hochberg, 45 *William and Mary Law Review* 1159 (February 2004)

An examination of the negative consequences of considering delinquency adjudications to be prior convictions for sentence enhancement under *Apprendi v. New Jersey*. The article reviews federal court holdings on this issue as well as current state practices and concludes that courts should scrutinize juvenile records to determine whether the facts of and procedural safeguards employed in the case were sufficient to fairly take a juvenile record into consideration in sentencing decisions.

"That Isn't Fair, Judge": The Costs of Using Prior Juvenile Delinquency Adjudications In Criminal Court Sentencing

Ellen Marrus, 40 *Houston Law Review* 1323 (Spring 2004)

An exploration of the use of juvenile delinquency adjudications in sentencing in criminal court following the Supreme Court's decision in *Apprendi v. New Jersey*. The author considers how having a juvenile record can affect a defendant in adult court as well as how those consequences ultimately impact the juvenile justice system itself, concluding that any use of delinquency adjudications in criminal sentencing is harmful to both juvenile and criminal courts.

3. Evidence

A. Miranda

Amicus Brief filed in the case of Yarborough v. Alvarado

Juvenile Law Center, et al., No. 02-1684 (Case argued March 1, 2004)

An argument that when considering the case of a juvenile questioned by police without receiving *Miranda* warnings, the Supreme Court should take into account the developmental and situational differences between children and adults. Recognizing those differences leads to the conclusion, the authors believe, that Michael Alvarado was effectively in custody at the time of his interrogation.

Yarborough v. Alvarado

541 U.S. ___, No. 02-1684 (June 1, 2004)

The Supreme Court held that a reasonable person would have felt free to leave under the circumstances of juvenile Michael Alvarado's interrogation by police, and therefore he was not in custody for *Miranda* purposes during his interview. The decision finds that the state court did not unreasonably apply established law by holding that Alvarado was not in custody even though it failed to consider his age and inexperience in making that determination.

Alabama v. Nelson

2003 WL 22220504 (Ala.Crim.App.), CR-02-1293 (September 26, 2003)

The Court of Criminal Appeals in Alabama held in this decision suppressing a statement made by a juvenile after he received his "adult *Miranda*" warnings but who did not receive "juvenile *Miranda*" warnings. "Juvenile *Miranda*" rights are defined in Alabama as the protections afforded to all individuals in police custody as well as the right to have contact with a parent or guardian. According to this decision, that additional entitlement applies even to a youth alleged to have committed a crime for which his case will automatically transfer to adult court because that transfer occurs only after the child is charged with an offense.

Missouri v. Seibert

542 U.S. ___, No. 02-1371 (June 28, 2004)

The United States Supreme Court affirmed the Missouri State Supreme Court holding that statements made to police after initial questioning prior to the subsequent delivery of *Miranda* warnings are inadmissible in court. Respondent Seibert had made incriminating statements to police after an interview that took place without mention of *Miranda* rights and was then asked to repeat them after she was notified of her rights; all of her statements were suppressed.

United States v. Patane

542 U.S. ___, No. 02-1183 (June 28, 2004)

The United States Supreme Court held that physical evidence collected based on statements taken without the delivery of *Miranda* warnings is admissible at trial. Violation of *Miranda* occurs only, the decision states, when unwarned statements are introduced at trial.

B. False Confessions

Study Suspects Thousands of False Convictions

Adam Liptak, *The New York Times* (April 19, 2004)

A media report of the findings of two studies, one regarding people falsely convicted of crimes in the United States and another regarding cases involving false confessions. The reports largely involve murder and rape cases and note that juveniles are among the groups of defendants most likely to confess to crimes they did not commit.

Exonerations in the United States 1989 Through 2003

Samuel R. Gross et al., University of Michigan (April 19, 2004)

A study considering exonerations of defendants convicted of serious crimes since the first DNA exoneration occurred, assessing trends and providing a comprehensive listing of the relevant cases. The authors found that juveniles are far more likely than adults to confess to crimes they did not commit and that nine out of ten exonerated juvenile defendants were black or Hispanic.

The Problem of False Confessions in the Post-DNA World

Steven A. Drizin and Richard A. Leo, *North Carolina Law Review*, Volume 82, Number 3 (March 2004)

An analysis of 125 recent cases in which interrogations produced false confessions. The study provides information about the defendants and legal situations in those cases, examines the impact of false confessions on evaluations of evidence, and suggests promising methods for improving the administration of justice. The article mentions juvenile confessions and the case of a 16-year-old defendant.

Defending a False or Coerced Confession Case in the Post-DNA Age: What Do You Need to Know to Represent Your Clients Effectively?

Steven A. Drizin, Northwestern University School of Law (August 2004)

An explanation of police interrogation techniques and how they can produce false confessions. The author includes excerpts from taped false confessions made by juveniles. Appendix A provides helpful tips for pre-trial preparation when a client has confessed to the alleged offense.

C. Interrogations

Amicus Brief filed in In the Interest of Jerrell C.J.

Children and Family Justice Center, et al., Case No. 02-3423, Wisconsin (December 2003)

Amicus brief urging the Wisconsin Supreme Court to “adopt a per se rule excluding statements obtained from minors when such statements are made without parental, guardian, or attorney consultation.” *Amici* cite information on child development and courts’ inconsistent admissions of such statements under current practices. The brief also argues for mandating electronic recordings for interrogations of juveniles.

Taylor v. Maddox

366 F.3d 992, No. 02-55560, California (May 10, 2004)

The Ninth Circuit Court of Appeals found that the confession of Leif Taylor, a juvenile, was not obtained constitutionally because he was not permitted to speak to a lawyer before being questioned by police even though he asked to and because he did not give his statement voluntarily. The decision further held that the admission of the confession at trial was not harmless. Includes a description of how, according to Taylor, the police interrogators were able to obtain a false confession from him.

