

CHAPTER 13

JUVENILE JUSTICE

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“[A]s any parent knows, and as the scientific and sociological studies respondent and his *amici* cite tend to confirm, “[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young.”

Roper v. Simmons (quoting *Johnson v. Texas*)¹

I. INTRODUCTION

A decade has passed since the U.S. Supreme Court decided in *Roper v. Simmons*² that childhood exempted teen-aged murderers from the imposition of a death sentence. The *Roper* decision, resting upon the science of adolescence, proved not to be an anomaly. In *Graham v. Florida*,³ the Supreme Court held that the Eighth Amendment prohibited a sentence of life without parole for youth who committed non-homicide offenses when they were under the age of 18, and in *Miller v. Alabama*,⁴ the Court extended this prohibition to homicide offenses. In *J.D.B. v. North Carolina*,⁵ the Court held that the characteristics of youth – including immaturity and susceptibility – must be taken into account in gauging whether a schoolboy was subjected to custodial interrogation.

On the surface, one might think the Court could have reached all four decisions without resort to science, but to common sense alone. Common sense, however, was in short supply in the two decades of political discourse about juvenile crime leading up to *Roper*. In the early 1980’s, juvenile justice policy was shaped by men like Alfred S. Regnery, who took over as director of the U.S. Office of Juvenile Justice and Delinquency Prevention, and who argued that rehabilitation as a goal had failed, requiring that children who committed crimes to be treated more like adults.⁶ Ten years later, there were dire warnings of “superpredators” who were set to roam the streets, bringing anarchy to the nation’s cities.⁷

The hysteria of those two decades resulted in draconian measures treating many juvenile offenders as adults in the criminal justice system, at trial and at sentencing. Between 1992 and 1995, 40 states and the District of Columbia enacted legislation to make

¹ *Roper v. Simmons*, 543 U.S. 551, 569 (2005)(quoting *Johnson v. Texas*, 509 U.S. 350, 367 (1993)).

² 543 U.S. 551 (2005).

³ 560 U.S. 48 (2010).

⁴ 132 S. Ct. 2455 (2012).

⁵ 131 S. Ct. 2394 (2011).

⁶ Alfred S. Regnery, *Getting Away With Murder - Why the Juvenile Justice System Needs an Overhaul*, 34 POL’Y REV. 65 (1985).

⁷ John DiIulio, *The Coming Wave of Super-Predators*, WEEKLY STANDARD, Nov. 27, 1995, at 23.

it easier to try children charged with crimes in their adult criminal courts.⁸ Of course, these measures were supported by scant scientific or empirical evidence that they would actually prevent or deter juvenile crime, likely because such evidence does not exist.

The past decade has seen an emerging and robust discussion of how medical and social science about adolescent development should shape juvenile justice policy and programming to make the juvenile justice system more effective in ameliorating juvenile crime. Sometimes described as “the Fourth Wave,” these discussions, led by professionals who have devoted their careers to this research, have had a palpable effect on juvenile justice law and policy.⁹

II. NATIONAL RESEARCH COUNCIL REPORTS

A. Reforming Juvenile Justice: A Developmental Approach

The National Research Council (“NRC”) has authored the most comprehensive analysis of the social science of adolescent development and its implications for systemic reform of the juvenile justice system to date. In *Reforming Juvenile Justice: A Developmental Approach*, the NRC conducted an exhaustive analysis of scientific literature about adolescent development and its explanation for juvenile crime.¹⁰

Reinforcing what every parent knows, the report found three critical conditions for healthy adolescent development in young people: (1) the presence of a parent or similar figures involved with the youngster; (2) involvement in a peer group that values positive behavior and success; and (3) experiences that enhance autonomous decision-making and critical thinking.¹¹ In contrast to the presence of those conditions for healthy outcomes for adolescents, the report describes a juvenile justice system that is counterproductive or even antithetical to those elements:

[T]he juvenile justice system’s heavy reliance on containment, confinement and control removes youth from their families, peer groups, and neighborhoods – the social context of their future lives – and deprives them of the opportunity to learn to deal with life’s challenges. For many youth, the lack of a positive social context during this important developmental period is further compounded by collateral consequences of justice system involvement¹²

⁸ Patrick Griffin, Patricia Torbet, and Linda Szymanski, *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions*, National Center for Juvenile Justice (1998)(U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention).

⁹ The “First Wave” of reform is said to have occurred with the establishment of the juvenile court and its advocates at the turn of the last century. The “Second Wave” was augured in by U.S. Supreme Court decision in *In re Gault*, 367 U.S. 1 (1967), and the subsequent decisions of the Court, impelling revision of the *parens patriae* underpinnings of the juvenile court. The “Third Wave” occurred with the punitive, if not draconian, policies affecting juvenile justice with the two decades beginning in 1980. See generally NATIONAL CAMPAIGN TO REFORM STATE JUVENILE JUSTICE SYSTEMS, THE FOURTH WAVE: JUVENILE JUSTICE REFORMS FOR THE TWENTY-FIRST CENTURY (Dec. 2013), available at <http://www.modelsforchange.net/publications/530>.

¹⁰ The publication is available through the National Academies Press publications site, at www.nap.edu. The publication may be downloaded at no cost or can be purchased in book form.

¹¹ NRC *Reforming Juvenile Justice: A Developmental Approach*, (hereinafter *A Developmental Approach*), at 3.

¹² *Id.*

The NRC report summarizes three specific aims of a modern juvenile justice system: (1) to hold youth accountable for wrongdoing, (2) to prevent further offending by youth, and (3) to treat youth fairly. The NRC maintains that in light of over a decade of analysis of the behavioral sciences, including adolescent brain development, these three goals are symmetrical with one another. With these principles in mind, the NRC report made the following recommendations for a juvenile justice system that would operate in ways that were compatible with adolescent development rather than the antipathy that permeates its current functioning.

1. Accountability

The NRC report does not recommend a system that excuses the culpability of young offenders for their actions. Quite the contrary, the report envisions a justice system which signals to juvenile offenders that society expects them to take responsibility for their actions and the foreseeable consequences that flow from those actions.¹³

The recommendations anticipate the use of sanctions such as restitution and community service, relying sparingly on confinement to address serious offenses and prevent reoffending. Any such sanctions would include the youngster's family in carrying out their goals. The system contemplated by the report would avoid collateral consequences of an adjudication by the juvenile court that would impair the ability of the youngster to transition to a "prosocial adult life."¹⁴

2. Preventing Reoffending

The NRC report envisions a system that relies on more scientifically-based planning and programming for youth involved in the justice system. A system so informed would rely on structured risk and need assessment to identify low-risk youths who can be handled less formally, match up youngsters in need of more specialized treatment, and reserve more intensive and expensive interventions for youth identified as high risk. Any such interventions would be grounded in contemporary understanding of adolescent development, and individualized need, jettisoning programming shown to be ineffectual.

