



In Defense of Youth: The Role and Responsibilities of Defense Counsel in Delinquency Court

*Presented by the University of San Diego School of Law's Children's Advocacy Institute
Sponsored by the Judicial Council of California*

Youth justice is a complex and ever-evolving area of law, policy, and practice. Professionals working with and on behalf of youth in these important cases require specialized skills, education, and training. To promote competent legal representation of children in delinquency court, "In Defense of Youth" provides 1.5 days of instruction from a faculty of esteemed and experienced professionals on a broad scope of important topics. This training satisfies the training requirements for youth defenders under California Rule of Court 5.664. A key aspect of the juvenile justice system is the multi-disciplinary nature of the process. Therefore, sessions within this program offer training on topics relevant to the work of child welfare agencies, probation departments, and CASAs as well as attorneys and judges.

Agenda

Day 1: (7.75 MCLE)

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| 7:45am | Registration opens/Continental Breakfast Provided |
| 8:30-9:45 | Welcome/Introduction to Juvenile Court (1.25 MCLE) |
| 9:45-9:50 | Break |
| 9:50-10:50 | The Role and Ethical Duties of the Juvenile Defender (1 Ethics MCLE) |
| 10:50-10:55 | Break |
| 10:55-12:10 | Adolescent Development, Mental Health, and Trauma (1 MCLE; .25 Elimination of Bias) |
| 12:10-1:00 | Lunch provided |
| 1:00-1:45 | Interviewing and Counseling Adolescent Clients (.75 MCLE) |
| 1:45-2:30 | Detention and Pre-adjudication Practice (.75 MCLE) |
| 2:30-2:35 | Break |
| 2:35-3:20 | Competency (.75 MCLE) |
| 3:20-4:20 | Critical Challenges I: Transfer (1 MCLE) |
| 4:20-4:25 | Break |
| 4:25-5:25 | Critical Challenges II: Confessions (1 MCLE) |

Day 2 (4.25 MCLE)

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| 7:30am | Registration opens/Continental Breakfast Provided |
| 8:00-9:00 | Dispositional Advocacy & Strikes (1 MCLE) |
| 9:00-10am | Post-Disposition and Appeals (1 MCLE) |
| 10:00-10:10 | Break |
| 10:10-11:10 | Special Populations (1 Ethics) |
| 11:10-12:25 | Confronting Implicit Bias (1.25 Elimination of Bias) |

Continuing Education Credits:

MCLE:

- **Aug. 11, 2022:** The University of San Diego School of Law is a State Bar of California-approved MCLE provider and this event has been approved for 6.5 hours of General MCLE credit, 1 hour of Legal Ethics MCLE credit, and 0.25 hours of Recognition and Elimination of Bias MCLE credit.
- **Aug. 12, 2022:** The University of San Diego School of Law is a State Bar of California-approved MCLE provider and this event has been approved for 2 hours of General MCLE credit, 1.25 hours of Recognition and Elimination of Bias MCLE credit, and 1 hour of Legal Ethics MCLE credit.

BBS CE:

- **Aug. 11, 2022:** The Judicial Council of California, Center for Families, Children & the Courts (CFCC), provider number 58804, is approved by the California Association of Marriage and Family Therapists (CAMFT) to sponsor continuing education for BBS licensees. CFCC maintains responsibility for this program and its content. This training meets the qualifications for 7.75 hours of continuing education (CE) credit for LMFTs, LCSWs, LPCCs, and/or LEPs as required by the California Board of Behavioral Sciences.
- **Aug. 12, 2022:** The Judicial Council of California, Center for Families, Children & the Courts (CFCC), provider number 58804, is approved by the California Association of Marriage and Family Therapists (CAMFT) to sponsor continuing education for BBS licensees. CFCC maintains responsibility for this program and its content. This training meets the qualifications for 4.25 hours of continuing education (CE) credit for LMFTs, LCSWs, LPCCs, and/or LEPs as required by the California Board of Behavioral Sciences.

STC:

- **Aug. 11 & 12, 2022:** This program has been approved for STC credits under certification number 07196455. PLEASE BE SURE TO SIGN IN AND OUT EACH DAY TO ENSURE THAT YOU RECEIVE CREDIT

Segment Descriptions

Introduction to Juvenile Court

Presenters:

Hon. Ana Espana
Jessica Heldman, JD

Session Summary:

This session provides participants with an overview of the juvenile court and its purpose, highlighting key points in the evolution of youth justice philosophy and procedure from its origin until today. The presenters will walk through the flow of a typical delinquency case as it enters and moves through the juvenile court, providing a detailed overview of key hearings and other decision-making points as well as highlighting recent case law and legislative enactments. Commonly used terminology will be defined.

