No. 08-479

In the Supreme Court of the United States

SAFFORD UNIFIED SCHOOL DISTRICT #1, *ET AL.*,
Petitioners,
v.
APRIL REDDING,
Respondent

ON WRIT OF *CERTIORARI* TO THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BRIEF OF JUVENILE LAW CENTER, *ET AL.*, AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT

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INTEREST OF *AMICI CURIAE*[1]

The organizations and individuals submitting this brief work with and on behalf of adolescents, particularly young people in the education systems. Some provide services directly to youth, some are engaged in research and some are associations of professionals who work with youth. *Amici* approach the issues in this case from a variety of perspectives – constitutional jurisprudence, psychological research, and international human rights law – but are united in their concern about preserving respondent's civil rights and protecting her well-being. Individualized suspicion alone does not justify the use of the highly intrusive search that was conducted on Savana Redding. *Amici* urge this Court to recognize the important role the Constitution plays in protecting children from the trauma of overly intrusive searches.

IDENTITY OF *AMICI CURIAE*[2]

Juvenile Law Center; Barton Child Law and Policy Clinic; Children & Youth Law Clinic; *Civitas* ChildLaw Center; Education Law Center–PA; Justice for Children Project; Juvenile Rights Advocacy Project; Mid-Atlantic Juvenile Defender Center; National Center for Youth Law; National

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[1] *Amici* file this brief with the consent of all parties. Letters of consent are on file with Juvenile Law Center and can be furnished upon request. No counsel for a party authored this brief in whole or in part. No person or entity, other than *amici*, their members, or their counsel made a monetary contribution for the preparation or submission of this brief.

[2] A list and brief description of all *amici* appears at Appendix A.

Juvenile Defender Center; Northeast Juvenile Defender Center; Rutgers Urban Legal Clinic; Women's Law Project; Youth Law Center; Professor Barry Feld; Professor Kristin Henning; Professor Wallace Mlyniec.

STATEMENT OF THE CASE

Amici Curiae, Juvenile Law Center, *et al.*, adopt the Statement of the Case set forth by Respondent, April Redding.

SUMMARY OF ARGUMENT

The Court below correctly held that the strip search of Savana Redding was in clear violation of her Fourth Amendment rights. The Court's holding is consistent with a long line of United States Supreme Court cases that take the developmental differences between minors and adults into account in articulating and defining the scope of their constitutional rights. *See* Part I, *infra*. While this Court has recognized that minors' Fourth Amendment rights are not identical to those of adults, it has consistently ensured that children are protected – not harmed – by the Fourth Amendment rules applied to them. Recognizing that children are less mature than adults, this Court has enacted safeguards to protect youth and has cautioned that judges must take extra care in assessing whether purported protective policies or practices toward youth actually promote harm. The Ninth Circuit's ruling below fits squarely within this jurisprudential framework. Although the strictures of the Fourth Amendment may be relaxed where children are concerned, care must be taken to assure that searches conducted under this relaxed standard do not explicitly or implicitly harm children.

Amici recognize that preserving an orderly school environment may entail easing restrictions to which public authorities are traditionally subject.

Unsupported fear of student behavior, however, does not justify an abandonment of Fourth Amendment protections. The use of strip searches is extraordinarily intrusive and contrary to children's fundamental rights to be treated with humanity and dignity. In assessing this case, *amici* urge this Court to take account of case law and psychological research recognizing that strip searches can cause youth ongoing trauma and harm.

Amici urge the Court to affirm the opinion of the Court below, acknowledging the severe intrusion of a strip search and its flagrant unreasonableness in the instant case.

ARGUMENT

I. This Court Has Favored Specialized Constitutional Jurisprudence Where Children are Concerned.

A. Supreme Court Constitutional Jurisprudence is More Protective of Children than Adults.

That minors are "different" is a principle that permeates our law. As Justice Frankfurter so aptly articulated, "[c]hildren have a very special place in life which law should reflect. Legal theories and their phrasing in other cases readily lead to fallacious reasoning if uncritically transferred to determination of a state's duty towards children." *May v. Anderson*, 345 U.S. 528, 536 (1953) (Frankfurter, J., concurring). Accordingly, this Court has consistently considered the developmental and social differences of youth in measuring the scope and breadth of minors' constitutional rights.

In both civil and criminal law, youth are treated differently from adults. The distinctive emotional and psychological status of youth was critical to this Court's recent analysis in *Roper v. Simmons*, 543 U.S. 551 (2005), this Court's landmark ruling abolishing the juvenile death penalty. In holding the execution of offenders under the age of eighteen to be a violation of the Eighth Amendment's ban on cruel and unusual punishment, this Court relied on medical, psychological and sociological studies, as well as common experience, which all showed that children under age eighteen are less culpable and

more amenable to rehabilitation than adults who commit similar crimes. *Id.* at 568-76. Echoing the original founders of the juvenile court, this Court in *Simmons* reasoned that because juveniles have reduced culpability, they cannot be subjected to the harshest penalty reserved for the most depraved offenders; punishment for juveniles must be moderated to some degree to reflect their lesser blameworthiness.

In addition to this recent Eighth Amendment jurisprudence, this Court has repeatedly required that governmental power be wielded to protect juveniles in light of their vulnerability. For example, this Court has articulated a legal distinction between minors and adults for the purpose of determining the voluntariness of juvenile confessions during custodial interrogation. This Court has recognized that because minors are generally less mature and more vulnerable to coercive interrogation tactics than adults, they deserve heightened protections under the Constitution. As this Court first recognized in *Haley v. Ohio*, 332 U.S. 596 (1948), in suppressing the statement of a fifteen-year old defendant taken outside of the presence of his parents, a teenager cannot be judged by the more exacting standards applied to adults. This Court also has noted that minors generally lack critical knowledge and experience, and have a lesser capacity to understand, much less exercise, their rights when minors are "made accessible only to the police." *Gallegos v. Colorado*, 370 U.S. 49, 54 (1962) (finding statement taken from a 14 year-old boy outside of his parent's presence to be involuntary). And in *In re Gault,* 387 U.S. 1, 55 (1967), where this Court extended many

key constitutional due process rights to minors subject to delinquency proceedings in juvenile court, the Court reiterated its earlier concerns about youth's special vulnerability: "the greatest care must be taken to assure that [a minor's] admission was voluntary in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair."

