

## Northwestern Journal of Law & Social Policy

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Volume 6 | Issue 2

Article 6

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2011

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### Recommended Citation

Bernardine Dohrn, *Seize the Little Moment: Justice for the Child 20 Years at the Children and Family Justice Center*, 6 Nw. J. L. & Soc. POL'Y. 334 (2011).  
<http://scholarlycommons.law.northwestern.edu/njlsp/vol6/iss2/6>

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## Symposium: Justice for the Child\*

# Seize the Little Moment: Justice for the Child 20 Years at the Children and Family Justice Center

Bernardine Dohrn\*\*

### I. INTRODUCTION

¶1 The Children and Family Justice Center was conceived as an idea in 1991 and birthed in 1992<sup>1</sup> after a planning grant<sup>2</sup> supported a year of observing and researching juvenile courts and child justice organizations across the United States. During that first year, site visits were conducted at some twenty youth justice systems and detention facilities, and then classified into outstanding (three), good enough (two), and abysmal (the rest). Sadly, the Juvenile Court of Cook County—the world’s first court for children and a global inspiration—was high in the abysmal category.

¶2 Set in Chicago’s Near West Side, the juvenile courts and detention center (known colloquially as the Audy Home) were filthy, overcrowded, secretive, a haven for burnt-out judges, unaccountable, without published data, and a magnet for impoverished families and youngsters of color, primarily African-American children. Crowds of anxious parents and children were made to throng in the hallways, doors and toilet paper were missing in the bathrooms, public officials—judges, defenders and prosecutors, probation officers and court clerks—seemed not to look up as multitudes of accused were called forth and adjudged. (“What shall I give my children? Who are poor, who are adjudged the leastwise of the land . . . .”)<sup>3</sup>

¶3 Friends and colleagues in Chicago’s legal community did not know where Juvenile Court was located. They surely did not know what visitors from around the world knew: that this was the world’s first juvenile court, a separate court for children, where different rules and individualized attention were meant to replace punishment, prisons and adult poorhouses. This invention of a distinct court for children has been called “the greatest

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\* Northwestern University School of Law, Children and Family Justice Center’s 20th Anniversary Symposium, “Seize the Moment: Justice for the Child,” presented in partnership with the *Northwestern Journal of Law and Social Policy*, October 7–8, 2010.

\*\* Clinical Associate Professor of Law & former Director, Children and Family Justice Center (CFJC), Northwestern University School of Law. A major acknowledgment is in order. It is transparent to judges, colleagues, clients, students, allies and adversaries that E. Toni Curtis is the wise woman and animating spirit of the CFJC. To her, the CFJC owes its depth and accomplishments. Special thanks to Rachel Lewis (J.D., 2012) for research polishing.

<sup>1</sup> The location of the CFJC was the result of a generous invitation by Northwestern University School of Law’s Clinical Director, Thomas Geraghty.

<sup>2</sup> Thanks to an innovative grant from the John D. and Catherine T. MacArthur Foundation.

<sup>3</sup> Gwendolyn Brooks, *The Children of the Poor*, in *BLACKS* 116 (1945).

legal institution invented in the United States” by a distinguished legal scholar.<sup>4</sup> The collaborative women of Hull House<sup>5</sup> acted from:

[A] radical insistence that children not be crushed for their transgressions nor brutalized for lack of access and opportunity—that society not give up on its children . . . . The terrain of those social reformers included four decades of campaigns for compulsory education (public schools) and an end to child labor, the removal of children from adult jails and poorhouses, and efforts to advance sanitation, literacy, labor rights, neighborhood democracy, women’s rights, the expansion of the public space, and opposition to war. The juvenile court, laced with tension and paradox, emerged as part of this philosophical mosaic.<sup>6</sup>

¶4 Rather than laboriously describe twenty years of concentrated legal activity, this essay will highlight key ways in which the Children and Family Justice Center (CFJC) developed strategies that expanded the parameters and possibilities of traditional clinical legal practices. Indeed, the CFJC undertakes indigent (criminal and delinquent) juvenile defense<sup>7</sup> with direct representation of adolescent clients by a supervising attorney and third-year law students practicing with statutory permission. Initially, we accepted every case that came our way, reaching out to speak to teachers and parents’ groups, community youth organizations, and juvenile court personnel. In addition to representing youth in delinquency and criminal cases, education cases, and child protection cases—which brought us to Juvenile Court every day—the CFJC used that direct client work to identify critical issues to challenge and for reform. The four innovative strategies are: initiating law reform or investigation/advocacy campaigns; serving as a catalyst for community law projects; preparing zealous legal advocates for adolescents; and integrating children’s international human rights into U.S. traditions and practices.

## II. CAMPAIGNS FOR LAW REFORM<sup>8</sup>

### A. *Campaign I: Reform the World’s First Juvenile Court and Press for Racial Fairness*

¶5 The CFJC, with two brilliant, young clinical lawyers working in child welfare<sup>9</sup> and juvenile delinquency,<sup>10</sup> set forth to reform the Juvenile Court of Cook County. It was our

<sup>4</sup> FRANCIS A. ALLEN, *BORDERLAND OF CRIMINAL JUSTICE: ESSAYS IN LAW AND CRIMINOLOGY* (1964).

<sup>5</sup> Julia Lathrop, Lucy Flower, Florence Kelley, Mary Bartelme, and the unifying Jane Addams.

<sup>6</sup> Bernardine Dohrn, *Forward*, in DAVID S. TANENHAUS, *JUVENILE JUSTICE IN THE MAKING* vii, viii–ix (2004).

<sup>7</sup> The CFJC developed four legal areas of practice in its first decade: child protection (representing at times parents, foster parents, and children), juvenile delinquency and crime (children tried in adult criminal court), immigration and asylum for children and women, and school disciplinary and special education issues.

<sup>8</sup> As with all campaigns and CFJC work discussed in this Article, no legal reform work and no campaign was done in isolation, or even at the sole initiative or singular leadership of the CFJC. Every strategy was collaborative. Each project and campaign included numerous partners and initiators. A major goal was to subdue the competition over taking credit, particularly with benefactors and foundations. Thus, the following discussion of the work of the CFJC could easily be written by other organizations, with the CFJC in a footnote.

first campaign. The strategy was to draw upon the experiences of being in juvenile court daily, representing children, youth, and parents, to identify those policies, practices and nearly indiscernible areas where action or reform would make a difference: to locate a strategic wedge. We had the great fortune to grow, attracting remarkable lawyers<sup>11</sup> and students.<sup>12</sup>

¶6 With hindsight, it is clear that the context in which the CFJC was founded was a low point in U.S. public support for child and youth wellbeing. In both the child welfare and juvenile justice systems, caseloads were at a record high,<sup>13</sup> children in public “care” were subjected to unspeakable violence,<sup>14</sup> and harsher, adult measures were the default response.<sup>15</sup> Oddly, during the years of relative peace at the end of the Cold War and before the so-called “war on terror,” the nation seemed to declare war against (some of) its own youngsters.

¶7 The criminalization of youth began with prominent academics stoking public fear of the rising tide of “super-predator” youth.<sup>16</sup> Law enforcement, politicians and media joined the bandwagon characterizing youth of color as animals, diseases, plagues and

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<sup>9</sup> Bruce Boyer, now Professor and Clinical Director of the Civitas ChildLaw Center at Loyola University-Chicago School of Law.

<sup>10</sup> Steven Drizin, now Clinical Professor, Deputy Clinical Director, and Litigation Director of the Center on Wrongful Convictions and Center on Wrongful Convictions of Youth at Northwestern University School of Law, Bluhm Legal Clinic.

<sup>11</sup> In addition to Boyer and Drizin, the CFJC team came to include a magnificent staff. Over twenty years, it included: Lauren Girard Adams; Annette Appell; Simmie Baer; Geoffrey Banks; the new CFJC Director, Julie Biehl; Lisa Copland; Cathryn Crawford; Molly Cross; the incomparable CFJC Administrative Director, Toni Curtis; Angela Daker; Adrienne Drell; Barbara Fedders; Alison Flaum; Derrick Ford; Carolyn Frazier; Cheryl Graves; Amy Hallbrook; Zelda Harris; Sara Cortez Jablonski; Barbara Kahn; Betsy Kalven; Christina Kanelos; Antoinette Kavanaugh; William Kell; Michelle Light; J.C. Lore; Monica Llorente; Vanessa Melendez Lucas; Anita Ortiz Maddali; Monica Mahan; Pam Mohr; Marjorie Moss; Martin Nkansah; Uzoamaka Nzelibe; Aracely Munoz Petrick; David Reed; Heather Renwick; Will Rhee; Ora Schub; Peggy Slater; Patricia Soung; Robert Spicer; Mark Stulberg; Kate Taylor; Cecilia Torres; Angela Coin Vigil; Amanda Whalen; and Jacinta Wong.

<sup>12</sup> In addition to ongoing generous support from the John D. and Catherine T. MacArthur Foundation, the CFJC has received thoughtful financial and intellectual support from numerous foundations and individual donors, including: the Chicago Community Trust, the Polk Foundation, the Woods Fund of Chicago, the Libra Foundation, the Butler Family Foundation, the Annie E. Casey Foundation, Soros Foundation (OSI), the JEHT Foundation, the U.S. Human Rights Network, and the Public Welfare Foundation.

<sup>13</sup> ANNIE E. CASEY FOUND., A ROAD MAP FOR JUVENILE JUSTICE REFORM (2008), *available at* [http://datacenter.kidscount.org/db\\_08pdf/2008\\_essay.pdf](http://datacenter.kidscount.org/db_08pdf/2008_essay.pdf).