In addition to family involvement, the modern system would also draw on neighborhood and community resources to reinforce positive youth development and law-abiding behavior. The system would also routinely engage in more rigorous self-assessment of effectiveness, maintaining accurate data on the type and intensity of interventions provided categories of youth and the results achieved.

3. Fairness

Any such system would guarantee a youngster's right to be represented by properly-trained counsel throughout the process and adjudicate only those youth who are competent to understand the proceedings and the role of their counsel. Youngsters would fully participate in the proceedings and ensure that they perceive they were treated fairly and with dignity. As before, the system would routinely engage in self-assessment to measure indices of fairness using legal criteria and perceptions of the participants. The system would intensify its efforts to reduce racial and ethnic disparities, as well as any other patterns of unequal treatment.

¹³ *Id.* at 324.

¹⁴ *Id.*

None of the NRC recommendations are particularly radical in the abstract, but they would radically alter the functioning of current systems around the country. The NRC would rely much more on diversion of minor offenses, targeting formal handling and intervention on more serious offenses. The funneling of offenses to the juvenile courts by ancillary agencies such as education and child welfare would be greatly reduced.¹⁵ The removal of children from their families as an adjunct to criminal sanctions would be the exception rather than the norm, and confinement in custodial settings would be only for short durations, in smaller institutions accompanied by meaningful programming.¹⁶ Importantly, far fewer children would be treated as adults for trial and sentencing.¹⁷

B. Implementing Juvenile Justice Reform: The Federal Role

To achieve these reforms, the NRC called for a pronounced federal role in supporting and implementing a developmental approach to juvenile justice. In September 2014, the NRC published *Implementing Juvenile Justice Reform: The Federal Role*, urging the U.S. Office of Juvenile Justice and Delinquency Prevention to exercise renewed leadership in the states and territories, recognizing that medical and behavioral scientific developments over the past decade should influence national juvenile justice policy.¹⁸

Noting that the Office and legislation supporting its existence had not been reauthorized since 2002, the report characterizes it as being “in a state of limited capacity and stature” in recent years.¹⁹ The report also noted that funding for the Office and its grant-making had declined by half of its funding dating to 2003, and that those funds were directed primarily at prevention – children well before any likely involvement with the justice system.

The NRC recommended the Office “rebalance” its funding, directed at improving the functioning of the formal juvenile justice system, as the only federal agency tasked with doing so. The report identified seven hallmarks of a developmental approach to juvenile justice that the Office should support:

1. Accountability without criminalization parallel to an adult system;
2. Alternatives to formal justice system involvement;
3. Individualized response based on informed assessment of needs and risk;
4. Confinement only when necessary to protect the public;
5. A commitment to fairness;
6. Alleviation of disparate treatment; and
7. Family involvement.²⁰

The NRC report observed that much of these could be accomplished under the current statutory scheme of the Juvenile Justice and Delinquency Prevention Act, and was based upon the NRC’s four broad recommendations for an enhanced federal role in its previous report. Those recommendations included: (a) the creation of oversight bodies to design, implement, and oversee a long-term process of reform; (b) a strengthened federal

¹⁵ *Id.* at 82-83 and 190-91.

¹⁶ *Id.* at 179-80.

¹⁷ *Id.* at 133-36.

¹⁸ The publication can be downloaded for free or purchased in print from the National Academy of Sciences at <http://www.nap.edu/catalog/18753/implementing-juvenile-justice-reform-the-federal-role>.

¹⁹ IMPLEMENTING JUVENILE JUSTICE REFORM: THE FEDERAL ROLE at 2 (hereinafter *Federal Role*).

²⁰ *Id.*

role; (c) federal support for research in adolescent development and improved responses to delinquency; and (d) a data improvement program led by the Office.²¹

The comprehensive review by the NRC sets out specific goals and timetables for the Office including the development of strategic partnerships with other agencies and organizations, including the philanthropic community, to identify and implement reforms at the state and local level, strengthen the role of the state advisory groups or SAG's in supporting local reform, and develop a research and training capacity focused on a developmental approach to juvenile justice. The report is especially critical of the unrealized goal of reducing racial and ethnic disparities in juvenile justice required by the core requirement of the Juvenile Justice and Delinquency Prevention Act to reduce "disproportionate minority contact," and calls on the Office to develop new approaches to meet this requirement.²²

As the NRC report points out, its call for a reinvigorated federal role in juvenile justice reform comes at a time when federal funding, especially for the as yet to be authorized Juvenile Justice and Delinquency Prevention Act is anemic.

A chart prepared by Act 4 Juvenile Justice, a coalition of groups supporting reauthorization, reflects federal formula funding under Title II of the act of \$88.8 million in 2002.²³ Twelve years later, that level dropped to \$55.5 million, a 37.5% reduction. In their heyday, the formula grants totaled over \$100 million.

Once a major source of funding, the Juvenile Accountability Block Grant was funded to the tune of \$249.5 million in 2002, dwarfing Title II formula funds. Ten years later, Congress has provided no funds for this program. In contrast, though, Congress has appropriated \$90 million for mentoring programs in 2015, a nearly 463% increase over \$15 million appropriated for such grants in 2002.

III. LEGISLATION TO REAUTHORIZE THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT ("JJDPA")

In December 2014, Senators Charles Grassley (R-Iowa) and Sheldon Whitehouse (D-Rhode Island) introduced legislation that would finally reauthorize the Juvenile Justice and Delinquency Prevention Act. S. 2999 was introduced in the waning days of the 113th Congress and referred to Senate Judiciary Committee, which Senator Grassley now chairs. The bill would continue the four core requirements of the act for states to qualify for formula grants: (1) continue to separate by sight and sound juveniles from adult detainees and offenders; (2) remove juveniles from adult jails and lock-ups; (3) deinstitutionalize so-called status offenders from formal juvenile processing; and (4) address the problem of the over-representation of racial and ethnic minorities in the juvenile justice system.²⁴ As to the fourth requirement, the legislation would require states to develop and implement specific plans to reduce the over-representation of minority youth, with clearer direction than the rather amorphous provisions of the current act, with states to set measureable objectives for reduction.

