

CO-CREATING & REDEFINING SAFETY:

Philadelphia Advocacy Organization Charts A New Path Forward

BY LAUREN FINE, JOANNA VISSER ADJOIAN &
BIANCA VAN HEYDOORN

When can children be prosecuted in adult court? In Pennsylvania, like many jurisdictions across the United States, the default is prosecution as a “juvenile”: Youth accused of criminal conduct that occurred when they were under the age of 18 typically are prosecuted in juvenile or family court.²

However, youth of any age must be “direct filed” or automatically prosecuted in the adult legal system when charged with certain conduct,³ including homicide, aggravated assault, and even robbery of a motor vehicle.⁴

And until recently, any youth convicted of a homicide-related offense in Pennsylvania was *automatically* sentenced to life. This practice, and the related Pennsylvania sentencing statutes, was why Philadelphia was responsible for the largest “juvenile lifer” population in the world (those adults who, as children, were sentenced to die in prison).

Then, in 2012, the United States Supreme Court decided *Miller v. Alabama*.⁵ *Miller* held that it was unconstitutional to mandatorily sentence children to life without the possibility of parole. But the change in the law, while a huge step, did not yield automatic release for adults who had been sentenced as children under the old law, or a quick resentencing of their cases. Nor did it affect the practice of direct filing in adult court.

In *Miller*, the United States Supreme Court invalidated *mandatory* life without parole sentences for children, but (discretionarily) sentencing a child to die in prison is still constitutional and continues in many states, including Pennsylvania. Also referred to as “life without the possibility of parole” or,

more accurately, “death by incarceration,” a “juvenile life” sentence reflects a court’s determination that a child is incorrigible and does not deserve to ever live outside of prison walls.

THE CONSEQUENCES: A NARROW, DEFICITS-BASED APPROACH TO YOUTH IN CRISIS

“What child can thrive in a cage?” Those are the words of Talia,⁶ a Youth Sentencing & Reentry Project (YSRP) client-partner.⁷ This is not a theoretical question. Because of the allegations against her, at the age of 14, Pennsylvania law (as described above) required Talia to be charged as an adult and placed in solitary confinement in an adult jail. Today, young people are sitting in similar situations in adult jails across Pennsylvania, receiving no services or programming, waiting for the opportunity to argue that they should be treated as children and have their cases transferred to juvenile court.

“I am so ready to get out of this place. No human being should be here,” said Allen, who, beginning at age 15, had spent more than a year in one of Philadelphia’s adult jails awaiting his day in court. He was at the jail pending a “decertification” hearing, where a judge decides whether a youth’s case that has been “direct filed” in adult court should remain there or be refiled in the juvenile justice system. Each year, dozens of Philadelphia youth are prosecuted as if they were adults through the direct-file process. As a result, they spend time — sometimes years — at one of Philadelphia’s adult jails, all before they are even old enough to vote or legally purchase cigarettes. Across the United States, Black and Brown children⁸ like Talia and Allen are too often viewed as the face of community violence, a narrative that overshadows their humanity

[Our] interventions focus on providing resources and opportunities to meet young people’s needs for self-preservation in ways that promote individual and public safety. This includes comprehensive mitigation and holistic reentry advocacy and advice in “direct-file juvenile” cases in Philadelphia and, increasingly, across Pennsylvania, as well as rights education initiatives.

and the developmental underpinnings of their actions. Rarely do we consider that their responses — often shaped by available resources and exposure to systemic harm — are grounded in a fundamental impulse to survive adverse childhood experiences.⁹ This perspective shift is critical to dismantling the harmful assumptions driving punitive responses to youth behavior.

The prevailing approach starts with the harm caused by young people, framing them as dangers to be managed. This narrow view neglects their intrinsic needs for safety, joy, and belonging. It perpetuates the punishment paradigm, prioritizing the safety of others while marginalizing “those kids.” This dynamic dehumanizes young people and fuels a cycle of punishment, leaving little room for envisioning solutions that honor their humanity and potential.

The result is stark: Black and Brown children continue to receive the mes-

sage that adults will not protect them, forcing them to rely on their own limited resources and still developing decision-making skills. Given the intersection of neuroscience, systemic racism, community disinvestment, and oppression, it is not surprising that, for some, a gun feels like their only accessible tool for safety. Traumatic experiences with formal social controls, such as police, often leave informal controls — like interpersonal violence — to fill the void.¹⁰ This exists in a broader societal context where violence is normalized, whether through war rhetoric or the dangerous belief that “the only thing that stops a bad guy with a gun is a good guy with a gun.”

THE INTERVENTION: A NEW MODEL IN PHILADELPHIA

The experiences of youth like Talia and Allen, the desire to end the practice of charging and sentencing young people in the adult criminal legal system, and the desire to counter the prevailing negative narrative about them led two of us¹¹ to co-found YSRP in 2014.