This Court's protective stance toward youth in confession cases parallels the Court's stance with respect to other juvenile issues. For example, in declining to extend youth the right to jury trials in juvenile court, this Court specifically noted youth's malleability and developmental status, and sought to promote the well-being of youth by ensuring their ongoing access to rehabilitative, rather than punitive, juvenile justice systems. *See McKeiver v. Pennsylvania,* 403 U.S. 528, 539-40 (1971); *Gault*, 387 U.S. at 15-16. *See also* Barry C. Feld, *Bad Kids: Race and the Transformation of the Juvenile Court* 92 (1999) (noting that the malleability of youth is central to the rehabilitative model of the juvenile court). This Court's reliance on the developmental characteristics of youth finds ample support in research. Adolescence has been characterized as a period of "tremendous malleability" and "tremendous plasticity in response to features of the environment." *See* Laurence Steinberg & Robert G. Schwartz, *Developmental Psychology Goes to Court, in* Youth on Trial: A Developmental Perspective on Juvenile Justice 9, 23 (Thomas Grisso and Robert Schwartz eds., 2000).

Decisions analyzing children's rights under other

constitutional provisions likewise reflect this Court's persistent view that children are simply different than adults, and therefore warrant greater protection under the Constitution to ensure their well-being. In a series of cases upholding greater state restrictions on minors' exercise of reproductive choice, the Court found that "during the formative years of childhood and adolescence, minors often lack . . . experience, perspective, and judgment," *Bellotti v. Baird*, 443 U.S. 622, 635 (1979), as well as "the ability to make fully informed choices that take account of both immediate and long-range consequences." *Id.* at 640; *see also Hodgson v. Minnesota*, 497 U.S. 417, 444 (1990) ("The State has a strong and legitimate interest in the welfare of its young citizens, whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely.").

For this reason, the Court has held that states may choose to require that minors consult with their parents before obtaining an abortion. *See Hodgson*, 497 U.S. at 458 (O'Connor, J., concurring in part) (noting that liberty interest of minor deciding to bear child can be limited by parental notice requirement, given that immature minors often lack ability to make fully informed decisions); *Bellotti*, 443 U.S. at 640 (noting that because minors often lack capacity to make fully informed choices, the state may reasonably determine that parental consent is desirable).

This Court has also adopted a distinctive First Amendment analysis in cases involving children, recognizing that children may require more protection than adults from certain harms under the

First Amendment. In *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656 (2004), this Court recognized that protecting minors from harmful images on the Internet, due to their immaturity, is a compelling government interest. *Id.* at 661, 683 (Breyer, J., dissenting).[3] Previously in *Ginsburg v. New York*, 390 U.S. 629, 637 (1968), this Court upheld a state statute restricting the sale of obscene material to minors. *See also Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988) (holding that public school authorities may censor school-sponsored publications). Similarly, the Court has upheld a state's right to restrict when a minor can work, on the premise that "[t]he state's authority over children's activities is broader than over the actions of adults." *Prince v. Massachusetts,* 321 U.S. 158, 168 (1944).

These themes are also present in this Court's public school prayer decisions. In holding that prayers delivered by clergy at public high school graduation ceremonies violate the Establishment Clause of the First Amendment, the Court in *Lee v. Weisman*, 505 U.S. 577 (1992), placed great emphasis on the "public pressure, as well as peer pressure," that such state-sanctioned religious practices impose on impressionable students. *Id.* at 593. This Court admonished that "[f]inding no violation under these circumstances would place objectors in the dilemma of participating [in the prayer], with all that implies,

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[3] The Court split only on whether the Child Online Protection Act used the least restrictive means, consistent with adults' First Amendment freedoms, for achieving that end. *Id.* at 673; 675 (Stevens, J., concurring); 676 (Scalia, J., dissenting); 677 (Breyer, J., dissenting).

or protesting." *Id.* Of particular relevance to this case, the Court stated it was not addressing whether the government could put citizens to such a choice when those "affected . . . are mature adults," rather than "primary and secondary school children," who are "often susceptible to pressure from their peers towards conformity . . . in matters of social convention." *Id.* Similarly, in *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000), this Court held that prayers authorized by a vote of the student body and delivered by a student prior to the start of public high school football games violated the Establishment Clause. The Court stressed "the immense social pressure" on students "to be involved in the extracurricular event that is American high school football." *Id.* at 311. As this Court described it, "the choice between attending these games and avoiding personally offensive religious rituals is in no practical sense an easy one," *id.* at 312, and, in the high school setting, "the delivery of a pregame prayer has the improper effect of coercing those present to participate in an act of religious worship." *Id.* By contrast, this Court has upheld against an Establishment Clause challenge the delivery of prayers at the start of legislative sessions, where the audience that is present invariably is made up almost exclusively of adults who would not be subject to the same pressures to conform as would youth. *See Marsh v. Chambers*, 463 U.S. 783 (1983); *Lee*, 505 U.S. at 597 (distinguishing between "atmosphere" at legislative sessions and public high schools).

In sum, for more than half a century, this Court has repeatedly distinguished minors from adults

under the law, noting that minors are less mature and more vulnerable than adults, and that laws, policies and practices must be reviewed under the Constitution to ensure they promote youth's well-being.

B. The Special Treatment of Children under the Constitution Cannot Be Used to Justify Standards that Harm Children's Well-Being.

