IN THE ARIZONA SUPREME COURT

STATE OF ARIZONA, Petitioner, v. HON. JANE A. BUTLER, Judge Pro Tempore of the Superior Court of the State of Arizona, in and for the County of Pima, Respondent, and TYLER B., Minor Child, Real Party in Interest.	: : : : : : : : : : : : : : :	S. Ct. No. CV-12-0402-PR Court of Appeals No. 2 CA-SA 2012-0065 DEPARTMENT B Pima County Superior Court Cause No. JV-19004301

BRIEF OF *AMICI CURIAE* JUVENILE LAW CENTER *ET AL.* IN SUPPORT OF REAL PARTY IN INTEREST TYLER B.

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INTEREST OF AMICI

Amici Juvenile Law Center *et al.*[1] work on behalf of children involved in the child welfare and juvenile justice systems. *Amici* have a particular interest and expertise in the interplay between the constitutional rights of children and social science and neuroscientific research on adolescent development, especially with regard to children involved in the justice systems. *Amici* recognize, that juveniles are different from adults and, consequently, courts must take into account a youth's age, as well as other attributes of youth, in order to ensure that they are provided with the same level of constitutional protection provided to adults. *Amici* urge this Court to apply the identical principle in the instant case.

ISSUE PRESENTED ON REVIEW

Is the age or other circumstances of the juvenile relevant to the voluntariness of consent?

SUMMARY OF ARGUMENT

The trial court did not err in granting Tyler B.'s motion to suppress evidence derived from a blood draw by a law enforcement official, as the official lacked a warrant and Tyler did not voluntarily consent to the search. An examination of the totality of the circumstances underlying the blood draw, when viewed through the eyes of a reasonable youth, demonstrates that Tyler's alleged consent to the search

[1] A brief description of all *Amici* appears at Appendix A.

was not voluntarily given.

United States Supreme Court case law consistently affirms the principle that courts must take into account a youth's age, as well as other attributes of youth, to ensure that they are properly protected under the United States Constitution. For example, in *J.D.B. v. North Carolina*, 131 S. Ct. 2394, 2399 (2011), the Court held that a youth's age properly informs the analysis of whether a youth is in custody for purposes of *Miranda v. Arizona*, 384 U.S. 436 (1966). The *J.D.B.* Court reiterated that for constitutional purposes, "children cannot be viewed simply as miniature adults." *Id.* at 2404 (citation omitted). Courts must recognize the unique attributes of youth – for example, that they are more immature than adults and susceptible to coercion – when assessing whether their encounters with police pass constitutional muster. *Id.* at 2403. Similarly, this Court has held that to provide juveniles confronted by the police with the same level of Fifth Amendment protection afforded to adults, courts must recognize that youth are different from adults when assessing the voluntariness of their confessions. *In re Andre M.*, 88 P.3d 552, 555 (Ariz. 2004) (en banc). The same principles apply with equal force here in determining the voluntariness of a youth's alleged consent to a search.

In the instant case, a sixteen-year-old was arrested, questioned, handcuffed and eventually subjected to a blood draw at school, after being held for two hours behind closed doors by five adults, including two law enforcement officers, while

without access to his parents. Ample precedent in this and related areas supports a holding that Tyler's age and other circumstances must be considered in assessing if he voluntarily consented to the blood draw performed by law enforcement.

ARGUMENT

It is well settled that youth are different from adults in constitutionally relevant ways. The voluntariness of a youth's consent to a search by law enforcement must be measured against this fundamental principle. Because youth are more susceptible to coercion than adults, the question of whether they voluntarily consented depends on their developmental status. Moreover, youth who are searched in school are particularly vulnerable -- both because their movement and conduct within the school is curtailed by law and policy, and because the school setting exacerbates their susceptibility to coercion. For these reasons, age and other youth attributes are important factors to consider in determining, under the totality of the circumstances, whether a youth voluntarily consented to a search.

I. Age and Other Circumstances Particular to Youth Are Crucial Factors in Assessing the Voluntariness of a Consent to a Search Under the Fourth Amendment

Police ordinarily need a warrant to conduct a search of a person's body, including the blood draw at issue in the instant case. *Schmerber v. California*, 384 U.S. 757, 770 (1966); *Maricopa County Juvenile Action Nos. JV-512600 and JV-512797*, 930 P.2d 496, 500 (Ariz. Ct. App. 1997) (citing *Schmerber*, 384 U.S. at

767-68). A voluntary consent to a search is an exception to the warrant requirement. *Schneckloth v. Bustamonte*, 412 U.S. 218, 219 (1973). "'[W]hen a prosecutor seeks to rely upon consent to justify the lawfulness of a search, he has the burden of proving that the consent was, in fact, freely and voluntarily given.'" *Id.* at 222 (citation omitted). *See also State v. Schad*, 633 P.2d 366, 372 (1981).

In assessing an alleged consent search, courts must examine the totality of the circumstances to determine whether the consent was indeed voluntary and not the result of police coercion. *Schneckloth*, 412 U.S. at 227, 229. Various factors -- including youth, lack of education, and police failure to advise the individual that consent can be withheld -- are properly considered under the totality of the circumstances test. *Id.* at 226-27. "[A]ccount [also] must be taken of … the possibly vulnerable subjective state of the person who consents." *Id.* at 229. And "courts have been particularly sensitive to the heightened possibilities for coercion when the 'consent' to a search was given by a person in custody." *Id.* at 240 n.29.

Moreover, courts must examine the totality of circumstances of a search through the eyes of a reasonable individual. *See, e.g., Florida v. Jimeno*, 500 U.S. 248, 251 (1991) ("The standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of 'objective' reasonableness — what would the typical reasonable person have understood by the exchange between the officer and the suspect?"). Therefore, the voluntariness determination logically must take

the individual's age into account. Indeed, age and the developmental differences between youth and adults consistently inform the United States Supreme Court's treatment of adolescents under the Constitution. In the confession context, for example, the Supreme Court has specifically recognized that differences between adolescents and adults make the former more susceptible to coercion and therefore entitled to Constitutional protections tailored to their particular needs. Age is no less relevant to the determination of the voluntariness of consent for a search.

A. The United States Supreme Court and This Court Have Considered Juvenile Status In Construing Adolescents' Rights In Related Contexts

In determining whether Tyler voluntarily gave consent to the blood draw, this Court must consider all the circumstances that would bear on a reasonable youth's belief that he or she had no other choice but to submit to the police. In this case, a sixteen-year-old special education student was arrested, questioned, handcuffed and eventually subjected to a blood draw at school, all without having access to or the assistance of his parents. While he at first refused consent for the blood draw, Tyler eventually relented after being held for two hours behind closed doors by two law enforcement officers and three school personnel. (*Ex. A*, Trial Court Ruling, pp. 1-3; RT, 07/06/12, pp. 12, 18-19, 42, 55-56.) All of these factors influenced Tyler's understanding of the situation.