A.M. v. Butler

360 F.3d 787, No. 02-2882, Illinois (March 2, 2004)

The Seventh Circuit Court of Appeals found that A.M., an 11-year-old convicted of murder, would not reasonably have believed he was free to leave during the police interrogation that elicited his confession, and that “[t]he Illinois Appellate Court’s decision to the contrary was ... an objectively unreasonable application of federal law.” The decision held that A.M. was in custody when he gave his statement and so it was involuntary.

In re Andre M.

88 P.2d 552, Arizona (April 23, 2004)

The Arizona Supreme Court held that police officers’ deliberate exclusion of a juvenile’s mother from an interrogation conducted at a high school created a presumption of involuntariness. The Court further noted that there was no record to show that the juvenile received age-appropriate *Miranda* warnings.

D. DNA

Evaluating Forensic DNA Evidence: Essential Elements of a Competent Defense Review

William C. Thompson, Simon Ford, Travis Doom, Michael Raymer, and Dan E. Krane, *Champion Magazine* (April 2003)

Despite popular opinion that DNA evidence is conclusive, the quality of DNA testing varies and so is not always reliable. This article explains how defense attorneys should evaluate short tandem repeat (STR) DNA evidence, including information on understanding lab reports, test results, and sources of ambiguity in interpreting evidence.

Evaluating Forensic DNA Evidence, Part 2

William C. Thompson, Simon Ford, Travis Doom, Michael Raymer, and Dan E. Krane, *Champion Magazine* (May 2003)

Part 2 of the preceding article on evaluating DNA evidence, focusing on reviewing electronic data from the analysis machine, watching for lab errors in handling evidence, and finding experts to assist with analysis.

4. Child and Adolescent Development

A. Brain Science

Crime, Culpability, and the Adolescent Brain

Mary Beckman, *Science*, Vol. 305 (July 30, 2004)

Describes some of the scientific research on the adolescent brain as related to the juvenile death penalty. The article makes note of the American Medical Association and American Psychiatric Association's amicus briefs in Christopher Simmons' Supreme Court case.

Teen Brain: Current Projects

Laboratory of Adolescent Studies at Dartmouth College,

<http://www.dartmouth.edu/~t-brain/community/projects.php> (visited August 2, 2004)

Current projects of a group at Dartmouth studying the development of the teen brain. Abigail Baird, an expert in the field who has testified at legislative hearings regarding the juvenile death penalty, runs the program.

Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood

Nitin Gogtay et al., *Proceedings of the National Academy of Sciences of the United States of America*, National Institute of Mental Health, Volume 101, Number 21 (May 25, 2004)

A scientific study of gray matter in the brains of children, conducted using MRI technology. The time-lapse images created provide insight into brain development.

B. Competency

Rethinking a "Knowing, Intelligent, and Voluntary Waiver" in Massachusetts' Juvenile Courts

Barbara Kaban and Judith C. Quinlan, *Journal of the Center for Families, Children & the Courts* (2004)

A summary of a study of youth in Massachusetts to determine their understanding of words and phrases used during a colloquy with a judge when a youth enters a guilty plea. The authors found that children largely did not comprehend the terminology despite courts' willingness to consider waivers of rights from juveniles reasoned and informed.

Grisso Competency Evaluation Test Found Scientifically Unreliable

Juvenile Correctional Mental Health Report, Volume 4, Issue 1 (November/December 2003)

Excerpts from a Connecticut Appeals Court's ruling that Thomas Grisso's juvenile competency testing instrument was not admissible scientific evidence. The decision holds that Grisso's test is subject to the Daubert analysis for scientific evidence and that it does not meet the Daubert standards.

Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants

Thomas Grisso et al., *Law and Human Behavior*, Volume 27, Issue 4 (Aug 2003)

A study of adolescents' adjudicative competence conducted by comparing the abilities of youth in juvenile detention facilities with those of young adults. The adolescents demonstrated a level of impairment consistent with that of individuals found incompetent to stand trial. The authors emphasize that these impairments can be caused by developmental immaturity not associated with mental illness or disability.

Abolishing the Use of the Felony-Murder Rule when the Defendant is a Teenager

Steven Drizin and Allison McGowen Keegan, *28 Nova Law Review* 507 (Spring 2004)

An argument that the infancy defense, or the presumption that a defendant under age fourteen is not capable of having criminal intent, should supersede the felony-murder rule, which allows for murder convictions based on the finding that the defendant's intent, if not to kill, was to commit a felony. The article presents case studies and reviews scientific research suggesting that adolescents have limited cognitive capacities.

What's Behind Behavior Matters: The Effects of Disabilities, Trauma and Immaturity on Juvenile Intent and Ability to Assist Counsel

Marty Beyer, *Guild Practitioner* 58:2 (Spring 2001)

A guide to underlying factors that have implications for juvenile intent to commit crimes and/or that hinder juveniles from assisting counsel, including disability, past trauma, and immaturity. Includes examples of how juveniles' backgrounds and situations can create difficulties during and after an alleged offense.

5. Children by Status

A. Girls

The Criminalization of Survival Attempts: Locking Up Female Runaways and Other Status Offenders

Alecia Humphrey, 15 *Hastings Women's Law Journal* 165 (Summer 2004)

A description of the evolution of status offenses and the negative impact of this classification on juvenile offenders, particularly girls. This paper addresses the issues of physical and sexual abuse as they relate to runaway girls and offers alternatives to status offense arrests and detention.

Invisible Targets: Juvenile Prostitution, Crackdown Legislation, and the Example of California

Pantea Javidan, 9 *Cardozo Women's Law Journal* 237 (2003)

An exploration of whether children who are commercially sexually exploited should be punished under criminal statutes prohibiting prostitution even though they fall below the age at which they have a legal capacity to consent to sex. The author concludes that child prostitutes need legal protection rather than punishment.

