JUVENILE JUSTICE: Child Advocacy
Part 4 of 5

A Selected Annotated Bibliography

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The State Education Department
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JUVENILE JUSTICE

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Introductory Note

Following the U.S. Supreme Court's landmark decisions on juvenile justice (Kent, 1966; Gault, 1967; Winship, 1970; and McKeiver, 1971) the idea arose that juveniles may be entitled to representation by counsel in any contact with the justice system. Child advocacy is the phrase used to describe this type of legal work.

Item

1. Berlin, Irving N., M.D.

   LEGIS REF
   Presents a "Bill of Rights" for children. Of particular interest is Chapter 9, "Courts and the Rights of Human Beings, Including Children", and Chapter 10, "It can Be Done: Aspects of Delinquency Treatment and Prevention".

2. Besharov, Douglas J.

   LAW 75-2052
   A presentation of the general principles of juvenile justice advocacy plus a systematic description of the juvenile court process since Gault. Includes an analysis of legal developments, statutory changes, and judicial decisions.

3. Bremner, Robert, ed.
A collection of articles which demonstrate the evolution of the relationship between children and the law in the United States. The articles cover the period of 1880 through 1971.

4 Chapman, P. B.

In response to the absence of a legal definition as to the role of the defense lawyer in juvenile court, a practicing lawyer sets down some approaches for consideration. Concludes that the most necessary function is as the advocate of the child's legal rights, similar to the New York system of law guardians.

5 Chused, Richard A.

Reports on a study of three county juvenile courts and their efforts at implementing juvenile rights since Gault. Two separate calendars are maintained: one formal, requiring counsel, for cases which might result in incarceration; one informal, where counsel is not needed. This "channeling" process amounts to court discretion; intake diversion is not practiced.

6 Curtis, Gregory L.

A survey of juvenile representation throughout the various stages of the adjudication process. Discusses a broad range of issues from jurisdiction, through bail, to confrontation of witnesses. Concludes that the lawyer's role is to act as counselor and advisor; however if the state fails to act in a child's best interest, the attorney must become the adversary.

7 Davis, Samuel M.
Heavily researched work exploring the major issues of the operation of juvenile court and stressing, in particular, the constitutional rights of children and the role of counsel. Explicit data is provided concerning all aspects from the age differentials in various states through jurisdiction over conduct, to the problems of vagueness. Gives a complete exposition of the juvenile court. Contains a chart of selected state statutes and a table of cases.


LAW

Depicts the multifaceted role of the law guardian as advocate, adversary, advisor, lawyer, social worker and parent. Uses case histories to illustrate these various roles.


LAW 76-8

A comprehensive re-examination of the legal status of children is needed. The proposed "Bill of Rights" contains eight provisions to which a child ought to have a legal right, including right to counsel. A rationale and illustrative case histories are provided for each.


LAW

Concerns Davilla v. State [477 S.W.2d 410 (Tex. Civ. App. 1972, n.w.h.)] in which a juvenile, represented by counsel and with a parent present, was placed on probation without the services of a guardian ad litem. In later probation revocation hearings, when a guardian ad litem was appointed, the juvenile sought to have the prior adjudication dismissed. Appeal was denied.
11. Inker, Monroe L.

   LAW

   Recommends that in a legal dispute over adoption, the child be represented by independent counsel, who would act as the protector of the child's rights and general welfare.

12. Ishmael, James D., Jr.

   LAW

   An examination of the applicability of Gault, in particular the right to counsel, in stages of the juvenile process such as probation revocation hearings. Concludes that counsel is not only proper, but would also influence the juvenile's potential receptiveness and rehabilitation probability.


   LAW

   An examination of Smith v. Yeager [459 F.2d 124 (3d Cir. 1972)] in light of the Kent decision. A 16-year-old, accused of murder, did not have counsel during proceedings to transfer his case to criminal court. At criminal court, he entered a plea of non-vult, and was sentenced to life imprisonment. He sought an overturn on the basis that he did not have counsel at the certification proceedings. The court denied.


   362.70973 K12 74-3211

   Questionnaires, case studies, interviews and pertinent professional literature were used as bases for this evaluation. Points up the broadening concepts of child advocacy.
Juvenile Justice: Child Advocacy

15 Mangrum, R. Collin.

LAW

The fundamental fairness standard, which grew out of the Supreme Court decisions, demands the assistance of counsel at every stage of the juvenile justice process, formal or informal, in court or out.

