

JOSH GUPTA-KAGAN
University of South Carolina School of Law
1525 Senate Street, Columbia, SC 29208
(803) 777-3393 (office) / jgkagan@law.sc.edu

CURRENT POSITION

UNIVERSITY OF SOUTH CAROLINA LAW SCHOOL, Columbia, South Carolina

<i>Professor</i>	2021-present
<i>Associate Professor of Law</i>	2018-2020
<i>Assistant Professor of Law</i>	2013-2018

Teach the Juvenile Justice Clinic; Parents, Children and the State; Juvenile Justice; and Interviewing, Counseling, and Negotiation.

ACADEMIC PUBLICATIONS

Beyond “Children Are Different”: The Revolution in Juvenile Intake and Sentencing, 96 WASH. L. REV. ____ (forthcoming 2021).

America’s Hidden Foster Care System, 72 STAN. L. REV. 841 (2020).

Operationalizing Intake: Variations in Juvenile Court Intake Procedures and Their Implications, 102 CHILDREN & YOUTH SERVICES REV. 91 (2019), with Amanda Fairchild and Tia Stevens Andersen (peer-reviewed publication).

Reevaluating School Searches Following School-to-Prison Pipeline Reforms, 87 FORDHAM L. REV. 2013 (2019).

The Intersection Between Young Adult Sentencing and Mass Incarceration, 2018 WISC. L. REV. 669 (2018).

Rethinking Family Court Prosecutors: Elected and Agency Prosecutors and Prosecutorial Discretion in Juvenile Delinquency and Child Protection Cases, 85 U. OF CHICAGO L. REV. 743 (2018).

The School-to-Prison Pipeline’s Legal Architecture: Lessons from the Spring Valley Incident and Its Aftermath, 45 FORDHAM URB. L.J. 83 (2018).

The Strange Life of Stanley v. Illinois: A Case Study in Parent Representation and Law Reform, 41 N.Y.U. REV. OF L. & SOC. CH. 569 (2017).

The Standard of Proof in the Substantiation of Child Abuse and Neglect, 14 J. OF EMPIRICAL LEGAL STUD. 333 (2017), with Mary Eschelbach Hansen and Nick Kahn (peer-reviewed publication).

Finally Time for Realistic and Determinate Standards in Family Court, 68 Juv. & Fam. Ct. J. 31 (2017).

Child Protection Law as an Independent Variable, 54 FAM. CT. REV. 398 (2016) (peer reviewed publication).

Stanley v. Illinois’ Untold Story, 24 WM. & MARY BILL OF RTS. J. 773 (2016).

The New Permanency, 19 U. CAL. DAVIS. J. OF JUV. L. & POL’Y 1 (2015).

Non-Exclusive Adoption and Child Welfare, 66 ALA. L. REV. 715 (2015).

In re Sanders and the Resurrection of Stanley v. Illinois, 5 CAL. L. REV. CIRCUIT 383 (2014).

The Standard of Proof at Adjudication of Abuse or Neglect: Its Influence on Case Outcomes at Key Junctures, 17 Soc. Work. & Soc. Sci. Rev. 22 (2014), with Mary Eschelbach Hansen and Ashley Provencher (peer reviewed publication).

Towards a Public Health Legal Structure for Child Welfare, 92 NEB. L. REV. 897 (2014).

Where the Judiciary Prosecutes in Front of Itself: Missouri's Unconstitutional Juvenile Court Structure, 78 MO. L. REV. 1245 (2013).

Beyond Law Enforcement: Camreta v. Greene, Child Protection Investigations, and the Need to Reform the Fourth Amendment Special Needs Doctrine, 87 TULANE L. REV. 353 (2012).

Filling the Due Process Donut Hole: Abuse and Neglect Cases Between Disposition and Permanency, 10 CONN. PUB. INT. L.J. 13 (2011).

Children, Kin and Court: Designing Third Party Custody Policy to Protect Children, Third Parties and Parents, 12 N.Y.U. J. OF LEG. & PUB. POL'Y 43 (2009).

Raising the Cut Off: The Empirical Case for Extending Adoption and Guardianship Subsidies from Age 18 to 21, 13 U. CAL. DAVIS. J. OF JUV. L. & POL'Y 1 (2009), with Mary Eschelbach Hansen.

Reappraising T.L.O.'s Special Needs Doctrine in an Era of School-Law Enforcement Entanglement, 33 J. OF L. & EDUC. 291 (2004).

A Civics Action: Interpreting State Constitutions' Education Clauses, 78 N.Y.U. L. REV. 2241 (2003).

