

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

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| O.G., |) Supreme Court |
| Petitioner, |) No. S259011 |
| |) |
| v. |) Court of Appeal |
| |) Second Appellate District, |
| SUPERIOR COURT OF VENTURA |) Div. Six, |
| COUNTY, |) No. B295555 |
| Respondent; |) |
| |) Ventura County |
| PEOPLE OF THE STATE OF |) Superior Court |
| CALIFORNIA, |) No. 2018017144 |
| Real Party in Interest. |) Hon. Kevin McGee, Judge |
| |) |

**APPLICATION OF THE EQUAL JUSTICE INITIATIVE TO
FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE
BRIEF IN SUPPORT OF PETITIONER O.G.**

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| PEOPLE OF THE STATE OF |) Superior Court |
| CALIFORNIA, |) No. 2018017144 |
| Real Party in Interest. |) Hon. Kevin McGee, Judge |
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**APPLICATION OF THE EQUAL JUSTICE INITIATIVE TO
FILE AMICUS CURIAE BRIEF**

The Equal Justice Initiative (EJI), through its attorneys and pursuant to California Rules of Court, rule 8.520, respectfully applies for leave to file the following Amicus Curiae Brief in support of Petitioner, O.G.ⁱ

Founded in 1989 by Executive Director Bryan Stevenson, EJI is a private, 501(c)(3) non-profit organization that provides legal representation to people who have been illegally convicted, unfairly sentenced, or abused in state jails and prisons. EJI challenges the death penalty and excessive punishment,

ⁱNo party or counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No entity other than amicus curiae EJI made a monetary contribution to its preparation or submission.

including excessive adult sentences imposed on children, and provides reentry assistance to formerly incarcerated individuals.

EJI works with communities that have been marginalized by poverty and discouraged by unequal treatment. EJI is committed to changing the narrative about race in America. EJI produces groundbreaking reports, an award-winning wall calendar, and short films that explore our nation's history of racial injustice, and recently launched an ambitious national effort to create new spaces, markers, and memorials that address the legacy of slavery, lynching, and racial segregation, which shapes many issues today.

EJI provides research and recommendations to assist advocates and policymakers in the critically important work of criminal justice reform. EJI publishes reports, discussion guides, and other educational materials, and EJI staff conduct educational tours and presentations for thousands of students, teachers, faith leaders, professional associations, community groups, and international visitors every year.

EJI's work with children includes providing legal assistance to juveniles condemned to die in prison; challenging the placement of youth in adult jails and prisons; and challenging the prosecution of very young children as adults. This work has focused especially on young adolescents. EJI has represented dozens of young adolescents all around the country in challenging their excessive adult sentences, as well as during resentencing proceedings and at parole hearings.

EJI was counsel for the petitioners before the United States

Supreme Court in *Miller v. Alabama* (2012) 567 U.S. 460 [132 S.Ct. 2455, 183 L.Ed.2d 407], as well as *Sullivan v. Florida*, No. 08-7621, the companion case to *Graham v. Florida* (2010) 560 U.S. 48 [130 S.Ct. 2011, 176 L.Ed.2d 285]. These cases each involved young adolescents. EJI also filed an amicus brief in *Montgomery v. Louisiana* (2016) 136 S.Ct. 718 [193 L.Ed.2d 599], another case involving children sentenced to life without parole, which highlighted the cases of two young adolescents.

EJI's reentry work has also concentrated on the special needs of people who entered prison before the age of sixteen, who, because they have never lived outside of prison as adults, face unique challenges in rejoining society. EJI provides employment, daily supervision, counseling from licensed mental health professionals, and educational programming for clients who entered state prison as children.

The case presently before this Court involves issues regarding the trial of young adolescents as adults. EJI's extensive work with young adolescents in the criminal legal system allows us to provide this Court with a valuable perspective on these young people, their developmental incapacities, and their potential for change and rehabilitation. This expertise is relevant to the issues presented in this case and will assist this Court in its decisional process.

For all the foregoing reasons, counsel requests that this Court grant the Application of the Equal Justice Initiative to File Amicus Curiae Brief and accept the attached brief in support of Petitioner O.G. for filing and consideration.

Dated: August 6, 2020

Respectfully submitted,

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**AMICUS CURIAE BRIEF OF THE EQUAL JUSTICE
INITIATIVE IN SUPPORT OF PETITIONER O.G.**

Introduction and Summary of the Argument

This case presents the question of whether Senate Bill No. 1391 (Stats. 2018, ch. 1012), which eliminated the possibility of transfer to adult criminal court for crimes committed when a minor was 14 or 15 years old, unconstitutionally amended Proposition 57. The characteristics of 14- and 15-year-olds demonstrate that preventing transfer of these youths to adult criminal court is consistent with and furthers the intent of Proposition 57. Scientific research has shown that young adolescents have immature judgment, underdeveloped capacity for self-regulation, particular vulnerability to negative influences and outside pressures, and heightened capacity for change. Consistent with this research, California law has long recognized

the special vulnerabilities and deficiencies of young adolescents in numerous contexts. Because of these well-known characteristics of young adolescents, keeping young teens in juvenile court furthers Proposition 57's goals of promoting public safety, emphasizing rehabilitation, and reducing wasteful spending on prisons, and is consistent with the transfer criteria within which Proposition 57 was enacted.

Argument

I. Science Has Demonstrated That Young Adolescents, Because of Their Developmental Status, Have Immature Judgment, Greater Vulnerability to Negative Influences, and a Heightened Capacity for Change.

Contemporary psychological, sociological, and neurological studies converge¹ to demonstrate that children's changeability, immature judgment, underdeveloped capacity for self-regulation, vulnerability to negative influences and outside pressures, and lack of control over both their own impulses and their environment peak during the early teenage years. This is the onset of the crucial developmental period of adolescence, bringing radical transformations that include the stressful physical changes of puberty (increases in height and weight and sex-related physiology), followed later by progressive gains in capacity for reasoned, mature judgment, impulse control, and

¹ The convergence of research across multiple disciplines makes this scientific consensus particularly strong. (See Steinberg, *Should the Science of Adolescent Brain Development Inform Public Policy?* (2009) 64 Am. Psych. 739, 744.)

autonomy.²

A “rapid and dramatic increase in dopaminergic activity within the socioemotional system around the time of puberty” drives the young adolescent toward increased sensation-seeking and risk taking; “this increase in reward seeking precedes the structural maturation of the cognitive control system and its connections to areas of the socioemotional system, a maturational process that is gradual, unfolds over the course of adolescence, and permits more advanced self-regulation and impulse control.”³ “The temporal gap between the arousal of the socioemotional system, which is an early adolescent development, and the full maturation of the cognitive control system, which occurs later, creates a period of heightened vulnerability to risk taking during middle adolescence.”⁴ “This imbalance . . . results in poor regulation of emotions and a tendency to focus on the immediate

² Geier & Luna, *The Maturation of Incentive Processing and Cognitive Control* (2009) 93 *Pharmacology, Biochemistry & Behav.* 212, 212 (hereafter Geier & Luna); see also Spear, *The Adolescent Brain and Age-Related Behavioral Manifestations* (2000) 24 *Neuroscience & Biobehavioral Rev.* 417, 434–436 [discussing radical hormonal changes in adolescence] (hereafter Spear).

³ Steinberg et al., *Age Differences in Sensation Seeking and Impulsivity as Indexed by Behavior and Self-Report: Evidence for a Dual Systems Model* (2008) 44 *Dev. Psych.* 1764, 1764 (hereafter Steinberg, *Dual Systems Model*).

