Juvenile Defenders Reflect on Their Careers and 50 Years Since

BY ERIC J. ZOGRY

This year marks the 50th anniversary of the United States Supreme Court decision In re Gault. Gerald Gault was a 16-year-old adjudicated and confined for making an illicit phone call to an elderly neighbor. Gerald was given no notice of the charges, no attorney, no opportunity to cross examine witnesses, and not informed of his right to remain silent when speaking to authorities. The Supreme Court determined these rights apply in juvenile delinquency court, firmly establishing the rule of law and due process.

To commemorate this anniversary, the Office of the Juvenile Defender interviewed several juvenile defense counsel from around the state to tell their story of how they became defenders, what inspires their practice, and their reflections on the 50th anniversary of the Gault decision.

Q: How did you first become involved in the practice of delinquency law?

Barbara Fedders, assistant professor at UNC School of Law, director of Youth Justice Clinic: I was aware from my early 20s that my younger brother, but for his race (white), class (middle), and location of our birth (suburban) would have been involved in the juvenile and likely criminal systems. The galling inequality of class and race privilege that animates our systems was an early source of motivation for me. Once I went to law school, I took a clinic with Randy Hertz and was hooked—here was an opportunity to work for racial justice and also be a litigator. I love criminal procedure and love being an advocate.

Mary Stansell, juvenile chief, Wake County Public Defender Office: I have always worked with at-risk kids. With a BA in psychology, I spent my first life as a youth counselor at a Boys & Girls Club and the Iowa State Training School, and then I was a child protective service investigator/social worker for Lee County Department of Social Services. That drove me to law school in my 30s with intentions of hanging out a shingle as a guardian ad litem lawyer to protect kids. I ended up in the district attorney’s office for ten years working on family crimes (domestic violence, child abuse, sex crimes, etc.) and in juvenile court. So I naturally jumped at the opportunity to do nothing but juvenile defense. I believe my whole life has prepared me for this job.

Sabrina Leshore, attorney at Leshore Law Firm, PLLC, and executive director of CROSSED, Lumberton: My initial involvement with the practice of juvenile law was during my first year of law school. I interned with NC Child, formerly known as Action for Children, NC. During the internship I learned about the different policies and shortcomings involved in juvenile law.

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Starr Ward, juvenile defender in Guilford County: I have practiced criminal law for over 12 years as both a public defender and as a private attorney on the court-appointed list. Over the years I have handled every type of criminal case ranging from speeding tickets to first-degree murder. After leaving the public defender’s office six years ago, I was approved to be on the juvenile appointed list.

Mitchell Feld, director of Children’s Defense at the Council for Children’s Rights, Charlotte: I interned with the council in the summer of 2007. It was an amazing experience working with and learning from a group of experienced attorneys that had a passion for working with children. I was able to handle cases in court, develop rapport with children that I saw multiple times during the summer, and learn a tremendous amount about criminal and juvenile law. After that summer I made it my mission to return to practicing in this area after passing the bar exam.

Q: Is there anyone who has influenced your practice? If so, how?

Barbara Fedders: Randy Hertz and Bernardine Dohrn—amazing mentors, brilliant lawyers. Bryan Stevenson because of his passion and commitment. James Bell because of his insistence on speaking truth about white supremacy and the juvenile court.

Mary Stansell: A defense attorney in Harnett County when I was prosecuting was a wonderful mentor in the law practice. He taught me to “ALWAYS do the right thing” (then you don’t have to worry about your Bar license). I believe that it helped me to see just how powerful the prosecutor’s position is and to not abuse my power as an ADA. He also taught me the importance of being more compassionate with our clients (whatever side you work on, people in court are in crisis), and not to get so complacent in what, to me, is just another day in court, but to whomever I am representing is a rare, crisis situation.

I have too many mentors to name, because I believe that when we quit learning, we start to die.

Scott Dennis, associate at Bringewatt & Snover, PLLC, Lexington: Jerry Stainback, who approaches a case with the tenacity and stamina of a boxer, has an ability to tap into the reasonableness of a community, and has class towards the other side.