Trauma Among Girls in the Juvenile Justice System

Marianne Hennessey, Julian Ford, Karen Mahoney, Susan Ko, Christine Siegfried, The National Child Traumatic Stress Network Juvenile Justice Working Group (2004)

A review of studies on girls in the juvenile justice system. Many young female offenders have been exposed to traumatic events, which can cause post-traumatic stress disorder and require gender-specific behavioral health services.

Are Those Cookies for Me or My Baby? Understanding Detained and Incarcerated Teen Mothers and Their Children

Leslie Acoca, *Juvenile and Family Court Journal* (Spring 2004)

An explanation of the barriers to understanding and meeting the need of detained and incarcerated teen mothers and their children, suggesting strategies for overcoming these barriers. The author presents a blueprint of girl-specific strategies for improving services and describes exemplary programs from around the nation.

Florida House Bill 1989

Co-Sponsors Representatives Kilmer, Bogdanoff, and Needelman, 2004 Legislature (Approved by Governor June 17, 2004)

A bill introduced in the Florida House of Representatives requiring gender-specific programming within the state's Department of Juvenile Justice and improving educational services for children in juvenile justice education programs.

B. Racial and Ethnic Minority Youth

School Failure, Race, and Disability: Promoting Positive Outcomes, Decreasing Vulnerability for Involvement with the Juvenile Delinquency System

Peter E. Leone, et al., The National Center on Education, Disability, and Juvenile Justice (October 15, 2003)

An examination of school failure and its connection to juvenile delinquency, with particular focus on negative outcomes for minority youth. The authors report a connection between differential responses to the behavior of racial and ethnic minority children in school and their disproportionate representation in the juvenile justice system.

Racism in the Juvenile Justice System: A Critical Perspective

Miriam Stohs, 2 *Whittier Journal of Child and Family Advocacy* 97 (2003)

An attempt at explaining the existence and effects of racism in the language of Critical Race Theory. The paper discusses racial disparities throughout the system, factors that contribute to those disparities, and possibilities for change.

C. Sex Offenders

Essay: Juveniles, Rehabilitation, and Sex Offenses: Changing Laws and Changing Treatment

Janis F. Bremer, 29 *William Mitchell Law Review* 1343 (2003)

An account of the changing statutes related to sex offenses in Minnesota and their effects on rehabilitation, particularly of juvenile offenders. The article includes a discussion of required registration for sex offenders as well as sections on moving juvenile cases to adult court and classifying offenders as extended jurisdictional juveniles (using blended sentencing).

Teens May Avoid Sex Registry

George Hunter, *The Detroit News* (July 7, 2004)

A news article describing a recently passed Michigan law allowing teens who have sex with minors close to their own age to petition the court to not appear on the state's sex offender registry.

Michigan Enrolled House Bill No. 4920

92nd Legislature of the State of Michigan (July 21, 2004)

The bill described in the article listed above. The law does not remove teens currently on the sex offender registry from the list, though it does allow them to petition for early removal.

School Board Votes to Ban Registered Sex Offenders from Attending School

Associated Press (July 14, 2004)

A news article reporting that in Columbia County, Georgia, school officials considered a policy banning registered sex offenders from their school system.

6. Detention and Corrections

A. Overuse

The Use and Abuse of Juvenile Detention: Understanding Detention and Its Uses

Jill Yung, National Juvenile Defender Center (January 2004)

A general overview of the overuse of juvenile detention, both pretrial and post-adjudication. Includes strategies for preventing inappropriate detention and descriptions of promising programs.

Resolution Number 138-04

Board of Supervisors of the City and County of San Francisco, File Number 040202 (February 24, 2004)

San Francisco's Board of Supervisors adopted a resolution limiting juvenile sentences to the California Youth Authority's eleven institutions in response to complaints about abuse, improper psychiatric treatment, violence, and inadequate educational programs in those facilities.

American Bar Association Justice Kennedy Commission Reports with Recommendations

Approved by the American Bar Association House of Delegates (August 2004)

A set of four ABA reports on punishment and prisons with recommendations for change. The Commission advises that governments reform sentencing systems to ensure punishments are appropriate (including by eliminating mandatory minimums), strive to eliminate racial and ethnic bias in the criminal justice system, establish processes for prisoners to request reductions of sentences, and provide treatment and humane conditions at correctional facilities.

A.C. v. Alabama

2004 WL 259248 (Ala.Civ.App.), No. 2030106 (February 13, 2004)

The Court of Civil Appeals of Alabama held that juvenile A.C.'s claim that she should not have been placed in a boot camp program was valid. A.C. had been found to be a child in need of supervision (CHINS), but because she was not adjudicated delinquent for any offense, she was statutorily prohibited from being ordered to enter a program for delinquent youth.

Detention Use: Managing Entry and Release

H. Ted Rubin, *Juvenile Justice Update*, Volume 10, No. 4 (August/September 2004)

An analysis of detention procedures, including use of a risk assessment instrument and results of probation violations, the author has observed in various jurisdictions. The article reveals several reasons for concern about rates of detention as well as some promising practices.

State Attempts to Keep More Kids Out of Prison

Crystal Yednak, *The Chicago Tribune* (May 31, 2004)

A news article describing Illinois' "Redeploy Plan" creating financial incentives for counties sending fewer youth to prison. The funds will support alternative programming for delinquent children.

B. Sentencing

Blakely v. Washington

542 U.S. ___, No. 02-1632 (June 24, 2004)

The United States Supreme Court decided that an imposition of a sentence greater than the statutorily defined maximum, based on a judicial determination that the crime for which the defendant was convicted was carried out with "deliberate cruelty," violated the petitioner's Sixth Amendment right to trial by jury. The Court relied on the rule expressed in *Apprendi v. New Jersey*. The Justices have since agreed to clarify the implications of this Washington State case on federal sentencing.

U.S. v. Patrick V.

