THIS APPEAL INVOLVES A DELINQUENT MINOR PROCEEDING UNDER THE JUVENILE COURT ACT

No. 1-15-3047

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

IN THE INTEREST OF	)	Appeal from the Circuit Court of Cook County, Illinois
	)	
	)	14 JD 1155
ADAM C., a minor	)	
	)	Honorable
Respondent-Appellant.	)	Cynthia Ramirez,
	)	Judge Presiding

PROOF OF SERVICE

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The undersigned, being first duly sworn on oath, deposes and says that she personally delivered nine copies of the Brief and Argument and one volume of the common law record, one volume of exhibits, and one volume of the report of proceedings in the above-entitled cause to the Clerk of the above Court, served by mail three copies to the State's Attorney of Cook County and mailed one copy to the Defendant-Appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois on February 8, 2016.

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BRIEF AND ARGUMENT OF AMICI CURIAE CHILDREN & FAMILY JUSTICE CENTER, JUVENILE LAW CENTER ET AL., IN SUPPORT OF RESPONDENT-APPELLANT

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IDENTITY AND INTEREST OF AMICI CURIAE

Amici Curiae, Children & Family Justice Center, Juvenile Law Center, *et al*., work on behalf of children involved in the child welfare and juvenile and criminal justice systems. [1] *Amici* are advocates, researchers, and advisors who have a wealth of experience and expertise in litigating issues related to the application of the law to children in the juvenile and criminal justice systems. *Amici* understand that adolescent immaturity manifests itself in ways that implicate culpability, including diminished ability to assess risks, make good decisions, and control impulses. *Amici* also know that a core characteristic of adolescence is the capacity to change and mature and believe that the developmental differences between youth and adults warrant distinct treatment. *Amici* respectfully submit this brief in support of Respondent-Appellant's argument, and urge this Court to reverse the trial court's finding that Illinois' Sex Offender Registration and Community Notification Acts are constitutional and remand to remove A.C. from the registry.

[1] A full list of amici and statements of interest are attached at Appendix A-1.

SUMMARY OF ARGUMENT

Mandatory lifelong sex offender registration coupled with onerous reporting requirements and the constant risk of public disclosure not only violates state and federal constitutional provisions guaranteeing due process and proscribing cruel and unusual punishment, but also flies in the face of the protections afforded children since the United States Supreme Court's decision in *In re Gault*, 387 U.S. 1 (1967). With attention to the community's safety and the child's accountability, Illinois has consistently treated children differently from adults, stressed rehabilitation, and shielded them from adult consequences so that young offenders may develop competencies to become productive members of society. The juvenile court has long been a court of second chances. Lifetime registration as a sex offender thwarts that goal.

Scientific research confirms that children are different from adults. The law should consistently reflect these differences. Juvenile sex offenders are no different from other young offenders; this research informs *Amici*'s legal analysis. First, registration impedes a child's reputation rights protected by the Illinois Constitution and denies due process. The initial registration and onerous reporting requirements lead to broad disclosure of the child's status on the registry and communicate falsehoods about his future dangerousness. Second, because the registration obligation rests solely on the underlying adjudication of delinquency and is not preceded by any individual determination of either the need or effectiveness of registration, it does not provide adequate due process. Third, the lifetime registration requirement, which flows directly from the adjudication of guilt, is punitive and excessive in violation of the Illinois and United States constitutional bans on cruel and unusual punishment.

ARGUMENT

III. A.C.'s Registration Injures His Reputation Without Remedy Or Justice By Law.

A. Sex Offender Registration and Notification Deny A.C. His Constitutionally Protected Right to Reputation

For children, the right to reputation has a heightened importance. A child's character is not fully formed. Children are subject to an array of influences—sometimes negative—for which they do not yet have the tools or skills to escape from, and they generally bear less culpability than adults due to their age and circumstances. *Miller v. Alabama*, 132 S. Ct. 2455, 2464 (2012). However, sex offender registration and notification for children interfere with this rehabilitative and redemptive process by labeling youth as dangerous for life. As one court noted with respect to the consequences of lifetime registration:

> [O]ne of the most essential qualities of reputation is that it may be improved. This situation is even more significant for juveniles because their character is often not firmly set. Thus, a truly rehabilitated juvenile might eventually gain a good reputation to match a good character. However, under [the sex offender registration law], lifetime registration will hold the juvenile's reputation in stasis. The law will imbue the juvenile with the reputation of a sexual offender through formative stages of his life and continuing into old age. A juvenile who was adjudicated delinquent when he was fourteen will continue to be known as a sexual offender when he is seventy.

In re B.B. et al., CP-45-JV-248-2012, Jan. 16, 2014, (Pa. Ct. Comm. Pl. Monroe) (Op. J. Patti-Worthington) at 21. These consequences are even more pronounced when registration is combined with any form of public notification.

In Illinois, the right to reputation, along with life, liberty and property, is a right recognized and protected by the state Constitution: "Every person shall find a certain

remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly." Ill. Const. 1970, art. I, § 12. *See also Cavarretta v. Dep't of Children & Family Servs.*, 277 Ill. App. 3d 16, 24-25 (1996) ("The Illinois Constitution has a long history of providing protection for one's reputation"). Mirroring the United States Constitution, Illinois also has a constitutional provision guaranteeing due process: "No person shall be deprived of life, liberty or property without due process of law nor be denied the equal protection of the laws." Ill. Const. 1970, art I, §2.

This Court has found that injury to reputation, alone, is not enough to invoke the procedural protections of the due process clause. However, this Court has defined two areas where harm to reputation implicates a due process interest. First, when a respondent demonstrates the existence of "(1) the utterance of a statement about him or that is sufficiently derogatory to injure his or her reputation, that is capable of being proved false, and that he or she claims is false; and (2) some tangible and material state imposed burden or alteration of his or her status or of a right in addition to the stigmatizing statement." *In re J.R.*, 341 Ill. App. 3d 784, 799 (2003). Second, damage to reputation that is accompanied by the loss of present or future employment implicates due process. *Lyon v. Dep't of Children & Family Servs.*, 209 Ill. 2d 264, 273 (2004). In either of these circumstances, a person's reputation cannot be abridged by the government without compliance with state constitutional standards of due process.

In 2003, the Illinois Supreme Court held that due process is not implicated when children are forced to comply with sex offender registration. *See, e.g.*, *In re J.W.*, 204 Ill. 2d 50 (2003). However, this decision preceded a series of United States Supreme Court

decisions which require a fundamental change in how the law treats children in the justice system. *See Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *J.D.B. v. North Carolina*, 131 S. Ct. 2394 (2011); *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Montgomery v. Louisiana*, 577 U.S. __ , No. 14-280 (S.Ct. Jan. 25, 2016). These cases hold that children are fundamentally different from adults and cannot be subject to the harshest sentencing schemes[2]—capital punishment, life without parole for nonhomicide crimes, and mandatory life without parole—or same interrogation practices because "[a]s compared to adults, juveniles have a 'lack of maturity and an underdeveloped sense of responsibility'; they 'are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure'; and their characters are 'not as well formed.'" *Graham*, 560 U.S. at 68 (quoting *Roper*, 543 U.S. at 569-570). "These salient characteristics mean that '[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption.' Accordingly, 'juvenile offenders cannot with reliability be classified among the worst offenders.'" *Id.* (quoting *Roper*, 543 U.S. at 569, 573). *See also People v. Patterson*, 2014 IL 115102 (applying principles of *Roper*, *Graham*, and *Miller* to determine whether a youth's sentence was excessive); *People v. Willis*, 2013 IL App (1st) 110233

[2] *Roper* held that imposing the death penalty on juvenile offenders violates the Eighth Amendment, 543 U.S. at 578; *Graham v. Florida* held that life without parole sentences for juveniles convicted of nonhomicide offenses violate the Eighth Amendment, 560 U.S. 48, 82 (2011); J.D.B. held that age must be a factor in considerations of custody for purposes of *Miranda* interrogations, 131 S. Ct. 2394, 2397 (2011); *Miller* held that mandatory life without parole sentences imposed on juveniles convicted of homicide offenses violate the Eighth Amendment, 132 S. Ct. at 2469; and *Montgomery v. Louisiana* held that *Miller*'s ban on mandaatory life without parole sentences for juveniles applies retroactively, No. 14-280, slip op. at 16-17 (S. Ct. Jan. 25, 2016).

(incorporating the reason of *Roper*, *Graham and Miller* in assessing the constitutionality of a mandatory transfer provision). In accordance with the U.S. Supreme Court's evolving jurisprudence on youth in the justice system, this Court should reconsider the due process implications of imposing sex offender registration on children.

B. Sex Offender Registration and Notification Under SORA and SOCNL Communicate A Demonstrably False Message and Place Material Burdens On Children In Violation Of Due Process

1. Placement On A Sex Offender Registry Communicates the Message That Children Like A.C. Are Dangerous And Likely To Reoffend

Harm to reputation is not limited to the facts disclosed, but what the public may reasonably understand the communication to mean. For instance, "[a] statement is considered defamatory if it tends to cause such harm to the reputation of another that it lowers that person in the eyes of the community or deters third persons from associating with him." *May v. Myers*, 254 Ill. App. 3d 210, 213 (1993).

