

Juvenile Courts Syllabus

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Course Overview: This course examines the evolution of the juvenile court system and subject matter jurisdiction, including: abuse and neglect, delinquency, youthful offender and status offense cases. Related issues such as child development, mental health, school law and systemic service delivery issues are part of the agenda. This class will stress practical application of theory and law.

This syllabus is a template subject to change, particularly with respect to assigned reading. I will announce any changes at the end of classes. All chapter and page numbers refer to the casebook, Children and the Law: Doctrine, Policy and Practice (Abrams and Ramsey, Fourth Edition, West, Thomson Reuters, 2010). If there are no page numbers next to the reading, the material is available on Westlaw.

Course Requirements: 15 page paper, 12 pt font
Class Participation strongly encouraged

I. Introduction to the course: “Setting the Stage”

Class 1: Class Expectations and Overview

- Contemporary Juvenile and Family Court Systems, pp. 11-15
- This class will include overview of juvenile court jurisdiction
 - o Quasi Criminal Proceedings
 - Delinquency, Youthful Offender, Transfer Proceedings
 - o Civil Proceedings
 - Status offense cases
 - Abuse and neglect, dependency or care and protection cases
 - Harassment Protection Orders
 - o Criminal Proceedings
 - Contributing to the delinquency of a minor
 - Failure to cause school attendance

Setting the stage for *In Re Gault*

Class 2: The Juvenile Court as an Institution

A. The Juvenile Court's Original Conception, Abrams, Ramsey, pp. 976-985

B. The Seminal Case

- *In re Gault*, pp. 1068-1083
- Notes and Questions, pp. 1083-1085

Class 3: The Child, the Family, and the State - The Triad

A. The Traditional Roles of Parents and the Government, p. 21

- *Meyer v. Nebraska*, pp. 19-24
- *Pierce v. Society of Sisters*, pp. 24-26 and Notes and Questions

B. The Movement Toward "Children's Rights"

- *Prince v. MA*, p. 25; Notes and questions, page 27; pp. 32-36
- A Note On *Brown v. Board of Education* (1954) and *In Re Gault* (1967), p. 35

II. Ethical Considerations In Representing Children

Class 4: Empowering and Listening to Children - How Should We Hear From Children

A. Reconciling Parents' and Children's Rights, pp. 65-78

- *Troxel v. Granville*, pp. 66-78; see notes and problems

B. May Children Articulate Their Own Interests, p. 78

- *Wisconsin v. Yoder*, pp. 79-82 (including notes) (pay special attention to Justice Douglas' dissent)

- o *In re Gault*, supra

Guardian *ad litem* vs. Client Directed Advocacy; The Role of Child's Counsel

- Children's Ability to Advise Counsel, pp. 238-255

Martin Guggenheim, A Paradigm For Determining The Role Of Counsel For Children, pp. page 239-240; Katherine Federle, *The Ethics of Empowerment*, 64 Fordham L. Rev. 1655 (1996), Abrams & Ramsey, pp. 240-242

C. Counsel's Role In Abuse and Neglect Proceedings

Adoption of Georgette, 439 Mass. 28 (2003) and ABA Rule 1.114

Sarah H. Ramsey, Representation Of The Child In Protection Proceedings;

Determination of Decision-Making Capacity, pp. 242-244

Jean Kohl Peters, The Role And Content of Best Interests In Client-Directed Layering for Children In Child Protective Proceedings, pp. 244-248

Kenny A. Ex. Rel. Winn v. Perdue, pp. 248-255

III. Delinquency Procedure

Class 5: A. Competency and Culpability-Juvenile Forensic Issues

Gault, Id.

Competency to Participate In The Proceeding, pp. 1091-1097

- *Dusky v. U.S.*, 362 U.S. 402 (1960); see p. 1091
- *Matter of Welfare of D.D.N.* p. 1092

Optional Readings: Grisso, T., "Forensic Evaluation of Juveniles" (Professional Resource Press, 1998)

Introduction to MacArthur Foundation Adolescent Network research; see and *Roper v. Simmons*, 543 U.S. 551 (2005); juvenile death penalty case; discussed in Abrams & Ramsey at page 1139

Class 6: An Overview of The Process

Abrams & Ramsey, pp. 1011-1013

A. Arrest and Custody, pp. 1013-1016

B. Juvenile Detention and Due Process

-*Schall v. Martin* pp. 1054-1066, Preventive detention

-*Gault and Schall* - notes

-*Jake J. v. Commonwealth*, 433 Mass. 70 (2000); conditions of release at arraignment

C. Diversion and Restorative Justice p. 1124- (including youth courts)

D. The Adjudicatory Hearing; *In Re Winship*; Rules of Evidence, p. 1091

McKeiver v. Pennsylvania p. 1097; Juvenile jury trials

Race, Ethnicity and Juvenile Justice, pp. 973, 1064, 1088;

Disproportionate Minority Confinement/Contact discussion

In Child Welfare context see pp. 413, 419, 540, 688

Class 7: Motions to Suppress Statements: Interrogations and Confession

- *Fare v. Michael C.* and notes, pp. 1037-1051, 1065

- Optional Readings:

o *Miranda v. Arizona*, 384 U.S. 1 (1967)

o *Haley v. State of Ohio*, 332 U.S. 596 (1948)

o *Gallegos v. Colorado*, 370 U.S. 49 (1962)

o Discussion will include consideration of national debate regarding recording interrogations

Class 8: Search and Seizure

- *New Jersey v. TLO*, p. 1016; School Context

- *Commonwealth v. Lawrence L.*, 439 Mass. 817 (2003)

- *Commonwealth v. Damian D.*, 434 Mass. 725 (2001)

