

JUVENILE JUSTICE: Child Advocacy

Part 4 of 5

A Selected Annotated Bibliography

Compiled by:  
Marilyn Gehr  
Research Assistant

The University of the State of New York  
The State Education Department  
The New York State Library  
Legislative Research Service  
Albany, New York 12234, April, 1976

40611  
C1

For two months after the cover page date of this bibliography, the materials cited herein are restricted to the use of the Legislature and of State agency officials whose work station is in Albany.

11:20P  
12

## JUVENILE JUSTICE

### Table of Series

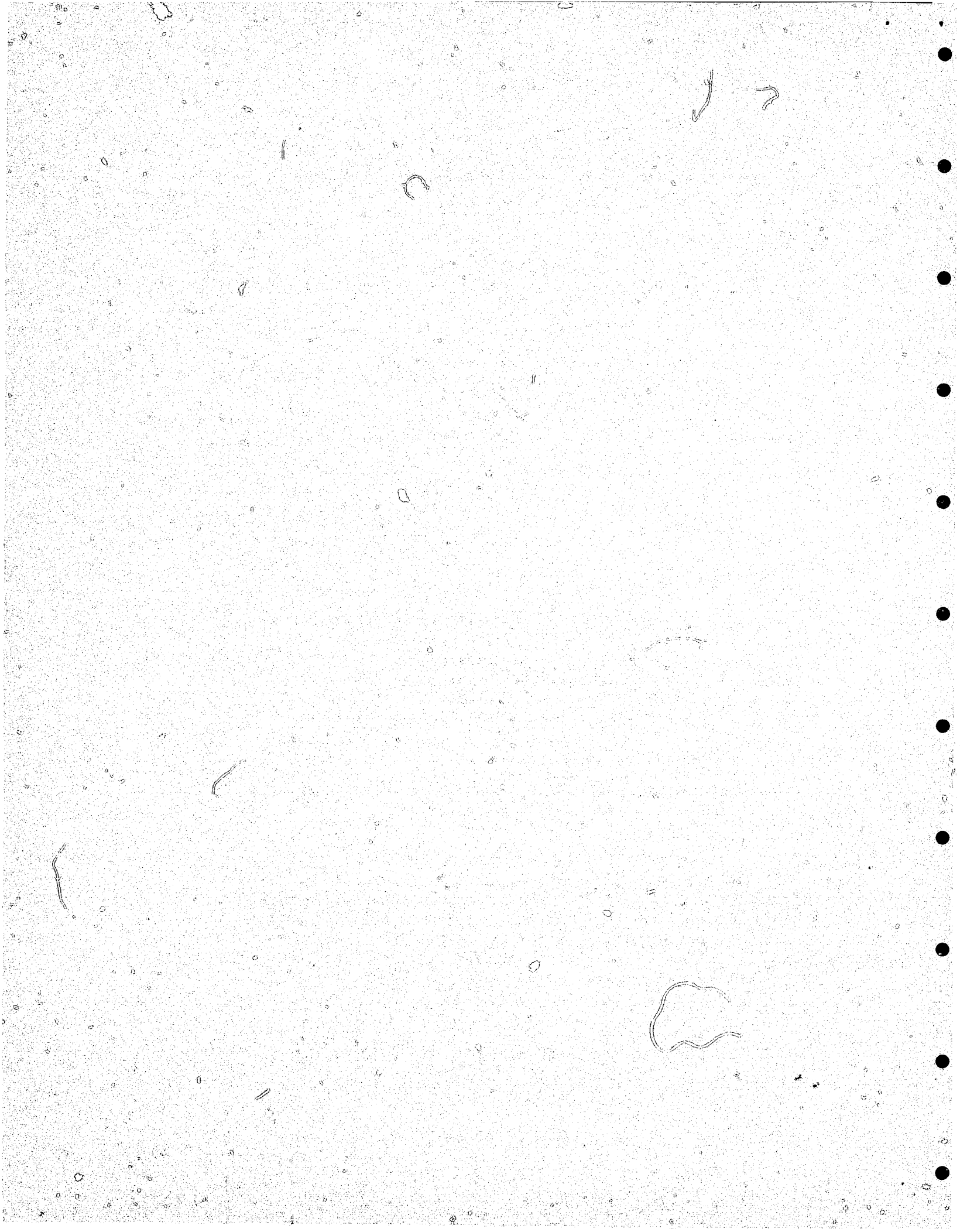
Part 1: The System

Part 2: Juveniles and Criminal Law

Part 3: PINS and Status Offenders

Part 4: Child Advocacy

Part 5: Community Corrections



## JUVENILE JUSTICE: Child Advocacy

### Part 4 of 5

#### Introductory Note

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

#### Item

- 1 Berlin, Irving N., M.D.  
Advocacy for Child Mental Health. New York, Brunner/Mazel, 1975.  
338 p.

#### LEGIS REF

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

- 2 Besharov, Douglas J.  
Juvenile Justice Advocacy. N. Y. Practising Law Institute, 1974.  
557 p.

#### LAW 75-2052

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

- 3 Bremner, Robert, ed.  
The Legal Rights of Children: An Anthology. New York, Arno Press, 1974. [301 p.] (Children and Youth: Social Problems and Social Policy, Vol. 5)

346.73013 L496 75-8518

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

4 Chapman, P. B.

Lawyer in Juvenile Court - "A Gulliver Among Lilliputians", in Western Ontario Law Review, 1971. vol. 10, 88-107.