359 F.3d 3, 1st Cir., Maine (February 19, 2004)

The First Circuit Court of Appeals reviewed a federal case involving Patrick V., who was 15 at the time of the arson he was found to have committed. The decision held that the United States District Court for the District of Maine did not abuse its discretion in upholding Patrick V.'s sentence of a significant fine and a 30-month sentence, assuming the facility to which he would be assigned, once selected, was deemed appropriate.

In re Thomas, a Minor., In re Burford, a Minor.

Nos. 2002-0824, 2002-0892, 2002-0894, Ohio (Oct. 15, 2003)

A decision from the Supreme Court of Ohio ruling that juveniles placed in treatment and rehabilitation centers before entering detention facilities cannot credit their time in those programs toward their commitment to the Department of Youth Services. That rule does not apply to time youth spent in those centers awaiting adjudication, disposition, or transfer to a detention facility after a court has sentenced a child to time in it.

C. Life Without Parole

Second Chances: Juveniles Serving Life Without Parole in Michigan Prisons

Deborah LaBelle, Anna Phillips, Laural Horton, ACLU of Michigan (September 2004)

An examination of sentences of life without parole imposed on juvenile offenders in Michigan, outlining the nature and extent of those sentences as well as addressing their inequities and toll on society. Presents stories of individual prisoners in Michigan.

The Meaning of “Life”: Long Prison Sentences in Context

Marc Mauer, Ryan King, and Malcolm Young, *The Sentencing Project* (May 2004)

A study of prisoners serving life sentences, which found growing numbers of “lifers” incarcerated and increasing lengths of terms actually served. The authors argue that these long sentences, especially when imposed on individuals who have not committed violent crimes and pose no threat to public safety, are unjust and a misuse of resources.

D. Conditions

Overcrowding, Violence, and Abuse—State Juvenile Justice Systems are in a Shockingly Chaotic State

Angie Cannon, *U.S. News and World Report* (August 9, 2004)

A news article reporting on the Department of Justice’s efforts to investigate abusive conditions at state juvenile detention facilities. Notes the rates of violence, incarceration of youth in need of mental health treatment, and the prevalence of abuse at institutions across the country.

Unlocking the Future: Detention Reform in the Juvenile Justice System

Coalition for Juvenile Justice Annual Report (2003)

A report decrying over-reliance on detention for troubled youth. Juvenile detention, described as detrimental to community safety as well as youth and their families, is nonetheless used to hold children with serious emotional, behavioral, and substance abuse issues, including and as well as young, nonviolent offenders some of whom will be acquitted of all charges.

A.M. v. Luzerne County Juvenile Detention Center

372 F.3d 572 (Pennsylvania), No. 03-3075 (June 10, 2004)

The Third Circuit Court of Appeals reversed a district court dismissal of a suit brought by A.M., a mentally ill juvenile, against the Luzerne County Juvenile Detention Center. The Circuit Court found that a county can be liable for deficient hiring and staffing policies and practices; lack of an adequate training program for the detention center’s staff; lack of established protocols to ensure youth safety; and lack of established policies to address the mental and physical health needs of youth residents.

7. Death Penalty

A. *Roper v. Simmons*

Taking Juveniles Off Death Row

Sasha Abramsky, *The American Prospect* (July 1, 2004)

A summary of recent developments related to the juvenile death penalty, including significant cases, legislative changes, jury trends, and brain science research. This evidence of a national consensus on the issue is relevant to the United States Supreme Court case, *Roper v. Simmons*, addressing the constitutionality of death sentences for 16- and 17-year-old offenders.

Respondent's Brief filed in the case of Roper v. Simmons

Jennifer Herndon, Seth P. Waxman, et al., Case No. 03-633 (July 19, 2004)

This brief on behalf of Christopher Simmons explains that in the 15 years since the Supreme Court first considered the constitutionality of the death penalty for 16- and 17-year-old offenders in *Stanford v. Kentucky*, advances in the scientific understanding of adolescent development and the consistent movement by legislatures and juries away from imposition of death on juvenile offenders have demonstrated that capital punishment of those under 18 is inconsistent with our society's evolving standards of decency.

Amicus Brief filed in the case of Roper v. Simmons

Juvenile Law Center, et al., Case No. 03-633 (July 19, 2004)

Over 50 child-advocacy and other organizations signed onto this brief arguing against the juvenile death penalty on behalf of Christopher Simmons. The authors focused on why the differences between children and adults mean capital punishment serves neither retributive or deterrent purposes for youth. *Amici* also cite legislative trends and the greater likelihood that juveniles will falsely confess to crimes as arguments against executing youth under age 18.

Amicus Brief filed in the case of Roper v. Simmons

American Medical Association, et al., Case No. 03-633 (July 19, 2004)

Medical and psychiatric associations argue that scientific understanding of adolescent behavior and brain development leads to the conclusion that 16- and 17-year-old offenders exhibit deficiencies the Supreme Court has identified as warranting exclusion from the death penalty. *Amici* further note that the psychological disturbances common to juvenile capital offenders exacerbate those youth's vulnerabilities and can cause them to function at substandard levels.

Amicus Brief filed in the case of Roper v. Simmons

American Psychological Association, et al., Case No. 03-633 (July 19, 2004)

Psychological associations argue that behavioral studies and recent neuropsychological research demonstrate that execution of those who were under 18 years old when they committed capital offenses violates the Eighth Amendment prohibition against cruel and unusual punishment. The authors write that individualized capital sentencing proceedings do not reliably account for the mitigating effect of adolescence.

B. Other Cases

Closing Argument in the capital murder trial of Lee Malvo

Craig Cooley in Virginia trial court (December 22, 2003)

Craig Cooley convinced a Virginia jury not to condemn Lee Malvo, the teenage defendant in the Washington-area sniper trial, to death with this moving closing argument.

