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NEWS AND ANNOUNCEMENTS >>

Committee Conference Call
The YLD Committee on Children and the Law will host a conference call January 15, 2015 at 5:15pm E.S.T.

ABA Midyear Meeting and Elections
Registration is now open for the 2015 Midyear Meeting in Houston, TX from February 5-8.

Call for ABA Annual Meeting Candidates
Eligible individuals may submit their candidacy for election as YLD representatives to attend the annual meeting on August 1, 2015 in Chicago, IL.

YLD Spring Conference
The YLD Spring Conference is currently scheduled for May 14-16 in Tampa Bay, FL.
Juvenile Injustice: Restoring Democracy in America in Youth Prisons
By: Phoenicia D. Williams, Esq.

In *Democracy in America*, the French political thinker and historian Alexis de Tocqueville describes an America in 1831 to which the present is a complete anathema. The America of 1831 was one burgeoning with hope for the future. De Tocqueville described North America as an “empty cradle awaiting the birth of a great nation.” He pointedly notes the virtual absence of the corporation in the structural scheme of the nation. De Tocqueville goes on to explain how the vacancy left by the corporation allows and even necessitates a replacement system—democracy.

Fast forward 176 years. Now, in 2015, our nation is rife with corporate infiltration in nearly every aspect of society; from dining to dental hygiene. Accordingly, the effects of this revolution are far-reaching and deleterious. Corporations impact people from every walk of life and facet of society. Disastrously, people who need the most assistance are ultimately victimized most egregiously. One of the most profitable corporations in our society is the prison. The working impoverished supply the human capital to perpetuate the prison system. With little income and a relative level of education, they are left at the disposal of the private prison corporation. This is especially true of youth; because they have so few opportunities and resources, they are most susceptible to incarceration. The prime crime-committing age range in the United States is 15-24 years old. The United States population will see its greatest increase in this age group in the next 10 years. Black Americans make up 85% of the general prison population. A 2012 Nielsens report lists 16-35 years old as a projected 35% of Black Americans in the U.S. by 2015. Consequently, this sector of the population is poised to best serve the profit maximizing interest of the private prison corporation.

De Tocqueville deliberately avoids condemning slavery in America. His assessment of slavery is summarily that the institution is a “necessary evil” in that it would have been virtually impossible to accomplish the infrastructural developments leading to America’s world dominance without “free labor.” From a practical standpoint, the same logic applies to the present day. Maintenance of the mammoth infrastructure of the United States is achieved most effectively through gratuitous labor. The 38th Congress appears to have exercised such foresight when it established the Thirteenth Amendment to the Constitution. Section one of the amendment provides:

> Neither slavery nor involuntary servitude, *except as a punishment* for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. (emphasis added).

Here is the basis for the modern prison system. There is little evidence to dispute the use of this section of the amendment to support a sort of legalized slavery through prisons. Legal slavery is not just permissible by the aforementioned section, it is mandated.

History set the stage for the proliferation of today’s private prisons. The modern evolution of corporate structure applies to every profitable aspect of society. Why wouldn’t one apply this same model to prisons? The development of corporations and their subsequent infiltration of all facets of American life is naturally opposed to discriminating against imprisonment.
Cost efficiency is paramount to the corporation. Private prisons are equally as concerned with profits as any other corporation. Contracts govern most business transactions in the United States, yet the corporation’s very nature opposes contractual strictures and governance at large. Accordingly, corporations are governed differently. In Corporate Governance: Promises Kept, Promises Broken, Yale Law Professor Jonathan Macey examines this issue:

Interestingly, … it must be the case that shareholders do not utilize contractual solutions … because governing the corporation by contractual means alone is not the most efficient way to govern the corporation. Indeed, the reason is cost. It turns out that law … is more efficient than contract at providing solutions to the problems of corporate governance.”

As posited by Professor Macey, because the driving force behind the corporation is profit, corporations look to the law for relief from governance and restrictions. The law is the most expedient route to profit-maximization. The gradual erosion of laws governing corporations paved the way to funnel money to politicians and influence relevant legislation. Remnants of comprehensive protections such as the New Deal Financial Reform Laws enacted during the Great Depression and the Juvenile Justice and Delinquency Act of the early 1970s are scarce. Now, the best solution is a complete overhaul of the current legal structure. The process of restoring the previous protections is two-fold. First, we must change the focus of the current legislation. Emphasizing social change, we must work to eradicate the conditions creating the raw materials of the prison system—aimless, unprepared youth. Second, and more pragmatically, there must be increased oversight of private prisons. With little to no regulations in place, the private prison corporations are left to their devices in profit-maximization at any cost. Oftentimes, the cost is diminished quality of life and sometimes death for the juvenile inmates. Only after we replace the current laws with increased oversight and strictures can de Tocqueville’s truly democratic America be realized.