⁴ Steinberg, *Adolescent Development and Juvenile Justice* (2009) 5 *Ann. Rev. Clinical Psych.* 459, 466 (hereafter Steinberg, *Adolescent Development*).

rewards of choices, while discounting long-term costs . . . increas[ing] inclinations to engage in risky behavior, including offending.”⁵

These biological and psychosocial developments explain what is obvious to parents, teachers, and any adult who reflects back on his or her own teenage years: 14- and 15-year-old teenagers lack the maturity, independence, and future orientation that adults, and even older teens, have acquired over the course of adolescence. While 16- and 17-year-olds are working after-school jobs to save up for their first car and applying to college, 14- and 15-year-olds are agonizing about who will sit with them at lunch. Graduating seniors are thinking about their future careers and families, while ninth graders are fixated on what video to post on their TikTok accounts that day.⁶ Among adolescents, young teens have the least capacity to imagine consequences, regulate their wildly shifting emotions, and resist peer pressure. Yet they also have the most capacity for change, precisely because they are at the beginning of the most intense

⁵ Scott et al., *Brain Development, Social Context, and Justice Policy* (2018) 57 Wash. U. J. L. & Pol’y 13, 28–29 (hereafter Scott, *Justice Policy*); see also Shulman et al., *The Dual Systems Model: Review, Reappraisal, and Reaffirmation* (2016) 17 Dev. Cognitive Neuroscience 103, 106 [positing that “late adolescents are less biologically predisposed to risk taking than middle adolescents”] (hereafter Shulman).

⁶ TikTok is a popular smartphone application for making and sharing short videos. (Herman, *TikTok is Rewriting the World*, N.Y. Times (Mar. 10, 2019), <https://www.nytimes.com/2019/03/10/style/what-is-tik-tok.html>.)

period of rapid growth in their lifetimes.⁷

A. Young Adolescents Have Not Yet Developed the Capacity to Make Mature and Responsible Decisions.

By the standards of adults or even older adolescents,⁸ the judgment of young teenagers is multiply handicapped: they lack life experience and background knowledge to inform their choices; they struggle to generate options and to imagine consequences; and, perhaps for good reason, they lack the self-confidence necessary to make reasoned judgments and stick by them.⁹ In

⁷ Spear, *supra*, 24 *Neuroscience & Biobehavioral Rev.* at p. 428 [“[A]dolescence is second only to the neonatal period in terms of both rapid biopsychosocial growth as well as changing environmental characteristics and demands”]; see also *id.* at pp. 428–429 [finding that stress is elevated in early adolescents, incidence of depression is often highest, and teens experience sleep problems, great extremes in mood, and peak anxiety and self-consciousness].

⁸ Compared to twelfth graders, ninth graders show deficiencies in imagining risks and future consequences. (Lewis, *How Adolescents Approach Decisions: Changes over Grades Seven to Twelve and Policy Implications* (1981) 52 *Child Dev.* 538, 543; see also Halpern-Felsher & Cauffman, *Costs and Benefits of a Decision: Decision-Making Competence in Adolescents and Adults* (2001) 22 *J. Applied Dev. Psych.* 257, 271.)

⁹ Luna, *The Maturation of Cognitive Control and the Adolescent Brain*, in *From Attention to Goal-Directed Behavior* (Aboitiz & Cosmelli edits., 2009) pp. 252–256; Cauffman & Steinberg, *(Im)maturity of Judgment in Adolescence: Why Adolescents May be Less Culpable than Adults* (2000) 18 *Behav. Sci. & L.* 741, 756; Mann et al., *Adolescent Decision-Making: The Development of Competence* (1989) 12 *J. Adolescence* 265, 267–270 (hereafter

addition, their brain structure at this developmental stage hampers their ability to make the kind of judgments at 14 that they will comfortably handle at 17. Like a car with a powerful accelerator but weak brakes, a young teenager’s brain is fully developed in the part responsible for emotional arousal and sensitivity to peer pressure (the gas pedal), but the parts in the frontal lobe that control impulses and allow long-term thinking, planning, and resistance to peer pressure (the brakes) are still developing and won’t mature for many years to come.¹⁰ At 14 and

Mann); Nurmi, *How Do Adolescents See Their Future? A Review of the Development of Future Orientation and Planning* (1991) 11 Dev. Rev. 1, 12 (hereafter Nurmi).

¹⁰ See Shulman, *supra*; Casey, *Beyond Simple Models of Self-Control to Circuit-Based Accounts of Adolescent Behavior* (2015) 66 Ann. Rev. Psych. 295, 298-300; Tennison & Pustilnik, “*And If Your Friends Jumped Off a Bridge, Would You Do it Too?*”: *How Developmental Neuroscience Can Inform Legal Regimes Governing Adolescents* (2015) 12 Ind. Health L.Rev. 533, 563 [brain developmental imbalance in adolescents manifests “as an overvaluation of emotional information,” creating a “developmental disparity” that “often leads to poor decisions when emotional and intellectual evaluations conflict”]; Cohen & Casey, *Rewiring Juvenile Justice: The Intersection of Developmental Neuroscience and Legal Policy* (2014) 18 Trends Cognitive Sci. 63, 63 [imbalance in development of different brain regions creates “greater reliance on emotional regions than on prefrontal cortex regions during adolescence as compared to both childhood and adulthood”] (hereafter Cohen & Casey); Steinberg, *A Social Neuroscience Perspective on Adolescent Risk-Taking* (2008) 28 Dev. Rev. 78, 83 (hereafter Steinberg, *Social Neuroscience*); Steinberg, *Risk Taking in Adolescence: New Perspectives from Brain and Behavioral Science* (2007) 16 Current Directions Psych. Sci. 55, 56–58 (hereafter Steinberg, *Risk*

15, the major transformation in brain structure that will result in a sophisticated system of circuitry between the frontal lobe and the rest of the brain, enabling adults to exercise cognitive control over their behavior, is barely underway.¹¹

Taking).

¹¹ Luna, *supra*, at p. 257; see also Whitford et al., *Brain Maturation in Adolescence: Concurrent Changes in Neuroanatomy and Neurophysiology* (2007) 28 Hum. Brain Mapping 228, 228. At the core of this transformation are contemporaneous increases in white matter (myelination) and decreases in gray matter (synaptic pruning). (Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain* (2004) 1021 Annals N.Y. Acad. Sci. 77, 77-83 (hereafter Giedd).) Myelination increases the efficiency of information processing and supports the integration of the widely distributed circuitry needed for complex behavior; it is the wiring of connections among and between the frontal regions and the rest of the brain. Immature myelination is thought to make adolescents vulnerable to impulsive behavior, while the increased processing speed facilitated by myelination facilitates cognitive complexity. (Geier & Luna, *supra*, 93 Pharmacology, Biochemistry & Behav. at p. 216; see also Giedd, *supra*, 1021 Annals N.Y. Acad. Sci. at p. 80.) White matter in the brain increases in a linear fashion, so that older adolescents and adults benefit from a greater number of myelinated neurons than younger teens. (Giedd, *supra*, 1021 Annals N.Y. Acad. Sci. at p. 80.)

Cortical gray matter is thickest early in adolescence. (*Id.* at p. 82.) Later in the teenage years, this cortical gray matter undergoes significant “pruning,” making more efficient that part of the brain responsible for inhibiting impulses and assessing risk. (*Ibid.*; see also Rightmer, *Arrested Development: Juveniles’ Immature Brains Make Them Less Culpable than Adults* (2005) 9 Quinnipiac Health L.J. 1, 12; Spear, *supra*, 24 Neuroscience & Biobehavioral Rev. at p. 439.) Pruning typically is not complete until middle to late adolescence, and the parts of the brain that process risk and control executive functioning do not finish

Young adolescents find themselves behind the wheel of this fundamentally deficient vehicle with no driver's ed instruction to guide them. Their hunger for thrilling speed easily overwhelms their scant capacity to apprehend the possibility of a serious crash; they have weak brakes and very limited visibility ahead or behind. This is why no state permits young adolescents to drive. That older adolescents are issued driver's licenses reflects the fact that they are further along in development—they have more experience in making decisions, their brain circuitry is more efficient, the hormonal storm of puberty is not brand-new to them, and they have a better view of their futures.¹² Sixteen- and

myelinating until late adolescence or early adulthood. (Giedd et al., *Brain Development During Childhood and Adolescence: a Longitudinal MRI Study* (1999) 2 *Nature Neuroscience* 861, 862; see also Sowell et al., *In Vivo Evidence for Post-Adolescent Brain Maturation in Frontal and Striatal Regions* (1999) 2 *Nature Neuroscience* 859, 860; Luna & Sweeney, *The Emergence of Collaborative Brain Function* (2004) 1021 *Annals N.Y. Acad. Sci.* 296, 301.) The “patterns of development in the prefrontal cortex, which is active during the performance of complicated tasks involving long-term planning and judgment and decision making, suggest that these higher order cognitive capacities may be immature well into late adolescence.” (Steinberg & Scott, *Less Guilty by Reason of Adolescence* (2003) 58 *Am. Psych.* 1009, 1013 (hereafter, Steinberg & Scott, *Less Guilty*); see also Sowell et al., *Localizing Age-Related Changes in Brain Structure Between Childhood and Adolescence Using Statistical Parametric Mapping* (1998) 9 *NeuroImage* 587, 596; Halpern-Felsher & Cauffman, *supra*, 22 *J. Applied Dev. Psych.* at p. 271.)