In the confession context, the developmental attributes of adolescence are

highly relevant in determining the voluntariness of their confessions; it has long been recognized that youth are more susceptible than adults to coercion during police interrogation. As the United States Supreme Court observed 75 years ago in *Haley v. Ohio*, 332 U.S. 596, 599 (1948), a teenager, too young to exercise or even comprehend his rights, becomes an "easy victim of the law." In *Haley*, the Court held that a fifteen-year-old boy's confession – which was obtained by police officers working in relays who neither informed him of his rights nor provided him access to counsel or family – violated due process. *Id*. at 598. The Court's analysis of the voluntariness of Haley's confession turned on his juvenile status:

> Age 15 is a tender and difficult age for a boy of any race. . . That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens. This is the period of great instability which the crisis of adolescence produces. A 15-year old lad, questioned through the dead of night by relays of police, is a ready victim of the inquisition. Mature men possibly might stand the ordeal . . . But we cannot believe that a lad of tender years is a match for the police in such a contest.

Id. at 599-600.

Similarly, in *Gallegos v. Colorado*, 370 U.S. 49 (1962), the Court barred the admission of the confession of a fourteen-year-old held for five days without access to his parents or a lawyer. The Court's holding took issue with "the element of compulsion . . . condemned by the Fifth Amendment." *Id*. at 51. Recognizing the relevance of age, the Court reasoned that the juvenile "cannot be compared with an adult in full possession of his sense and knowledgeable of the

consequences of his admissions." *Id*. at 54. Without advice as to his rights or the benefit of more mature judgment, the Court found that the juvenile "would have no way of knowing what the consequences of his confession were" or "the steps he should take in the predicament in which he found himself." *Id*.

Most recently, in *J.D.B. v North Carolina*, the Court once again recognized that a youth's age "is far more than a chronological fact"; "[i]t is a fact that generates commonsense conclusions about behavior and perception" that are "self-evident to anyone who was a child once himself, including any police officer or judge." 131 S. Ct. at 2403 (citations and internal quotations omitted). *See also Roper v. Simmons*, 543 U.S. 551, 569 (2005) (noting that these observations restate what "any parent knows" about children). Among the "commonsense conclusions" that the Court has consistently applied to analyze youth encounters with police are the following: youth are "generally less mature and responsible than adults"; they "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them"; and they "are more vulnerable or susceptible to ... outside pressures than adults". *J.D.B.*, 131 S. Ct. at 2403 (citations and internal quotations omitted).

This Court also has held that the distinctive attributes of youth must be considered when assessing the voluntariness of their confessions in order to provide juveniles confronted by police with the same level of Fifth Amendment

protection as adults. *In re Andre M.*, 88 P.3d at 555. Thus, this Court has directed lower courts to consider several factors when assessing whether a youth's actions were voluntary, including the chronological order of events; the juvenile's mental age; the juvenile's educational level; the juvenile's physical condition; previous dealings with police; presence or absence of a parent; ability to consult with a caring adult such as a parent; language of the warnings given; and extent of the explanations given. *Id.* The same principle applies with equal force in the inquiry into the voluntariness of a youth's consent to a search, and thus this Court should consider these same factors in assessing the instant case.

As noted above, courts must determine the voluntariness of an alleged consent to search through the eyes of a reasonable person. *Florida v. Jimeno*, 500 U.S. at 251. The Supreme Court's youth confession jurisprudence, most recently enunciated in *J.D.B.*, as well as this Court's own case law, further instruct that courts must consider the unique characteristics of youth in assessing voluntariness. In *J.D.B.*, which involved an inquiry into whether a juvenile was in custody for purpose of *Miranda v. Arizona*, 384 U.S. 436 (1966), the Supreme Court required the adoption of a reasonable *juvenile* standard when applying the objective *Miranda* custody test to juveniles subject to police interrogation. 131 S. Ct. at 2403. *Amici* respectfully submit that in this context as well, where courts must assess voluntariness of consent through the lens of a 'reasonable person,' Supreme

Court jurisprudence dictates that courts apply a reasonable *juvenile* standard when determining whether a consent to search was the product of free will and not of coercion. In this framework, "youth becomes the lens through which the court views and analyzes [encounters with police], including the circumstances of the … search and the attributes of the young person." Lourdes M. Rosado, Note, *Minors And The Fourth Amendment: How Juvenile Status Should Invoke Different Standards For Searches And Seizures On The Street*, 71 N.Y.U. L. REV. 762, 768, 765 (1996) (arguing that standards for consent searches that do not capture the different development level of minors fail to adequately protect juveniles' Fourth Amendment rights). *See also* Marsha L. Levick and Elizabeth-Ann Tierney, *The United States Supreme Court Adopts A Reasonable Juvenile Standard In J.D.B. v. North Carolina For Purposes Of The Miranda Custody Analysis: Can A More Reasoned Justice System For Juveniles Be Far Behind?* 47 HARV. C.R.–C.L. L. REV. 501, 503-04 (Spring-Summer 2012) (suggesting that the Court's recognition of a reasonable juvenile standard in *J.D.B.* is applicable in several areas of criminal law beyond the Fifth Amendment.) Thus, in the instant case, this Court should view the circumstances of the blood draw through the prism of juvenile status.

B. Social Science Research Confirms the Distinct Susceptibility of Youth to Coercion

In recent years, the "kids are different" doctrine in our constitutional jurisprudence has been buttressed by a burgeoning body of social science and

neurological research demonstrating that the differences between youth and adults are psychological and physiological, as well as social. *See, e.g., Graham v. Florida*, 130 S. Ct. 2011 (2010); *Roper*, 543 U.S. at 551.

For example, impairments in adolescents' decision-making and judgment are confirmed by social science research. Psychosocial factors influence adolescents' perceptions, judgments and abilities to make decisions, and they limit their capacities for autonomous choices. Elizabeth Cauffman & Laurence Steinberg, *Researching Adolescents' Judgment and Culpability*, in YOUTH ON TRIAL: A DEVELOPMENTAL PERSPECTIVE ON JUVENILE JUSTICE 325 (Thomas Grisso & Robert G. Schwartz eds., 2000); Kathryn Modecki, *Addressing Gaps in the Maturity of Judgment Literature: Age Differences in Delinquency*, 32 L. & HUM. BEHAV. 78, 79-80 (2008). Specifically, adolescents' present-oriented thinking, egocentrism, greater conformity to authority figures, minimal experience, and greater vulnerability to stress and fear increase the likelihood that they will feel their choices are more limited than adults when dealing with police. *See* Marty Beyer, *Recognizing the Child in the Delinquent*, 7 KY. CHILD RTS. J. 16, 17 (Summer 1999); Marty Beyer, *Immaturity, Culpability & Competency in Juveniles: A Study of 17 Cases*, 15 CRIM. JUST. 27, 27 (Summer 2000); David Elkind, *Egocentrism in Adolescence*, 38 CHILD DEV. 1025, 1029-30 (1967); KIDS ARE DIFFERENT: HOW KNOWLEDGE OF ADOLESCENT DEVELOPMENT THEORY CAN AID IN

DECISION-MAKING IN COURT (L. Rosado ed., 2000); Laurence Steinberg *et al*., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD DEV. 28, 30, 35-36 (2009).

Research further establishes that adolescents' lack of experience with stressful situations contributes to their more limited capacity to respond adeptly to such situations. *See* Laurence Steinberg & Robert G. Schwartz, *Developmental Psychology Goes to Court*, *in* YOUTH ON TRIAL: A DEVELOPMENTAL PERSPECTIVE ON JUVENILE JUSTICE 9, 26 (Thomas Grisso and Robert Schwartz eds. 2000). Adolescents tend to process information in an "either-or" way, particularly in stressful situations. Where adults perceive multiple options in a particular situation, adolescents may only perceive one. *See* Marty Beyer, *Immaturity, Culpability & Competency in Juveniles: A Study of 17 Cases*, 15 CRIM. JUST. 27, 27 (Summer 2000); Marty Beyer, *Recognizing the Child in the Delinquent*, 7 KY. CHILD RTS. J. 16, 17-18 (Summer 1999).