Empowerment and Education: Expert-Advocates, Civil Rights and Parent Politics in Head Start, 1964-1980, 104 Teachers College Record 516 (2002).

OTHER TEACHING EXPERIENCE

WASHINGTON UNIVERSITY LAW SCHOOL, St. Louis, Missouri 2011-2013

Civil Justice Clinic Staff Attorney and Lecturer-in-Law

Co-taught a live client clinic which represents children and parents in St. Louis County Juvenile Court child abuse and neglect cases and engages in select legislative and other systemic advocacy projects. Supervised law and social work student advocacy, represented clients during student vacations, managed intake of individual client and *amicus* brief cases.

GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C. 2010-2011

Adjunct Professor of Law

Taught *Family Law II: Child, Parent, and State*, and *Child Abuse and Neglect Law*.

PRACTICE EXPERIENCE

CHILDREN'S LAW CENTER, Washington, D.C. 2005-2011

Senior Attorney, Policy Team, Staff Attorney, Guardian Ad Litem project

- Led successful legislative efforts to permit third party custody actions and regulate them to balance the rights of children, parents, and third party caregivers; to create a “differential response” to child protection hotline reports; to protect school stability for foster children; to expand housing options for families at risk of foster care and youth emancipating from foster care; to extend adoption and guardianship subsidies to age 21 and expand guardianship subsidies to all foster parents; and to exempt social workers on a legal team from mandatory reporting laws and thus remove a barrier to multidisciplinary legal practice.

- Represented children and adults in D.C. Family Court in abuse and neglect cases, focusing on child welfare, education, mental health, and other related issues.

OTHER PROFESSIONAL ACTIVITIES, PUBLICATIONS, AND RECOGNITION

A Ringing Endorsement of Lawyers, and the Most Important Development in Child Protection Law (reviewing Lucas A. Gerber, *et al.*, *Understanding the effects of an interdisciplinary approach to parental representation in child welfare*, 116 Child. & Youth Serv. Rev. 105163 (2020).

How the Biden Administration Can Address Hidden Foster Care, The Imprint, Dec. 21, 2020, <https://imprintnews.org/child-welfare-2/how-biden-administration-address-hidden-foster-care/50487>.

Co-Reporter, South Carolina Senate Select Committee to Raise the Age, 2019-2020.

Selected Panelist, AALS Annual Conference, Section on Children and the Law, “A Time for Momentum in Child Welfare Advocacy, Policy, and Research,” Jan. 2, 2020.

Presenter, National Council of Juvenile and Family Court Judges, National Conference on Juvenile Justice, “Juvenile Court Intake: Who Makes Decisions, How They Make Them, and Why It Matters,” March 19, 2019.

Outstanding Faculty Publication (Article) Award, University of South Carolina School of Law, May 2018, for *The Strange Life of Stanley v. Illinois: A Case Study in Parent Representation and Law Reform*.

2017 Robert D. Spencer Volunteer Award, Protection and Advocacy for People with Disabilities of South Carolina.

“Effective Solutions to South Carolina’s Juvenile Justice Crisis: Safety, Rehabilitation, and Fiscal Responsibility,” with Nancy McCormick, Robert Meriwether, and Jase Glenn (2017), available at <http://www.pandasc.org/wp-content/uploads/2017/04/Juvenile-Justice-Report.pdf>.

Panelist, Columbia, SC Community Relations Council’s monthly “Hot Topics” forum on South Carolina’s disturbing schools statute, February 20, 2017.

Case Note, *In re Ta.L.*; *In re* Petition of R.W. & A.W. (D.C. en banc, Dec. 8, 2016), National Association of Counsel for Children, eGuardian, Winter 2017.

Keynote speaker, *In re Gault*: 50 Years Later, University of Kentucky College of Law, March 6, 2017.

Presenter, “School to Prison Pipeline: The Intersection of Children in Special Education and the Juvenile Justice System,” continuing legal education sponsored by Protection and Advocacy for People with Disabilities, March 3, 2017.

Presenter, “Strengthening Schoolhouse Gates,” South Carolina Bar Conference, Children’s Law Committee, January 21, 2017

Presenter, “Kinship Foster Care and Subsidized Guardianship,” Children’s Law Center conference, November 4, 2016.

“Due Process of Law and Child Protection,” *in* Child Welfare Law and Practice (Don Duquette, Ann Haralambie, and Vivek Sankaran, eds., 2016)

Invited presenter, 2016 University of Michigan School of Law Child Advocacy Law Clinic Symposium, May 13, 2016.

Presenter, New York University School of Law symposium, 25 Years of Family Defense: The Clinic, The Field, The Movement, April 7, 2016.

