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Ted Rubin 1926-2022

Ted Rubin, who wrote for this publication for a quarter of a century, passed away in December at the age of 96. Ted's first column for *Juvenile Justice Update* appeared in April 1995, and his 149th and final column in Summer 2020.

Before he wrote his first word for *Juvenile Justice Update*, Ted had been a teacher, social worker, legislator, juvenile judge, researcher, advocate, and reformer. It's an impressive record, and explains a lot. It explains why Ted's columns were so good, and how he was able to maintain a progressive and essentially optimistic outlook in a field of human endeavor that has more than its fair share of disappointment and error. "Burnout" and cynicism are occupational hazards in the justice system, but they never touched Ted. He always focused on the best and most hopeful developments, finding and highlighting programs that were making a positive difference for youth, their families, and communities, presenting the facts in a clear and objective way geared for his professional audience, and respectfully but forcefully alerting readers to backsliding in jurisdictions that seemed to be moving in the wrong direction.

To remember Ted, we've chosen one of his columns from 2008, on the role of prosecutors in the juvenile court system. At the time, prosecutors received far less attention from reform advocates than did defense attorneys (or, more accurately, the lack of adequate

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The State of Juvenile Justice

By Jay D. Blitzman

I. Overview

Previous "State of Juvenile Justice" reports have stressed the importance of considering issues affecting children through an appropriate developmental and contextual lens and considering the larger systems that affect them and their families. Cradle-to-prison analysis considers the factors that disproportionately funnel vulnerable youth into our systems of state intervention. As reported in 2020, the pandemic has revealed the structural roots of the problem—the geographical and educational segregation that fuels social inequity and the cradle to prison pipeline.¹ We live in worlds that are still separate and palpably unequal—a world of justice for some.² The reveal should not have been so revelatory. The divide between communities was explored in a June 30, 2016, Boston television program, *Chronicle*, which reported the results of a Boston University public health study contrasting life span expectancy differentials in Roxbury and Back Bay, one of Boston's more affluent communities. The study

shockingly reported that the average life span in Roxbury was 59 years of age while in Back Bay the average life span was 92.³ *The Color Wealth of Wealth in Boston*,⁴ asserted that the median household net worth for white Bostonians was \$247,000, \$2,400 for Hispanic households, and an astonishing low \$8.00 for Black families. While the size samples of the studies has been critiqued it is apparent that the gaps between white people and black people are massive in both contexts.⁵

This year's report focuses on the imperative of applying developmental research and science to practice given the growing evidence that promoting community-based programming best supports positive youth development, reduces racial and ethnic disparities, and reduces recidivism at significantly lower cost. This perspective is reflected in *Reforming*

³ *Id.* at 6; *Chronicle: A Tale of Two Neighborhoods*, WCVB-TV Boston, June 30, 2016.

⁴ Anna Patricia Munoz et al., *The Color of Wealth in Boston*, Duke University, The New School, and the Federal Reserve Bank of Boston (2015), available at <https://www.bostonfed.org/-/media/Documents/color-of-wealth/color-of-wealth.pdf>.

⁵ Simon Rios, \$8.00? *The Complicated Story Behind One of the Most Repeated Statistics About Boston*, WBUR Boston (July 8, 2021) (observing that whether the median wealth gap is \$8.00 or \$800.00, it's still massive).

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Juvenile Justice: A Developmental Approach,⁶ a juvenile justice study commissioned by the Office of Juvenile Justice Delinquency and Prevention (OJJDP). The traditional juvenile justice model of “heavy reliance on containment and control removes youth from their families, peer groups, and neighborhoods—the social context of their future lives.”⁷ “In general, multifaceted community-based interventions show greater reductions in arrests than institutional programs.”⁸ Given this perspective, secure confinement should be reserved for cases that involve palpable threats to public safety. Treating youth fairly and proportionally in the community and in the legal system promotes due process and healthy socialization.⁹

A Marshall Project study published in February 2022 reviewed the trajectories of 35,000 juveniles arrested in Chicago over a ten-year period. The study found that those incarcerated in their youth were less likely to finish high school and

were more likely to end up in prison as adults.¹⁰ National data indicates that youth who do not graduate high school are five times more likely to be arrested and enter the juvenile or criminal system than peers who get a degree.¹¹

The Children’s Defense Fund is a leader in the call for community-based reforms. “Too many children are being criminalized at increasingly younger ages and subjected to the juvenile and/or adult criminal system. This is particularly true for children who are poor; children facing neglect, abuse and/or violence; children in foster care; and LGBTQ children.”¹² The Children’s Defense Fund charges that these children are disproportionately pushed out of schools and pulled into unjust systems...which exacerbates harm and increases the risk of abuse.¹³

Although juvenile arrest rates continue to decline, more than 530,000 children

were arrested in the United States in 2019.¹⁴ On an average night in 2017, over 43,580 were held in residential placement,¹⁵ and in spite of declining arrest numbers extreme racial and ethnic disparities persist. “Black children were 2.4 times more likely to be arrested and 4.6 times more likely to be committed or detained than their white peers.”¹⁶ The Children’s Defense Fund data is corroborated by 2021 research from the Sentencing Project which noted that “in an era of declining youth incarceration, Black and American Indian youth are still overwhelmingly likely to be held than their white peers.”¹⁷ The great majority of youth who are arrested or detained are accused of non-violent crime and for probation violations of conditions not related to allegations of re-offending.¹⁸

II. “Let’s Follow The Science”

Front and center in the mantra of “let’s follow the science” is a new white paper, published on January 31, 2022,

⁶ Jay D. Blitzman, *The State of Juvenile Justice*, in ABA CRIMINAL JUSTICE SECTION, THE STATE OF CRIMINAL JUSTICE 2021, at 159 (Mark E. Wojcik, ed. 2021) citing Richard J. Bonnie, Robert L. Johnson, Betty M. Chemers, & Julie A. Schuck, eds., REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH (Nat’l Research Council 2013) (Committee on Assessing Juvenile Justice, Division of Behavioral and Social Sciences and Education Washington D.C.).

⁷ REFORMING JUVENILE JUSTICE, *supra* note 6, at 3.

⁸ *Id.* at 6.

⁹ *Id.* at 6-7.

