

Juvenile Delinquency Law and Procedure

Juvenile Delinquency Law and Procedure

Jerry R. Foxhoven

EXECUTIVE DIRECTOR OF THE NEAL & BEA SMITH LEGAL CLINIC
PROFESSOR OF LAW, DRAKE LAW SCHOOL

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Contents

Preface	xi
About the Series	xiii
Chapter I • The Creation and Evolution of Juvenile Courts	3
<i>In re Gault</i>	4
Discussion Questions	10
<i>In re L.M.</i>	10
Discussion Questions	18
<i>Roper v. Simmons</i>	18
Discussion Questions	25
Key Concepts: The Creation and Evolution of Juvenile Courts	25
Chapter II • Status Offenses	27
<i>QUTB v. Bartlett</i>	28
Discussion Questions	31
<i>Nunez v. City of San Diego</i>	32
Discussion Questions	38
<i>Cox v. Turley</i>	38
Discussion Questions	46
<i>In re Michael G.</i>	46
Discussion Questions	51
Key Concepts: Delinquency Laws and Status Offenses	52
Practical Questions: Delinquency Laws and Status Offenses	52
Simulation Exercise I	52
Chapter III • Interrogation of Minors	55
<i>Haley v. Ohio</i>	55
Discussion Questions	59
<i>Gallegos v. Colorado</i>	60
Discussion Questions	62
<i>Fare v. Michael C.</i>	62
Discussion Questions	68
<i>Yarborough v. Alvarado</i>	69
Discussion Questions	73
<i>J.D.B. v. North Carolina</i>	73
Discussion Questions	78
<i>State v. Pearson</i>	79
Discussion Questions	84
Key Concepts: Interrogation of Minors	84
Practical Questions: Interrogation of Minors	84
Simulation Exercise II	85

Chapter IV • Searches of Minors	87
<i>Wimberly v. State</i>	87
Discussion Questions	89
<i>In re Scott K.</i>	90
Discussion Questions	93
<i>In re D.C.</i>	94
Discussion Questions	95
Key Concepts: Searches of Minors	96
Practical Questions: Searches of Minors	96
Simulation Exercise III	96
 Chapter V • Students' Rights at School	99
A. Searches of Students' Persons	99
<i>New Jersey v. T.L.O.</i>	100
Discussion Questions	109
<i>State v. Angelia D.B.</i>	110
Discussion Questions	114
Key Concepts: Searches of Students in School	114
Practical Questions: Searches of Students' Persons	114
B. Strip Searches of Students	115
<i>Doe v. Renfrow</i>	115
Discussion Questions	117
<i>Cornfield by Lewis v. Consol. High Sch. Dist. No. 230</i>	117
Discussion Questions	121
<i>Safford Unified Sch. Dist. No. 1 v. Redding</i>	122
Discussion Questions	131
Key Concepts: Strip Searches of Students	131
Practical Questions: Strip Searches of Students	131
C. Backpacks and Cellphones in School	132
<i>DesRoches v. Caprio</i>	132
Discussion Questions	136
<i>Klump v. Nazareth Area School Dist.</i>	136
Discussion Questions	138
Key Concepts: Backpacks and Cellphones in School	138
Practical Questions: Backpacks and Cellphones in School	138
D. School Lockers	139
<i>State v. Jones</i>	139
Discussion Questions	143
<i>In re Patrick Y.</i>	144
Discussion Questions	150
Key Concepts: School Lockers	150
Practical Questions: School Lockers	150
E. Video Cameras in Schools	150
<i>Brannum v. Overton County School Board</i>	151
Discussion Questions	155
Key Concepts: Video Cameras in School	156
Practical Questions: Video Cameras in Schools	156

F. Sniffer Dogs in Schools	156
<i>Jones v. Latexo Indep. School Dist.</i>	157
Discussion Questions	163
<i>Doe v. Renfrow</i>	163
Discussion Questions	166
<i>Horton v. Goose Creek Indep. Sch. Dist.</i>	166
Discussion Questions	171
Key Concepts: Sniffer Dogs in Schools	171
Practical Questions: Sniffer Dogs in Schools	172
G. Police & Resource Officers at School	172
<i>State v. Heirtzler</i>	173
Discussion Questions	176
<i>State v. D.S.</i>	177
Discussion Questions	178
<i>Patman v. State</i>	179
Discussion Questions	180
<i>Cason v. Cook</i>	181
Discussion Questions	183
Key Concepts: Police & Resource Officers at School	183
Practical Questions: Police & Resource Officers at School	184
Simulation Exercise IV	184
H. Drug Testing in School	184
<i>Vernonia School District 475 v. Acton</i>	185
Discussion Questions	192
<i>Board of Ed. of Independent Sch. Dist. v. Earls</i>	192
Discussion Questions	198
Key Concepts: Drug Testing in School	198
Practical Questions: Drug Testing in School	199
 Chapter VI • The Course of a Juvenile Delinquency Case	 201
 Chapter VII • Pre-Adjudication Detention	 203
<i>L.O.W. v. District Court</i>	203
Discussion Questions	207
<i>Schall v. Martin</i>	208
Discussion Questions	215
<i>Alfredo A. v. Superior Court of Los Angeles County</i>	215
Discussion Questions	232
Key Concepts: Pre-Adjudication (Pretrial) Detention	232
 Chapter VIII • Waiver to Adult Court	 233
<i>Kent v. U.S.</i>	233
Discussion Questions	238
<i>Manduley v. Superior Court</i>	239
Discussion Questions	245
<i>State v. Aalim</i>	246
Discussion Questions	255
Key Concepts: Waiver to Adult Court	255
Practical Questions: Waiver to Adult Court	255