Further, research confirms that "[a]dolescents are more likely than young adults to make choices that reflect a propensity to comply with authority figures . . . when being interrogated by the police." Thomas Grisso *et al*., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents and Adults' Capacities as Trial Defendants*, 27 L. & HUM. BEHAV. 333, 357 (2003); *see also* Lawrence Kohlberg, THE PSYCHOLOGY OF MORAL DEVELOPMENT: THE NATURE AND

VALIDITY OF MORAL STAGES 172-73 (1984). Thus, when subjected to police questioning, youth are less prone to feel that they can end the encounter and leave.

Most recently, the American Academy of Child & Adolescent Psychiatry cited to research showing that brain development continues through adolescence into early adulthood in recommending that juveniles have an attorney present when questioned by police. American Acad. Child & Adol. Psychiatry, *Policy Statement: Interviewing and Interrogating Juvenile Suspects*, March 7, 2013.[2] The Academy noted that because "[t]he frontal lobes, responsible for mature thought, reasoning and judgment, develop last," adolescents "are more likely to act on impulse, without fully considering the consequences of their decisions or action." *Id.*

As *Amici* argued at Part I.A. *supra*, the combined holdings of the United States Supreme Court -- requiring both an application of the reasonable person standard for determinations of voluntariness, *see, e.g.*, *Jimeno*, *supra,* and that this standard take into account the reasonable juvenile's special characteristics in light of now settled research, *see, e.g., J.D.B., supra*, -- advise that courts should view the circumstances leading up to an alleged consent to search through the lens of a reasonable *youth*. Based on the research cited above, *Amici* submit that a reasonable youth will assess his freedom to withhold consent to a search

[2] *Available at* http://www.aacap.org/cs/root/policy_statements/interviewing_and_interrogating_juvenile_suspects

differently than a reasonable adult; specifically, because of the above-described psychosocial factors, a youth will reasonably think that he has no choice but to give consent in situations in which an adult will likely see other options.

C. Other Courts Specifically Consider Age When Assessing the Voluntariness of an Alleged Consent to Search

Recognizing the particular vulnerabilities of youth in police encounters, other state courts have held that age is relevant in determining whether a youth voluntarily consented to a search. For example, in *In re J.M.*, 619 A.2d 497, 498 (D.C. 1992) (en banc), the D.C. Court of Appeals remanded the case for an explicit finding by the trial judge "with respect to the key factual issue presented, namely, the bearing of the appellant's age ... upon the voluntariness of his consent to the search of his person." *Id. J.M.* involved a fourteen year-old who gave permission for police officers, who boarded the bus in which he was a passenger, to do a pat-down search which yielded crack cocaine. The court held that the youth's age and level of maturity were critical factors in determining the validity of his consent, *id.* at 502, and that the trial court must "expressly and thoroughly" deal with "the significance of age*." Id.* at 504. The court further instructed that specific findings as to the coerciveness of the setting and the effect of age and maturity on the voluntariness of consent are "particularly necessary when it is conceded, as in this case, that the youth was not told he could withhold consent." *Id.* at 503.

In *State v. Badger*, 450 A.2d 336, 338-39 (Vt. 1982), a sixteen year-old and his father responded to a police officer's request that they come to the police station for questioning. Father and son were questioned about a murder by three police officers in a closed-door room. *Id.* at 339. After fifty minutes of questioning, the youth admitted responsibility for the crime; it was only at his point that police administered *Miranda* warnings. *Id.* at 339-40. At times during the interrogation the teenager broke down crying. Neither the teenager nor his father was told that they could leave, but they were told that the son could be tried as a juvenile. *Id.* at 340. After obtaining a signed confession, the interrogating officers followed father and son home, where the father gave the officer the clothing that his son was wearing on the day of the murder. *Id.* at 340.

On appeal, the Supreme Court of Vermont affirmed the trial court's ruling that consent was not voluntarily given for this property seizure. The court specifically found that an "inherently coercive atmosphere" and "[t]he defendant's youth, emotional state, the misleading statements of the police, the blatant violation of the defendant's *Miranda* rights, [and] his father's unfamiliarity with the criminal justice system" all pointed to involuntariness. *Id.* at 339-40 (citations omitted). *See also In the Interest of R.A.*, 937 P.2d 731, 738 (Colo. 1997) (holding that youth's age, the absence of parents, the youth's education, intelligence, and state of mind, law enforcement's demeanor and tone of voice, as well as the

duration, location, and other circumstances surrounding the consent should all be considered in determining voluntariness); *Florida v. T.L.W.*, 783 So.2d 314, 316-17 (Fla. Ct. of App. 2001) (holding that court must consider totality of circumstances including age of youth, low intelligence, and lack of any advice as to youth's constitutional rights in determining whether youth voluntarily consented to search of automobile); *U.S. v. Barkovitz*, 29 F.Supp.2d 411, 415-16 (E.D. Mich. 1998) (holding that twelve-year-old did not voluntarily consent to search of family home; of particular relevance was child's age, that he was frightened, his father was passed out in the street, four armed police came to his door, and that the boy was not told he could withhold consent); *Oregon v. Ready*, 939 P.2d 117, 120 (Or. App. 1997) (holding that under the state constitution, "when a child purportedly gives consent, age is a pertinent factor in the inquiry") (citation omitted).

D. Additional Circumstances Are Also Relevant in Assessing the Voluntariness of a Youth's Consent to a Search

Age is just one of many factors that courts should consider under the totality of the circumstances test. *Schneckloth*, 412 U.S. at 226-27. Indeed, the same factors that this Court has directed should inform examination of the voluntariness of a youth's confession, *see In re Andre M.*, *supra*, are equally applicable in assessing the voluntariness of a youth's alleged consent to a search of his person. An analysis of the conditions under which law enforcement drew blood from Tyler

reaffirms the trial court's original ruling that Tyler did not voluntarily consent to the search.

Tyler was under arrest and in custody behind a closed office door at the time the deputy sheriff requested to draw his blood; for a brief period prior to the blood draw, Tyler was in handcuffs. (*Ex.A*, Trial Court Ruling, p. 1; RT, 07/06/12, pp. 55-56.) "[C]ourts have been particularly sensitive to the heightened possibilities for coercion when the 'consent' to a search was given by a person in custody." *Schneckloth*, 412 U.S at 240 n.29. *See also J.D.B.*, 131 S.Ct. at 2401 (noting that statements taken while a person is in police custody heighten the risk that the statements were not the product of the person's free will) (citation omitted). Moreover, Tyler did not have access to his parents during the two hours that he was sequestered in a room with five adults, including two law enforcement officials. (RT, 07/06/12, pp. 18-19.) This Court also has advised that the presence of a parent during an interrogation makes it more likely that a statement was the product of free will and not coercion or misinformation. *In re Andre M.*, 88 P.3d at 555. That is because a parent "can help ensure that a juvenile will not be intimidated, coerced or deceived during an interrogation" and make sure that the juvenile is "aware of the nature of the right being abandoned and will understand the consequences of a decision to abandon that right." *Id.* at 485 (citation and internal quotations omitted). Likewise, that Tyler did not have the assistance of his

parents makes it more likely that his alleged consent to the blood draw was not the product of his free will and instead a result of coercion and a lack of knowledge of his rights.

