

SJI NEWSLETTER

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Third Courting Justice Town Hall

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SJI uses [Facebook](#) and [Twitter](#) to promote the work of its grantees and also shares information of interest to the entire state court community.

If your organization's work complements ours, let us know and we will share



[Courting Justice](#) follows a town hall format that invites state supreme, appellate, and trial court judges to step down from the bench and listen to new perspectives on how the state courts can better deliver justice for all.

Supported by SJI and the [National Center for State Courts \(NCSC\)](#), airing on [PBS](#) and hosted by acclaimed journalist [Tavis Smiley](#), Courting Justice is on a cross-country tour, engaging the public and judges in a conversation about the courts.

From litigants to public defenders, families of the incarcerated to prosecutors, multiple voices have shared their concerns and real-world solutions on how to rebuild the public trust in our judiciary.



The most recent episode was taped in Cleveland, Ohio, on December 8, 2016, and is [now available online](#). Panelists included: Ohio Chief Justice Maureen O'Connor; Cleveland Municipal Court Judge Ronald Adrine; Lakewood Judge Patrick Carroll; and, Former Ohio Supreme Court Justice Yvette McGee.

New Information Card on Access to Counsel for Juveniles

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With support from SJI and in partnership with the [National Juvenile Defender Center](#), and the [National Council of Juvenile and Family Court Judges \(NCJFCJ\)](#), a new juvenile delinquency [information card](#) is now available that highlights the key elements of ensuring meaningful access to counsel for juveniles at initial appointment.

The card, titled "[Honoring Gault: Ensuring Access to Counsel in](#)

**Honoring Gault:
Ensuring Access to Counsel in
Delinquency Proceedings**

Every jurisdiction is different and has different resources and laws governing whether children have access to counsel and at what stage in the proceedings. The recommendations that follow may be more difficult to implement in some jurisdictions than others. It is hoped that to the extent the recommendations cannot be fully implemented within your jurisdiction, they can at least set aspirational goals for changes in practice which with leadership, could be closely implemented in the future.

Due Process & Juveniles' Right to Counsel

In 1964, without an attorney, notice of the charges, or a trial, Gerald Francis Gault, a fifteen-year-old youth accused of making an annoying phone call, was sentenced to the state youth correctional agency until his twenty-first birthday. An adult record of comparable conduct would have resulted in a fine or a jail term for not more than two months. As the United States Supreme Court concluded, "There is no material difference... between adult and juvenile proceedings... A proceeding where the issue is whether the child will be found 'guilty' and subjected to the loss of liberty... is comparable in seriousness to a felony prosecution..." The child "requires the guiding hand of counsel at every step in the proceedings against him." This includes providing an attorney to the child to assist in making the critical decision of how to proceed prior to conducting a hearing regarding possible waiver of the right to counsel.

Access to counsel is essential to due process. Beyond being a matter of justice, the perception of fairness strengthens the legitimacy of the court. Treating youth fairly and ensuring that they perceive that they have been treated fairly and with dignity contribute to positive outcomes in the normal process of social learning, moral development, and legal socialization during adolescence. If youth feel they have been treated fairly, recidivism is reduced.

Ethical Standards

Juvenile delinquency is a specialized area of law requiring client-directed advocacy. It is ultimately the court's responsibility to ensure that each child has the opportunity to be represented by qualified counsel at every stage of the proceedings. Juvenile court judges should encourage all attorneys to display breadth of knowledge of juvenile law and adolescent brain development, to keep up with changes in juvenile law and appropriate care and treatment of juveniles, and to be familiar with community-centered, evidence-based programs. Every judge has a duty to promote public confidence in the justice system and ensure professionalism, access to justice, and due process. Therefore, juvenile court judges should encourage ongoing training of all attorneys, encourage law libraries to create and maintain juvenile law and social science sections, and implement impartial and merit-based appointment of counsel procedures where required. A judge should refer lawyers who do not exhibit sufficient professionalism to juvenile training programs.