Among her tasks as a Central Legal Staff Attorney in Philadelphia Municipal Court, Phoenicia Williams is charged with illuminating the developments in 4th Amendment Constitutional law and interpretation of current criminal legislation. She also volunteers her time as a Spanish-speaking advocate for families and children at Philadelphia VIP, the Royal Heritage Society’s garden initiative, and the Support Center for Child Advocates. Attorney Williams earned her undergraduate degree from Temple University Fox School of Business and her law degree from Appalachian School of Law.
Children in Adult Prison: What a New Nonprofit is Doing to Humanize our Justice System
By: Lauren Fine, Esq. and Joanna Visser Adjoian, Esq.,

According to the Campaign for Youth Justice, approximately 250,000 youth are tried, sentenced, or incarcerated in the adult criminal justice system each year. As a result of the collateral consequences of these adult convictions, children sentenced in the adult system have diminished access to economic opportunity and limited resources dedicated to successful reintegration to the community. Based in Philadelphia, a new organization, the Youth Sentencing & Reentry Project (YSRP), improves outcomes for kids charged as adults by training and supporting attorneys at sentencing and by empowering youth and their families throughout incarceration and upon release from prison.

There are two primary components to YSRP’s work: aiding attorneys with juvenile clients facing adult charges at the sentencing stage and supporting incarcerated youth and their families as they plan for reentry into society from prison. YSRP aims to bring the community back into the court process and restore the humanity of the individual charged. In order to accomplish this goal, YSRP’s work happens in three stages: (1) at trial, YSRP supports attorneys in advocating for more thoughtful sentences and reentry plans at the outset by conducting thorough investigations into the child’s background to present to the sentencing judge; (2) during incarceration, YSRP staff remains in close contact with the child client and their support networks to guarantee the preparation and implementation of an individualized reentry plan; and (3) upon release, the organization provides key supports and child-specific case management to connect their clients with workforce training, educational opportunities, and behavioral health treatment. Through interventions during these stages, YSRP will ultimately reduce recidivism in individual cases, and expand their clients’ access to economic opportunity.

YSRP’s sentencing advocacy model derives from the death penalty context, where investigators develop mitigation reports for use during the penalty phase of a capital trial. YSRP seeks to apply key aspects of this mitigation framework to advocacy on behalf of children facing sentences in the adult criminal justice system. There is significant United States Supreme Court jurisprudence in the capital context that lends support to the application of sentencing mitigation to children facing adult sentences.2

YSRP will apply mitigation framework by engaging staff and volunteers to work with a child’s parents or caregivers, as well as teachers, social workers, coaches, doctors and others who can help paint a fuller picture of the young person’s life before a crime was committed, providing the child’s attorney with information at sentencing that he or she otherwise may not have had. Presentations of this information to the sentencing court will be buttressed by research about adolescent brain development and recent U.S. Supreme Court jurisprudence.


2 See, e.g., Gregg v. Georgia, 428 U.S. 153 (1976); Woodson v. North Carolina, 428 U.S. 280 (1976); Furman v. Georgia, 408 U.S. 238 (1972). See also Lockett v. Ohio, 438 U.S. 586, 604 (1978) (The Eighth and Fourteenth Amendments require that the sentencer “not be precluded from considering, as a mitigating factor, any aspect of a defendant’s character or record and any of the circumstances of the offense that the defendant proffers as a basis for a sentence less than death.”).
Specifically, the Court has recognized that children "are more vulnerable … to negative influences and outside pressures," including from their family and peers; they have limited 'contro[l] over their own environment' and lack the ability to extricate themselves from horrific, crime-producing settings.\(^3\) Because this innovative model is not being applied elsewhere, YSRP’s approach will demonstrate that advocates can create better opportunities and paths for individual young people, their families and their communities, by telling their stories and by thinking about their reentry into the community long before the department of corrections requires it. YSRP also strives to save the city and the Commonwealth of Pennsylvania a considerable amount of money by reducing incarceration rates and by creating pathways for young people to become part of our workforce instead of our prison populations.