<sup>14</sup> JAMES BELL & LAURA JOHN RIDOLFI, ADORATION OF THE QUESTION: REFLECTIONS ON THE FAILURE TO REDUCE RACIAL AND ETHNIC DISPARITIES IN THE JUVENILE JUSTICE SYSTEM (Shadi Rahimi ed., 2008), *available at* [www.burnsinstitute.org/downloads/BI%20Adoration%20of%20the%20Question.pdf](http://www.burnsinstitute.org/downloads/BI%20Adoration%20of%20the%20Question.pdf);

BARRY HOLMAN & JASON ZEIDENBERG, THE DANGERS OF DETENTION: THE IMPACT OF INCARCERATING YOUTH IN DETENTION AND OTHER SECURE FACILITIES (2006), *available at* [www.justicepolicy.org/images/upload/06-11\\_REP\\_DangersofDetention\\_JJ.pdf](http://www.justicepolicy.org/images/upload/06-11_REP_DangersofDetention_JJ.pdf).

<sup>15</sup> Within a few years, forty-seven states adopted more harsh sentencing laws, increased the number of youth being tried and sentenced in adult criminal courts, and expanded prosecutorial discretion, as judicial discretion was dramatically narrowed. BARRY KRISBERG, JUVENILE JUSTICE: REDEEMING OUR CHILDREN 4 (2005); PATRICIA TORBET ET AL., STATE RESPONSES TO SERIOUS AND VIOLENT JUVENILE CRIME (1996); U.S. DEP’T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE OFFENDERS AND VICTIMS: A NATIONAL REPORT (1995).

<sup>16</sup> See KRISBERG, *supra* note 15, at 1–2.

vermin;<sup>17</sup> readying gang terrorism<sup>18</sup> laws in California; and escalating to zero tolerance policies within newly barricaded schools. James Q. Wilson and John DiIulio predicted future increases in youth violence. Wilson claimed that by 2010 there would be 30,000 more juvenile “muggers, killers, and thieves.” Princeton professor DiIulio predicted that the new wave of youth criminals would be upon us by 2000. Within a year, DiIulio’s (1996) estimate for the growth in violent juveniles had escalated to 270,000 by 2010 (compared to 1990).<sup>19</sup> DiIulio referred to a “Crime Bomb” and painted the future horror that “fatherless, Godless, and jobless” juvenile “super-predators” would be “flooding the nation’s streets.”<sup>20</sup> Nightly media made the rhetorical case that we had a new breed of qualitatively different youth: more vicious, remorseless and amoral, no matter the historical and literary evidence that adults had always looked back thus. “I would that there were no age between ten and three and twenty, or that youth would sleep out the rest; for there is nothing in the between by getting wenches with child, wronging the ancestry, stealing, fighting”—this from that famous extremist, William Shakespeare, in *The Winter’s Tale*.

¶18 The situation was no better in child protection: By 1995, the number of foster children reached epic heights,<sup>21</sup> the majority of them children of color. African-American mothers in particular<sup>22</sup> were having their children taken into state custody, stoked by an alleged “crack epidemic,” when safe housing, quality childcare, responses to domestic violence, mental health treatment and drug addiction programs would have facilitated appropriate parenting.

¶19 The rank racial and gender discrimination evident in these major systems of child justice seemed obvious to the 40,000 children and families petitioned into Cook County Juvenile Court each year. A CFJC pro bono attorney from a large firm, awaiting appointment to a case, commented: “Where is the white juvenile court?” Yet the disparities were all but invisible to and within the legal system itself; tens of thousands of Chicago cases were adjudicated each year with no acknowledgement that white and more privileged children and families with the same alarming behaviors were *not* petitioned into this court, nor formalized in the public child and family legal systems.

¶10 Youth advocates across the country began to network informally, often through three committees of the American Bar Association. The ABA Section of Litigation

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<sup>17</sup> NATIONAL COUNCIL ON CRIME AND DELINQUENCY, AND JUSTICE FOR SOME: DIFFERENTIAL TREATMENT OF YOUTH OF COLOR IN THE JUSTICE SYSTEM (2007), available at [http://www.nccd-crc.org/nccd/pubs/2007jan\\_justice\\_for\\_some.pdf](http://www.nccd-crc.org/nccd/pubs/2007jan_justice_for_some.pdf); WILLIAM AYERS, BERNARDINE DOHRN & RICK AYERS, ZERO TOLERANCE: RESISTING THE DRIVE FOR PUNISHMENT IN OUR SCHOOLS (2001).

<sup>18</sup> JUDITH GREENE & KEVIN PRANIS, GANG WARS: THE FAILURE OF ENFORCEMENT TACTICS AND THE NEED FOR EFFECTIVE PUBLIC SAFETY STRATEGIES (2007), available at <http://www.justicepolicy.org/research/1961>; TOM HAYDEN, STREET WARS: GANGS AND THE FUTURE OF VIOLENCE (2004).

<sup>19</sup> FRANKLIN E. ZIMRING, AMERICAN YOUTH VIOLENCE 49–50 (1998); John J. DiIulio, Jr., *Moral Poverty: The Coming of the Super-Predators Should Scare Us into Wanting to Get to the Root Causes of Crime a lot Faster*, CHI. TRIB., Dec. 15, 1995.

<sup>20</sup> John DiIulio, *How to Stop the Coming Crime Wave*, MANHATTAN INST. POL’Y RESEARCH (1996).

<sup>21</sup> Between 1985 and 1999, the number of children in foster care more than doubled. In 1985, there were 276,000 children in foster care, and by 1999, there were 568,000 foster children. Christopher Swann & Michelle S. Sylvester, *The Foster Care Crisis: What Caused Caseloads to Grow?* 43 DEMOGRAPHY 309 (2006).

<sup>22</sup> DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE (2003).

established the Task Force on Children<sup>23</sup> in 1992, under the authority of Louise LaMothe, chair of the Section. She appointed Bernardine Dohrn and Christopher L. Griffin as co-chairs. The Task Force began meeting with two other ABA committees on children's rights: the Juvenile Justice Committee of the Criminal Justice Section and the Committee on the Rights of Children of the Section on Individual Rights and Responsibilities, as well as with the ABA Center on the Child. For several years, the ABA served as a national meeting place for lawyers advocating for children, a place to analyze the forces that were criminalizing normal adolescent behavior and "adultifying" child misbehavior. The work of these ABA committees in linking children's rights lawyers across the country, preparing fact sheets and analyses, and identifying common issues laid the groundwork for the national entities that would follow.

¶11 Led by Vincent Schiraldi and Steven Drizin, we established an informal "rapid response network" to promote a counter-narrative to the "demonization of youth" drumbeat, a predecessor to today's communication strategies. Within five years, Patti Puritz would launch the ABA Juvenile Defender Center, a new institutional home, network and resource, which would become the independent and invaluable National Juvenile Defender Center. The NJDC immediately became the new locus of communicating, educating and strategizing for juvenile defenders and allies.

¶12 Based on our client casework, the CFJC convened two ambitious conferences. The first, *Beyond Rhetoric: Determining the Best Interests of the Child, A Working Conference*<sup>24</sup>—with speakers including Dr. Albert Solnit of the Yale Child Studies Center and commissioner of the Connecticut Department of Mental Health,<sup>25</sup> and Robert Little, former director of the Michigan Department of Child Welfare and then-executive deputy commissioner of the New York City Child Welfare Administration<sup>26</sup>—addressed the sensationalized child deaths and murders in the burgeoning Illinois foster care system and the banal response of the Illinois legislature which inserted "*the best interest of the child*" into existing Illinois law an additional forty-three times.<sup>27</sup> One of the consequences of the panicked response to child deaths was to increase court reliance on clinical evaluations of both children and parents in the jurisdiction of the Juvenile Court, provoking further abuses, delays and expense.

¶13 The second conference, *Children in a Violent America*,<sup>28</sup> featured Geoffrey Canada as keynote speaker on "Saving This and Future Generations," James Bell of the Youth Law Center, Dr. Barbara Bowman of the Erikson Institute, and Jay Blitzman of Roxbury Defender Services. The conference focused on the demonization of young men of color and the widespread proliferation of cheap, high-caliber, semi-automatic handguns among

<sup>23</sup> Still robust and creative, the Task Force is now called the Children's Rights Litigation Committee of the American Bar Association Section of Litigation. *Children's Rights Litigation*, AM. BAR ASSOC., <http://www.abanet.org/litigation/committees/childrights/>.

<sup>24</sup> Convened September 23–34, 1993 at the Chicago Bar Association. Additional speakers included the Honorable Richard Fitzgerald, presiding judge of the outstanding Louisville Family Court, and Ann Coyne, Assoc. Professor, School of Social Work at University of Nebraska.

<sup>25</sup> Solnit was co-author with Anna Freud and Joseph Goldstein of *Beyond the Best Interest of the Child* and other classics.

<sup>26</sup> And youngest brother of Malcolm X.

<sup>27</sup> See, e.g., Juvenile Court Act of 1987, 705 ILL. COMP. STAT. 405/ (1987); Abused and Neglected Child Reporting Act, 325 ILL. COMP. STAT. 5/; Children and Family Services Act, 20 ILL. COMP. STAT. 505/ (1963).

<sup>28</sup> Held May 19–20, 1994 at the Bismark Hotel in Chicago.

urban youth of color.<sup>29</sup> With the Children’s Defense Fund, the CFJC also convened a national working group on child gun deaths. Using research from the Centers for Disease Control, the network sought to document and challenge the easy access to lethal weapons for young adolescents and the increasingly harsh punishments directed at them, with no equivalent sanctions or regulation for profitable gun manufacturers and distributors.