Sabrina Leshore: There are many people who have influenced me to practice juvenile law. First, Brandy Bynum inspired me to pursue a career as a juvenile justice advocate as I helped with the 2011 grassroots NC Raise the Age campaign. Following my interactions with Brandy, I interned with Mary Stansell at the Wake County Public Defenders’ Office, Juvenile Unit, where I learned how to use legal strategy and passion to effectively represent youth. Finally, I interned at the NC Office of the Juvenile Defender with Eric Zogry who helped me to feel comfortable and confident in my skills and ability to effectively act as a juvenile justice leader in North Carolina.

Starr Ward: I really look up to my parents. They have been a tremendous influence in my life and they continue to support me daily. During my formative years, my parents constantly pushed me to succeed academically and provided opportunities for me that shaped me into the person I am today. In the juvenile court system, some families need additional support and I try to find resources that can help fill gaps in the child’s life. I am hopeful that, with the support of the juvenile court system, these children can have someone advocating for them like my parents have done and continue to do so for me.

Q: What do you find most rewarding about practicing in juvenile court? What do you like least about practicing in juvenile court?

Barbara Fedders: I like forming relationships with kids. The lawyer-client relationship is unique and special. What I like least is how little impact court involvement has on a kid, how meaningless the court proceedings typically are to kids.

Mary Stansell: Definitely the most rewarding part of my practice is the kids that I am actually able to connect with and counsel into a better life.

Scott Dennis: Most rewarding? I generally just enjoy working with children. Each client has a tremendous capacity for good, and they need you to believe in them. I generally believe that people become what they are told they are. It is your job to advocate for that child and to let them know how important he or she is.

Like least about practicing? I’ll keep this simple. All clients can be frustrating from time to time.

Sabrina Leshore: The most rewarding component of practicing in juvenile court is having the privilege to speak with the youth and deposit seeds of hope into them. When I interact with the juveniles, I am afforded the opportunity to share the similarities that I observe between myself and the young person. This interaction provides them with the ability to see past their dismal situations and look towards a brighter future. I also enjoy advocating for them in open court to illustrate that someone is fighting for their rights.

What I like least about practicing in juvenile court is the stigma that other stakeholders place on the juveniles. Instead of promoting hope and a second chance, juvenile court seems to sometimes promote hopelessness and a disregard for rehabilitation.

Yolanda Fair, assistant public defender, Buncombe County: I like to see when clients are successful on probation and are “publically celebrated” in the courtroom. One of the biggest challenges is the concept of “reasonable doubt” and that one is “innocent until proven guilty.” This is especially difficult when, during the intake process, information gets revealed when it wouldn’t be in the adult criminal process.

Mitchell Feld: The children who I represent every day are the most rewarding part of practicing in juvenile court. They make it fun, worthwhile, and provide so much meaning to doing this work every day.

The part I like least about practicing in juvenile court is that while we have made progress on a number of issues to improve outcomes, we still have a long way to go.

Q: How has the Gault decision impacted your daily practice or philosophy of practice?

Barbara Fedders: Gault made clear that parents and probation officers, no matter how well intentioned, cannot protect a child’s legal interests. That part of the holding is critical because it belies the misguided notion that the juvenile court’s supposedly rehabilitative mission means that adversarial proceedings with zealous defense counsel are not essential.

Mary Stansell: It gives legal mandate to my plea to make children’s rights actually matter, to insist that judges do their job and weigh legal issues (rather than find them guilty simply because “we are just here to get them help”).

Sabrina Leshore: The Gault decision helped to solidify the notion that juveniles facing an adjudication of delinquency and incarceration are entitled to certain procedural safeguards under the Due Process Clause of the Fourteenth Amendment. Because of this decision, I make sure that I zealously advocate for my juvenile clients through preparation and communication with each of the juveniles I represent.

Starr Ward: The Gault decision gave juve-
niles the right to the assistance of counsel in all court proceedings. The ability to have quality legal representation without regard to financial ability is the cornerstone of my practice and why I do public defense work. Juvenile defendants are real people and their cases have real consequences on their lives. It is essential that they have an advocate to lead them through the system, explain their rights, and counsel them on the impacts of their decisions. The right to effective legal representation is not limited to the elite few with large disposable incomes. The children we see in juvenile court are the future, and our society bears a collective responsibility to reach these children and to attempt rehabilitation so these kids can avoid becoming part of the adult prison system.