²¹ *Id.* at 1.

²² *Federal Role*, at 54-55.

²³ The chart may be found at <http://act4jj.org> in a historical federal funding chart under "resources."

²⁴ The bill may be viewed along with a summaries prepared by Act 4 Juvenile Justice and the office of Senator Whitehouse at <http://act4jj.org> at its link to "JJDPA Reauthorization," at "What Is the JJDPA?"

Reflecting developments over the past 10 years, the proposed legislation also updates the act in several respects to create a long-term plan that incorporate a developmental approach to juvenile justice, taking into account the science of adolescent behavior. The proposed legislation also recognizes the influence of childhood trauma on youth in the justice system and provides a working definition to address it.²⁵ In addition, the proposed legislation would promote more fairness by expanding the right of juveniles to counsel, and to seal or expunge juvenile records to alleviate the collateral consequences of juvenile court involvement.

The legislation would also phase out over a three-year period the ability of juvenile courts to invoke contempt power over youngsters – typically status offenders – who violate probationary orders. Congress first adopted the so-called valid court order provision in 1980 as an exception to the broad prohibition on confinement of status offenders imposed by the act. Its repeal is supported by a broad range of organizations, including the National Council of Juvenile and Family Court Judges.²⁶

The act has been introduced at a time when the Office of Juvenile Justice and Delinquency Prevention is under scrutiny by Senator Grassley, its co-author and chair of the Senate Judiciary Committee. First alerted to a claim by whistleblowers that the state of Wisconsin had improperly received continued funding from the office despite a lack of compliance with the JJDP, Senator Grassley expanded his inquiry to include six states and two territories. In a seven-page letter to the head of the Office of Justice Programs in the U.S. Justice Department, Senator Grassley set out detailed, pointed questions about allegations that Alabama, Idaho, Illinois, Puerto Rico, Rhode Island, Tennessee, Virginia, and Washington, D.C. Those jurisdictions had all received federal funds under the act despite a failure to comply with requirements such as removal of youth from adult jails and lock-ups, prohibitions on incarceration of status offenders, and initiatives to address disproportionate minority contact.²⁷

Notwithstanding Senator Grassley's investigation, the Senator announced on January 7, 2015 on a conference call with reporters that juvenile justice would be among his top priorities in his new role as chair of the Senate Judiciary Committee, and expressed optimism that juvenile justice reform would enjoy bipartisan support for legislative passage.²⁸ The senator's call for increased accountability for oversight of funds appropriated under the JJDP is not incompatible with his support for a reauthorized act.

IV. THE MACARTHUR FOUNDATION AND ITS INFLUENCE ON JUVENILE JUSTICE

The National Research Council's call for a "rebalancing" of the federal funding portfolio comes at a time when a primary source of funding for juvenile justice reform is withdrawing from the effort.

²⁵ This is consistent with ABA policy, expressed in Resolution 109B urging the juvenile justice system to recognize the impact of exposure to violence on youth involved in it, adopted by the House of Delegates at the 2014 Midwinter meeting. The resolution and report may be found at the ABA's policy document library, along with all policies adopted by the ABA dating to 1988, at <http://www.americanbar.org/directories/policy.html>.

²⁶ Statement of the Hon. David E. Stucki, President, National Council of Juvenile and Family Court Judges, December 13, 2013, at www.ncjfcj.org under "news."

²⁷ For coverage of the controversy, and a link to Senator Grassley's letter, go to <http://jjie.org> for a report dated March 4, 2015.

²⁸ Reported in the *Des Moines Register*, January 7, 2015.

The MacArthur Foundation has long been a leader in the field. In many ways the foundation has led when the federal government has not. In 1997, the foundation established the Network on Adolescent Development and Juvenile Justice, and over time convened multidisciplinary studies that ultimately resulted in the publication of eight books and monographs and 212 peer-reviewed journal articles.²⁹

Elizabeth Cauffman, Ph.D., Thomas Grisso, Ph.D., Edward P. Mulvey, Ph.D., Elizabeth S. Scott, J.D., Laurence Steinburg, M.D., and many others conducted the work of that initiative. They examined the science of adolescent development and its implications for juvenile justice reform. Collectively, the network focused on three broad themes: (1) the competency of youth to participate in trial, especially when compared to adults; (2) the culpability or blameworthiness of children and youth who commit crimes; and (3) the prospect for change in behavior – recidivism – of youth who commit crimes.³⁰

Ultimately, the influence of the network on juvenile justice law and policy was palpable, manifested in decisions of the U.S. Supreme Court. In turn, those decisions have helped significantly to remind lawmakers, policymakers, and the public at large that children who commit crimes are decidedly different from adults and should be treated that way.³¹

The MacArthur Foundation complemented this work in the field of juvenile justice with a major investment in systemic reform of the traditional juvenile justice system. The foundation launched its “Models for Change” in 2004, as a logical extension of its work in the research of adolescent development. The foundation announced it would invest over \$100 million over a five-year period to achieve reform in juvenile justice, by developing model strategies and programs in selected states.

The foundation initially targeted the states of Illinois, Louisiana, Pennsylvania, and Washington to explore community-based alternatives to incarceration of youth, enhanced aftercare services for youth released from confinement, and better coordination with other agencies with a relationship to the juvenile justice system, such as education, child welfare and mental health. The foundation expanded its work to establish “action networks” in other states to improve the indigent defense of juveniles, to reduce racial and ethnic disparities in the treatment of youth in the justice system, and to provide for better access to mental health services for youth involved in the system. Each action network included four additional states in the networks, for a total of sixteen states.³²

²⁹ The foundation’s work is described on its website at www.macfound.org under “research networks.” The network also has a site of its own describing its work and its publications, at www.adjj.org.

³⁰ See, e.g., Elizabeth Cauffman & Laurence Steinburg, *(Im)maturity of Judgment In Adolescence: Why Adolescents May Be Less Culpable Than Adults*, 18 BEHAVIORAL SCIENCES & LAW 741 (2000); T. Grisso et al., *Juveniles’ Competence to Stand Trial: A Comparison of Adolescents’ and Adults’ Capacities as Trial Defendants*, 27 LAW & HUM. BEHAVIOR 333 (2003); Mulvey, Steinburg, et al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adolescent Offenders*, 22 DEV. PSYCHOPATHOLOGY 453 (2010). This is but a glimpse of publications and journal articles authored by network participants. A bibliography of publications from 1996 to 2005 may be found at www.adjj.org under “published work.” More recent publications may be found at the MacArthur website under “research networks.”

