## Table of Contents

Adolescent Development ........................................................................................................................................... 1  
Adolescent Development Generally........................................................................................................................ 1  
Adolescent Development and Young Adults (Ages 18 – 24) ............................................................................... 2  
Reasonable Child Arguments .............................................................................................................................. 2  
Constitutional Rights .......................................................................................................................................... 3  
Access to Counsel and Waiver of Counsel .......................................................................................................... 3  
Double Jeopardy .............................................................................................................................................. 5  
Due Process ......................................................................................................................................................... 5  
Freedom of Speech ............................................................................................................................................. 5  
Interrogation and Miranda ................................................................................................................................. 5  
Search and Seizure ......................................................................................................................................... 7  
Costs, Fees, and Fines ...................................................................................................................................... 8  
Detention and Corrections ................................................................................................................................. 9  
Disposition and Sentencing ............................................................................................................................. 10  
Family Engagement ........................................................................................................................................ 12  
*Gault* at 50...................................................................................................................................................... 12  
Identity and Status ......................................................................................................................................... 14  
Crossover Youth ........................................................................................................................................... 14  
Gender ............................................................................................................................................................. 14  
Homeless Youth .......................................................................................................................................... 15  
Immigrant Youth .......................................................................................................................................... 15  
Race ............................................................................................................................................................... 16  
Sexual Orientation, Gender Identity, and Gender Expression ............................................................................ 18  
Tribal Youth .................................................................................................................................................... 19  
International Perspectives ............................................................................................................................... 19  
Juvenile Justice Reform .................................................................................................................................. 20  
Juvenile Sex Offenses ..................................................................................................................................... 22  
Mental Health and Disabilities .......................................................................................................................... 24  
Pleas ................................................................................................................................................................. 25  
Policing and Law Enforcement ........................................................................................................................... 25
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Post-Disposition, Reentry, Collateral Consequences, and Sealing and Expungement</td>
<td>26</td>
</tr>
<tr>
<td>Probation</td>
<td>27</td>
</tr>
<tr>
<td>School Discipline and Educational Issues</td>
<td>28</td>
</tr>
<tr>
<td>School Policing, School Discipline, and the School-to-Prison Pipeline</td>
<td>28</td>
</tr>
<tr>
<td>Special Education</td>
<td>33</td>
</tr>
<tr>
<td>Secondary Trauma</td>
<td>34</td>
</tr>
<tr>
<td>Shackling</td>
<td>34</td>
</tr>
<tr>
<td>Solitary Confinement</td>
<td>35</td>
</tr>
<tr>
<td>Specialization of Juvenile Defense</td>
<td>37</td>
</tr>
<tr>
<td>Trafficking</td>
<td>37</td>
</tr>
<tr>
<td>Waiver, Transfer, and Certification to Adult Court</td>
<td>38</td>
</tr>
<tr>
<td>Youth Rights</td>
<td>39</td>
</tr>
<tr>
<td>Youth in Adult Court</td>
<td>40</td>
</tr>
<tr>
<td>Racketeer Influenced and Corrupt Organizations Act (RICO)</td>
<td>40</td>
</tr>
<tr>
<td><em>Roper, Graham, Miller, and Montgomery</em></td>
<td>41</td>
</tr>
<tr>
<td>Secondary Sources</td>
<td>41</td>
</tr>
<tr>
<td>Cases</td>
<td>43</td>
</tr>
</tbody>
</table>
**ADOLESCENT DEVELOPMENT**

*Adolescent Development Generally*

**When Does a Juvenile Become an Adult? Implications for Law and Policy**  

The authors of this article summarize how developmental research has impacted the “age of adulthood” as it is recognized in the law. They argue that research findings should inform arguments on mitigating punishment, raising the minimum age of criminal court jurisdiction, and deciding at what age children may be tried as adults.

**Developmental Jurisprudence**  

The author of this article asserts a theory of “developmental jurisprudence” in which the law should be considered a “developmental agent” because it plays a significant role in childrearing. The author argues that instead of using developmental science to make changes in law one at a time, the law should be used to promote adolescent development more broadly, by providing developmentally valuable programs and procedures for youth.

**Children are Different: When the Law Catches Up with Science**  

The author of this article examines how research on adolescent development and brain science was used to pass California’s Proposition 57, eliminating direct file and granting juvenile court judges exclusive authority in deciding whether to transfer youth to adult court. The author argues that for better outcomes consistent with developmental research, system-involved youth should continue to be treated differently from adults.

**Exploring the Parameters of a Child’s Right to Redemption: Some Thoughts**  

The author of this article discusses a “right to redemption” for children in the juvenile justice system. This right would recognize the differences between youth and adults and give children greater opportunities for rehabilitation.

**Applying Principles of Adolescent Development in Delinquency Proceedings**  

This judicial bench card summarizes principles of adolescent development and their application in juvenile court, and then offers sample judicial colloquies that account for developmental considerations.
Adolescent Development and Young Adults (Ages 18 – 24)

Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy
Elizabeth S. Scott et al., 85 FORDHAM L. REV. 641 (2016).

The authors of this article argue that recent developmental research should inform not only how the law responds to youth, but also young adults aged eighteen to twenty-one, and that young adulthood should be seen as a transitional phase rather than an age of maturity.

Adulthood in Law and Culture

The author of this article makes an argument that the standard age of legal majority should be abandoned in favor of context-specific rules that better align with developmental science and the societal conception of adulthood. Such rules would be a natural extension of existing law because there are already many statutory exceptions to the presumptive age of majority.

Reasonable Child Arguments

The Hidden Psychology of Constitutional Criminal Procedure

The authors of this article argue that when jurists consider “reasonable person” and “totality of the circumstances” analyses, they should account for empirically supported differences between genders, intellectual abilities, and adolescent development.

What’s in an Age? Consider the Neuroscience Dimension of Juvenile Law

Neurological research shows that after age 25, adolescent and adult brains function differently with regard to impulse control, risk-taking behavior, and susceptibility to negative influences. The author of this article asserts that given these differences, a “reasonable juvenile” standard should be applied in assessing culpability when youth are tried as adults.

Kids Will Be Kids: Time for a “Reasonable Child” Standard for the Proof of Objective Mens Rea Elements

Similar to tort negligence laws that allow for the age of the child to be considered, the authors of this article assert that juvenile codes should explicitly use a reasonable child standard to determine mens rea elements.
The Problem with Inference and Juvenile Defendants

The author of this article suggests that where a child’s state of mind is in question, courts should permit expert testimony and jury instructions on adolescent brain development to help adult fact-finders better understand the adolescent mind. The author asserts that the frame of reference should be what the child actually thought, rather than what the adult imagines the child thought.

CONSTITUTIONAL RIGHTS

Access to Counsel and Waiver of Counsel

Decreasing Youth Incarceration through Quality Juvenile Defense

The author of this article argues that juvenile defense attorneys can play a central role in decreasing juvenile incarceration through quality representation, and introduces the articles included in the 2015 Robert D’Agostino Symposium Edition of the John Marshall Law Journal, which cover race, appeals, post-adjudication special education and disability rights, and post-disposition advocacy.

The Critical Role of Post-Disposition Representation in Addressing the Needs of Incarcerated Youth

The authors of this article argue that access to counsel post-disposition is a constitutionally required necessity by surveying the challenges youth face while in custody, discussing post-disposition provisions of the National Juvenile Defense Standards, and examining programs from around the country that are implementing post-disposition representation.

Kuren v. Luzerne Cty.

Holding that a prospective cause of action exists for criminal defendants to allege violations of the right to counsel due to inadequate levels of funding provided to a public defender’s office and granting injunctive relief requiring the county to provide adequate funding.

The Antidemocratic Sixth Amendment

The author of this article argues that all criminal defendants, including those who cannot afford an attorney, have a Sixth Amendment right to choose their criminal defense counsel.
**People v. Reese**  

Holding that the refusal to give a criminal defendant who cannot afford an attorney a full transcript of trial proceedings from a prior mistrial violates the defendant’s equal protection rights.

**Americans’ Views on Public Defenders and the Right to Counsel**  
RIGHT TO COUNSEL (R2C) NAT’L CAMPAIGN (2017).

Following a survey on public perceptions about the right to counsel, the authors report on findings that more than half of those surveyed believe providing public defense to those who cannot afford an attorney is a legitimate use of taxpayer dollars.

**Unambiguous Deterrence: Ambiguity Attitudes in the Juvenile Justice System and the Case for a Right to Counsel During Intake Proceedings**  

Ambiguity aversion is the phenomenon where someone is required to make a cost-benefit analysis using incomplete information about future events. The author of this article applies ambiguity aversion to juvenile crime, and advocates for states to provide young people with counsel during intake to decrease the ambiguity of punishment and deter crime.

**Dispelling the Myth that Law Students Can Close the Justice Gap**  

The author of this article argues that pro bono requirements imposed on bar applicants as a way to close the existing justice gap overestimates the number of law students and underestimates the number of low-income Americans needing legal assistance, and instead urges states to adequately fund legal services.

**State v. Quehl: Missouri Court Refuses Public Defender’s Delegation of Indigent Legal Representation to Governor**  

Providing background and summarizing the litigation that followed the Missouri State Public Defender’s decision to appoint then-Governor Jay Nixon of Missouri to account for a shortage of funding and attorneys able to provide public defense.

**Access Denied: A National Snapshot of States’ Failure to Protect Children’s Right to Counsel**  
Nat’l Juvenile Defender Center (2017).

Based on statutory analysis and interviews with juvenile defenders in every state, this report explores five fundamental barriers to access to counsel for children, and reveals that nearly every state falls short of its constitutional obligation to provide effective lawyers for youth.
Double Jeopardy

Briggs v. Romanowski

Holding that prosecution in both juvenile court and adult criminal court for different offenses arising from the “same conduct” does not violate the Double Jeopardy Clause.

Due Process

E.J. v. Templeton

Granting a preliminary injunction finding that young people’s procedural due process rights were violated by the state’s “filter system” because it allowed detainment at a secure detention facility prior to a detention hearing, without first meeting statutory prerequisites.

Freedom of Speech

State v. Trey M.

Holding that a youth’s threats in response to harassment were true threats, and thus were not protected free speech.