New York, 1970. 34 p. (includes bibliography)

LAW 75-17527

Provides guidance to counsel in juvenile court cases; especially considers the problems encountered where parent and child conflict or where investigative and other resources are needed. Delineates the counsel's role in each step of the process, from the police investigation through disposition.

17 New York (State), Division for Youth.
The Ombudsman in the New York State Division for Youth Facilities: Documents, Reports, Articles, Statistics, by Malcolm S. Goddard.

LEGIS REF 75-7740

Description and evaluation of the ombudsman program in juvenile institutions, plus an analysis of the advantages and disadvantages. Ombudsman had the greatest successes in combatting and subsequently reducing the incidence of sexual and physical abuses, the least success with staff cooperation.

18 New York (State). The State Library. Legislative Research Service.

LEGIS REF

68 entries, many of which pertain to the topic of child advocacy.
19 Newman, George G., ed.
(I.C.L.E. Specialty Handbook No. 19)

LAW

Covers the representation of children in all types of legal proceedings. Part III concerns delinquency proceedings; the controversies over the constitutional right to counsel, the adversary or non-adversary approach, and the application of Gault are considered. The functions of the attorney at intake, detention, adjudication, and disposition are discussed thoroughly.

20 Nordin, Virginia Davis, ed.

LAW

Series of articles, thoroughly covering all aspects including impact and possible ramifications of the Gault decision on the juvenile court. Such topics as right to counsel, the role of counsel, and other due process guarantees are considered in depth.

21 Popkin, Alice. Brandeis and Freda J. Lippert.

LAW

An analysis and rationale for the introduction of the insanity defense, where warranted, in the juvenile court process.

22 Stamm, Mortimer.

LEGIS REF

Details Kentucky's legislative response to Supreme Court decisions on legal rights for children, and the policy decision of the Department of Child Welfare to act as child advocate. The combined result has been an upgrading of the procedures in juvenile court; increased involvement of the communities; increased use of probation and other community-based alternatives, even in serious cases; and the closing of a number of residential facilities.

LAW

The results of a research collaboration between a lawyer and a sociologist to determine the effects of defense counsel on the conduct and outcome of delinquency proceedings. The study took over three years, and covers the historical and conceptual development of juvenile court, and the theoretical and practical problems encountered by counsel. Contains a summary with suggestions.


LEGIS REF

A listing and description of all the advocacy programs throughout the nation. The index shows 14 projects under juvenile justice/delinquency and four under deinstitutionalization/residential programs.


LEGIS REF

Following the Gault decision, this public defender program was expanded to include juveniles.


345.7308 M381

One of the results of the present juvenile justice system is the double labeling of the child as deviant and also as psychologically ill. The system also pits the power of the state against powerless children. Espouses the establishment of youth authorities and youth advocates to reduce this imbalance of power.
27. Wald, Patricia M. and Lawrence H. Schwartz.  

**LAW**

A defense attorney in a juvenile case does not cease to represent the child after sentencing. He also has a responsibility to see to it that the child is receiving treatment during confinement. Discusses the right to treatment dispute, related constitutional issues, the lawyer's responsibilities, and the conduct of this type of suit.

28. Weiss, Jonathan A.  

**LAW**

Discusses the rights of minors in PINS proceedings, in neglect proceedings, and in cases in which the child is an interested party (contracts, estates). Asks for proper representation for the child.

29. Wizner, Stephen.  
*Defense Counsel: Neither Father, Judge, Probation Officer or Social Worker*, in Trial, September-October 1971. vol. 7, 30-31.

**LAW**

Contends that if the adversary system is the best method for arriving at the truth, children should not be denied its benefits. Calls for the guarantee of a vigorous legal defense in the juvenile justice system.

30. Yeannakis, George and Dick Behn.  

Calls for rights standards for juveniles who face institutionalization, or who are institutionalized. Contends that non-adversary proceedings which result in incarceration are contradictory. Contains 12 rules for juvenile secure facilities which range from the right to free access to a lawyer to limitations on solitary confinement.

Compiled through  
February, 1976
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