¹⁰ Keri Blakinger and Maurice Channah, *They Went to Prison as Kids- Now They’re on Death Row*, The Marshall Project (Feb. 1, 2022), <https://www.themarshallproject.org/2022/02/01/they-went-to-prison-as-kids-now-they-re-on-death-row>.

¹¹ Robin Dahlberg, *Arrested Futures: The Criminalization of School Discipline in Massachusetts Three Largest School Districts*, ACLU-Citizens for Juvenile Justice (Spring 2012), available at <http://www.cfjj.org-arrested-futures>.

¹² *The State of America’s Children: Now is the time to reimagine youth justice*, We have better choices than incarceration, Youth Justice, Children’s Defense Fund (Apr. 15, 2021), available at <https://www.childrensdefensefund.org-soac-2021-youth-justice-EDT>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Josh Rovner, *Racial Disparities in Youth Incarceration Persist*, The Sentencing Project (Feb. 1, 2021).

¹⁸ U.S. Dep’t of Justice Office of Juvenile Justice and Delinquency Prevention, *Characteristics and Trends of Delinquency Cases Resulting in Probation*, 1, 1 (Aug. 2019), available at <http://ojjdp.ojp.gov/library/publications/characteristics-and-trend-delinquency-cases-resulting-probation>.

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by the Center for Law Brain & Behavior.¹⁹ CLBB's mission involves applying behavioral research and neuroscience to the law. While the paper analyzes the post *Jones v. Mississippi*²⁰ landscape after the Supreme Court ruled in April 2021 that a finding of "permanent incorrigibility" at the time of sentencing is not required when making juvenile life without parole determinations, the research "is intended to facilitate science-informed decision-making and application of updated research findings in law and public policy bearing upon adolescence and criminal proceedings."²¹ Application of developmental research and science is relevant in multiple contexts, including

sentencing approaches. It is important to note that Supreme Court jurisprudence established that children are not just little adults, as reflected in abolishing the death penalty for juvenile offenders in *Roper v. Simmons*,²² juvenile life without parole in non-capital cases in *Graham v. Florida*,²³ and mandatory juvenile life without parole in *Miller v. Alabama*,²⁴ and *Montgomery v. Louisiana*,²⁵ has been incorporated to varying degrees into state statutes and case law which offers the possibility of more robust applications of the *Miller* case will focus on "transient immaturity" and the admonition that juvenile life without parole sentences should be rare and uncommon. As the white paper notes, arguably shifting from a focus on "permanent incorrigibility"

counterintuitive, committing a violent crime before age 20 is not a strong predictor of a persistent criminal trajectory.²⁹ This analysis supports raising the age of juvenile court jurisdiction to include the 18- to 21-year-old age group. This is underlined by the CLBB research regarding significantly higher rates of recidivism for youth in the 18- to 21-year-old age group who have their cases heard in criminal sessions as opposed to more rehabilitative juvenile court settings. "At a policy level, our currently dismal criminal justice outcomes could be improved for this age cohort by designing and implementing evidence-based processes for diversion preventing unwarranted penetration (including pre-trial detention and avoiding harsh sentencing) and resourcing developmentally-specialized interventions for late adolescent offenders which support prosocial activities."³⁰

Drawing a bright line that ends juvenile court jurisdiction at 18 has no basis in science.

With Jones v. Mississippi, the Supreme Court set a floor for protections against cruel and unusual punishments, but states are free to determine their own ceiling.

consideration of policies that include raising the age of juvenile court jurisdiction beyond eighteen or creating youth courts for late teens and emerging adults, issues of transfer to criminal courts, mandatory sentencing regimes, specific intent, zero tolerance, and proportional accountability.

The *Jones v. Mississippi* decision almost certainly signals the end of further expansion by U.S. Supreme Court of Eighth Amendment protections against cruel and unusual punishment to juveniles, but it does not prohibit states via interpretations of their own constitutions, legislative enactments, and case law, to take different courses of action. The Supreme Court set the ground floor, but each jurisdiction can determine its own ceiling. This issue is explored in greater detail later in this discussion. Many advocates are understandably concerned about justice by geography and the potential for racial and ethnic disparities in discretionary

which cannot be predicted in a scientifically reliable manner to "transient immaturity" (a construct which is already established by robust developmental neuroscience) may encourage opportunities on a case-by-case basis and might also encourage prosecutors and practitioners to consider research-based diversion and community-based interventions as alternatives to traditional charging decisions and sentencing recommendations.²⁶

The CLBB white paper documents the inability to justify a scientifically supported developmental line between 17- and 18-year-old youths.²⁷ The research also suggests that policy should reflect the natural process of maturation and desistance that occurs with age. Age crime curve data shows that serious crime peaks at ages 17-19 and then decreases in the early 20's.²⁸ While it might seem

III. Juvenile and Child Welfare Systems

Commentators have described the sad history of systemic racial and ethnic bias in juvenile justice. In *Race, History and Ancestry*, James Bell and Raquel Mariscal trace the evolution of our juvenile justice system, from the houses of refuge and shelter that excluded children of color to the transition to juvenile training schools and in prisons in which black and brown children were dramatically over-represented.³¹ Unfortunately, there are historical parallels in our child welfare systems. Significant numbers of youth are dually involved in the juvenile justice and child welfare systems. Youth who are involved in the child welfare system, either through status offense cases or as alleged victims of abuse or neglect are much more likely to become involved later in our juvenile and criminal systems. The Juvenile Law Center describes a foster-care-to-prison pipeline, noting

¹⁹ Juith G. Edersheim, Catherine Insel, Robert T. Kinscherff, Francis X. Shen, Stephanie Tabashneck, *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys and Policy Makers* (Jan. 31, 2022), <https://clbb.mgh.harvard.edu/white-paper-on-the-science-of-late-adolescence>.

²⁰ 141 S. Ct. 1307 (2021).

²¹ Edersheim, *supra* note 19, Executive Summary at 2.

²² 543 U.S. 551 (2005).

²³ 560 U.S. 48 (2010).

²⁴ 567 U.S. 460 (2012).

²⁵ 577 U.S. 190 (extending *Alabama v. Miller* retroactively).

²⁶ Edersheim, *supra* note 19, at 1.

²⁷ *Id.* at 43.

²⁸ See, e.g., Edward Mulvey et al., *Trajectories of Desistance and Continuity in Antisocial Behavior Following Court Adjudication Among Serious Adult Offenders*, 22 DEVELOPMENT & PSYCHOPATHOLOGY 453 (2010).

