



TRIAL DEFENSE GUIDELINES REPRESENTING A CHILD CLIENT FACING A POSSIBLE LIFE SENTENCE

EXECUTIVE SUMMARY

Children are constitutionally and developmentally different from adults, therefore the representation of children in adult court facing a possible life sentence is a highly specialized area of legal practice, encompassing the representation of children in adult court as well as the investigation and presentation of mitigation. The objective of the trial defense guidelines is to set forth a national standard of practice to ensure zealous, constitutionally effective representation for all children facing a possible life sentence.¹

The guidelines call on defense attorneys to litigate for a meaningful individualized sentencing determination, in which defense counsel is able to fully and effectively present mitigation, consistent with the United States Supreme Court's holding in *Miller v. Alabama*, 132 S.Ct. 2455, 2469 (2012) that trial proceedings "take into account how children are different, and how those differences counsel against irrevocably sentencing [children] to a lifetime in prison."

The guidelines outline a team approach, calling for a minimum of four qualified defense team members: two attorneys, one investigator, and one mitigation specialist. The guidelines set forth the roles and responsibilities of the defense team for the duration of a trial proceeding and outline child-specific considerations relevant to pre-trial, trial, and sentencing representation. In particular, at least one attorney must have relevant substantive experience representing child clients, and at least one attorney must have homicide experience, including the investigation and presentation of sentencing mitigation.

All defense team members owe a duty of loyalty to the child client but must remain cognizant of the ongoing concerns of the child client's caretakers and loved ones. All members of the defense team have an ethical obligation to limit their caseloads in recognition of the tremendous time and diligence required to investigate, prepare, and present a case for both guilt/innocence and sentencing. Moreover, all defense team members should be compensated in a manner that reflects the extraordinary responsibility inherent in representing a child client facing a possible life sentence.

¹ The guidelines are intended to establish a standard of representation for children facing life sentences, drawing from the ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases in the capital context and the NJDC National Juvenile Defense Standards in the juvenile court context.