³¹ See, e.g., Elizabeth S. Scott, *‘Children Are Different’: Constitutional Values and Justice Policy*, 11 OHIO ST. J. CRIM. LAW. 71 (2013), analyzing the potential implications of *Miller*, *Graham*, and *Roper* for criminal justice reform. For an excellent colloquium discussing the immediate implications of the four Supreme Court decisions of this past decade on juvenile law and practice, see Mae C. Quinn, et al., *Access to Justice: Evolving Standards in Juvenile Justice: From Gault to Graham and Beyond*, 38 WASH. U. J.L. & POL’Y 1 (2012).

³² The foundation’s work in its Models for Change initiative is reflected at its website: www.modelsforchange.net

Eventually MacArthur's Models for Change expanded its work to 35 states and local jurisdictions in an array of work to effect change in these areas, and extended them to include status offense reform – addressing the treatment of youth in the justice system guilty of non-criminal misbehavior.³³

The foundation also supports four resource centers for juvenile justice system improvement: (1) the defense of indigent youth in the nation's juvenile and criminal courts;³⁴ (2) children and youth who are "dual status," that is, youth who are involved in the juvenile justice system and child welfare agencies;³⁵ (3) status offenders;³⁶ and (4) mental health needs of youth in the justice system.³⁷ This last category is in addition to the partnership with the federal Substance Abuse and Mental Health Services Administration or SAMHSA to provide programming in twelve states to improve services to youth in the justice system with mental health and substance abuse disorders. In January 2015, the foundation announced a continuation of this partnership to promote diversionary practices for these youth in four more states.

In addition, the investment of the MacArthur Foundation, whether through the Models for Change initiative or other enterprises, has been intense and far-reaching. The foundation has long been a supporter of the National Juvenile Defender Center, which began as a project of the ABA Criminal Justice Section.³⁸ The Coalition for Juvenile Justice, formerly an association of state advisory groups created under the Juvenile Justice and Delinquency Prevention Act, was foundering in the wake of the withdrawal of federal support under the act, after a dispute with the then administrator of the office over its annual report urging that children not be tried as adults as a matter of national policy, and other stands taken by the Coalition.³⁹

In 2011, the foundation created a multi-year partnership with the venerable International Association of Chiefs of Police, or IACP, to improve police response to systemic juvenile justice needs and promote reforms in police handling of juveniles.⁴⁰ In January 2014, the foundation included in its Models for Change initiatives the National Association of Counties, to promote juvenile justice reforms at local levels of government.⁴¹

³³ This was the subject of last year's chapter in the ABA *State of Criminal Justice* publication, available at the ABA Criminal Justice Section juvenile justice committee website, as are the past six chapters. Go to: www.americanbar.org/groups/criminal_justice, under "committees."

³⁴ The center is sponsored by the National Juvenile Defender Center in Washington, D.C., in collaboration with Juvenile Law Center in Philadelphia, Pennsylvania.

³⁵ This center has been established at the Robert F. Kennedy Children's Action Corps in Boston, Massachusetts.

³⁶ The Vera Institute of Justice in New York is the home of the Status Offense Reform Center.

³⁷ The leading organization responsible for this effort is the National Center for Mental Health and Juvenile Justice, in Delmar, New York, in partnership with other organizations.

³⁸ Its work was highlighted in the juvenile justice chapter of the *State of Criminal Justice* in 2013, at 249.

³⁹ The Coalition was formerly known as the National Coalition of State Juvenile Justice Advisory Groups. Bill Treanor, writing for Youth Today on September 1, 2003 and February 1, 2005, has chronicled the dispute with the OJJDP administrator and the subsequent rescue of the coalition by the foundation. Those articles may be retrieved from www.youthtoday.org. According to its website, the foundation has contributed over \$5 million to the Coalition for a variety of projects between 2002 and 2015.

⁴⁰ The work of the IACP, supported by the MacArthur Foundation, is described here: <http://www.theiacp.org/Advancing-Juvenile-Justice-in-Law-Enforcement>. Among other contributions, a summit convened in September 2013 on improved police response to juvenile crime resulted in a report with 33 recommendations for reform, in *Law Enforcement's Leadership Role in Juvenile Justice Reform: Actionable Recommendations for Practice & Policy*, available at the site.

⁴¹ The work of this collaboration may be found at the association's website, www.naco.org, with a search for "juvenile justice" in the site's search box.

On a national legislative level, the foundation supported the National Conference of State Legislatures in establishing governmental support for juvenile justice reform through improved policies and programs in the states, as well as legislation.⁴² Together with four other foundations, MacArthur provides funding for the National Campaign to Reform State Juvenile Justice Systems, to enhance the prospects for juvenile justice policy reforms in a variety of states.⁴³ Formed in 2010, the campaign has reached as many as 30 states, to increase quality legal representation for youth in the justice system, raise the age of criminal responsibility by statute, address mental health and behavioral needs of delinquent or at-risk youth, and provided community based alternatives to juvenile court handling or institutionalization.⁴⁴

The number of grants and projects supported by the foundation are too numerous to discuss here. As the NRC observed, the Models for Change enterprise was “a sprawling, complex set of activities involving more than 35 jurisdictions in 14 states.”⁴⁵ By August 2013, the foundation had invested \$165 million over a 20-year period in the initiatives described above and many others.⁴⁶ The foundation has announced that it is now withdrawing investments in juvenile justice reform, in favor of initiatives to reduce reliance on incarceration in the criminal justice system, and improve conditions in the nation’s jails.⁴⁷

The report of the National Research Council with its unequivocal recommendations for improving the federal role in juvenile justice was supported in part by funding from the foundation. By calling on the Office of Juvenile Justice and Delinquency Prevention to “rebalance its portfolio” by funding improvements in the orthodox legal system and ancillary agencies involved in juvenile crime and delinquency, in effect the foundation may be calling upon the Office to take up where the foundation is now leaving off.