Report No. 101/03, Case 12.412, Napoleon Beazley, United States

Inter-American Commission on Human Rights, Organization of American States (December 29, 2003)

The attorneys for Napoleon Beazley, a juvenile offender executed in Texas in May 2002, requested that the IACHR review Napoleon's case in February of that year. Though Texas refused to stay the punishment pending the outcome of the Commission's consideration of the case, the Commission ultimately declared that the United States had violated an international norm of jus cogens by executing Napoleon.

2004 State Laws Prohibiting Capital Punishment for Juvenile Offenders

South Dakota Senate Bill 182, Wyoming House Bill 05

Two states passed bills during their 2004 legislative sessions prohibiting the execution of offenders who committed their crimes before reaching age 18.

C. Culpability

Competence, Culpability and Punishment: Implications of Atkins for Executing and Sentencing Adolescents

Barry C. Feld, 32 *Hofstra Law Review* 463 (Winter 2003)

An argument that the same psychological and developmental characteristics that render mentally retarded offenders less blameworthy than competent adult offenders—as articulated by the United States Supreme Court in *Atkins v. Virginia*—also characterizes the maturity of judgment and culpability of adolescents and should prohibit their execution as well.

The Use of Youth as an Aggravating Factor in Death Penalty Cases Involving Minors

Ashley Dobbs, *Juvenile Justice Update*, Volume 10, No. 3 (June/July 2004)

A look at prosecutors' use of age to convince juries to vote for death sentences for juvenile defendants in capital cases. Argues against the juvenile death penalty in light of the possibility of manipulating this mitigating factor into an aggravating one.

8. Mental Health

Mental Health Medications Used for Adolescents

Sarah Marcus, National Juvenile Defender Center (March 2004)

A chart of medications often prescribed for youth with mental health disorders, the symptoms they are meant to treat, and the side effects they may cause.

Incarceration of Youth Who Are Waiting for Community Mental Health Services in the United States

Committee on Government Reform, United States House of Representatives (July 2004)

A report documenting the frequent, expensive, and harmful misuse of juvenile detention facilities to hold youth in need of mental health treatment. This national survey, commissioned by Representative Henry Waxman and Senator Susan Collins, reflects information from over 500 facilities across the nation.

Shame, Guilt, and Violence

James Gilligan, *Social Research*, Vol. 70, Issue 4 (Winter 2003)

A psychological theory of the causes of violence, asserting that violent criminals act out of humiliation and shame. The author believes that such people lack the pride and self-love necessary to temper those feelings and have experienced a “death of self,” meaning they cannot feel emotions, including guilt.

Victimization and Juvenile Offending

Christine Siegfried, Susan Ko, and Ann Kelley, The National Child Traumatic Stress Network Juvenile Justice Working Group (2004)

An overview of the rates and effects of victimization of children in the United States and the relationship of those factors to later delinquency. Includes suggestions for addressing this damaging cycle.

Trauma-Focused Interventions for Youth in the Juvenile Justice System

Karen Mahoney, Julian Ford, Susan Ko, and Christine Siegfried, The National Child Traumatic Stress Network Juvenile Justice Working Group (2004)

An overview of the reasons for and examples of trauma-focused treatments for youth in the juvenile justice system. Includes suggestions regarding pretreatment assessment and family-based interventions.

Posttraumatic Stress Disorder and Trauma in Youth in Juvenile Detention

Ken M. Abram et al, *Archives of General Psychology*, Vol. 61 (April 2004)

A study of the prevalence of trauma and post-traumatic stress disorder among juveniles in detention conducted by interviewing youth in an Illinois facility. Reports that children in detention are more likely to face such difficulties.

Assessing the Mental Health Status of Youth in Juvenile Justice Settings

Gail A. Wasserman, et al., *Juvenile Justice Bulletin* (August 2004)

A report on the results of a study used to screen for psychiatric disorders in youth newly arrived at juvenile assessment centers in Illinois and New Jersey, analyzing the findings and making recommendations for juvenile mental health assessments.

9. Education

A. Zero Tolerance

From Classrooms to Courtrooms: Zero Tolerance Unveiled

Nova Harb, Southern Juvenile Defender Center (2004)

An analysis of zero tolerance statutes in Georgia, including a discussion of the constitutional issues they raise, their ineffectiveness in reducing crime in schools, and their negative consequences for youth and communities. Offers suggestions for reforming Georgia law and calls for an increased focus on the quality of alternative schools.

Amicus Brief in People v. George T.

Juvenile Law Center, Legal Services for Children, and Legal Advocates for Children and Youth, S111780, Ct.App. 6 H023080, California (July 22, 2004)

An argument on behalf of a juvenile accused of making a criminal threat for distributing a poem to two students at his school. The authors believe the charge reflects a lack of understanding of adolescent development as well as a violation of the First Amendment right to free speech. The brief also explains that this case “exemplifies a disturbing trend to criminalize behavior that is more appropriately handled at the school level.”

People v. George T.

S111780, Ct.App. 6 H023080, California (July 22, 2004)

The Supreme Court of California held that a youth’s distribution of a poem to peers at school did not constitute a criminal threat even though the poem contained lines about killing students.

B. Exclusion

Appeal of D.C., K.J., and K.C. in W.T., S.P., T.V. v. School District of Philadelphia

Education Law Center and Juvenile Law Center, Civil Action No. 03675, Pennsylvania (January 30, 2004)

An appellate brief disputing a lower court decision upholding the constitutionality of a Pennsylvania law barring youth returning from delinquency placements from enrolling in regular public schools in Philadelphia. The brief argues that excluding these children from normal school placements violates their right to due process in determining if they should be sent to alternative educational programs. Its authors also claim that the law violates equal protection under the Pennsylvania Constitution because all other children in Philadelphia are afforded a hearing before suffering the same consequences, as are all children in other parts of the state.

C. Public School Searches

From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities

Michael Pinard, 45 *Arizona Law Review* 1067 (Winter 2003)

An analysis of the implications of increased law enforcement presence on public school grounds. The author focuses on the relevance of Fourth Amendment protections to searches they, and school officials, conduct at schools.

