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# Youth Justice in America

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# Youth Justice in America

Second Edition

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## FOREWORD

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At some point in your life, you probably will be stopped by the police. Are you prepared? After you read this book, you will be. Think of it as an instruction manual for the real world.

Most people have no idea what their rights are. Your locker gets searched, or a cop pats you down. Maybe you are angry, you feel like your privacy was invaded, but you don't know what to do. What if you get locked up? Should you talk to the police? You heard on TV that you have a right to a lawyer, but is that really true? At this point you are probably clueless, and that is a dangerous thing. If you don't know your rights, it is more likely that your rights will be abused. Knowledge is power.

I needed a book like this when I was a teenager. As a kid, I didn't trust the police much, and some of them seemed to feel the same way around me. When I was thirteen I rode my bike to a mainly white neighborhood. I stuck out maybe, a black kid riding his bike anywhere he pleased through the segregated neighborhoods of Chicago. That, however, was the last thing on my mind. It was a beautiful day. I felt free in a way that you feel only when you are thirteen and it is spring and you are on a bike. I felt like the whole world was mine. Until a police car pulled up next to me and the window rolled down and a cop asked, "Is that your bike?"

Now what was I supposed to say? Of course it was my bike. Why was he asking? I was angry but my mother had taught me to always be polite to police officers. I mumbled something and sped off. I did not like feeling accused and scared when I had not done anything wrong.

Fast forward to the future. I am grown now and live in a neighborhood with a lot of crime. Once I came back to my house, and something didn't feel right. A window was open that I didn't remember opening. No way was I going in that house alone. Who did I call? The police, of course.

When they came, "they" turned out to be one guy. I explained the situation to him, and he said he would go in and look around. He went inside, looked around, and said everything looked fine. I said "What about the closets?" We went back inside, and he looked in every closet. Nothing was amiss, so the officer left to respond to another call. I was totally freaked out, but it was just another day on the job for him.

It reminded me of a public service commercial from years ago. It showed the classic dark and stormy night, and you saw this haunted-looking house. There was a roll of thunder and something made the door of the house creak open. Then you heard the announcer say, "You wouldn't go in that house for a million dollars. A cop does it for a lot less than that." It's true. I don't always like cops, but sometimes I need them.

The people who wrote the Bill of Rights had some of the same conflicting feelings that I have about police power. They wanted to be safe. They wanted to be free. So they made some strong rules. This book is about those rules.

The rules, as you will see, are kind of radical. The Constitution is very suspicious of authority. It gives citizens all kinds of freedom, and it greatly limits the power of government. Maybe you will agree with the way the Supreme Court has interpreted these principles, maybe you will not agree. In any case, I hope that you finish this book with a new respect for the awesome privileges that you have as a person who lives in the United States of America.

You have important responsibilities also. It's up to you to make sure that the country lives up to its highest ideals. You have to agitate when you feel as if it's not doing so. The Beastie Boys have a song in which they say, "You gotta fight for your right to party." Really, though, you have to fight to keep all of your rights.

Even today, in one of the greatest, most free nations there ever was, there are too many people who are locked up. There are still some police officers who don't follow the rules. If you see the police do something that you think is wrong, you should be respectful and polite, for your own safety. But pay close attention and, at the appropriate time, you should report your concerns. Vigilance is one of the obligations of being a good citizen. Another responsibility, obviously, is to obey the law. My hope is that you will learn about the juvenile justice system from this book, and not from personal experience!

Each year, thousands of young people find themselves accused of crime. The Constitution belongs to them, as much as it belongs to anyone else. As you read this book, think about ways to make our justice system more fair. Our society is far from perfect, but young people have the imagination and the power to make it better. Read this important book, and then decide what your role shall be.

Paul Butler  
Professor of Law  
*Georgetown University Law Center*

Paul Butler is professor of criminal law, civil rights, and jurisprudence at the Georgetown University Law Center. A graduate of Harvard Law School, Butler formerly served as a federal prosecutor with the U.S. Department of Justice, where his specialty was public corruption.