Moreover, Tyler was visibly shaken by the encounter with police, (*Ex .A*, Trial Court Ruling, p. 1), a factor which could have impaired his still-developing reasoning and decision-making capacities. It was his first delinquency petition, and thus he had limited experience with police interrogations and procedures. (*Ex. A*, Trial Court Ruling, p. 3.) Tyler also is a special education student, with learning disabilities in reading and writing, (RT, 07/06/12, p. 12), another factor that calls into question his ability to reason under these stressful circumstances.[3] Also, Tyler was never advised by the deputy sheriff that he could refuse consent to the search. To the contrary, the deputy sheriff told Tyler that if he refused to give a blood sample, his driver's license would be suspended for one year. (*Ex. A*, Trial Court Ruling, p. 2.) While "knowledge of a right to refuse is not a prerequisite of a voluntary consent," *Schneckloth,* 412 U.S. at 234, "knowledge of the right to refuse consent is one factor to be taken into account" in determining voluntariness. *Id.* at 227.

[3] Indeed, the deputy sheriff testified that he read the implied consent admonition under Ariz. Rev. Stat. § 28-1321("admin per se") verbatim, but then felt compelled to explain the admonition in "plain English." (*Exhibit A*, Trial Court Ruling, p. 2.)

As the trial court concluded, given these circumstances, "[i]t is unclear whether this child truly was aware of the 'nature of the rights being abandoned … and understood the consequences of [his] decision.'" (*Ex. A*, Trial Court Ruling, p.3 (quoting *In re Andre M.*, 207 Ariz. at 485)). Great deference should be given to trial court findings of fact. *See State v. Cañez*, 42 P.3d 564, 582 (2002) ("On review, this court must uphold the trial court's ruling if the result was legally correct for any reason.").

II. Where The Search Is Conducted In The School Setting, As Here, Age Is Even More Relevant To The Voluntariness Determination

As discussed in Part I.A. *supra*, to assess whether Tyler's alleged consent to a search was voluntary, this Court must determine how a reasonable juvenile would have perceived the two-hour sequestration with law enforcement and school personnel in his assistant principal's office. This requires an understanding of how a sixteen year-old student in a *school setting* would perceive his or her choices. *Amici* submit that in the instant situation, the average adolescent in school would perceive that he had no real choice but to allow law enforcement to take his blood.

Arizona's compulsory school attendance law requires students to attend school through the age of sixteen or the completion of the tenth grade. Ariz. Rev. Stat. § 15-802. The penalties for failure to attend school in Arizona can be severe: a youth can be detained, *JV-130549 v. Superior Ct. of Arizona*, 871 P.2d 758, 760-61 (Ariz. Ct. App. 1994), or have criminal liability and even jail time imposed on

his or her parents. Ariz. Rev. Stat. Ann. § 15-802. At school, minors must obey teachers and administrators or risk discipline, including suspension and expulsion.

United States Supreme Court jurisprudence recognizes not only that youth generally are more susceptible to coercion than adults, but also that youth *in school settings* are particularly susceptible to coercion. Under the First Amendment, for example, the Court has held that students require unique protections. In *Lee v. Weisman*, the Court held that primary and secondary school children should not be put in the position of having to choose between participating in a school prayer or protesting, even though such a choice may be acceptable for mature adults, explaining that "there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools." 505 U.S. 577, 592-93 (1992). *See also Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 312 (2000) (finding that where a prayer was delivered before school football games, the school created a coercive situation in which students were unconstitutionally forced to choose between ignoring the pressure to attend the game or facing a personally offensive religious ritual); *Edwards v. Aguillard*, 482 U.S. 578, 583-84 (1987) (finding a Louisiana law proscribing the teaching of creationism along with evolution in public schools unconstitutional, because "[s]tudents in such institutions are impressionable and their attendance is involuntary"); *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 115 (2001)

(finding religious afterschool club at elementary school did not violate constitution in part because the club, unlike school, was not mandatory, met after school hours, and required parental permission). The school environment increased the coercive effect of the police encounter and left Tyler less able to terminate the encounter and refuse to consent to the blood draw.

Social science research has also shown the vulnerabilities of youth in school settings.. Youth may comply with demands by teachers or police officers based on a blanket acceptance of authority instead of reasoning about the individual request. Lila Ghent Braine *et al.*, *Conflicts with Authority: Children's Feelings, Actions, and Justifications*, 27 DEVELOPMENTAL PSYCHOl. 829, 835 (1991). Students also may place greater weight on the authority of adults in school. Indeed, "children judge that holding a social position . . . is one attribute that legitimizes a teacher's directives within the social context of the school." *See* Marta Laupa & Elliot Turiel, *Children's Concepts of Authority and Social Contexts*, 85 J. OF EDUCATIONAL PSYCHOL. 191, 191 (1993). Thus, a youth like Tyler would likely place greater weight on the authority of police officers in the company of school figures.

CONCLUSION

For the foregoing reasons, *Amici Curiae* Juvenile Law Center *et al.* respectfully requests that this Court reinstate the trial court's ruling suppressing the evidence derived from the blood draw.

Respectfully submitted,

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APPENDIX A
Identity of Amici and Statements of Interest

Organizations

Founded in 1975 to advance the rights and well-being of children in jeopardy, **Juvenile Law Center** (JLC) is the oldest multi-issue public interest law firm for children in the United States. JLC pays particular attention to the needs of children who come within the purview of public agencies – for example, abused or neglected children placed in foster homes, delinquent youth sent to residential placement facilities or adult prisons, and children in placement with specialized service needs. JLC works to ensure that children are treated fairly by the systems that are supposed to help them, and that children receive the treatment and services that these systems are supposed to provide. JLC also works to ensure that children's rights to due process are protected at all stages of juvenile court proceedings, from arrest through appeal, and that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in enforcing these rights.

The **Center on Children and Families** (CCF) at the University of Florida Fredric G. Levin College of Law in Gainesville, Florida, is an organization whose mission is to promote the highest quality teaching, research and advocacy for children and their families. CCF's directors and associate directors are experts in children's law, constitutional law, criminal law, family law, and juvenile justice, as well as related areas such as psychology and psychiatry. CCF supports interdisciplinary research in areas of importance to children, youth and families, and promotes child-centered, evidence-based policies and practices in dependency and juvenile justice systems. Its faculty has many decades of experience in advocacy for children and youth in a variety of settings, including the Virgil Hawkins Civil Clinics and Gator TeamChild juvenile law clinic.

The **Central Juvenile Defender Center**, a training, technical assistance and resource development project, is housed at the Children's Law Center, Inc. In this context, it provides assistance on indigent juvenile defense issues in Ohio, Kentucky, Tennessee, Indiana, Arkansas, Missouri, and Kansas.

The **Children and Family Justice Center** (CFJC) is a comprehensive children's law center that has represented young people in conflict with the law and advocated for policy change for over 20 years. In addition to its direct representation of youth and families in matters relating to delinquency and crime, immigration/asylum and fair sentencing practices, the CFJC also collaborates with community members and other advocacy organizations to develop fair and effective strategies for systems reform. CFJC staff attorneys are also law school faculty members who supervise second- and third-year law students; they are assisted in their work by CFJC's fellows, social workers, staff and students.