YSRP centers the humanity of Black and Brown children and seeks to mitigate the harm caused by racist and oppressive systems.¹² YSRP recognizes that young people’s desire for safety and belonging coexists with the pain they’ve experienced *and* the harm they’ve caused. We work to expand young people’s options for achieving these goals without violence. This approach acknowledges the responsibility of adults to ensure young people’s safe passage into adulthood. Failing to fulfill this responsibility not only harms young people but also perpetuates cycles of violence that endanger everyone. In addition, the approach is consistent with adolescent brain development science, which ►

the Supreme Court referenced and relied on in its seminal decisions on the topic of adolescent culpability.¹³ Due to the inherent nature of their rapidly developing brains, children have reduced culpability as well as tremendous capacity to grow and change. YSRP has partnered with private and government lawyers, as well as judges and other court-system actors, to use this additional information to reach outcomes that are individualized, informed, and benefit the young person and family at the center of the case, as well as the public at large.

Work with Juvenile Lifers

Initially, the impetus for founding YSRP was to advocate on behalf of “juvenile lifers,” born from our understanding of Philadelphia as “Ground Zero” for juvenile life without parole sentences, and our personal experiences litigating cases and organizing family members whose loved ones were serving the sentence in our home state.¹⁴ As of 2021, almost all juvenile lifers in Pennsylvania had been resentenced, leading YSRP to wind down our juvenile lifer litigation work. While YSRP continues to build deep partnership with former juvenile lifers who have returned to the community from prison through providing reentry support (led by former juvenile lifers on YSRP’s staff), youth currently facing charges in the adult criminal legal system now are the key focus of YSRP’s early-stage interventions.

YSRP’s interventions focus on providing resources and opportunities to meet young people’s needs for self-preservation in ways that promote individual and public safety. This includes comprehensive mitigation and holistic reentry advocacy and advice in “direct-file juvenile”¹⁵ cases in Philadelphia and, increasingly,

across Pennsylvania, as well as rights education initiatives. And it provides training and advice to judges, attorneys, and advocates alike.

Mitigation: YSRP works to minimize the harm caused in each individual case by partnering with young people to share with the court a more nuanced perspective about their life and experience (sentencing mitigation) and equip them to be strong advocates for themselves.

As close to the time of a young person’s arrest as possible, a member of YSRP’s mitigation team partners with youth to present the court with a story of their lives that is more nuanced than the charges they face, including who the youth is and what their goals for the future are. The “mitigation specialist” and the client-partner¹⁶ work collaboratively, culminating in a mitigation report that gets submitted to decision-makers in the case—usually prosecutors and judges. The mitigation specialist works with family members, friends, teachers, doctors, coaches, social workers, and anyone else who might help construct a nuanced and detailed picture of the youth’s life experience. The mitigation specialist also seeks out medical, educational and other records to inform both the mitigation report and also to begin constructing a reentry and/or community continuity plan that provides the prosecutor, probation officer, judge, and other court actors with an expansive and implementable set of options as they consider the case.

Working as part of the client-partner’s defense team, the mitigation specialist seeks outcomes that are responsive to the young person’s individual circumstances and, whenever possible, advocates for community-based alternatives to incarceration.

In this way, YSRP offers judges options that are in both the young person’s and the public’s interest.¹⁷

Holistic Reentry Advocacy: YSRP’s reentry staff provides integrated and holistic case management support for YSRP’s youth client-partners. Staff work in partnership with youth who have faced charges in the adult criminal justice system in Pennsylvania as they prepare to and then return to the community from detention or incarceration in adult and/or juvenile carceral settings.

Supporting reentry goals may include, but is not limited to: facilitating connections to community-based employment, education, housing, and health-care resources, and walking alongside the young person and/or members of their support network as they access these resources. YSRP’s reentry coordinators assist youth with meeting their essential needs such as securing state IDs, enrolling in school, and accessing stable housing emergency financial resources.

Rights Education: Many children incarcerated in adult facilities are subjected to solitary confinement, and their access to legal counsel is limited. YSRP teaches these young people about their rights and equips them with tools to ensure that they can meaningfully participate in their own defense. YSRP’s Know Your Rights Initiative, for example, provides essential legal education to young people incarcerated in one of Philadelphia’s adult jails.

Underlying YSRP’s mission, vision, and model is the idea that young people are problem solvers, not “problems to be solved.”¹⁸ Additionally, programs like the Intergenerational Healing Circle¹⁹ offer spaces for youth and former juvenile lifers to process trauma,

share their experiences, and find support within a community that sees and understands them.