D. Special Education

Disability and Delinquency: How Failures to Identify, Accommodate, and Serve Youth with Education-Related Disabilities Leads to their Disproportionate Representation in the Delinquency System

Joseph B. Tulman, 3 *Whittier Journal of Child and Family Advocacy* 3 (2003)

An examination of the disproportionate representation of youth with learning disabilities in the juvenile justice system, examining when and how school and delinquency system personnel fail to recognize and appropriately address learning problems. Reviews the laws relevant to the education of these youth, presents case studies illustrating failures, and includes a section about difficulties and strategies for defense attorneys with clients who have education-related disabilities.

Class Action Litigation Involving Special Education Claims for Youth in Juvenile and Adult Correctional Facilities

National Center on Education, Disability, and Juvenile Justice (January 12, 2004)

A chart listing juvenile cases related to special education in detention and correctional facilities (by name, number, and court of origin), date filed, current status, the type of facility, and information about the claims the case makes.

Changing the Narrative: Convincing Juvenile Courts to Use Their Discretion to Reduce Harm in School Referral Cases

Marsha L. Levick and Robert G. Schwartz, Juvenile Law Center (Draft, September 2004)

A discussion of how juvenile court decision makers can use their discretion to ameliorate the harm from inappropriate referrals from schools. Includes strategies for juvenile court judges, defenders, and prosecutors to divert youth from the court system.

10. Ethics

Too Much Heart and Not Enough Heat: The Short Life and Fractured Ego of the Empathic, Heroic Public Defender

Abbe Smith, 37 *U.C. Davis Law Review* 1203 (June 2004)

An exploration of the motivations of public defenders. The author argues that Charles Ogletree's paradigm built on "heroism" and "empathy" fails to support a lengthy career in a public defender office and suggests instead a model based on "respect, craft, and a sense of outrage" to better sustain a lawyer in this challenging field.

Lawyers Should be Lawyers, but What Does that Mean?: A Response to Aiken & Wizner and Smith

Katherine R. Kruse, 14 *Washington University Journal of Law and Policy* 49 (2004)

A discussion of the ethics of criminal defense lawyers acting like social workers, contrasting an article supporting bringing social work into attorneys' roles and another arguing for zealous advocacy for all clients. After exploring the tensions between the professional norms of lawyering and the vision of "lawyer as social worker," the author suggests that the juvenile justice system provides lessons for reconciling those conflicts. The article argues for incorporating some aspects of social work into a legal framework focused on strong advocacy.

The Ethical Perils of Representing the Juvenile Defendant Who May Be Incompetent

Lynda E. Frost and Adrienne E. Volenik, 14 *Washington University Journal of Law and Policy* 327 (2004)

A discussion of the ethical dilemmas that become more difficult for defenders as punishments for juvenile offenders become more severe. Attorneys face conflicting interests in fulfilling their clients' wishes and best interests and their own obligations as officers of the court. This article considers these issues in adult and juvenile court with particular focus on cases in which competence is a relevant concern.

Loyalty, Paternalism and Rights: Client-Counseling Theory and the Role of the Child's Counsel in Delinquency Cases

Kristin Henning (Draft, September 13, 2004)

An examination of the role of juvenile defenders, considering variations on possible attorney-client relationship frameworks beyond the expressed-interest and best-interest models. Attempts to construct a framework that meets professional obligations, addresses the issues raised by the diminished capacity of children, and allows parental participation that does not compromise effective representation.

11. Systemic Issues

A. Access To Counsel

Access to Counsel

Judith B. Jones, *Juvenile Justice Bulletin*, U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention (June 2004)

An examination of access to counsel for juveniles, including stages of the case at which representation is necessary, factors that hinder access to and quality of juvenile defense counsel, and elements necessary for quality representation. Describes state methods for addressing problems and promising programs from offices around the country.

Complaint filed in K.L.W. v. Richard James et al.

Southern Poverty Law Center and Mississippi Center for Justice, 2:04-CV-149BN, United States District Court for the Southern District of Mississippi (April 13, 2004)

A class action suit brought on behalf of children confined at a Mississippi juvenile facility that argues that the state's policies regarding obtaining counsel while detained violates their constitutional rights to access the courts. The facility, which had been the subject of investigations regarding inadequate conditions, would not allow an attorney to see the complainant without an order from a state youth court judge.

Balancing State Budgets at a Cost to Fairness in Delinquency Proceedings

Andrea L. Martin, 88 *Minnesota Law Review* 1638 (June 2004)

An analysis of how co-payment statutes, which require a parent to pay a fee toward a court-appointed lawyer for his or her child, impact juveniles and their right to counsel. The Minnesota Supreme Court invalidated a state statute requiring co-payments for reasons related to adult defendants but did not address the law's youth-specific implications. The author argues that a juvenile's right to counsel is distinct from an adult's because it is rooted in the Fourteenth, rather than the Sixth, Amendment and that the capacity of juveniles to make independent, rational decisions (especially when faced with pressure from a parent seeking to avoid a \$100 fee) is not sufficient to expect adolescents to protect their right to counsel.

In the Interest of Christopher H., a minor under the age of seventeen, Appellant

South Carolina Judicial Department, Opinion Number 3725 (January 20, 2004)

The Court of Appeals of the State of South Carolina ruled that Christopher H. did not validly waive his right to counsel because the manner in which his appearance at court proceeded did not meet the requirements of *Faretta v. California*, which requires that the accused be "(1) advised of his right to counsel, and (2) adequately warned of the dangers of self-representation."

2004 State Laws Limiting Juvenile Waiver of Counsel

Louisiana House Bill 1508, Maryland Senate Bill 163, Virginia House Bill 600

State statutes passed in their 2004 legislative sessions restricting the conditions under which a juvenile can waive his right to defense counsel. The Virginia statute requires the appointment of an attorney before an initial detention hearing.