The Role and Ethical Duties of the Juvenile Defender

Presenters:

Laura Sheppard, JD
Hon. Ana Espana
Jo Pastore, JD

Session Summary:

This session will explore the specialized role of youth defense counsel and the duties and core ethical obligations in the representation of youth. Presenters will lead an interactive exploration, using hypothetical cases and scenarios, of the concepts of zealous advocacy and client-directed representation as it pertains to working with minors.

Adolescent Development, Mental Health and Trauma

Presenter:

Dr. Keith R. Cruise, PhD, MLS

Session Summary:

Over the past two decades, research in the fields of psychology and neuroscience have revealed a great deal about the development of the adolescent brain. These discoveries have deepened our understanding of delinquent behavior and how adolescent brain development impacts young people's thoughts and actions. This research has influenced Supreme Court decisions regarding criminal culpability and has changed the legal decision-making landscape for adolescents in criminal and juvenile court proceedings. All juvenile court practitioners should be aware of the applications of this research to juvenile court practice. In this session, the presenter will share key components of adolescent development as well as explore other essential considerations when working with youth, including the impact of mental health disorders and trauma, the relevance of disabilities, and sociocultural considerations when representing youth.

Interviewing and Counseling Adolescent Clients

Presenters:

Dr. Keith R. Cruise, PhD, MLS
Maureen Pacheco, JD

Session Summary:

This session will offer strategies for effective communication with youth clients throughout representation with a special emphasis on using a trauma-informed approach. With the high rates of trauma within the youth justice population, it is imperative that attorneys and other juvenile court practitioners utilize trauma-informed strategies when interviewing and counseling youth. Considerations related to mental health, disability, race, and culture are also key to building rapport and trust with youthful clients. Using hypothetical scenarios, presenters will guide participants through the application of effective communication strategies.

Detention and Pre-adjudication Practice

Presenter:

Jessica Melikian, JD

Session Summary:

This session provides participants with an overview of juvenile court pre-trial practices, highlighting key points in the evolution of a juvenile delinquency petition once it is filed in the juvenile court. The presenter will provide a detailed exploration of key pre-adjudication decision-making points, including detention hearings and probable cause determinations. The session will include the review of statutory criteria, case law, and practical strategies related to pre-trial advocacy. Considerations regarding the sealing and confidentiality of juvenile records will also be discussed.

Competency

Presenter:

Maureen Pacheco, JD

Session Summary:

This session provides a detailed overview of competency law in the juvenile court, including relevant statutes, court rules, and recent trends resulting from research and policy developments. The presenter will explore the duty of youth defense counsel to recognize and assess the competency of the client prior to facing delinquency charges. Key considerations in assessing and litigating competency are discussed, including the selection of experts and preparation of witnesses.

Critical Challenges I: Transfer

Presenter:

Robert Lu, JD

Session Summary:

This session will explore the transfer of youth to adult court, including an explanation of current law and procedure as well as key considerations for effective advocacy in transfer hearings. The presenter will explore the application of adolescent development research and the importance of utilizing experts and lay witnesses to this area of motion practice.

Critical Challenges II: Confessions

Presenter:

Robert Lu, JD

Session Summary:

Motion practice is a key part of delinquency counsel's ethical obligation to protect the constitutional and statutory rights of youth in juvenile court proceedings. This session will examine the critical motion to

suppress statements and evidence, and provide the legal basis and key arguments related to these challenges. Recent legislative enactments and case law, as well as key research on confessions will be discussed.

Dispositional Advocacy and Strikes

Presenter:

Jessica Melikian, JD

Session Summary:

Advocacy at the disposition phase of a case can have a significant impact on the consequences of adjudication for a child. This presentation will explore the attorney's duties at disposition, including knowing the range of dispositional options available under the law, including placement options, and the resources available within the local community. Key statutes and case law regarding disposition hearings will be discussed. This session will also explore the critical issue of juvenile strikes, including the relevant case law and strategies for avoiding strikes.

Post-Disposition and Appeals

Presenter:

Laura Sheppard, JD

Session Summary:

The responsibilities of a minor's counsel do not end at disposition. Attorneys have continuing obligations while youth are on probation or while incarcerated, including filing motions for post-disposition relief or modification of disposition orders as well as ensuring delivery of ordered services and monitoring the client's progress. This presentation will address the juvenile defender's responsibility to counsel the juvenile client on their right to appeal and provide continued advocacy at all review or revocation hearings.

