

# Protecting truth: an argument for juvenile rights and a return to in re gault

[Law](#)



The paper "Protecting Truth: An Argument for Juvenile Rights and a Return to *In re Gault*" is an outstanding example of a law article review. The tension between rehabilitation and retribution is nowhere more prevalent than in cases concerning juvenile justice and the appropriate dispensation of the sentence. On the one hand, the rise of serious juvenile crime demands a response appropriate the nature of the offense (Chapter 9). On the other, legitimate questions remain as to whether juveniles represent a different class of offenders, such that traditional distinctions or understandings of severity are not dispositive regarding the appropriate sentence. This tension and the distinction between juveniles and adults comprise the bulk of a recent UCLA Law Review piece by Benjamin E. Friedman. In "Protecting Truth: An Argument for Juvenile Rights and a Return to *In re Gault*," Friedman contends that courts have increasingly moved away from the sorts of procedural rights advocated for juveniles in *In re Gault*. At the same time, Friedman argues that juveniles exhibit psychologically distinct characteristics that require more aggressive procedural protections. The combination of less robust procedural rights and juveniles' less developed psychological resources places them at a unique disadvantage in the legal system—an issue made explicit by the problem of false confessions. Friedman concludes by focusing on several reform proposals—a non-waivable right to legal counsel and mandatory electronic recording of interrogations—that would protect juvenile rights while still allowing for a system that fits appropriate punishment to the crime. Friedman's argument is compelling, and his remedies reasonable. Nonetheless, he presumes that the problem with juveniles at present is procedural rather than substantive, which is to say

that punishment would fit (even in cases of severe sentences) if procedural rights were protected. The evidence from recent chapters indicates that juveniles are often not well-served by these substantive remedies and that diversion offers a more impactful approach. While Friedman's position is not mutually exclusive with these other concerns, it does direct attention away from them, and any consideration of his argument should include extraneous consideration of remedies.