While this Court has made clear that different standards can, and should, be applied to youth, it has also underscored that such differences are tolerated because they protect children's well-being. *See, e.g., Schall v. Martin*, 467 U.S. 253, 265 (1982) (noting that a juvenile's liberty interest may sometimes be subordinated," but only because of the State's interest in "preserving and promoting the welfare of the child")(internal citation omitted); *McKeiver v. Pennsylvania*, 403 U.S. 528, 550 (1971) (finding that equating the juvenile justice system with the adult criminal justice system ignores "every aspect of fairness, of concern, of sympathy, and of paternal attention that the juvenile court system contemplates"). Indeed, this Court has cautioned against curtailing a child's rights in the name of protectiveness. *Kent v. United States*, 383 U.S. 541, 555 (1966).

In particular, any limitation on a child's right in the criminal or juvenile context should be particularly suspect. In *In re Gault,* this Court cautioned against using the language of child protection in ways that ultimately harm children.

387 U.S. at 16. Thus, the *Gault* Court rejected the argument that depriving children of their constitutional right to due process in the courtroom was justifiable in their best interest.

Lower courts have similarly underscored that the government should not use concepts of child protection in ways that ultimately harm child well-being. *See, e.g., Kenny A. v. Perdue*, 356 F. Supp. 2d 1353, 1361 (N.D. Ga. 2005) (holding that "the government's overriding interest is to ensure that a child's safety and well-being are protected" and therefore children must be represented by counsel at termination of parental rights proceedings); *Perez-Funez v. Immigration & Naturalization Service*, 619 F. Supp. 656, 663 (C.D. Cal. 1985) (finding that the "good intentions" of the Immigration and Naturalization Service in implementing a voluntary departure procedure for unaccompanied alien minors were insufficient to forfeit the children's rights as "[d]ue process protects children from placing themselves at the mercy of summary procedures"). And indeed, numerous courts have struck down strip searches of children in schools as overly intrusive and not protective of children's rights.[4]

[4] *See, e.g., Doe v. Renfrow*, 631 F.2d 91, 92-93 (7th Cir. 1980); *Phaneuf v. Fraikin*, 448 F.3d 591 (2d Cir. 2006). This conclusion has also been reached outside the school context. *Good v. Dauphin County Soc. Servs. for Children & Youth*, 891 F.2d 1087, 1092-93 (3d Cir. 1989); *Roe v. Texas Dep't of Protective & Regulatory Servs.*, 299 F.3d 395, 407-08, (5th Cir. 2002); *Calabretta v. Floyd*, 189 F.3d 808, 817-18 (9th Cir. 1999); *Franz v. Lytle*, 997 F.2d 784, 791 (10th Cir. 1993).

II. The Court's Specialized Fourth Amendment Jurisprudence for Children Does Not Justify the Strip Search of Savana.

Amici agree with Respondent that, as set forth in *T.L.O.,* a search of a child's undergarments can only be lawful if (1) it is justified at its inception; and (2) there is specific information that the sought-after object is hidden in that location. *New Jersey v. T.L.O.,* 469 U.S. 325, 341 (1985). We further agree that as the search was not justified under either *T.L.O.* prong, it was not constitutional.

We write separately to underscore that the strip search of a child – particularly in the absence of such suspicion – inflicts harm on the child, and that as a result such a search should only be conducted if the benefit from discovering the item outweighs the harm inflicted *upon the child*. It is a basic tenet of Fourth Amendment jurisprudence that "all searches and seizures be reasonable. . . ." *T.L.O.,* 469 U.S. at 340. Moreover, as noted above, this Court has repeatedly cautioned against depriving children of their rights in the name of protection with the actual result of inflicting harm.

Where the requirement of a warrant and probable cause are not appropriate, and therefore not required, courts must balance the need for the particular search against the invasion of personal rights that the search entails. In the school context, whether a particular search meets the reasonableness standard "is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests." *Vernonia Sch. Dist. 47J v.*

Acton, 515 U.S. 646, 652-53 (1995) (internal citations omitted). *See also T.L.O.*, 469 U.S. at 337.

In schools search cases, this Court has held that the public interest is best served by a Fourth Amendment standard of reasonableness. *T.L.O.*, 469 U.S. at 341; *Chandler v. Miller*, 520 U.S. 305, 315 (1997). As the intrusive nature of the search intensifies, so too does the standard of Fourth Amendment reasonableness, coming closer to a need to find probable cause. *T.L.O.*, 469 U.S. at 341-42. *See also Terry v. Ohio*, 392 U.S. 1, 18, n. 15 (1968). As the Seventh Circuit has noted, "What may constitute reasonable suspicion for the search of a locker or even a pocket or pocketbook may fall well short of reasonableness for a nude search." *Cornfield v. Consol. High School Dist. No. 230*, 991 F.2d 1316, 1321 (7th Cir. 1993). The Second Circuit has also sounded a caution about strip searches, noting that the reasonableness of the suspicion is balanced against the very intrusive nature of a strip search, requiring for its justification a "high level of suspicion." *Phaneuf*, 448 F.3d at 596 (holding that a strip search for marijuana was not justified at its inception despite a student tip, a past disciplinary record for the student, the student's response to questions, and the discovery that the student had a pack of cigarettes in violation of school rules) (internal citations omitted).

A. Strip Searches Are Extremely Intrusive and Traumatic, Especially for Youth.

i. Case Law and Psychological Research Confirm that Strip Searches Traumatize Youth.

A strip search is a severe intrusion into personal privacy. *See U.S. v. Mendenhall,* 446 U.S. 544, 574 (1980). Being forced to strip in front of a stranger can be frightening, demeaning and degrading. *See Wood v. Clemons*, 89 F.3d 922, 928 (1st Cir. 1996); *Chapman v. Nichols*, 989 F.2d 393, 396 (10th Cir. 1993) (strip searches are "terrifying") (internal citations omitted); *Justice v. Peachtree City*, 961 F.2d 188, 192 (11th Cir. 1992) ("The experience of disrobing and exposing one's self for visual inspection by a stranger clothed with the uniform and authority of the state…can only be seen as thoroughly degrading and frightening . . . . [S]uch a search upon an individual detained for a lesser offense is quite likely to take that person by surprise, thereby exacerbating the terrifying quality of the event."); *Thompson v. City of Los Angeles*, 885 F.2d 1439, 1446 (9th Cir. 1989) (strip searches produce "feelings of humiliation and degradation"); *Mary Beth G. v. City of Chicago*, 723 F.2d 1263, 1272 (7th Cir. 1983) (strip searches are "demeaning, dehumanizing, undignified, humiliating, terrifying, unpleasant, embarrassing, repulsive, signifying degradation and submission"); *Hunter v. Auger*, 672 F.2d 668, 674 (8th Cir. 1982) ("a strip search, regardless how professionally and courteously conducted, is an embarrassing and humiliating experience").