²⁹ A.R. Piquero & S.M. Cardwell, *The unpredictability of murder: Juvenile Homicides in the pathways to desistance study*, 14 YOUTH VIOLENCE & JUV. JUST. 26 (2000).

³⁰ Edersheim, *supra* note 19, at 43.

³¹ James Bell and Raquel Mariscal, *Race, Ethnicity, and Ancestry in Juvenile Justice* in JUVENILE JUSTICE: ADVANCING POLICY, RESEARCH, AND PRACTICE 111 (Francine Jacobs & Francine Sherman eds., Wiley & Sons 2011).

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that youth placed in group homes are 2.5 times more likely to become involved in the juvenile or criminal justice system.³² As regards the approximately 437,500 youth who are in foster care, 90% of this number who experience five or more placements will enter the juvenile or criminal system.³³ As is the case in juvenile justice, youth of color are disproportionately represented in child welfare.

The relationship between entering the juvenile system in the context of child protection was addressed in part in the 2020 report.³⁴ For example, Massachusetts data shows that between 2010 to 2012 over 70% of youth committed to the state's Department of Youth Services (D.Y.S.) had previously been involved with the Department of Children and Families (D.C.F.) and, of that number, over half had been five or younger.³⁵ In citing this data, Harvard historian Jill Lepore notes that the rates of racial and ethnic disparity in child welfare parallel the rates in juvenile justice, contributing to a child version of the carceral state, a birth-to-prison pipeline.³⁶ Lepore describes a retributive narrative against the poor that dates to *Oliver Twist* which has been characterized by removal of children from poor mothers without paying sufficient attention to community infrastructure and support. History has shown that cases of children being lost have had tragic consequences as the pendulum dramatically swings in towards removal of children as the understandable need to address risk overwhelms proactive engagement with families.³⁷

The racial and ethnic impacts of this reactive process have been critiqued by observers who have noted that given that over 75% of national child protection investigations involve allegations of

neglect as opposed to inflicted injury,³⁸ and there are significantly higher rates of mandatory reporting in certain community that involve subjective assessments of lifestyle. This has resulted in significantly higher rates of removal of black and brown children from their families. Parallels have been drawn between heightened police surveillance in certain communities and child welfare surveillance and investigations. Kate Lowenstein has analogized abuses of mandatory reporting in this context to racialized abuses of stop-and-frisk to racially profile youth of color. She notes that in Massachusetts, 71% of black youth will have had their families investigated by the D.C.F. before they reach the age of 18.³⁹ Sadly, many children are further traumatized by inadequately funded and supported foster care systems. Lowenstein indicates that rates of Post-Traumatic-Stress-Disorder (PTSD) are as high as 25%, as contrasted by rates of 12% for veterans of the Iraq war and 15% for veterans the Vietnam.⁴⁰ Dorothy Roberts argues that the child welfare system and related policies is destroying black families.⁴¹

Federal policy also plays an important role in setting the national agenda. Professor Martin Guggenheim has criticized the 1997 Adoption and Safe Families Act (ASFA) as prioritizing trial guidelines and adoption in the name of permanency, charging that ASFA has been responsible for the massive destruction of black and brown families with more than two million parents' rights having been terminated as a result.⁴² In 2018, the Family First Prevention Services Act (FFPSA) was enacted. The legislation has been described by the Children's Defense Fund as potentially one of the most important reforms in child welfare in decades.⁴³

³⁸ Kate Lowenstein, Power point presentation for the author's Boston College Cradle to Prison Pipeline course, based on her article, *Shutting Down The Trauma to Prison: Early Appropriate Care for Child-Welfare Youth*, (Citizens for Juvenile Justice) (Feb. 19, 2022).

³⁹ *Id.* Ppt. Slides 18 and 19.

⁴⁰ *Id.*

⁴¹ DOROTHY ROBERTS, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES AND HOW ABOLITION CAN BUILD A SAFER WORLD* (Basic Books 2022); DOROTHY ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* (Basic Books 2002).

⁴² Martin Guggenheim, *Let's Root Our Racism In Child Welfare Too*, The Imprint (2020).

⁴³ *Family First Prevention Services Act: Historic Reforms for Child Welfare*, Children's Defense Fund (Oct. 26, 2021).

One of the goals of the initiative is to provide federal dollars to states who adapt their practices to include greater support for children in their homes in order to reduce the trauma of state intervention. Given the variability in different states and given short term concerns about expenditures to meet licensing requirement for children in congregate care, as well as allowing jurisdictions to delay signing on, it is unclear at this juncture what impact the legislation will have. Buying into Family First requires states "to radically rethink their approach to child protection and family support, and full implementation of the law will be a years-long process."⁴⁴

IV. Police in Schools

Last year's *The State of Juvenile Justice*⁴⁵ noted that the deployment of police in schools and the scope of their authority and relationship to educators had become an important part of cradle/school-to-prison analysis and emphasized the need to develop robust memoranda of understanding consistent with the ABA Criminal Justice Standard directed at avoiding the criminalization of normative adolescence.⁴⁶ Last year, this report raised the issue of whether the time had come to remove police from school, noting that more fundamental question of whether the deployment of police in schools is justifiable or needed at all.⁴⁷ A neglected part of ABA Criminal Justice Standard 3.3 emphasizes that police should only be deployed in schools upon a showing of demonstrable need and on a time-limited basis.⁴⁸ As reported last year, within one month of George Floyd's death, the Minneapolis school board voted unanimously to terminate its city police contract.⁴⁹ Portland (Oregon), Denver, and Oakland

⁴⁴ *Id.*

⁴⁵ Jay D. Blitzman, *The State of Juvenile Justice*, in ABA CRIMINAL JUSTICE SECTION, *THE STATE OF CRIMINAL JUSTICE* 2021, at 152 (Mark E. Wojcik, ed. 2021).

⁴⁶ *Id.* at 164. (citing ABA Criminal Justice Standard 3.3: Responsibilities of Law Enforcement, Schools, and Juvenile Courts in Responding to School-Related Conduct (2017)).

⁴⁷ *Id.* at 152-54.

⁴⁸ *Id.*

⁴⁹ Vincent. Barone, *Minneapolis School Board Votes Unanimously To Terminate City Police Contract*, N.Y. POST (June 2, 2020), available at <https://nypost.com/2020/06/02/minneapolis-school-board-cancels-city-police-contract/>.

