

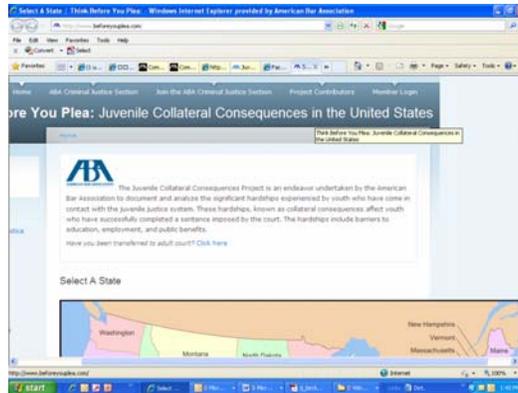


## JUVENILE JUSTICE COMMITTEE NEWSLETTER

NO. 7: JUNE 2011

ABA CRIMINAL JUSTICE SECTION JJ Committee

### NEWS: JUVENILE COLLATERAL CONSEQUENCES WEBSITE



The Juvenile Collateral Consequences website is almost ready for its public release in early July 2011. [Http://www.beforeyouplea.com](http://www.beforeyouplea.com) will provide an overview of all fifty states, the District of Columbia, and the federal system as it applies to juvenile adjudications. Each state will have its own profile with a chapter to describe juvenile laws specific to the state, a Justice Policy Institute (JPI) score and “Think About It” card that can be distributed to juvenile clients before trial. The ABA Criminal Justice Section would like your feedback regarding the content of the website. Each page is equipped with an “Add a Comment” feature through which you may contact the ABA Criminal Justice Section. Please visit <http://www.beforeyouplea.com/> for more information. *By Amer Raja, CJS Intern*

### FEATURED ARTICLES

#### **[J.D.B. v. North Carolina: What are the Impacts?](#)**

*By Kate Azevedo and Peter Frechette, CJS Interns*

In *J.D.B. v. North Carolina*, the United States Supreme Court determined in a five to four split decision that age is a factor police must consider when they decide whether or not to issue a *Miranda* warning while questioning a child at school. Justices Sotomayor, Kennedy, Ginsburg, Breyer, and Kagan decided that police questioning in a school setting requires a *Miranda* warning because children would not reasonably believe they were able to walk out of a meeting with a school official and a police officer. The debate before the Court centered on whether age and a school setting should receive special consideration due to a child’s vulnerability and immaturity, as well as their inherent nature to obey school officials. *Read more at:*

[http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj\\_azevedo.doc](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj_azevedo.doc)

*Kate Azevedo and Peter Frechette are law students at American University, Washington College of Law. Currently, they are legal interns with the ABA Criminal Justice Section.*

## **The ABA's Approach to Juvenile Justice Reform: Education, Eviction, and Employment: The Collateral Consequences of Juvenile Adjudications**

*By Christopher Gowen, Lisa Thureau, and Meghan Wood, ABA Staff*

The issue of collateral consequences is one of the most hotly debated topics in criminal justice. Collateral consequences, essentially civil or non-criminal penalties, affect individuals who have successfully completed a sentence imposed by a criminal court. These consequences are never part of a court's sentence and lie outside the criminal justice system; however, the opportunities denied through a collateral consequence can be far more significant and pervasive than an initial criminal sentence. *Read more at:*

[http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj\\_gowen.doc](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj_gowen.doc)

*Christopher is the Senior Staff Attorney for the ABA's Criminal Justice Section in Washington, DC. His practice focuses on directing grant projects, developing policy and coordinating amicus briefs on topics relating to reentry, juvenile law, and the defense function. Lisa Thureau is the founder of Strategies for Youth in Cambridge, Massachusetts; Meghan Wood is an editor and research attorney for the American Bar Association, Criminal Justice Section.*

## **The Duty to Inform Juveniles of Collateral Consequences in a Post-Padilla Court**

*By Lisa S. Campbell and Riya Saha Shah*

Juvenile court involvement can carry very serious consequences for youth that may not attach immediately upon adjudication. Certain convictions can result in severe immigration consequences as well. Despite the severity of these penalties, courts have categorized collateral consequences as "non-punitive" or "civil," and therefore outside the scope of what competent attorneys must advise their clients about. Furthermore, ineffective assistance of counsel claims based on a failure to warn clients of the collateral consequences of a conviction have largely been unsuccessful.