Strip searches are perceived as particularly intrusive by children and teenagers. *See, e.g., Cornfield*, 991 F.2d at 1323 (strip search was particularly intrusive for a sixteen-year-old, because that is the "age at which children are extremely self-conscious about their bodies"); *Doe v. Renfrow,* 631 F.2d 91, 93 (7th Cir. 1980) (strip search of a thirteen-year-old was a "violation of any known principle of human decency"). *See also Thomas ex. rel. Thomas v. Roberts*, 261 F.3d 1160, 1168 (11th Cir. 2001), *vacated by* 536 U.S. 953 (2002) on other grounds (strip searches represented a serious intrusion on the rights of the children). Because "youth . . . is a . . . condition of life when a person may be most susceptible . . . to psychological damage," *Eddings v. Oklahoma*, 455 U.S. 104, 115 (1982), "[c]hildren are especially susceptible to possible traumas from strip searches." *Flores v. Meese*, 681 F. Supp. 665, 667 (C.D. Cal. 1988), *rev'd on other grounds*, 507 U.S. 292 (1993).

Research in adolescent development supports the legal conclusion in these cases that strip searches impact young people even more severely than adults. Because adapting to physical maturation is central to the psychological task of adolescence, teenagers tend to be more self-conscious about their bodies than those in other age groups. Anne C. Peterson & Brandon Taylor, *The Biological Approach to Adolescence: Biological Change and Psychological Adaptation*, *Handbook of Adolescent Psychology* 144 (Joseph Adelson ed., 1980); Edward Clifford, *Body Satisfaction in Adolescence*, *in Adolescent Behavior and Society: A Book of Readings* 53 (Rolf E. Muuss ed., 3d ed. 1980). With the onset of puberty

teenagers begin to view their bodies critically and compare them to those of their peers and their ideals, making adolescents particularly vulnerable to embarrassment. *F. Phillip Rice & Kim Gale Dolgin, The Adolescent: Development, Relationships and Culture* 173 (10th ed. 2002). Surveys confirm a high degree of anxious body preoccupation and dissatisfaction among adolescents. Peterson & Taylor, *infra*, at 144-45. This body criticism is part and parcel of the major task of adolescence: obtaining autonomy from the family and "assum[ing] the role of an adult in society." William A. Rae, *Common Adolescent-Parent Problems, in Handbook of Clinical Child Psychology* 555 (C. Eugene Walker and Michael C. Roberts, eds., 2d ed. 1992).

Accordingly, teenagers have a heightened need for personal privacy. Gary B. Melton, *Minors and Privacy: Are Legal Concepts Compatible?*, 62 Neb. L. Rev. 455, 488 (1983); Ellen Marrus, *Please Keep My Secret: Child Abuse Reporting Statutes, Confidentiality and Juvenile Delinquency,* 11 Geo. J. Legal Ethics 509 (1998). For an adolescent, privacy is a "marker of independence and self-differentiation." Melton, *supra,* at 488. If the child's privacy is threatened, the resulting stress can seriously undermine the child's self-esteem. *See also* Rae, *infra* at 561 (noting the importance of confidentiality when working with adolescents) and Rice, *infra* at 180 (noting the negative impact of stress upon self-esteem and adolescent development). As the courts have recognized in many cases, including those cited above, strip searches present an extreme threat to bodily privacy.

As a result of these developmental issues, strip searches have a more serious impact on children than on adults; in fact, "a child may well experience a strip search as a form of sexual abuse." Steven F. Shatz, *The Strip Search of Children and the Fourth Amendment*, 26 U.S.F. L. Rev. 1, 12 (1991).

> Children, even at very early ages, understand the concept that certain parts of their body are 'private.' Child abuse education programs underscore this understanding, telling children: 'No one who is bigger or older than you should look at or touch your private parts, nor should you look at or touch their private parts.' . . . Thus, the strip search—being compelled to expose one's private parts to an adult stranger who is obviously not a medical practitioner—is offensive to the child's natural instincts and training.

Shatz, *supra* at 12-13. Strip searches can seriously traumatize children, leading them to experience years of anxiety, depression, loss of concentration, sleep disturbances, difficulty performing in school, phobic reactions, and lasting emotional scars. See Scott A. Gartner, *Strip Searches of Students: What Johnny Really Learned at School and How Local School Boards Can Help Solve the Problem*, 70 S. Cal. L. Rev. 921, 929 (1997) (describing lasting and debilitating psychological effects of school's strip search of a student). Consequently, any strip search, no matter the underlying justification, has a debilitating impact on children that clearly does not account for the child's best interests.

A strip search is even more deplorable where, as in the case at bar, it is employed against a minor who has committed no crime and is performed without adequate suspicion that the search would turn up evidence of any wrongdoing. After experiencing the trauma of the strip search, Savana transferred to another school. She also stated that the experience left her wary, nervous and distrustful, and caused her to develop stomach ulcers. Adam Liptak, *Strip Search of Girl Tests Limit of School Policy*, N.Y. Times, March 23, 2009, at A1.

Moreover, the harm of an unjustified search is not only to the individual student, but to the student body as a whole. The school's tutelary obligations to its students requires it to "'teach by example' by avoiding symbolic measures that diminish constitutional protections." *Board of Ed. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls*, 536 U.S. 822, 855 (2002). In the case at bar, the school misinterpreted its duty. In carrying out its duty to protect the entire student body from the harmful effects of drugs, it justifiably searched Savana's backpack. However, when it performed the second search—the strip search of her person—school officials overstepped their role, imposing an unreasonably intrusive search that harmed rather than helped a student under their care and sent a message to students that they were not safe in their school.

ii. The Use of Strip Searches on Children Violates International Norms of Dignity and Respect.