There is little dispute about what the term "sex offender" means, that it carries demonstrably false connotations, or that it causes irreparable harm to the reputations of those so labeled. David Van Beinna, *Burn thy Neighbor*, Time, July 26, 1993 ("Sex offenders are the 'irredeemable monsters' in modern society."). In *Cavarretta*, 277 Ill. App. 3d at 24-25, the appellate court found that even "the subject of an 'indicated' report in the State [child abuse] register" would "undoubtedly suffer great damage" to his reputation. If placement on a state registry of "suspected" child abusers would cause great reputational harm, even graver harm is caused by the much more public Sex Offender Registration Act ("SORA") and Sex Offender Community Notification Law ("SOCNL"). Indeed, in ruling Pennsylvania's juvenile sex offender registration provisions unconstitutional, the Pennsylvania Supreme Court recognized that the "common view of

registered sex offenders is that they are particularly dangerous and more likely to reoffend than other criminals," *In re J.B.*, 107 A.3d 1, 16 (Pa. 2014), a fact inconsistent with research. *See* Part I.B.2, *infra*. The presumption that registered sex offenders are dangerous is inherent in Illinois' law because the "manifest purpose" of the Act is to protect children from harm by requiring past offenders to register with the state and the underlying premise of the Act is that registered sex offenders, whether adult or juvenile, are at high risk of reoffending. *People v. Doll*, 371 Ill. App. 3d 1131, 1140 (2007); *see also People v. Grochocki*, 343 Ill.App.3d 664, 686 (2003) (McDade, J. dissenting) ("Implicit in the inclusion of an individual on the sex offender registration website is an understanding that the registrant presents a heightened threat to the community").

In addition, this message is communicated to the public and other individuals in a variety of ways. Although the law provides that A.C.'s registration information will not be public, 730 ILCS 152/115 (West 2014); 730 ILCS 150/3-5 (West 2014), non-public registration is a misnomer. Although children are not on the public sex offender Internet website, juvenile information will be released and accessible by the public. This information will, in turn, be disseminated more broadly. *See* Wayne A. Logan, KNOWLEDGE AS POWER: CRIMINAL REGISTRATION AND COMMUNITY NOTIFICATION LAWS IN AMERICA (2009) (noting that historically, no registry has ever been effectively kept private); *see generally, IL Juv. Collateral Consequences Checklist* at http://www.law.northwestern.edu/legalclinic/cfjc/documents/IllinoisCollateralConsequencesChecklist.pdf

Specifically, the SOCNL allows the state police to disclose the following information "to any person when that person's safety may be compromised for some

reason related to the juvenile sex offender,": the registrant's name, address, date of birth, offense, photograph, employment information, e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities, all Uniform Resource Locators (URLs) registered or used by the sex offender, and all blogs and other Internet sites maintained by the sex offender or to which the sex offender has uploaded any content or posted any messages or information. 730 ILCS 152/121 (West 2014). This broad exception leaves much to the state police's discretion. One could interpret the above "safety" language to mean that any individual with whom A.C. comes into contact will be notified of his registration status. The effect of the exception is likely to be uneven depending on the situation and the individual officers' assessments of the risk. Ostensibly private registry information has been commonly provided to members of the public by police. *See* Note, *Criminal Registration Ordinances: Police Control Over Potential Recidivists*, 103 U. PENN. L. REV. 60, 81 (1954). Furthermore, the registrant must independently register with the public safety or security director of the institution of higher education where he or she is employed or attends, as well as local law enforcement. 730 ILCS 150/3 (West 2014). According to the assistant dean at A.C.'s college, any potential roommates will be informed of A.C.'s status, and the entire residence hall will be informed of the presence of a sex offender. (C. 350-51). The University of Illinois advised A.C. that "juveniles are treated the same as adults" regarding registration polices on campus, including disclosing his name on the internet. (C. 350-51).

Dissemination does not end there. A child's status as a sex offender may also be released unintentionally; for instance, roommates, foster families or group home residents

may see the annual verification letters sent to A.C. Moreover, the SOCNL does not prohibit further dissemination of registry information; in fact, the law grants immunity from criminal or civil action to anyone who participates in "the secondary release of any of this information legally obtained in conjunction with procedures set forth in this Law." 730 ILCS 152/130 (West 2014). Therefore, individuals who lawfully obtain information about A.C.—including school officials, or a college roommate—may subsequently release it to others with impunity. As has happened nationally, members of the public may make fliers, post notices on social media websites and inform neighbors, employers, schools and anyone else. *See* Brent Champaco, *Sex Offenders in School: What Are the Rules?*, Tacoma News Tribune (Dec. 8, 2007), http://www.freerepublic.com/focus/f-news/1936763/posts. Once information is leaked to a for-profit website, such as mugshots.com, for example, it is extremely difficult to remove. *See, e.g.,* Allen Rostron, *The Mugshot Industry: Freedom of Speech, Rights of Publicity, and the Controversy Sparked by an Unusual New Type of Business*, 90 WASH. U. L. REV. 1321 (2013).

2. The Message Communicated About Children Like A.C. Is False Because Children Adjudicated of Sex Offenses Are Unlikely To Recidivate

Juveniles who commit sex offenses are unlikely to reoffend and have a greater capacity to mature and change. In 2014, the Illinois Juvenile Justice Commission released a report on juvenile sex offenders. One of the primary findings of this report was that juvenile sex offenders are unlikely to reoffend; this is true of youth nationwide. Illinois Juvenile Justice Commission, IMPROVING ILLINOIS RESPONSE TO SEXUAL OFFENSES COMMITTED BY YOUTH 23, 27 (2014) [hereinafter "IJJC Report"]. Indeed, research examining the recidivism rates of youth who sexually offend is remarkably

consistent across studies, across time, and across populations: sexual recidivism rates among youth are exceptionally low. Michael Caldwell, et al., *Study Characteristics & Recidivism Base Rates in Juvenile Sex Offender Recidivism*, 54 Int'l J. Offender Therapy & Comp. Criminology 197, 198 (2010) (citing to recidivism studies dating back to 1994) [hereinafter "Caldwell, *Recidivism Study 2010*"]. *See also* Michael Caldwell, *Sexual Offense Adjudication and Recidivism Among Juvenile Offenders*, 19 Sexual Abuse: J. Res. and Treatment, 107-113 (2007) [hereinafter "Caldwell, *Recidivism Study 2007*"], *available at* http://www.njjn.org/uploads/digital-library/resource_557.pdf; Michael Caldwell et. al., *An Examination of the Sex Offender Registration and Notification Act as Applied to Juveniles: Evaluating the Ability to Predict Sexual Recidivism*, 14 J. Psychol., Pub. Pol'y, & L. 89-114 (2008) *available at* http://www.ncjfcj.org/sites/default/files/examinationofthesexoffender.pdf; Michael Hagan, et al., *Eight-year Comparative Analyses of Adolescent Rapists, Adolescent Child Molesters, Other Adolescent Delinquents, and the General Population*, 43(3) Int'l J.Offender Therapy & Comp. Criminology 314 (2011); Franklin Zimring, et al., *Investigating the Continuity of Sex Offending: Evidence from the Second Philadelphia Birth Cohort*, 26 Justice Q., 59-76 (2009), *available at* http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1590&context=facpubs; Franklin Zimring, et al., *Sexual delinquency in Racine: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood?*, 6(3) Criminology & Pub. Pol'y 507 (2007) [hereinafter "Zimring, *Early Sex Offending and Later Sex Offending*']. As a group, juvenile sex offenders pose a relatively low risk of re-offending sexually, particularly as they age into young adulthood. Kristen M. Zgoba, et al., *A Multi-State Recidivism Study Using Static-99R & Static-2002 Risk Scores*

& Tier Guidelines from the Adam Walsh Act 24, 32 (2012), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/240099.pdf.

A meta-study of over 63 studies and over 11,200 children "found an average sexual recidivism rate of 7.09% over an average 5 year follow-up." Caldwell, *Recidivism Study 2010* at 197-98. When rare sexual recidivism events do occur, it is nearly always within the first few years following the original adjudication. *Id.* at 205. Even youth initially evaluated as 'high risk' are unlikely to reoffend, particularly if they remain free of offending within the relatively brief period of time following initial adjudication. Donna Vandiver, *A Prospective Analysis of Juvenile Male Sex Offenders: Characteristics and Recidivism Rates as Adults*. 21 J. Interpersonal Violence, 673 (2006).

The data in Illinois is consistent with the national findings. The IJJC Report found that children who sexually offend seldom repeat their harmful conduct (noting Caldwell, *Recidivism Study 2010*: 93% sexual nonrecidivism in studies of 11,219 youth) and that appropriate treatment significantly reduces sexual reoffending even further. IJJC Report at 23, 28-36. These rates are compared with a 13% recidivism rate for adults who commit sexual offenses. Human Rights Watch, *Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US,* May 2013, at 30 [hereinafter *Raised on the Registry*] (citing R. Karl Hanson and Monique T. Bussiere, *Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies*, 66 J. of Consulting & Clin. Psych. 348-62 (1998)).

Additionally, sexual recidivism cannot be predicted by offense. The extant research has not identified any stable, offense-based risk factors that reliably predict sexual recidivism in adolescents. Ashley Batastini, et al., *Federal Standards for*

Community Registration of Juvenile Sex Offenders: An Evaluation of Risk Prediction & Future Implications, 17 J. Psychol. Pub. Pol'y & Law 451, 457-58 (2011) (describing the heterogeneous behaviors of child sex offenders). In a study that compared the sexual recidivism rates of children assigned to three groups according to the severity of their offense, there was no significant difference in the recidivism rates of juvenile offenders in the three groups. Zimring, *Early Sex Offending and Later Sex Offending* at 507-34; *see also* Caldwell, *Recidivism Study 2007* at 107-113 (reporting no significant difference in the rate of adult sexual offense charges between 249 juvenile sex offenders and 1,780 non–sex-offending delinquents over a 5-year follow-up).