B. Indigent Defense

Lavallee, et al. v. Justices in the Hampden Superior Court, et al.

SJC-09268, 2004 WL 1662445, Massachusetts (July 28, 2004)

The Massachusetts Supreme Judicial Court ruled that a shortage of defense lawyers caused by low pay violates the constitutional rights of some indigent defendants in the state. The decision held that “on a showing that no counsel is available to represent a particular indigent defendant despite good faith efforts, such a defendant may not be held more than seven days and the criminal case against such a defendant may not continue beyond forty-five days.”

“From Day One”: Who’s in Control as Problem Solving and Client-Centered Sentencing Take Center Stage?

Cait Clarke and James Neuhard, *N.Y.U. Review of Law and Social Change*, Vol. 29 (2004)

An exploration of the changing role of defense counsel given current rates of plea bargaining and therefore the shift from trial advocacy to a need for sentencing advocacy. The authors assert that effective representation involves problem solving and working toward achieving the best outcome for each client even after a finding of guilt. Includes a discussion of problem solving courts, such as drug courts, and criminal defense lawyers’ roles in them.

From Trial Lawyers to Public Defense Leader: Skills that Transfer from Court to Office Management

John Stuart and Cait Clarke, *Nuts & Bolts of Management and Leadership* (May 13-15, 2004)

An introduction to public defense leadership, explaining the need to encourage and support zealous advocacy among defenders in the office and to work effectively toward systemic change in the justice system as a whole. Includes a discussion of how trial skills can transfer into management skills.

C. Public Opinion

Public Opinion and Youth Justice

Julian V. Roberts, 31 *Crime and Justice* 495 (2004)

An exploration of public opinion about juvenile justice in the United States, Canada, and the United Kingdom. The author presents research that demonstrates general misperceptions about the rates of youth crime and the harshness of punishments adolescents receive in juvenile court and discusses the relations between these opinions and developments in juvenile justice policies. Includes analysis of how public opinion about juvenile justice issues has been formed and methods for increasing public knowledge and improving methods to relate public opinion to political actions.

D. Victims

Victims of Violent Juvenile Crime

Carl McCurley and Howard N. Snyder, *Juvenile Justice Bulletin*, Office of Juvenile Justice and Delinquency Prevention (July 2004)

A compilation of information and statistics related to the victims of violent crimes committed by juveniles. Many of those victims are youth themselves, and the article looks at their ages, relationships with the offenders, and the categories of crimes they faced.

E. Collateral Consequences

Collateral Consequences of Juvenile Proceedings: Part I & Part II

Robert E. Shepherd, Jr., *Criminal Justice Magazine*, Vol. 15, Issue 2 & Issue 3 (Summer 2000 & Fall 2000)

Two pieces addressing the consequences of delinquency adjudications, noting various ways in which the potential long-term effects of juvenile proceedings have become more severe.

F. Funding

Juvenile Justice and Delinquency Prevention Act of 2002

Public Law No. 107-23 (Signed November 2, 2002)

On November 2, 2002, after six years of work, the President signed the 21st Century Department of Justice Appropriations Authorization Act into law, thereby reauthorizing the Office of Juvenile Justice and Delinquency Prevention and maintaining the four mandated protections of the Juvenile Justice Delinquency Prevention Act. 2004 marks the 30th anniversary of the Juvenile Justice and Delinquency Prevention Act, the primary federal vehicle for protecting children in the justice and corrections systems.

12. Promising Approaches

A. New Initiatives

National Committee on the Right to Counsel to Examine System of Legal Representation for People Who Cannot Afford It

The Constitution Project Press Release (June 22, 2004)

A press release announcing the establishment of a committee to examine the ability of the American criminal justice system to provide adequate counsel to criminal defendants who cannot afford lawyers. The Constitution Project and the National Legal Aid and Defender Association launched the committee, whose members come from a variety of professional backgrounds, to conduct research and ultimately make recommendations for improving representation systems.

Juvenile Defender

Job Description, North Carolina Office of Indigent Defense Services (August 2004)

A job announcement describing the new position of Juvenile Defender of the North Carolina Office of Indigent Defense Services. The state created this leadership position after the American Bar Association Juvenile Justice Center's assessment of access to counsel and quality of representation in delinquency proceedings reported a need for improvements in North Carolina.

Va. Panel to Oversee Legal Defense for Poor

Tom Jackman, *The Washington Post* (July 1, 2004)

A news article reporting that the Virginia General Assembly authorized an Indigent Defense Commission to provide training, create standards, set caseload limits, and work to secure increased funding for defenders who represent indigent clients.

Police Accountability Project

Edwin F. Mandel Legal Aid Clinic, University of Chicago Law School,
<http://www.law.uchicago.edu/mandel/police/index.html> (visited August 4, 2004)

A description of the Police Accountability Project run by Craig Futterman of the University of Chicago Law School explaining its purpose and activities.

University of Chicago Clinic Wins...

Edwin F. Mandel Legal Aid Clinic News (January 2004)

A description of the Prison Accountability Project's successful federal civil rights suit against the Chicago Police Department in response to a police raid of an event affiliated with a public housing development. The plaintiffs accepted \$500,000 in a settlement from the City of Chicago in response to their complaint that the police violated their constitutional rights not to be subject to unreasonable searches and seizures.

American Civil Liberties Union Criminal Justice News

www.aclu.org/news (2004)

A set of press releases describing ACLU activities related to indigent defense, proposed federal legislation regarding gangs, and conditions at a juvenile correctional facility.