The report comes at a time, of course, when the Office is underfunded and under scrutiny, with a budget – particularly for grant-making and programming – which has been decimated. It may be hoped that the reauthorization of the Juvenile Justice and Delinquency Prevention Act and possible improvements of the Office’s oversight of its administration will strengthen the Act and the Office with significantly improved funding. It may also be hoped that the Office will redirect its emphasis on supporting and reforming the traditional juvenile justice system, informed by the legal and social science revelations of the past two decades regarding adolescent development.

This new direction is uncertain, though, given the political wind shear that has always influenced U.S. policy in criminal justice, and juvenile crime in particular. After all, the “moral panic” that dominated two decades of juvenile justice policy leading up to this last one is quite capable of repeating itself.⁴⁸ What will be necessary for the direction

⁴² For a view of this work, visit www.ncsl.org under “civil and criminal justice” at “research.”

⁴³ The other foundations are the Robert Wood Johnson Foundation, the George Gund Foundation, the Tides Foundation, and the New York Community Trust.

⁴⁴ The work of the campaign may be found by visiting this website: www.theneodifference.org, and linking to “partner and collaborative funds,” under “donors.” The page will discuss the scope of the campaign, and in addition, reflects the accomplishments of the campaign year by year from 2011 to the present.

⁴⁵ *A Developmental Approach*, at 259.

⁴⁶ Molly McDonough, *With \$15M in grants, MacArthur establishes 4 juvenile justice reform centers*, ABA J., Aug. 21, 2013.

⁴⁷ Announced by the MacArthur Foundation on February 10, 2015 and available at its website, www.macfound.org, under “press,” at “press releases.”

⁴⁸ See *A Developmental Approach*, at 38 (citations omitted).

recommended by the NRC, and the foundation, to maintain course is political will to do so, not only at the national level but locally, accompanied by the will and drive of opinion leaders and constituencies to implement these reforms in juvenile justice. Moreover, there is a continuing need for leadership in this field. It bears noting that several national figures long responsible for shaping law and policy in this area, many of them with ties to the ABA, are retiring.⁴⁹ Hence this void will necessarily have to be filled with energetic and dedicated talent.

V. SUSTAINING THE “FOURTH WAVE” OF REFORM: THE IJA/ABA JUVENILE JUSTICE STANDARDS

Whether the “Fourth Wave” of reform will be sustained is an open question and one which can only be answered affirmatively with leaders who are committed to improve the juvenile justice system with or without national financing, building local constituencies for political support of reforms, and the not-incidental funding required to support those reforms.

Among the recommendations of the NRC report regarding the federal role was for the American Bar Association, urging it to review and revise its existing juvenile justice standards. Developed 35 years ago, the 20 volumes address the operation and functioning of the juvenile justice process from stem to stern. The NRC considered a review “long overdue” and recommended the ABA convene an interdisciplinary task force to conduct a review and update of the standards in light of the past three decades of legal and scientific developments in juvenile justice. The NRC also recommended that the Office of Juvenile Justice and Delinquency Prevention provide financial support for the effort.⁵⁰

The 20 volumes were the product of a lengthy but thoughtful and deliberative process involving an array of legal and other scholars and practitioners, resulting in a progressive, and provocative view of the juvenile justice system and needs for reform.⁵¹ An overview of the standards volumes is appended, and as can be seen, they are quite comprehensive. A closer inspection of discrete standards and accompanying commentary reveals just how reformist and relevant they remain.⁵²

Also consistent with both reports of the NRC, the Criminal Justice Section is considering approval of a new volume of standards to address the phenomenon and needs of children and youth involved in the juvenile justice system who may also be the subject of other court proceedings or involvement with agencies related to juvenile court processing.

⁴⁹ Bart Lebow retired from the Annie E. Casey Foundation after directing its Juvenile Detention Alternatives Initiative for nearly 40 years, announced his retirement in January 2014 Patricia Puritz, the chief architect and long-time director of the National Juvenile Defender Center announced her retirement this year, along with Howard Davidson, who virtually created the ABA Center on Children and the Law in 1978 launched as a project of the Young Lawyers Division of the ABA. Robert Schwartz announced his retirement from Juvenile Law Center, which he started in Philadelphia, Pennsylvania 40 years ago as local juvenile defense office, and which is now a national presence. John O’Toole announced that he is stepping down as director of the National Center for Youth Law, which got its start as a resource center for the Legal Services Corporation, and survived its defunding in the 1980’s to become a sustained force for reform in the Bay Area and nationally.

⁵⁰ The recommendation of the NRC can be found at *The Federal Role*, at 67, Recommendation 5-6.

⁵¹ The origin of the standards, an overview and recommendations for revision similar to those of the NRC are discussed at Sobie and Elliott, *The IJA/ABA Juvenile Justice Standards: Why Full Implementation is Long Overdue*, 29 CRIMINAL JUSTICE 23 (Fall 2014).

⁵² Each volume of the standards approved by the ABA and their accompanying commentary may be found at the juvenile justice committee website.

Known as “dual jurisdiction” and “crossover” youth, the volume proposes a variety of standards to address this cohort of children, which came to populate the juvenile justice system with an increasing frequency unanticipated by the original standards effort.⁵³

VI. ABANDONING SHACKLES FOR CHILDREN AND YOUTH IN COURT, AND OTHER REFORMS

A recent publication from the Models for Change initiative, entitled *Because Kids Are Different: Five Opportunities for Reforming the Juvenile Justice System*, includes abandonment of the indiscriminate practice of shackling children and youth in court.⁵⁴ This barbaric practice has infected the nation’s juvenile courts for years now and reached scandalous proportions.

The ABA is on record opposing this practice. At its midwinter meeting on February 9, 2015 in Houston, the ABA House of Delegates approved Resolution 107A, which urges the nation’s courts to jettison the wholesale shackling of youth in court and instead adopt an individualized decision based on a demonstrated need for safety or security. The resolution is succinct:

RESOLVED, That the American Bar Association urges all federal, state, local, territorial and tribal governments to adopt a presumption against the use of restraints on juveniles in court and to permit a court to allow such use only after providing the juvenile with an opportunity to be heard and finding that the restraints are the least restrictive means necessary to prevent flight or harm to the juvenile or others.⁵⁵

The National Juvenile Defender Center, in collaboration with other organizations, has mounted a coordinated effort to restrict the practice nationally. The center sponsors the Campaign Against Indiscriminate Juvenile Shackling at its website, and provides resources for lawyers, legislators and policy-makers to end this execrable practice.⁵⁶

The Models for Change publication, coming on the heels of the NRC 2013 report on reforming juvenile justice, also singles out the prosecution of youth as adults, the solitary confinement of youth in institutions, the collateral consequences of juvenile records and need for more restrictive confidentiality, and the counterproductive policies of juvenile sex offender registration as ripe for renovation. The ABA is already on record recommending changes in sex offender registries to allow for judicial discretion in imposing such a requirement, taking into account the nature of the offense and the offender, and permitting relief from the requirement of lifetime registration by petition. The House of Delegates adopted resolution 101A to this effect at its midyear meeting in 2009.⁵⁷

⁵³ The project and its recommendations are discussed in last year’s chapter on the State of Juvenile Justice.