Without showing partiality or favoritism, a judge should take appropriate steps to improve professionalism and access to justice. The severity of a situation should dictate the nature and degree of justice action. Widespread issues might be addressed by local seminars, court rules, or published articles. Attorney-specific issues might be addressed by contact with a supervisory authority or comments during a status or pretrial conference, a specific ruling, or a referral to a law library or to a juvenile training program consistent with the National Juvenile Defender Standards.

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[Delinquency Proceedings](#)," is named after the 1964 case against Gerald Francis Gault, aged fifteen, who was sentenced to the state youth correctional facility until his twenty-first birthday for making an annoying phone call. It was later determined by the U.S. Supreme Court that, no matter the age, the accused should receive meaningful access to counsel.

Included in the card are four key elements to ensuring meaningful access to counsel for juveniles, and ethical standards for consideration by the parties involved in the proceedings.

2016 State of the State Courts Survey Results

The [National Center for State Courts \(NCSC\)](#) has released its annual State of the State Courts survey results. The survey results yielded valuable information on public trust, procedural fairness, and other critical areas. This year's survey results showed an increase in the public's trust in the courts, with four in five people having direct interaction with the court system expressing satisfaction in procedural fairness.

The survey was conducted among 1,000 respondents by telephone between November 14 - 17, 2016. Survey findings are considered accurate 19 times out of 20.

Key findings of the survey include:



- There are signs of positive momentum in public trust -- but innovation and technology concerns persist;
- A glaring lack of understanding about court funding is reflective of misperceptions about government spending generally;
- If courts lead on fines and fees reform, the public will follow;
- The public believes that the ethnicity of a judge may impact fairness.

For more detail on the survey findings, read this [six-page summary](#) from the pollster, or [download the](#)

[presentation slides](#).

The NCSC also surveyed public opinion in previous years, and has archived the [2015](#) and [2014](#) survey results.

NJC Offers Pilot Course for New Trial Court Judges

With support from SJI, the [National Judicial College \(NJC\)](#) developed and delivered an interactive, web-based course for newly elected or appointed trial court judges.

Tuition-free for pilot participants, the course was offered online between November 7 – December 9, 2016. Judges averaged four hours per week on assignments and engaged in a weekly web conference with faculty and fellow participants. Adapted from content offered at an in-class weekly seminar for new judges, the course guided participants through 25 key points regarding new responsibilities, essential justice system knowledge for judges, and the role of the judge in administrative matters beyond the courtroom.

Depending on availability and interest, the NJC hopes to offer additional sessions of the course in the fall of 2017. Those wishing to learn more about the course and its content are encouraged to reference the NJC's course [website](#), or contact the NJC by phone, at 800-255-8343



and ask for more information about, "[Taking the Bench - An Interactive Web-Based Course for New Trial Judges](#)."

Adult Guardianship Initiative Strategic Action Plan

The [Conference of Chief Justices](#) and [Conference of State Court Administrators](#) Joint Committee on Elders and the Courts has approved the [Strategic Action Plan – 2016](#) for the Adult Guardianship Initiative.

With support from [SJI](#) and the [Retirement Research Foundation \(RRF\)](#), the [Center for Elders and the Courts](#) is addressing guardianship and conservatorship issues in the state courts through the initiative.

Strategic Action Plan, 2016



Adult Guardianship Initiative

An Initiative of the NCSC's Center for Elders and the Courts and the CCJ/COSCA Joint Committee on Elders and the Courts

Adopted by the Committee, December 1, 2016

The plan comprises a multi-year response that targets four key goals including:

- Develop and maintain a partnership of key stakeholders;
- Prioritize the protection and enhancement of individual rights;
- Promote modernization and transparency in the guardianship process; and,
- Enhance guardianship/conservatorship court processes and oversight.

A recent survey by the NCSC shows an estimated \$50 billion in assets are currently under state courts' watch in conservatorship cases across the country. This number is based on projections from data from a handful of states. Some 176,000 new conservatorship or guardianship cases were filed in state courts nationally in 2015, and there were an estimated 1.3 million open cases. These statistics provide valuable insight to a growing national problem and how courts recognize and deal with the financial exploitation of people under a conservatorship.

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The State Justice Institute is a federally-funded, non-profit corporation established by federal law in 1984 to improve the quality of justice in the state courts.