While international norms are not dispositive, they point to a global condemnation of the type of strip search Savana experienced.

Most of the human rights instruments addressing strip searches articulate standards for children who are incarcerated or otherwise involved in a juvenile or criminal justice system. This body of international law, which severely restricts the use of strip searches even in secure facilities, underscores the extent to which international law protects children from such harm.

Human rights instruments and case law establish that the unreasonable use of strip searches is degrading and inhumane. The Unaccompanied Alien Child Protection Act prohibits the "unreasonable use" of shackling, handcuffing, solitary confinement, and pat or strip searches, which may violate a child's sense of dignity and respect. *See* Joyce Koo Dalrymple, *Seeking Asylum Alone: Using the Best Interests of the Child Principle to Protect Unaccompanied Minors*, 26 B.C. Third World L.J. 131 (2006). *See also* Unaccompanied Alien Child Protection Act of 2005, S. 119, 109th Cong. (2005). More broadly, the International Covenant on Civil and Political Rights ("ICCPR") states that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." International Covenant on Civil and Political Rights ("ICCPR") at art. 17,

opened for signature Dec. 16, 1966, 999 U.N.T.S. 171, *available at* http://www.unhchr.ch/html/menu3/b/a_ccpr.htm. *See* Office of the U.N. High Comm'r for Human Rights, *Status of Ratifications of the Principal International Human Rights Treaties* 1, 11 (June 9, 2004), *available at* http://www.unhchr.ch/pdf/report.pdf.

In Turkey, the European Court of Human Rights held that strip searches without medical necessity were unlawful and inhumane. *See* Y.F. v. Turkey, No. 24209/94, 2003-IX Eur. Ct. H.R. para. 43, *available at* http://cmiskp.echr.coe.int/. In this case, a young woman was forced to submit to a gynecological exam upon detention to prove that she was not sexually assaulted by her guards. *Id* at para. 12. The court, citing the country's constitution, accordingly held that the physical interference with a person's body is only permitted in the case of medical necessity or if allowed by law. *Id.* at para. 23. The court reasoned that a person's body concerns the most intimate aspect of the person's private life, and thus medical intervention, even if of minor importance, constitutes an interference with the right to privacy. *Id*. at para. 33.

For similar reasons – and recognizing the unique dangers to children when their privacy is breached by a strip search – the British government passed protective legislation to decrease the use of strip searches on incarcerated juveniles. *See* Tim Newburn et al., *Race, Crime and Injustice: Strip Search and the Treatment of Suspects in Custody*, 44 Brit. J. Criminology 677, 683-84 (2004). As a result, youth in Britain are strip searched at significantly lower rates than adults. *Id*.

The reluctance throughout the international community to allow strip searches of children, even in secure facilities, underscores the extent to which Savana's strip search – on school grounds with no criminal justice involvement – was out-of-line with international norms.

B. The Severe Intrusion and Potential Trauma of a Strip Search Outweigh the Benefit in Discovering Ibuprofen in a Student's Possession.

As a preliminary matter, *Amici* agree with Respondents that the information that Savana had ibuprofen was not reliable, and that the school was especially remiss in conducting a strip search with no reason to believe that the ibuprofen was hidden in Savana's undergarments. We write separately to underscore the high bar that must be met to conduct a strip search.

This Court has held that in determining the nature of the governmental concern, courts should assess the "efficacy of [the] means for addressing the problem." *Vernonia*, 515 U.S. at 663. Thus, a search that is not well-designed to effectuate its purpose weighs against a finding of constitutionality. *See Chandler*, 520 U.S. at 319. Although securing order in the school environment sometimes requires exercising greater control over students than what is appropriate for adults, *see Earls*, 536 U.S. at 839, the interests of students must not be invaded any more than necessary to achieve the legitimate end of preserving order in the school. *T.L.O.,* 469 U.S. at 343.

The extreme harm and intrusion of a strip search of an adolescent outweighs the potential benefit of discovering ibuprofen on a student.

Indeed, because of the very intrusive nature of a strip search, many states expressly prohibit the use of strip searches in schools in all circumstances. *See, e.g.,* Cal. Educ. Code §49050; Iowa Code § 808A.2(4)(a); Okla. Stat. tit.70, §24-102; N.J. Stat. Ann. § 18A:37-6.1; S.C. Code Ann. §59-63-1140; Wash. Rev. Code § 28A.600.230(3); Wis. Stat. §948.50(3). Many of these statutes explicitly address – and prohibit – searches like Savana's in which undergarments are moved for the purpose of a visual inspection. *See, e.g.,* Cal. Educ. Code §49050 (prohibiting body cavity searches and prohibiting school officials from "[r]emoving or arranging any or all of the clothing of a pupil to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the pupil"); Okla. Stat. tit.70, §24-102 ("In no event shall a strip search of a student be allowed. No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search"); Wis. Stat. §948.50(2)(b). ("'Strip search' means a search in which a persons genitals, pubic area, buttock or anus, or a female persons breast, is uncovered and either is exposed to view or is touched by a person conducting the search").

In New Jersey, the legislature explicitly recognized that under their bill, strip searches would not be permitted even when "the school personnel had reasonable grounds to believe that the pupil had committed a criminal offense." *Assembly Judiciary*

Committee Statement on Bill No. 1167, 1997 N.J. Assem. c.242 (N.J. 1997).

Wisconsin highlights the importance of protecting children from strip searches by (1) establishing that a school strip search is a Class B misdemeanor; and (2) clarifying that "[t]he legislature intends, by enacting this section, to *protect* pupils from being strip searched." Wis. Stat. §948.50(3) (emphasis added).