Following the logic underpinning the United States Supreme Court's holding in *Padilla v. Kentucky*, the role of defense attorney should now require communicating collateral consequences of adjudications to juveniles prior to entering into plea agreements, especially in cases where severe consequences attach, such as sex offender registration and involuntary civil commitment. This communication is particularly important for youth, and therefore failure to inform juvenile clients should constitute ineffective assistance of counsel. *Read more at:*

[http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj\\_campbell.doc](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj_campbell.doc)

*Lisa S. Campbell is an Assistant Defender in the Juvenile Unit of the Defender Association of Philadelphia. Riya Saha Shah is a Staff Attorney at Juvenile Law Center in Philadelphia, Pennsylvania.*

## **The "Youngest Profession": Consent, Autonomy, and Prostituted Children**

*By Tamar R. Birckhead*

Although precise statistics do not exist, data suggests that the number of children believed to be at risk for commercial sexual exploitation in the United States is between 200,000 and 300,000 and that the average age of entry is between eleven and fourteen, with some as young as nine. The number of prostituted children who are criminally prosecuted for these acts is equally difficult to estimate.

This Article critically examines the prevalence of laws allowing for the criminal prosecution of minors for prostitution. It argues that rather than maintain a legal scheme that characterizes and treats such juveniles as willing participants who, if harmed, are merely getting what they deserve, a more nuanced approach must be developed in which—at a minimum—criminal liability should be consistent with age of consent and statutory rape laws. *Read more at:*

[http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj\\_birckhead.pdf](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj_birckhead.pdf)

*Tamar R. Birckhead is an Assistant Professor of Law, University of North Carolina at Chapel Hill School of Law. He has a B.A. from Yale College and a J.D. from Harvard Law School.*

## **Strategies For Settling Civil and Criminal Cases**

*By Thomas F. Liotti and Edward Paltzik*

The strategies for securing favorable settlements in civil cases and winning extraordinary plea bargains for criminal defendants are remarkably similar. To be a great settler in either realm of law requires knowledge and application of negotiating skills combined with an approach different than that of the mediator or judge, both of whom often look for middle ground in a Solomon-like manner. Indeed, judges typically say that "a good settlement is one where neither side is satisfied." On the other hand, the skillful attorney is not satisfied with mere middle ground. Convincing your adversary to settle on your terms is the art and science of negotiating. It is not a matter of luck or compromise. It is more a matter of winning the case without a trial. *Read more at:*

[http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj\\_liotti.doc](http://www.americanbar.org/content/dam/aba/publications/criminaljustice/jj_liotti.doc)

*Thomas F. Liotti is an attorney with offices in Garden City, New York and a Village Justice in Westbury. Edward Paltzik is an attorney with the New York City firm Joshpe Law Group.*

## **UPCOMING EVENTS**

**CJS Annual Meeting Schedule** (See also the **comprehensive descriptions of criminal justice programs**) Aug 5-7, 2011; Toronto, Canada

**NOTE: Juvenile Justice Committee Meeting** Friday, August 5 (Studio B, Conference Level, Hyatt Regency Toronto)

## **NEW CJS PUBLICATIONS**

**The State of Criminal Justice 2011** This annual publication reports on the major issues, trends and significant changes in the criminal justice system -- includes a chapter on White Collar Crime. Edited by Prof. Myrna Raeder

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*Edited by: Kate Azevedo, Kyo Suh and Chris Gowen*

*The opinions expressed are those of the authors and shall not be construed to represent the policies or positions of the ABA or the ABA Criminal Justice Section.*

*If you would like to respond to one of these articles or write your own article for the next issue of the Juvenile Justice Newsletter, please email Chris Gowen at [Christopher.Gowen@americanbar.org](mailto:Christopher.Gowen@americanbar.org)*

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**Visit the Juvenile Justice Committee Website for Latest Updates:**

<http://www2.americanbar.org/sections/criminaljustice/CR200000>