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³² *What Is The Foster Care to Prison Pipeline?*, Juvenile Law Center (May 26, 2018), available at <https://jlc.org/news/what-foster-care-prison-pipeline>.

³³ *Id.*

³⁴ Jay D. Blitzman, *The State of Juvenile Justice*, in ABA CRIMINAL JUSTICE SECTION, *THE STATE OF CRIMINAL JUSTICE* 2021, at 156 (Mark E. Wojcik, ed. 2021).

³⁵ *Id.* (citing Jill Lepore, *Baby Doe: A History of Political Tragedy*, THE NEW YORKER, Feb. 1, 2016, at 15).

³⁶ *Id.*

³⁷ Jill Lepore, *Baby Doe: A History of Political Tragedy*, THE NEW YORKER, Feb. 1, 2016, at 15.

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quickly took similar action as part of the larger conversation of whether school policing made schools safer.⁵⁰

In the past year, 33 cities across the country, encompassing urban, suburban, and rural communities, have suspended or terminated the use of school resource officers (SROs) and other law enforcement representatives in their schools.⁵¹ This growing list now includes Brookline, Worcester, New Bedford, and Northampton in Massachusetts, St. Paul, Minnesota, Milwaukee, Seattle, San Francisco, San Jose (California), and Charlottesville.⁵² While most of the movement away from school policing has been community-based, in February 2021, Massachusetts amended its education law to remove a state mandate requiring police in schools in favor of allowing discretionary deployment by school superintendents.⁵³ The states of Connecticut and Oregon are considering legislation that will phase out policing.⁵⁴ In June of 2021, the Coalition for Juvenile Justice, created by the federal Juvenile Justice Act and comprising state juvenile justice advisory groups that include judges, prosecutors, and advocates, adopted a statement by a 33-0 vote, which recommended that “Law Enforcement personnel or other personnel with the authority to effectuate arrest should be present in school only upon a demonstrated threat to the immediate safety of students, staff and faculty, and for only as long as the threat exists.”⁵⁵ This language is consistent with ABA Criminal Justice Standard 3.3 on Dual Involved Youth, and the positions for the Dignity in School Campaign, the ACLU, and the Judge David Bazelon Center for Mental Health.⁵⁶

New York City is in the process of transferring its 5000 plus complement of school

safety officers from the supervision of the city’s police department to the Department of Education.⁵⁷ The process entails training the police in restorative justice practices and was to be completed by June 2022.⁵⁸ For some advocates, this move is a positive step in the “de-escalation of a system often seen as imposing harsh punishments that disproportionately target students of color.”⁵⁹ Others perceive the retrofitting of police to perform functions that could be handled by counselors and emotional support specialists as inadequate.⁶⁰

In August 2021, the ABA House of Delegates adopted Resolution 505, urging states to raise the minimum age of juvenile court jurisdiction to 14. This recommendation reflects the application of developmental science to practice, is consistent with the U.N. Convention on the Rights of the Child (CRC), and would limit the ability to arrest children and young teens in schools.

Recent research demonstrates that the presence of school police has the unintended consequence of compromising the educational mission while contributing to the criminalization of adolescence.⁶¹ A July 20, 2020 study examining the effects in thirty-three public schools that expanded the presence of police through funding from the Department of Justice’s Community Oriented Police Services hiring program (C.O.P.S.)⁶² as compared with a sampling of seventy-two schools that did not adopt that approach found that the presence of SROs increased the number of exclusionary responses and criminalization of school discipline.⁶³ The study also noted

that the increased police presence did not improve public safety or the number of drug or gun offenses.⁶⁴

V. Juvenile Court Jurisdiction

Each state determines the minimum and maximum age of juvenile court jurisdiction. “As of January 2021, over half the states in the U.S. still had no minimum age for prosecuting children.”⁶⁵ The U.S. is an outlier in the world for prosecuting younger children in court; 14 is the most common minimum age of criminal responsibility internationally.⁶⁶ The variety of approaches to the age of juvenile court jurisdiction reflects the juvenile world of justice by geography.

New Hampshire sets its minimum age at 13.⁶⁷ California, Massachusetts, Utah, Delaware, and New York set the age at 12.⁶⁸ Massachusetts is the only state to have set a minimum age of 12 for juvenile court jurisdiction for all offenses. Nebraska has set a minimum age of 11 for all offenses.⁶⁹ Sixteen states have set the minimum age at 10.⁷⁰ Washington State set the minimum age at 8, but Washington State requires that in order to prosecute children between the ages of 8-12 it must be shown that they have the “sufficient capacity” to understand the charges against them.⁷¹ Florida set its minimum age at 7.⁷²

⁶⁴ *Id.*

⁶⁵ *Raising the Minimum Age for Prosecuting Children*, National Juvenile Justice Network, available at <https://www.njjn.org/our-work/raising-the-minimum-age-for-prosecuting-children>.

⁶⁶ *Id.* at 1.

⁶⁷ *Id.*, Except for the commission of a violent crime as defined in N.H. REV. STAT. ANN. § 169-B:35-a I(c).

⁶⁸ *Id.* California’s minimum age of 12 excludes serious sexual assaults, which can be prosecuted at any age; Utah excludes murder, aggravated kidnapping and enumerated offenses; Delaware excludes the age limitation for rape and enumerated firearm charges; New York excludes aggravated negligent homicide, manslaughter, and murder.

⁶⁹ *Id.*

⁷⁰ *Id.* Arkansas, Arizona, Colorado, Connecticut, Kansas, Louisiana, Minnesota, Mississippi, Nevada, North Carolina, North Dakota, Pennsylvania, South Dakota, Texas, Vermont, and Wisconsin. Vermont has an exception for murder, for which there is no age limit for prosecution.

⁷¹ *Id.*; WASH. REV. CODE ANN. § 9A.04.050.

⁷² <https://www.njjn.org/our-work/raising-the-minimum-age-for-prosecuting-children>.

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⁵⁰ Matt Barnum, *Do Police Keep Schools Safe? Fuel the school-to-prison pipeline? Here’s what the research says*, CHALKBEAT (June 23, 2020), available at <https://www.chalkbeat.org/2020/6/23/21299743/police-schools-research>.