B. State Juvenile Indigent Defense Assessments

Making Gault Meaningful: Access to Counsel and Quality of Representation in Delinquency Proceedings for Indigent Youth

Susanne M. Bookser, 3 *Whittier Journal of Child and Family Advocacy* 297 (Spring 2004)

An overview of the findings and resulting reforms of the national and six state assessments of juvenile indigent defense conducted by the American Bar Association Juvenile Justice Center in conjunction with local partners. (Six additional state assessments were released during the drafting of the article.) The author, who conducted interviews with individuals who participated in research for the reports, also presents lessons learned from conducting the assessments.

General Media Coverage

The New York Times, *The Daily Record of Rochester* (October 2004)

The October 2004 release of six new state assessments of juvenile indigent defense (Maine, Maryland, Montana, North Carolina, Pennsylvania, and Washington) was featured in the media, including a *New York Times* editorial.

Local Media Coverage

Kennebec Journal, *Portland Press Herald*, *The Washington Post*, *The News & Observer*, *Pennsylvania Law Weekly*, *Patriot-News*, *Seattle Post-Intelligencer Reporter*, *Seattle Times* (October 2004)

Newspapers in the states on which the new assessments of access to counsel and quality of representation in juvenile delinquency proceedings were focused covered their release, noting their major findings.

C. Sample Legislative Testimony

Connecticut Senate Bill 871 (Sex Offenders)

Christine Perra Rapillo, Office of the Chief Public Defender (March 2003)

Testimony in support of this bill to allow the State's Attorney to transfer a youth under the age of 16 accused of sexual assault back to juvenile court if the alleged offense was having sexual intercourse with a child under the age of thirteen.

Connecticut Senate Bill 957 (Behavioral Health Screening)

Christine Perra Rapillo, Office of the Chief Public Defender (March 2003)

Testimony against this bill to provide community-based behavioral health programs and services for children in the juvenile justice system, expressing concern that children accused of crimes would be denied their due process protections by the proposed protocols.

Connecticut House Bill 3691 (Special Education Services)

Christine Perra Rapillo, Office of the Chief Public Defender (February 2003)

Testimony in support of this bill requiring the inclusion of a child's individualized educational plan in a juvenile probation officer's predisposition study of a delinquent youth.

District of Columbia Omnibus Bill (Reforms to Juvenile Detention)

Ronald S. Sullivan, Jr., Public Defender Service for the District of Columbia (March 2004)

Testimony in opposition to proposed changes to the Washington, DC juvenile justice system including modifications to the processes for transfer to adult court, assessing competency, keeping children's records confidential, and granting subpoenas.

District of Columbia Bill 15-673 (Reforms to Juvenile Detention)

Laura E. Hankins, Public Defender Service for the District of Columbia (March 17, 2004)

Testimony in support of this bill to reform the Washington, DC juvenile justice system by limiting transfers to adult court, monitoring safety in shelter houses and group homes, and closing the District's detention facility.

District of Columbia Bills 15-0537, 15-0460, 15-0573 (Transfer to Criminal Court)

Malcolm C. Young, The Sentencing Project (January 14, 2004)

Testimony, in regard to several proposed bills, on the harmful consequences of transferring youth to criminal court, including unfairness to the child and increased risk to the community.

District of Columbia Emergency and Temporary Acts (Increased Punishments for Car Theft)

Laura E. Hankins, Public Defender Service for the District of Columbia (July 12, 2004)

A letter expressing opposition to proposed legislative acts increasing the punishments for car theft and creating a mandatory minimum sentence for such offenses in juvenile court dispositions, noting concerns about the fiscal impact, decreased discretion of the court, increased power of the prosecutor, and possible unconstitutionality of the acts.

Georgia Senate Bill 440 (Transfer to Criminal Court)

Marc A. Schindler, Youth Law Center (January 16, 2003)

Testimony expressing support for this bill to limit transfer of juveniles to criminal court and the subsequent incarceration of youth in adult prisons, explaining the harmful consequences of placing children in the adult system.

Louisiana House Bill 1508 (Waiver of Counsel)

The Honorable Ernestine Gray, American Bar Association Juvenile Justice Committee (May 12, 2004)

An explanation of ABA policy in support of this bill to prohibit waiver of the right to counsel by juveniles in delinquency proceedings, with emphasis on why a parent should not be able to waive her child's right on the youth's behalf.

Louisiana Juvenile Justice Commission (Funding for Department of Corrections)

David J. Utter, Juvenile Justice Project of Louisiana (January 27, 2003)

A statement urging that the state legislature not continue to fund the Department of Public Safety and Corrections' juvenile prisons, the failures of which the testimony describes, but instead invest in rehabilitative programs for youth.

Maryland House Bill 994 (Competency)

American Bar Association Juvenile Justice Committee (March 4, 2004)

An explanation of ABA policy in support of this bill to require a qualified expert to review “all available medical, educational, and court records concerning the child and the child’s case” and consider “the child’s age, maturity level, developmental stage, and decision-making capabilities” to assess every individual youth’s competency.

New York City Council Subcommittee on Juvenile Justice (Aftercare Services)

Denielle DePalma, Cynthia Godsoe, and Tara Litwin, Juvenile Rights Division of The Legal Aid Society (April 30, 2004)

Testimony urging the restoration of funding for community-based and family-centered aftercare programs for youth released from detention, particularly education planning and mental health treatment, describing the benefit of such services to children, their families, and their communities.

Virginia House Bill 600 (Waiver of Counsel)

Robert E. Shepherd, Jr., American Bar Association Juvenile Justice Committee (January 30, 2004)

An explanation of ABA policy in support of this bill to mandate appointment of counsel before initial detention hearings for juveniles, limit the circumstances under which a child may waive the right to counsel, create a presumption of indigence for the purposes of detention hearings, and provide consistent representation throughout a delinquency case.

13. Supreme Court Review

Annual Review of the Supreme Court's Term, Criminal Cases

Rory K. Little, American Bar Association Criminal Justice Section (August 2004)

A set of summaries of the United States Supreme Court's October 2003 term decisions related to criminal law, organized by subject matter. Includes descriptions of holdings, concurrences, and dissents.