The recidivism rate is lower for children than for adults because children are different. Multiple studies have confirmed that children sexually offend for different reasons than adults. It is rare for juvenile sexual offenders' motivations to be as sexual or predatory in nature as that of adults. Children tend to offend based on impulsivity and sexual curiosity, among other reasons. Judith Becker & Scotia Hicks, *Juvenile Sexual Offenders: Characteristics, Interventions, & Policy Issues,* 989 Ann. NY Acad. Sci. 397, 399-400, 406 (2003); Caldwell, *Recidivism Study 2010* at 197-98. With maturation, a better understanding of sexuality, and decreased impulsivity, most of these behaviors stop and only a small fraction of juvenile offenders will maintain sexually deviant behavior in adulthood. Caldwell, *Recidivism Study 2010* at 205.

Because children who commit sexual offenses are in fact unlikely to recidivate, the "sex offender" label creates false public assumptions—that the child is incapable of rehabilitation, likely to recidivate, part of a homogeneous class, and a particular kind of criminal. *See* Marcus Galeste et al., *Sex Offender Myths in Print Media: Separating Fact*

from Fiction in U.S. Newspapers, 13(2) WESTERN CRIM. REV. 4 (2012) (finding "[a] strong association was found between sex offender registration and/or community notification laws and sex offender myths").

3. A.C. Is Not A Risk To The Community And Not Likely To Reoffend

A.C. is not a risk to the community and therefore should not be mandated to register under SORA. Illinois sets forth the following factors for a judge to consider if a petition is filed to determine whether a juvenile presents no risk to the community and should therefore be removed from the sex offender registration after a minimum period of five years: "(1) a risk assessment performed by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act; (2) the sex offender history of the adjudicated juvenile delinquent; (3) evidence of the adjudicated juvenile delinquent's rehabilitation; (4) the age of the adjudicated juvenile delinquent at the time of the offense; (5) information related to the adjudicated juvenile delinquent's mental, physical, educational, and social history; (6) victim impact statements; and (7) any other factors deemed relevant by the court." 730 ILCS 150/3-5.

All of the information in A.C.'s case demonstrates that A.C. is not a risk. A.C. has no sex offender history—this was his first and only offense. (C. 177). His potential for rehabilitation is indicated by his feelings of remorse, empathy for the victim, and recognition of his wrongdoing. (C. 96, 111). He was only sixteen years old at the time of the offense. (C. 175). His social history indicates good academic performance, a stable home life, a strong social life, and a positive future attending college. (C. 177-83). Finally, he received no scale elevations of the MMPI-A, no evidence of deviant sexual interest according to the DSM-5, and a low risk for recidivism rating on the J-SOAP 11.

(C. 106-11). The factors undeniably point to a finding that A.C. is not a risk to the community—and that therefore, the message about his dangerousness communicated by registration is provably false.

4. SORA and SOCNL Place Considerable Material Burdens on A.C.

SORA requires A.C. to annually register in person with the county chief of police. 730 ILCS 150/3 and 150/6 (West 2014). Each time, A.C. must provide a current photograph, current address, current place of employment, telephone number, his employer's telephone number, the name of the school he is attending, his e-mail addresses, instant messaging identities, chat room identities, other Internet communications identities he uses or *plans* to use sometime in the future, all Uniform Resource Locators (URLs) registered or used by him, all blogs and other Internet sites maintained by him or to which he has uploaded any content or posted any messages or information, and license plate numbers for every vehicle registered in his name. 730 ILCS 150/3.

A.C., and other registered children, must also register in person with the chief of police of any municipality where he is present for three or more days out of the year, of a municipality where he works or attends college, and with the public safety director of his college. If A.C. will be away from his home municipality for more than three days, he must provide the police with his travel itinerary. 730 ILCS 150/3. He must sign and return a verification letter mailed to his home address every three months. 730 ILCS 150/5-10 (West 2014). Any missed piece of information is a violation of these registration requirements and will be charged as a Class 3 felony. 730 ILCS 150/10 (West 2014).

Illinois' registration requirements would be difficult for mature, affluent and well-

educated registrants to meet. For children, this difficulty is magnified. Even young children are responsible for finding their own transportation to the registration site, and for collecting all the information that needs to be provided. There is no exception if the child attends school, works full time, or both. Furthermore, any travel out of state requires navigation of the complete and complex interstate registration requirements. Children on family vacations, school field trips, or college visits must determine where to register and report the travel itinerary to his home police. Over time, it is virtually certain that a child will fail to comply, and be subject to conviction for a Class 3 felony, which will remain permanently on his adult criminal record. 730 ILCS 150/10.

C. SORA and SOCNL Harm Children's Reputation And Cause Loss Of Future Employment And Other Opportunities In Violation Of Due Process

As discussed in Part I.B., *supra*, registration and notification communicate false messages about children that harm their reputations. This harm to reputation has serious practical consequences: the common "sex offender" myths and assumptions may directly affect a child's employment, education and housing, and may permanently mar his emotional well-being. The Ohio Supreme Court has described the enduring effect of registration on a child's reputation:

> For a juvenile offender, the stigma of the label of sex offender attaches at the start of his adult life and cannot be shaken. With no other offense is the juvenile's wrongdoing announced to the world. Before a juvenile can even begin his adult life, before he has a chance to live on his own, the world will know of his offense. He will never have a chance to establish a good character in the community. He will be hampered in his education, in his relationships, and in his work life. His potential will be squelched before it has a chance to show itself. A juvenile—one who remains under the authority of the juvenile court and has thus been adjudged redeemable—who is subject to sex-offender notification will have his entire life evaluated

> through the prism of his juvenile adjudication. It will be a constant cloud, a once-every-three-month reminder to himself and the world that he cannot escape the mistakes of his youth. A youth released at 18 would have to wait until age 43 at the earliest to gain a fresh start. While not a harsh penalty to a career criminal used to serving time in a penitentiary, a lifetime or even 25–year requirement of community notification means everything to a juvenile. It will define his adult life before it has a chance to truly begin.

In re C.P., 967 N.E.2d 729, 741-42 (Ohio 2012). The government's communications or "labeling of an individual with a badge of disgrace constitutes" harm to a person's reputation and is a deprivation of liberty. *Collins v. Wolfson*, 498 F.2d 1100, 1103 (5th Cir. 1974) (citing *Board of Regents v. Roth*, 408 U.S. 564, 577-578 (1972)). The 5th Circuit in *Collins* explains, "[i]n particular, charging an individual with dishonesty or immorality…or publicly branding him in essence as anti-socially enslaved to spirits …so infringes liberty interests of the individual as to require significant procedural protections." 498 F.2d at 1103 (internal citations omitted).

Under *Lyon*, due process interests are implicated when reputational stigma is accompanied by "loss of present or future employment" 209 Ill. 2d at 273. The *Lyon* Court found that due process was implicated when a teacher "may have difficulty finding other employment in the teaching profession" based on an indicated report of child abuse. *Id.* at 273. In *Lyon*, the plaintiff was placed on a central register of suspected child abusers based on a credible evidence standard. Although the plaintiff was able to keep his professional license, he lost two teaching jobs because of his presence on the central register. *Id.* As *Lyon*'s reasoning shows, it is not necessary that the person be subject to revocation of a professional license or even *definite* difficulty finding employment: "the substantial risk that a [person] will be barred from pursuing his or her chosen occupation"

based on the harm to reputation is sufficient to implicate due process. *Id.*

The most commonly reported consequence of sex offender registration is the inability to find employment. *Raised on the Registry* at 50. Nearly 90% of employers conduct background checks. Michelle Natividad Rodriguez and Maurice Emsellem, *65 Million "Need Not Apply": The Case for Reforming Criminal Background Checks for Employment*, The Nat'l Employment Law Center, 1 (March 2011). These checks reveal registration information. In recent studies, over 40% of employers reported that they would "definitely" or "probably" not hire an applicant with a criminal record for a job not requiring a college degree, Harry J. Holzer. et. al., *How Willing Are Employers to Hire Ex-Offenders*?, 23(2) Focus 40 (2002), *available online* at http://www.irp.wisc.edu/publications/focus/pdfs/foc232h.pdf, and researchers have found that employers are more than 50% less likely to make a callback or job offer to applicants with a criminal record; this effect is stronger for minority applicants than white applicants. Rodriguez, *65 Million "Need Not Apply"* at 1. For individuals with the added classification of "sex offender", these negative consequences are likely amplified. In addition, sex offenders are categorically barred from working in certain professions:

> Certain institutions, including public schools, child care centers, and nursing homes, are legally required to investigate and obtain criminal histories of all applicants for professional or certified licensed positions. State laws prohibit individuals on the sex offender registry from applying for licenses and certifications which require a criminal background check, thus precluding registrants from becoming nurses, doctors, lawyers, and emergency medical technicians such as paramedics. Some states implement blanket laws to prevent registered sex offenders from obtaining certain types of employment or volunteer positions. In addition to the obvious prohibitions, such as on working at a school or day care center, some states have sought to limit employment in other areas, such as operating

> an ice cream truck or a school bus; working at a carnival, circus, street fair, amusement park, or long-term care facility; or serving as an athletic coach, manager, or trainer.

Raised on the Registry at 50.

False assumptions about sex offender recidivism also harm a child's ability to obtain stable housing and schooling. Of the nearly 300 registered children whose cases were assessed in *Raised on the Registry*, almost half (132) indicated they had experienced at least one period of homelessness as a result of the restrictions caused by registration. *See Id.* at 65. Landlords may refuse to rent to a child if that landlord has been contacted by the sheriff to verify an address. Registrants cannot live in public housing, which may require parents to live separately from their child or move. 42 U.S.C.S. § 13663(a); 24 C.F.R. 960.204. Sex offender registration also inhibits a child's ability to succeed in school: many youth will be expelled or suspended based on their adjudication; students who do return may face harassment or even violence from fellow students who learn that the child is registered; and information about registration or the underlying adjudication may need to be provided to colleges upon application and must be shared with the school by law enforcement after admittance. *Raised on the Registry* at 71-72.