The **Children's Law Center, Inc**. in Covington, Kentucky has been a legal service center for children's rights since 1989 protecting the rights of youth through direct representation, research and policy development and training and education. The Center provides services in Kentucky and Ohio, and has been a leading force on issues such as access to and quality of representation for children, conditions of confinement, special education and zero tolerance issues within schools and child protection issues. It has produced several major publications on children's rights, and utilizes these to train attorneys, judges and other professionals working with children.

The **Children & Youth Law Clinic** (CYLC) is an in-house legal clinic, staffed by faculty and students at the University of Miami School of Law established in 1995. The CYLC serves the legal needs of children and adolescents in abuse and neglect, delinquency, criminal justice, health care, mental health, disability, independent living, education, immigration and general civil legal matters. The CYLC participates in interdisciplinary research, provides training and technical assistance for lawyers, judges, and other professionals, and produces scholarship and practice materials on the legal needs of children. We have appeared as *amicus curiae* in numerous federal and state court cases implicating significant due process and therapeutic interests of children in criminal and juvenile justice proceedings. The CYLC has pioneered the use of "therapeutic jurisprudence" in its advocacy for children in delinquency, criminal, school discipline, dependency, mental health, and other court proceedings. Therapeutic jurisprudence is a field of social inquiry with a law reform agenda, which studies the ways in which legal rules, procedures,

and the roles of legal actors produce therapeutic or anti-therapeutic consequences for those affected by the legal process. We believe that courts should recognize the unique developmental characteristics of children, including their immature decision-making abilities, susceptibility to negative external influences, and capability for reform, should assure their fair treatment, and promote their best interests in all legal proceedings where their interests are adjudicated.

The ***Civitas* ChildLaw Center** is a program of the Loyola University Chicago School of Law, whose mission is to prepare law students and lawyers to be ethical and effective advocates for children and promote justice for children through interdisciplinary teaching, scholarship and service. Through its Child and Family Law Clinic, the ChildLaw Center also routinely provides representation to child clients in juvenile delinquency, domestic relations, child protection, and other types of cases involving children. The ChildLaw Center maintains a particular interest in the rules and procedures regulating the legal and governmental institutions responsible for addressing the needs and interests of court-involved youth.

Law students and faculty supervisors in the **Juvenile and Special Education Law Clinic of the University of the District of Columbia David A. Clarke School of Law** represent children and parents (or guardians) primarily in special education matters with a principal focus on children with disabilities who are also facing delinquency or criminal charges.

Juvenile Justice Project of Louisiana (JJPL) is the only statewide, non-profit advocacy organization focused on reform of the juvenile justice system in Louisiana. Founded in 1997 to challenge the ways the state handles court-involved youth, JJPL pays particular attention to the high rate of juvenile incarceration in Louisiana and the conditions under which children are incarcerated. Through direct advocacy, research, and cooperation with state run agencies, JJPL works to both improve conditions of confinement and identify sensible alternatives to incarceration. JJPL also works to ensure that children's rights are protected at all stages of juvenile court proceedings, from arrest through disposition, from post-disposition through appeal, and that the juvenile and adult criminal justice systems consider the unique developmental differences between youth and adults in

enforcing these rights. JJPL continues to work to build the capacity of Louisiana's juvenile public defenders by providing support, consultation and training, as well as pushing for system-wide reform and increased resources for public defenders.

Formed in 1997, the **Justice Policy Institute** (JPI) is a policy development and research body which promotes effective and sensible approaches to America's justice system. JPI has consistently promoted a rational criminal justice agenda through policy formulation, research, media events, education and public speaking. Through vigorous public education efforts, JPI has been featured in the national media. The Institute includes a national panel of advisors to formulate and promote public policy in the area of juvenile and criminal justice. JPI conducts research, proffers model legislation, and takes an active role in promoting a rational criminal justice discourse in the electronic and print media.

The **National Association of Criminal Defense Lawyers** (NACDL) is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct.

NACDL was founded in 1958. It has a nationwide membership of approximately 10,000 and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges. NACDL is the only nationwide professional bar association for public defenders and private criminal defense lawyers. The American Bar Association recognizes NACDL as an affiliated organization and awards it representation in its House of Delegates.

NACDL is dedicated to advancing the proper, efficient, and just administration of justice including issues involving juvenile justice. NACDL files numerous *amicus* briefs each year in the U.S. Supreme Court and other courts, seeking to provide amicus assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole. NACDL has a particular interest in this case because the proper administration of justice requires that age and other circumstances of youth be taken into account in

order to ensure compliance with constitutional requirements and to promote fair, rational and humane practices that respect the dignity of the individual.

The **National Center for Youth Law** (NCYL) is a private, non-profit organization that uses the law to help children in need nationwide. For more than 40 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support, and opportunities they need to become self-sufficient adults. NCYL provides representation to children and youth in cases that have a broad impact. NCYL also engages in legislative and administrative advocacy to provide children a voice in policy decisions that affect their lives. NCYL supports the advocacy of others around the country through its legal journal, *Youth Law News*, and by providing trainings and technical assistance. One of NCYL's priorities is to reduce the number of youth subjected to harmful and unnecessary incarceration and expand effective community based supports for youth in trouble with the law. NCYL has participated in litigation that has improved juvenile justice systems in numerous states, and engaged in advocacy at the federal, state, and local levels to reduce reliance on the justice systems to address the needs of youth, including promoting alternatives to incarceration, and improving children's access to mental health care and developmentally appropriate treatment. One of the primary goals of NCYL's juvenile justice advocacy is to ensure that youth in trouble with the law are treated as adolescents, and not as adults, and in a manner that is consistent with their developmental stage and capacity to change within the juvenile justice system.

The **National Juvenile Defender Center** was created to ensure excellence in juvenile defense and promote justice for all children. The National Juvenile Defender Center responds to the critical need to build the capacity of the juvenile defense bar in order to improve access to counsel and quality of representation for children in the justice system. The National Juvenile Defender Center gives juvenile defense attorneys a more permanent capacity to address important practice and policy issues, improve advocacy skills, build partnerships, exchange information, and participate in the national debate over juvenile justice.

The National Juvenile Defender Center provides support to public defenders, appointed counsel, child advocates, law school clinical programs and non-profit

law centers to ensure quality representation and justice for youth in urban, suburban, rural and tribal areas. The National Juvenile Defender Center also offers a wide range of integrated services to juvenile defenders and advocates, including training, technical assistance, advocacy, networking, collaboration, capacity building and coordination.

The mission of the **National Juvenile Justice Network** (NJJN) is to lead and support a movement of state and local juvenile justice coalitions and organizations to secure local, state and federal laws, policies and practices that are fair, equitable and developmentally appropriate for all children, youth and families involved in, or at risk of becoming involved in, the justice system. NJJN currently comprises forty-one members in thirty-three states, all of which seek to establish effective and appropriate juvenile justice systems. NJJN recognizes that youth are fundamentally different from adults and should be treated in a developmentally appropriate manner focused on their rehabilitation. Youth should not be transferred into the punitive adult criminal justice system where they are subject to extreme and harsh sentences such as life without the possibility of parole, and are exposed to serious, hardened criminals. NJJN supports a growing body of research that indicates the most effective means for addressing youth crime are rehabilitative, community-based programs that take a holistic approach, engage youth's family members and other key supports, and provide opportunities for positive youth development.