Chapter IX · Constitutional Minimums for Adjudicatory Hearings	257
<i>In re Gault</i>	257
Discussion Questions	268
A. Right to Counsel	268
<i>In re Manuel R.</i>	268
Discussion Questions	275
<i>D.R. v. Commonwealth</i>	276
Discussion Questions	278
Key Concepts: Right to Counsel	278
B. Competency to Stand Trial	278
<i>In the Interest of S.H.</i>	279
Discussion Questions	281
<i>In re Williams</i>	281
Discussion Questions	287
<i>Matter of W.A.F.</i>	288
Discussion Questions	291
Key Concepts: Competency to Stand Trial	291
C. Right to a Speedy Trial	291
<i>In the Interest of T.K.</i>	292
Discussion Questions	294
<i>In the Interest of C.T.F.</i>	294
Discussion Questions	297
Key Concepts: Right to a Speedy Trial	297
D. Standard of Proof	297
<i>In re Winship</i>	298
Discussion Questions	301
Key Concepts: Standard of Proof	301
E. Suppression of Confessions	302
<i>Matter of Welfare of S.W.T.</i>	302
Discussion Questions	305
<i>In re Johnson</i>	305
Discussion Questions	308
<i>State v. Presha</i>	308
Discussion Questions	317
Key Concepts: Suppression of Confessions	318
F. Insanity Defense	318
<i>Winburn v. State</i>	318
Discussion Question	323
<i>Golden v. State</i>	323
Discussion Questions	327
Key Concept: Insanity Defense	327
G. Right to a Jury Trial	328
<i>McKeiver v. Pennsylvania</i>	328
Discussion Questions	335
<i>In re Jeffrey C.</i>	335
Discussion Questions	337
<i>In re L.M.</i>	338
Discussion Questions	347

Key Concepts: Right to a Jury Trial	347
Key Concepts: Court Hearings: Constitutional Minimums, for Delinquency Hearings	347
Practical Questions: Court Hearings: Constitutional Minimums, for Delinquency Hearings	347
Chapter X • Dispositional Options Available in Juvenile Court	349
<i>In the Matter of Janice Westbrook</i>	349
Discussion Questions	350
<i>J.R.D. v. Commonwealth</i>	350
Discussion Questions	354
<i>In re McDonald</i>	355
Discussion Questions	356
<i>In re Gerald B</i>	357
Discussion Questions	359
<i>In re Shannon A.</i>	359
Discussion Questions	361
Key Concepts: Dispositional Options Available in Juvenile Court	362
Chapter XI • Double Jeopardy in Juvenile Court	363
<i>Breed v. Jones</i>	363
Discussion Questions	366
<i>Swisher v. Brady</i>	367
Discussion Questions	369
Key Concepts: Double Jeopardy in Juvenile Court	370
Practical Questions: Double Jeopardy in Juvenile Court	370
Chapter XII • Sentencing of Juvenile Offenders in Adult Court	371
A. Death Penalty	371
<i>Thompson v. Oklahoma</i>	371
Discussion Questions	375
<i>Stanford v. Kentucky</i>	376
Discussion Questions	382
<i>Roper v. Simmons</i>	382
Discussion Questions	395
Key Concepts: Death Penalty for Juvenile Offenders	395
Practical Questions: Death Penalty for Juvenile Offenders	395
B. Life Without Parole for Juvenile Offenders	396
<i>Graham v. Florida</i>	396
Discussion Questions	408
<i>Miller v. Alabama</i>	408
Discussion Questions	420
Key Concepts: Life without Parole for Juvenile Offenders	420
Practical Questions: Life without Parole for Juvenile Offenders	420
Simulation Exercise V	420
C. Future Applications of <i>Miller v. Alabama</i>	421
<i>In re C.P.</i>	422
Discussion Questions	437

<i>State v. Lyle</i>	438
Discussion Questions	447
Key Concepts: Application of <i>Miller v. Alabama</i> to Other Issues	448
Practical Questions: Application of <i>Miller v. Alabama</i> to Other Issues	448
Simulation Exercise VI	448
Table of Cases	449
Index	451