Treating Youth as Individuals (Special Populations)

Presenter:

Hon. Roger Chan

Session Summary:

In working with youth, defenders and system partners must demonstrate sensitivity and understanding regarding each child's unique qualities and experiences, including a youth's sexual orientation and gender identity, immigration status, special education needs, and experiences with abuse and exploitation. In this session, the presenter will identify implications of these circumstances for representation of a juvenile client, and will explore strategies for ensuring that youth receive appropriate and effective care, treatment and guidance in partnership with system partners.

Confronting Implicit Bias

Presenter:

Prof. Kristin Henning

Session Summary:

Competent representation requires defense counsel to demonstrate racial, ethnic and cultural understanding and to identify and address bias within oneself and within the youth justice system. This session will examine the impact of implicit bias and provide strategies for confronting this bias to ensure the most effective advocacy on behalf of all clients.

Presenter Bios

Hon. Ana España is the Presiding Judge of the San Diego County Juvenile Court. She has presided over juvenile cases since January 2018. Prior to her appointment to the bench in 2008, Judge Espana represented children and youth in both the juvenile justice and child welfare systems. Currently she oversees the JFAST (Juvenile Forensic Assessment Stabilization Treatment) and Dual Status collaborative courts. She is a member of the California Advisory Committee on Family and Juvenile Law Advisory Committee as well as several local court and community committees working to address the needs of children, youth, and families involved in the juvenile court.

Jessica K. Heldman holds the position of Fellmeth-Peterson Associate Professor in Child Rights at the University of San Diego School of Law and its Children's Advocacy Institute. Professor Heldman teaches in the area of child rights and supervises Child Advocacy Clinics in Dependency, Delinquency, and Policy. Prior to this appointment, she served as Associate Executive Director at the Robert F. Kennedy National Resource Center for Juvenile Justice at Robert F. Kennedy Children's Action Corps in Boston, MA. In this capacity, she provided technical assistance and training to state and local jurisdictions, guiding the development of law and policy within child welfare and juvenile justice systems throughout the nation. She served as a consultant for organizations including Children's Rights in New York City, the Child Welfare League of America, and Georgetown University's Center for Juvenile Justice Reform.

Jo Pastore is an attorney practicing more than 30-years, primarily in the area of criminal law. She spent over 27-years with the San Diego County Department of the Public Defender and engaged in all aspects of indigent defense. She spent a significant amount of time in the Juvenile Delinquency Division. She also managed the Writs & Appeal Division and filed numerous challenges that defined California Delinquency and Dependency Law. She supervised the Delinquency Division and was responsible for new policy planning and implementation, including creating the Juvenile Behavioral Health Court. After leaving the Public Defender, she worked as In-House Counsel for a local business and recently became self-employed. She currently handles criminal and special education cases and acts as a consultant. She is an Adjunct Professor at California Western School of Law, her alma mater, where she has taught for over 15-years and is a board member for several non-profits.

Laura Sheppard is a graduate of USD School of Law, and a solo criminal defense practitioner. Her focus has always been post-conviction relief, especially parole hearings, resentencing, and habeas petitions. She has represented hundreds of youth offender prisoners, as well as some youth in delinquency and dependency courts. She has presented MCLE sessions on post-conviction hearings and also serves as a sentencing

consultant and expert witness on the California parole process for several public defenders offices. In her off-time, she umpires youth baseball and makes whimsical sculptures.

Dr. Keith Cruise is Professor and Director of Clinical Training in the Department of Psychology at Fordham University and Co-Director of the Center for Trauma Recovery and Juvenile Justice (CTRJJ), a technical assistance center that is part of the National Child Traumatic Stress Network (NCTSN). He holds a PhD in clinical psychology from the University of North Texas and a Masters of Legal Studies degree from the University of Nebraska. Dr. Cruise conducts research on the clinical-forensic assessment of youth within the juvenile justice system. Various research projects have focused on developing and validating specialized risk assessment protocols, investigating the utility of mental health screening instruments with justice-involved youth, and understanding the connection between trauma exposure, trauma reactions, and delinquent behavior. Dr. Cruise's clinical-forensic practice has involved providing direct care assessment and treatment services with justice-involved adolescents conducting post-disposition assessments of risk and treatment amenability, providing expert testimony to juvenile courts, and providing technical assistance and consultation to local and state juvenile justice systems in implementing trauma-informed screening and assessment practices. Dr. Cruise has received grant funding (NIJ, OJJDP, SAMHSA) to examine the effectiveness of enhanced mental health screening for poly-victimization, trauma-informed case planning, and the impact of trauma screening on service delivery and legal outcomes for justice-involved youth.