Interrogation and Miranda

The Odd Couple: Reid Interviews & Miranda Custody

The author of this article argues that youth should receive Miranda warnings before a police officer using the Reid Technique conducts a “Behavioral Analysis Interview.”

Miranda Goes to the Principal's Office: State v. Antonio T. and Juvenile Miranda Warnings in Schools

The author of this article examines New Mexico’s statutory expansion of Miranda, and argues that a school administrator should give Miranda warnings to a child if the administrator questions a child alone about conduct that is both a school disciplinary violation and a delinquent act and could subsequently report the child’s confession to a police officer.
**Dassey v. Dittmann**
201 F. Supp. 3d 963 (E.D. Wis. 2016), *aff’d*, Dassey v. Dittmann, 860 F.3d 933 (7th Cir. 2017), *vacated and reh’g granted*, 860 F.3d 933 (7th Cir. 2017).

Holding that false promises made by investigators, considered in conjunction with defendant’s age, intellectual deficits, and the absence of a supportive adult, rendered the youth’s confession involuntary under the Fifth and Fourteenth Amendments.

**In re A.L.-C.**
382 P.3d 842 (Colo. 2016).

Reversing decision to suppress because a valid waiver of *Miranda* rights did not require the mother’s interests to align with the child’s during a confession.

**State v. Saldierna**
794 S.E.2d 474 (N.C. 2016).

Holding that a youth asking to call his mother, with no indication that he wanted to have her present for interrogation, was not a clear and unambiguous invocation of his right to have his parent or guardian present during questioning.

**State v. Saldierna**

The author of this Comment asserts that the *Saldierna* court erred in holding that law enforcement officers are required to clarify the meaning behind a young person’s ambiguous statement that possibly invoked his right to have a parent present during a custodial interrogation because such a holding is contrary to the intent of the state legislature.

**Applying the Lessons of Developmental Psychology to the Study of Juvenile Interrogations: New Directions for Research, Policy, and Practice**

The author of this article highlights key features of adolescent development that are directly relevant to police interrogation and argues that an explicit recognition of developmental principles is vital to ensuring youth’s due process rights and to the future of juvenile interrogation research.

**SB 1052: Miranda Rights for Minors**

The author of this article examines the effectiveness of California SB 1052 which, if enacted, would protect minors from waiving constitutional rights they do not fully understand.
Juvenile Miranda Waivers: A Reasonable Alternative to the Totality of the Circumstances Approach

The author of this Comment explores the approach taken by juvenile courts to ensure Miranda waivers are knowing and voluntary, and examines problems with these approaches, including inconsistent practices across jurisdictions. The author argues that youth lack the mental abilities needed to make Miranda waivers, and contends that to ensure valid waivers, youth should be guaranteed the opportunity to consult with an attorney before waiving their rights.

Search and Seizure

Ziegler v. Martin Cty. Sch. Dist.
831 F.3d 1309 (11th Cir. 2016).

In a § 1983 action against a Florida school district, the court held that students did not have an actual or reasonable expectation of privacy in a rented party bus; therefore, the bus driver had authority to give consent to a search.

A.M. v. Holmes
830 F.3d 1123 (10th Cir. 2016).

A § 1983 claim against a school principal, assistant principal, and school resource officer was brought by a mother on behalf of her minor child in an Albuquerque public school alleging First, Fourth, and Fourteenth Amendment violations stemming from the arrest of her child at school for repeatedly burping in class, and a later search which involved the child removing several layers of clothing. The court held that the officer had probable cause for the arrest and that the principal had reasonable suspicion for the search for interfering with or disrupting the educational process. The court affirmed grants of qualified immunity for all three defendants.

In re Jamal S.
65 N.E.3d 46 (N.Y. 2016).

Finding that officers had probable cause to arrest a youth for disorderly conduct and that a subsequent search of the child’s shoes, while being temporarily detained and waiting for parental notification, was reasonable.

Mabry v. Lee Cty.
849 F.3d 232 (5th Cir. 2017).

Holding that a detention center’s routine intake procedure that subjects youth charged with certain offenses to strip and cavity searches was “reasonably related to legitimate penological interests,” and therefore did not violate a child’s Fourth Amendment rights.
**State v. Polk**
150 Ohio St.3d 29 (Ohio 2017).

Holding that a search of a child’s unattended book bag was reasonable under the Fourth Amendment, where it conformed to the school’s protocol of requiring searches of unattended book bags to determine ownership and whether the contents are dangerous.

**COSTS, FEES, AND FINES**

**Rivera v. Orange Co. Probation Dep’t**
832 F.3d 1103 (9th Cir 2016).

Finding that a mother’s debt for costs of her child’s juvenile detention was not exempt from bankruptcy discharge.

**Debtors’ Prison for Kids: The High Cost of Fines and Fees in the Juvenile Justice System**
Juvenile Law Ctr. (2016).

This report examines the monetary charges that can be assessed against youth and families as a result of the young person’s involvement in the juvenile justice system, and the economic and legal consequences of such fines and fees.

**Resolution on Juvenile Bail**

This Resolution encourages adoption of laws that prohibit the use of monetary bail for youth and adoption of objective criteria and least restrictive terms when considering release. The Resolution is rooted in the disproportionate effect of monetary bail on youth who are poor and youth of color.

**More Bang for Your Buck: How to Improve the Incentive Structure for Indigent Defense Counsel**

The author of this article examines how different payment and incentive structures, like hourly pay and flat fees, can influence attorney behavior, and discusses how these incentive structures can be improved.

**Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levyng Fines and Fees on Juveniles**

This Advisory builds off an earlier advisory specific to fines and fees charged to adults, and notes the detrimental effect that fines and fees can have on system-involved youth and their...
families, including the risk of increased recidivism, and recommends that young people should be presumed unable to afford fines and fees.

**Juvenile Justice Research to Policy and the Case of Fines**

The author of this article provides a broad overview of juvenile justice policy issues, and focuses on the need for reform related to the impact of excessive monetary penalties disproportionately charged to and owed by youth of color.


This issue brief and infographic report that youth in 21 states can be charged fees for the cost of probation supervision, placing a tremendous burden on young people and their families, and suggests recommendations for reform.

**DETENTION AND CORRECTIONS**

**Juvenile Focus**
Alvin W. Cohn, 80 FED. PROB. J. 49 (2016).

The author of this article gives a broad overview of juvenile prison data between the years 2013 and 2015, from sources including the Bureau of Justice Statistics and the Census of State and Local Law Enforcement Agencies, including data on prison deaths, employment, incarceration and crime rates, racial disparities in incarceration, and the effect of solitary confinement, among other issues.

**BEYOND BARS: KEEPING YOUNG PEOPLE SAFE AT HOME AND OUT OF YOUTH PRISONS**
NATIONAL COLLABORATION FOR YOUTH (2016).

This report supports youth staying home rather than being sent to facilities, and adapting community services to the child and their family. Guidelines are provided to explain how this “continuum of care” approach can be successfully implemented.


The author of this article, a former Assistant State’s Attorney and current court-appointed best interest and privilege attorney in Maryland, explains the current state of the Department of Juvenile Services and where he sees positive progress and room for further growth.
**BOUND AND BROKEN: HOW DYC’S CULTURE OF VIOLENCE IS HURTING COLORADO KIDS AND WHAT TO DO ABOUT IT**
COLO. CHILD SAFETY COALITION (2017).

In this report, the Colorado Child Safety Coalition describes the use of violent and traumatizing punishment against youth in correctional facilities, and makes policy recommendations including prohibiting full-body restraints, prohibiting physical punishment for young people who pose no immediate threat, and ending solitary confinement.

---

**T.S. v. Twentieth Century Fox**

Youth in an Illinois juvenile pretrial detention center sued Twentieth Century Fox, Cook County, and the superintendent of the detention center in a class action, alleging violations of their constitutional rights along with state law tort claims. The youth alleged that the defendants put the detention center on lockdown so that Twentieth Century Fox could film episodes of the TV show *Empire*, restricting youth from accessing necessary facilities and programs during several weeks of filming. The defendants brought motions to dismiss, which were granted in part and denied in part, and the litigation is ongoing.

---

**Resolution Regarding the Need for Independent Oversight of Youth Confinement Facilities**

In this Resolution, the National Council of Juvenile and Family Court Judges recognizes that juvenile court judges have a responsibility to protect youth who are confined in their jurisdiction by providing oversight of youth incarceration facilities.

---

**ELECTRONIC MONITORING OF YOUTH IN THE CALIFORNIA JUVENILE JUSTICE SYSTEM**
UC BERKLEY SAMUELSON LAW, TECHNOLOGY, AND PUBLIC POLICY CLINIC (2017).

This study examines electronic monitoring of youth in California’s juvenile justice system. Researchers surveyed the terms and conditions required as a result of electronic monitoring in all 58 counties in California, and found significant variance in and negative consequences from what is required.

---

**DISPOSITION AND SENTENCING**

**The Right to Redemption: Juvenile Dispositions and Sentences**

The author of this article analyzes available data about the number and types of dispositions youth receive, waivers to criminal courts, and the criminal sentences imposed upon youth. She examines the implications of these sentences in light of the Supreme Court’s recent decisions related to adolescent development, and offers a framework for children’s right to redemption in sentencing.
**Juvenile Sentencing Reform in a Constitutional Framework**  
Elizabeth Scott et al., 88 TEMP. L. REV. 675 (2016).

The authors of this article explore sentencing and resentencing through a developmental framework, and examine the reform of state life without parole laws and other possible reforms following *Miller*.

**State v. K.H.H.**  
185 Wash. 2d 745 (Wash. 2016).

Finding that ordering a young person to write an apology letter to the victim upon disposition does not violate the First Amendment’s protection against compelled speech.

**United States v. E.T.H.**  
833 F.3d 931 (8th Cir. 2016).

Holding that under federal law, the maximum term of supervision that can be imposed following revocation of a prior supervision is calculated using the youth’s age at the time of the revocation hearing.

**Are Adolescent Risk Assessment Tools Sensitive to Change? A Framework and Examination of the SAVRY and the YSL/CMI**  
Jodi L. Viljoen et al., 41 LAW & HUM. BEHAV. 244 (2017).

The authors of this article outline a framework to evaluate a risk assessment tool’s ability to measure change over time; apply this framework to two tools (the Structured Assessment of Violence Risk in Youth and the Youth Level of Service/Case Management Inventory); and find that while both tools indicate partial internal and external sensitivity, relative sensitivity was not supported and further work is needed to enhance risk assessment sensitivity.