⁵¹ Jay D. Blitzman, *Shutting Down the School-to-Prison Pipeline*, HUMAN RIGHTS, at 20 (Oct. 2021), available at https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/empowering-youth-at-risk/shutting-down-the-school-to-prison-pipeline/.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Erum Salam, *New York will reassign 5,000 school police officers*, THE GUARDIAN (Sept. 17, 2021), available at <https://www.theguardian.com/us-news/2021/sep/17/new-york-city-reassign-5000-school-safety-officers>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Matt Barnum, *Do Police Keep Schools Safe? Fuel the school-to-prison pipeline? Here’s what the research says*, CHALKBEAT (June 23, 2020), available at <https://www.chalkbeat.org/2020/6/23/21299743/police-schools-research>

⁶² <https://cops.usdoj.gov/chp>.

⁶³ Denise C. Gottfredson, Scott Crosse, Zhiqun Tang, Erin L. Bauer, Michele A. Harmon, Carol A. Hagen, & Angela D. Greene, *Effects of School Resource Officers On School Crime and Responses to School Crime*, 19 CRIMINOLOGY & PUB. POL’Y 905 (2020), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/effects-school-resource-officers-school-crime-and-responses-school>.

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As discussed in the 2021 report the variety of these models is contrasted by European approaches which are generally more consistent with the U.N. Convention on the Rights of the Child which has recommended that nations set a minimum age of criminal responsibility no lower than fourteen.⁷³ Countries that set the minimum age of criminal responsibility at fourteen or higher include Argentina, China, Congo, Germany, Italy, Poland, Spain, Somalia, Sweden, Russia, and Ukraine.⁷⁴

Raising the age of juvenile court jurisdiction or designing youthful offender or emerging adult models continues to be debated. As has been suggested in these pages, the developmental and scientific research seems aligned with raising the age of juvenile court jurisdiction to phase in the 18-21 age group. Vermont has enacted legislation to phase extending juvenile court jurisdiction to encompass late teens.⁷⁵ Phasing in extended jurisdiction would provide the opportunity to assess the public safety impact and cost of such initiatives. As Marcy Mistrett has observed, “A decade ago, “raising the age” was considered a high-cost and risky investment. Today, research and outcomes demonstrated that not only did the sky not fall, but proponents underestimated the successes to come.”⁷⁶ Eleven states have successfully raised the age to 18 since 2007 with a very minimal, often temporary increase in the use of secure facilities.⁷⁷ Long-term declines in youth offending and arrests assume much of the credit for the decline of detaining youth in secure facilities; indeed, facilities continue to be closed or have excess capacity around the country, including in states that have raised the age.⁷⁸

States engaged in juvenile justice reform have adapted their practices. Kansas legislation designed to move youth from

secure facilities to community-based care and residential settings resulted in a 25% reduction of the number in secure facilities between 2017-2019, although critics have suggested that there was an unintended effect of increases in the child welfare and foster care systems.⁷⁹ New York City’s Close to Home initiative featured the closing of New York’s upstate juvenile prisons and has resulted in a decrease of secure and residential placements by 71% between 2013-2018.⁸⁰ The Close to Home model included opening twenty-nine semi-secure group homes in residential neighborhoods. In addition to shrinking the detention population, the program significantly reduced recidivism by fostering community educational connection; 91% of youth in the program engaged in community-based programming pass all their classes, and 67% successfully engage in after-care.⁸¹ The Justice Policy Institute published a report noting the overwhelming success of states that had raised the age to 18, including Connecticut, Illinois, Massachusetts, and (ironically) Mississippi.⁸²

VI. Juvenile Life Without Parole and Mandatory Sentencing

As discussed previously in this report the decision of the U.S. Supreme Court in *Jones v. Mississippi* determined that a sentencing court is not required to make a finding of “permanent incorrigibility” prior to imposing a sentence of juvenile life without parole. The 2020 report addressed the need for each state to revisit the issue of addressing mandatory juvenile life without parole sentences⁸³ in the aftermath of *Miller v. Alabama*.⁸⁴

and *Montgomery v. Louisiana*.⁸⁵ In *Montgomery*, the Supreme Court held that *Miller* was retroactive and in the process arguably suggested that juvenile re-sentencing hearings should apply not only for defendants who had received life without parole sentences but for all but the rarest of juvenile offenders whose crimes reflect permanent incorrigibility as opposed to those whose conduct was indicative of transient immaturity.⁸⁶ Now that the Supreme Court has established the ground floor, each state will continue to have an opportunity to set their own ceiling as regards this issue, including considering re-sentencing hearings and determinations of parole eligibility.

There has been a gradual decline in the population of persons serving juvenile life without parole sentences. As of last year, there were 1465 people serving life and virtual life without parole sentences for murders committed before the age of 18.⁸⁷ This constituted a decrease of 38% from 2016 data and a 44% decline since 2012.⁸⁸ Justice by geography is manifested in different legislative responses to determining parole eligibility. Nevada has determined that 15 years must be served before parole eligibility, while Nebraska has set the figure at 40 years.⁸⁹ The District of Columbia has enacted legislation that extends the eligibility for *Miller* hearings to persons who committed their crimes after reaching the age of 18 – extending up to the age of 25.⁹⁰ This legislation reflects the debate about the scope of *Miller* hearings and whether or not there are salient developmental differences between 17-year-old youths and those who are 18 or 19. The neuroscience of brain development suggests that

⁷⁹ Nomin Ujjiyedi In, *Law The Kept Kids Out of Jail, May Have Led To Foster Care*, U.S. NEWS & WORLD REP. (Nov. 25, 2019), available at <https://www.usnews.com/news/best-states/articles/2019-11-25/law-that-kept-kids-out-of-jail-may-have-led-to-foster-care>.

⁸⁰ Allison DiKanovic, *New York and Milwaukee Vary in Approach to Juvenile Justice*, U.S. NEWS & WORLD REP. (Sept. 14, 2019), available at <https://www.usnews.com/news/best-states/wisconsin/2019-09-14/new-york-and-milwaukee-vary-in-approach-to-juvenile-justice>.

⁸¹ *Id.* at 3.

⁸² *Raising The Age: Shifting To A More Effective and Safer Juvenile Justice System*, JUSTICE POLICY INSTITUTE, at 6 (2017), available at https://www.justice.policy.org/uploads/justicepolicy/documents/raise-the-age-summary-final_3.pdf.