¶14 Three months after *Children in a Violent America*, Chicago’s eleven-year-old Robert “Yummy” Sandifer made the cover of *Time* magazine—the poster child for both violent perpetrator and victim. Sandifer had been in foster care, was now homeless, had been involved with the Black Disciples, and had accumulated charges of murder, arson, and armed robbery by age eleven. Accused of shooting and paralyzing fifteen-year-old Kianta Britten and of firing the stray bullet that killed fourteen-year-old Shavon Dean in Chicago’s Roseland neighborhood, Sandifer became the object of a massive police manhunt and disappeared for three days in August 1994. His body was found under a viaduct on September 1; he had been shot twice in the back of the head. Two adolescent brothers were charged with his murder. The CFJC and Tom Geraghty agreed to represent the youngest, fourteen-year-old Derrick Hardaway.<sup>30</sup> A lengthy hearing in Juvenile Court resulted in his transfer to Cook County Criminal Court, where he was convicted after a jury trial and sentenced to forty-five years in prison.

¶15 Simultaneously, the CFJC found itself in another high profile and controversial case, a custody struggle known as *In re Baby Richard*. CFJC clinical professor Bruce Boyer intervened on behalf of the biological father, who, despite aggressive efforts to discover information about the birth of his son, was not given notice of the birth, nor of the mother’s subsequent voluntary surrender of parental rights, nor of the private adoption of Baby Richard. At issue was the constitutional right of biological parents to strict protections against the state’s termination of their parental rights. The adoptive parents, who had “custody” of the baby from his third day of life until he was three years old, hired a major Chicago law firm and their case became a highly polarized, popular cause.

¶16 For the first time, the university and the law school became aware that some of their vocal alumni and contributors felt passionately that the CFJC was on the wrong side of a prominent legal case. The school did not interfere, however, and in June 1994, Boyer and the father won the case in the Illinois Supreme Court,<sup>31</sup> which held that the adoption was improper because the parental rights of the father were wrongfully terminated. Certiorari was denied. Boyer explained and defended the substance and legal reasoning of the case before an initially skeptical law school faculty in a persuasive, authoritative manner. The *Baby Richard* case resulted in state legislation providing for a

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<sup>29</sup> Other speakers included: Monroe Anderson, CBS TV; Judge Aron, Juvenile Court; Leslie Baloneck; Ilnee Bergsman; Karen Berman; Mary Scott Boria; Freddy Calixto; Cheryl Cesario; Betsy Clark; Herschella Conyers; and Alex Correa.

<sup>30</sup> The Director of the Bluhm Legal Clinic at Northwestern University School of Law, Thomas Geraghty, was chief counsel for Derrick Hardaway.

<sup>31</sup> *Petition of Doe*, 638 N.E.2d 181 (1994); *Baby Richard v. Kirchner*, 513 U.S. 994 (1994). The second decision granting habeas was *Petition of Kirchner*, 649 N.E.2d 324 (1995).

putative father registry with strict time limits for establishing paternity, and giving standing to failed adoptive parents to seek custody.<sup>32</sup>

¶17 The CFJC also jumped into challenging the extreme and obvious racial disproportion in juvenile charging, transfer, and incarceration in Illinois. During the initial years, CFJC lawyers and clients litigated cases to resist the growing numbers of delinquency cases being transferred to adult criminal court. We disagreed with the notion that adolescent children magically become adults because they are charged with a crime, when adolescents under eighteen are unable to drink, drive, marry, vote, enlist, see X-rated movies, or obtain a tattoo. Even worse, once a youth is transferred to adult criminal court, the youth is then always considered an adult (for the purposes of arrest and crime), no matter how minor the offense. This virtual thinking transforms youngsters from certain neighborhoods into criminal adults, regardless of their maturity, developmental behavior, education or capacity.

¶18 Initially, Illinois mandatory transfer law limited juvenile transfers to the most serious charges (murder, rape, armed robbery and aggravated assault<sup>33</sup>). But in 1985, Illinois enacted The Safe School Zone Act, mandating that fifteen- and sixteen-year-olds charged with delivery of a controlled substance within 1,000 feet of a school be tried in adult court. In 1987, lawmakers merged the school zone law with the Juvenile Court Act, making the delivery of a controlled substance near a school an “aggravating” factor. By these means, the drug offense became a higher-level crime because it was committed within the school “safe zone.” In 1989, the legislature voted to apply the “safe zones” to public housing developments as well.<sup>34</sup> The most commonly used basis for transfer in Illinois quickly became the laws mandating transfer of fifteen- and sixteen-year-olds<sup>35</sup> charged with possession of drugs within 1,000 feet of a school or public housing project.<sup>36</sup> A full ninety-nine percent of those charged under the provision in Illinois were African-American youth from Chicago. It was clear that both the statute and its implementation were racially discriminatory.

¶19 A 1993 constitutional challenge launched by the Chicago Lawyers Committee for Civil Rights documented that in 1992 every single youth charged under this mandatory drug transfer law was African-American. The challenge was won at the trial court

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<sup>32</sup> The so-called “curative” law revised numerous sections of the Illinois Law Compiled Statute (ILCS), most notably the provisions of the Adoption Act allowing standing to failed petitioners for adoption to seek custody and creating the putative father registry. Pub. Act 88-550 (1994).

<sup>33</sup> 705 ILL. COMP. STAT. 405/5-805 (repealed 1999).

<sup>34</sup> JASON ZEIDENBERG, DRUGS AND DISPARITY: THE RACIAL IMPACT OF ILLINOIS’ PRACTICE OF TRANSFERRING YOUNG DRUG OFFENDERS TO ADULT COURT (2004), <http://www.justicepolicy.org/research/2059> (follow “Full Report” hyperlink).

<sup>35</sup> In Illinois, the age of adult jurisdiction was seventeen, rather than the more common U.S. age of eighteen. THE CONSEQUENCES AREN’T MINOR: THE IMPACT OF TRYING YOUTH AS ADULTS AND STRATEGIES FOR REFORM (2007), *available at*

[http://www.campaignforyouthjustice.org/Downloads/NEWS/National\\_Report\\_consequences.pdf](http://www.campaignforyouthjustice.org/Downloads/NEWS/National_Report_consequences.pdf). Consider also that the age of eighteen is set by international law, in the U.N. Convention on the Rights of the Child, Article 1. Committee on the Rights of the Child, Committee on the Rights of the Child: General Comment #10, Age of Criminal Responsibility (2007), *available at* <http://www.ohchr.org/english/bodies/crc/comments.htm>.

<sup>36</sup> 705 ILL. COMP. STAT. 405/5-805 (2007); *see also* Illinois Controlled Substance Act, 720 ILL. COMP. STAT. 570/401 (2007).



level,<sup>37</sup> but overturned by the Illinois Supreme Court in an opinion written by the first African-American on the Court.<sup>38</sup> After further documentation of the stunning racial disparity in the law by Elizabeth Kooy at the Illinois Juvenile Justice Initiative (JJI) of the stunning racial disparity in the law and fierce reporting by the *Chicago Reporter*, the Justice Policy Institute produced a report by Jason Zeidenberg,<sup>39</sup> which noted “the impact of Illinois’ automatic transfer provisions qualify them as among the most racially inequitable laws in the country.”<sup>40</sup> It would take another eight years of legislative effort by JJI and allies to eliminate the mandatory transfer of drug possession near schools or public housing, and then it was through a provision called “waiver back,” which permitted criminal court judges to send these cases back to juvenile court for adjudication.<sup>41</sup> Research subsequently confirmed that this process resulted in no increase in crime or arrests,<sup>42</sup> and that the mere “criminalizing” experience of transferring children to adult court (compared to trial in juvenile court) resulted in youth being re-arrested more quickly, and for more violent offences.<sup>43</sup>

¶20 Juvenile Court reform in Cook County took four years of collaborations, intolerably lengthy but fruitful meetings, speeches, opinion editorials, and bringing prestigious and unlikely allies to bear (for example, the CFJC brought the Board of Directors of the MacArthur Foundation to Juvenile Court, unannounced) to elicit real movement. A new chief judge<sup>44</sup> of the Circuit Court of Cook County elevated the Juvenile Court to the status of a Cook County Juvenile Court Department and appointed two highly accomplished presiding judges<sup>45</sup> of the Child Protection Division and the Juvenile Justice Division who set about recruiting talented young judges to serve in Juvenile Court.

¶21 With aggressive new leadership in the juvenile divisions of the public defender’s, state’s attorney’s, and probation offices (in sometime agreement) regularly meeting under the initiative of the presiding judges, the Juvenile Court awoke to an intellectual life. They convened court-wide conferences, provided an educational focus for weekly judicial lunch meetings, developed policy and practice reforms, spurred interest in case outcomes, cultivated hunger for knowledge about child and adolescent development, and began the process of screening court intakes and creating alternatives to full-fledged adversarial litigation and custodial sentencing. Both the Loyola University School of Law’s ChildLaw Center and the University of Chicago Law School’s Mandel Legal Clinic became close partners in the juvenile court reform effort. The Juvenile Detention

<sup>37</sup> Sarah Karp, *State Drug Law Hits City Teens, Minorities*, CHI. REP., May 2000.

<sup>38</sup> *People v. R.L.*, 158 Ill. 2d 432 (1994).

<sup>39</sup> ZEIDENBERG, *supra* note 34.

<sup>40</sup> *Id.*

<sup>41</sup> 705 ILL. COMP. STAT. 405/5-130 (2005).

<sup>42</sup> See ILLINOIS JUVENILE JUSTICE INITIATIVE, *MODELS FOR CHANGE, CHANGING COURSE: A REVIEW OF THE FIRST TWO YEARS OF DRUG TRANSFER REFORM IN ILLINOIS* 4 (2008), <http://www.jjustice.org/pdf/TransferReport.pdf>.

<sup>43</sup> Angela McGowan et al., *Effects on Violence of Laws and Policies Facilitating the Transfer of Juveniles from the Juvenile Justice to the Adult Justice System: A Systemic Review*, 32 AM. J. PREVENTIVE MED. 7, 22 (2007).

<sup>44</sup> Cook County Presiding Judge Donald P. O’Connell.