The **Northeast Juvenile Defender Center** is one of the nine Regional Centers affiliated with the National Juvenile Defender Center. The Center provides support to juvenile trial lawyers, appellate counsel, law school clinical programs and nonprofit law centers to ensure quality representation for children throughout Delaware, New Jersey, New York, and Pennsylvania by helping to compile and analyze juvenile indigent defense data, offering targeted, state-based training and technical assistance and providing case support specifically designed for complex or high profile cases. The Center is dedicated to ensuring excellence in juvenile defense by building the juvenile defense bar's capacity to provide high quality representation to children throughout the region and promoting justice for all children through advocacy, education, and prevention.

The **Pacific Juvenile Defender Center** is a regional affiliate of the National Juvenile Defender Center. Members of the Center include juvenile trial lawyers, appellate counsel, law school clinical staff, attorneys and advocates from nonprofit law centers working to protect the rights of children in juvenile delinquency proceedings in California and Hawaii. The Center engages in appellate advocacy, public policy and legislative discussions with respect to the treatment of children in the juvenile and criminal justice systems. Center members have extensive experience with cases involving serious juvenile crime, the impact of adolescent development on criminality, and the differences between the juvenile and adult criminal justice systems.

The **Public Defender Service for the District of Columbia** (PDS) is a federally funded, independent public defender organization; for more than 40 years, PDS has provided quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia Justice system. PDS provides legal representation to many of the indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. PDS also represents classes of youth, including a class consisting of children committed to the custody of the District of Columbia through the delinquency system.

Based in one our nation's poorest cities, the **Rutgers School of Law – Camden Children's Justice Clinic** is a holistic lawyering program using multiple strategies and interdisciplinary approaches to resolve problems for indigents facing juvenile delinquency charges, primarily providing legal representation in juvenile court hearings. While receiving representation in juvenile court and administrative hearings, clients are exposed to new conflict resolution strategies and are educated about their rights and the implications of their involvement in the juvenile justice system. This exposure assists young clients in extricating themselves from destructive behavior patterns, widens their horizons and builds more hopeful futures for themselves, their families and their communities. Additionally, the clinic works with both local and state leaders on improving the representation and treatment of at-risk children in Camden and throughout the state.

Rutgers Urban Legal Clinic (ULC) is a clinical program of Rutgers Law School – Newark. The ULC was established more than thirty years ago to assist low-income clients with legal problems that are caused or exacerbated by urban poverty. The Clinic's Criminal and Juvenile Justice section provides legal representation to individual clients and undertakes public policy research and community education projects in both the juvenile and criminal justice arenas. ULC students and faculty have worked with the New Jersey Office of Public Defender, the New Jersey Institute for Social Justice, the Essex County Juvenile Detention Center, Covenant House – New Jersey, staff of the New Jersey State Legislature, and a host of out-of-state organizations on a range of juvenile justice practice and policy issues. The ULC is a team leader of the New Jersey Juvenile Indigent Defense Action Network, an initiative of the John D. and Catherine T. MacArthur Foundation that, among other efforts, seeks to provide post-dispositional legal representation to young people committed to the New Jersey Juvenile Justice Commission.

The mission of the **San Francisco Office of the Public Defender's** is to provide vigorous, effective, competent and ethical legal representation to persons who are accused of crime and cannot afford to hire an attorney. We provide representation to 25,000 individuals per year charged with offenses in criminal and juvenile court.

Established in 2009, the **University of Michigan Juvenile Justice Clinic** (JJC) is a live client clinic at the University of Michigan Law School which provides legal services to children and youth charged with delinquent acts in Michigan family courts as well as adults dealing with the consequences of juvenile adjudications. The JJC also works on issues of public policy involving the juvenile justice system. The JJC, its faculty and students have a particular interest in the application of neurodevelopmental research to juvenile justice issues.

Individuals

Neelum Arya is Assistant Professor of Law at the Dwayne O. Andreas School of Law at Barry University. Her primary areas of expertise include criminal law, procedure, and public policy. She has written extensively about youth prosecuted

in the adult criminal justice system, racial and ethnic disparities in the justice system, juvenile and criminal justice data, and conditions of confinement for incarcerated children. Professor Arya was a graduate of the Epstein Program in Public Interest Law & Policy at UCLA School of Law and Harvard University's Kennedy School of Government.

Tamara Birckhead is an assistant professor of law at the University of North Carolina at Chapel Hill where she teaches the Juvenile Justice Clinic and the criminal lawyering process. Her research interests focus on issues related to juvenile justice policy and reform, criminal law and procedure, and indigent criminal defense. Licensed to practice in North Carolina, New York and Massachusetts, Professor Birckhead has been a frequent lecturer at continuing legal education programs across the United States as well as a faculty member at the Trial Advocacy Workshop at Harvard Law School. She is president of the board for the North Carolina Center on Actual Innocence and has been appointed to the executive council of the Juvenile Justice and Children's Rights Section of the North Carolina Bar Association. Professor Birckhead received her B.A. degree in English literature with honors from Yale University and her J.D. with honors from Harvard Law School, where she served as Recent Developments Editor of the Harvard Women's Law Journal. She regularly consults on matters within the scope of her scholarly expertise, including issues related to juvenile justice policy and reform, criminal law and procedure, indigent criminal defense, and clinical legal education. She is frequently asked to assist litigants, advocates, and scholars with *amicus* briefs, policy papers, and expert testimony, as well as specific questions relating to juvenile court and delinquency.

Susan L. Brooks is the Associate Dean for Experiential Learning and an Associate Professor of Law at the Drexel University Earle Mack School of Law. She has also taught Family Law and continues to develop innovative courses aimed at helping law students cultivate an appreciation for issues related to holistic representation, professionalism and access to justice. Dean Brooks received her J.D. degree from New York University School of Law in 1990, where she was awarded the Judge Aileen Haas Schwartz Award for Outstanding Work in the Field of Children and Law. Prior to attending law school, she practiced social work in Chicago. Dean Brooks received an M.A. in clinical social work from the

University of Chicago-School of Social Service Administration (SSA) in 1984, and earlier earned a B.A. from the same university. She is a member of the Pennsylvania bar and maintains her social work certification. Before moving to Philadelphia, Dean Brooks spent fourteen years as a Clinical Professor at Vanderbilt Law School. There she directed the Child and Family Law Policy Clinic in which law students engaged in legislative advocacy, community education, and mediation, in addition to providing direct representation to children and family members in juvenile court matters. Dean Brooks is an active participant in local, national, and international activities connected with legal education and practice. She is a member of the Delivery of Legal Services Committee of the Philadelphia Bar Association. She has also served as Vice-Chair of the American Bar Association (ABA) Juvenile Justice Committee as well as Co-Chair of the Children's Rights Committee of the ABA Section on Litigation. She co-founded the Committee on Interdisciplinary Clinical Legal Education as part of the Clinical Section of the Association of American Law Schools (AALS), and is an active member of the Global Alliance for Justice Education (GAJE).