Preface

It is no coincidence that the first edition of this book was published in 2017—fifty years since the United States Supreme Court rendered its decision of *In re Gault*. In that decision, the Court likened a juvenile delinquency proceeding to a felony prosecution of an adult and extended many of the rights of criminal defendants to juveniles in delinquency proceedings under the Due Process Clause of the United States Constitution. The *Gault* decision is still considered the seminal case in juvenile delinquency law by challenging the assumption that the juvenile justice system was a benevolent one not designed to punish youth but to give them a “guiding hand.” The holding of the *Gault* decision should have been no surprise at the time. The United States Supreme Court had already held that juveniles were entitled to counsel at waiver proceedings. By the time of the *Gault* ruling, one-third of the states had statutes ensuring the right to counsel in juvenile proceedings, while other states provided such right by court rule. In the *Gault* decision, the United States Supreme Court rejected the extreme difference between the rights accorded an adult compared to those accorded to a child. The Court found that the Constitution “requires the guiding hand of counsel at every step in the proceedings against him.” By 1979, just twelve years after *Gault*, the United States Supreme Court made the importance of counsel clear: “Whether it is a minor or an adult who stands accused, the lawyer is the one person to whom society as a whole looks as the protector of the legal rights of that person in his dealings with the police and the courts.”

In addition to the rights relative to counsel, the *Gault* decision also granted juveniles other constitutional rights, including: (1) the right to constitutionally adequate notice of the precise nature of the charges; (2) the right to confront and cross-examine witnesses; and (3) the privilege against self-incrimination, as well as the right to be informed of that right. Many of the other rights guaranteed to adult criminal defendants were left for future cases. Once the *Gault* ruling was issued, a succession of cases continued to recognize basic rights for juveniles in delinquency proceedings. In 1970, the Court held that juveniles must be proven guilty beyond a reasonable doubt during the adjudicatory stage of delinquency cases. A year later, in 1971, the Court retreated somewhat, and held that the right to a jury trial is not required by the Constitution in delinquency cases. The Court later held that the Double Jeopardy Clause prevents a juvenile court from transferring a juvenile to the adult court after previously finding him or her delinquent.

There is still a tendency to hold juvenile delinquency courts to a lower standard than adult criminal courts because of the stated purpose of such courts as taking a *parens patriae* approach to dealing with delinquent youth. Now, state and federal courts continue to examine, and often expand, the rights of youth involved in the juvenile justice system. As state legislatures began their “tough on crime” approach to dealing with both adults

and juveniles committing crimes, more and more courts have seen the inequity of allowing juvenile courts to offer youth “the worst of both worlds” by denying them many of the fundamental rights of adults while, at the same time, imposing punishments that are akin to those imposed on adult criminal defendants.

Today, a lawyer who represents youth in a juvenile delinquency proceeding must be prepared to “push the envelope” by advocating that the client be guaranteed all of the elements of fundamental fairness. Full representation of a youth in juvenile delinquency proceedings requires that the attorney, just like a criminal defense attorney, protect the rights of his client from the very beginning of the youth’s contact with authorities—long before formal charges are filed. Attorneys must be prepared to file motions to suppress evidence and confessions in much the same way that criminal defense lawyers conduct the defense of their clients.

It is essential that a lawyer understand the “evolution” of the juvenile justice system from the non-adversarial, paternalistic one that it was originally intended to be to the adversarial and punitive one that it has become. Only by understanding this change can a lawyer fully understand the need to advocate for an expansion of a client’s rights in that system. It is one of the roles of a defense lawyer in a juvenile delinquency case to convince the court that this transformation of the juvenile justice system has, in fact, occurred so as to support the extension of the full panoply of rights accorded to adult criminal defendants to youth involved in this system.

This casebook takes a comprehensive approach to teaching law students all of the issues involved in representing a minor who has been accused of violating the law, including the history and evolution of the juvenile justice system, the rights of minors in interrogation, searches and monitoring both at home and at school, and the procedures and rights in delinquency court. The casebook follows the life of a juvenile delinquency case from the first contact with authorities through sentencing in either juvenile or adult court. This book is intended to make a law student fully prepared to be an effective advocate for clients charged with committing a delinquent act.

About the Series

Carolina Academic Press, in cooperation with Northeastern University School of Law, is pleased to offer a new series of teaching materials, the Lawyering Series. Professor Roger Abrams, Richardson Professor of Law at Northeastern School of Law, will serve as Series Editor.

Carolina Academic Press, an independent publisher, has a strong reputation for publishing innovative print and digital teaching materials for the law school community. Northeastern University School of Law has long been known as an innovator in legal education, with a national reputation for its Cooperative Legal Education (Co-op) Program and its rich clinical, internship, and externship offerings.

Over the last decade, the American Bar Association has urged American law schools to better prepare their students for the practice of law. Most recently, the ABA has enacted new Standards that require all law students to complete six credit hours of “experiential” courses. This requirement will commence for students beginning law school in fall 2016.

It is our sincere hope that the Lawyering Series will support law schools and law professors—both full-time and adjunct—as they search for more innovative and more practical teaching materials.

We welcome your comments and suggestions. Please contact Carolina Academic Press at manuscript@caplaw.com or Series Editor Roger Abrams at r.abrams@neu.edu.