**Mending the Federal Sentencing Guidelines Approach to Consideration of Juvenile Status**  

The Harvard Law Review argues that in light of the Supreme Court’s recent “juveniles are different” cases, Congress should expand the range of statutory federal sentencing guidelines. Additionally, the author asserts that until such guidelines are promulgated, appellate courts should be skeptical of any sentences for youth that apply current guidelines.

**State v. Propps**  
897 N.W.2d 91 (Iowa 2017).

Finding that a state statute precluding the court from sentencing a youth convicted of a forcible felony to either a deferred judgement or probation did not violate the Eighth Amendment.
**State v. Johnson**

Finding that a youth’s receipt of misinformation as to his sentencing exposure, due to the decision in *Graham*, could affect his ability to enter a plea bargain intelligently and voluntarily.

**FAMILY ENGAGEMENT**

**The Capacity for Effective Relationships among Attorneys, Juvenile Clients, and Parents**

The authors of this article discuss research findings indicating that both adolescents and parents often misunderstand the role of the defense attorney, especially regarding confidentiality, and suggest that defense attorneys should more proactively address misinformation regarding attorney and parent roles.

**What They Don’t Know Can Hurt Them: Mothers’ Legal Knowledge and Youth Re-Offending**

The authors of this article examine mothers’ knowledge of the juvenile justice system; find that a mother’s legal knowledge is associated with her legal participation, as well as her child’s re-offending behavior after a first arrest; and conclude that attorneys should keep parents informed and engaged in their child’s legal process to reduce re-offending.

**GAULT AT 50**

**Defend Children: A Blueprint for Effective Juvenile Defender Services**

This report calls for state and local lawmakers to create equitable systems of legal representation for youth and to build on emerging juvenile defense reforms. The Blueprint includes seven recommendations with specific ideas for improving the access to and practice of juvenile defense services, as well as corresponding “innovations” that highlight effective strategies to secure the resources, specialized knowledge, and leadership necessary to fulfill the constitutional promise of counsel for all youth.

**Realizing Gault’s Promise of Due Process**

The author of this article, a Massachusetts juvenile court judge, argues that realizing *Gault’s* promise of due process for children requires rethinking inappropriately punitive policies, understanding collateral consequences, examining racial and ethnic disparities, and applying
adolescent development research to juvenile justice. Recommended policies that strengthen due process include a presumption of financial eligibility for access to counsel and required consultation with an attorney before waiver of counsel.

**Remaking Juvenile Justice: In re Gault Anniversary**

This introductory piece gives a brief overview of the facts in *In re Gault* and the case’s importance to juvenile justice.

**Pursuing Gault**

The authors of this article analyze how *In re Gault* has been cited in subsequent case law, to demonstrate patterns in jurisprudence and provide advocates with the information to make strategic decisions about future reform.

**When Are We Going to Launch Gault 2.0?**

The author of this article presents research that juvenile defenders can use to argue that youth should not be treated like adults, and argues for implementation of a “Gault 2.0” which would encourage courts to explicitly apply recognition of developmental differences to earlier stages of the juvenile court process, including custody, waiver of rights, and competency to stand trial. This approach would require that all youth under the age of 15 consult with an attorney before waiving *Miranda* rights, and would apply a higher standard of scrutiny to custodial statements made by youth over 15 years old without an attorney present.

**Moving Forward from Gault**
Casey McGowan et al., 41 CHAMPION 22 (2017).

The authors of this article argue that the developmental and due process reasoning used in *In re Gault* should support enhanced procedural protections at all stages of juvenile proceedings, including access to counsel during interrogation, decisions regarding waiver to adult court, and determining the appropriate *mens rea* standard.

**Gerald Gault, Meet Brendan Dassey: Preventing Juvenile False and Coerced Confessions in the 21st Century**
Laura Nirider et al., 41 CHAMPION 28 (2017).

In light of recent publicity about the Brendan Dassey case, the authors of this article point out the significance of *In re Gault’s* focus on protection against self-incrimination, arguing that law enforcement practices should be reformed to prohibit officers from making false promises of leniency, lying about evidence, and disclosing information about the crime while
interrogating a child suspect. The authors also provide practice tips for defenders to use in trying to implement these reforms.

**Liberating Gerald Gault: International Norms of Due Process for Children**  

The authors of this article discuss the history of *In re Gault*, the transnational context of the case — particularly how memories of the Holocaust shaped litigation — and the influence of the decision on international standards and guidelines concerning children.

## Identity and Status

**Crossover Youth**

**Resolution on Dual Jurisdiction Youth**  

This Resolution adopts the American Bar Association’s Criminal Justice Standards Relating to Dual Jurisdiction Youth, which make recommendations including coordination of systems, cross-system training, and standards for court personnel when serving crossover youth.

**Gender**

**The Case for Trauma-Informed, Gender-Specific Prevention/Early Intervention Programming in Reducing Female Juvenile Delinquency in Florida**  

The authors of this article describe the need for gender-specific, trauma-informed programming in the juvenile justice system recognized by Florida statute, and describe one school’s implementation of the statutory recommendations.

**Girlhood Interrupted: The Erasure of Black Girls’ Childhood**  
Rebecca Epstein et al., GEO. L. CTR. ON POVERTY & INEQ. (2017).

This study provides data showing that adults view Black girls from five to 14 years of age as less innocent and more adult-like than their white peers, leading to serious negative impacts on girls in the education and juvenile justice systems, and argues that recognizing the bias underlying the adultification of Black girls is an important step in ensuring equal treatment and protections for children.
**Homeless Youth**

**Addressing the Intersections of Juvenile Justice Involvement and Youth Homelessness: Principles for Change**

This report examines the connection between juvenile justice involvement and youth homelessness, and provides a roadmap for communities to help young people avoid those harmful experiences. The roadmap emphasizes diversion from the juvenile justice system, increased awareness and training surrounding the issues of youth homelessness, and access to appropriate services and supports for youth and families.

**Forgotten Youth: Homeless LGBT Youth of Color and the Runaway and Homeless Youth Act**

The author of this Comment discusses how the Runaway and Homeless Youth Act does not account for the intersecting identities of LGBT youth of color, resulting in lack of access to needed services and programs for a population that disproportionately experiences homelessness, and proposes changes to the Act to remedy this phenomenon.

**Resolution Addressing the Needs of Homeless Youth and Families in Juvenile and Family Courts**

This Resolution recognizes the responsibility that juvenile court judges have to provide leadership in addressing homelessness, and the importance of providing homeless youth with “appropriate and adequate” services that improve outcomes for homeless youth. The Resolution offers recommendations regarding judges’ responsibilities in addressing homelessness.

**Immigrant Youth**

**Adverse Consequences and Constructive Opportunities for Immigrant Youth in Delinquency Proceedings**
Theo Liebmann, 88 TEMP. L. REV. 869 (2016).

The author of this article examines the immigration consequences as well as opportunities that arise in juvenile delinquency proceedings; describes the juvenile defender’s duty to competently advise and advocate for their clients; and argues that more immigration-specific training, resources, and advocacy are needed for youth accused of crimes.
**United States v. Cabrera-Ochoa**

Holding that a removal order, waiver of counsel, and waiver of appeal were invalid when an immigration judge affirmatively misadvised the juvenile defendant that he was not eligible for relief from deportation.

**It’s Not (Fundamentally) Fair!: The Right to Counsel on the Immigration Consequences of Juvenile Misconduct**

The author of this article examines the evolution of a right to counsel in juvenile proceedings, discusses a noncitizen adult’s due process right to be advised by counsel on immigration consequences, and argues that the same right should apply in juvenile proceedings.

**Race**

**What’s Race Got to Do with It? Just About Everything: Challenging Implicit Bias to Reduce Minority Youth Incarceration in America**

The authors of this article examine the disproportionate confinement of youth of color in the juvenile justice system, the effect of racial bias on decision makers, and ways in which juvenile defenders can challenge racial disparities.


The author of this article describes how the fear of increased juvenile offenses in the mid-1990s led to “get tough” policies and the increased, disproportionate incarceration of racial and ethnic minority children in North Carolina. Although the state identified disproportionate confinement as a problem, especially since the feared juvenile crime wave did not happen, it took few steps to adequately address overrepresentation.

**Black Boys Matter: Developmental Equality**

The author of this article argues for a new “developmental equality model,” informed by social science research on the development of Black boys, as a basis for policy and litigation strategies to address structural discrimination, prevent inequality, and provide support for children’s opportunity to develop.
Implicit Racial Bias and Public Defenders
Jessica Blakemore, 29 GEO. J. LEGAL ETHICS 833 (2016).

The author of this article describes the impact of implicit bias on every aspect of criminal proceedings, and the ethical duty of the public defender to address its impact on the attorney-client relationship. The author argues that ethics codes could require attorneys to confront implicit bias, and highlights recent efforts in the legal community, such as implicit bias training and initiatives to improve relations between minority communities and law enforcement.

Bringing Racial Justice to the Courtroom and Community: Race Matters for Juvenile Justice and the Charlotte Model

The authors of this article describe the success that a Charlotte, North Carolina collective, Race Matters for Juvenile Justice, experienced by using partnerships between law enforcement and the community to openly discuss race and address racial inequality in the juvenile justice system. Additionally they provide background and strategies in order to help other jurisdictions replicate the “Charlotte Model.”

The Racialization of Juvenile Justice and the Role of the Defense Attorney

The author of this article discusses the racialization of juvenile justice, explores the role of the juvenile defense attorney in addressing these harms, and argues that court actors should focus on implicit bias training, diversification, and procedural safeguards to address bias instead of focusing on how to eradicate bias.

Race, Paternalism, and the Right to Counsel

The author of this article discusses how implicit racial bias in juvenile defenders contributes to paternalism and undermines their advocacy. The author suggests strategies to reduce this implicit bias and replace it with positive narratives about black children and families.

The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment

The author of this article considers four ways in which the intersection of race and adolescence affect a Fourth Amendment analysis, specifically in terms of seizure, consent to search, reasonable articulable suspicion justifying a stop, and the assignment of meaning to relevant facts, and argues for a reasonable black child standard.
Sexual Orientation, Gender Identity, and Gender Expression

The Developmental Perspective and Intersectionality
Theresa Glennon, 88 TEMP. L. REV. 929 (2016).