Although Arizona does not prohibit strip searches by statute, as many as 189 school districts in Arizona prohibit them as a matter of policy.[5] In

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[5] In the following Arizona school districts, disrobing of a student is overly intrusive for purposes of most student searches and is improper without express concurrence from school district counsel: Agua Fria, Ajo, Alhambra, Alpine, Altar Valley, Antelope, Apache, Arlington, Ash Creek, Ash Fork, Avondale, Bagdad, Balsz, Beaver Creek, Benson, Bicentennial, Bisbee, Blue Ridge, Bonita, Bouse, Bowie, Buckeye Elementary, Buckeye Union, Bullhead City, Camp Verde, Canon, Cartwright, Casa Grande Elementary, Casa Grande High School, Cave Creek, Coconino Association for Vocations, Cedar, Chandler, Chino Valley, Clarkdale-Jerome, Clifton, Cochise, Colorado City, Colorado River, Concho, Congress, Coolidge, Cottonwood, Creighton, Double Adobe, Deer Valley, Douglas, Duncan, Dysart, Eloy, Flagstaff, Florence, Flowing Wells, Fowler, Fredonia-Moccasin, Ft. Huachuca, Fountain Hills, Ft. Thomas, Gadsden, Ganado, Gila Institute for Technology, Gila Bend, Gila County Regional, Glendale Elementary, Graham County, Grand Canyon, Hackberry, Hayden-Winkleman, Heber-Overgaard, Higley, Holbrook, Humboldt, Hyder, Isaac, J.O. Combs, Kayenta, Kestrel High, Kingman Academy of Learning, Kingman, Kirkland, Kyrene, Lake Havasu Unified, Laveen, Liberty, Litchfield, Littlefield, Littleton, Madison, Maine Consolidated, Mammoth-San Manuel, Mayer, McNary, McNeal, Mingus, Mobile, Mohave Valley, Mohawk Valley, Morenci, Morristown, Murphy, Naco, Nadaburg, Northern Arizona Vocational, Nogales, Oracle, Osborn, Page, Paloma,

fact, even the Safford School District's policy now prohibits this type of strip search.[6]

Palominas, Palo Verde, Parker, Patagonia, Pathways Charter, Payson, Pearce, Pendergast, Phoenix Elementary, Phoenix Union (5/11/06); Pima Unified, Pinal Accommodation, Pine Strawberry, Pinnacle Education, Pinon, Prescott, Quartzite, Queen Creek, Rainbow Accommodation, Ray, Riverside, Vicki A. Romero High, Roosevelt, Round Valley, Sacaton, Santa Cruz Elementary, Saddle Mountain, Safford, Sahuarita, Salome, San Carlos, Santa Cruz, Sanders, San Fernando, San Simon,Santa Cruz Valley UHS, Santa Cruz Valley USD, Sedona-Oak Creek, Seligman, Sentinel, Show Low, Skull Valley, Snowflake, Solomon, Somerton, Sonoita, Stanfield, St. David, St. Johns, Sunnyside, Superior, Tanque Verde, Tempe Elementary, Thatcher, Tolleson Union High, Tolleson Elementary, Toltec, Tombstone, Union, Vail, Venerable, Vernon, Washington Elementary, Wellton, Wenden Elementary, Whiteriver, Wickenburg Unified, Willcox, Williams, Wilson, Window Rock, Winslow, Yarnell, Young, and Yuma Union High. *See* Arizona School Boards Association, School District Policy Manuals, *available at* http://lp.ctspublish.com/asba/ (follow "Publicly Available Policy Manuals" hyperlink; then scroll in sidebar to "[Name of School District] Policy Manual" hyperlink; then follow "Section J Students" hyperlink; then follow "J-3400 JIH Student Interrogation, Searches, and Arrests"). In the Amphitheater School District, removal of a student's clothing is prohibited in the absence of an emergency justifying the search, as determined after consultation with law enforcement officials or the Superintendent. *See* the Amphitheater School District's policy manual at http://lp.ctspublish.com/asba/. In the Mesa Unified, Marana, Scottsdale and Sierra Vista school districts, school personnel are prohibited from conducting strip searches. *See* Mesa Public Schools, Selected Policy and Procedure Manuals, *available at* http://www.mpsaz.org/policies/MPSpolicy.pdf; Marana, Scottsdale, and Sierra Vista school districts' policy manuals at http://lp.ctspublish.com/asba/.

[6] Safford Policy Manual, http://lp.ctspublish.com/asba/ ("Disrobing of a student is overly intrusive for purposes of most

Given the importance – recognized by many jurisdictions – in avoiding the harm of a strip search regardless of the reason, and the overwhelming harm of a strip search, the current search was not justified. The harm of the strip search both to Savana and to her peers, who may have feared similar treatment, far outweighs the potential benefit of locating ibuprofen.

CONCLUSION

For the foregoing reasons, *Amici Curiae*, Juvenile Law Center, et al., respectfully request that this Court affirm the *en banc* decision of the court of appeals.

Respectfully Submitted,

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Dated: April 1, 2009

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student searches and is improper without express concurrence from School District counsel.").

APPENDIX A

IDENTITY OF AMICI CURIAE AND STATEMENTS OF INTEREST

Organizations

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

The **Barton Child Law and Policy Clinic** at Emory University School of Law (Barton) was founded in March 2000. Barton was originally established to address the need in Georgia for an organization dedicated to effecting systemic policy and process changes for the benefit of the children in Georgia's child welfare system. In 2006, Barton was

expanded to include a direct representation clinic known as the Juvenile Defender Clinic (JDC) for those children charged with delinquent and unruly offenses. With the addition of the JDC, Barton's current mission is to promote and protect the well-being of neglected, abused and court-involved children in the state of Georgia, to inspire excellence among the adults responsible for protecting and nurturing these children, and to prepare child advocacy professionals.

The JDC provides a clinical experience for third year law students in the juvenile court arena. The focus of the clinical experience is to provide quality representation to children by ensuring fairness and due process in their court proceedings and by ensuring courts make decisions informed by the child's educational, mental health and family systems objectives. As part of their clinical experience, student attorneys represent child clients in juvenile court and provide legal advocacy in the areas of school discipline, special education, mental health and public benefits, when such advocacy is derivative of a client's juvenile court case. Students also engage in research and participate in the development of public policy related to juvenile justice issues.