Judicial Education: In addition to YSRP’s court-focused advocacy work on behalf of individual young people, which is directed largely at judges, YSRP also interacts with the judiciary through continuing legal education programs. Recognizing that “direct-file juvenile” cases are relatively uncommon and highly technical to preside over, YSRP has trained judges on updates to this area of law as well as developments in adolescent brain science and other related research.²⁰

These efforts are currently being expanded through a technical assistance project, focused on judicial education, training attorneys in mitigation and expanding knowledge about adolescent brain development and positive youth development principles. It builds on years of working with system actors to offer alternatives to incarceration that judges have reported having expanded their understanding of what was available in the community to benefit young people who have committed harm.

While many referrals for YSRP’s work come from family members, advocacy organizations and defense lawyers, prosecutors, and judges have asked us to work on cases, rec-

Judges interested in improving their own reentry processes can use organizations like YSRP to learn more about what exists in a community that offers safe, healthy, and effective support to young people, without requiring them to be incarcerated or carry the stigma and barriers that come with a criminal conviction.

ognizing that their decision-making will benefit from the kind of additional information that YSRP provides. Judges interested in improving their own reentry processes can use organizations like YSRP to learn more about what exists in a community that offers safe, healthy, and effective support to young people, without requiring them to be incarcerated or carry the stigma and barriers that come with a criminal conviction.

YSRP’s work underscores the principle that safety is interconnected. By broadening the means through which young people can access safety and reducing their reliance on harmful tools, YSRP not only supports

their individual growth but also fosters safer communities. Ultimately, the organization’s mission is a call to action for society to embrace its collective responsibility to protect, nurture, and uplift all young people.



LAUREN FINE

is the inaugural supervising attorney of Duke Law School’s Criminal Defense Clinic and an assistant clinical professor of law at Duke Law. She is the co-founder and immediate past co-director of the Youth Sentencing & Reentry Project (YSRP).



JOANNA VISSER ADJOIAN

is the chief of advocacy at GirlTrek, the co-founder and past co-director of the YSRP, and a former associate director of the Toll Public Interest Center.



BIANCA VAN HEYDOORN

is the executive director at YSRP. Under her leadership, YSRP has launched several pilot programs, including a speakers bureau, housing initiative, and technical assistance offerings.

¹ Consistent with recent guidance from the Associated Press on language, we do not use the term “juvenile” to describe a child, young person, or youth. See *New AP Stylebook Includes New Criminal Justice Chapter*, ASSOCIATED PRESS (May 29, 2024) <https://www.ap.org/media-center/press-releases/2024/new-ap-stylebook-includes-new-criminal-justice-chapter/#:~:text=Previous%20guidance%20advised%20avoiding%20the,for%20both%20victims%20and%20suspects> (adding a new entry for “juvenile, minor” and “noting the numerous problems with these terms, including racial connotations, inconsistent definitions and the dehumanizing effect for both victims and suspects.”). The words “juvenile” and “minor” are typically used in the context of a courtroom, which is often

a dehumanizing experience. The Youth Sentencing & Reentry Project (YSRP) aims to center the humanity of young people involved in the adult legal system, so we use terms like “child,” “young person,” “student,” “son,” or “daughter” — in recognition that young people are always more than the charges they face in court.

² In Pennsylvania, family court is governed by the Juvenile Act, 42 PA. CONS. STAT. §§ 6301–75 (1976) (as amended), which defines a “delinquent act.” 42 PA. CONS. STAT. § 6302 (2012).

³ This “certain conduct” includes the following first-degree felonies, if committed with a deadly weapon by a child between the ages of 15 and 17 years old: Rape; Involuntary Deviate Sexual Intercourse; Aggravated Assault; Robbery; Rob-

bery of a Motor Vehicle; Aggravated Indecent Assault; Kidnapping; Voluntary Manslaughter. 42 PA. CONS. STAT. § 6302 (2012). The so-called “direct file” statute also includes all attempt or conspiracy charges involving the prior listed offenses. *Id.* While a deadly weapon is required to have been present, by statute, the weapon does not have to be possessed or used by the youth charged. *Id.* The definition of deadly weapon can also be litigated: In addition to a firearm or knife, prosecutors have asserted that objects such as a shoe, a bedsheet, and a BB gun qualify as deadly weapons.

⁴ A child can also be subjected to automatic adult prosecution if they are over the age of 15, and they have a prior adjudication of delinquency for any of the following felonies: Rape; Invol-

untary Deviate Sexual Intercourse; Robbery; Robbery of a Motor Vehicle; Aggravated Indecent Assault; Kidnapping; Voluntary Manslaughter; Conspiracy or Attempt to commit any of the above. 42 PA. CONS. STAT. § 6302 (2012). And once a young person is convicted as an adult, they are always considered an adult — any subsequent arrests while they are under 18 will also lead to them being “direct filed,” even if those arrests are based on minor or unrelated charges. *Id.* This happens infrequently, since most youth who are convicted as an adult are facing lengthy prison sentences and do not get released prior to their 18th birthday.