Registration leads to depression, hopelessness, and fear for one's safety. *Raised on the Registry* at 51. In extreme cases, sex offender registration has led children to suicide. *Id*. Many registrants experience vigilante activities such as property damage, harassment, and even physical assault. *Id.* at 56-57. Neurological studies have shown that adolescents are "especially vulnerable to the stigma and isolation that registration and notification create," and because youth who are labeled as "sex offenders" often experience rejection from peer groups and adults, they are less likely to attach to social

institutions like schools and churches. *Registering Harm: How Sex Offense Registries Fail Youth and Communities*, Justice Policy Institute, 24 (2008). This lack of attachment is detrimental to the child's rehabilitation and development. Uggen C. Kruttschnitt & K. Shelton, *Predictors of Desistance among Sex Offenders: The Interaction of Formal and Informal Social Controls,* 17 Justice Quarterly 61 (2000). Illinois' own Juvenile Justice Commission found that the stigma of a sex offender status interferes with the treatment of both the offender and the victim. IJJC Report at 49.

D. SORA and SOCNL Deny A.C. Due Process Because They Do Not Provide An Adequate Remedy or Justice by Law

1. Registration Based On Adjudication Alone Does Not Provide Adequate Notice Or A Meaningful Opportunity To Be Heard

Both the Supreme Court of the United States and Illinois courts recognize that "[w]here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential." *Bromberg v. Whitler*, 57 Ill. App. 3d 152, 156 (1977) (quoting *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971). The registration and notification provisions here provide neither.

Notice is a basic axiom of due process that applies with special force to minors in civil proceedings. *In re Gault*, 387 U.S. at 31. Due process also requires the opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Based on his offense, A.C. is automatically subject to mandatory registration and notification requirements for his entire life, with the possibility of that

time being reduced after five years.[3] Although Illinois law provides that juvenile offenders are "notified" of their registration requirements, this "notice" is meaningless because A.C. has no opportunity to be heard as to these requirements.

The "right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society." *Joint Anti-Fascist Comm. v. McGrath*, 341 U.S. 123, 168, (1951) (Frankfurter, J., concurring). The right to be heard must be in a manner appropriate to the nature of the case. *Bell v. Burson*, 402 U.S. 535, 541-42 (1971). "Plaintiffs who assert a right to a hearing under the Due Process Clause 'must [first] show that the facts they seek to establish in that hearing are relevant under the statutory scheme.'" *In re J.R.*, 341 Ill. App. 3d 784, 797 (2003) (quoting *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1, 8 (2003)).

In this case, neither SORA nor SOCNL provides a child the opportunity to have his sex offender status reviewed until five years have passed, during which time the child will have already been on a statewide registry and reported his status to every school he

[3] In striking down a similar juvenile registration requirement, the Pennsylvania Supreme Court found that mandatory registration based solely on an adjudication and without determination of the child's likelihood of re-offense or assessment of future dangerousness was in violation of due process. The court evaluated the registration scheme under the irrebuttable presumption doctrine, which is invoked upon the deprivation of a constitutionally protected right if the presumption of the existence of one fact is statutorily conclusive of the truth of another fact. "[A]bsent a meaningful opportunity to contest the validity of the second fact, the statutory irrebuttable presumptions deprives the citizenry of due process of law." *In re J.B.*, 107 A.3d at 14. The court held that the "registration requirements improperly brand all juvenile offenders' reputations with an indelible mark of a dangerous recidivist, even though the irrebuttable presumption linking adjudication of specified offenses with a high likelihood of recidivating is not 'universally true.'" *Id.* at 19.

attends or jurisdiction he enters for more than three days. *See* 730 ILCS 150/3; 730 ILCS 152/115. The adjudicatory hearing, which is where the registration requirement is imposed, is not a substitute for a risk-assessment and does not provide a juvenile with an opportunity to contest whether registration or public notification is required. Furthermore, an adjudicatory hearing does not encompass the full panoply of criminal protections. The hearings are conducted in an informal but orderly manner and children are not accorded equivalent procedural protections as their adult counterparts in criminal court.

2. SORA and SOCNL Deny Procedural Due Process Under The *Mathews v. Eldridge* Test.

Whether the lack of notice and opportunity to be heard renders a law constitutionally deficient requires an analysis of the governmental and private interests affected. *Eldridge*, 424 U.S. at 319. *See also Arnett v. Kennedy*, 416 U.S. 134, 167-168 (1974); *Goldberg v. Kelly*, 397 U.S. 254, 263-266 (1970). A court must consider three distinct factors: the private interest that will be affected by the official action; the government's interest, "including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail" and the risk of an erroneous deprivation of the liberty interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards. *Lyon*, 209 Ill.2d at 277 (quoting *Eldridge*, 424 U.S. at 335).

In the instant case, the private interest is the right to reputation. *See* Part I.A, *supra*. The government interest is public safety. *People v. Doll*, 371 Ill. App. 3d 1131, 1140 (2007). As to the third criterion, the risk of an erroneous deprivation of the liberty interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, the balance favors A.C.

Extensive scientific research and the holdings of the U.S. Supreme Court demonstrate that the overwhelming majority of registrants will never re-offend; therefore, the deprivation of their right to reputation is erroneous. *See* Part I.A and B. The Illinois Juvenile Justice Commission has concluded that "Illinois' current practice of requiring youth to register as sex offenders and imposing collateral restrictions without regard to risk does not enhance public safety." IJJC Report at 38. At the same time, Illinois has instituted procedural safeguards that essentially concede both that not all juvenile registrants are in fact dangerous and that the costs of an individualized process would not be prohibitive: after five years, juveniles adjudicated of delinquency may petition to be removed from the registry and have the opportunity to present evidence that they do not "pose a risk to the community." 730 ILCS 150/3-5. If the court finds that the registrant poses no risk to the community by a preponderance of the evidence, he will be released from registration requirements. However, Illinois only allows access to these safeguards after five years of irreparable harm to reputation has already occurred. There is no justification for the delay. By refusing children the opportunity to make this showing at the outset through notice and hearing, Illinois denies A.C., and other registered youth due process of law.

Moreover, all of the individualized evidence demonstrating that A.C. is not a risk to the community cannot even be presented for at least five years. He must endure a minimum of five years of damage to his reputation, in addition to the onerous physical and financial burdens of registration, merely because Illinois automatically places juveniles on the sex offender registry rather than providing the constitutionally required notice and hearing.

IV. Mandatory Lifetime Registration Applied To Children Violates Both The Illinois And United States Constitutional Bans On The Infliction Of Cruel And Unusual Punishment.

It is punishment to brand a young child a registered "sex offender" for the rest of his or her life. Illinois law mandates registration of any child adjudicated delinquent for a sex offense, no matter how young.[4] 730 ILCS 150/2(A)(5) (West 2014); *see also* IJJC Report at 7 (finding that half of youth arrested for sex offenses are 14 years old or younger). Such punishment is disproportionate when indiscriminately imposed on children. Children are less mature, are more vulnerable to negative influences, lack control over their surroundings, and will mature and reform over time. *Montgomery v. Louisiana*, 577 U.S. __ , No. 14-280 (S.Ct. Jan. 25, 2016) (slip op. at 15-16); *Miller v. Alabama*, 132 S.Ct. 2455, 2464-69 (2012); *Roper v. Simmons*, 543 U.S. 551, 569-70 (2005). As applied to children adjudicated in juvenile court, SORA and SOCNL violate the Eighth and Fourteenth Amendments of the United States Constitution and Article I, Section 11 of the Illinois Constitution. U.S. Const. Amend. VIII, XIV; Ill. Const. 1970, art. I, § 11.

Three distinct yet interrelated concepts should guide this Court in its resolution of this case: the Eighth Amendment of the U.S. Constitution, Illinois' Proportionate Penalties Clause and our fundamental system of common law. What unifies these three ideas is their collective mutability. The Eighth Amendment's protection against cruel and unusual punishment is not a concept fixed at the time of ratification; the Court must look beyond history to "the evolving standards of decency that mark the progress of a

[4] Illinois does not have a minimum age for instituting juvenile court proceedings against a child. 705 ILCS 405/5-120 (West 2014); 730 ILCS 150/2(A)(5). Currently, the youngest registrant at the time of offense was 9 years old.

maturing society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958). A statute is unconstitutionally disproportionate under the Illinois Constitution if the punishment is cruel, degrading, or so wholly disproportionate to the offense as to shock the moral sense of the community. *People v. Sharpe*, 216 Ill.2d 481, 487 (2005). The Illinois Supreme Court has "never defined" the reach of this concept, "because, as our society evolves, so too do our concepts of elemental decency and fairness which shape the 'moral sense' of the community." *People v. Miller*, 202 Ill.2d 328, 339 (2002). The Illinois Supreme Court has defined our "common law [as] a system of elementary rules and of general judicial declarations of principles, which are continually expanding with the progress of society." *Kreitz v. Behrensmeyer*, 149 Ill. 496, 502 (1894). It is through this lens that this Court must consider this case. The U.S. Supreme Court has repeatedly warned that criminal laws that fail to take youth into account are flawed. *Graham,* 560 U.S. at 76; *Miller*, 132 S.Ct. at 2464. These cases require that the differences between children and adults—established by common sense, social science, and neuroscience—must be accounted for in the definition or application of legal standards. Subjecting A.C. to a mandatory lifetime registration without any determination of its appropriateness, flies in the face of the high court's precedent and cannot stand.