¹² See *supra* notes 13, 15; Steinberg, *Social Neuroscience*, *supra*, 28 *Dev. Rev.* at p. 86.

17-year-olds still are risky, bad drivers compared to adults,¹³ but there is clear consensus that 14-year-olds are so lacking in maturity and decision-making capability that they should not even be allowed to take the wheel.

B. Young Adolescents Are Especially Susceptible to Risk-Taking Impulses and Negative Peer Influences.

Early teenagers' propensity for risk-taking exacerbates their decision-making difficulties. It is universally recognized that adolescence is characterized by risk-taking behavior; contemporary neurological science establishes that this is a function of physical brain development as well as a socially scripted phase of the passage from childhood to maturity.¹⁴ In some ways, risk-taking is an essential part of adolescent development, because "increased sensation seeking . . . encourages adolescents to explore their environment and to

¹³ Recognizing this fact, all states but one have enacted some sort of graduated licensing law, which "phases in unrestricted driving by allowing beginners to get their initial behind-the-wheel experiences under conditions that reduce the risk of collision." Branche et al., *Graduated Licensing for Teens* (2002) 30 J. L. Med. & Ethics 146, 146–147.

¹⁴ See, e.g., Steinberg, *Risk Taking, supra*, 16 Current Directions Psych. Sci. at p. 56-58; Geier & Luna, *supra*, 93 Pharmacology, Biochemistry & Behav. at p. 218; Kelley et al., *Risk Taking and Novelty Seeking in Adolescence* (2004) 1021 Annals N.Y. Acad. Sci. 27, 27.

develop a sense of identity and autonomy.”¹⁵ Neurodevelopmental studies¹⁶ have suggested that heightened risk taking in adolescence is associated with greater activation of reward-sensitive brain regions that make “individuals more attentive, sensitive, and responsive to actual and potential rewards.”¹⁷

Risk-taking behavior is so common in adolescence that researchers understand “criminal offending as a specific instance” during young adolescence of “the more general inclination of young adults to engage in risky activity.”¹⁸ For the purpose of

¹⁵ Scott, *Justice Policy, supra*, 57 Wash. U. J. L. & Pol’y at p. 21; see also Crone & Dahl, *Understanding Adolescence as a Period of Social-Affective Engagement and Goal Flexibility* (2012) 13 Nature Rev. Neuroscience 636, 642; Ellis et al., *The Evolutionary Basis of Adolescent Behavior: Implications for Science, Policy, and Practice* (2012) 48 Dev. Psych. 598, 601.

¹⁶ In brain imaging studies, when presented with images of rewarding stimuli, such as smiling faces, adolescents gave a stronger response in reward-processing regions than children or adults did. (See Galvan et al., *Risk-Taking and the Adolescent Brain: Who is at Risk?* (2007) 10 Dev. Sci. F8, F11.) Other studies utilizing, for example, “self-report scales that assess characteristics such as thrill- or novelty-seeking, or behavioral tasks that assess responsiveness to rewarding stimuli (such as monetary rewards)” and “gambling tasks in which individuals must learn to discriminate between gambles that are likely to be rewarding . . . and those that are likely to be costly” have shown similar results. (Scott, *Justice Policy, supra*, 57 Wash. U. J. L. & Pol’y at pp. 22–23.)

¹⁷ Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy* (2016) 85 Fordham L.Rev. 641, 646–647.

¹⁸ *Id.* at p. 646.

understanding young adolescent behavior relative to that of adults, and even older teens, the critical observations are that (1) most adolescent risk-taking is a group phenomenon and (2) young adolescents are the most vulnerable to peer-group influence.

Parents, teachers, and observers of teenagers the world over know that social interactions and affiliations with peers take on an out-sized importance in adolescence. Teens spend about one-third of their waking hours talking with peers (but only 8% with adults).¹⁹ While all adolescents are more peer-oriented than adults, research indicates that vulnerability to peer pressure, especially for boys, increases during early adolescence to an all-time high around age 14.²⁰ The need to fit in with the peer group—to impress peers with daredevil antics and smart-alecky comments—exerts enormous influence on the behavior of young adolescents, more so than during pre-adolescence or late adolescence.²¹ Researchers have found that “a network of brain systems governing thinking about social relationships undergoes significant changes in adolescence in ways that increase individuals’ concern about the opinion of other people,

¹⁹ Spear, *supra*, 24 *Neuroscience & Biobehavioral Rev.* at p. 420.

²⁰ Steinberg & Silverberg, *The Vicissitudes of Autonomy in Early Adolescence* (1986) 57 *Child Dev.* 841, 846, 848; Mann, *supra*, 12 *J. Adolescence* at pp. 267-68, 274; Steinberg, *Risk Taking, supra*, 16 *Current Directions Psych. Sci.* at p. 57; Reppucci, *Adolescent Development and Juvenile Justice* (1999) 27 *Am. J. Cmty. Psych.* 307, 318 (hereafter Reppucci).

²¹ Steinberg, *Social Neuroscience, supra*, 28 *Dev. Rev.* at p. 92.

particularly peers.”²² During this period of development, teenagers are more sensitive to praise and rejection than children or adults, “making them potentially more susceptible to peer influence, and responsive to threats.”²³ This is arguably why teenagers are “more likely to offend in groups” than adults and “take more risks in the presence of peers than when they are alone or with an adult”—the increased awareness of peers makes “approval especially important in group situations.”²⁴ The presence of peers increases risk-taking among teenagers even when they are given information about the likelihood of positive or negative outcomes.²⁵ Moreover, teenagers who are rejected by their peers often engage in risky behavior “to fit in with a group” that “may draw a teen to engage in behaviors, including illegal

²² Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at p. 24; see also Blakemore, *Development of the Social Brain in Adolescence* (2012) 105 J. Royal Soc’y Med. 111, 112; Blakemore & Mills, *Is Adolescence a Sensitive Period for Sociocultural Processing?* (2014) 65 Ann. Rev. Psych. 187, 189.

²³ Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at p. 24; see also Dreyfuss et al., *Teens Impulsively React Rather than Retreat from Threat* (2014) 36 Dev. Neuroscience 220, 220; Guyer et al., *Probing the Neural Correlates of Anticipated Peer Evaluation in Adolescence* (2009) 80 Child Dev. 1000, 1000.

²⁴ Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at p. 25.

²⁵ Smith et al., *Peers Increase Adolescent Risk Taking Even When the Probabilities of Negative Outcomes are Known* (2014) 50 Dev. Psych. 1564, 1567–1568.

activity, even when they know better.”²⁶

Indeed, extreme vulnerability to peer influence (especially when it is to do something bad) is a defining characteristic of young adolescence, reflected in the fact that it is statistically aberrant for boys to refrain from minor criminal behavior during this period.²⁷ Peer pressure is so strong in young adolescence that “affiliation with antisocial peers is the factor most predictive of juveniles’ involvement in criminal activity.”²⁸

Peer pressure heavily impacts young adolescents’ decisions to offend because of the “dynamic interaction between a still-maturing individual and her social context.”²⁹

Neurodevelopmental researchers have found that social environment greatly impacts the developing brains of young adolescents and heavily influences their decisions to take risks.