⁸³ Jay D. Blitzman, *The State of Juvenile Justice*, in ABA CRIMINAL JUSTICE SECTION, THE STATE OF CRIMINAL JUSTICE 2020, at 160 (Mark E. Wojcik, ed. 2020).

⁸⁴ 567 U.S. 460 (2012).

⁸⁵ 136 S. Ct. 7 (718).

⁸⁶ Adam Liptak, *Supreme Court Hears Case of Lee Malvo, Sniper Who Terrorized D.C.*, N.Y. TIMES (Oct. 16, 2019), available at <https://www.nytimes.com/2019/10/16/us/supreme-court-dc-sniper-lee-malvo.html>.

⁸⁷ Josh Rovner, *Juvenile Life Without Parole: An Overview*, Sentencing Project Policy Brief (May 24, 2021), available at www.sentencingproject.org (virtual life is defined as a term of years beyond the average life span, such as the Missouri sentence of 112 years given to Bobby Bostic).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* (citing D.C. Omnibus Public Safety and Justice Amendment Act of 2021, B22-255 amending Act of 2020).

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there are not. In considering this issue, as well as mandatory sentencing, the state of Washington has applied principles of adolescent development in a series of important rulings.

Two Washington state cases, *Washington v. Ali*⁹¹ and *Washington v. Cornelia*⁹² raise important issues about the propriety of mandatory sentences for juveniles who have been transferred and sentenced in criminal sessions. Ali was convicted of multiple robbery charges in 2008 when he was 16 and received a sentence of twenty-six years, which included a mandatory minimum sentence under Washington law of twenty years. Cornelia was convicted on one count of rape in 2014 and was sentenced to a mandatory minimum sentence of twenty years. Before their sentences became final, the Washington Supreme Court ruled in *State v. Houston-Sconiers*⁹³ that the U.S. Supreme Court decisions in *Graham v. Florida*⁹⁴ and *Miller v. Alabama*⁹⁵ required individualized sentencing determinations which take into account youth and immaturity prior to the imposition of mandatory criminal terms for juveniles. Ali and Cornelia filed appeals of their sentences arguing that the ruling in *Houston-Sconiers* be applied retroactively. In companion cases the Washington Supreme Court agreed⁹⁶ and held that Eighth Amendment jurisprudence against cruel and unusual punishment stripped state legislatures from setting mandatory minimums.

Washington's interpretation of what constitutes cruel and unusual punishment echoes what occurred in *State v. Lyle*.⁹⁷ In that case, the Iowa Supreme Court ruled in 2014 that mandatory minimum sentences for juvenile offenders were unconstitutional under Iowa law as a "statute that sentences all juveniles to prison for a minimum period of time under all circumstances cannot satisfy

the standards of decency and fairness embedded in Article 1, Section 17 of the Iowa Constitution."⁹⁸ In March 2021, the Washington State Supreme Court extended the scope of *Miller* juvenile life without parole hearings to 20-year-old youths in companion cases, ruling that there are no meaningful cognitive differences between 17-year-old youths and many 18-21-year-old youths.⁹⁹ The cases were remanded to the trial court ordering that the sentencing court must consider whether or not each individual was subject to the mitigating qualities of youth. The Supreme Judicial Court of Massachusetts recently remanded a case to the trial court to address similar issues. The case entails two co-defendants, Nyasani Watt and Sheldon Mattis, who were convicted of murder. Watt was just 10 days away from turning 18 when he shot the decedent in 2011. As a juvenile he received a sentence of life without parole but was eligible for parole after serving 15 years. Sheldon Mattis, who gave the gun to his co-defendant but was not the shooter, was 18 at the time of the crime and received a mandatory sentence of life without parole. In December of 2019 the S.J.C. upheld the convictions but after an extensive review that included expert testimony on adolescent brain development and the 18-21 age crime curve remanded the case for an evidentiary hearing regarding Mr. Mattis.¹⁰⁰ Another case under review by the S.J.C. involves Jason Robinson, who was 19 years of age at the time he was accused of murder. The legal arguments in both cases is that neuroscience research shows that the brain is not fully developed by age 21, and that persons below that age should be provided the same relief as those under 18 at the time of their crimes.¹⁰¹

The Washington D.C. Comprehensive Youth Justice Act makes persons eligible for parole for any crime after serving a minimum term of 15 years, if they

were between the ages of 18-25 at the time of their offenses.¹⁰² The statute recognizes "the diminished culpability of juveniles and persons under the age of 25 as compared to older adults" and recognizes that hallmark natures of youth, "including immaturity, impetuosity, and the failure to appreciate risks and consequences."¹⁰³ This language is right out of the *Miller-Montgomery* "transient immaturity" playbook.

The United States remains the only country in the world that allows for juvenile life without parole.

VII. State Legislative Reforms¹⁰⁴

Each state defines the contours of its juvenile system. Several jurisdictions have enacted legislation that moves toward incorporating the concept of transient immaturity and adolescent development into their juvenile and criminal codes. This sampling is not meant to be inclusive.

- *California*—Assembly Bill 652, enacted in September 2021; An Act to add Section 801 to the Welfare and Institutions Code which makes an order transferring a juvenile to a court of criminal jurisdiction automatically subject to appeal. It further requires any transfer order to be subject to immediate appellate review.
- *Colorado*—House Bill 1091 addresses sentencing parity for juveniles convicted as adults following the transfer of charges to criminal sessions excluding juvenile from mandatory sentencing provisions unless the juvenile is convicted of a Class I felony or a sex offense. This enactment does by statute what the Iowa Supreme Court did in *State v. Lyle*,¹⁰⁵ which held that mandatory sentencing for transferred juveniles violated the state's prohibition against cruel and usual punishment.

Colorado House Bill 1209 of 2021 concerns offenses committed by persons under the age of 21. The bill was edited to include information regarding recent brain development research, documenting the differences

⁹¹ *Washington v. Said Omar Ali*, No. 20-830.

⁹² *Washington v. Endy Domingo-Cornelia*, No. 20-831.

⁹³ 391 P.3d 409 (Wash. 2017).

⁹⁴ 560 U.S. 48 (2010).

⁹⁵ 567 U.S. 460 (2012).

⁹⁶ *In re Personal Restraint of Ali*, 474 P.3d 507 (Wash. 2020), cert. denied, 141 S. Ct. 1754 (2021); *In re Personal Restraint of Domingo-Cornelia*, 474 P.3d 524 (Wash. 2020), cert. denied, 141 S. Ct. 1753 (2021).