A. Juvenile Lifetime Sex Offender Registration Is Punishment

Although the Illinois Supreme Court has held that SORA's requirements do not constitute punishment and that the Act is a regulatory statute intended to foster public safety, *People ex rel. Birkett v. Konetski*, 233 Ill. 2d 185, 203 (2009); *In re J.W.,* 204 Ill.2d 50, 74-75 (2003); *People v. Malchow,* 193 Ill.2d 413, 424 (2000); *People v. Adams,* 144 Ill.2d 381, 386-90 (1991), SORA can no longer be couched in the legal fiction of

remedial or administrative aims. Its mandatory nature, nearly insurmountable registration obligations, threat of incarceration, and accompanying harms all lead to the conclusion that the law is punitive. *See* Part II.C.2, *infra*. This Court should recognize, as other states have, that sex offender registration as applied to children is punishment. *See, e.g., Starkey v. Okla. Dep't of Corr.*, 305 P.3d 1004 (Okla. 2013); *Doe v. Dep't of Pub. Safety & Corr. Servs.*, 62 A.3d 123, 143 (Md. 2013); *In re C.P.*, 967 N.E.2d 729 (Ohio 2012).

Notwithstanding the Illinois Supreme Court's prior determinations that SORA's legislative intent is non-punitive, *Adams*, 144 Ill.2d at 388, courts cannot continue to ignore the impact of such measures. *Smith v. Doe*, 538 U.S. 84, 92 (2003). Illinois courts employ the *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 (1963), analysis to determine whether an act is so punitive that it negates the legislative intent. *See Malchow*, 193 Ill.2d at 421 (citing *Mendoza-Martinez*, 372 U.S. at 168-69). The analysis requires consideration of seven factors including whether: (1) the "sanction" involves an affirmative disability or restraint; (2) the sanction has been historically regarded as punishment; (3) the sanction comes into play only on a finding of scienter; (4) operation of the sanction will promote retribution and deterrence; (5) the behavior to which the sanction applies is already a crime; (6) an alternative purpose to which the sanction may rationally be connected is assignable for it; and (7) the sanction appears excessive in relation to the alternative purpose assigned). *Id*. Illinois courts have never considered these factors in prior determinations of SORA's punitive nature. Evaluating these seven factors leads to the invariable conclusion that Illinois' SORA scheme is punitive.

1. SORA Imposes An Affirmative Disability Or Restraint On Juvenile Registrants

SORA's registration and in-person reporting requirements are onerous and

impose significant direct and indirect disabilities on youth like A.C. 730 ILCS 150/3 (West 2014); *compare Smith*, 538 U.S. at 100-01 (upholding Alaska adult sex offender statute as nonpunitive, in part, because it did not require in-person reporting). SORA's annual in-person reporting requirements and the additional in-person reporting requirements to add, remove, or update registration information within three days of a triggering event are a major direct disability upon children. 730 ILCS 150/3; *see also* 730 ILCS 150/6 (West 2014) (mandating more restrictive quarterly requirements for sexually dangerous persons, sexually violent person, or persons convicted of a failure to register, which may include children). Such restraints are an added difficulty for young children who must attend school, may not have money, may not drive or are not old enough to drive, may not have a job, and may not even be free to leave home or school to comply with registration requirements without the permission or assistance of a parent, guardian, or school administrator.

Moreover, a child's registration information will change frequently, often for reasons outside of his control. For example, children in substitute care will have new reporting obligations with each move to a new placement or foster home. 730 ILCS 150/6. Children who attend school or work will, of necessity, continuously add internet identities as they apply to college, seek financial aid, conduct job searches, use public libraries, and maintain social and professional networks. 730 ILCS 150/3 (mandating a duty to register all "all e-mail addresses, instant messaging identities, chat room identities, and other Internet communications identities that the sex offender uses or plans to use, all Uniform Resource Locators (URLs) registered or used by the sex offender, all blogs and other Internet sites maintained by the sex offender or to which the sex offender

has uploaded any content or posted any messages or information"). Each time, the child must appear in person to the local police and change his registration information within 72 hours. *Id.*

SORA also imposes an affirmative disability because it requires children to disclose massive amounts of personal, non-public information, including, *inter alia*, vehicle information, every email address, Internet name and internet identity (*e.g.*, Facebook, Twitter, Instagram, Snapchat). 730 ILCS 150/3. The disclosure of Internet identifiers alone imposes an affirmative disability on the right to anonymous free speech. U.S. Const. Amend. I; *Reno v. American Civil Liberties Union*, 521 U.S. 844, 870 (1997).

SORA also has a major impact on a child's ability to travel, no matter how briefly. 730 ILCS 150/3 (mandating when temporarily absent for three or more days from a registered address, must notify all agencies and provide a travel itinerary). In this way, SORA limits where a child may live, vacation, visit relatives, travel for work, or attend school. *Id*. SORA's impact on inter-state travel (if one even risks doing so) is anything but minor. *Id*.

The Illinois Juvenile Justice Commission determined that Illinois law and practice concerning registration requirements and collateral consequences arising out of adjudications are "baffling or even contradictory" and difficult or impossible for youth to navigate without legal assistance, which the state does not provide. IJJC Report at 45-48 ("Youth are routinely told that they must comply with all of the statutory, regulatory, and administrative restrictions and requirements of an adult sex offender, regardless of whether each restriction is clinically recommended or statutorily required"); Appendices J-K at 128-150.

Furthermore, SORA imposes indirect disabilities by branding children as dangerous. *See* Part I.B.1, *supra*. Children required to register will suffer psychological symptoms such as shame, embarrassment, depression or hopelessness, and may become the target of harassment and violence. *Raised on Registry* at 51-56; *see also Doe*, 62 A.3d at 142 (77% of registrants reported "threats/harassment"). Studies have shown that false assumptions about the re-offense rates of juvenile sex offenders harm a child's ability to obtain stable housing, employment and schooling. *Raised on Registry* at 64-75. Children subject to registration continuously report that finding or keeping employment is one of the most constant challenges relating to registration. *Id.* at 73; Part I.C, *supra*. The IJJC Report includes a 20-page list of the collateral consequences to sex offender registration, which details all the restrictions registered offenders face in Illinois as a result of their registration under the categories of housing, entitlements, employment, education, military, professions that may or must refuse licensure, disconnects, conflation of adults and juveniles, confidentiality, effects of failure to register, and treatment disruption. *See* IJJC Report at 45, 128-147.

In their totality, SORA's damaging and punitive effects on children and their families are extraordinary and weigh in favor of a finding that SORA is punitive.

2. SORA and SOCNL Are Similar To Traditional Forms Of Punishment.

SORA and notification under SOCNL are similar to traditional forms of punishment—probation and shaming. Procedurally, probation conditions are imposed by the court at the time of disposition. 705 ILCS 405/5-705, 710, and 715 (West 2014). Under SORA, the judge informs the child and registration commences at the time of the disposition. 730 ILCS 150/3-5(a) and (b) (West 2014). Once initiated, the reporting

requirements for both are similar. SORA and probation both assume that individuals require frequent supervision. 705 ILCS 405/5-715(2)(b); 730 ILCS 150/3. Courts may impose "reporting" probation, which requires in-person reporting at designated intervals. 705 ILCS 405/5-715(2). As set forth above, SORA imposes frequent and extreme reporting requirements with the state police. 730 ILCS 150/3 and 150/6.

Probation and SORA also share the threat of incarceration for noncompliance. 705 ILCS 405/5-720 (West 2014); 730 ILCS 150/3 and 150/10; Part II.C.2, *infra*.

Maryland's Supreme Court recently declared:

> [SORA's] restrictions and obligations have the same practical effect as placing Petitioner on probation or parole. *See Doe v. State*, 189 P.3d 999, 1012 (Alaska 2008); *Wallace*, 905 N.E.2d at 380-81. As a result of Petitioner's conviction; he was required to register with the State, and he must now regularly report in person to the State and abide by conditions established by the State or he faces re-incarceration. This is the same circumstance a person faces when on probation or parole; as the result of a criminal conviction, he or she must report to the State and must abide by conditions and restrictions not imposed upon the ordinary citizen, or face incarceration.

Doe v. Dep't of Pub. Safety & Corr. Servs., 62 A.3d at 139. *See also Doe v. Nebraska*, 898 F. Supp. 2d 1086, 1126-27 (D. Neb. 2012); *Doe v. State*, 189 P.3d at 1009, 1012; *Wallace v. State*, 905 N.E.2d 371, 380 (Ind. 2009); see also *Smith*, 538 U.S. at 115 (Ginsburg, J., dissenting); *Smith*, 538 U.S. at 111 (Stevens, J., dissenting).

SORA, and the attendant notifications required under SOCNL, are also similar to the historical punishment of shaming, especially when applied to children. *See, e.g.*, *Doe*, 62 A.3d at 140-41; *Wallace*, 905 N.E.2d at 380. Branding a child a "sex offender" perpetuates the inaccurate message that all registrants are dangerous and the individual has no forum in which to dispute this stigma. *See* Parts I.B.1 and I.D.2, *supra*. SORA

does not merely disseminate information about an adjudication of delinquency; it sends a false and permanent message that amounts to shaming. The Maine Supreme Court has reasoned that "'to conclude that registries only contain 'accurate information' is to thus misstate the government's action; a wholly stigmatizing and unwelcome public status is being communicated, not mere neutral government-held information.'" *State v. Letalien*, 985 A.2d 4, 23 n.14 (Me. 2009) (quoting Wayne A. Logan, *Knowledge as Power: Criminal Registration and Community Notification Laws in America* 138 (2009)).