<sup>45</sup> Presiding Judges Nancy Salyers and William Hibbler.

Alternatives Initiative (JDAI) of the Annie E. Casey Foundation<sup>46</sup> began work with Juvenile Probation and the Court to reduce the unspeakable overcrowding in the Juvenile Temporary Detention Center (“Audy Home”), where charged but pretrial children were sleeping on cots in hallways and confined all day to detention units rather than attending the Nancy B. Jefferson School, housed on the second floor of the court and detention building. At the height of overcrowding, the Audy Home, licensed for a capacity of 499, confined 742 youngsters.<sup>47</sup> Reform steps became a wave of change, coordination, and improvement.

¶22 The occasion of the impending centennial of the juvenile court became the catalyst for reform, so that Chicago could indeed reclaim its progressive tradition in youth law dating back to Jane Addams, Ida B. Wells Barnett, and Judge Mary Bartelme. A prominent Children’s Court Centennial Committee was created,<sup>48</sup> and a project that profiled twenty-five prominent adults who had once been serious violent juvenile offenders, called *Second Chances: Giving Kids a Chance to Make Better Choices*,<sup>49</sup> was published in partnership with the Justice Policy Institute and the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.<sup>50</sup>

¶23 The centennial of the world’s first juvenile court in 1999 was commemorated in Chicago with the annual conference of the National Council of Juvenile and Family Court Judges.<sup>51</sup> The conference featured an International Symposium called *A New Era: Justice for the World’s Children*, presented by the CFJC, the International Association of Youth and Family Judges and Magistrates, and the Cook County Children’s Court Centennial Commemoration. The conference’s workshops covered a range of topics and included: Inter-Country Adoptions; Child Soldiers and Youth Gang Recruitment, featuring Luis Rodriguez<sup>52</sup> and Joseph E. Marshall, Jr.; the Death Penalty for Children, with James Bell and Victor Streib; Orphanages: Reality and International Standards; Amnesty International’s “Betraying the Youth” report on conditions of confinement for youth; and Family Group Conferencing as a promising form of restorative justice.

¶24 The plenary lunch panel, entitled “Why the U.S. Should Ratify the UN Convention on the Rights of the Child,” included Guillemette Meunier of UNICEF, Judge Richard J.

<sup>46</sup> ANNIE E. CASEY FOUNDATION, TWO DECADES OF JDAI: FROM DEMONSTRATION PROJECT TO NATIONAL STANDARD (2009), available at

[http://www.aecf.org/~media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/TwoDecadesofJDAIFromDemonstrationProjecttoNat/JDAI\\_National\\_final\\_10\\_07\\_09.pdf](http://www.aecf.org/~media/Pubs/Initiatives/Juvenile%20Detention%20Alternatives%20Initiative/TwoDecadesofJDAIFromDemonstrationProjecttoNat/JDAI_National_final_10_07_09.pdf).

<sup>47</sup> See JEROME MILLER, LAST ONE OVER THE WALL (1991), for the best early narrative on the endemic conditions of violence and abuse in training schools or juvenile prisons.

<sup>48</sup> The Children’s Court Centennial Committee included Judith Block; Professor Margaret K. Rosenheim; Natalie Heineman; Honorable Rosemary Barkett; Mayor Richard Daley; Marian Wright Edelman; Honorable A. Leon Higgenbotham; Honorable Judith S. Kaye; Norval Morris; Adele Simmons; Randolph Stone; Carol Williams; Maria Tallchief Paschen; Karl Dennis; Jess McDonald; and Honorable Anne M. Burke.

<sup>49</sup> *Second Chances: Giving Kids a Chance to Make a Better Choice* was researched and written with the Center on Juvenile and Criminal Justice (now the Justice Policy Institute) and the CFJC, by Vincent Schiraldi, Jason Zeidenberg, Steven Drizin, and Bernardine Dohrn in 1999.

<sup>50</sup> *Second Chances* was again published by the Office of Juvenile Justice and Delinquency Prevention. U.S. DEPARTMENT OF JUSTICE, JUVENILE JUSTICE BULLETIN (2000), [http://www.ncjrs.gov/html/ojjdp/2000\\_5\\_1/contents.html](http://www.ncjrs.gov/html/ojjdp/2000_5_1/contents.html).

<sup>51</sup> This conference was the 62nd Annual Conference of The National Council on Juvenile and Family Court Judges, held July 18–21, 1999 in Chicago, Illinois.

<sup>52</sup> LUIS RODRIGUEZ, ALWAYS RUNNING: LA VIDA LOCA, GANG DAYS IN LA (1993).

Fitzgerald, and Dr. Cynthia Price Cohen, and was moderated by Bernardine Dohrn. Last, a stunningly innovative presentation on “Interrogations of Children: Interviewing, Confessions and Videotaping” was given by Cornell Professor Stephen J. Ceci, illustrating his research on unwarranted assumptions about the reliability of children’s testimonial accuracy, and the impact of questioning children on child memory.<sup>53</sup> Judge Hibbler moderated this program, which also included Dr. Richard Ofshe, speaking about his research on the prevalence of false confessions; it foreshadowed growing evidence of the pervasive use of unreliable juvenile confessions and wrongful juvenile convictions.<sup>54</sup>

¶25 At the centennial, a vast march of juvenile court judges and court personnel wound through downtown Chicago, Gwendolyn Brooks read her poetry, children’s art was mounted in the halls of the Juvenile Court, and freshly researched juvenile court histories were generated in Chicago and across the country.<sup>55</sup> In 2002, the CFJC convened a conference on *A Century of Juvenile Justice*,<sup>56</sup> based on an edited book<sup>57</sup> reflecting critically on a century of children’s law and practice.

### B. Campaign II: Dignity in Schools: Challenging the School-to-Prison Pipeline

¶26 From the beginnings of the juvenile court, the school and the court were intertwined institutions for children. If children were in school, they were not working in the mines or on the streets. If immigrant, rural, and poor children were in school, they were more likely being educated into a common language and vision of democratic and economic opportunities. The new institution of probation relied on the school, verifying that children attending school were less likely to get into trouble with the law.<sup>58</sup>

¶27 The CFJC recognized that every court-involved child client should be in school, be in the right school, and be poised to finish school. An essential element of the legal representation of youth is to promote their education—both as a key to future well-being, and as a critical element of preventing future delinquency or criminal court involvement. Education is vital to our goal of representing “the whole child”; legal advocacy in cases of delinquency and crime must also address the essential “civil” law aspects of adolescent lives, including immigration status, health and mental health, and education.

<sup>53</sup> STEPHEN J. CECI & MAGGIE BRUCK, *JEOPARDY IN THE COURTROOM: A SCIENTIFIC ANALYSIS OF CHILDREN’S TESTIMONY* (1999); Stephen Ceci, Sarah Kulkofsky, Zoe J. Klemfuss, Charlotte D. Sweeney & Maggi Bruck, *Unwarranted Assumptions About Children’s Testimonial Accuracy*, 3 ANN. REV. OF CLINICAL PSYCH. 313, 319 (2007), available at <http://www.webpages.ttu.edu/skulkofs/unwarranted%20assumptions.pdf>.

<sup>54</sup> See *Center on the Wrongful Conviction of Youth*, NW. U. SCH. L., <http://www.cwcy.org>.

<sup>55</sup> See *A NOBLE SOCIAL EXPERIMENT? THE FIRST 100 YEARS OF THE COOK COUNTY JUVENILE COURT: 1899–1999* (Gwen Hoerr McNamee ed., 1999). The book featured articles by David S. Tanenhaus, “*Rotten to the Core*”: *The Juvenile Court and the Problem of Legitimacy in the Progressive Era*, on pages 24–30; Gareth Canaan, *The Economic and Class Dimensions of Juvenile Delinquency in Black Chicago During the 1920s*, on pages 41–48; Anne Meis Knupfer, *The Chicago Detention Home*, on pages 52–60; and Bernardine Dohrn, *Justice for the Child: The Second Century*, on pages 98–102. Also published during the centennial was a brief history of the juvenile court by Professor Robert Shepherd, at T.C. Williams School of Law in Richmond, Virginia.

<sup>56</sup> Speakers included: Frank Zimring; David Tanenhaus; Elizabeth Scott; Paul Lerman; Anthony Bottoms; and Frank Furstenberg.

<sup>57</sup> *A CENTURY OF JUVENILE JUSTICE* (Margaret K. Rosenheim et al. eds., 2002).

<sup>58</sup> See Bernardine Dohrn, *The School, the Court and the Child*, in *A CENTURY OF JUVENILE JUSTICE* 267–309 (Margaret K. Rosenheim et al. eds., 2002).

¶28 In 1994, Congress passed the Gun Free School Act, mandating that states receiving federal financial assistance expel for two years students who bring a firearm into school.<sup>59</sup> The next year, the word “firearm” was amended to “weapon,” and the transformation in schools across the country was both swift and dramatic. School boards adopted voluminous disciplinary codes of behavior that punished everything from tardiness to kidnapping. Schools became barricaded and locked, search machinery was purchased and installed, school doors were closed, cameras were installed in hallways, and police were hired to patrol the schools. By 1996, in the face of a tidal wave of “zero tolerance” policies adopted by legislatures across the nation, the fastest-growing sector of new delinquency cases became school-based arrests. Normal student misbehavior, including pushing, scuffling, petty theft, fights, hurt feelings, and tough talk, was criminalized; instead of parents being called or students being required to remain after school, arrests were made, children were handcuffed, charges were filed, and, most dramatically, huge numbers of students were punished by being deprived of an education.