The JDC at Barton is a clinic supported in its entirety by the Emory University School of Law. Legal services are provided at no cost to its clients.

The **Children & Youth Law Clinic** (CYLC) is an in-house legal clinic, staffed by faculty and students at the University of Miami School of Law, which advocates for the rights of children in abuse and neglect, delinquency and other legal proceedings. Founded in 1995, the CYLC has appeared as amicus

curiae in numerous federal and state court cases implicating significant due process and therapeutic interests of children in state custody. The CYLC has pioneered the use of "therapeutic jurisprudence" in its advocacy for children in school discipline, dependency, mental health, delinquency, and other court proceedings. Therapeutic jurisprudence is a field of social inquiry with a law reform agenda, which studies the ways in which legal rules, procedures, and the roles of legal actors produce therapeutic or anti-therapeutic consequences for those affected by the legal process. The CYLC works to ensure that children are treated with dignity and respect by public education, child welfare and juvenile justice systems charged with their schooling, protection and treatment. We believe that public policy should further the therapeutic interests of children, minimize anti-therapeutic consequences of the legal process, assure their fair and dignified treatment, and promote the rehabilitative purposes of the juvenile justice system.

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.

Education Law Center–PA (ELC-PA) is a private, non-profit public interest law firm and advocacy organization dedicated to helping Pennsylvania's most "at-risk" children obtain a quality education. ELC-PA focuses on the needs of children who are poor, of color, have disabilities, are in the child welfare or juvenile justice system, or who are otherwise educationally disadvantaged. For more than thirty years, ELC-PA has worked to improve the quality of public education for Pennsylvania students through the provision of advice, training, publications, technical assistance to attorneys and advocates, and co-counseling and representation of families in the courts and before administrative and legislative bodies. ELC-PA has participated as *amicus curiae* in state and federal courts as well as this Court.

The **Justice for Children Project** is an educational and interdisciplinary research project housed within The Ohio State University Michael E. Moritz College of Law. Begun in January 1998, the Project's mission is to explore ways in which the law and legal reform may be used to redress systemic problems affecting children. The Justice for Children Project has two primary components: original research and writing in areas affecting children and their families, and direct legal representation of children and their interests in the courts. Through its scholarship, the Project builds bridges between theory and practice by providing philosophical support for the work of children's rights advocates. By its representation of individual clients through

the Justice for Children Practicum and through its amicus work, the Justice for Children Project strives to advance the cause of children's rights in delinquency, status offense, abuse, neglect, and other legal proceedings affecting children's interests.

The **Juvenile Rights Advocacy Project** (JRAP) is curricular law clinic, based at Boston College Law School since 1995. JRAP represents youth, with a focus on girls, who are in the delinquency or status offense systems, across systems and until the youth reach majority. JRAP attorneys use legal system to access social services and community supports for youth, hold systems accountable, and reduce the use of incarceration. JRAP also conducts research and policy advocacy for youth in the justice system. Among its work, JRAP seeks to develop and model programs for delinquent girls that reduce the use of incarceration and detention, and prompt systems to work collaboratively to shore up community resources supporting youth.

The **Mid-Atlantic Juvenile Defender Center** (MAJDC) is one of nine regional centers created by the National Juvenile Defender Center in 1999. MAJDC is a multi-faceted juvenile defense resource center serving the District of Columbia, Maryland, Puerto Rico, Virginia and West Virginia. We are committed to working within communities to ensure excellence in juvenile defense and promote justice for all children. MAJDC promotes policy development in the region through conducting state based assessments of access to counsel and quality of representation in delinquency proceedings. MAJDC also coordinates training programs for defenders,

provides technical assistance and encourages the development of oversight and accountability in the justice system.

The **National Center for Youth Law** (NCYL) is a private, non-profit organization devoted to using the law to improve the lives of poor children nation-wide. For more than 30 years, NCYL has worked to protect the rights of low-income children and to ensure that they have the resources, support and opportunities they need to become self-sufficient adults. NCYL provides representation to children in cases that have a broad impact. NCYL also engages in legislative and administrative advocacy to provide children a voice in policy decisions that affect their lives. NCYL supports the advocacy of others around the country through its legal journal, *Youth Law News*, and by providing trainings and technical assistance. NCYL has participated in litigation that has improved the quality of foster care in numerous states, expanded access to children's health and mental health care, and reduced reliance on the juvenile justice system to address the needs of youth in trouble with the law. NCYL also works to protect the rights of children in juvenile and adult criminal justice systems, at all stages of the proceedings, and to ensure that they are treated fairly consistent with their age and stage of development.

The **National Juvenile Defender Center** (NJDC) was created to ensure excellence in juvenile defense and promote justice for all children. NJDC responds to the critical need to build the capacity of the juvenile defense bar in order to improve access to counsel and quality of representation for children in the justice system. NJDC gives juvenile defense

attorneys a better capacity to address important practice and policy issues, improve advocacy skills, build partnerships, exchange information, and participate in the national debate over juvenile justice. NJDC provides support to public defenders, appointed counsel, child advocates, law school clinical programs and non-profit law centers to ensure quality representation and justice for youth in urban, suburban, rural and tribal areas. It also offers a wide range of integrated services to juvenile defenders and advocates, including training, technical assistance, advocacy, networking, collaboration, capacity building and coordination.

The **Northeast Juvenile Defender Center** (NJDC) is committed to ensuring excellence in juvenile defense and promoting justice for all children caught up within the juvenile justice system. A regional affiliate of the National Juvenile Defender Center, the NJDC strives to increase and support effective advocacy for young people in New Jersey, Delaware, New York, and Pennsylvania. Focus areas of the NJDC include juvenile detention conditions and over-utilization; dispositional advocacy; over-representation of minority children in the juvenile justice system; and training, advocacy, and technical assistance for juvenile defenders and defender agencies.