3. SORA's Purpose and Automatic Trigger Upon Conviction Satisfies Scienter

The SORA scheme does not specifically require a finding of *scienter*. Rather, its effects are triggered by conviction of a sex offense. In similar circumstances, the Indiana Supreme Court found that this militated in favor of a finding that the Indiana SORA was punitive under the third *Mendoza-Martinez* factor. *Gonzalez v. State*, 980 N.E.2d 312, 318 (Ind. 2013). Conversely, the Supreme Judicial Court of Maine found that these circumstances warranted a finding that Maine's SORA was not punitive. *Letalien*, 985 A.2d at 21. Both the Alaska and Oklahoma Supreme Courts opined that the fact that most triggering offenses had a *scienter* requirement weakly favored a punitive effect, but that little weight should be given to this factor where some of the triggering offenses did not require *scienter*. *Doe*, 189 P.3d at 1012-1013; *Starkey*, 305 P.3d at 1026. Similarly, the U.S. Supreme Court dismissed this factor as having little weight in this analysis. *Smith*, 538 U.S. at 105. Whether registration requires *scienter* or not, this factor is of negligible impact where other factors, such as the imposition of affirmative disabilities and restraints, logically warrant greater weight in the calculus.

4. SORA Promotes The Traditional Aims Of Punishment

The traditional aims of punishment include retribution, deterrence, incapacitation, and rehabilitation. *Ewing v. California*, 538 U.S. 11, 25 (2003). SORA endeavors to promote retribution and deterrence. A retributive purpose is one that "affix[es] culpability for prior criminal conduct." *Kansas v. Hendricks*, 521 U.S. 346, 347 (1997). SORA punishes children by exacting retribution for past crimes. *See Mendoza-Martinez*, 372 U.S. at 168. SORA punishes children for their adjudication, regardless of the facts of the underlying offense or their risk of re-offense. "[W]hen a restriction is imposed equally on all offenders, with no consideration given to how dangerous any particular registrant may be to public safety, that restriction begins to look far more like retribution for past offenses than a regulation intended to prevent future ones." *Starkey*, 305 P.3d at 1027 (internal citation omitted).[5]

Following an adjudication or conviction, juvenile and adult sex offenders in Illinois are automatically required to register without regard to whether the individual poses any future risk to the community. 730 ILCS 150/2. Currently, Illinois adopts a "compulsory approach" to sex offender registration and community notification, which requires offenders who satisfy statutory, offense-related criteria are subject to registration and notification. *Id*. Offenders have no right to a hearing. 730 ILCS 150/2; 730 ILCS 150/3-5. *See also* Wayne A. Logan, *Liberty Interests in the Preventive State: Procedural*

[5] SORA's retributive purpose is particularly troubling when juxtaposed against the IJJC's clear findings that when restrictions and other collateral consequences are applied without an individualized assessment of risk (and in some cases in direct tension with treatment need), they may impede treatment progress and unduly restrict activities that are critical to healthy adolescent development and long-term successful rehabilitation. IJJC at 45.

Due Process and Sex Offender Community Notification Laws, 89 J. CRIM. L. & CRIMINOLOGY 1167, 1175 (1999). The scope of the Illinois statute is such that once adjudicated delinquent, the child may not demonstrate that he poses no threat of future criminal conduct or that he poses no risk to the community. *Doe v. Otte*, 259 F.3d 979, 994 (9th Cir. 2001); *see also Letalien,* 985 A.2d at 21-22 (quoting *Smith*, 538 U.S. at 109 (Souter, J., concurring)) ("'The fact that the [a]ct uses past crime as the touchstone, probably sweeping in a significant number of people who pose no real threat to the community . . . [creates] room for serious argument that the ulterior purpose is to revisit past crimes, not prevent future ones'"). As written, SORA as applied to children is retributive and therefore constitutes punishment.

SORA aims to deter sexual recidivism by mandating registrants to frequently update personal information with law enforcement and their schools. Registrants are thus aware that the police and others are maintaining a watchful eye on their every move. 730 ILCS 150/3 and 150/6. SORA is an ineffective deterrent for children. *See* Part II.A.6, *infra*; IJJC Report at 59-60. But whether SORA works as a deterrent is irrelevant to its intended aim, which is to deter re-offense. As such, SORA intends to promote a traditional aim of punishment and is punitive.

5. The Behavior To Which SORA Applies Is Already A Crime

SORA applies only upon adjudication for a predicate crime. 730 ILCS 150/2, 730 ILCS 150/3-5. It applies even if a child poses little or no risk and does not "arise based on an individualized determination of an offender's risk of recidivism." *Starkey*, 305 P.3d at 1028.

6. SORA Is Not Rationally Related To A Non-Punitive Purpose

As applied to children, SORA is not rationally-related to its purported non-punitive purpose, public safety. It is undisputed that children have a low rate of recidivism, despite public perception. Part I.B.2, *supra*. Because child registrants are already highly unlikely to reoffend, SORA does not enhance public safety or prevent reoffending. IJJC Report at 59. Lifetime sex offender registration for children can actually negatively impact public safety. *Registering Harm: How Sex Offense Registries Fail Youth and Communities* at 4, Justice Policy Institute, available at http://www.justicepolicy.org/uploads/justicepolicy/documents/walsh_act.pdf. Registering children who pose little risk of re-offense diverts resources from high-risk offenders. *Id*. Further, the mere existence of the registry may also produce an illusion of security. *Id*. at 29. *See* Brief of the Cleveland Rape Crisis Center and Texas Association Against Sexual Assault as *Amicus Curiae* in Support of Appellant, *State v. Williams* at 3, available at http://www.sconet.state.oh.us/pdf_viewer/pdf_viewer.aspx?pdf=673991.pdf ("laws that notify or register people based on the crimes they commit miss the heart of the problem of sex-based crimes: protecting potential child victims from attackers they know"). It is not strangers who pose a threat, but rather family members or acquaintances who commit the overwhelming majority of offenses. IJJC Report at 22.

7. SORA As Applied To Children Is Excessive

SORA is significantly over-inclusive as applied to children and teenagers. IJJC Report at 17-18. SORA casts a global net. Almost none of the children to whom it applies will ever commit another sexual offense in their lifetime. *Id*. at 6. SORA sweeps up children who engaged in a broad array of behavior. *Id*. at 18; 730 ILCS 150/2. This could

include sex between two unrelated 16-year olds living under the same roof (whose mothers are pooling resources and have lived together for more than 6 months) or "consensual" fondling between two physically handicapped teenagers. All of these children will be required to register as sex offenders for the rest of their lives. While there is a provision for removal after five years, this promise is largely illusory. *See* Part II.C.3, *infra*.

Furthermore, any failure to comply with registration requirements will result in new criminal charges and a felony conviction on the child's adult criminal record for life. 730 ILCS 150/10; 20 ILCS 2630/5.2 (West 2014). *See also* Part II.C.2, *infra*. Upon entering another state, the child must comply with the requirements of the federal government and each of the 50 states or face federal criminal charges for failure to register." 42 U.S.C. §16911(8); 18 U.S.C. §2250; 730 ILCS 150/3. The penalty for even a minor misstep is a Class 3 felony punishable by two to five years imprisonment, a ten year extension of registration, and a mandatory minimum fine of $500. Part II.C.2, *infra*.

SORA is excessive because it inflicts severe psychological harm, erects barriers to stable housing, employment and school, and places limitations on one's ability to travel. *See* Part II.B.4, *supra*. For all of the above reasons, SORA is excessive and overwhelmingly punitive under the applicable *Mendoza-Martinez* test. Its application in practice is clearly punishment.

B. Lifetime Sex Offender Registration Is An Unconstitutional And Disproportionate Punishment For Children.

The Eighth Amendment's prohibition against cruel and unusual punishments "'guarantees individuals the right not to be subjected to excessive sanctions.'" *Miller,* 132 S.Ct. at 2463 (quoting *Roper*, 543 U.S. at 560). "The right flows from the basic 'precept

of justice that punishment for crime should be graduated and proportionated to [the] offense.'" *Roper,* 543 U.S. at 560 (quoting *Weems v. United States*, 217 U.S. 349, 367 (1910)). Proportionality review must take into account that "children are constitutionally different from adults for purposes of sentencing." *Montgomery*, (slip op. at 15); *Miller*, 132 S.Ct. at 2464. "The Eighth Amendment demands more than that a challenged punishment be acceptable to contemporary society." *Gregg v. Georgia*, 428 U.S. 153, 182 (1976). In considering whether a challenged punishment is cruel and unusual in violation of the Eighth Amendment, courts are required to "ask whether it comports with the basic concept of human dignity at the core of the Amendment." *Gregg*, 428 U.S. at 182. When this question is asked about application of Illinois' SORA and SOCNL to children, the answer is a resounding "no."

In *Roper*, *Graham*, *J.D.B., Miller*, and *Montgomery*, the United States Supreme Court recast the fundamental legal principles governing children in the justice system. *See Roper*, 543 U.S. at 567; *Graham*, 560 U.S. at 76; *J.D.B*., 131 S. Ct. at 2397; *Miller*, 132 S. Ct. at 2464-65; *Montgomery*, (slip op. at 16-17). With unfailing consistency, these cases speak to the progress of our maturing society and dictate that we give extra scrutiny to the imposition of mandatory lifetime penalties on children.

Even prior to the Supreme Court's recent jurisprudence concerning children, Illinois courts recognized the special place that children occupy in the law. As home to the first juvenile court in the country, established in 1899, this state has been a leader in treating children who are in conflict with its laws differently from adults. *See In re Armour*, 15 Ill. App. 3d 529, 534-35 (1973). While the juvenile court system has recently added goals of ensuring public safety and holding the minor accountable, it has also

retained its focus on rehabilitation. *In re Jonathon C.B.*, 2011 IL 107750, ¶108 ("While recognizing that the [1999] amendments to the [Juvenile Court] Act included concerns of protecting the public and holding juvenile offenders accountable for violations in the law, this court has repeatedly reaffirmed that 'rehabilitation of the minor remains one of the chief goals of the Act'") (quoting *People ex rel. Devine v. Stralka*, 226 Ill. 2d 445, 457 (2007)).