Critically, the tendency for young adolescents to engage in risk-taking behavior increases in emotionally and socially arousing contexts.³⁰ “In emotionally charged situations,”

²⁶ Cohen & Casey, *supra*, 18 Trends Cognitive Sci. at p. 64.

²⁷ Spear, *supra*, 24 Neuroscience & Biobehavioral Rev. at p. 421; Reppucci, *supra*, 27 Am. J. Cmty. Psych. at p. 319.

²⁸ Scott, *Justice Policy, supra*, 57 Wash. U. J. L. & Pol’y at pp. 47–48.

²⁹ *Id.* at p. 13.

³⁰ Smith et al., *Impact of Socio-Emotional Context, Brain Development, and Pubertal Maturation on Adolescent Risk-Making* (2013) 64 Hormones & Behav. 323, 325–326.

adolescent brains are “even less capable of adequately regulating emotions and actions, resulting in a teen exercising less self-control in making a risky decision, even when he or she knows better.”³¹ So the combination of a negative environment, an adolescent’s proclivity for reward-seeking, and an emotionally charged situation can lead to especially reckless decision-making.³²

The added pressure of a threatening context or the presence of peers further undermines “rationality and contribut[es] to impulsive decisions.”³³ Because risk-taking behavior can manifest in many ways, a teenager living in a “high-crime neighborhood with many antisocial peers is more likely to get involved in criminal activity” than “if he were a member of a close-knit and highly competitive basketball team, [where] the interaction of peer influence and reward-seeking might lead to the sort of risk-taking on the basketball court that is socially accepted.”³⁴

³¹ Cohen & Casey, *supra*, 18 Trends Cognitive Sci. at pp. 63–64.

³² Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at p. 37.

³³ *Ibid.*; see also Cohen et al., *When is an Adolescent an Adult? Assessing Cognitive Control in Emotional and Nonemotional Contexts* (2016) 27 Psych. Sci. 549, 559–560; Forbes et al., *Neural Systems of Threat Processing in Adolescents: Role of Pubertal Maturation and Relation to Measures of Negative Affect* (2011) 36 Dev. Neuropsychology 429, 446-47; Kassin, *The Psychology of Confessions* (2008) 4 Ann. Rev. L. & Soc. Sci. 193, 204.

³⁴ Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at pp. 16–17; see also Steinberg, *The Influence of Neuroscience on U.S. Supreme Court Decisions Involving Adolescents’ Criminal*

Young adolescents are in such an early developmental stage that their environment can influence them to the point that it “shape[s] the trajectory” of their lives.³⁵ The adolescent brain is “malleable” and “plastic,” an adaptability that allows them to respond to their environment, and if their social environment encourages risk-taking, they are more likely to engage in those behaviors.³⁶

Social context is as out of a teenager’s control as is “other aspects of brain development, including the inclination toward reward-seeking or the tendency to make impulsive choices when aroused.”³⁷ Young adolescents are unable to extricate themselves from social contexts—whether it be their homes, neighborhoods, or schools—where they are likely to get into trouble or get involved in criminal behavior.³⁸ Denied the rights and privileges that accrue at age 18, all adolescents have less ability than adults

Culpability (2013) 14 *Nature Rev. Neuroscience* 513, 513–518.

³⁵ Scott, *Justice Policy*, *supra*, 57 *Wash. U. J. L. & Pol’y* at p. 17.

³⁶ *Ibid.*

³⁷ *Id.* at p. 63.

³⁸ Steinberg & Scott, *Less Guilty*, *supra*, 58 *Am. Psych.* at p. 1014; Scott & Steinberg, *Blaming Youth* (2003) 81 *Tex. L.Rev.* 799, 817. The U.S. Supreme Court has adopted this position in its Eighth Amendment opinions. (See *Roper v. Simmons* (2005) 543 U.S. 551, 569 [125 S.Ct. 1183, 1195, 161 L.Ed.2d 1]; *Miller v. Alabama* (2012) 567 U.S. 460, 471 [132 S.Ct. 2455, 2464, 183 L.Ed.2d 407]; *Montgomery v. Louisiana* (2016) 136 S.Ct. 718, 733 [193 L.Ed.2d 599].)

to free themselves from morally toxic or dangerous environments. Still, the youngest teens are worst off. State and federal laws meant to protect young teens from exploitation and from their own underdeveloped sense of responsibility—including restrictions on driving, working, and leaving school—operate conversely to disable a 14-year-old from escaping an abusive parent, a dysfunctional or violent household, or a dangerous neighborhood.

C. Young Adolescents Have Not Yet Begun to Imagine Their Futures and Thus Have the Capacity to Change and Mature.

Young teens, to a much greater extent than adults or older teens, are unable to fully envision who they want to be or what they want to achieve in the future. Young teens are readily distinguishable from 16-year-olds by their excruciatingly low self-esteem and high self-consciousness, which lead them to fixate on the instantaneous present.³⁹ Not until age 16 do adolescents obtain something close to a mature sense of perspective. And not until the late teens or early twenties do they begin to form a coherent identity—although teens 16 and older do have a more

³⁹ Nurmi, *supra*, 11 Dev. Rev. at pp. 12–13; see also Steinberg & Cauffman, *Maturity of Judgment in Adolescence* (1996) 20 Law & Hum. Behav. 249, 255; Seagrave & Grisso, *Adolescent Development and the Measurement of Juvenile Psychopathy* (2002) 26 Law & Hum. Behav. 219, 229 (hereafter Seagrave & Grisso); Reppucci, *supra*, 27 Am. J. Cmty. Psych. at pp. 318–319; Arnett, *Reckless Behavior in Adolescence* (1992) 12 Dev. Rev. 339, 344 (1992); Steinberg, *Social Neuroscience*, *supra*, 28 Dev. Rev. at p. 90.

mature sense of self than adolescents 15 and under.⁴⁰

Very few young adolescents think about their future beyond age 30.⁴¹ As adolescents grow older, they become increasingly focused upon tasks of self-development, contemplating future education, occupation, and family. With this added perspective, their ability to plan and to realistically anticipate long-term consequences improves.⁴² But at 14 and 15, ninth graders tend to struggle with planning even how to get tonight's homework done while keeping up with their constantly updating social media feeds.

The flip side of young adolescents' underdeveloped sense of self is that they have, relative to older individuals, more potential to change and develop positive character traits as they grow up. Just as a young adolescent can be particularly susceptible to negative influences, the malleability and plasticity of their still-developing brains means that young teens are also especially responsive to positive interventions.⁴³

A typical 14-year-old who acts irresponsibly in reaction to a thrilling impulse or peer pressure is not irretrievably depraved or permanently flawed. Nothing about his character is permanent,

⁴⁰ Steinberg, *Social Neuroscience*, *supra*, 28 Dev. Rev. at p. 94; Seagrave & Grisso, *supra*, 26 Law & Hum. Behav. at pp. 226, 229.

⁴¹ Nurmi, *supra*, 11 Dev. Rev. at p. 27.

⁴² *Id.* at pp. 27–29.

⁴³ Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol'y at p. 63.

and he has years of development ahead, during which he can (and, in most cases, will) grow into a moral, law-abiding adult.⁴⁴

Dozens of longitudinal studies have shown that the vast majority of adolescents who commit antisocial acts desist from such activity as they mature into adulthood and that only a small percentage—between five and ten percent, according to most studies—become chronic offenders. Thus, nearly all juvenile offenders are adolescent limited. . . . [M]ost juvenile offenders mature out of crime (and [] most will desist whether or not they are caught, arrested, prosecuted or sanctioned.⁴⁵

Most teens grow out of their risky behavior as a part of the maturation process.⁴⁶ Typically, the ability to resist peer influence and to regulate internal impulses matures in middle or late adolescence.⁴⁷ Moreover, at the same time that an adolescent's brain is developing, "reducing impulsivity and the inclination to engage in risk-taking," his social context is also changing because his friends' and peers' brains are developing too, and thus "he is no longer surrounded by sensation-seeking individuals, inclined,

⁴⁴ Steinberg, *Risk Taking in Adolescence: What Changes and Why* (2004) 1021 *Annals N.Y. Acad. Sci.* 51, 55.