Maureen Pacheco is the Trainer for the Juvenile Division of the Alternate Public Defenders Office in Los Angeles. Ms. Pacheco is also a NITA trainer and has been certified as a JTIP trainer by the National Juvenile Defender Center. She has spent the majority of her career representing youth, and has handled cases at the trial level, as a writ/appellate attorney, and in post-conviction proceedings. From 2010-2013, Ms. Pacheco was the Assistant Director at Loyola Law School's Center for Juvenile Law and Policy, where she co-founded the Juvenile Innocence and Fair Sentencing Clinic. Prior to that, she worked in the Los Angeles County Public Defender's Office. Ms. Pacheco was the co-founder of PJDC's Amicus group, and has served as the juvenile legislative liaison for the California Public Defenders Association since 2005. She has testified on numerous occasions as a juvenile law expert before the California Legislature, and is a frequent speaker at juvenile justice conferences and events. In 2015, Ms. Pacheco was honored as the Juvenile Defender of the Year by PJDC, and in 2017, she was named Criminal Defense Attorney of the Year by the Los Angeles County Bar Association. Ms. Pacheco holds a J.D. from Georgetown University Law Center and a B.A. from the University of Michigan.

Jessica Melikian has worked with the Office of the Alternate Public Defender in Los Angeles County for almost a decade. In this role, she has represented clients in misdemeanor and felony juvenile matters at all stages of cases. She has served as an instructor for several MCLE programs on juvenile practice, specifically strikes, disposition, and collateral consequences.

Robert Lu is the Juvenile Trainer for the Los Angeles County Public Defender's Office. He has worked in juvenile assignments for over half of his 15 years in the office. He presents trainings on juvenile issues for attorneys and social workers in his office. Outside of the Public Defender's office, he has also presented to the California Public Defenders' Association and the Los Angeles County Bar Association. Before becoming a public defender, he spent several years trapped in the black hole of civil discovery.

Hon. Roger Chan was appointed to the San Francisco Superior Court by Governor Jerry Brown in 2016. He has been assigned to the Unified Family Court since August 2017, where he presides over family, dependency, and juvenile justice trials, as well as the juvenile justice collaborative courts. He is a member of the court's Executive Committee and previously served as the Supervising Judge of the Traffic and Infractions Division. Judge Chan is a member of the California Judges Association, CJA's Juvenile Court Judges of California Executive Committee (Co-Chair of the Legislative Committee), the National Council of

Juvenile and Family Court Judges, and the Judicial Council Family and Juvenile Law Advisory Committee. Prior to his appointment, Judge Chan represented children and youth in San Francisco and Alameda counties for 18 years, including co-founding and serving as Executive Director of East Bay Children's Law Offices in Oakland. Judge Chan has co-sponsored several bills into laws that improve how the juvenile court serves youth. He is a proud alumnus of UC Berkeley and UC Hastings College of the Law. Judge Chan is honored to be the first openly LGBT Asian-American appointed to the San Francisco Superior Court.

Kristin Henning is the Blume Professor of Law and Director of the Juvenile Justice Clinic and Initiative at Georgetown Law, where she supervises law students and represents youth accused of delinquency in the D.C. Superior Court. Professor Henning worked at the Public Defender Service for the District of Columbia where she represented clients and helped organize a Juvenile Unit designed to meet the multi-disciplinary needs of children in the juvenile legal system. Professor Henning served as Lead Attorney for the Juvenile Unit from 1998 until 2001. Professor Henning writes extensively about race, adolescence, and policing and has a book forthcoming with Penguin Random House in 2021, *The Rage of Innocence: How America Criminalizes Black Youth*. Her previous work appears in journals and books such as *Policing the Black Man: Arrest, Prosecution and Imprisonment* (2017, edited by Angela J. Davis) and *Punishment in Popular Culture* (2015, edited by Charles J. Ogletree, Jr. and Austin Sarat). Professor Henning is also an editor and co-author of an anthology *Rights, Race, and Reform: Fifty Years of Child Advocacy in the Juvenile Justice System* (2018). Professor Henning has trained state actors across the country on the nature and scope of racial bias and how it operates in the juvenile and criminal legal systems. Her workshops help stakeholders recognize their own biases and develop strategies to counter it and equip defenders to challenge racial injustice in their individual case advocacy and broader systemic reform efforts. Henning received her B.A. from Duke University, a J.D. from Yale Law School, and an LL.M. from Georgetown Law.