YSRP’s founding in Philadelphia is important. Pennsylvania has the dubious distinction of being home to the largest number of individuals serving life without parole sentences for offenses committed as children, and the state’s direct file statute has no lower age limit for murder-based offenses. A disproportionate percentage of these cases begin in Philadelphia, and involve boys of color.

YSRP’s vision of social change is informed by the belief that the criminal justice system can be a dehumanizing force in the lives of the most vulnerable in our society, and that there is a particular need to bring humanity into the process of charging and sentencing individuals when they are children facing time in adult prison. By enabling young people and their loved ones to share their stories, YSRP strives to remind the courts that kids are kids, who need age-appropriate supports and services, and who are deserving of opportunities to improve. Moreover, through this advocacy, YSRP seeks to remind system actors that children charged with serious offenses, to quote Bryan Stevenson, are “more than the worst thing they’ve ever done.”\(^4\)

The Youth Sentencing & Reentry Project was launched in the summer of 2014 by attorneys Lauren Fine and Joanna Visser Adjoian, Philadelphia-area attorneys with experience in juvenile and criminal justice advocacy. The two attorneys developed the idea for the organization after several years of working as both lawyers and community organizers on behalf of system-involved young people and their loved ones. Fine is a former Zubrow fellow at the Juvenile Law Center and a federal law clerk, and is a graduate of Yale University and Duke School of Law. Visser Adjoian formerly served as associate director and staff attorney for the Toll Public Interest Center at the University of Pennsylvania Law School, as a Penn Law postgraduate fellow at the Juvenile Law Center, and as a federal law clerk. She received both her undergraduate and law degrees from the University of Pennsylvania. Both Fine and Visser Adjoian serve on the Steering Committee of the Pennsylvania Coalition for the Fair Sentencing of Youth, and Visser Adjoian serves on the Board of Directors of the Philadelphia Student Union. YSRP was created out of the anguish they heard from family members and other supporters at not having been able to present mitigating information in court when their loved ones were sentenced, and the fear they expressed about their loved ones being released from prison unprepared for the challenges of reentering the community.


YSRP will begin supporting cases in the Philadelphia area in December 2014. For more information about YSRP, or to contact the founders directly, please visit www.ysrp.org or email Joanna at jvisseradjoian@ysrp.org or Lauren at lfine@ysrp.org.

Introduction to the ABA Center on Children and the Law
By: Sally Inada

The ABA Center on Children and the Law shares much in common with its ABA sponsor, the Young Lawyers Division (YLD). The Center promotes access to justice for children and families through its grant-funded work in child welfare, child health, foster care, representing parents, improving courts and supporting educational stability and success. Center staff uses the law to help child welfare and court systems work more effectively and provide tools to improve legal practice.

On any given day, a Center attorney may start with a phone conference discussing court improvement policies with state child welfare agencies. Next she turns to the computer to refine a memo of understanding (MOU) detailing collaborations between local dependency courts, attorneys, service providers and social workers. A colleague knocks on her door. He is heading out to Midwest meetings on foster care and educational stability but will rejoin her in the Carolinas to train attorneys on child welfare and parent representation trial practice. He wants the state-specific mock trial exercise so he can study it on the plane. He also plans to join the afternoon call with Western states on their immigration policy.

This work is engaging and demanding, offering many opportunities for lawyers to help kids, parents, and communities.

Endless Opportunities for Advocacy

There are often not enough attorneys to represent families for children in dependency systems, so advocating for services and protecting due process rights can keep families together when it is safe. Most children are in the system because their families need services and supports, unlike TV where every child welfare case is due to severe abuse. Solo practitioners can volunteer one pro bono case at a time, while a firm could contribute greater resources by:

- representing a parent in danger of losing custody of their child
- supporting mentoring programs for youth transitioning out of foster care or juvenile justice
- helping immigrant children and families understand their rights and navigate the legal system
- representing a child in a dependency or custody hearing
- helping a local court outfit a visitation room for children and families

These volunteer opportunities complement the current YLD initiative, Project Street Youth: Young Lawyers Advocating for Homeless Youth. The YLD, with the ABA Center on Children and the Law and the Commission on Homelessness and Poverty, is providing materials and training to YLD members to help them advocate for youth experiencing homelessness.