The author of this article describes the intersection between adolescent development, race, and sexual orientation. The author asserts that biases held about race and LGBTQ identity can create a distorted perception of advanced development and increase the likelihood of transfer to adult court when youth of color and LBGTQ youth come into contact with the legal system.

Beyond Rehabilitation: Constitutional Violations Associated with the Isolation and Discrimination of Transgender Youth in the Juvenile Justice System

The author of this Note weighs the protections of the Eighth and Fourteenth Amendments, and argues that the Due Process Clause is the only constitutional remedy that can systematically address harsh conditions of confinement suffered by transgender youth in the juvenile justice system because it is more protective and better aligned with the rehabilitative intentions of the juvenile justice system.

Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming, and Transgender Girls and Boys in the California Juvenile Justice System: A Practice Guide (Infographic & Report)

This practice guide is intended to support California probation departments in promoting the safety and well-being of lesbian, gay, bisexual, questioning, transgender, and gender non-conforming youth, who are significantly overrepresented in the state’s juvenile justice system.

A Colorable Showing of a Hybrid Rights Claim Under Strict Scrutiny: A Legal Analysis of What Would Happen When Transgender Identity Clashes with Free Exercise of Religion in California Public Schools

The author of this article explores the constitutional tension between liberty and equality that surfaces when a transgender student’s right to access facilities consistent with their gender identity conflicts with another student’s right to exercise their religion. The author analyzes the history of Free Exercise claims, and argues that the conflicting rights of transgender and religious students will remain in an unclear tug-of-war until the Supreme Court weighs in.
Access to Juvenile Justice Irrespective of Sexual Orientation, Gender Identity, and Gender Expression (SOGIE)

This judicial bench card provides information to help judges support LGBTQ-GNC youth by detailing challenges, unique considerations, and terminology, and suggesting additional training and resources.

Tribal Youth

Recentering Tribal Criminal Jurisdiction

The author of this article identifies several “grey areas” in tribal jurisdiction over juvenile cases, and advocates for a tribe-centered approach that asks whether a particular power is related to tribal sovereignty and whether that power has been taken away, arguing that juvenile jurisdiction should be determined consistent with tribal priorities.

MODEL INDIAN JUVENILE CODE
CTR. OF INDIGENOUS RESEARCH AND JUST., BUREAU OF INDIAN AFFAIRS (2016 Revision).

The Model Indian Juvenile Code was created in an effort to better meet the unique needs of tribal nations that have juvenile justice jurisdiction over Native youth. The Code encourages tribes to adopt the code or reform existing codes to meet the recommendations within such as providing more rehabilitative and restorative measures, less secure detention, and increased access to counsel.

Locked Up: Fear, Racism, Prison Economics, and the Incarceration of Native Youth

The author of this article looks at information about tribal juvenile justice systems from 1998 to 2013, and examines the factors that have led to over-incarceration of Native youth within tribal systems in order to provide tribal leaders with the information necessary to reshape their juvenile justice systems.

INTERNATIONAL PERSPECTIVES

Child-Friendly Justice: Protection and Participation of Children in the Justice System

The author of this article describes “child-friendly justice,” an approach to juvenile justice directly linked to the legal status of children under international human rights law. This approach aims to make justice systems more focused on balancing children’s protection with
their participation. The author explores the emergence of child-friendly justice guidelines adopted by the Council of Europe as recommendations for their member countries.

“Not Bad Kids, Just Bad Choices”: Governing School Safety through Choice  
Zachary Levinsky, 31 No. 3 CAN. J. L. & SOC’Y 359 (2016).

The author in this article analyzes the effects of a Canadian school’s safety policy of “governing through choice,” which labels students as makers of bad choices that render them subject to exclusion from school. The author argues that framing school discipline as an issue of student choice is common across school safety policies to manage their own reputation, whether they are “zero tolerance” or more lenient, and suggests that the effects of this framing should be more closely examined.

**JUVENILE JUSTICE REFORM**

**SB 367 and Juvenile Justice Reform in Kansas: A Whole New World**  

The author of this article, a Kansas juvenile court judge, addresses the widespread juvenile justice reforms implemented by SB 367. He provides a general overview of some of the legislation’s key changes and implications for those working within the juvenile justice system.

**Resolution in Support of Reauthorization and Strengthening of the Juvenile Justice and Delinquency Prevention Act and Elimination of the Valid Court Order Exception**  

This Resolution announces NCJFCJ’s support for full reauthorization of the JJDPA, and its support for a provision eliminating the valid court order (VCO) exception.

**Spotlight On: Project NIA – Building Peaceful Communities**  
Emily Blumenstein, 36 CHILD. LEGAL RTS. J. 218 (2016).

The author of this article describes Project NIA, an organization in Chicago dedicated to reducing juvenile incarceration by providing community-based alternatives to traditional punishment.

**Overview of Juvenile Justice Reform Efforts in Hawaii**  

The author of this article surveys the recent improvements made to Hawaii’s juvenile probation practices, which seek to avoid the negative effects of the previous system by focusing on healing and limiting youth exposure to the justice system.
The Transformation of Juvenile Justice Jurisdiction in Vermont: Landmark Legislation Enacted in the 2016 Legislative Session

The author of this article summarizes Vermont Act 153 (H.95), which made major changes for juvenile justice in Vermont, including raising the age of juvenile court jurisdiction for certain offenses and instructing the Joint Legislative Justice Oversight Committee to explore additional issues related to expanding juvenile court jurisdiction.

Courts

The authors of this article discuss the Georgia Council on Criminal Justice Reform’s initiative to improve Georgia’s criminal and juvenile justice systems, including a phase focusing on “controlling the budget” through reducing juvenile recidivism, and introducing recommendations for restricting secure detention and implementing progressive discipline in schools. The authors also summarize SB 367, which implements many of these recommendations.

A Qualitative Study of Youth and the Juvenile Justice System: A 100 Percent Pittsburgh Project
The Pittsburgh Foundation (2016).

This report documents the results of the Juvenile Justice Pilot project, which aimed to generate data from conversations with youth who have first-hand knowledge of the juvenile justice system in Allegheny County, Pennsylvania. Youth were asked to reflect on the experiences that led to their involvement in the system, and to share ideas for system improvements. Recommendations include integration of youth’s voices into the system, connecting youth to historical examples of triumph against the odds, and the removal of excessive restitution and court-related fees that inhibit rehabilitation.

A Commonsense Conclusion: Creating a Juvenile Carve Out to the Massachusetts Felony Murder Rule

The author of this Note argues that Massachusetts should apply the social science research on adolescent development and lessened capacity adopted by the Supreme Court to the felony murder rule for youth under 18 in Massachusetts.

Peers Implementing Restorative Justice for Youth Offenders

The author of this article introduces youth courts as a means of implementing restorative justice in the juvenile justice system, focusing specifically on Orange County’s Peer Court program, and explores the benefits of using youth courts versus the traditional delinquency system.
BREAKING DOWN THE WALLS: LESSONS LEARNED FROM SUCCESSFUL STATE CAMPAIGNS TO CLOSE YOUTH PRISONS
YOUTH FIRST INITIATIVE (2017).

This report details reforms aimed at ending incarceration of youth in six states — California, New York, Louisiana, Texas, the District of Columbia, and Mississippi — and draws out lessons learned from each of these campaigns.

Delaware: An Assessment of Access to Counsel and Quality of Representation in Juvenile Delinquency

This report, based on interviews, observation, and research, analyzes Delaware Family Courts and offers recommendations for establishing juvenile defense leadership and practice units to build a dedicated cadre of lawyers who specialize in the representation of youth and who can address pervasive racial disparities and strengthen due process protections.

JUVENILE SEX OFFENSES

Juveniles Adjudicated for Sexual Offenses: Fallacies, Facts, and Faulty Policy

The authors of this article review the specialized social control policies that were modeled on adult sex offender programs and then applied to youth adjudicated for sexual offenses, such as civil commitment, registration, and community notification. The authors compare the outcomes of these youth to youth adjudicated for non-sexual offenses for purposes of determining whether youth adjudicated for sexual offenses present unique risks or needs for purposes of treatment. Their findings show that both groups are equally or less likely to reoffend in the future, and thus requirements such as registration and notification for youth adjudicated for sexual offenses are unlikely to increase public safety.

In re D.S.
146 Ohio St.3d 182 (Ohio 2016).

Holding that due process is not violated when youth adjudicated for a sex offense as a minor was required to maintain sex offender registration and notification after reaching the age of 18 or 21.

The Sex Offender Registration and Notification Act (SORNA) at 10 Years: History, Implementation, and the Future

The author of this article discusses youth registration provisions and the challenges they impose on implementation of SORNA, and specifically addresses the varied ways it is applied to youth.
State v. Boche

Holding that the lifetime registration requirements of Nebraska’s Sex Offender Registration Act are not cruel and unusual punishment under the Eighth Amendment, even for conduct committed while under the age of 18.

Throwaway Children: The Tragic Consequences of a False Narrative
Catherine L. Carpenter, 45 SW. L. REV. 461 (2016).

The author of this article discusses the concept of a “Throwaway Child,” one who is required to register as a sex offender for life, and the consequences of utilizing mandatory registration and notification guidelines for youth. The author suggests that registration creates a false narrative about non-dangerous youth, portraying them as sexually dangerous regardless of statistical evidence that proves otherwise.

Quantifying the Decline in Juvenile Sexual Recidivism Rates

The author of this article finds that juvenile sexual recidivism has decreased by 73% since studies conducted between 1980 and 1995, and discusses the implications this finding has on public policies, assessments, and services.

Good, Bad and Wrongful Juvenile Sex: Rethinking the Use of Statutory Rape Laws Against the Protected Class
Anna High, 69 ARK. L. REV. 787 (2016).

The author of this article argues that the use of statutory rape laws against minors — the class these laws were originally designed to protect — should be reformulated to only include cases of sex, evidenced by exploitation and one “victim,” and should not include cases of consensual sexual contact involving immature actors.

Recasting Vagueness: The Case of Teen Sex Statutes

The author of this article argues that statutory rape laws invite selective enforcement and over-criminalization, and recommends that consensual sex between youth under the age of 16 should be decriminalized.