⁴⁵ Steinberg, *Adolescent Development*, *supra*, 5 *Ann. Rev. Clinical Psych.* at p. 66.

⁴⁶ Spear, *supra*, 24 *Neuroscience & Biobehavioral Rev.* at p. 421; Reppucci, *supra*, 27 *Am. J. Cmty. Psych.* at p. 319.

⁴⁷ Cohen & Casey, *supra*, 18 *Trends Cognitive Sci.* at p. 64 ["[D]iminished self control is transient and will continue to develop as underlying circuitry becomes fine tuned with experience and time."].

as he was, to make impulsive choices when emotionally aroused.”⁴⁸

* * *

The U.S. Supreme Court has recognized that adolescents, as a class, lack the maturity, autonomy, and self-governing capacity of adults. (*Miller v. Alabama* (2012) 567 U.S. 460, 471 [132 S.Ct. 2455, 2464, 183 L.Ed.2d 407]; *Roper v. Simmons* (2005) 543 U.S. 551, 569-71 [125 S.Ct. 1183, 1195-96, 161 L.Ed.2d 1]; *Eddings v. Oklahoma* (1982) 455 U.S. 104, 115-16 [102 S.Ct. 869, 877, 71 L.Ed.2d 1].) As is readily observable and widely accepted, the youngest adolescents are the least mature, most susceptible to internal impulses and external influences, and have the greatest capacity for change.⁴⁹

II. California Law Recognizes the Special Vulnerabilities and Deficiencies of Young Adolescents.

California law recognizes and protects the distinct frailties of young adolescents in virtually every regulatory sphere. (See *In re Nunez* (2009) 173 Cal.App.4th 709, 729 [93 Cal.Rptr.3d 242, 267] [“Our history is replete with laws and judicial recognition

⁴⁸ Scott, *Justice Policy*, *supra*, 57 Wash. U. J. L. & Pol’y at p. 45; see also Sweeten et al., *Age and the Explanation of Crime, Revisited* (2013) 42 J. Youth & Adolescence 921, 935.

⁴⁹ See, e.g., Steinberg et al., *Age Differences in Future Orientation and Delay Discounting* (2009) 80 Child Dev. 28, 28, 39–40; Steinberg & Monahan, *Age Differences in Resistance to Peer Influence* (2007) 43 Dev. Psych. 1531, 1540; Steinberg, *Dual Systems Model*, *supra*, 44 Dev. Psych. at pp. 1775–1776.

that minors, especially in their earlier years, generally are less mature and responsible than adults.” [quoting *Thompson v. Oklahoma* (1988) 487 U.S. 815, 834 [108 S.Ct. 2687, 2698, 101 L.Ed.2d 702]]). State law provides special protections for early adolescents while, at the same time, limiting their freedoms, consistent with the understanding that young teens are unprepared for a wide range of responsibilities and privileges—from the obvious and universal (driving,⁵⁰ marriage,⁵¹ sex⁵²) to the mundane or obscure (fireworks,⁵³ hunting,⁵⁴

⁵⁰ Veh. Code, §§ 12512-12514, 12814.6 [children under 17 ineligible for license to drive; 14-year-old eligible for junior permit under extraordinary circumstances; child 15 years 6 months eligible for instruction permit; 16- and 17-year-olds eligible for provisional license only].

⁵¹ Fam. Code, § 302 [child 17 or younger requires judicial and parental consent to marry].

⁵² Pen. Code, § 261.5 [child 15 or younger incapable of consenting to sexual intercourse with person 21 years or older who is not the child’s spouse].

⁵³ Health & Saf. Code, § 12689 [sale of “safe and sane” fireworks to child 15 or younger prohibited].

⁵⁴ Fish & G. Code, § 3031 [providing that children 15 or younger eligible only for “junior hunting license[s]” and specifying that “a person who is 16 or 17 years of age, [] in possession of a valid junior hunting license, and [] issued an entry permit . . . may hunt in the area described in the entry permit unaccompanied by a person over 18 years of age but shall not be accompanied by a person under 16 years of age”].

tanning⁵⁵). These ubiquitous regulations demonstrate a consensus within the state that the capacities and vulnerabilities of young adolescents mean that they require special protection and are unprepared for adult responsibilities.

A. California Law Recognizes That Young Adolescents Are Especially Vulnerable and Provides Heightened Protection from Exploitation and Abuse.

Children 15 or younger are generally “more vulnerable or susceptible to . . . outside pressures than adults.” (*In re Elias V.* (2015) 237 Cal.App.4th 568, 587 [188 Cal.Rptr.3d 202, 217] [quoting *J.D.B. v. North Carolina* (2011) 564 U.S. 261, 272 [131 S.Ct. 2394, 2397, 180 L.Ed.2d 310]].) As California courts have observed, “[i]nexperience, less intelligence and less education make a teenager less able to evaluate the consequences of his or her conduct while at the same time he or she is more apt to be motivated by mere emotion or peer pressure than as an adult.” (*In re Barker* (2007) 151 Cal.App.4th 347, 377 [59 Cal.Rptr.3d 746, 769] [quoting *Thompson v. Oklahoma, supra*, 487 U.S. at p. 835]; see also *In re Palmer* (2019) 33 Cal.App.5th 1199, 1210 [245 Cal.Rptr.3d 708, 719] “[Y]outh is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage.” [quoting *Eddings v. Oklahoma* (1982) 455 U.S. 104, 115 [102 S.Ct. 869, 877, 71 L.Ed.2d 1]]].)

⁵⁵ Bus. & Prof. Code, § 22706 [children under 17 may not use ultraviolet tanning device].

In light of this societal judgment that young adolescents are particularly susceptible to exploitation, abuse, and persuasion, California law imposes enhanced criminal liability on older people who take advantage of them⁵⁶ and penalizes adults and older teens for failing to protect early adolescents under their control.⁵⁷ More specifically, California law accords greater protection to

⁵⁶ See, e.g., Pen. Code, § 647.6 [providing for harsher punishments for persons convicted of “annoying or molesting” a child 17 or younger for persons with prior felony convictions involving children 15 or younger]; cf. Evid. Code, § 1027 [no psychotherapist-patient privilege when the patient is 15 or younger and the “psychotherapist has reasonable cause to believe that the patient has been the victim of a crime and that disclosure of the communication is in the best interest of the child”].

⁵⁷ See, e.g., Lab. Code, § 1308 [crime to cause child 15 or younger to engage in dangerous employment]; Lab. Code, § 4551 [injured employee under 16 years of age entitled to employer compensation even when injury is caused by their own “serious and willful misconduct”]; Veh. Code, § 27360.5 [penalizing driver of vehicle when child 15 or younger does not wear seat belt]; Veh. Code, § 27318 [parent, legal guardian, or chartering party prohibited from transporting children between the ages of 8 and 15 on a bus without a safety belt]; Ins. Code, § 11661.5 [“An insurer shall not insure an employer against his liability for additional compensation arising out of injuries to illegally employed persons under 16 years of age”]; Pen. Code, § 637.9 [criminalizing the disclosure of personal information about children 15 or younger in certain circumstances by any person who, in the course of business, provides mailing lists, computerized or telephone-based reference services, or similar products or services utilizing lists].

children 15 or younger from sex offenses⁵⁸ and provides that they are incapable of consenting to sexual intercourse.⁵⁹ Recognizing that young teens are especially susceptible to outside influences, state criminal statutes also prohibit luring young adolescents into illicit conduct and exposing them to criminal behavior.⁶⁰

⁵⁸ See, e.g., Pen. Code, § 288 [protecting children 14 and 15 from lewd and lascivious acts by persons at least 10 years older than child]; Pen. Code, §§ 266h-266k [enhanced penalties for pimping, pandering with, or procuring for purposes of prostitution child 15 or younger]; Pen. Code, § 286 [crime for any person over 21 years of age to participate in an act of sodomy with a child 15 or younger]; cf. Pen. Code, § 311 [for the purposes of defining criminally “obscene matter,” “[i]n determining whether the matter taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of those matters, the fact that the defendant knew that the matter depicts persons under the age of 16 years engaged in sexual conduct . . . is a factor that may be considered”].