¶29 The CFJC began a School Law Project that continued for over a decade. CFJC Fellow Michelle Light initiated a national newsletter, documenting the outrageous uses of zero tolerance on school youngsters in different states. CFJC Soros fellow Angela Daker created in-school legal clinics at both Wells High School and Roberto Clemente High School, providing legal advice to students on a wide variety of issues. The CFJC convened a national conference to engage teachers and educators about the folly of zero tolerance as a vehicle for school safety, and the role of zero tolerance in eroding public support for public education itself. We began to work with the Advancement Project and the Harvard Center for Civil Rights, documenting the harsh, discriminatory and vengeful consequences of suspending and expelling children from school for minor malfeasance. In Chicago, a Chicago School Task Force was established with Renee Heybach at the Coalition for the Homeless, gathering together lawyers, teachers, special education advocates and parents in monthly meetings.

¶30 The CFJC vigorously represented expelled children in school disciplinary hearings, both to better understand the machinery of administrative justice, and to attend to the “civil” consequences of zero tolerance. One of the CFJC’s first expulsion cases involved four sixth-grade students expelled for sniffing a suspicious material in class. The law students and supervising attorney were able to prove that the material, labeled illegal drugs by the prosecution, was in fact Kool-Aid. Law students were able to “litigate” in these trial-like, administrative hearings. Our clinical faculty, which included Angela Coin, Lauren Adams, and Monica Llorente, supervised law students in these cases, most often winning re-admission to school, or to an appropriate school for expelled students.

¶31 For example, the CFJC represented a young boy named A.D., who was wrongly accused of getting in a fight after school. A.D. had never been in trouble before and was incredibly scared. Not only had he been barred from school, but he also faced both a juvenile delinquency case and a school expulsion hearing. After long hours of investigation, witness interviews, and preparation for both the trial and the expulsion hearing, the alleged victim finally admitted that our young client was not at all involved in the fight. The State dropped the juvenile delinquency charges against A.D., and CPS dropped the expulsion proceedings. The law students are continuing work to get the

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<sup>59</sup> Gun-Free Schools Act of 1994, 20 U.S.C. § 8921 (repealed 2002).

wrongful expulsion expunged from our client's school records. A.D. is back in school, back in his community, and doing extremely well.

¶32 The vast majority of unrepresented children in Chicago Board of Education expulsion hearings are expelled. As a result of concerted advocacy, the Illinois Department of Children and Family Services contracted with the Chicago Legal Assistance Foundation to engage Wallace Winters as counsel for abused or neglected student wards who were expelled. Coin, Adams, and Llorente expanded the small number of expelled students who had access to legal representation by creating the CFJC Children's Pro Bono Law Project. Over the course of a decade, the Project involved scores of Chicago law firms in hundreds of cases, matched associates and partners with appropriate cases, and provided technical back-up and social work expertise to big firm lawyers. The Children's Pro Bono Law Project gave awards both to lawyers and law firms that excelled in their commitment to their young clients and to the law.

¶33 In October 1999, six African-American high school students involved in a brief fistfight in the grandstand during a football game in Decatur, Illinois, were arrested, charged with felonies, and expelled from school for a period of two years. Reverend Jesse Jackson and others took up the case and met with the Secretary of Education, while advocates across the country convened conferences, published studies, and pushed for strategies of school safety that kept children in school. The Decatur case became the visible symbol of both the extreme punishment of students (by depriving them of an education) and the example that illustrated the dramatic racial bias of the uses of zero tolerance.<sup>60</sup>

¶34 The CFJC worked to ensure effective and systemic gate-keeping of juvenile justice intake at Juvenile Court by establishing barriers to a new flood of cases stemming from school-based arrests, and by broadening community efforts to roll back punishing disciplinary strategies of zero tolerance school exclusion and school-based arrests. In collaboration with the Advancement Project, CFJC attorneys produced a groundbreaking report on school-based arrests in three jurisdictions, including Chicago. The research report, *Education on Lockdown: The Schoolhouse to Jailhouse Track*<sup>61</sup>, documented the more than 29,700 school suspensions from Chicago Public Schools in 2002–2003, the inability to document school expulsions, and the astronomical rate of school-based arrests (8,539 in 2003 alone)—the majority of which were for simple offenses involving no serious injuries and no weapons. Although they constitute fifty percent of CPS students, African-Americans constituted more than seventy-seven percent of school arrests. The work continues today in efforts across the country, importantly in the Dignity in Schools campaign, which convened a national roundtable conference at Northwestern School of Law on October 23, 2009, called *The School to Prison Pipeline: Is It a Human Rights Violation?*<sup>62</sup>

<sup>60</sup> See ZERO TOLERANCE: RESISTING THE DRIVE FOR PUNISHMENT IN OUR SCHOOLS (William Ayers et al. eds., 2002).

<sup>61</sup> ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK (2005), available at <http://www.advancementproject.org/sites/default/files/publications/FINALEOLrep.pdf>. This report was written and prepared by the Advancement Project with research and writing support by CFJC staff, including Lauren Adams and Bernardine Dohrn. *Id.*

<sup>62</sup> See DIGNITY IN SCHOOLS CAMPAIGN, <http://www.facebook.com/pages/Dignity-in-Schools-Campaign/130917131624>. Dignity in Schools' Facebook page contains their research and recommendations. *See id.*

¶35 Simultaneous with the advocacy and litigation strategies, the CFJC began to support the establishment of peer juries in schools as part of a broader community restorative justice initiative<sup>63</sup>. CFJC clinical faculty Cheryl Graves and Ora Schub worked with Alternatives and a coalition of community organizations and the CPS to extend and expand the range of alternatives to school expulsions and zero tolerance policies that relied on police, criminal justice laws, and depriving students of an education as means to assure school discipline. Ultimately this alternative restorative justice effort in the schools was funded and then de-funded by CPS, but led to a citywide network of parents and teachers opposed to zero tolerance policies. In 2008, CPS officially rescinded the use of zero tolerance in school discipline, substituting restorative justice practices for all but the most serious offenses.

*C. Campaign III: Abolition of the Juvenile Death Penalty and Extreme Sentencing (JLWOP)*

¶36 Due in part to the exhaustive and intensive efforts of a small national network that included CFJC attorneys and students, the U.S. Supreme Court held that the juvenile death penalty was unconstitutional in the landmark decision of *Roper v. Simmons* in 2005. The Court concluded that young offenders, even those who commit grave crimes, are less culpable than adults, based on the realities of adolescent development. Furthermore, the Court stated that international law and the behavior of other countries can be “instructive” in the interpretation of U.S. constitutional mandates, especially the Eighth Amendment. Center attorneys were intimately involved in every aspect of a coordinated strategy that included a new focus on teenage psychosocial and brain development, international law and human rights law, state-by-state legislative advocacy, and coalition-building of juvenile justice, child welfare, medical and social science professionals, religious organizations, human rights organizations, and Nobel Laureates. Center attorneys Lauren Adams and Steven Drizin and Clinic Director Thomas Geraghty also co-authored two amicus briefs filed before the Supreme Court. The building of a broad network to abolish the execution of juvenile offenders forged a powerful cross-disciplinary coalition that is being continually expanded to implement progressive juvenile justice policy at the federal and state level on a variety of issues.

¶37 The CFJC was part of this national network of organizations working to abolish the juvenile death penalty in the United States. Groups with whom the CFJC collaborated closely included the ABA Juvenile Justice Center, the International Justice Project, the Florida Justice Institute, the National Coalition to Abolish the Death Penalty, Physicians for Human Rights, and Murder Victims Families for Reconciliation, among others.

¶38 Attorneys and students at the CFJC focused primarily on four different strategies to end the juvenile death penalty in the United States. First, Lauren Adams worked to build a substantial national coalition of professional and child protection organizations to support abolition. The second strategy centered on state legislative activity. We worked in a half dozen juvenile death penalty target states to create, coordinate, and support grassroots efforts to pass legislation that raised the minimum age for the death penalty to eighteen. Within two years, despite close defeats in Nevada, Florida and New

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<sup>63</sup> See *infra* Part III.

Hampshire, the juvenile death penalty was abolished in both South Dakota and Wyoming.

¶39 The third advocacy focus was to obtain clemency for juvenile offenders on death row who were given an execution date. We worked closely with the ABA Juvenile Defender Center, Steven Harper, and other attorneys to assist in individual cases in Georgia, Oklahoma, Texas, Missouri and Nevada where juvenile offenders were faced with an imminent execution. A large part of this work involved encouraging both local and international entities to urge the governor to grant clemency to the juvenile offender.

¶40 The fourth aspect of our work to end the juvenile death penalty involved Supreme Court advocacy. Attorneys and law students from the CFJC were involved in writing two separate amicus briefs that were filed with the U.S. Supreme Court in the case of *Roper v. Simmons*. Both briefs asserted that the juvenile death penalty is unconstitutional under the Eighth Amendment to the U.S. Constitution. Steven Drizin co-wrote a brief that was filed on behalf of more than fifty child advocacy organizations.<sup>64</sup> This brief focused on the national consensus against executing juvenile offenders.<sup>65</sup> Lauren Adams and her students assisted in recruiting signatories, as well as drafting and coordinating a brief filed on behalf of seventeen Nobel Peace Prize Laureates, including President Jimmy Carter.<sup>66</sup> This brief, which was written in large part by volunteer attorneys, focused on the prohibition of the juvenile death penalty as a widely recognized rule of international law.<sup>67</sup>

¶41 In October 2004, the Supreme Court heard oral arguments regarding the constitutionality of the juvenile death penalty in the United States. Their 5-4 ruling in *Roper v. Simmons* on February 1, 2005, abolished the juvenile death penalty in the United States by holding that the execution of juvenile offenders amounted to cruel and unusual punishment under the Eighth Amendment of the U.S. Constitution.<sup>68</sup> Furthermore, the court concluded that juvenile offenders are “categorically less culpable than adults,” based on their developmental capacities. Citing current research, the majority found that juveniles are less developmentally able to recognize or act on the consequences of their behavior, are impulsive and risk-taking, and are significantly influenced by peer pressures. The Court also discussed the “instructive” role of international law and the practice of other nations, in a ground-breaking discussion of human rights treaties, U.S. isolation in the world in executing juvenile offenders, and U.S. constitutional traditions emerging from English law.