⁵⁴ The report may be found at www.modelsforchange.net under “publications.”

⁵⁵ The resolution and report may be found at <http://www.americanbar.org/directories/policy.html>. The resolution on the use of restraints was amended on the floor of the House to delete the term “in-person,” from the requirement that a youngster be heard on the potential for imposition of restraints, allowing counsel to be heard on the youngster’s behalf as sufficient. The report discusses the various jurisdictions to date that have adopted policies forbidding indiscriminate shackling, whether by court decision, legislation, or rulemaking.

⁵⁶ The campaign may be found at www.njdc.info, under “our work,” at “collaborative initiatives.”

⁵⁷ The resolution is available at the Criminal Justice Section Juvenile Justice Committee website. *See also*, Note 46, *supra*.

Also underway is the development of a comprehensive model act on retention and expungement of juvenile records, with the assistance of members of the Litigation section and Criminal Justice section of the ABA. That endeavor remains in the drafting stage. The IJA/ABA juvenile justice standards have a volume devoted to this area, in its *Standards Relating to Juvenile Records and Information Systems*.⁵⁸

A key recommendation of the NRC in *A Developmental Approach* is the downsizing of secure juvenile facilities to make them more manageable and effective, and urging policymakers to review the so-called Missouri model of juvenile corrections as a guide.⁵⁹ Missouri's approach to juvenile corrections and facilities programming is in accord with the IJA/ABA *Juvenile Justice Standards Relating to Corrections Administration and Architecture of Facilities*.⁶⁰ The Justice Policy Institute in Washington D.C. has recently published a report on the estimated costs of juvenile incarceration state by state in *Sticker Shock: Calculating the Full Price Tag for Youth Incarceration*.⁶¹ Surveying 46 states' expenditures on confinement of youth in juvenile corrections facilities, the report estimates the short-term and long term costs of incarceration nationally, and includes recommendations that would reinforce the trend towards smaller, more manageable facilities.

VII. JUVENILE LIFE WITHOUT PAROLE

The decisions of the U.S. Supreme Court prohibiting mandatory life without parole sentences in *Graham v. Florida* and *Miller v. Alabama* continue to roil the courts and legislatures. The court did not hand down any bright-line rules as to just what sentencing terms would satisfy the Eighth Amendment. Eleven states have abolished juvenile life without parole and three more may do so this year.⁶² The terms of legislation allowing opportunity for parole vary. In West Virginia, HB4210, passed on March 8, 2014, allows for parole eligibility not later than 15 years after sentencing, regardless of offense.⁶³ In Florida, HB7035, signed by the governor on June 20, 2014, youth under the age of 18 who commit capital crimes may still be sentenced to life in the discretion of the sentencing court, but allows for parole eligibility for those sentenced to a lesser term, and non-capital offenses. Review would occur as early as 15 years after sentencing, depending on the nature of the offense.⁶⁴ On March 26, 2015, however, the Arkansas House of Representatives rejected HB1197, which would have provided for the possibility of parole for a youth convicted of capital murder in that state after 30 years.⁶⁵

A question unanswered by the U.S. Supreme Court is the retroactivity of *Miller*, which prohibited mandatory life sentences for youth convicted of crimes, especially

⁵⁸ The volume is also showcased on the juvenile justice committee website, as of March, 2015, under "ABA Policy on Juvenile Justice."

⁵⁹ *A Developmental Approach* includes an appendix discussing this approach to juvenile corrections, its development, and an analysis of its operation, in Huebner, Beth M., *The Missouri Model: A Critical State of Knowledge*, at 411-29.

⁶⁰ Discussed in the 2013 juvenile justice chapter of *The State of Criminal Justice*, at 248-49 (2013). See also 29 CRIMINAL JUSTICE at 25-26.

⁶¹ Available at www.justicepolicy.org under "research."

⁶² Electronic correspondence with James L. Dold, lawyer and advocacy director at The Campaign for Fair Sentencing of Youth, Washington D.C., April 1, 2015. The campaign website at <http://fairsentencingofyouth.org> has an interactive map under "resources" at "facts and infographics on the sentence."

⁶³ Available at <http://www.legis.state.wv.us> under "bill status."

⁶⁴ Available at www.myfloridahouse.gov under "bills."

⁶⁵ Available at <http://www.arkleg.state.ar.us> under "assembly," at "bill information."

homicide. The Florida Supreme Court held on March 19, 2015 that *Miller v. Alabama* is retroactive.⁶⁶ Reviewing the decisional law to date around the country, the Florida high court found the trend favored its opinion.⁶⁷ Of 14 state supreme courts that have considered whether *Miller* is retroactive, ten have held in that *Miller* is retroactive.⁶⁸ In March 2015, however, the Alabama Supreme Court ruled that *Miller* was not retroactive.⁶⁹

The U.S. Supreme Court may now take up the issue. The court granted certiorari in *Montgomery v. Louisiana*⁷⁰ on March 23, 2015 to review the question, but has also directed briefing on whether the court has jurisdiction to do so.⁷¹

On February 9, 2015 the ABA passed a resolution opposing life without parole sentences for youth convicted of crimes under the age of 18, both retroactively and prospectively, and advocated for meaningful reviews of their sentences after a “reasonable” period of time has elapsed, and considering the “needs of the victims.”⁷²

The Campaign for the Fair Sentencing of Youth has developed guidelines for defense counsel representing a youngster facing a life sentence. Created with the help of a number of attorneys and criminal defense organizations, the guidelines aim to assist counsel representing youth in the adult criminal justice system, to ameliorate the otherwise harsh sentences that youth may face, with recommendations for pretrial investigation, mitigation of guilt or criminal culpability, and post-sentencing responsibilities.⁷³

VIII. CONCLUSION

The developments of the past decade in juvenile justice policy have been accompanied by great change, impelled in no small part by philanthropic support for informative research undergirding legal reform. Although it is heartening that juvenile justice policy has been recalibrated by a significant degree, it will require a unified commitment to sustain reforms bottomed on sound, scientific rationale. The American Bar Association presaged the reforms of the last decade with its comprehensive juvenile justice standards, which themselves were obscured by the reactionary policies of the two decades leading to the last one. In collaboration with other agencies and organizations, the American Bar Association and its Criminal Justice Section must continue to provide leadership in this field.