Mitchell Feld: The Gault decision has increased my passion to tell others that children have the same rights as adults do. People tend to be very quick to say “well, it’s just a child” or “they’re a child so they won’t know what to decide.” Minimizing children and treating them like second-class citizens causes me to fight even harder for them to be treated like anyone else.

Q: What is the most important lesson that you learned while practicing in juvenile court?

Barbara Fedders: “I am only one, But still I am one. I cannot do everything, But still I can do something; And because I cannot do everything, I will not refuse to do the something that I can do.” (Edward Everett Hale)

Mary Stansell: The resiliency of children’s hearts. That I must keep a hopeful and encouraging attitude with each and every child I work with because I never know which ones will “make it” and which ones won’t. And it’s not for me to decide that by giving up on any one of them.

Scott Dennis: There are so many. 1) Get your client on your side early and often. There are layers of distrust within the system: of publicly appointed lawyers, of court counselors, and through cultural disconnects. This starts in the secured custody hearings. They need to see you fighting as soon as you have enough information to be competent to do so. 2) If you are able, get your client out of secured custody as fast as you can. The more exposed they are to children in crises, the more negative lessons they learn. Also, I generally believe that the longer children become accustomed to secured custody, the more comfortable they become with the idea of returning. 3) Take time with your client. Use the performance guidelines in the Juvenile Defender Manual and educate them about the process and the consequences. Tell them what you are going to tell them, tell them again, and then tell them what you told them. Have them repeat some of the information back. Know also that many of our children have learning disabilities. 4) Learn about the resources that your community offers. This will help scale back over-the-top proposals by district attorneys and court counselors, and, if your client admits or is adjudicated, you will be able to propose something positive that your client can reasonably accomplish.

Sabrina Leshore: I cannot allow the opinions of others in the courtroom sway how I make legal decisions for my client. Although others may look at my strategies as overly zealous or overly ambitious, I must continue to have the courage to stand up against adversity in the courtroom because my job is to help my client fight through the chatter of the adverse parties and advocate on their behalf.

Starr Ward: Patience. Because the juvenile system closely monitors the children on probation, juveniles who have serious issues at home and school are likely to violate their probation. As anyone with children of their own will understand, juveniles do not always get it right on the first try.

It is important to keep looking for resources and additional ways to help your juvenile client. Unlike adult work, even when one charge is disposed of, generally the same attorney is appointed for violations or new charges. It is imperative to get to know your juvenile client on a personal level and to build a relationship with their guardians and support system. I strive to never give up on my kids and to always look for additional options.

Yolanda Fair: I learned that you can’t make assumptions about the child’s ability to manage probation. Different things motivate different kids. And you can’t predict success—those clients that you think will struggle often succeed, and those who seem destined for success struggle.

Mitchell Feld: Be grateful. Be humble. Be simple. The children we help every day have lived difficult lives, experienced situations none of us can imagine, and try to make the most out of any situation. It is very easy in our technology-driven world to have unreasonable expectations of others, forget the meaning of personal interaction, and always want more. We need to meet our clients where they are, understand where they came from, and help them get to where they want to be.

Q: What would you tell the next generation of defenders?

Mary Stansell: Being a part of saving a kid contributes to all of humanity because they are our future. It can be very emotionally empowering work (when you get through to a kid), but it can also be VERY depressing on a day-to-day basis having to watch “the system” grind kids up and destroy their hope and futures. But I would also stress the importance of keeping your perspective and balance in life. You can’t save every starfish in the sea. Put in the long hours, go the extra mile, but also go home and appreciate your own family.

Scott Dennis: You are the bridge between your clients’ worst moments and their way out. They need you to believe in them, and they need to know that they are worth fighting for, no matter how many hard-headed comments they make, and no matter how many barriers of trust exist.

Sabrina Leshore: Don’t be surprised if a juvenile recidivates. Use each interaction as an opportunity to sow another seed of hope. Continue to fight just as hard as you did the first time you were retained or appointed to represent them.