Given the Supreme Court's requirement for youth-specific individualized consideration in its recent cases, such consideration should apply with equal force to the registration requirements imposed upon children. In fact, the IJJC Report found that while individualized restrictions and support mechanisms that account for the youth's specific needs and strengths may promote rehabilitation, "treating youth like adults and categorically applying registries and other barriers to stable housing, education, family relationships, and employment *does not* promote public safety." IJJC Report at 50 (emphasis added). In calling for an end to placing juvenile offenders on the sex offender registry, the Commission concluded that these strategies are much more likely to undermine rehabilitation and community safety. *Id*. at 50, 59-60. In developing its recommendation, the Commission recognized that "Illinois registration and community notification laws impose mandatory, categorical collateral consequences on youth behavior." *Id*. at 39.

The IJJC Report recognized that "categorical responses misjudge public safety risks and undermine the goals of juvenile court." *Id*. at 38. The Commission discovered that due to the lengthy registration periods, Illinois' juvenile registry continues to grow even as less children are adjudicated delinquent per year. *Id*. at 43.

The IJJC also looked to the experience of other states and concluded that the majority do not categorically register youth. *Id.* at 52 (noting that at the time of the report, eleven states and the District of Columbia "choose to exercise individualized supervision over youth in juvenile court—these states do not have a juvenile registry and only require youth who have been tried and convicted as adults to participate on the sex offender registry. Another nineteen states require registry for some juvenile cases but impose registry requirements with some degree of individualized consideration").

Furthermore, SORA's mandatory lifetime registration is unconstitutional because it forecloses the court from considering youthful attributes at the time of sentencing in determining the appropriateness of that punishment. *See Montgomery*, (slip op. at 16); *Roper,* 543 U.S. at 574-75; *Graham,* 560 U.S. at 76; *Miller,* 132 S.Ct at 2468. These include the child's age, level of maturity, family and home environment, the circumstances of the offense, the extent of the child's participation in the unlawful conduct, the impact of familial and peer pressures, the child's ability to negotiate with police or prosecutors, and the possibility of rehabilitation. *Miller*, 132 S.Ct at 2468, IJJC Report at 8-10. These are precisely the factors juvenile courts are adept at weighing. *See, e.g.,* 705 ILCS 405/5-101, 5-615, and 5-710 (West 2014). "Illinois registration and community notification laws impose mandatory, categorical collateral consequences on youth behavior, including for natural life." IJJC Report at 39. Illinois' statute does not measure up to the "evolving standard of decency" governing the application of registration and notification laws to juvenile sex offenders. *Trop*, 356 U.S. at 101. Because of its mandatory one-size-fits-all nature, Illinois's lifetime juvenile sex offender registration statute violates the Eighth Amendment.

C. Mandatory Lifetime Sex Offender Registration for Children Is Cruel, Degrading, or So Wholly Disproportionate To The Offense As To Shock The Moral Sense Of The Community Under Article 1, Section 11 of the Illinois Constitution

Illinois' proportionate penalties clause provides in part, "All penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. Even if this Court finds no violation of the Eighth Amendment, SORA's mandatory lifetime imposition cannot withstand scrutiny under the broader protections afforded individuals under the Illinois Constitution. *People v. Clemons*, 2012 IL 107821, ¶ 40 ("what is clear is that the limitation on penalties set forth in the second clause of article I, section 11, which focuses on the objective of rehabilitation, went beyond the framers' understanding of the Eighth Amendment and is not synonymous with that provision").

The Illinois Supreme Court has purposefully declined to define what type of specific sentence is "cruel," "degrading," or "so wholly disproportioned to the offense as to shock the moral sense of the community," instead holding "as our society evolves, so too do our concepts of elemental decency and fairness which shape the "moral sense" of the community. *People v. Miller*, 202 Ill.2d 328, 339 (2002). As constitutional jurisprudence surrounding children deepens, Illinois' concept of elemental decency and fairness should be attuned to the developing constitutional problems with our mandatory registration and notification procedures.

1. Settled Research Proves That Placing Children On The Sex Offender Registry Does Not Increase Public Safety

Mandating a lifetime sentence that fails to meet its primary objective is so wholly disproportionate to the offense as to shock the moral sense of the community. Illinois

Courts have maintained that placing all children on the sex offender registry increases public safety. *See, e.g., Konetski,* 233 Ill. 2d at 203. However, research clearly demonstrates that most juvenile offenders are not at risk to reoffend and that placing children on the registry does not decrease recidivism rates or increase public safety. *See* Part I.B.2, *supra*.

National and state studies consistently find that youth sexual offender recidivism rates are low and, as a group, juvenile sex offenders have been found to pose a relatively low risk to sexually re-offend, particularly as they age into young adulthood. IJJC Report at 23. Illinois' registry and notification statutes were developed without consideration of this research and may cause more harm than good when uniformly applied. J. J. Prescott, "*Do Sex Offender Registries Make Us Less Safe?*" Regulation, Cato Institute (Summer 2012), at 48; IJJC Report at 39. Unlike treatment, which has a documented impact on recidivism, the registry does not provide meaningful community supervision or deliver therapy from a licensed sex offender treatment provider. IJJC Report at 29-33; 730 ILCS 150/1, *et seq.* Rather, successfully maintaining registry status is a matter of maintaining a complex set of compliance-related paperwork and paying related fees. Most importantly, studies have shown no recidivism benefit to public notification laws. Jeffrey C. Sandler, et al, "*Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law*." 14 Psychology, Public Policy, and Law 284 (2008); Richard G. Zevitz, "*Sex offender community notification: Its role in recidivism and offender reintegration*." 19 Criminal Justice Studies 193 (2006). Without a documented showing that registries serve a safety-related purpose, mandatory sex offender registration for children is so wholly disproportionate to the offense as to shock the moral sense of the

community.

2. The Statutory Requirements Of SORA Are So Complicated To Navigate For The Child And Service Providers That In Practice All Aspects Of Registration Are Cruel And Degrading

SORA and SOCNL operate in tandem to provide a comprehensive scheme for the registration of Illinois sex offenders and the dissemination of information about these offenders to the public. See Part I.B.1, *supra*; *People v. Stanley*, 369 Ill.App.3d 441, 446 (2006). The restrictions and requirements placed upon Illinois youth registrants are lengthy and complicated. *See* Part I.B.4, *supra*. Youth, like A.C., often are mandated to comply with all of the statutory, regulatory, and administrative restrictions and requirements of an adult sex offender, regardless of whether each restriction is statutorily required. IJJC Report at 45, Appendix J. Taken in combination, restrictions can be "baffling or even contradictory." IJJC Report at 45, Appendix J; 730 ILCS 150/1, *et seq.*; 730 ILCS 152/101, *et seq.* Neither youth registrants, nor practitioners, have a clear grasp on the requirements. IJJC Report at 48.

In addition to the onerous requirements set forth in SORA, *see* Part I.B.4 *infra*; 730 ILCS 150/3, Cook County imposes additional requirements, including requiring a Secretary of State issued identification each time a person moves to a new address. *People v. Brock*, 2015 IL App (1st) 133404, ¶31. For A.C., this means within three days of moving into a new residence, including dorms, his home in Chicago, or a sublet apartment, he must provide proper documentation, such as bank statements and an electric bill, take them to the office of the Secretary of State and obtain a driver's license, and then go to the chief of police and register as a sex offender. To obtain many of these documents, A.C. may need to create an online account, which also will need to be

registered (i.e. email, bank, electric company, public transit card, or library card). Obtaining all of the necessary paperwork and fees in a short period of time can be extremely challenging for young people, especially those who are enrolled in school or without access to a car. Further, registrants must pay a $100 initial registration fee and a $100 annual renewal fee to the registering law enforcement agency having jurisdiction. 730 ILCS 150/3(c)(6).[6] A.C. is required to register and follow each requirement for life. 730 ILCS 150/7 (West 2014).

Although registration is notoriously complicated to navigate, failing to abide by any one provision is a Class 3 felony punishable by two to five years imprisonment, a ten year extension of registration, and a mandatory minimum fine of $500. 730 ILCS 150/10(a). A second failure is a Class 2 felony punishable by three to seven years imprisonment, as well as another ten year extension and $500 fine. 730 ILCS 150/10(a). Furthermore, even if a child is under 18 years old when the failure to register occurs, the child will be charged in criminal court. 730 ILCS 150/10(a). A failure to register conviction is not expungable and remains on a person's criminal record for life. 20 ILCS 2630/5.2.

Finally, while juvenile registry information is not available on the Illinois State Police Online Registry, it is likely information will be disclosed to the public. 730 ILCS 152/115 (West 2014); s*ee* Part I.B.1, *supra*. Once a juvenile registrant's status is "leaked" or placed on the internet, including websites such as mugshots.com, there is no possible

[6] The registering agency may waive the registration fee if it determines that the person is indigent and unable to pay the registration fee. 750 ILCS 150/3(c)(6). However, the statute does not clearly define how one must show that he is indigent. In Cook County, a registrant must obtain paperwork from the Social Security office to prove indigence.

legal remedy available that can undo the lifelong impact to the child of internet notoriety. See Section I.B.4, *supra*. The impact on a child of this broad disclosure that he is a registered sex offender is cruel, degrading, and so wholly disproportional to the offense to shock the moral sense of the community. See Section I.C, *supra* (describing emotional impact of life on the registry).