Juvenile Sexual Crime Reporting Rates are Not Influenced by Juvenile Sex Offender Registration Policies

The authors of this article conducted a study on the association between juvenile sex offender registration and notification policies and juvenile sexual crime. The authors assert that juvenile sex offender registration has no effect on juvenile sex offense recidivism rates, and
recommend that efforts be tailored toward “effective” treatment of youth adjudicated of sex offenses, including through development of sexual abuse prevention programs over policies for registration and notification requirements.

**In re Justin B.**

Holding that mandatory lifetime sex offender registration and electronic monitoring requirements for youth does not constitute cruel and unusual punishment under the Eighth Amendment.

**State v. Graham**
2017 WL 2291386 (Iowa 2017).

Holding that neither sentencing lifetime sex offender registration nor lifetime parole is cruel and unusual punishment, or grossly disproportionate as applied to a youth.

**The New Unconstitutionality of Juvenile Sex Offender Registration: Suspending the Presumption of Constitutionality for Laws that Burden Juvenile Offenders**

The author of this article surveys the court split on whether sex offender registration is punitive for purposes of challenges under the Ex Post Facto Clause, argues that the Supreme Court should suspend the presumption of constitutionality for such an inquiry, and proposes a new framework to evaluate laws that burden youth in the juvenile justice system.

**MENTAL HEALTH AND DISABILITIES**

**Delinquency and Lead Poisoning: Are Slum Landlords the Real Criminals in Baltimore?**
Katrina Wallace, 49 MD. B.J. 18 (2016).

The author of this article addresses the link between lead poisoning and court involvement, urges further research to explore this link, and offers methods for teachers, law enforcement, and judges or magistrates to address lead poisoning in youth populations they serve.

**EXAMPLES AND RESOURCES TO SUPPORT CRIMINAL JUSTICE ENTITIES IN COMPLIANCE WITH TITLE II OF THE AMERICANS WITH DISABILITIES ACT**

This document provides practical guidance for criminal justice entities seeking to comply with Title II of the American with Disabilities Act (ADA). The guidance includes ways in which the ADA protects individuals with mental health disabilities and intellectual and developmental disabilities (I/DD), such as requiring that state and local criminal justice entities, including juvenile justice entities, ensure individuals have an equal opportunity to participate in and benefit from programs and services, are afforded reasonable modifications.
to policies, practices, and procedures, and are served in “the most integrated setting appropriate to their needs.”

PLEAS

Plea Discounts, Time Pressures, and False-Guilty Pleas in Youth and Adults who Plead Guilty to Felonies in New York City
Tina M. Zottoli et al., 22 PSYCHOL. PUB. POL’Y & L. 250 (2016).

The authors of this article found, based on interviews with youth and adults who plead guilty to felonies in New York City, that the combination of substantial plea discounts, time pressures, and insufficient attorney consultation is leading to potentially involuntary guilty pleas by youth and adults who are either innocent or not guilty of the charge.

To Plead or Not to Plead: A Comparison of Juvenile and Adult True and False Plea Decisions
Allison D. Redlich & Reveka V. Shteynberg, 40 LAW & HUM. BEHAV. 611 (2016).

The authors of this article find that youth are more likely than adults to plead guilty to crimes of which they are factually innocent, and less likely to consider the short- and long-term consequences of their plea. The authors conclude that greater knowledge of the plea’s consequences, obtained in consultation with a lawyer, will likely influence plea decisions.

The Disappearing Trial: Towards a Rights-Based Approach to Trial Waiver Systems
FAIR TRIALS (2017).

This report finds that in 66 of the 90 countries studied, trials are giving way to plea bargaining and a formal “trial waiver” system is leading to a “breakdown of the rule of law.” The report briefly highlights the concerns with allowing plea bargaining in juvenile cases in particular, and recommends that if such waiver of trial is allowed to occur, each child must have adequate legal representation.

POLICING AND LAW ENFORCEMENT

SETTLEMENT WITH POLICE DEPARTMENT OF BALTIMORE CITY, MARYLAND
Dep’t of Justice, Civil Rights Division (2017).

This consent decree with the Police Department of Baltimore City requires comprehensive reforms of police interactions with youth, including conducting a comprehensive assessment of the City’s efforts to reduce youth involvement with the juvenile and criminal justice systems, and the development and implementation of new training specific to policing youth.
Youth/Police Encounters on Chicago’s South Side: Acknowledging the Realities
Craig B. Futterman et al., 2016 U. CHI. LEGAL F. 125 (2016).

The authors of this article summarize the findings of the Youth/Police Project, which spoke with Black high school students about their interactions with police, and found that Black youth in Chicago feel that police are a constant presence, do not trust the police, and see the police as unaccountable. The authors then propose policies to improve youth/police relationships and improve police accountability, starting with acknowledging the realities of what it means to be a Black student coming into contact with the police.

The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model

This paper calls for youth prisons to be closed and replaced with developmentally appropriate, community-based services.

Boys to Men: The Role of Policing in the Socialization of Black Boys

The author of this chapter argues that negative police interactions experienced both personally and vicariously by young Black males in the United States have a profound impact on the way they respond to the law and law enforcement.

Post-Disposition, Reentry, Collateral Consequences, and Sealing and Expungement

Re-Entry and the Juvenile Defender

The author of this article examines juvenile reentry and outcomes of youth reentering their communities following secure placements, discusses best practices for defenders to support successful reentry, and details the implementation and results of the Second Chances Project and the Reentry Project at the Louisiana Center for Children’s Rights.

A Second Chance: HBA, UH Law Center Team Up to Seal Juvenile Records
Michael Schneider et al., 54 HOUS. LAW. 16 (2017).

The authors of this article provide an overview of the Houston Bar Association’s Juvenile Sealing Project, describing the project’s growth and efforts to expand.
The authors of this article demonstrate through the story of Gerald Gault that a juvenile record results in serious and lasting harm, including denial of education, employment, and housing.

**PROBATION**

“**You’re on the Right Track!”** Using Graduated Response Systems to Address Immaturity of Judgment and Enhance Youths’ Capacities to Successfully Complete Probation
Naomi E.S. Goldstein et al., 88 TEMP. L. REV. 803 (2016).

The authors of this article explore the current state of juvenile probation in the United States, advocate for a more developmentally informed probation model of graduated responses that could lead to greater compliance by youth on probation and correspondingly less reliance on detention and other consequences for violations, and examine the legal and policy considerations.

**Risk Assessment Matters, But Only When Implemented Well: A Multisite Study in Juvenile Probation**
Gina M. Vincent et al., 40 LAW & HUM. BEHAV. 683 (2016).

The authors of this article used a multisite study to look at the impact of risk assessments, and found that the key benefit of implementing a valid risk assessment was improved resource allocation and fewer instances of inappropriate interference in youths’ lives.

**And Justice for All: Determinants and Effects of Probation Officers’ Processing Decisions Regarding First-Time Juvenile Offenders**

The authors of this article describe a longitudinal study of 359 youth charged with first-time, low-level offenses which assessed how extralegal factors affect youth processing decisions and youth reoffending and arrest. The authors find that factors like refusal to comment on the charge, the guardian disapproving of the youth’s friends, or the probation officer perceiving that the youth’s environment is problematic increase the probability that a child will be formally processed, and that those youth who are formally processed are more likely to be rearrested in the subsequent six months.

**Resolution Regarding Juvenile Probation and Adolescent Development**

This Resolution announces NCJFCJ’s support for juvenile probation systems that are evidence-based and conform to adolescent development research, calls for individualized case plans and case management, and encourages jurisdictions to develop informal alternatives to respond to technical violations.
SCHOOL DISCIPLINE AND EDUCATIONAL ISSUES

School Policing, School Discipline, and the School-to-Prison Pipeline

SECURE RUBRICS

LOCAL IMPLEMENTATION: This SECURe (Safe School-based Enforcement through Collaboration, Understanding, and Respect) implementation rubric is designed to help school districts, schools, and law enforcement agencies determine the type of school-police partnership most appropriate for their community, and to provide guidance on implementing such a partnership.

STATE AND LOCAL POLICY: This SECURe (Safe School-based Enforcement through Collaboration, Understanding, and Respect) policy rubric is designed to assist state and local governments as they revise or develop statutes, regulations, and agreements related to the appropriate incorporation of law enforcement in schools.

They Got Eyes in the Sky: How the Family Educational Rights and Privacy Act Governs Body Camera Use in Public Schools

The author of this Comment argues that the Family Education Rights and Privacy Act (FERPA), which protects student privacy in public schools, should govern the use of body camera footage within public schools and that footage should qualify as an education record under the Act. Disclosure would require consent of the student or parent, except in limited scenarios.

Breaking School Rules: The Basics on Student Discipline Proceedings

The author of this article provides an overview of the student discipline system in Texas public schools, including the mitigating factors that school administrators are required to consider when a school is considering removal or expulsion.

Reforming School Discipline

According to the author of this article, affirmative education rights and duties found in state constitutions can be used to substantively reform school discipline and consequently improve educational quality. First, as students have a constitutionally protected right to education, suspensions and expulsions should trigger heightened scrutiny. Second, the author asserts that discipline policies that undermine educational quality violate states’ constitutional obligation to provide adequate education to students.
Rethinking Law Enforcement Officers in Schools
Jason P. Nance, 84 GEO. WASH. L. REV. ARGUENDO 151 (2016).

The author of this article presents a cost-benefit analysis of programs placing law enforcement officers in schools. The author urges educators, law enforcement, and policymakers to consider replacing school resource officers with evidence-based programming to improve outcomes for children.

“Bitch,” Go Directly to Jail: Student Speech and Entry Into the School-to-Prison Pipeline

The author of this article explores the connection between offensive speech that may be constitutionally protected outside of a school setting and the school-to-prison pipeline, where many students, particularly those of color, find themselves excluded from school for offensive speech. Using examples from Meridian, Mississippi, the author argues that the over-arrest of students for “public order offenses” that should be treated as school disciplinary matters fuels the school-to-prison pipeline, and offers suggestions for reform.