Michele Deitch, J.D., M.Sc., teaches juvenile justice policy and criminal justice policy at the University of Texas- Lyndon B. Johnson School of Public Affairs and at the University of Texas School of Law. She is the lead author of *From Time Out to Hard Time: Young Children in the Adult Criminal Justice System* (LBJ School of Public Affairs, 2009) and *Juveniles in the Adult Criminal Justice System in Texas* (LBJ School of Public Affairs, 2011), and is currently engaged in research about conditions of confinement for juveniles in adult prisons and jails. She served as part of the legal team that represented Christopher Pittman in his petition of *certiorari* to the United State Supreme Court in 2008 (*Pittman v. South Carolina)*, challenging the constitutionality of a mandatory 30-year sentence without possibility of parole imposed on a 12-year old child. Professor Deitch served on a Blue Ribbon Task Force that proposed reforms to the Texas juvenile justice system, and she has been a federal court appointed monitor of conditions in the Texas adult prison system. She also served as the original drafter of the American Bar Association's recently adopted standards on the legal treatment of prisoners.

Jeffrey Fagan is a Professor of Law and Public Health at Columbia University, and Director of the Center for Crime, Community and Law at Columbia Law

School. He currently is a Fellow at the Straus Institute for the Advanced Study of Law and Justice, at New York University School of Law. He was a member of the MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice. Professor Fagan is currently conducting research on several dimensions of juvenile law and juvenile justice, including the competence and culpability of adolescents facing transfer to criminal court, and the impacts of transfer and adult punishment on adolescent development. He also is conducting research on the impacts of involuntary police contacts with juveniles on their perceptions of law and justice. He has also conducted research on the death penalty for persons who commit capital offenses before their 18th birthday, and for sentences of life without the possibility of parole for persons who commit crime before their 18th birthday; this research suggests that the developmental limitations of adolescents may compromise their capacity for full participation in legal proceedings when the harshest forms of punishment are at stake, whether in criminal or juvenile court. Professor Fagan has conducted research on capital punishment, and his research has shown that false confessions are often a cause of wrongful conviction and reversible error. Accordingly, he agrees to sign this *amicus* brief to assist in defining standards and procedures for assessing the age-based competence of adolescents during interactions with police and law enforcement authorities.

Barbara Fedders is a clinical assistant professor at the University of North Carolina School of Law. Prior to joining the UNC faculty in January 2008, Professor Fedders was a clinical instructor at Harvard Law School Criminal Justice Institute for four years. Prior to that, she worked for the Massachusetts Committee for Public Counsel Services as a Soros Justice Fellow and staff attorney. She began her career in clinical work at the Juvenile Rights Advocacy Project at Boston College Law School. As a law student, Professor Fedders was a Root-Tilden-Snow scholar and co-founded the NYU Prisoners' Rights and Education project. She is a member of the advisory boards of the Prison Policy Initiative and the Equity Project.

Professor **Barry Feld** is a Centennial Professor of Law, University of Minnesota Law School. He received his B.A. from the University of Pennsylvania; his J.D. from University of Minnesota Law School; and his Ph.D in sociology from

Harvard University. He has written eight books and about seventy law review and criminology articles and book chapters on juvenile justice with a special emphasis on serious young offenders, procedural justice in juvenile court, adolescents' competence to exercise and waive *Miranda* rights and counsel, youth sentencing policy, and race. Feld has testified before state legislatures and the U.S. Senate, spoken on various aspects of juvenile justice administration to legal, judicial and academic audiences in the United States and internationally. He worked as a prosecutor in the Hennepin County (Minneapolis) Attorney's Office and served on the Minnesota Juvenile Justice Task Force (1992-1994), whose recommendations the 1994 legislature enacted in its revisions of the Minnesota juvenile code. Between 1994 and 1997, Feld served as Co-Reporter of the Minnesota Supreme Court's Juvenile Court Rules of Procedure Advisory Committee.

Frank Furstenberg is a Professor of Sociology at the University of Pennsylvania, where he is also an Associate in the Population Studies Center and the Zellerbach Family Chair, Emeritus. He received a B.A. from Haverford College and a Ph.D. from Columbia University. Furstenberg's research focuses on children, youth, and families with an emphasis on public policy. He has authored and edited a dozen books and many journal articles on family change, urban youth, teenage parenthood, divorce and remarriage, and related topics. His most recent books include *Managing to Make It* (1999), *On the Frontier of Adulthood* (2003), and *Destinies of the Disadvantaged: The Politics of Teenage Childbearing* (2007). Furstenberg chaired the MacArthur Network on Adult Transitions from 2000-2010. He is a fellow of the Institute of Medicine of the National Academy of Sciences, The Academy of Arts and Sciences, and The Academy of Political and Social Sciences.

Theresa Glennon is a Professor of Law at Temple University Beasley School of Law. Her teaching and scholarship focuses on the legal rights of children and families, with particular focus on family law, education, race and disability. Her family law publications include a wide range of topics, including assisted reproductive technologies, child custody and custody relocation disputes, the effort to harmonize family law in Europe, paternity disputes, second parent adoptions, and the child welfare system. Her publications in the area of education law have focused primarily on the issues of race and disability in education. Professor

Glennon has been a visiting fellow at the Centre for Family Research at the University of Cambridge, and she is trained as a mediator in divorce and child custody matters and serves as a volunteer mediator for the custody mediation project of Good Shepherd Mediation Program. She is the outgoing chair of the Family Law Section of the American Association of Law Schools and also a member of the Board of Trustees of the Education Law Center in Pennsylvania.

Martin Guggenhein is the Fiorello La Guardia Professor of Clinical Law at N.Y.U Law School, where he has taught since 1973. He served as Director of Clinical and Advocacy Programs from 1988 to 2002 and also was the Executive Director of Washington Square Legal Services, Inc. from 1987 to 2000. He has been an active litigator in the area of children and the law and has argued leading cases on juvenile delinquency and termination of parental rights in the Supreme Court of the United States. He is also a well-known scholar whose books include, "What's Wrong with Children's Rights" published by Harvard University Press in 2005 and "Trial Manual for Defense Attorneys in Juvenile Court," published by ALI-ABA in 2007, which was co-authored with Randy Hertz and Anthony G. Amsterdam. He has won numerous national awards including in 2006 the Livingston Hall Award given by the American Bar Association for his contributions to juvenile justice.

Kristin Henning is a Professor of Law and Co-Director of the Juvenile Justice Clinic at the Georgetown Law Center. Prior to her appointment to the Georgetown faculty, Professor Henning was the Lead Attorney for the Juvenile Unit of the Public Defender Service (PDS) for the District of Columbia, where she represented youth charged with delinquency and helped organize a specialized unit to meet the multi-disciplinary needs of children in the juvenile justice system. Professor Henning has been active in local, regional and national juvenile justice reform, serving on the Board of the Mid-Atlantic Juvenile Defender Center, the Board of Directors for the Center for Children's Law and Policy, and the D.C. Department of Youth Rehabilitation Services Advisory Board and Oversight Committee. She has served as a consultant to organizations such as the New York City Department of Corrections and the National Prison Rape Elimination Commission, and was appointed as a reporter for the ABA Task Force on Juvenile Justice Standards. Professor Henning has published a number of law review articles on the role of

child's counsel, the role of parents in delinquency cases, confidentiality, and victims' rights in juvenile courts, and therapeutic jurisprudence in the juvenile justice system. Professor Henning also traveled to Liberia in 2006 and 2007 to aid the country in juvenile justice reform and was awarded the 2008 Shanara Gilbert Award by the Clinical Section of the Association of American Law Schools in May for her commitment to social justice on behalf of children. Professor Henning received her B.A. from Duke University, a J.D. from Yale Law School, and an LL.M. from Georgetown Law Center. Professor Henning was a Visiting Professor of Law at NYU Law School during the Spring semester of 2009 and was also a Visiting Clinical Professor of Law at Yale Law School.