⁶⁶ *Falcon v. State*, No. SC13-865, 2015 WL 1239365 (Fla. Mar. 19, 2015). *See also* *Gridine v. State*, No. SC12-1223, 2015 WL 1239504 (Fla. Mar. 19, 2015) (holding that a 70-year prison sentence for a juvenile nonhomicide offender was unconstitutional); *Henry v. State*, No. SC12-578, 2015 WL 1239696 (Fla. Mar. 19, 2015) (aggregate sentence of 90 years for a juvenile offender was unconstitutional); Erik Eckholm, *Florida Justices Reject 70-Year Sentence for Juvenile, Likening It to Life Term*, N.Y. TIMES, Mar. 21, 2015, at A14.

⁶⁷ *Falcon*, 2015 WL 1239365 at n.1.

⁶⁸ *See supra* note 62.

⁶⁹ *Ex parte Williams*, No. 1131160, 2015 WL 1388138 (Ala. Mar. 27, 2015) (holding that the U.S. Supreme Court decision in *Miller v. Alabama*, that the Eighth Amendment precluded mandatory life sentences without parole for defendants convicted of offenses committed while they were under age 18, did not apply retroactively).

⁷⁰ No. 14-280, 2015 WL 1280236 (Mar. 23, 2015) (In addition to [the] question presented by petition, [the] parties are directed to brief and argue the following question: “Do we have jurisdiction to decide whether the Supreme Court of Louisiana correctly refused to give retroactive effect in this case to our decision in *Miller v. Alabama*”).

⁷¹ The case and its activity may be found at <http://www.scotusblog.com> under “merits cases” for the October 2015 term. Also pending is *Tolliver v. Louisiana*, No. 14-6673, presenting the same questions.

⁷² ABA Resolution 107C, available at <http://www.americanbar.org/directories/policy.html>.

⁷³ The guidelines may be found at the organization’s website, <http://fairsentencingofyouth.org>, and were released March 10, 2015.

CHAPTER 13 APPENDIX

OVERVIEW OF THE IJA/ABA JUVENILE JUSTICE STANDARDS

John D. “Jay” Elliott

This is an overview of the 20 volumes of the standards approved by the ABA, together with the names of the reporters assigned each volume. Seventeen volumes were approved by the ABA House of Delegates in 1979, and three more in 1980. Following that list are the three volumes that were ultimately not endorsed by the ABA. As these are summaries, reference should be made to each volume of the standards to discern their content or supporting commentary, and just how transformative many of the standards can be. The complete set of standards and their commentary may be found at the ABA Criminal Justice Section website under “Criminal Justice Standards.”

I. APPROVED ABA JUVENILE JUSTICE STANDARDS

1. *Standards Relating to the Police Handling of Juveniles:* The standards emphasize the role of the police in addressing serious or repeated criminal conduct committed by juveniles, preferring more informal handling of minor offenses that might include referral to other service agencies in the community, and citations in lieu of formal arrest. The standards also emphasize the development of sound policies and procedures for police involvement with youth and the larger community, and urge specialization for officers, such as juvenile officers, where circumstances permit. Egon Bittner and Sheldon Krantz, reporters.
2. *Standards Relating to Interim Status: the Release, Control and Detention of Accused Juvenile Offenders between Arrest and Disposition:* The standards set out separate rules for the different decision-makers in the interim between arrest and trial, recognizing that the role of each actor is different, including police officers, intake officials, attorneys for the accused and the state, judges and detention officials. The standards place a priority on release of the juvenile, reliance on citations as an alternative to arrest, limitations on discretion of each actor, and strict regulation of the detention process, including facilities. Daniel J. Freed and Timothy P. Terrell, reporters.
3. *Standards Relating to Pretrial Court Proceedings:* The standards set out the requirements for charging documents such as petitions, notice of charges and rights, initial appearance and the right to a hearing on probable cause, pretrial discovery, and calendaring. The standards also set out requirements for the provision of legal counsel, a right that may not be waived – at all – by the juvenile. Stanley Z. Fisher, reporter.
4. *Standards Relating to Court Organization and Administration:* The standards urge the creation of a family court division of the highest court of general trial jurisdiction to exercise juvenile court jurisdiction, jettisoning any reliance on referees or

summary court judges for case decision-making. The standards allocate responsibility for intake, probation and detention services to the executive branch, with the judicial branch responsible for rule-making, case decisions and review and case processing. Ted Rubin, reporter.

5. *Standards Relating to Prosecution:* The standards call for the establishment of a separate unit in the office of the prosecutor, closely involved with intake decisions for the prosecution, dismissal or diversion of juveniles. The standards stress the traditional adversary role for the prosecutor in adjudication proceedings, consistent with ethical constraints relevant to the role of the prosecuting attorney, and allowing the prosecutor an active, independent role in the dispositional phase. James P. Manak, reporter.
6. *Standards Relating to Counsel for Private Parties:* The standards address the role of counsel in all proceedings before the juvenile court, including delinquency and child protection, whether representing the child or the parent. The standards contemplate a system of provision of counsel, with compensation and resources adequate to support it. The standards stress the traditional role of counsel as advocate at every stage of the proceedings, with the client, however young, generally directing the attorney on those decisions ordinarily those of any client. Lee Teitelbaum, reporter.
7. *Standards Relating to Transfer Between Courts:* This volume sets out the limited circumstances under which a juvenile should be transferred to an adult criminal court, prohibiting any child younger than 15 from being transferred to such a court, and limiting the offenses for the basis of transfer to the most serious of offenses. Any hearing on transfer should occur quickly, as early as 10 days after filing of the motion, and any decision on transfer based on the elements the court should consider should be immediately appealable, by the defense or the prosecution. Charles Whitebread, reporter.
8. *Standards Relating to Adjudication:* These standards govern the conduct of trial in the juvenile court, known as adjudication, and address requirements for those proceedings which are either contested or uncontested. The standards provide for a trial by jury, at the request of the juvenile, in public, unless the juvenile waives those rights. Robert O. Dawson, reporter.
9. *Standards Relating to Dispositions:* The standards contemplate an array of dispositional alternatives, stemming from reprimand to conditional sentences including restitution, fines or community service, or custodial sentences. Any such disposition should be the least restrictive category and duration for the offender, and the court should have the requisite authority to modify and enforce dispositional orders. Linda R. Singer, reporter.
10. *Standards Relating to Dispositional Procedures:* Those dispositions are to be arrived at through the use of the procedures outlined in this companion volume. The imposition of a disposition is reserved for a judge, based on relevant, reliable information about the offender and the offense, and a formal hearing resulting in specific findings supporting the disposition imposed. The use of predisposition conferences and disposition agreements to resolve factual disputes about dispositions or to identify alternative dispositions are encouraged, however. Fred Cohen, reporter.