Eliminating Zero Tolerance Policies in Schools: Miami-Dade County Public Schools’ Approach

Using critical race theory to explore inequalities in American schools, the author of this article promotes restorative justice theory as an alternative to the zero tolerance policies fueling the school-to-prison pipeline, and examines this in light of the alternative disciplinary policies being used in the Miami-Dade Public School District. The author argues that schools are in a unique position to curb discrimination and to shut off the school-to-prison pipeline, reducing the United States debt by decreasing the prison population.

“Cerd-Ain” Reform: Dismantling the School-to-Prison Pipeline through More Thorough Coordination of the Departments of Justice and Education

The author of this article examines the school-to-prison pipeline through the lens of the United Nations Committee to End All Forms of Racial Discrimination. She explores recommendations made by the Leadership Conference on Civil and Human Rights to the Committee, which include reviewing “zero tolerance” policies and limiting the use of suspension and expulsion, and urges policymakers to implement those recommendations in order to comply with treaty requirements.

Exploring the Spectrum: How the Law May Advance a Social Movement

The author of this article argues that while the literature about the school-to-prison pipeline focuses on prevention at the schoolhouse level, it is equally important to focus study and resources on reentry to education services for youth post-detention. Darden asserts that the
inaccessibility of public education following detention leads to a cycle of re-incarceration that is difficult for youth to break, and that this lack of aftercare and its virtual guarantee of re-incarceration violates the Eighth Amendment.

Dismantling the School-to-Prison Pipeline: Tools for Change

The author of this article analyzes the causes and consequences of the school-to-prison pipeline, and offers evidence-based tools to attempt to dismantle it, including restorative justice circle groups, the multi-tiered intervention model, School-Wide Positive Behavior Interventions and Supports (SWPBIS), and the use of data to identify and address emerging negative patterns.

Managing Our Blind Spot: The Role of Bias in the School-to-Prison Pipeline

The author of this article addresses the role of implicit and explicit bias in the disproportionate effect of the school-to-prison pipeline on youth of color, and proposes the adoption of a Federal School Disciplinary Law, which would employ evidence-based school disciplinary practices, a school-community task force, and mandatory implicit bias training for school personnel in order to eradicate the pipeline.

Students, Police, and the School-to-Prison Pipeline

The author of this article addresses the impulse to increase police presence in schools following tragedies like Sandy Hook, and presents original empirical evidence that rather than increase safety, police presence at school is predictive of increased referral to law enforcement for various offenses, including low-level offenses. The author argues that the consequences of such referrals negatively affect the trajectory of students’ lives, especially students of color.

The Civil Rights Crisis in Our Schools

The author of this article addresses the implementation of suspension regulations passed by the Maryland State Board of Education, and argues that while suspensions are down overall, statistics show that the disproportionate suspension of African-American and disabled students has increased. The piece advocates for the implementation of more holistic special education policies to better identify students in need and stem the flow of the school-to-prison pipeline.
School Discipline Reform in Illinois: Creating Policies to Reduce the Use of Suspension and Expulsion
Azam Nizamuddin, 29 DCBA BRIEF 18 (2016).

The author of this article addresses the newly enacted Public Act 99-456 in Illinois, which responds to the national trend of exclusionary discipline in schools, and forbids zero tolerance policies mandating suspension and expulsion for certain offenses. The author offers an overview of the legislation and provides resources to support implementation.

The Anti-Pipeline Collaborative

The author of this article discusses the negative effects of the school-to-prison pipeline and introduces a policy intervention of an “anti-pipeline collaborative,” which seeks to ameliorate these harms by gathering stakeholders from multiple agencies to craft a response. She then examines a collaborative in Clayton County, Georgia, and demonstrates how, since duplicated in several locales, such collaboratives have led to fewer suspensions, fewer referrals to the courts, and higher graduation rates.

School-to-Prison Pipeline: Preliminary Report

The authors of this report address reversing the school-to-prison pipeline, provide an overview of the issue garnered from town hall meetings conducted nationally, and offer recommendations for the American Bar Association and its partners to address the pipeline.

Gatekeepers to Success: Missouri’s Exclusionary Approach to School Discipline

The author of this article explores the federal government’s growing involvement in education, and argues for the repeal of Missouri Revised Statute section 167.161.4, which permits local administrators to deny enrollment to children with suspensions and expulsions in other school districts. She argues the statute effectively denies children in Missouri the education they are guaranteed by the state constitution.

A Better Way: Empowering Youth to Build Character and Community in Our Schools
Joan Vestrand, 64 FED. LAW 62 (2017).

The author of this article discusses the high school Peacemaking Court designed by the WMU Cooley Law School, which aims to solve school conflict and misbehavior without the harsh disciplinary policies that fuel the school-to-prison pipeline.

The author of this Note argues that courts should establish a clear constitutional standard based on the Fourth Amendment for excessive force claims against School Resource Officers. Additionally, she asserts that the use of physical, mechanical, and chemical restraints to deal with misbehavior in school should be per se unreasonable.

Settlement with Covington Schools, Kentucky
Dep’t of Justice, Civil Rights Division, (2017).

This consent decree was the product of negotiations between the United States Department of Justice, Civil Rights Division, Educational Opportunities Section, and the Covington Independent Public Schools in Kentucky, following an investigation initiated under Title IV of the Civil Rights Act of 1964, and Title II of the Americans with Disabilities Act. It addresses the Covington Independent Public Schools’ discriminatory use of disciplinary policies and practices based on race, national origin, and disability. It requires the district to reform the disciplinary practices used with students, end routine involvement of law enforcement officers in school discipline, and ensure that disciplinary policies and practices used are not discriminatory.

Settlement with Board of Education of Wicomico County, Maryland
Dep’t of Justice, Civil Rights Division, (2017).

This consent decree was the product of negotiations between the Board of Education of Wicomico County and the United States Department of Justice following its investigation into complaints of alleged discrimination on the basis of race, ethnicity, and disability in its disciplinary practices. It requires the district to implement evidence-based student discipline policies and procedures, including the hiring of a special consultant to assist in the revision of the school district’s discipline policies and the creation of a Student Services Team.

Handcuffing a Third Grader? Interactions Between School Resource Officers and Students with Disabilities

The authors of this article address the increasingly frequent instances of disturbing interactions between School Resource Officers (SROs) and students with disabilities. They advocate for strict adherence to the provisions of the Individuals with Disabilities Education Act that pertain to the use of behavioral interventions to address undesired behavior of students with disabilities, for more comprehensive training of SROs, and for a clear delineation of roles between the school administration and SROs.
Student Surveillance, Racial Inequalities, and Implicit Racial Bias

The author of this article presents an empirical analysis of data on school surveillance practices and highlights the trend of schools, serving primarily students of color, relying on more intensive surveillance methods. He discusses the role that racial bias may play in school administrators’ decisions to institute surveillance, and offers legislative and strategy recommendations for reform.

Special Education

Courtroom, Classroom, Commitment: Using Special Education and Disability Rights to Keep Youth Out of Secure Facilities

The author of this article argues that juvenile defenders play a critical role in ensuring that children in the delinquency system have their educational, behavioral, and mental health needs met, and discusses how juvenile defenders can secure these services for their clients.

The Misidentification of Children with Disabilities: A Harm with No Foul

The author of this article argues that the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act have led to disproportionate misidentification of minority students as learning disabled, and that the failure to hold schools accountable for this misidentification has caused educational harm to youth. The author argues that special education has become a “dumping ground” for difficult children, and the lack of consequences for misidentification has led schools to continue to misidentify students with no fear of liability. Additionally, she suggests strategies to increase accuracy of disability identification.

Separate and Unequal? The Problematic Segregation of Special Populations in Charter Schools Relative to Traditional Public Schools
Julian Vasquez Heilig et al., 27 STAN. L. & POL’Y REV. 251 (2016).

The authors of this article compare the enrollment of high-need special populations in charter schools with high-need special populations in non-charter public schools at the state, district, and local levels, and find significant disparities in the number of students served, particularly in large metropolitan areas. Additionally, they discuss the existing law and policy implications of the disparities.
SECONDARY TRAUMA

Secondary Traumatic Stress in Juvenile Court: Are You Affected?
Claire Chiamulera, 35 NO. 8 CHILD L. PRAC. 120 (2016).

The author of this article describes the impact of secondary trauma on juvenile defenders and suggests resources and strategies that can be used to manage an effective attorney-client relationship with clients who have suffered from trauma.

SHACKLING

United States v. Sanchez-Gomez
859 F.3d 649 (9th Cir. 2017).

Holding that before a presumptively innocent defendant may be shackled in the courtroom, the district court must make an individualized decision that a compelling government purpose would be served and that shackles are the least restrictive means for maintaining security and order; additionally, a court cannot delegate this individualized decision to those who provide security.


Requiring that youth appearing before a judge be free of shackles unless there are no less restrictive alternatives to prevent flight or physical harm to the youth or another person.


Requiring that children may not be in restraints of any kind during a court proceeding, unless the use of restraints is necessary for safety or because the child has a history of non-compliance, and there are no less restrictive alternatives.


Requiring that restraints not be used on children during court proceedings unless they are necessary to prevent harm to the child or another person, the child has a history of “disruptive behavior” or there is a flight risk, and there is no less restrictive alternative.


Creating a presumption that children will not be restrained upon entry to the courtroom.
Finding that youth was not prejudiced by the trial court’s decision to deny his request for his shackles to be removed, because he failed to show that the shackles prevented communication or created undue prejudice for a witness.


Requiring that restraints not be used on children during a court proceeding unless they are necessary to prevent harm to the child or another or the child presents a flight risk, and there are no less restrictive alternatives.


Requiring that restraints be removed prior to a courtroom proceeding unless the court finds that the child poses a flight or safety risk.

OHIO SUP. R. 5.01 (2016).

Requiring that each court adopt a rule governing the use of restraints on children, and that the rule create a presumption that such restraints should not be used unless there is no less restrictive alternative and the use is necessary because the child poses a flight or safety risk.

TENN. R. JUV. PRAC. & PROC. 204 (2016).

Allowing court to be restrained in court only if the child’s behavior presents a safety or flight risk, and if there are no less restrictive alternatives.

**SOLITARY CONFINEMENT**

**Banishing Solitary: Litigating an End to the Solitary Confinement of Children in Jails and Prisons**

The author of this article provides the first comprehensive compilation of constitutional and statutory frameworks used to challenge solitary confinement of youth, and lays the foundation to end the practice of solitary confinement in juvenile detention centers.