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Representing Children and Families: Gaining Skills

Investing a little time in skills and training will pay off in a big way when you work with children and families. The ABA Attorney Practice Standards detail what’s needed:

- Children’s Attorneys
- Child Welfare Agency Attorneys
- Parents' Attorneys

You can get training and CLE at the Center’s upcoming 16th National Conference on Children and the Law, July 24-25, 2015, in Washington DC. (www.ambar.org/CCLconf2015). If you are interested in representing parents, you can attend the 4th National Parent Attorney Conference July 22-23, 2015, in July, also in Washington DC.

The conferences are good opportunities to find out about:

- trauma-informed advocacy,
- trial skills for representing parents in the child welfare system,
- kinship care,
- how immigration affects children and families and what you and your state can do,
- children’s health issues, including Fetal Alcohol Syndrome Disorder (FASD) and the special challenges children with disabilities face in the courts, and
- how to help children in the child welfare system succeed in school.

Improving the Field One Policy at a Time

Are you interested in working on policy or developing standards in any of these areas? There is always a need for advocates at the local and state level. The Center also works closely with states providing technical assistance and court improvement strategies; interested attorneys can support this work by encouraging such work in your jurisdiction or identifying training needs in your states.

See how you can work with the Center by checking out our website, www.americanbar.org/child, Child Law Practice periodical, Facebook or Twitter feeds. You can also look up the Center attorney working in the area you are interested in. Pick up the phone or shoot off an email to see how you can work together.

Sally Inada is the Communications Director of the ABA Center on Children and the Law. She received her undergraduate and Master’s degrees from the University of Maryland and is an editor of Handbook on Questioning Children: A Linguistic Perspective.
NEWS AND ANNOUNCEMENTS

ABA Midyear Meeting
The ABA has announced that registration is now open for its 2015 Midyear Meeting in Houston, TX. Join for YLD programming on February 5-8 at Houston’s Hilton of the Americas. Visit the YLD Midyear Meeting page for more information about these events and programming. There is no meeting registration fee. We hope to see you in Houston! See http://www.americanbar.org/groups/young_lawyers/News_and_Announcements/news/2014/10/yld_events_at_2015m.html

Call for ABA Annual Meeting Candidates
The YLD has announced that it will elect the Secretary, Assembly Clerk, and one representative to the House of Delegates at the ABA Annual Meeting on August 1, 2015 in Chicago, IL. Eligible individuals must submit their candidacy by written notice to the current Secretary, with a copy to the Assembly Speaker, and the Staff Director by the adjournment of the Division’s Assembly Meeting on February 7, 2015 at the ABA Midyear Meeting in Houston, TX. The written notice must specify a single position sought. There is no special form. It is suggested that a candidate’s statement simply identify the candidate (by name, address, and telephone number) and say, “Please accept this letter as my written notice of candidacy for [title].” More details on the YLD Elections page. See http://www.americanbar.org/groups/young_lawyers/News_and_Announcements/news/2014/10/election_at_2015aba.html

YLD Spring Conference
The YLD has announced that its Spring Conference will be held May 14-16 2015 in Tampa Bay, FL. Spring Conference programming is designed to help you grow your practice and make a difference the legal profession and your community. This three-day event is filled with great CLE, topical discussions, and opportunities to network with and learn from lawyers in a variety of practice areas across the country. We hope to see you in Tampa Bay! See http://www.americanbar.org/groups/young_lawyers/News_and_Announcements/news/2014/10/yld_2015_spring_conf.html

Committee Conference Call
The YLD Committee on Children and the Law would like to invite all members and nonmembers to participate in our first Committee Conference Call on January 15, 2015 at 5:15 p.m. EST. The call will serve as a forum for all of us to "meet" one another, exchange advice about any issues we are facing, share positive experiences in related practice areas and those less-than-positive experiences. We welcome the participation of non-members engaged in this important work. As we are a national committee, we’d love to hear about pertinent ongoings in your respective geographic areas.

The Committee welcomes all member and nonmember participation. Questions and comments may be addressed to: Jade J. Edwards, Esq., Chair (attorneyjadeedwards@gmail.com); Allyson D. Burger, Esq., Vice-Chair (adburger@scrllp.com); Brandon E. Gatto, Esq., Vice-Chair (brandgatto@gmail.com); or Phoenicia D. Williams, Esq., Vice-Chair (phoeniciadwilliams@gmail.com).

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