Starr Ward: I would tell the next generation of public defenders that while this job is stressful, it is all worth it. I think often of theparable where a boy walks along the shoreline and tosses a starfish back into the ocean after it has been washed ashore. A man asks the boy why does he bother as there are many beached starfish and he cannot possibly help them all. The boy replies, but for that one starfish, I made a difference. While every case may not go the way you want it to go, and not every juvenile client becomes a success story, doing this type of work allows you the opportunity to truly change the course of a young child’s life.

Yolanda Fair: Don’t be afraid to challenge the status quo. Don’t accept when the court treats different clients with the same conditions—make sure to advocate for your client’s specific needs. This court is not “kiddie court” or “criminal court lite”; the penalties and punishments can have real consequences and impacts.

Mitchell Feld: Be creative. We will only raise the bar on juvenile court if we continue to push the limits. It will be easier to raise the

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The New Reconciliation Report Form

By Anne Parkin, Field Auditor

I never thought I could be so excited about revising an audit form, but I am—and I think you will be, too.

The new Reconciliation Report can be used for both the monthly and quarterly reconciliations. Yes, there are TWO reconciliation requirements (Rule 1.15-3(d)). A monthly reconciliation is done to verify that the balance shown in your check register/general ledger agrees with the ending balance shown on your bank statement (after making adjustments for any outstanding items). A quarterly reconciliation is done to additionally verify that the total positive client ledger balances agree with the check register/general ledger balance and ending balance on the bank statement. Note: it is crucial to balance these amounts at the same time and as of the ending date on the bank statement.

Prior to the approval of amendments to Rule 1.15 last June, the State Bar provided only the Trust Account Reconciliation Sheet. This form could be used for both monthly and quarterly reconciliations; however, it didn’t address important requirements in the rule amendments. In view of this, the State Bar developed a new reconciliation form, the Monthly Trust Account Report. The language in this form addressed the requirements missing from the other form, and provided a way for lawyers and nonlawyers who perform the monthly reconciliation to document and attest that the reconciliation is in compliance. But this form alone could not be used when a quarterly reconciliation was performed.

When I began auditing in July last year, I found that many lawyers/firms were not using the forms correctly; most were only using the Monthly Trust Account Report form. As a result, documentation of the quarterly reconciliation was not in compliance, or (gasp) the quarterly reconciliation was not being done at all. I soon realized the benefits of combining the two forms, and the new form was created.

The New Reconciliation Report Form is easier to read, more concise in its format, guides you through performing both types of reconciliations, and lists exactly the documents needed to complete a reconciliation.

The Reconciliation Report is not a mandatory form under the recordkeeping requirements, but is highly recommended, and its use is requested whenever there is follow-up to a random audit. If the form is used correctly and in its entirety, there is little room left for error and non-compliance. It gives you one less thing to worry about if you are selected for a trust account random audit. Who doesn’t want that? The new form is available to download now on the State Bar’s website: ncbars.org/for-lawyers/forms.

I’ll end with one of my top tips: perform both reconciliations each month (complete all of the steps shown on the form)—don’t wait 90 days to verify that your client balances agree with your check register/general ledger balance and bank balance.

Juvenile Defenders (cont.)

I continue to educate myself and know that I can always improve. I search for positive people who can help me renew my sense of self.

Sabrina Leshore: On the days I leave court feeling defeated, I remind myself that practicing delinquency law is a calling placed on my life. I am encouraged by the reaffirming thought that I have been privileged to be able to stand in the gap and help advocate for juveniles.

Yolanda Fair: I really enjoy seeing former clients in the community and how far they’ve come since their time in court. I also feel supported by those judges who understand my role and are complimentary and encouraging.

Mitchell Feld: The success stories keep you coming back. Every day is not easy in juvenile court. You may not always get the outcome that you want and your clients do not always listen to your advice (or at least, not at first). However, you need to give it your all, keep fighting, and relish the success stories. These stories do not happen in as great of numbers as we hope. However, when they do happen, they make you realize that juvenile court does work.

Eric J. Zogry has been the North Carolina state juvenile defender since 2005. The Office of the Juvenile Defender provides services and support to defense attorneys, evaluates the current system of representation and makes recommendations as needed, elevates the stature of juvenile delinquency representation, and works with other juvenile justice actors to promote positive change in the juvenile justice system. For more information, see ncjuveniledefender.wordpress.com.