⁵⁹ Pen. Code, § 261.5 [child 15 or younger incapable of consenting to sex with person 21 years or older who is not the child’s spouse]; see also *People v. Soto* (2011) 51 Cal.4th 229, 247-48 [245 P.3d 410, 421-422] [reaffirming long-standing California law recognizing that “consent is not a defense when the victim of a sex crime is a child under age 14” in holding that, under Penal Code section 288, subdivision (b)(1), “consent of the victim is not a defense to the crime of aggravated lewd conduct on a child under age 14”].

⁶⁰ See, e.g., Pen. Code, § 653j [protecting children 15 and younger from vulnerability to influence by making it a crime for person 18 or older to solicit, induce, or encourage child of such age to commit certain violent felonies]; Pen. Code, § 272 [crime for any person to contribute to the delinquency of child 17 or younger]; Pen. Code, § 310 [crime to admit child 15 or younger to prizefight or cockfight]; Health & Saf. Code, § 11361 [crime for person 18 or

It is well settled that “the features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings.” (*People v. Flores* (2020) 9 Cal.5th 371, 430 [462 P.3d 919, 966] [quoting *Graham v. Florida* (2010) 560 U.S. 48, 78, [130 S.Ct. 2011, 2032, 176 L.Ed.2d 825]].)⁶¹ “[J]uveniles aged fifteen and younger,” in particular, “have deficits in their legal understanding, knowledge, and decision-making capabilities.” (*In re Elias V.*, *supra*, 237 Cal.App.4th at p. 578 [citing Redlich, *The Susceptibility of*

older to furnish, administer, or give cannabis to minor 14 or older]; Health & Saf. Code, § 11379.7 [providing for harsher punishment for methamphetamine and PCP production and distribution offenses “when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present” or “where the commission of the crime causes any child under 16 years of age to suffer great bodily injury”].

⁶¹ It follows that juvenile delinquency proceedings are “fundamentally different from adult criminal proceedings.” (*In re Greg F.* (2012) 55 Cal.4th 393, 401 [283 P.3d 1160, 1164].) In short, “Juvenile proceedings are conducted not only for the protection of society, but for the protection and benefit of the youth involved.” (*In re Greg F.*, *supra*, 55 Cal.4th at p. 1173-74; see also *In re Jose C.* (2009) 45 Cal.4th 534, 540 [198 P.3d 1087, 1091] “[J]uvenile proceedings exist, separate and apart from the adult criminal justice system, out of a recognition that minors who commit criminal offenses pose a special problem and require treatment and rehabilitation different from the confinement and punishment meted out in adult criminal trials.”); *In re R.O.* (2009) 176 Cal.App.4th 1493, 1498 [98 Cal. Rptr. 3d 738, 741] [touting California’s “150[-]year tradition of maintaining two separate and distinct criminal justice systems—one for juveniles and one for adults”].)

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Rutgers L.Rev. 943, 952].)

California law, therefore, takes steps to safeguard such children from the many potential harms of the courtroom environment.⁶² California law specifically recognizes that appearing in court can be a traumatizing experience for young adolescents and shields them from testifying in the presence of their abusers.⁶³ Additionally, once in state custody, young teens

⁶² See, e.g., Pen. Code, § 868.6 [encouraging counties to “provide a room, located within, or within a reasonable distance from, the courthouse, for the use of minors under the age of 16” in order to “provide a nonthreatening environment for minors involved in the judicial system . . . to better enable them to speak freely and accurately of the experiences that are the subject of judicial inquiry”]; Cal. Stds. Jud. Admin., § 10.24 [“Each court should endeavor to provide a children’s waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings.”].

⁶³ See, e.g., Pen. Code, § 1346 [child 15 or younger who is victim of sex crime protected from emotional trauma through provisions authorizing use of videotaped deposition of victim 15 or younger]; Code Civ. Proc., § 1219.5 [child 15 or younger protected by special procedures before court may impose contempt for refusal to testify or take oath]; cf. Pen. Code, § 859.1 [“In any criminal proceeding in which the defendant is charged with any offense specified in Section 868.8 on a minor under the age of 16 years . . . the court shall, upon motion of the prosecuting attorney, conduct a hearing to determine whether the testimony of, and testimony relating to, [a minor] shall be closed to the public in order to protect [the minor’s] reputation.”]; Fam. Code, § 3042 [child 14 or older permitted to address the court regarding custody or visitation, “unless the court determines that doing so is not in the child’s best interest”].

are largely separated from adults and afforded other special protections.⁶⁴

California courts have recently begun to acknowledge a “growing consensus” that “children and adolescents are much more vulnerable to psychologically coercive interrogations and in other dealings with police than resilient adults experienced with the criminal justice system.” (*In re Elias V.*, *supra*, 237 Cal.App.4th at p. 588; *People v. Lessie* (2010) 47 Cal.4th 1152, 1156 [223 P.3d 3, 11] “[A] court faces special problems in determining whether a minor who purports to waive the Fifth Amendment rights to silence and the assistance of counsel in the context of custodial interrogation does so knowingly and voluntarily.”); see also *In re Joseph H.* (2015) 367 P.3d 1, 1 (dis. opn. of Liu, J.) [*Miranda* waivers by juveniles present special concerns.”.] That is, “research on juveniles’ ability to exercise *Miranda* rights and their adjudicative competence consistently reports that, as a group, adolescents understand legal

⁶⁴ See, e.g., Welf. & Inst. Code, § 211 [children 15 and younger not to be housed in Department of Corrections facility]; Welf. & Inst. Code, § 5585.55 [except under narrow circumstances of undue hardship “each county shall ensure that minors under 16 years of age are not held with adults receiving psychiatric treatment”]; Pen. Code, § 7502 [defining “minor” for the purposes of prisoner medical testing provisions as “a person under 15 years of age”]; cf. Welf. & Inst. Code, § 627(a) [“When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement . . . he shall take immediate steps to notify the minor’s parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.”].

proceedings and make decisions less well than do adults,” and “[y]ouths fifteen years of age and younger exhibited the clearest and greatest disability.” (*In re Elias V.*, *supra*, 237 Cal.App.4th at p. 595 [quoting Feld, *Police Interrogation of Juveniles: An Empirical Study of Policy and Practice* (2006) 97 J. Crim. Law & Criminology 219, 233, 230].) California statutory law also reflects this developing scientific agreement.⁶⁵

B. California Law Recognizes That Young Adolescents Are Immature, Impulsive, Relatively Irresponsible, and Exceedingly Susceptible to Coercion by Limiting Their Rights and Responsibilities in Many Aspects of Life.