3. Illinois Does Not Provide The Financial Or Navigational Resources For Young Adults To Petition For Removal From The Registry, Forcing Juvenile Offenders To Remain on The Registry For Life, Although They Are No Risk To The Community

A.C. and other youth adjudicated delinquent for a sex offense which, if charged as an adult, would be a felony, may petition the court for termination of registration five years after the registration was ordered. 730 ILCS 150/3-5. The court may terminate registration if it finds that the juvenile poses "no risk to the community by a preponderance of evidence" based upon certain factors, including a risk assessment performed by an evaluator licensed under the Sex Offender Evaluation and Treatment Provider Act. *Id*. Although the statute provides that, "a registrant shall be represented by counsel and may present a risk assessment conducted by an evaluator who is licensed under the Sex Offender Evaluation and Treatment Provider Act," the act does not provide a directive for how attorneys shall be appointed or evaluations obtained by indigent people. *Id*. Public defenders are largely not providing representation in these cases and evaluators are similarly unwilling to provide free risk-assessment evaluations to indigent young adults.[7] IJJC Report at 48.

There are currently approximately 2,500 juvenile offenders on the juvenile sex

[7] Risk assessment evaluations by properly licensed evaluator range from $700-$3,000 in Illinois.

offender registry. IJJC Report at 43 (stating on December 13, 2013, there were 2,553 individuals on Illinois Juvenile Sex Offender Registry). Between 120 and 203 juvenile offenders have been added to the registry per year from 2005 through 2015. *See* Appendix A-6.[8] In contrast, very few registrants are removed per year. In 2015, 40 juvenile offenders successfully petitioned for removal from the registry, and this is the highest number to date. *See* Appendix A-7. Further, many counties in Illinois have never removed a juvenile offender from the registry. In Cook County, where 52 young adults have been removed, the majority were represented by pro bono counsel, many by the Children and Family Justice Center. Most young adults remain on the registry for life because they do not have access to resources to petition for removal and cannot navigate the complex legal process without the assistance of counsel. Without access to the removal process, most young adults remain on the registry for years despite the fact that they likely would be found no risk by a preponderance of evidence if given the opportunity to present their case. It is cruel, degrading, and so wholly disproportionate as to shock the moral sense of the community to impose a system where youth must remain on a registry, not because of a determination of their need to remain for public safety, but solely because of their lack of resources.

[8] *Amici* obtained this data from a representative of the Illinois State Police and it is attached to the appendix hereto.

CONCLUSION

A primary purpose of the Juvenile Court Act is to "provide an individualized assessment of each alleged and adjudicated delinquent juvenile, in order to rehabilitate and to prevent further delinquent behavior through the development of competency in the juvenile offender." 705 ILCS 405/5-101(c). Once a minor is found delinquent, the court determines whether the child must be a ward of the court. If so, the court shall consider a wide range of sentencing options and determine the proper disposition best serving the interests of the minor and the public. 705 ILCS 405/5–705(1).[9] Individual sentencing tailored with judicial discretion in the best interests of each juvenile offender is the hallmark of the Illinois Juvenile Court Act. 705 ILCS 405/5-101.

Contrary to the disposition standards and primary purposes of the Juvenile Court Act, A.C. was automatically required to register as a sex offender for the remainder of his lifetime without regard to whether he actually poses any future risk to the community. 730 ILCS 150/2; 730 ILCS 150/3-5(a). He was foreclosed any individualized determination prior to the imposition of this penalty. Such a scheme cannot stand under either the recent jurisprudence of the U.S. Supreme Court or the broader protections afforded individuals under the Illinois Constitution.

[9] These options include ordering a delinquent minor to perform community service, ordering a delinquent minor to undergo substance abuse assessment and treatment, suspend a delinquent minor's driver's license, placing a delinquent minor on probation or conditional discharge, placing a delinquent minor under age 13 in the guardianship of DCFS, or committing a delinquent minor to the Department of Corrections. 705 ILCS 405/5–710.

For the foregoing reasons, we urge this Court to reverse the trial court's finding that SORA and SOCNL are constitutional and remand to remove A.C. from the registry.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Scott Main, certify that this brief conforms to the requirements of Supreme Court Rule 341(a) and (b). The length of this brief, excluding pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 45 pages.

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APPENDIX TO THE BRIEF

STATEMENT OF INTERESTS.....A-1

REPORTS GENERATED BY ILLINOIS STATE POLICE A-6

AMICI CURIAE STATEMENTS OF INTEREST

The **Children and Family Justice Center** (CFJC), part of Northwestern University Law School's Bluhm Legal Clinic, was established in 1992 as a legal service provider for children, youth and families, as well as a research and policy center. Currently, clinical staff at the CFJC provide advocacy on policy issues affecting children in the legal system, and legal representation for children, including in the areas of delinquency and crime, removal proceedings from the sex offender registry, immigration/asylum, and fair sentencing practices. In its 24-year history, the CFJC has served as *amici* in numerous state and United States Supreme Court cases based on its expertise in the representation of children in the legal system.

Juvenile Law Center is the oldest public interest law firm for children in the United States. Founded in 1975, Juvenile Law Center pays particular attention to the rights and 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 juvenile correctional facilities or adult prisons, or children in placement with specialized service needs. Juvenile Law Center works to ensure that children are treated fairly by systems that are supposed to help them, and that children receive the proper treatment and services. Juvenile Law Center also works to ensure that children's rights to due process 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.

Cabrini Green Legal Aid (CGLA) provides both criminal and civil legal services, integrated with social work support, to individuals facing barriers stemming from an encounter with the criminal justice system. We provide services in areas of acute need, including criminal records relief, defense, family and housing law. We partner with scores of law firms, corporate legal departments, and law schools to tap thousands of pro bono hours that multiply our impact. CGLA embraces the collective impact model, put forward as a best practice by the Stanford Social Innovation Review. This model of collaboration involves the commitment of a group of important actors from different sectors to a common agenda for solving a specific social problem. CGLA and its partner organizations have identified a set of significant problems facing our clients, namely the collateral consequences of a negative encounter with the criminal justice system. Utilizing a client-centered approach, we assist in the removal of barriers and work together to help individuals and families achieve long-term stability in their lives.

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.

The **Illinois Juvenile Justice Commission** (the Commission) serves as the federally mandated State Advisory Group to the Governor, the General Assembly and the Illinois Department of Human Services. The Commission's goals are to ensure that: Illinois maintains full compliance with the core requirements of the Juvenile Justice and Delinquency Prevention Act both to ensure continued access to federal funding and to ensure application of humane and effective practices with youth in contact with the juvenile justice system; youth do not enter or penetrate the state's juvenile justice system unnecessarily, particularly due to unaddressed family, education, mental health, substance abuse, trauma, racial or ethnic disparities or other needs; youth who do enter the juvenile justice system receive developmentally appropriate, individualized support and services that foster appropriate accountability while building strengths and creating positive opportunities; and youth leave the juvenile justice system with positive outcomes which in turn enhance public safety.

The Commission has 25 members who have been appointed by the Governor. They have training, experience, and special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of justice.

The **James B. Moran Center for Youth Advocacy** ("Moran Center") is a nonprofit organization dedicated to providing integrated legal and social work services to low-income Evanston youth and their families to improve their quality of life at home, at school, and within the community. Founded in 1981 as the Evanston Community Defender, the Moran Center has worked to protect the rights of youth in the criminal justice and special education systems for decades. Because of the Moran Center's critical position at the nexus of both direct legal and mental health services, we are uniquely

positioned to advocate for the distinct psycho-social needs presented by youth. Accordingly, many of our clients are directly impacted by current SORA requirements.

The **John Howard Association of Illinois** provides critical public oversight of Illinois' prisons, jails, and juvenile correctional facilities. As it has for more than a century, the Association promotes fair, humane, and effective sentencing and correctional policies, addresses inmate concerns, and provides Illinois citizens and decision-makers with information needed to improve criminal and juvenile justice.

The **Juvenile Justice Initiative** (JJI) of Illinois is a non-profit, non-partisan, inclusive statewide coalition of state and local organizations, advocacy groups, legal educators, practitioners, community service providers, and child advocates supported by private donations from foundations, individuals and legal firms. JJI as a coalition establishes or joins broad collaborations developed around specific initiatives to act together to achieve concrete improvements and lasting changes for youth in the justice system, consistent with the JJI mission statement. Our mission is to transform the juvenile justice system in Illinois by reducing reliance on confinement, enhancing fairness for all youth, and developing a comprehensive continuum of community based resources throughout the state. Our collaborations work in concert with other organizations, advocacy groups, concerned individuals and state and local government entities throughout Illinois to ensure that fairness and competency developments are public and private priorities for youth in the justice system.

The **Law Office of the Cook County Public Defender** is the second largest public defender office in the nation. With a full time staff of approximately 700, of which 506 are attorneys, the Office represents approximately 89 percent of all persons charged

with felonies and misdemeanors in Cook County. The Office also represents juveniles charged with delinquent conduct, and parents against whom the State files allegations of abuse, neglect, or dependency. In 2014, the Office was appointed to more than 130,000 cases. The mission of the Office is to protect the fundamental rights, liberties and dignity of each person whose case has been entrusted to us by providing the finest legal representation.

Year	# of New Juveniles
2005	203
2006	184
2007	156
2008	156
2009	171
2010	151
2011	120
2012	145
2013	127
2014	136
2015	120

Successful juvenile petitions by year (as of 1-28-2016)

2002 = 1

2008 = 19

2009 = 21

2010 = 28

2011 = 24

2012 = 27

2013 = 29

2014 = 28

2015 = 40

2016 = 1