11. *Standards Relating to Juvenile Delinquency and Sanctions:* The standards reject a *parens patriae* theory of an illusive rehabilitative ideal, in favor of consequences and coercive sanctions proportionate to the offender and the offense. These include determinate sentences for maximum terms to be established by local jurisdictions, with limitations on the type and duration of the sanction – sentencing classification. The standards recommend a minimum age of ten before a child could be prosecuted, and create a reasonable juvenile defense for proof of *mens rea*. John M. Junker, reporter.
12. *Standards Relating to the Juvenile Probation Function: Intake and Predisposition Investigative Services:* These standards provide criteria for intake investigations and interviews or reports, dismissal and diversion of complaints regarding juveniles and requirements for formal processing of complaints as charging petitions. The standards also address the organization and administration of intake and investigative services and staffing requirements. Josephine Gittler, Reporter.
13. *Standards Relating to Corrections Administration:* The standards call for a single state agency with responsibility for the administration of juvenile corrections separate from that of adult corrections. The standards describe a variety of residential and non-residential programs, all of which are to provide for a safe, human, caring environment. The standards also set out a disciplinary system with levels of infractions and procedures, and a system of accountability that relies upon grievance mechanisms, monitoring, and ongoing evaluation. Andrew Rutherford and Fred Cohen, reporters.
14. *Standards Relating to Architecture of Facilities:* A companion to juvenile corrections, these standards stress facilities that promote normalization of behavior rather than reinforcing deviancy, and small, community based facilities that rely as much or more on staff than hardware to provide security. These standards address the architecture of group homes, secure detention facilities, and corrections facilities. Allen M. Greenberg, reporter.
15. *Standards Relating to Youth Service Agencies:* The standards urge the passage of legislation in local jurisdictions to establish youth service agencies offering a continuum of services to juveniles and their families in the community, encouraging informal referrals and more formal referrals from the police and the courts. These standards contemplate a well-funded, well-sourced agency which can provide services or referrals to them ranging from medical and counseling services to educational programs, job training and placement, and even legal services, based on a planning process identifying local needs. Judith Areen, reporter.
16. *Standards Relating to Appeals and Collateral Review:* These standards provide for an appeal of right, with the assistance of counsel and the record on appeal, at public expense if the juvenile is indigent. Any such appeal should be expedited. The standards also provide for judicial review by the original court committing a juvenile to a facility or declaring the juvenile neglected should be reviewed every six months, and this includes questions of the adequacy of treatment. Michael Moran, reporter.
17. *Standards Relating to Juvenile Records and Information Services:* This is a thorough and comprehensive approach to the problem of the assimilation, distribution and

destruction of the mass of records and information attendant to the juvenile justice system. The standards impose limitations on the use of records by every agency and the court involved with the juvenile and the family, providing for the retention and destruction of records. There is also a specific set of standards regulating social histories, their retention, and destruction. Michael L. Altman, reporter.

18. *Standards Relating to Planning for Juvenile Justice:* The standards stress planning for services to be provided to juveniles and their families as a result of a deliberative process, providing for services to be provided primarily through regional juvenile services agencies guided in part by local juvenile justice boards. The standards also define the functions of juvenile justice planners, and set out roles for external participants – state executive and legislative leadership, and the federal government. Suzanne and Leonard Buckle, reporters.
19. *Standards Relating to Monitoring:* As important as planning, the standards also provide for mechanisms for the monitoring of programs to protect the rights of youth in the juvenile justice system, and evaluate the effectiveness of any process, program or facility serving juveniles. These mechanisms include, among others, the creation of a state commission on juvenile advocacy and community advisory councils, and the appointment of an independent ombudsman with investigative authority. Stephen R. Bind and J. Larry Brown, reporters.
20. *Standards Relating to Rights of Minors:* This volume establishes the age of majority at 18, and recommends narrowly tailored legislation to determine whether a juvenile is emancipated by operation of law, rather than judicial decree. The standards also address the rights of youth to support, and the ability to work, enter contracts, and obtain health care. Barry Feld and Robert J. Levy, reporters.

II. THREE JUVENILE JUSTICE STANDARDS NOT APPROVED

The following three Juvenile Justice Standards were not approved by the ABA.

1. *Standards Relating to Noncriminal Misbehavior:* These standards proposed to eliminate general juvenile court jurisdiction over status offenses and non-criminal misbehavior, in favor of a system of intervention by police and others to obtain meaningful, ameliorative services for children who are in crisis. The standards would authorize police to use a limited form of custody to assist with the emergency placement of youth such as runaways in non-secure care, and create alternative residential placements for youth in family conflict. Aidan R. Gough, reporter.
2. *Standards Relating to Schools and Education:* This volume governs the rights of youth to an adequate education and the ability of schools to regulate student behavior, providing procedural protections for student discipline. The standards also propose rights for students to free expression and privacy, and limitations on the interrogation and searches of students. William G. Buss and Stephen Goldstein, reporters.
3. *Standards Relating to Abuse and Neglect:* Establishing a strong presumption for parental autonomy in child rearing, these standards propose narrow definitions of child maltreatment, and limitations on state authority to intervene in family life, permitting removal of the child as the alternative least harmful to the child. The

standards address the functioning of the child welfare agencies and the courts in child abuse and neglect proceedings, including provision of services to children and their families, and termination of parental rights. Michael S. Wald, reporter.