Panelist, *Policing the Student Body: A Dialogue*, March 1, 2016.

Presenter and moderator at the Duke Law School conference on Civil Rights: The Present and Future of Civil Rights Movements: Race and Reform in 21st Century America, concurrent panel “Exposing and Undoing the School to Prison Pipeline,” November 20, 2015.

Panelist, 2015 AALS Workshop on Shifting Foundations in Family Law: Family Law’s Response to Changing Families, Family Law and Children’s Rights/Clashes with Children’s Rights, “The New Permanency,” June 24, 2015.

Panelist, 2015 AALS Annual Meeting, Children and the Law Section: “Dead Upon Birth: The Inter-Generational Cycle of Thwarted Lives in America’s Poorest Neighborhoods,” Jan. 4, 2015.

Josh Gupta-Kagan, *A Public Health Approach to Child Welfare Law*, National Association of Counsel for Children eGuardian, Fall 2014.

Moderator, Adjudicating Child-on-Child Sexual Offenses, at “Youth Who Sexually Offend: Registry Requirements, Legal Implications, and Treatment Options in South Carolina,” University of South Carolina School of Law, Sept. 19, 2014.

Closing Plenary Panelist, AALS Annual Conference on Clinical Legal Education, April 30, 2014

Panelist, Washington University School of Law 13th Annual Access to Equal Justice Conference, November 2013.

Member, National Association of Counsel for Children *Amicus Curiae* Committee, August 2012-Present.

Continuing Legal Education Presenter, *The Interstate Compact on the Placement of Children: Advocating for Children, Families, and the State*, St. Louis City Juvenile Court, May 31, 2013.

Testified to the Missouri House of Representatives Committee on Children, Families, and People with Disabilities regarding HB 557, a bill to reform the child abuse and neglect registry, March 12, 2013.

Annette Appell and Josh Gupta-Kagan, *Representing Children at the Intersection of Domestic Violence and Child Protection*, THE ST. LOUIS BAR JOURNAL (Fall 2012).

Panelist, National Association of Counsel for Children 2012 Annual Conference, August 2012, *Reforming the ICPC: How We Can Move the Conversation Forward*.

Plaintiffs’ counsel, *Adgerson et al. v. Gray*, a civil rights action challenging the government’s application of the Interstate Compact on the Placement of Children to parents, filed in the U.S. District Court for the District of Columbia in 2011 and settled in 2012.

Moderator, Washington University School of Law 12th Annual Access to Equal Justice Conference: Evolving Standards in Juvenile Justice from *Gault* to *Graham* and Beyond, March 2012, *Prosecutors & Probation: Ethical Responsibilities & Possibilities*.

Author of brief for nine *amici curiae* in *In re Emoni W.*, arguing that the Interstate Compact on the Placement of Children lawfully may not apply to a non-offending parent, filed in the Connecticut Supreme Court in 2011, and decided favorably in 2012.

Mary Eschelbach Hansen & Josh Gupta-Kagan, *Extending and Expanding Adoption and Guardianship Subsidies for Children and Youth in the District of Columbia Foster Care System: Fiscal Impact Analysis*, National Association of Counsel for Children 2010 Law Manual (2010), presented at the National Association of Counsel for Children Annual Conference, August 2010.

Member, District of Columbia Citizens Review Panel for Child Protection, 2008-2011, and contributor to *An Examination of the Child and Family Services Agency's Performance When it Removes Children from and Quickly Returns them to their Families* (2011), available at http://www.dc-crp.org/Citizen_Review_Panel_CFSA_Quick_Exits_Study.pdf.

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, J.D., *magna cum laude* May 2004

Honors: *New York University Law Review*, Senior Articles Editor; Root-Tilden-Kern Public Interest Scholar; University Graduation Prize (highest G.P.A. after five semesters); Frank H. Sommer Memorial Award (outstanding scholarship, character and professional activities); Judge Abraham Lieberman Award (outstanding criminal law scholarship); Paul D. Kaufman Memorial Award (outstanding *N.Y.U. Law Review* note); Dean's Scholar; Order of the Coif

YALE COLLEGE, B.A., *summa cum laude*, in History May 2000

JUDICIAL CLERKSHIP

HON. MARSHA S. BERZON, San Francisco, CA 2004-2005
U.S. Court of Appeals for the Ninth Circuit

BAR ADMISSIONS

New York; District of Columbia; U.S. Court of Appeals for the Ninth Circuit; U.S. District Court for the District of Columbia; South Carolina (through Rule 414 for clinical law teachers).