¶42 In the wake of *Roper v. Simmons*, the CFJC and its partners initiated a broad national coalition, the National Coalition for the Fair Sentencing of Youth, to investigate the situation of some 2,500 juvenile offenders in the United States currently serving life sentences without possibility of parole. Based on the two landmark reports—*For the Rest of their Lives*, the national report by Human Rights Watch and Amnesty

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<sup>64</sup> Brief for Juvenile Law Center, Children and Family Justice Center et al. as Amici Curiae Supporting Respondent, *Roper v. Simmons* (No. 03-633), available at [http://www.njdc.info/pdf/death\\_penalty/childdad.pdf](http://www.njdc.info/pdf/death_penalty/childdad.pdf).

<sup>65</sup> *Id.*

<sup>66</sup> Brief for President James Earl Carter, Jr., President Frederik Willem de Klerk et al. as Amici Curiae Supporting Respondent, *Roper v. Simmons* (No. 03-633), available at [http://www.njdc.info/pdf/death\\_penalty/nobel.pdf](http://www.njdc.info/pdf/death_penalty/nobel.pdf).

<sup>67</sup> *Id.*

<sup>68</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

International, and *Second Chances*, the Michigan Report by Deborah LaBelle and the ACLU—the CFJC began work to document the 104 such cases in Illinois. With DLA Piper, Human Rights Watch, the Mandel Legal Aid Clinic at the University of Chicago Law School, Amnesty International, the Illinois Juvenile Justice Initiative, the ACLU, the Cook County Office of the Public Defender, the Illinois Office of the Appellate Defender, and the John Howard Association, the Illinois Coalition developed a database of Illinois prisoners serving sentences of juvenile life without possibility of parole (“JLWOP”), cataloguing their charges and convictions; creating a format to interview all 104 Illinois prisoners serving sentences; and meeting with victims’ families, prisoners’ families, legislators, youth organizations and policy-makers to explore appropriate strategies to bring Illinois law in compliance with international legal standards of humane, appropriate sanctioning for juvenile offenders. The Illinois report, *Categorically Less Culpable: Juvenile Life Without Possibility of Parole in Illinois*, was published in 2007. Soros Fellow Patricia Soung, project director Shobha Mahadev and Sarah Sillens, staff the Illinois Coalition for the Fair Sentencing of Children and participate with the National Coalition for the Fair Sentencing of Youth to coordinate a national strategy and expand the legal, communication and organizing work in other states. The release of two Illinois JLWOP prisoners who were wrongfully convicted, Mark Clements and Charles Green, spurred a robust litigation strategy and the creation of educational efforts by youth organizations and families of JLWOP prisoners.

¶43 In June 2009, the U.S. Supreme Court granted certiorari in two JLWOP cases from Florida: *Sullivan v. Florida* and *Graham v. Florida*. Again, a national coalition—this time as a formal entity—mobilized to support the litigation. CFJC attorneys Mahadev and Soung worked with the Juvenile Law Center, drafting an amicus brief. Oral argument was heard in November, argued by Brian Stevenson of the Equal Justice Initiative, and Brian Gaudy, a Florida attorney. In May 2010, the Supreme Court held in *Graham v. Florida* that the sentence of life without parole for those under the age of eighteen who did not themselves commit murder was an unconstitutional violation of the Eighth Amendment prohibition of cruel and unusual punishment.<sup>69</sup> Further, the Court reaffirmed *Roper* and suggested additional paths for further development of an Eighth Amendment jurisprudence for children.

*D. Campaign IV: Promote Reliable Evidence in Youth Trials; Suppress Unreliable, Involuntary Confessions by Youth*

¶44 The CFJC’s Steven Drizin pioneered recognition of the wrongful convictions of 110 youth through his aggressive litigation and advocacy in the late 1990s, beginning with two high-profile Chicago criminal cases. Drizin scored major victories in federal courts in the area of confessions and interrogations, creating a body of case law that provides greater protections for juvenile suspects in Illinois, Wisconsin, and Indiana than in any other circuit in the country. The landmark victory in *A.M. v. Butler*<sup>70</sup> in the Seventh Circuit Court of Appeals was the result of a decade of work by Drizin and his law student teams, beginning with the Ryan Harris case.

<sup>69</sup> *Graham v. Florida*, 130 S. Ct. 2011 (2010).

<sup>70</sup> *A.M. v. Butler*, 360 F.3d 787 (2004).



¶45 Illinois became the first state to legislatively mandate the electronic recording of interrogations in both juvenile and adult homicide cases.<sup>71</sup> This triumph was in large part the work of Drizin and his students, and recognizes the need for heightened scrutiny of police interrogations of youth. However, the new Illinois legislation fails to require the presence of an attorney at the station house for juvenile suspects—an important goal of the CFJC and juvenile justice coalitions. Earlier landmark legislation in Illinois requires attorneys for juveniles under the age of thirteen in homicide and sex cases, but the gap continues for thirteen- to seventeen-year-olds.

¶46 In collaboration with the State Appellate Defender’s Office of Wisconsin, Drizin and Eileen Hirsch argued before the Wisconsin Supreme Court in a juvenile confession case, *In re Jerrell C.J.*<sup>72</sup> The court there held that all juvenile interrogations must be electronically recorded. Work continues to be done implementing and replicating the legislation; preparing parents to advocate for their children in police stations; educating youth about their right to remain silent; improving police standards, practices, and policies with youth; preparing juvenile defenders to be knowledgeable about youth vulnerability to false confessions; educating judges about suppression of unreliable juvenile confessions; and reducing the number of false confessions.

¶47 Today, Drizin, Dohrn, and a team of lawyers<sup>73</sup> have established the Center on the Wrongful Convictions of Youth (CWCY),<sup>74</sup> a product of both the Center on Wrongful Convictions and the CFJC. The CWCY was launched in October 2009 with a symposium called *Out of the Mouths of Babes: False Confessions and the Wrongful Convictions of Youth*. The symposium featured wrongfully convicted youth (including Marty Tankleff, Bruce Lisker, and Johnnie Lee Savory), Cynthia Harris (mother of wrongfully convicted youth Anthony Harris), Cook County State’s Attorney Celeste Stack, Professor Randolph Stone, Dr. Antoinette Kavanaugh, and Jay Salpeter, a former detective of the New York Police Department.

¶48 The CWCY is the first innocence project in the country that focuses exclusively on individuals who were convicted or accused of crimes when they were adolescents or younger. We believe that youth itself can be a contributing factor to wrongful convictions. The CWCY is dedicated to identifying, investigating, and litigating credible innocence claims of wrongfully convicted young people; preventing future wrongful convictions by assuring that only reliable evidence is used in prosecuting and convicting youth; changing police practices; and supporting litigators and advocates in efforts to improve the juvenile and criminal justice system. The CWCY team has launched a national campaign to promote and secure legislation mandating the electronic recording of all police interrogations and confessions of youth suspected of crime.

### III. PROMOTING COMMUNITY JUSTICE AND GIRLLAW PROJECTS

¶49 When Professor Tom Geraghty and I were invited to visit a classic Chicago settlement house on the Near West Side of Chicago in 1996, the Northwestern University Settlement House three miles due west of the law school, it seemed too fortuitous to be

<sup>71</sup> 705 ILL. COMP. STAT. § 405/5-401.5 (2004); 725 ILL. COMP. STAT.N. § 5/103-2.1 (2004).

<sup>72</sup> *Wisconsin v. Jerrell C.J.*, 674.N.W.2d 607 (Wis. Ct. App. 2003).

<sup>73</sup> The CWCY team includes Joshua Tepfer, Laura Nirider, and Christine Agaiby.

<sup>74</sup> Center on Wrongful Convictions of Youth (May 6, 2011), <http://cwcy.org>.

true. The settlement house movement of the late nineteenth and early twentieth centuries created community centers to support poor and immigrant families. It included Hull House in Chicago, from which the world's first juvenile court was established. Geraghty and I were asked if the CFJC would like to participate in the re-opening of settlement house space by establishing a community legal clinic there. Because the CFJC concluded that the intake to Juvenile Court was highly geographically specific and discriminatory, we were eager to develop community-based responses for adolescents in conflict with the law and to promote alternatives to court adjudication.

¶50 With the intelligent and enthusiastic participation of law students Angela Coin (now Vigil), Angela Daker, and Amanda Whalen, and the work of clinical faculty Cheryl Graves and Ora Schub, we launched the CFJC Community Law Clinic (CLC) in the settlement house. The building was a bustling place of parent drop-offs to the childcare center, emergency economic assistance, art and mural projects, a boxing ring and club, and theatre arts and performances in the grand third floor Vittum theatre. The neighborhood was eclectic and in transition, characterized by immigrants, an African-American housing project, the elderly, and the beginnings of gentrification.

¶51 From there, the CFJC partnered with a Wells High School teacher to coach a Wells team that would enter the citywide debate competition; within a year the team reached the citywide finals. The CFJC concentrated new case intake in the region of the Community Law Clinic. As a clinical teaching center, the CFJC had the challenge of selecting a relatively small number of cases; to meet the intense community need for legal services, the CLC was able to accept cases, or recruit volunteer lawyers for most delinquency, youth crime, and school discipline issues from the neighborhood, but we were unable to meet some of the most pressing needs of the community (for example, contested divorce/custody cases).<sup>75</sup> The CLC developed an active and intense referral system to attempt to meet the legal assistance requests for name changes, landlord/tenant disputes, immigration questions, and extended kinship custody orders.