“[C]hildren generally are less mature and responsible than adults.” (*In re Elias V.*, *supra*, 237 Cal.App.4th at p. 587 [citing *J.D.B. v. North Carolina*, *supra*, 564 U.S. at p. 272].) California courts have specifically noted that early adolescents “often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them.” (*Ibid.*) For this reason,

⁶⁵ See, e.g., Welf. & Inst. Code, § 625.6 [children 15 or younger must consult with legal counsel in person, by telephone, or by video conference prior to waiver of *Miranda* rights or custodial interrogation; court must, in adjudicating the admissibility of statements of children 15 or younger made during or after custodial interrogation, consider failure to comply with non-waivable legal consultation requirement]; Welf. & Inst. Code, § 627, subd. b [minors have right to telephone calls to a designated adult and an attorney within an hour after being taken into custody and willful interference with that right is punishable as a misdemeanor].

as this Court has observed, although “[h]igh school students may appear to be . . . more capable of self-control than grammar school children, “adolescent high school students are not adults and should not be expected to exhibit that degree of discretion, judgment, and concern for the safety of themselves and others which we associate with full maturity.” (*D.C. v. R.R.* (2010) 182 Cal.App.4th 1190, 1221 [106 Cal. Rptr. 3d 399, 422] [quoting *Dailey v. Los Angeles Unified Sch. Dist.* (1970) 2 Cal.3d 741, 748 [470 P.2d 360, 364]]; see also *In re Nunez, supra*, 173 Cal.App.4th at p. 729 [“[A]dolescents may have less capacity to control their conduct and to think in long-range terms than adults. . . .” [quoting *Thompson v. Oklahoma, supra*, 487 U.S. at p. 834]]; *In re Elias V., supra*, 237 Cal.App.4th at p. 587 [“Age 15 is a tender and difficult age for a boy. . . . He cannot be judged by the more exacting standards of maturity. That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens. This is the period of great instability which the crisis of adolescence produces.” [quoting *Gallegos v. Colorado* (1962) 370 U.S. 49, 53 [82 S.Ct. 1209, 1212, 8 L.Ed.2d 325]]].)

Accordingly, because “adolescents, particularly in the early and middle teen years, are more vulnerable, more impulsive, and less self-disciplined than adults,” (*In re Nunez, supra*, 173 Cal.App.4th at p. 729 [quoting *Thompson v. Oklahoma, supra*, 487 U.S. at p. 834]), California law seeks to protect young adolescents from exploitation and from their own lack of judgment across diverse contexts: education, employment,

economic transactions, and so forth. California, along with every state in the country, has decided that 14- and 15-year-olds are too immature and irresponsible to drive,⁶⁶ vote,⁶⁷ serve on juries,⁶⁸ drink alcohol,⁶⁹ gamble,⁷⁰ or marry without parental and judicial consent.⁷¹ Likewise, all states require children 15 or younger to

⁶⁶ Veh. Code, § 12512 [children under 17 ineligible for license to drive]; cf. Veh. Code, § 21213 [children 15 or younger prohibited from operating an electric bicycle]; Harb. & Nav. Code, § 658.5 [children 15 or younger prohibited from operating certain vessels].

⁶⁷ Elec. Code, § 2000 [children 17 or younger ineligible to vote; children 16 or older eligible to preregister to vote]; see also Elec. Code, § 3009 [mail-in ballots may not be delivered to children 15 or younger].

⁶⁸ Code Civ. Proc., § 203 [children 17 or younger ineligible for jury service].

⁶⁹ Bus. & Prof. Code, § 25658 [misdemeanor for person under 21 to purchase any alcoholic beverage].

⁷⁰ Bus. & Prof. Code, § 19941 [person under 21 prohibited from “play[ing], plac[ing] wagers at, or collect[ing] winnings from . . . a gambling game”]; Bus. & Prof. Code, § 19921 [person under 21 prohibited from entering the gambling areas of licensed gambling establishments].

⁷¹ Fam. Code, §§ 302, 304 [before consenting to marriage involving child 17 or younger court must consider (1) interviews with minor parties and at least one of the parent of each party; and (2) a written report containing an “assessment of potential force, threat, persuasion, fraud, coercion, or duress by either of the parties or their family members relating to the intended marriage”].

attend school,⁷² and California law further restricts the employment of school-age children during the school year.⁷³ California law broadly limits the type and amount of work young teens can do.⁷⁴ Early adolescents in the state are also prohibited

⁷² See Yudof et al., *Education Policy and the Law* (4th ed. 2002) p. 1; Ed. Code, § 48200 [children aged 6 to 17 must attend school, with some exemptions]; see also Ed. Code, § 48232 [children 14 or younger may not take leave of absence from school].

⁷³ See, e.g., Ed. Code, § 49130 [14- and 15-year-old children may obtain permits to work full time, extending no later than the end of the current school year, only in limited enumerated circumstances]; Ed. Code, § 51760.3 [14- and 15-year-old children may receive credit for work experience education only under narrow enumerated conditions].

⁷⁴ See, e.g., Lab. Code, §§ 1290, 1292, 1293, 1294, 1294.5, 1297 [children 15 or younger prohibited from employment in dangerous jobs or tasks]; Lab. Code, § 1294.3 [children 14 or 15 allowed only limited employment]; Lab. Code, § 1391 [limiting hours of employment for children 15 and younger]; Lab. Code, § 1308.5 [requiring written consent of Labor Commissioner for employment of children 15 or younger in various entertainment industry positions]; Lab. Code, § 1308.1 [children 15 or younger prohibited from engaging in door-to-door sales more than 50 miles from their place of residence]; Lab. Code, § 2661 [children 15 or younger ineligible for industrial homeworkers' permits]; Pub. Contract Code, § 6108 [prohibiting state contractors from employing children 14 or younger in the "manufacturing process"]; Bus & Prof. Code, §§ 2866, 7321, 7321.5, 7324, 7326 [child 16 or younger ineligible to be licensed as vocational nurse, cosmetologist, barber, esthetician, manicurist]; cf. Welf. & Inst. Code, § 883 [children committed to ranches, camps, or forestry camps "may not be required to labor in fire suppression when under the age of 16 years"]; Welf. & Inst. Code, § 11320.3 [children 15 or younger not required, as a condition of eligibility for state aid, to participate in welfare-to-work activities]; Welf. &

from entering into certain contracts.⁷⁵ In certain circumstances, the California legislature has even seen fit to regulate young adolescents' bodily autonomy.⁷⁶

As California courts have recognized, “[p]articularly during the formative years of childhood and adolescence, minors often

Inst. Code, § 706.6 [requiring, as part of case plan, “a written description of the programs and services, which will help the minor prepare for the transition from foster care to successful adulthood” only for children 16 or older].

⁷⁵ See, e.g., Ins. Code, § 10112 [child 15 or younger requires parental consent to contract for insurance]; Ins. Code, § 11023 [child 14 or younger ineligible for admission to fraternal benefit society]; Fam. Code, § 6701 [child 17 or younger unable to make a contract relating to real property]; cf. Civ. Code, § 1785.11.9 [children 15 or younger considered “protected consumers” warranting security freezes by consumer credit reporting agencies in certain circumstances].

⁷⁶ See, e.g., Pen. Code, § 261.5 [child 15 or younger incapable of consenting to sex with person 21 years or older who is not the child's spouse]; Health & Saf. Code, § 1607.5 [child 14 or younger incapable of donating blood; 15- or 16-year-old [child] requires parental consent and physician authorization]; Health & Saf. Code, § 7150.15 [child 14 or younger incapable of consenting to living organ donation, unless emancipated minor; child between 15 and 18 requires parental consent]; Health & Saf. Code, § 1283 [“No health facility shall surrender the physical custody of a minor under 16 years of age to any person unless such surrender is authorized in writing by the child's parent, the person having legal custody of the child, or the caregiver of the child who is a relative of the child and who may authorize medical care and dental care.”]; Health & Saf. Code, § 119302 [children 17 or younger prohibited from being offered or receiving a tattoo or “permanent cosmetics application”]; see also Pen. Code, § 653 [misdemeanor to tattoo or offer to tattoo a child 17 or younger].

lack the experience, perspective, and judgment expected of adults.” (*In re Nunez, supra*, 173 Cal.App.4th at p. 729 [quoting *Thompson v. Oklahoma, supra*, 487 U.S. at p. 834].) The California Legislature, in turn, has barred children younger than 15 from activities that require maturity and responsible judgment. The fact that these activities are permitted for many older adolescents demonstrates the widespread recognition that early adolescents are developmentally distinct from adults and older teens—that 14- and 15-year-olds lack the developmental capacity to bear such responsibilities but that their incapacity will abate over the course of adolescence. (See *id.* at p. 256 [“[T]he signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside.” [quoting *Johnson v. Texas* (1993) 509 U.S. 350, 358 [113 S.Ct. 2658, 2669, 125 L.Ed.2d 290]]; *In re Barker* (2007) 151 Cal.App.4th at p. 377 [same]; see also *In re Jones* (2019) 42 Cal.App.5th 477, 482 [255 Cal. Rptr. 3d 571, 573] [“While young adults share many of the attributes of youth, they are by definition further along in the process of maturation, and the law need not be blind to the difference.”].)