Randy Hertz is the Vice Dean of N.Y.U. School of Law and the director of the law school's clinical program. He has been at the law school since 1985, and regularly teaches the Juvenile Defender Clinic and a simulation course entitled Criminal Litigation. Before joining the N.Y.U. faculty, he worked at the Public Defender Service for the District of Columbia, in the juvenile, criminal, appellate and special litigation divisions. He writes in the areas of criminal and juvenile justice and is the co-author, with Professor James Liebman of Columbia Law School, of a two-volume treatise entitled "Federal Habeas Corpus Law and Practice," and also the co-author, with Professors Anthony G. Amsterdam and Martin Guggenheim of N.Y.U. Law School, of a manual entitled "Trial Manual for Defense Attorneys in Juvenile Delinquency Cases." He is an editor-in-chief of the *Clinical Law Review*. In the past, he has served as the Chair of the Council of the ABA's Section of Legal Education and Admissions to the Bar; a consultant to the MacCrate Task Force on Law Schools and the Profession: Narrowing the Gap; a reporter for the Wahl Commission on ABA Accreditation of Law Schools; a reporter for the New York Professional Education Project; and the chair of the AALS Standing Committee on Clinical Legal Education. He received NYU Law School's Podell Distinguished Teaching Award in 2010; the Equal Justice Initiative's Award for Advocacy for Equal Justice in 2009; the Association of American Law Schools' William Pincus Award for Outstanding Contributions to Clinical Legal Education in 2004; the NYU Award for Distinguished Teaching by a University Professor in 2003; and the American Bar Association's Livingston Hall award for advocacy in the juvenile justice field in 2000.

Paul Holland is Associate Dean for Academic Affairs at Seattle University School of Law, where he teaches in the Youth Advocacy Clinic, a law school clinic that presents juveniles charged with crimes. He has taught in clinical programs representing juvenile clients at the University of Michigan Law School, Loyola University (Chicago) School of Law and Georgetown University Law Center. He has previously served as Chair of Washington's Governor's Juvenile Justice Advisory Committee.

Julie E. McConnell is a Clinical Professor of Law at the University of Richmond School of Law and the Director of the Children's Defense Clinic. The Clinic represents children charged with misdemeanor and felony level offenses in Juvenile and Domestic Relations District Courts in the Central Virginia area. Clinic faculty and third-year law students provide comprehensive, highly individualized and effective representation to youth and their families. The clinic works with the child and their family to attempt to address the underlying causes of delinquent behavior. The clinic also works to improve the level of representation afforded children in the criminal justice system by working in the broader community to provide training and assistance to juvenile court practitioners. Further, the Clinic works with community organizations and the legislature to improve access to justice for children. McConnell has previously worked with children in a group home setting, served as a clerk in the Virginia Court of Appeals, as a public defender in the City of Richmond and as an Assistant Commonwealth's Attorney in Richmond Juvenile and Domestic Relations Court for almost six years.

James R. Merikangas, MD is Clinical Professor of Psychiatry and Behavioral Neuroscience at the George Washington University School of Medicine in Washington, D.C. He has been a consultant to juvenile courts in Pennsylvania and Connecticut. His 40 years of medical practice, and his examination of several hundred adult murders, supports the conclusion that juvenile life without parole sentences ignore the current scientific understanding of brain development of children and teenagers.

Wallace Mlyniec is the former Associate Dean of Clinical Education and Public Service Programs, and currently the Lupo-Ricci Professor of Clinical Legal

Studies, and Director of the Juvenile Justice Clinic at Georgetown University Law Center. He teaches courses in family law and children's rights and assists with the training of criminal defense and juvenile defense fellows in the Prettyman Legal Internship Program. He is the author of numerous books and articles concerning criminal law and the law relating to children and families. Wallace Mlyniec received a Bicentennial Fellowship from the Swedish government to study their child welfare system, the Stuart Stiller Award for public service, and the William Pincus award for contributions to clinical education. He holds his B.S. from Northwestern University and his J.D. from Georgetown University. He is the Vice Chair of the Board of Directors of the National Juvenile Defender Center and former chair of the American Bar Association Juvenile Justice Committee.

Catherine J. Ross is Professor of Law at the George Washington University Law School. She has written and lectured extensively on constitutional law, children's rights, family law, and education law and policy. She is a former Chair of the American Bar Association's Steering Committee on the Unmet Legal Needs of Children. Professor Ross has been a Member of the School of Social Science at the Institute for Advanced Study in Princeton. She has been a visiting professor at: the University of Pennsylvania, where she was also a Visiting Scholar, Center for Children's Policy, Practice and Research; Boston College Law School (with joint appointments in Education and History); and St. John's Law School. She has served on the faculty of the Yale Child Study Center, Yale School of Medicine, and was a post-doctoral fellow at Yale University's Bush Center in Child Development and Social Policy (now the Zigler Center).

Elizabeth Scott is the Harold R. Medina Professor of Law at Columbia University. She writes extensively about juvenile delinquency and juvenile justice policy, including the award winning book, Rethinking Juvenile Justice, written with developmental psychologist Laurence Steinberg (Harvard University Press 2008).

Abbe Smith is a Professor of Law, Director of the Criminal Defense & Prisoner Advocacy Clinic, and Co-Director of the E. Barrett Prettyman Fellowship Program at Georgetown University Law Center, where she has taught since 1996. Prior to coming to Georgetown, Professor Smith was the Deputy Director of the Criminal Justice Institute, Clinical Instructor, and Lecturer on Law at Harvard Law School.

In addition to Georgetown and Harvard, Professor Smith has taught at City University New York Law School, Temple University School of Law, American University Washington College of Law, and the University of Melbourne Law School, where she was a Senior Fulbright Scholar. Professor Smith teaches and writes in areas of criminal defense, legal ethics, juvenile justice, and clinical education. In addition to numerous articles in law journals, she is the author of Case of a Lifetime: A Criminal Defense Lawyer's Story (Palgrave Macmillan 2008), co-author with Monroe Freedman of Understanding Lawyers' Ethics (4th ed., Lexis-Nexis, 2012) and a contributing author of We Dissent (Michael Avery, ed., NYU Press, 2008) and Law Stories (Gary Bellow and Martha Minnow, eds., University of Michigan Press, 1996). Prior to becoming a law teacher, Professor Smith was a public defender in Philadelphia. She continues to be actively engaged in criminal defense practice and frequently presents at public defender training programs in the U.S. and abroad.

Barbara Bennett Woodhouse is L.Q.C. Lamar Professor of Law at Emory University and Co-Director of the Barton Child Law and Policy Clinic, and she is also David H. Levin Chair in Family Law (Emeritus) at University of Florida. For twenty five years, she has been teaching, researching, and writing about justice for children. Before joining the Emory faculty, she was co-founder of the multidisciplinary Center for Children's Policy Practice and Research at University of Pennsylvania and founder of the Center on Children and Families at University of Florida. She has published many articles, book chapters, and an award-winning book on children's rights, as well as participating in appellate advocacy in cases involving the rights of children and families.