¶52 The CFJC developed a vibrant, citywide Street Law program with law students, both at the Juvenile Temporary Detention Center (with Loyola University law students) and in partnership with community youth organizations in neighborhoods of active police presence. Through role-playing and street theatre, law students collaborated with youth from the Southwest Youth Collaborative (SWYC) to practice encounters with police and authorities and to teach youth their legal rights, but in the context of the harsh realities they faced in their communities. With SWYC's Jeremy Lahoud and community youth, we worked to develop peer-research on issues such as how high school students saw zero tolerance being implemented in schools and what made them feel safe in their communities.

¶53 This work, and the efforts at driving down caseloads in Juvenile Court by establishing screening mechanisms for cases brought to court by the police, led to one of the most vibrant and innovative efforts at community-based restorative justice in the nation: Community Panels for Youth (CPY). Developed by Clinical Professor Cheryl Graves, in partnership with the Cook County State's Attorney Chief of the Juvenile Division, Sister Catherine Ryan, Community Panels for Youth were created in seven

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<sup>75</sup> However, during this period, both Vanessa Lucas and Christina Kanelos represented domestic violence victims in Cook County Family Court as CFJC clinical faculty.

Chicago neighborhoods. Geoffrey Banks came to work as the CPY coordinator, working from the CLC.

¶154 The theory of community panels for youth was that most delinquency cases could be better handled by a participatory, restorative justice process in the community, rather than by adversarial litigation in Juvenile Court. The panels were composed of residents from the neighborhood, who volunteered to serve for one year each as certified panelists. These volunteers were trained in juvenile justice and restorative justice theory and practice during a two-day weekend curriculum at Northwestern University School of Law.

¶155 As panelists, they met in their local library or community center, where the diverted youth (with a parent or family member) and the crime victim would appear before them. The youth and parent, and the panel, listened to the crime victim—what they suffered, how much trouble the offense caused them, how angry they were. Then the youth spoke to the panel, with the victim and the youth’s parent present, describing what happened and why, and how the youth now felt about it. The panel would craft a contract, where possible, that both helped to remedy the harm done to the victim and to the community, *and* helped to develop a strength or interest of the youth (work, art, computer skills, skateboarding, murals, music, etc.). The proposal drew upon community resources and strengths. One of the panelists would supervise the agreed-upon remedy for up to three months. If the youth stayed out of further trouble, the case was closed without adjudication, and charges were dismissed.

¶156 Community Panels had excellent outcomes for youth<sup>76</sup> and engaged both victims of crime and community panelists in the challenging issues of youth justice, fairness, and youth development. It was a homemade, labor-intensive, and grassroots creation of restorative justice practice that placed youth at the center of a caring but actively observant adult community. It was a masterpiece. This restorative justice work continued and grew in the (now) independent Community Justice for Youth Institute.

¶157 Parallel to the restorative community work, peer juries, Street Law, and the neighborhood-based legal practice, the CFJC undertook strategies to focus on girls in the juvenile justice system. For a two-year period, the CFJC had a GirlLaw attorney, Amanda Whalen, focused on representing young women in court. CFJC client Jonelle, for example, was charged with robbing a boy of five dollars by holding a tiny penknife. She was convicted and given probation, but then held to violate her probation terms by being out after curfew. Her CFJC attorney and students challenged Jonelle’s probation violation and were able to have Jonelle assigned to the drug treatment program she needed and wanted, rather than being sent to juvenile corrections.

¶158 Often invisible because they constitute a relatively small number of arrests and prosecutions, girls are more likely to be incarcerated for minor crimes (such as shoplifting [larceny] or status offenses such as running away, incorrigibility, curfew

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<sup>76</sup> Independent tracing of outcomes proved difficult due to the lack of transparency in prosecutorial charging and the closed nature of decision-making by the prosecution. Community panels were subject to receiving cases approved solely by the Juvenile Division of the State’s Attorney, which sometimes resulted in long periods without a case being referred to a given community panel. It was not possible to compare similar cases not referred to CPY, which were instead adjudicated in Juvenile Court. Assessment, therefore, relied on qualitative reports by panel members, youth, and the dismissal of the case.

violations, and “unruliness”) and to be incarcerated for longer periods of time.<sup>77</sup> In response to the delinquency cases the CFJC litigated, Cheryl Graves initiated a weekly program for girls detained in the Juvenile Temporary Detention Center. Called “GirlTalk,” the weekly program began as a partnership with students from the Feinberg School of Medicine at Northwestern University, but transformed into a wide-ranging curriculum that included date violence, gender images, hairdressing, safe sex, employment futures, arts and literature, humor, and parenting.

¶59 GirlTalk became a major initiative, supported by a community coalition of experts and activists, including Professor Laurie Schaffner of the University of Illinois-Chicago, Women in the Director’s Chair, Sarah Schriber of the ACLU, and women’s health activists. GirlTalk became an independent entity, directed by Winona Thompson, herself a survivor of the juvenile justice system. Parallel to the work of GirlTalk, a coalition of women system participants in Juvenile Probation, the Juvenile Temporary Detention Center, the Nancy B. Jefferson School, the Juvenile Court, and CFJC’s Monica Mahan pushed to develop a girls’ court staffed by female employees, a girls’ probation unit, and a girls’ wing of the detention school. Although the girls’ court and probation units were dismantled in 2011, the girl the coalition continues today.

#### IV. PREPARING ZEALOUS JUVENILE DEFENDERS AND CHILD RIGHTS LAWYERS

¶60 As with all legal clinics, the CFJC is devoted to teaching and modeling comprehensive lawyering, but specifically for the multidisciplinary needs of adolescent clients who are either in conflict with the law or appearing in immigration court seeking asylum or relief. We appear for youth in criminal and juvenile courts and address our clients’ related civil law issues in immigration, education, and health law. It is in the preparation of law students to advocate zealously for an adolescent client—interviewing and investigating the accusations; developing a narrative of the case; preparing motions, arguments, experts and the trial; deciding whether and how to agree to a plea agreement; and developing sentencing options for dispositional advocacy and post-dispositional relief—that the education of clinical law students (and social work students) takes place.

¶61 Bruce Boyer developed the first CFJC trial advocacy case notebook, published with Tom and Diane Geraghty, to prepare lawyers and law students in the representation of the whole child. The case notebook was developed for trainings with the National Institute for Trial Advocacy (NITA) especially for lawyers working with children, trainings where lawyers and law students worked through opening statements, direct or cross-examinations of witnesses and experts, and closing arguments. The CFJC, also in partnership with the ABA, convened numerous such trial practice seminars, which were replicated by other children’s law organizations.

¶62 In 1995, CFJC faculty, working with the American Bar Association Section of Litigation and Bruce Greene at Fordham Law School, convened a working conference on Ethical Issues in the Legal Representation of Children. Conference participants identified critical areas of dispute and lack of clarity in ethical guidelines for attorneys representing child clients. Fierce debates about the appropriate role of the child lawyer in matters of confidentiality, conflicts, competence, and class action cases led to a series of

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<sup>77</sup> See LAURIE SCHAFFNER, *GIRLS IN TROUBLE WITH THE LAW* (Myra Bluebond-Langner ed., 2006); Bernardine Dohrn, *All Ellas: Girls Locked Up*, 30 FEMINIST STUD. 302 (2004).

recommendations and conference papers, published as an issue of the *Fordham Law Review*.<sup>78</sup> A decade later, this influential publication was revisited by a second conference convened by Professor Annette Appell at the University of Nevada-Las Vegas, with a further series of papers and recommendations.<sup>79</sup>

¶163 Most recently, as part of the creation of a vibrant Illinois Juvenile Defender Network,<sup>80</sup> CFJC clinical fellow Marjorie Moss convened trial practice symposiums in partnership with the Illinois State Appellate Defender and the Juvenile Division of the Cook County Office of the Public Defender. She and Cathryn Crawford developed the *Illinois Juvenile Defender Practice Notebook on Illinois Law*; Moss pioneered the Illinois Juvenile Defender website and monitors the listserv, linking Illinois juvenile defenders to one another to promote collaboration. To prepare for understanding the circumstances of juvenile defenders outside of Chicago, and as a basis for forging a statewide network, the CFJC—in partnership with the National Juvenile Defender Center—conducted, researched, wrote, and published *Illinois: An Assessment of Access to Counsel and Quality of Representation in Juvenile Delinquency Proceedings* in October 2006.

¶164 The addition of Carolyn Frazier as DLA Piper fellow, working on delinquency cases in the Juvenile Court of Cook County with both law students and pro bono attorneys, deepened and extended the pedagogical and legal work of the CFJC. Frazier was an outstanding clinic alumnus who worked as an associate at Baker & McKenzie before rejoining the CFJC as a fellow. Further, the new close collaboration with a major Chicago and international law firm (organized and brokered by Bluhm Legal Clinic Director Thomas Geraghty) contributed new resources to the improvement of legal representation of children in delinquency proceedings in Cook County. The regular presence of private law firm attorneys in juvenile court (assisted by the work of Frazier, other CFJC attorneys, Monica Mahan, and the CFJC social work team) added to the process of improving the public juvenile justice systems. This private-public collaboration was a significant addition to the strategy for systemic reform of juvenile justice institutions, for improving outcomes for children in conflict with the law, and for strengthening and institutionalizing the CFJC.

¶165 The recruitment, preparation, and support for volunteer attorneys were part of the ongoing education and preparation of law students and juvenile defenders, through the CFJC Children's Pro Bono Law Project (see above). To promote children's rights and recruit additional support for enforcing their rights, the CFJC has been a founding partner of the National Children's Law Network, a decade-long collaboration of eight local children's rights centers who work with volunteer attorneys.<sup>81</sup>

<sup>78</sup> Bruce A. Green & Bernardine Dohrn, *Foreword: Children and the Ethical Practice of Law*, 64 *FORDHAM L. REV.* 1281 (1996).