Housed jointly within the two Rutgers Law Schools and the Defender Association of Philadelphia, the NJDC works to evaluate and improve the juvenile defense and juvenile justice systems and to assist professionals working within those systems. To date, the NJDC has collaborated with the Juvenile Law Center, the American Bar Association, and the National Juvenile Defender

Center on an assessment of juvenile defense services in Pennsylvania; created a regional listserve; presented training programs in New York, New Jersey, and Pennsylvania; worked with the New Jersey Office of the Public Defender to enhance access to effective assistance of counsel for children charged with delinquency; and offered advocacy support to attorneys across the region.

In light of its central commitment to ensuring due process for young people, the NJDC has significant expertise in the issues raised by this litigation and substantial interest in its outcome.

The **Rutgers Urban Legal Clinic**, a clinical program of Rutgers Law School – Newark, was established over thirty years ago to assist low-income clients with legal problems that are caused or exacerbated by urban poverty. The Clinic's Criminal and Juvenile Justice section provides legal representation to individual clients and undertakes public policy research and community education projects in both the juvenile and criminal justice arenas. In recent years, ULC students and faculty have worked with the New Jersey Office of the Public Defender, the New Jersey Institute for Social Justice, the Essex County Juvenile Detention Center, Covenant House – New Jersey, staff of the New Jersey State Legislature, and a host of national organizations on a range of juvenile justice practice and policy issues, including questions pertaining to the due process and fourth amendment rights of young people.

The **Women's Law Project** (WLP) is a non-profit legal advocacy organization in Pennsylvania. Founded in 1974, the WLP works to advance the

legal and economic status of women through litigation, public policy development, education and one-on-one counseling. The WLP is committed to protecting the health and well-being of young women. Throughout its existence, the WLP has played a leading role in the struggle to protect women's privacy, safety, and treatment under the law in the context of health care decisions and law enforcement's response to sexual assault and domestic violence. The WLP served as co-counsel for plaintiffs in *Ferguson v. City of Charleston*, 532 U.S. 67 (2001), *Planned Parenthood v. Casey*, 505 U.S. 833 (1992), and *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747 (1986). The Women's Law Project has also worked on a variety of projects to improve the conditions of women prisoners across the state of Pennsylvania, starting with litigation on behalf of women prisoners in the State Correctional Institution at Muncy that drastically altered the way women were incarcerated in Pennsylvania (*Beehler v. Jeffes*, 664 F. Supp. 931 M.D. Pa. 1986) and continuing to the present day.

Youth Law Center is a San Francisco-based national public interest law firm working to protect the rights of at-risk children, especially those in out-of-home confinement through the juvenile justice or child welfare systems. Since 1978, Youth Law Center attorneys have represented children in civil rights and juvenile court cases in California and two dozen other states. The Center has also provided research, training, and technical assistance on juvenile law and policy issues for juvenile facilities to public officials in almost every State. Youth Law Center attorneys have written widely on a range of juvenile justice, child welfare, health and education

issues. The Center's attorneys have participated as amicus curiae in California and around the country in juvenile cases involving questions of constitutional law.

One of the Center's ongoing interests has been the treatment of children in educational settings. Moreover, the Center has had a long-term commitment to protecting children against practices that are humiliating or demeaning, and unnecessarily intrusive. This case, involving the strip search of a 13 year-old girl at school, fits squarely within those interests.

Individuals

Professor Barry Feld is Centennial Professor of Law, University of Minnesota Law School. He received his B.A. from the University of Pennsylvania; his J.D. from University of Minnesota Law School; and his Ph.D. in sociology from Harvard University. He has written eight books and about seventy law review and criminology articles and book chapters on juvenile justice with a special emphasis on serious young offenders, procedural justice in juvenile court, adolescents' competence to exercise and waive *Miranda* rights and counsel, youth sentencing policy, and race. Feld has testified before state legislatures and the U. S. Senate, spoken on various aspects of juvenile justice administration to legal, judicial, and academic audiences in the United States and internationally. He worked as a prosecutor in the Hennepin County (Minneapolis) Attorney's Office and served on the Minnesota Juvenile Justice Task Force (1992 -1994), whose recommendations the 1994 legislature enacted in its revisions of the Minnesota juvenile code. Between

1994 and 1997, Feld served as Co-Reporter of the Minnesota Supreme Court's Juvenile Court Rules of Procedure Advisory Committee.

Professor Kristin Henning is a Professor of Law and the Co-Director of the Juvenile Justice Clinic at Georgetown Law Center. Professor Henning joined the faculty in 1995 as a Stuart-Stiller Fellow in the Criminal and Juvenile Justice Clinics. As a Fellow she represented adults and children in the D.C. Superior Court, while supervising law students in the Juvenile Justice Clinic. In 1997, Professor Henning joined the staff of the Public Defender Service for the District of Columbia where she continued to represent clients and helped to organize a Juvenile Unit designed to meet the multi-disciplinary needs of children in the juvenile justice system. She served as Lead Attorney for the Juvenile Unit from 1998 until she left the Public Defender Service to return to Georgetown in 2001. Professor Henning has been active in local, regional and national juvenile justice reform, serving on the Board of the Mid-Atlantic Juvenile Defender Center, the D.C. Department of Youth Rehabilitation Services Advisory Board and Oversight Committee, and on local D.C. Superior Court committees such as the Delinquency Working Group and the Family Court Training Committee. She has published a number of law review articles on the role of child's counsel, the role of parents in delinquency cases, confidentiality in juvenile courts, victims' rights, and therapeutic jurisprudence in the juvenile justice system. She is also a lead contributor to the *Juvenile Law and Practice* chapter of the District of Columbia Bar Practice Manual. Professor Henning traveled to Liberia in 2006 and 2007 to aid the country in

juvenile justice reform and was awarded the 2008 Shanara Gilbert Award by the Clinical Section of the Association of American Law Schools in May for her commitment to social justice on behalf of children. Professor Henning is currently a Visiting Professor of Law at NYU Law School during the Spring semester of 2009.

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