Class 9: Disposition and Transfer; pp. 1111-1141

Transfer: The "Adultification" of Juvenile Crime

- Richard E. Redding, *Juveniles Transferred to Criminal Court: Legal Reform Proposals Based on Social Science Research*, p. 994

- *State v. Mitchell*, p. 997

- *Kent v. U.S.*, 383 U.S. 541 (1966)

- *Roper v. Simmons*, 543 U.S. 551 (2005)

IV. Rights of Young People

Class 10: In Schools and Education, pp. 36-60

- *Tinker v. Des Moines Independent School District*, p. 36; First Amendment in School
- *Morse v. Frederick*, p. 48
- *Commonwealth v. Milo M.*, 433 Mass. 149 (2001)
Financing of School Districts and Access To Education
- *McDuffy v. Secretary of the Executive Office of Education*, 415 Mass. 545 (1993)
- *Hancock v. Commissioner of Education*, 443 Mass. 428 (2005)
- *Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S. Ct. 2738 (2007)

Class 11: Curfews and The Right To Regulate Children's Conduct, Federle, p. 940

- *Anonymous v. City of Rochester*, p. 942
- *Commonwealth v. Weston W.*, 455 Mass. 24 (2009) (Mass. Supreme Judicial Court strikes down criminal application of ordinance as unconstitutional for criminalizing status offense conduct)

Optional:

- o Poff, Adam W., "A Tale of Two Curfew Ordinances (And One City): What Do Two Washington, D.C. Juvenile Curfews Say About Constitutional Interpretations of District of Columbia Courts and The Confusion Over Juvenile Curfews Everywhere"; 46 Villanova L. Rev. 277 (2001)

V. Status Offenses

Class 12: Status Offenses

The Juvenile Justice and Delinquency Prevention Act (1974); 42 U.S.C.A, sec. 5601; The Mandate to De-institutionalize, p. 963

A. The Nature of Status Offense Jurisdiction, p. 953

B. Categories of Conduct, pp. 953-960

C. Bullying, p. 953

Optional: The Massachusetts approach

- *Matter of Vincent*, 408 Mass. 527 (1990)

- *In re Angela*, 445 Mass. 55 (2005)

- *Commonwealth v. Florence F.*, 429 Mass. 523 (1999)

- *In re Hilary*, 450 Mass. 491 (2008)

Class discussion will examine debate concerning post-*Gault* regarding danger of re-criminalizing status offense conduct.

See also *Deconstructing the School-to-Prison Pipeline*; Wald, Losen (Jossey, Bass 2003)

VI. Child Protection

Class 14: Abuse and Neglect

Introduction, p. 284

Reporting Statutes

- *Valmonte v. Bane* and notes and questions, pp. 289-301
- Duty To Investigate; *De Shaney v. Winnebago County Department of Social Services*, pp. 363-370
- Patterns of Alleged Abuse and Neglect, pp. 315-321
- Allegations of Failure to Protect
- Corporal Punishment and Cultural Competence, pp. 337-344
- Allegations of Sexual Abuse, pp. 345-355
- Child and Shaken Baby Syndrome; p. 328

Class 15: Evidentiary and Trial Issues

A. Evidentiary Issues with alleged child victims and child witnesses; pp. 555-579

B. Expert Testimony; Lisa R. Askowitz and Michael Graham: The Reliability of Expert Psychological Testimony in Child Sexual Abuse Prosecutions, p. 555
John E.B. Myers et al., Expert Testimony in Child Sexual Abuse Litigation, p. 579
In re Nicole V., pp. 351-356

C. Eliciting the Child's Testimony, p. 557

Maryland v. Craig, p. 558

D. The Sixth Amendment and Confrontation in Child Welfare Cases

State v. Blue, pp. 570-579

Class 16: Termination of Parental Rights

- *Santosky v. Kramer* p. 382; Burden of proof - Clear and Convincing Evidence, p. 380
- Will Include Discussion of "Fitness" and "Best Interests of the Child"
- *In re Ashley A.*, p. 394
 - o *In re Jeffrey R.L.* p. 400
 - o *In re Adoption of B.O.* p. 408

Deciding the case and propriety of ultimate opinion testimony

Class 17: Consideration of Social Class, Ethnic, and Racial Bias, pp. 4134-434

Poverty and Race, p. 413

The Indian Child Welfare Act, p. 420

Understanding Cultural Context, p. 424

Time standards in abuse allegations; Adoption and Safe Family Act (ASFA)

Class 18: The Foster Care System and Adoption

- Challenges in Foster Care, pp. 436-445
- *Adoption of Hugo*, 428 Mass. 219 (1998); sibling visitation
- The Child's Right to a "Family"; pp. 449-464
- Types of Placement; including foster care, institutional care, independent living and guardianships; pp. 490-493

Class 19: Adoption, pp. 618-622

- *Adoption of M.A.*
- The Consent Requirement, pp. 651-655
- *Stanley v. Illinois*, p. 655
- Open Adoption; *Adoption of Veto*, p. 683

Class 20: Medical Treatment: Who Speaks for the Child

Limitations Upon a Parent's Right to Consent

Parham v. J.R., 442 U.S. 584 (1979), p. 721

Comm. v. Twitchell, 416 Mass. 114 (1993)

Substituted Judgment in Massachusetts

- *Rogers v. Commissioner of Dept. of Mental Health*, 390 Mass. 489 (1983)

Class 20: Conclusions and Final Thoughts: The Future of the Juvenile Court

Barry Feld, *Abolish the Juvenile Court*; page 1167

Jay Blitzman; *Gault's Promise*, Barry Law Review, Symposium Issue; Gault after 40 years;

9 Barry L. Rev. 67 (Fall 2007) and *Access to Justice In Juvenile Court*, 93 Mass. Law Review
No. 1 230 (2010)