⁹⁷ 854 N.W.2d 398 (Iowa 2014).

⁹⁸ *Id.*

⁹⁹ *In re Personal Restraint of Kurtis William Monschke*, No. 96772-5 (Wash.), consolidated with *In re Personal Restraint of Dwayne Earl Bartholomew*, No. 96773-33, <https://www.courts.wa.gov/opinions/pdf/967725.pdf>.

¹⁰⁰ Ella Fassler, *Massachusetts Could Loosen Life Without Parole Restrictions For Young People*, THE APPEAL (June 30, 2021), available at <https://theappeal.org/massachusetts-could-loosen-life-without-parole-restrictions-for-young-people/>.

¹⁰¹ *Id.*

¹⁰² D.C. Official Code § 24-403.03.

¹⁰³ *Id.*

¹⁰⁴ Citations: see <https://www.ncsl.org/research/civil-and-criminal-justice/ncsl-jvenile-justice-bill-tracking-database.aspx>.

¹⁰⁵ 854 N.W.2d 378 (Iowa 2014).

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between youths and adults. This bill makes a commitment to implement best practices to release offenders who committed crimes prior to the age of 21 who have demonstrated improved maturity and responsibility.

Colorado House Bill 1258, enacted in June 2021, establishes a temporary program to facilitate the provision of mental health services to youth with a focus on those whose issues have been exacerbated by COVID-19.

- *Delaware* – House Bill 115 raised the minimum age of juvenile court jurisdiction to 12, joining Massachusetts and California. Juvenile transfer to Superior Court was also prohibited for children under age 16, the only exceptions in both contexts are for enumerated serious felonies.
- *Illinois* – The Juvenile Court and Criminal Procedure Act of 1963 was amended in July of 2021. The amendments require that an oral, written, or sign language statement of a minor under the age of 18, made during a custodial interrogation, is presumed to be inadmissible in a criminal or juvenile proceeding if during the custodial interrogation a law enforcement officer or juvenile officer knowingly engages in deception.
- *Indiana* – Senate Act 368 of 2021 provides for automatic expungement for certain juvenile offenses.
- *Maine* – H1247 of 2021 limits dissemination of juvenile records and juvenile record information.
- *Mississippi* – S2282 of 2021 raised the minimum age at which a child may be committed to the state training school and be held in secure detention to 12 years of age.
- *Maryland* – Act 61 authorizes Maryland courts to impose less than mandatory minimum sentences for minors convicted as adults. This legislative approach is the statutory equivalent of the holding in *Iowa v. Lyle*,¹⁰⁶ in which the state's Supreme Court abolished mandatory minimums for juveniles transferred to criminal court based on Iowa's interpretation of what constitutes cruel and unusual punishment.

- *New Jersey* – S2924 of 2021- Created two-year restorative justice program for youths and established the Mental Health Screening in Schools Grant Program, which provides schools with resources and funding to implement depression screening programs.
- *New York* – Legislation has been filed in New York (A 5891; S. 2800 B) that would enhance protections for children during custodial interrogation by requiring that a youth subjected to custodial interrogation first consult an attorney.
- *North Carolina* – S207 of 2021 complements the Juvenile Justice Reinvestment Act based on legislative recommendations of the Juvenile Jurisdiction Advisory Committee and provides for mental health assessments to be provided for juveniles who have been adjudicated delinquent. It also provides for terms for an offense committed by juveniles committed while the juvenile was at least sixteen for extended juvenile court jurisdiction.
- *Oregon* – S418 of 2021 provides that a statement made by a person during a custodial interview is presumed to be involuntary if the person is under 18 years of age and the court determines that the peace officer intentionally used information known to be false.

VIII. Expungement of Juvenile Records¹⁰⁷

- *California* – California strengthened requirements for the automatic sealing of juvenile records not resulting in an adjudication of guilt (AB 2425).¹⁰⁸
- *Michigan* – Michigan enacted a juvenile clean slate law for the automatic sealing for eligible adjudications, effective in mid-2023 (SB 681). MICH. COMP. LAWS § 712A/18e, *et seq.* The state also passed SB 682, which makes records of juvenile proceedings confidential to all but “persons having a legitimate interest,” defined to include the juvenile, their parents or guardians, law enforcement, and

certain agencies with responsibility for juvenile custody.¹⁰⁹

- *South Dakota* eliminated a requirement that a victim of human trafficking be over 18 years of age to expunge a juvenile record. HB 1047.¹¹⁰
- *Utah* – Utah passed the Juvenile Expungement Act, codifying earlier law (HB 397). Pursuant to existing law, a person upon reaching 18 years of age is eligible for expungement following a one-year waiting period and completion of all sentence conditions (which may be waived by the court). After a hearing, the court may seal the record if the individual has not, in the five years preceding, been convicted of a violent felony or have any proceedings pending.¹¹¹
- *Washington* – The State of Washington facilitated the sealing of juvenile records by omitting the requirement of a hearing if the person is no longer being supervised and has paid restitution (HB 2794).¹¹²

IX. ABA Resolutions

ABA Res. 505 (Aug. 2021) – Raising The Minimum Age of Juvenile Court Jurisdiction

Resolved, That the American Bar Association urges all federal, state, local, territorial and tribal legislative bodies to enact laws which raise the minimum age for prosecution of children to age 14; and

Further Resolved, That the American Bar Association replaces the minimum age for a juvenile court to have exclusive jurisdiction, in the Juvenile Justice Standards, Standards Relating to Delinquency and Sanctions, Standard 2.1, to age 14.

ABA Res. 506 (Aug. 2021) – Prohibiting Use of Chemical Agents on Young Persons in Detention and Correction Facilities

Resolved, That the American Bar Association urges federal state, local, territorial and tribal governments to enact laws and adopt policies prohibiting the use of chemical

¹⁰⁷ Collateral Consequences Resource Center, *After a haul of record relief reforms in 2020, more states launch clean slate campaigns* (Feb. 17, 2021), available at <https://ccresourcecenter.org/2021/02/17/after-a-haul-of-record-relief-reforms-last-year-more-states-launch-clean-slate-campaigns/>.

¹⁰⁸ CAL. WELF. & INST. CODE §§ 786.5 and 827.95.

¹⁰⁹ MICH. COMP. LAWS § 712A.28.