- ⁵ *Miller v. Alabama*, 567 U.S. 460 (2012) (deeming unconstitutional the practice of mandatorily sentencing children to die in prison, or to life without the possibility of parole).
- ⁶ Names have been changed to protect the identities of the individuals referenced and/or quoted in this piece.
- ⁷ YSRP’s work with youth primarily focuses on the first type of “direct-file juvenile” cases. YSRP works on cases where a young person, under the age of 18 at the time of the alleged conduct, is charged in the adult criminal justice system, where the case proceeds as if they were an adult.
- ⁸ Virtually all of the youth charged as adults in Philadelphia are Black or Brown. For those facing the most extreme sentences, the disparity is stunning: “73 percent of those given life-without-parole sentences for crimes committed as children have been people of color, primarily Black and Latino children.” See DATA FOR PROGRESS, THE JUST. COLLABORATIVE INST. & FAIR AND JUST PROSECUTION, *A Majority of Voters Support an End to Extreme Sentences for Children* (July

2020), <https://www.fairandjustprosecution.org/staging/wp-content/uploads/2020/07/Juvenile-Life-Without-Parole-Polling-Report.pdf>.

- ⁹ Tarika Daftary-Kapur & Tina Zottoli, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, DEP’T JUST. STUD. FAC. SCHOLARSHIP AND CREATIVE WORKS, MONTCLAIR ST. U. (2020).
- ¹⁰ Gary Sweeten, Alex R. Piquero & Laurence Steinberg, *Age and the Explanation of Crime, Revisited*, 42 J. YOUTH AND ADOLESCENCE 921–38 (2013); Caitlin Cavanagh, *Healthy adolescent development and the juvenile justice system: Challenges and solutions*, 16 CHILD DEVELOPMENT PERSPECTIVES 141, 143 (2022).
- ¹¹ Lauren Fine and Joanna Visser Adjoian co-founded YSRP.
- ¹² See, e.g., *Additional Adult Prosecution Data Handout*, PA. JUV. JUST. TASK FORCE, THE PEW CHARTABLE TRS. (Sept. 30, 2020), <https://www.pacourts.us/Storage/media/pdfs/20210508/153952-file-10123.pdf> (providing data demonstrating the race disparity throughout the justice system).
- ¹³ See, e.g., *Miller*, 567 U.S. at 460; *Montgomery v. Louisiana*, 577 U.S. 190 (2016); *Graham v. Florida*, 560 U.S. 48 (2010).
- ¹⁴ Lauren and Joanna each litigated so-called “JL-WOP” cases as lawyers at Juvenile Law Center, and also did family organizing work with the Pennsylvania Coalition for the Fair Sentencing of Youth. The mitigation work described in this article is similar to the mitigation work and reentry planning we provided for dozens of juvenile lifers who were entitled to be resentenced pursuant to *Miller* and *Montgomery*. See Dana Cook, Lauren Fine & Joana Visser Adjoian, *Miller, Montgomery, and Mitigation: Incorporating Life History Investigations and Reentry Planning Into*

Effective Representation for “Juvenile Lifers,” THE CHAMPION 44 (Apr. 2017).

- ¹⁵ “Direct file” is the term ascribed to cases that are excepted from Pennsylvania’s Juvenile Act, which governs the juvenile court system. It refers to cases where a young person, under the age of 18 at the time of the alleged conduct, is charged in the adult criminal justice system, where the case proceeds as if they were an adult.
- ¹⁶ Where other approaches may stop at legal representation, YSRP views each young person as a whole, with their own strengths, dreams, and resilience. For us, “client-partner” is a term of respect, denoting partnership, not hierarchy. It is a form of resisting the dehumanizing ways our system treats children.
- ¹⁷ 42 PA. CONS. STAT. § 1523 (1995).
- ¹⁸ For YSRP, success is not defined by recidivism rates, which are negative and pathologizing; instead, success is when people have the ability to connect with opportunities in housing, education, employment, and healthcare. Success means that a young person’s agency to grow and learn is affirmed, and that they have the support and resources they need to stay out of the system and move forward with their life.
- ¹⁹ YSRP’s Intergenerational Healing Circle centers healing from trauma and builds power among young Black and Brown men and former juvenile lifers who share the experience of being prosecuted as adults when they were teenagers. See *Intergenerational Healing Circle*, YOUTH SENTENCING & REENTRY PROJECT, <https://www.ysrp.org/intergenerational-healing-circles> (last visited Jan. 27, 2024).

Lieff Cabraser Proudly Supports DUKE LAW JUDICATURE

Seeking justice for the injured, victims of fraud, whistleblowers, employees, and investors across the U.S. and globally for over 50 years.

SAN FRANCISCO
NEW YORK
NASHVILLE
MUNICH
lieffcabraser.com

**Lieff
Cabraser
Heimann &
Bernstein**
Attorneys at Law