LAW

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

5 Chused, Richard A.

The Juvenile Court Process: A Study of Three New Jersey Counties, in Rutgers Law Review, Spring 1973. vol. 26, 488-615 (includes charts)

LAW

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

6 Curtis, Gregory L.

In Defense of a Youth, in Montana Law Review, Summer 1975. vol. 36, 225-49.

LAW

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

7 Davis, Samuel M.

Rights of Juveniles: The Juvenile Justice System. N. Y., Clark Boardman, 1974. 301 p. (includes bibliography)

LEGIS REF



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

- 8 Edelstein, Nathan.

The Law Guardian in the New York Family Court, in *Juvenile Justice*, May 1973. vol. 24, 14-21.

LAW

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

- 9 Foster, Henry H., Jr.

A "Bill of Rights" for Children. Springfield, Ill., Chas. C. Thomas, 1974. 88 p. (includes bibliography + case index) (American Lecture Series Publication No. 927)

LAW 76-8

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

- 10 Haworth, Steven.

Is Failure to Appoint a Guardian Ad Litem Fundamental Error in Juvenile Delinquency Proceedings?, in *Baylor Law Review*, Fall 1972. vol. 24, 619-30.

LAW

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

- 11 Inker, Monroe L.

Expanding Rights of Children in Custody and Adoption Cases, in Family Law Quarterly, December 1971. vol. 5, 417-23.

LAW

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

- 12 Ishmael, James D., Jr.

Juvenile Right to Counsel at a Probation Revocation Hearing, in Journal of Family Law, No. 4, 1972. vol. 11, 745-51.

LAW

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

- 13 Juvenile Law - Sixth Amendment - Due Process - Denial of Counsel at Juvenile Certification Hearing Upheld. Rutgers-Camden Law Journal, Fall 1972. vol. 4, 183-93.

LAW

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

- 14 Kahn, Alfred J., et al.

Child Advocacy. Washington, Government Printing Office, 1972. 184 p. (includes bibliography) (Report of a National Baseline Study).

362.70973 K12 74-3211

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



- 15 Mangrum, R. Collin.

Need for Counsel in the Juvenile Justice System: Due Process Overdue,  
in Utah Law Review, Summer 1974. vol. 1974, 333-77.

## LAW

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

- 16 National Council on Crime and Delinquency. Council of Judges.  
Provision of Counsel in Juvenile Courts: A Policy Statement.  
New York, 1970. 34 p. (includes bibliography)

LAW 75-17527

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

- 17 New York (State). Division for Youth.  
The Ombudsman in the New York State Division for Youth Facilities:  
Documents, Reports, Articles, Statistics, by Malcolm S. Goddard.  
Albany, 1975. 308 p.

LEGIS REF 75-7740

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

- 18 New York (State). The State Library. Legislative Research Service.  
The Rights of Children and Legal Infants: A Selected Annotated Bibliography, by Colin Campbell. Albany, 1973. 206.

LEGIS REF

68 entries, many of which pertain to the topic of child advocacy.

- 19 Newman, George G., ed.

Children in the Courts: The Question of Representation, Ann Arbor, Mich., Institute of Continuing Legal Education, 1967. 571 p.  
(I.C.L.E. Specialty Handbook No. 19)

LAW

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

- 20 Nordin, Virginia Davis, ed.

Gault: What Now for the Juvenile Court? Ann Arbor, Mich., Institute of Continuing Legal Education, 1968. 218 p.

LAW

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

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

Is there a Constitutional Right to an Insanity Defense in Juvenile Court?, in Journal of Family Law, No. 4, 1971. vol. 10, 421-42.

LAW

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

- 22 Stamm, Mortimer.

Child Advocacy and Legislative Reform in Kentucky, in Juvenile Justice., August 1973. vol. 24, 3-16.

LEGIS REF

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

- 23 Stapleton, William V. and Lee E. Teitelbaum.  
In Defense of Youth: A Study of the Role of Counsel in American Juvenile Courts. New York, Russell Sage Foundation, 1972. 243 p.  
 (includes bibliography)

LAW

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

- 24 U.S. Children's Bureau. National Center for Child Advocacy.  
Child Advocacy Programs 1975. Washington, 1975. 118 p. (includes index) (DHEW Pub. No. (OHD) 76-30082)

LEGIS REF

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

- 25 U.S. Law Enforcement Assistance Administration.  
The D. C. Public Defender Service: Policies and Procedures - An Exemplary Project. Washington, Government Printing Office, 1974, 79 p. (Volume 1)

LEGIS REF

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

- 26 U.S. Youth Development and Delinquency Prevention Administration.  
Toward a Political Definition of Juvenile Delinquency, by John M. Martin. Washington, Government Printing Office, 1970. 17 p.

345.7308 M381

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

- 27 Wald, Patricia M. and Lawrence H. Schwartz.  
Trying a Right to Treatment Suit: Pointers and Pitfalls for the Plaintiffs, in American Criminal Law Review, Summer 1974. vol. 12, 125-63.

LAW

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

- 28 Weiss, Jonathan A.  
Emerging Rights of Minors, in University of Toledo Law Review, Fall, 1972. vol. 4, 25-42.

LAW

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

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

LAW

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

- 30 Yeannakis, George and Dick Behn.  
The Rights of Juvenile Delinquents, in Ripon Forum, September 1973. vol. 9, 19-24.

S329.6 qR5918

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



**END**