¹¹⁰ S.D. CODIFIED LAWS § 26-&A-115.1.

¹¹¹ UTAH CODE ANN. § 78A-6-1505.

¹¹² WASH. REV. CODE § 13.50.260.

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¹⁰⁶ *Id.*

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agents on young people in detention and correction facilities; and

Further Resolved, That the American Bar Association urges court systems, lawyers, law enforcement leaders, medial professionals, law schools and bar associations to promote awareness of the harmful effects of the chemicals.

X. Into the Future

Prosecutors often invoke the mantra of following the evidence wherever it will lead. The verdict is in. The evidence proves that community-based and public health-oriented models support the socially connective tissue that children need, promote positive youth development, and best protect public safety. Applying developmental research and science to policy and practice is essential in achieving more favorable outcomes. This conclusion has been echoed by *Reforming Juvenile Justice: A Developmental Approach*, previously cited, the CLBB white paper, New York City's Close To Home initiative and a robust body of research including PEW Charitable Trusts studies which have shown reductions in recidivism and costs in states that are transitioning to less reliance on secure residential care.¹¹³ A recent PEW study that analyzes the recent spike in gun-related homicides in certain cities during the pandemic notes that jurisdictions that have taken an approach that balances more community services with policing have had better outcomes.¹¹⁴ The report notes that 16 cities have seen a rise in homicides but others, which have included a focus on services in addition to police responses, have not.¹¹⁵

¹¹³ Dana Shoenberg, *How State Reform Efforts Are Transforming Juvenile Justice*, Pew Charitable Trusts, (Nov. 2019), [www.pewtrusts.org/Examining Juvenile Incarceration](https://www.pewtrusts.org/Examining-Juvenile-Incarceration), Pew Charitable Trusts (Apr. 2015).

¹¹⁴ Matt Vasilogambros, *Rising Gun Deaths Push Cities to Shore Up Police and Services*, Pew Charitable Trusts (Feb. 10, 2022), available at https://www.stltoday.com/news/local/crime-and-courts/rising-gun-deaths-push-many-cities-to-shore-up-police-and-services/article_b855a7e6-092c-56d2-9cea-5f3fc11848ac.html.

¹¹⁵ *Id.*

As discussed in last year's report¹¹⁶ Los Angeles has launched a five-year overhaul of its juvenile justice system that is aligned with the call to adopt a developmental lens in the design and implementation of supportive programming for youth. The city has obtained technical assistance from the Hayward E. Burns Institute to expand diversion, engage young people in restorative justice initiatives that foster developmental accountability, and replace the Office of Probation with an Office of Youth Development. The initiative, *Youth Justice Reimagined*,¹¹⁷ has a goal of transitioning the L.A. County juvenile system from current practice to a more rehabilitative, health-focused system featuring a focus on youth development.¹¹⁸ The Burns Institute report documenting these efforts notes that during the past five years the probation budget increased by \$300,000,000 while juvenile case loads have decreased by over 50% and racial and ethnic disparities persist.¹¹⁹ The county believes that re-allocating some of this money in the new initiative will better support youth in the community. This approach might also reduce the cycle of probation violations that remain a major source of detention and commitment nationally.

We know what works, but do we have the political will to do the right thing? Let's follow the science.

Jay Blitzman formerly served as the First Justice of the Middlesex Division of the Massachusetts Juvenile Court. Jay consults on juvenile and criminal justice issues, mentors new attorneys, and is serving as the interim Executive Director of Massachusetts Advocates for Children. Prior to his judicial appointment he was a founder and the first director of the Roxbury Youth Advocacy Project, a community based, interdisciplinary public defender's office which became the template for the creation of the statewide Youth

¹¹⁶ Blitzman, *State of Juvenile Justice 2021*, at 157, 158.

¹¹⁷ *Youth Justice Reimagined: Recommendations of the Los Angeles County Youth Justice Work Group*, W. Hayward Burns Institute (Oct 2020) file:lacounty.gov.

¹¹⁸ *Id.* Executive Summary at 11.

¹¹⁹ *Id.* at 11.

Advocacy Division. Jay was also a co-founder and board member of Massachusetts Citizens for Juvenile Justice (CJFF), and Our RJ, a community based juvenile justice restorative justice program. Jay serves on the advisory boards of CJFF, UTEC (a late teen and emerging adult program based in Lowell), and also works with More Than Words (MTW), as a Massachusetts Access To Justice Fellow. He was a member of the ABA Youth At Risk Commission, the Boston Bar Association's Cradle to Prison Pipeline Steering Committee and is the co-chair of Massachusetts Bar Association Juvenile and Child Welfare Section. Jay also chaired the Massachusetts Juvenile Court Best Dispositional and Sentencing Practices Committee and currently serves on the Massachusetts Supreme Judicial Court Standing Committee on Eyewitness Identification. Jay teaches juvenile law at Northeastern University School of Law, a cradle to prison pipeline course at Boston College, and trial advocacy at Harvard Law School. Jay is also on the faculty of the Center for Law Brain and Behavior (CLBB- M.G.H. and Harvard Medical School) and is a member of the CLBB advisory board. Judge Blitzman is also an affiliate of Boston University's Center for Antiracist Research. Jay was the 2019 ABA Livingston Hall Juvenile Justice Award. The Committee for Public Counsel Services, the Massachusetts public defender agency, presents the Jay D. Blitzman Award for Youth Advocacy at their annual conference.

Jay presents at a wide variety of criminal and juvenile justice forums and has published extensively. Recent articles include: Let's Follow The Science (ABA Criminal Justice, October 2022), Shutting Down The School to Prison Pipeline (ABA Human Rights, Civil Rights and Social Justice Oct. 2021), Justice for Some: A Tale of Two Americas (Civic Research Institute Juvenile Justice Update, July 2020) Deconstructing The School-to-Prison Pipeline (Boston Bar Journal, Oct. 2018); Gault's Promise Revisited (Juvenile & Family Law Journal, July 2018); and The State of Juvenile Justice 2018, 2019, 2020, 2021, 2022 (ABA Criminal Justice). This article is adapted from Judge Blitzman's 2022 State of Juvenile Justice, originally published in "The State of Criminal Justice 2022," by the American Bar Association's Criminal Justice Section and edited by Mark E. Wojcik, and appears in Juvenile Justice Update with the permission of the ABA. ■