## P R E F A C E

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We have been involved in an educational experiment since 1999. We work with dozens of law students who teach a course every year in “constitutional literacy” to hundreds of high school students in Washington, D.C., and Maryland. This experiment, the Marshall-Brennan Constitutional Literacy Project, has been launched in high schools and law schools across America, from Camden, New Jersey, to Tempe, Arizona. Thousands of young people, including the residents of juvenile correctional facilities, are reading and using the Constitution as a tool for understanding and changing their lives and communities.

The first text that we developed, *We the Students*, analyzes a collection of cases involving issues that affect students at school: censorship of school newspapers, prayer in schools, segregation, affirmative action, sexual harassment, and so on. Many high school students, however, pressed us to go further. This text responds to students’ deep interest in the criminal justice process—the police, prosecutors and defense lawyers, judges, the process of investigation, and a young person’s rights and responsibilities in the system.

Many students are curious about the intrinsically fascinating aspects of the criminal justice process. However, many teenagers are drawn to the subject because they have been participants in the process—through direct and repeated encounters with police, prosecutors, and judges. Others are interested because they have friends and family who are participants—willing or unwilling—in the process. The first edition of this text resulted in one of our committed Marshall-Brennan alumni, Nisha Thakker, founding a nonprofit organization called the National Youth Justice Alliance—to recruit and train law students and lawyers to teach students in detention about the criminal justice process using the text. Nisha has reported that young people, even repeat offenders, are so hungry for the information in this text that pages are ripped from the copies at the detention facility in which she and her volunteers teach and that students routinely ask how they may obtain a personal copy of the text.

In this second edition of *Youth Justice in America* we have fine-tuned and elaborated on our conversation about the Constitution. *Youth Justice* provides a broad overview of constitutional rights in the criminal justice process as well as detailed studies of particular cases, most of them involving young Americans who have gotten into serious trouble. The book portrays a part of America that we do not always want to see but certainly cannot afford to ignore.

In this edition of *Youth Justice* we present sobering statistics and carefully edited cases related to guns in society and in schools, searches and seizures, right to counsel, privilege against self-incrimination, execution and life imprisonment of juveniles, and more. The case law is enhanced with stunning photographs, teaching hypotheticals, and recurring features, including “Your Thoughts,” “Points to Ponder,” and “Additional Sources.” “Your Thoughts”

poses hard questions to elicit students' opinions on topics raised in subsequent sections. "Points to Ponder" offers follow-up reflections on tricky issues. "Additional Sources" directs students to further reading on the subject. The text is accompanied by helpful appendix features, including a class exercise, the U.S. Constitution, a glossary of legal terms, and a bibliography.

We hope that everything you learn in these pages will help you "increase the peace," strengthen democracy, and advance justice in your communities.

## Acknowledgments

### Maryam Ahranjani

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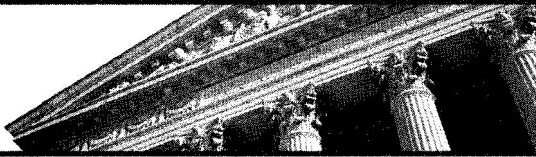
### Andrew G. Ferguson

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### Jamin B. Raskin

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## ABOUT THE AUTHORS

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**Jamin B. Raskin** is a professor of constitutional law and the First Amendment at American University Washington College of Law and founder of its acclaimed Marshall-Brennan Constitutional Literacy Project, in which law students teach constitutional literacy courses in public high schools across America. He is also a Democratic state senator in Maryland and the Majority Whip of the Maryland Senate, and he serves as a member of the Senate Judicial Proceedings Committee. He led the successful floor fights in the Senate to repeal the death penalty and to pass marriage equality. He is the author of *We the Students: Supreme Court Cases for and about Students*, 4th edition (CQ Press, 2014) and *OVERRULING DEMOCRACY* (2003), a *Washington Post* best-seller.