**Lonely too Long: Redefining and Reforming Juvenile Solitary Confinement**

The author of this article argues that scientific evidence supports the premise that cognitive development continues until age 25, and proposes federal legislation that would limit the use of solitary confinement for those under 25 years old.
Digging Out of the Hole: Arguments Against the Use of Juvenile Solitary Confinement in Kentucky

The author of this article argues that the use of solitary confinement conflicts with the goals of the recently enacted Juvenile Justice Reform Bill in Kentucky, given the effects of isolation on children’s brains.

Solitary Confinement of Juveniles and Our Evolving Standards of Decency: A Look at Recent Action Taken by the Court, Congress, the President, and the States

The author of this article explores whether based on evolving standards of decency, solitary confinement of youth violates the Eighth Amendment, and whether it is time to bring a constitutional challenge.

Statement of Interest in V.W. v. Conway

The DOJ lays out the Unites States’ interest in this case and suggests that when analyzing Eighth and Fourteenth Amendment claims, the courts should consider evidence that placing youth in solitary confinement exposes them to a substantial risk of serious harm.

Frazier v. Homrich

Granting preliminary injunction against the use of solitary confinement for youth in Tennessee’s Department of Children’s Services because punitive or disciplinary solitary confinement violates the Eighth Amendment and causes immediate and irreparable injury.

Beyond the Reach of the Constitution: A New Approach to Juvenile Solitary Confinement Reform

The author of this article argues that to achieve meaningful reform to the solitary confinement of youth, advocates should focus on Attorney Generals’ offices, because they control the course of litigation while also representing the interest of the public, including youth.

Resolution on Solitary Confinement

This Resolution urges legislative bodies and governmental agencies to enact laws and adopt policies prohibiting the use of solitary confinement for youth under age 18.
Unlocking Youth: Legal Strategies to End Solitary Confinement in Juvenile Facilities

This report sheds light on the prevalence and reality of youth in solitary confinement, and suggests 11 legal strategies to end the practice.

SPECIALIZATION OF JUVENILE DEFENSE

Selling Kids Short: How “Rights for Kids” Turned into “Kids for Cash”

The authors of this article evaluate the current juvenile justice system by reflecting on the “Kids for Cash” scandal, the safeguards provided by juvenile court and Roper, J.D.B., and Miller, and how such a scandal could happen.

Juvenile Trial Manual
Randy Hertz, Martin Guggenheim, & Anthony G. Amsterdam (2017).

This manual is a guide to delinquency practice for juvenile defense attorneys, and provides a detailed chronological examination of each step in handling a delinquency case.


The author of this article chronicles the evolution of the juvenile justice clinic at University of Nevada: Las Vegas, and discusses the clinic’s important role in juvenile justice policy reform in Nevada.

TRAFFICKING

Dismantling the Sexual Abuse-to-Prison Pipeline: Texas’s Approach

The authors of this Note argue that “gender neutral” policies often criminalize victims of sexual abuse, and that alternative policies, such as those adopted by Texas in response to sex trafficking, could serve as a model for other aspects of the juvenile justice system. The authors argue that shutting off the sexual abuse-to-prison pipeline would help to reduce gender disparities in the adult criminal justice system, and save taxpayers money by reducing the number of persons incarcerated.
A.J. v. State
394 P.3d 1209 (Nev. 2017).

A youth arrested for prostitution but charged only for obstructing a police officer was nonetheless entitled to protections of a state statute that is intended to “ensure[ ] that children are treated as victims of commercial sexual exploitation rather than juvenile delinquents” because although the statute provides that the protections are triggered upon the district attorney filing a petition, the legislative intent was to trigger the protections upon arrest.

Victims, Not Criminals: Exempting and Immunizing Children Subjected to Sex Trafficking from Prosecution for Prostitution
Darian Etienne, 16 WHITTIER J. CHILD & FAM. ADVOC. 44 (2017).

The author of this article argues that children under the age of consent should be understood to be exempt from prosecution for prostitution because they cannot consent to sex, and that minors above the age of consent should be given immunity through a rebuttable presumption that they are victims of sex trafficking.

Children Trafficked for Sex: A View of the Orange County Juvenile Court Through the Lens of Our Toughest Cases

The authors of this article describe the need for the child welfare and juvenile justice systems to address commercially sexually exploited children with comprehensive, trauma-informed services rather than by treating them as criminals complicit in their own abuse.

WAIVER, TRANSFER, AND CERTIFICATION TO ADULT COURT

Ignoring Individualism: How a Disregard for Neuroscience and Supreme Court Precedent Makes for Bad Policy in Idaho’s Mandatory Juvenile Transfer Law
Beck Roan, 52 IDAHO L. REV. 719 (2016).

The author of this article describes the history and purpose of juvenile court, subsequent transfer of youth to adult court, and examines national and Idaho state trends on juvenile transfer. The author argues that Idaho’s mandatory juvenile transfer laws are bad policy because they ignore Supreme Court precedent, the individualized rehabilitative purpose of juvenile court, and research on neurobiological development. Finally, the author recommends that automatic transfer laws be eliminated.

U.S. v. Woods
827 F.3d 712 (7th Cir. 2016).

Holding that, although the Juvenile Justice and Delinquency Prevention Act still applied when a youth turned 21 pending his proceeding, the District Court was within its discretion
to transfer him to adult court when his age, social background, charged offense, prior
delinquency findings, and past response to treatment weighed in favor of transfer.

**State v. Aalim**

Reconsidering and vacating prior holding of the Ohio Supreme Court, that mandatory
juvenile transfer statutes violate due process rights as guaranteed by the Ohio Constitution;
holding that statutes requiring mandatory transfer for youth aged 16 or 17 charged with
qualifying offenses did not violate due process, equal protection, or fundamental fairness.
Judge C.J. O’Connor dissented, noting that the decision “ignor[es] the requirements of due
process and fairness, and artificially constrain[s] the United States Supreme Court's
commands that we must consider juvenile offenders differently than adult offenders.”

**State v. Potts**
374 P.3d 639 (Kan. 2016).

Holding that a youth’s Sixth Amendment right was not violated when prosecution as an adult
automatically increased his punishment without a finding by a jury proven beyond a
reasonable doubt.

**Journey into Juvenile Justice**
Charles N. Curlett Jr. & Lauren McLarney, 64 FED. LAW. 10 (2017).

The authors of this article discuss the transfer of youth to the adult criminal justice system
both federally and in the state of Maryland, and address the inconsistencies between current
Supreme Court jurisprudence recognizing that youth are different from adults, and the lack of
movement on transfers back to juvenile court.

**In re D.R.T.**

Holding that the court acted within its discretion in certifying a cognitively-impaired youth to
adult court for public safety reasons, that the transfer did not violate due process, and that
transfer to adult court is not a punishment and therefore not cruel and unusual punishment.

**YOUTH RIGHTS**

**Curfew Must Not Ring Tonight: Judicial Confusion and Misperception of Juvenile Curfew
Laws**

The author of this Comment calls for the Supreme Court to review a juvenile curfew case to
address inconsistencies in lower courts. In light of recent studies regarding the limited
effectiveness of curfew laws, the author asserts the Court should also review whether these laws are furthering asserted government interests.

**Final Report: Recommendations for Strengthening the Unified Court System of North Carolina**

*N.C. Comm’n on the Admin. of Law and Justice (2017).*

This report contains the final recommendations of the North Carolina Commission on the Administration of Law and Justice, a multi-disciplinary commission convened by North Carolina’s Chief Justice to undertake a comprehensive review of North Carolina’s court system. Recommendations include raising the age from 16 to 18 for crimes other than violent felonies and traffic offenses.

**Raising the Age: Shifting to a Safer and More Effective Juvenile Justice System (Executive Summary & Report)**

*Justice Policy Institute (2017).*

This report highlights the positive impacts of “raise the age” reforms — specifically in reducing costs while serving more youth, improving public safety, and reducing the number of youth in the adult system — and lays out seven strategies by which the remaining seven states considering legislation to raise the age can safely and efficiently do so: expanding the use of diversion, making probation and aftercare approaches more effective, addressing mental health needs outside the deep end of the system, reducing the use of pretrial detention, reducing reliance on facilities and focusing on community-based approaches, complying with the Prison Rape Elimination Act, and improving management of resources.

**Jawad v. Gates**

832 F.3d 364 (D.C. Cir. 2016).

Holding that a 15-year-old Afghan detained and allegedly tortured as an “enemy combatant” in Guantanamo Bay may have been illegally detained because his capture, torture, and detention violated domestic and international law concerning the treatment of youth accused of crimes, but could not sue for damages due to lack of jurisdiction.

**Youth in Adult Court**

*Racketeer Influenced and Corrupt Organizations Act (RICO)*

**United States v. Camez**

839 F.3d 871 (9th Cir. 2016).

Holding that the jury could consider the defendant’s conduct before he turned 18 as “substantive proof of continuing crimes” as an adult for purposes of participation in a criminal enterprise, in violation of RICO.
United States v. Geraldo
2017 WL 1403148 (2nd Cir. 2017).

Holding that the district court could only retain jurisdiction over the defendant for acts that took place while he was a youth if he committed additional crimes in a charged racketeering conspiracy after reaching the age of majority.

Roper, Graham, Miller, and Montgomery

Secondary Sources

The Miller Revolution

The author of this article describes the effect of the Miller decision on juvenile justice and identifies revolutionary changes in juvenile justice policy and practice that are possible post-Miller, including the creation of procedural safeguards for youth facing juvenile life without parole, and the elimination of mandatory minimums. The author also argues that Miller can be leveraged to reform transfer laws, presumptive sentencing guidelines, and conditions of confinement.

Prospects for Developmental Evidence in Juvenile Sentencing Based on Miller v. Alabama

The authors of this article examine the types, probable sources, and anticipated quality of developmental and clinical psychological evidence that is likely to be required in Miller hearings.

Procedures for Proportionate Sentences: The Next Wave of Eighth Amendment Noncapital Litigation

The authors of this article describe different state statutes that provide special resentencing procedures for youth (“second look” statutes) and explore litigation that has challenged whether particular states are providing a meaningful opportunity for release for those convicted as youth within the meaning of Graham, Miller, and Montgomery.