<sup>79</sup> *Recommendations of the UNLV Conference on Representing Children in Families: Child Advocacy and Justice Ten Years After Fordham*, 6 *NEV. L. J.* 592 (2006).

<sup>80</sup> The Illinois Juvenile Defender Network was supported by Models for Change, the John D. and Catherine T. MacArthur Foundation, before the creation of the Juvenile Indigent Defense Action Network (JIDAN).

<sup>81</sup> The National Children's Law Network includes as its participating members: Public Counsel in Los Angeles; The Rocky Mountain Children's Law Center in Denver, Colorado; Oklahoma Lawyers for Children in Oklahoma City; The Children's Law Center of Minnesota in Minneapolis; The Children's Law Center of Lynn in Massachusetts; The Just Kids Legal Clinic in Charlottesville and Richmond, Virginia; the Support Center for Child Advocates in Philadelphia; and the CFJC.

¶66 As a critical part of systemic juvenile court reform, the CFJC was an initiating partner in a multi-year analysis and report on the uses of clinical information in juvenile court adjudications. As noted above, the sensationalized cases of the 1990s led to increased judicial reliance on clinical psychological assessments of both children and parents. Rapidly, a small industry developed to assess juvenile court clients. This was costly, timely, and, most frequently, without substantial clinical merit relevant to the outcome of the case.

¶67 Julie Biehl became the Director of the Juvenile Court Clinical Evaluation and Services Initiative (CESI), with Dr. Bennett Leventhal and Bernardine Dohrn as co-principal investigators. CESI reviewed existing practices and clinical assessments, the existing Juvenile Court Clinic, and the needs of attorneys, judges, and clients in both the Division of Child Protection and the Division of Juvenile Justice, tapping into the expertise of clinicians, psychologists, and psychiatrists in Chicago and in other major jurisdictions. CESI produced a significant and substantial report, made recommendations, and worked with the leadership of both the Circuit Court of Cook County and the Cook County President and Board to create a new, effective, and affordable method of providing accurate and useful clinical information to the Juvenile Court.

¶68 CESI became the Juvenile Court Clinic, reorganizing the manner and substance of how clinical information was requested, obtained, and utilized. This involved developing major cross-training of legal professionals and clinical psychologists and psychiatrists. The Juvenile Court Clinic became a national model for the reform and reorganization of court resources and professional expertise. CESI clinical psychologists, such as Dr. Antoinette Kavanaugh, emerged as leading experts in juvenile delinquency and work with families of court-involved adolescents.

## V. IMMIGRATION/ASYLUM & CHILDREN'S INTERNATIONAL HUMAN RIGHTS

### A. *Immigration/Asylum Representation*

¶69 The CFJC began representing unaccompanied children in immigration authority custody in 1995, in part because Chicago was a major hub for these displaced youth.<sup>82</sup> Children who are stopped or arrested without documentation and are without housing or the presence of adult family members would be taken into (then) INS (Immigration and Naturalization Service) custody, and held for removal proceedings. A network of activists and lawyers along the Mexican border, in the Southwest, and in Florida, Chicago, and New York began to meet in the mid-1990s. The Children's Rights Division of Human Rights Watch published a report on illegal conditions of confinement in these INS detention facilities for youth; other youth were held with adults in county jails across the country, or in isolated facilities far away from attorneys, interpreters who spoke their language, or advocates who knew of their whereabouts.<sup>83</sup>

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<sup>82</sup> *Children and Family Justice Center: Programs*, NW. U. SCH. L., <http://www.law.northwestern.edu/cfjc/programs/>.

<sup>83</sup> See HUMAN RIGHTS WATCH, *LOCKED UP FAR AWAY: THE TRANSFER OF IMMIGRANTS TO REMOTE DETENTION CENTERS IN THE UNITED STATES* (2009), available at <http://www.hrw.org/en/node/86760/section/1> (follow "Download the full report" hyperlink).

¶70 CFJC attorneys also began to explore claims for asylum for these unaccompanied children, and to represent them with law students in Immigration Court in Chicago. Asylum hearings are civil proceedings in which law students can participate; students learned to obtain information about country conditions, obtain records from scores of countries across the world, and work closely with clients when released from INS (now, Department of Homeland Security) custody. CFJC attorneys Vanessa Melendez, Uzoamaka Nzelibe, and Anita Ortiz Madalli pioneered this litigation and advocacy, representing both women and children, addressing issues of gender rights/sexual identity, domestic and family violence, child soldiers, homeless children, torture, religious freedom, and gang youth in the countries of origin.

¶71 CFJC attorneys participated in the first national gatherings of lawyers and advocates for unaccompanied children in INS custody, helped to draft new Standards for INS Officers Regarding Children in Custody (adopted by the INS), and provided trainings on special legal issues involving children to judges at the national conference of immigration judges.

¶72 Our immigrants' rights project has worked closely with child lawyers in both delinquency and dependency proceedings across the country, educating them about the needs of child clients who may be undocumented. Their status may affect plea agreements, housing and school access, and foster care or adoption status.

#### VI. INTEGRATING CHILDREN'S INTERNATIONAL HUMAN RIGHTS AND U.S. CONSTITUTIONAL STANDARDS

¶73 The CFJC was established at the same time as the global ratification of the U.N. Convention on the Rights of the Child (CRC).<sup>84</sup> The CRC became the fastest ratified international treaty, and the first treaty to integrate civil and political rights with economic and social rights.<sup>85</sup> For two decades now, the only two nations that have failed to ratify the CRC are the United States and Somalia. Yet its impact has had surprising resonance within the United States, and an important goal of the CFJC has been to utilize and integrate core values of international children's human rights with U.S. law and constitutional concepts.

¶74 Through ongoing work with Human Rights Watch and Amnesty International, within the campaigns to abolish the juvenile death penalty and the sentence of life without possibility of parole for those under the age of eighteen, in CFJC work on immigration and asylum, and in representation of youth in matters of crime and delinquency, children's human rights law has flourished. The remarkable affirmation of children's international human rights law by the U.S. Supreme Court in both *Roper* and *Graham* has furthered this development.

¶75 In concert with Northwestern's Center for International Human Rights, teams of CFJC law and social work students proposed, drafted, and mobilized for the passage of a Chicago City Council resolution adopting the CRC. Law student research projects in South Africa, Rwanda, Malawi, Tanzania, Palestine and Israel strengthened student

<sup>84</sup> *Convention on the Rights of the Child*, UNICEF, <http://www.unicef.org/crc/>.

<sup>85</sup> THE CAMPAIGN FOR THE U.S. RATIFICATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD, *What is the Convention on the Rights of the Child (CRC)*, <http://childrightscampaign.org> (follow "Get Informed" hyperlink; then follow "What is the Convention on the Rights of the Child (CRC)" hyperlink).

understanding of the power of and the challenges to children's human rights. Northwestern law students in seminars on Women, Children, Gender and Human Rights and on Children in Conflict with the Law have investigated, researched and critiqued the rapid development of children's international law, and analyzed the limits of its implementation.

¶76 Articles 37 and 40 of the CRC focus on the standards and treatment of children in conflict with the law; General Comment #10, adopted by the U.N. Committee on the Rights of the Child to elaborate on Articles 37 and 40, was drafted for the Committee by a team including the CFJC. The standards and concepts of the CRC continue to develop rapidly, impacting each area of children's legal rights: dignity, non-discrimination, the right to participation, children deprived of their liberty; arrest, detention, and incarceration as a last resort. This framework strengthens work within the U.S. and links us to an international community.

¶77 Two Optional Protocols to the CRC, both ratified by the United States, came into force in 2002: one on children in armed conflict and the other on child sale, prostitution, and pornography. CFJC visiting fellows and distinguished speakers on the surprisingly complex development of children's human rights jurisprudence in regional, national and international courts have included Professor Jaap Doek, Justice Albie Sachs, Ann Skelton, and Geraldine Van Bueren, all scholars on matters of international children's rights law.

## VII. CONCLUSION

¶78 At the CFJC, children's law is a complex, intellectually rigorous, multidisciplinary, and ethically demanding enterprise. As a legal clinic, we have the advantage of selecting our cases, the duty to speak out about violations of the law or failures to treat children with dignity, the opportunity to prepare law students, the responsibility to make those students outstanding and rigorous advocates for children, the understanding of the need for effective community solutions, the ability to promote the voices and perspectives of those most affected, and the duty to educate the public about critical issues and injustices involving children.

¶79 Few children's law centers or legal clinics combine the daily legal representation of children and the teaching and training of student juvenile defenders with the development of policy and systemic reform. Even fewer have a strong presence in the community, educating youth about their rights and responsibilities under the law and engaging young people and adults to seek and strengthen community justice systems before turning to the courts.

¶80 The Center has a strong history of collaboration with partners and allies. No improvements happen without major collaborations and shared strategies. The CFJC has learned to utilize our academic base to be independent critics of public and private institutions for children, while being prepared to work within formal systems as inside partners to achieve specific goals.

¶81 The CFJC's pioneering work at reforming the Juvenile Court of Cook County, identifying and challenging police interrogation of children and false confessions, collaborating to abolish the juvenile death penalty and sentences of juvenile life without parole, incubating restorative justice through community panels for youth, institutionalizing expedited adoptions, developing trainings in representing the whole



child, addressing ethical issues in the legal representation of children, questioning zero tolerance and harsh school discipline, opposing racial bias in juvenile court and transfers to adult criminal court, redesigning the system of clinical information in Juvenile Court, identifying the needs of unaccompanied children in INS/DHS custody, analyzing the relationship between child abuse and domestic violence, mobilizing to close training schools and reduce out of home placement of youth, and creating gender-appropriate programming for girls are a few examples of our innovative, grounded practice and our role as a catalyst for improvement in the administration of justice for children in the first twenty years.

¶82

On to the next twenty years.