Montgomery v. Louisiana

The authors of this article examine the holding in Montgomery and argue that the Supreme Court may have created a broken doctrine by categorizing the holding in Miller as a substantive rule, and not as a “watershed” procedural rule.
A Meaningful Opportunity for Release: Resentencing Hearings for Juvenile Offenders
Sentenced to Life Without Parole Following *Aiken v. Byars*

The author of this article discusses the obligations of resentencing courts to ensure that resentenced youth are entitled to a meaningful opportunity for release unless a determination is made that they are “irreparably corrupted.” The courts, in making resentencing decisions, should consider the reasonable life expectancy of a youth in prison.

Life Without Parole for Juvenile Offenders: Public Sentiments

The authors of this article examine the public’s sentiment concerning juvenile life without parole sentences, and found that only 31 percent of participants favored juvenile life without parole as a general policy, 55 percent were willing to impose juvenile life without parole in a specific case, and respondents were more willing to impose life without parole on a 16-year-old than a 12-year-old. Furthermore, the only demographic variable that correlated with preferred punishment was political affiliation.

Validating *Montgomery*’s Recharacterization of *Miller*: An End to LWOP for Juveniles

The author of this article argues that *Montgomery*’s interpretation of *Miller* and the retroactivity jurisprudence of *Teague* has created problems that would best be remedied by a complete ban on juvenile life without parole.

Will the Opportunity for Parole Equate to the De Facto Opportunity for A New Life?

The author of this article explains that the *Montgomery* decision is only a small step towards helping youth sentenced to life without parole with an opportunity for a new life, and argues that prisons should provide programs that appropriately address life after prison.

Random If Not “Rare”? The Eighth Amendment Weaknesses of Post-*Miller* Legislation

The author of this article argues that many post-*Miller* responsive laws that establish processes where youth are resentenced to life without parole or a different, lesser sentence (often a long term of years or life with the possibility of parole) are deficient as they establish a system in which the sentence of life without parole could be imposed arbitrarily and inconsistently.
Miller, Montgomery, and Mitigation: Incorporating Life History Investigations and Reentry Planning into Effective Representation for “Juvenile Lifers”
Dana Cook et al., 41 CHAMPION 44 (2017).

The authors of this article discuss how comprehensive mitigation investigations and reentry planning play a critical role in the post-Miller era of sentencing young people in the adult justice system and in resentencing adults who were sentenced to mandatory life without parole when they were children.

Cases

Supreme Court of the United States

Tatum v. Arizona
137 S.Ct. 11 (2016).

Vacating and remanding a case where petitioners were sentenced to life without the possibility of parole for the lower courts to consider whether their sentences complied with Miller and Montgomery. Justice Sotomayor notes in her concurrence that after Montgomery the Eighth Amendment “requires more than mere consideration of a juvenile’s age before the imposition of a sentence of life without parole.”

Virginia v. LeBlanc

Holding that denial of petitioner’s motion to vacate his sentence of juvenile life without parole for a non-homicide offense was not an unreasonable application of Graham, because Virginia’s geriatric release program satisfied the requirement for a meaningful opportunity for parole.

2nd Circuit (Connecticut, New York, Vermont)

United States v. Conyers

Holding that a statute, which requires a mandatory sentence of life imprisonment for those convicted of murder in aid of racketeering, was invalid as applied to youth under the Eighth Amendment.
**State v. Boyd**  
151 A.3d 355 (Conn. 2016).

Finding that defendant’s sentence of 50 years with possibility of parole for a murder committed when he was 17 did not implicate *Miller*.

---

**3rd Circuit (Delaware, New Jersey, Pennsylvania, Virgin Islands)**

**State v. Zuber**  

Holding that *Miller* applies to a youth’s sentence that is the practical equivalent of life without parole.

**Earp v. Wetzel**  

Excusing a defendant, who had waited four years for a judge to be assigned to his post-conviction act petition, from exhausting his post-conviction act remedy, and conditionally granting his writ of habeas corpus petition on condition that the state court resentence him within the next six months unless otherwise agreed or upon a showing of good cause.

**Walker v. State**  
154 A.3d 1167 (Del. 2017).

Affirming the dismissal of the defendant’s post-conviction motion and holding that his sentence of 45 years does not qualify as a life sentence, and was not barred by *Miller*.

---

**4th Circuit (Maryland, North Carolina, South Carolina, Virginia, West Virginia)**

**Dingle v. Stevenson**  

Denying habeas relief to petitioner who pled guilty to avoid the possibility of a death sentence for a crime committed while he was a juvenile prior to *Roper*, because he did not receive either a death sentence or life without the possibility of parole.

**State v. Young**  
794 S.E.2d 274 (N.C. 2016).

Holding that defendant’s sentence to life without parole for a crime that occurred when he was 17 violated the Eighth Amendment because state law providing for life without parole sentences to be reviewed after 25 years did not provide necessary procedural rights.
Jones v. Commonwealth

Holding that a sentence of life without parole for a defendant who was 17 years old was not a mandatory life sentence in violation of Miller because the youth stipulated to the sentence as part of a plea bargain.

5th Circuit (Louisiana, Mississippi, Texas)

State ex rel. Morgan v. State, 217 So. 3d 266 (La. 2016).

Finding that defendant's sentence of 99 years without parole for a non-homicide offense was the functional equivalent of a life without parole sentence, and, therefore, violated Graham.

6th Circuit (Kentucky, Michigan, Ohio, Tennessee)

Starks v. Easterling

Denying habeas corpus relief where defendant's release eligibility neared life expectancy because the Supreme Court has not explicitly held that the Eighth Amendment extends to juvenile sentences that are the functional equivalent to life without parole.

State v. Moore
149 Ohio St. 3d 557 (Ohio 2016).

Holding that pursuant to Graham, a term-of-years sentence that exceeds a defendant’s life expectancy violates the Eighth Amendment when it is imposed on a youth convicted of a non-homicide offense.

Commonwealth v. Bredhold

Finding the Kentucky death penalty statute unconstitutional, and adopting a bright line rule extending Roper to defendants under 21 years old.
7th Circuit (Illinois, Indiana, Wisconsin)

People v. Reyes
63 N.E.3d 884 (Ill. 2016).

Holding that consecutive mandatory minimum sentences totaling 97 years constituted a de facto life sentence without possibility of parole, and was unconstitutional under Miller, and that defendant was entitled to resentencing.

Kelly v. Brown
851 F.3d 686 (7th Cir. 2017).

Finding that a 110-year sentence for two murders committed when the defendant was 16 years old did not violate Miller.

8th Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota)

State v. Castaneda
889 N.W. 87 (Neb. 2017).

Holding that an aggregate sentence of 105 to 125 years imprisonment was constitutional because it was not life without the possibility of parole, and the court considered the individualized factors required under Miller.

State v. Smith
892 N.W.2d 52 (Neb. 2017).

Finding that a sentence of 90 years to life imprisonment did not amount to a de facto life sentence in violation of Graham.

State v. Jensen
894 N.W.2d 397 (S.D. 2017).

Holding that concurrent 200-year sentences for crimes the defendant committed when 14 years old did not violate Miller.

State v. Charles
892 N.W.2d 915 (S.D. 2017).

Finding that a discretionary 92-year sentence with a possibility of parole at age 60 imposed on defendant convicted of homicide who was 14 years old at the time of the crime was constitutional.
State v. Ali
895 N.W.2d 237 (Minn. 2017).

Holding that Miller does not extend to youth who receive consecutive life imprisonment sentences with the possibility of parole sentences, even if together the sentences were the functional equivalent of life without parole.

9th Circuit (Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, Hawaii)

Demirdjian v. Gipson
832 F.3d 1060 (9th Cir. 2016).

Denying habeas corpus relief and holding that two consecutive terms of 25 years to life, where the defendant will be eligible for parole when he is 66 years old, is not the functional equivalent of the mandatory life without parole sentences overturned in Miller.

State v. Valencia

Holding that defendants, who were sentenced to life without parole while under the age of 18, are entitled to evidentiary hearings to determine if their crimes reflect transient immaturity.

State v. Ramos

Holding that Miller applies to every case where a youth faces a sentence of life without parole or its functional equivalent.

In re Kirchner
393 P.3d 364 (Ca. 2017).

Holding that a state statute authorizing youth sentenced to life without parole to seek recall and resentencing to a term of life with the opportunity for parole is not an adequate remedy at law under Miller.

10th Circuit (Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming)

Budder v. Addison
851 F.3d 1047 (10th Cir. 2017).

Holding that defendant’s three consecutive life sentences for a non-homicide offense violated the Eighth Amendment and the clearly established rule in Graham.
**Sen v. State**  

Holding that an aggregate sentence that results in 35 years of parole ineligibility is not the functional equivalent of a sentence of life without the possibility of parole in violation of the Eighth Amendment.

**Lucero v. People**  
394 P.3d 1128 (Colo. 2017).

Finding that an 84-year sentence where the youth will be eligible for parole at 57 is an aggregate term of years sentence, not a de facto life without parole sentence.

**People v. Rainer**  
394 P.3d 1141 (Colo. 2017).

Finding that neither *Graham* nor *Miller* applied to an aggregate sentence of 112 years for first degree murder.

**Luna v. State**  
387 P.3d 956 (Okla. 2016).

Remanding case for resentencing because the jury did not appropriately take into account the special characteristics of youth in imposing a life without parole sentence.

**11th Circuit (Alabama, Florida, Georgia)**

**Landrum v. State**  
192 So.3d 459 (Fla. 2016).

Holding that a discretionary sentencing scheme imposing a life without parole sentence must be informed by consideration of youth and its attendant circumstances as articulated in *Miller*.

**Atwell v. State**  
197 So.3d 1040 (Fla. 2016).

Holding that even though a juvenile defendant was sentenced to life with the possibility of parole after 25 years, under Florida’s existing parole system, the earliest date for release as determined by objective parole guidelines was 140 years after the crime, and therefore, resembled a mandatorily imposed life without parole sentence unconstitutional under *Miller*. 
Johnson v. State
215 So.3d 1237 (Fla. 2017).

Holding that a youth’s sentence of one 100-year term and five concurrent 40-year terms exceeds his life expectancy and therefore does not provide him a meaningful opportunity for early release based on demonstrated maturity and rehabilitation during his natural life.