III. The Distinctive Characteristics of Young Adolescents Demonstrate That Shielding Them From Adult Prosecution is Consistent With and Furthers the Intent of Proposition 57.

The distinctive characteristics of young adolescents demonstrate that shielding these youngest teens from adult prosecution is consistent with and furthers the intent of

Proposition 57. Proposition 57 specified that, in enacting the act:

it [was] the purpose and intent of the people of the State of California to:

1. Protect and enhance public safety.
2. Save money by reducing wasteful spending on prisons.
3. Prevent federal courts from indiscriminately releasing prisoners.
4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles.
5. Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court.

(Prop. 57, Public Safety and Rehabilitation Act of 2016 (approved Nov. 8, 2016) § 2). The societal understanding of the characteristics of young adolescents discussed in this brief provides support for the conclusion that prohibiting trial of 14- and 15-year-olds in adult court furthers each of these purposes.

A. The Characteristics of Young Adolescents Demonstrate that Keeping These Youth In Juvenile Court Promotes Public Safety, Emphasizes Rehabilitation, and Reduces Wasteful Spending on Prisons.

As discussed at length above, young adolescents have tremendous capacity for rehabilitation. (See *supra* Section I.C.) Indeed, one of the most salient features of young adolescence is an enormous potential for change. Young teens are so early in their developmental trajectory that nearly everything about them has yet to be determined. As a result, not only are young adolescents capable of change, they *will* change as an inevitable

part of growing up.⁷⁷ As the Supreme Court has recognized, “the relevance of youth as a mitigating factor derives from the fact that the signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside.” (Roper v. Simmons (2005) 543 U.S. 551, 570 [125 S.Ct. 1183, 1196, 161 L.Ed.2d 1 [quoting Johnson v. Texas (1993) 509 U.S. 350, 368 [113 S.Ct. 2658, 2669, 125 L.Ed.2d 290]].) Young adolescents’ heightened capacity for change indicates that their treatment in the juvenile system furthers the intent of Proposition 57.

First, because young adolescents are especially likely to be rehabilitated, keeping these youth in the juvenile system is consistent with Proposition 57’s goal of emphasizing rehabilitation. As the legislature recognized in passing SB 1391, the juvenile system provides far more opportunities for rehabilitation than the adult system:

The juvenile system provides age-appropriate treatment, services, counseling, and education, and a youth’s participation in these programs is mandatory. The adult system has no age-appropriate services, participation in rehabilitation programs is voluntary, and in many prisons, programs are oversubscribed with long waiting lists.

(Sen. Com. on Pub. Safety, Analysis of Sen. Bill No. 1391 (2017–18 Reg. Sess.) Feb. 16, 2018, p. 4.) Young adolescents,

⁷⁷ Spear, *supra*, 24 Neuroscience & Biobehavioral Rev. at p. 421; Seagrave & Grisso, *supra*, 26 Law & Hum. Behav. at p. 229; Reppucci, *supra*, 27 Am. J. Cmty. Psych. at p. 319.

because they still have so much growing to do, are best able to take advantage of the opportunities offered by the juvenile system, and are especially susceptible to the positive influences that they can provide.⁷⁸ Thus, keeping these youth in the juvenile system emphasizes rehabilitation for those most likely to benefit from it, consistent with the intent of Proposition 57.

Further, because young adolescents are still changing and changeable, it also promotes public safety for them to remain in the juvenile system. While theoretically, in some circumstances, public safety might be served by harsh sentences that deter criminal behavior, the effectiveness of adult sentencing as a deterrent for young adolescents is questionable due to their immature development. As the Supreme Court has recognized, “the same characteristics that render juveniles less culpable than adults—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment.” (*Montgomery v. Louisiana* (2016) 136 S. Ct. 718, 733 [193 L.Ed.2d 599] [quoting *Miller v. Alabama* (2012) 567 U.S. 460, 472 [132 S.Ct. 2455, 2465, 183 L.Ed.2d 407]). Young adolescents, who have the greatest deficits in future orientation and capacity to weigh risks and consequences (see *supra* Section I.A), are especially unlikely to take potential adult punishment into account to modify their behavior.

Public safety is best served by a system that reduces

⁷⁸ See *supra* Section I.C; see also Scott, *Justice Policy, supra*, 57 Wash. U. J. L. & Pol’y at p. 61.

recidivism so fewer crimes are committed in the future. Here again, because of young adolescents' innate capacity for change, these youth are especially capable of rehabilitation. The juvenile system, which will have at least a decade to work with 14- and 15-year-olds,⁷⁹ is best positioned to shape these young people into productive citizens. Indeed, several studies have shown that teens who are tried as adults have higher rates of recidivism than those who remain in juvenile court, even after controlling for other factors, including the seriousness of the offense.⁸⁰

Researchers have also found that juvenile experiences in correctional facilities “can have a critical impact on whether [adolescents] successfully navigate the transition to productive adulthood.”⁸¹ Heightened plasticity in the adolescent brain can make “the brain susceptible to positive influence” but can equally make “it vulnerable to toxic experiences.”⁸² For young adolescents

⁷⁹ The juvenile court can maintain jurisdiction over serious juvenile offenders until age 25. (Welf. & Inst. Code, §§ 607(b), 1769(b).) This jurisdiction may be further extended if release would be “physically dangerous to the public.” (*Id.* §§ 1800 et seq.)

⁸⁰ Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* (2010) Office of Juvenile Justice & Delinquency Prevention, 5–8; Fagan et al., *Be Careful What You Wish For: Legal Sanction and Public Safety among Adolescent Felony Offenders in Juvenile and Criminal Court* (2007) 69–72; Myers, *The Recidivism of Violent Youths in Juvenile and Adult Court: A Consideration of Selection Bias* (2003) 1 *Youth Violence & Juv. Just.* 79, 80.

⁸¹ Scott, *Justice Policy*, *supra*, 57 *Wash. U. J. L. & Pol'y* at p. 57.

⁸² *Id.* at p. 59.

involved in the criminal legal system, correctional facilities are the social contexts in which they experience a critical developmental period.⁸³ If their correctional experiences are “harmful,” particularly if adolescents are exposed to violence and social isolation, incarceration is “likely to be particularly damaging at this stage of life.”⁸⁴

A positive “maturation process” during adolescence depends on several conditions of a teenager’s social context: (1) the presence of an “authoritative” adult who provides guidance and structure, (2) membership within a “pro-social peer group,” and (3) participation in activities that “promote autonomous decision-making and critical thinking.”⁸⁵ Juvenile correctional facilities can create these conditions by “foster[ing] the relationship between the young offender and one or more authoritative adults,” limiting the influence of “antisocial peers” and encouraging engagement with “pro-social peers,” and teaching social, educational, and vocational skills so that adolescents can make their own decisions and think critically.⁸⁶

These conditions are far less likely to exist in adult prisons. In adult correctional facilities, the relationships between guards and the incarcerated have been described as “hostile and distant”

⁸³ *Id.* at p. 70.

⁸⁴ *Id.* at p. 59.

⁸⁵ *Id.* at p. 57.

⁸⁶ *Id.* at pp. 71–72.

and adult inmates may feel less responsible “to care for and provide positive adult guidance to juvenile prisoners.”⁸⁷ Moreover, adolescents serving sentences in adult prisons are “surrounded by antisocial peers and adults” during a lot of “unstructured time.”⁸⁸ These experiences in the correctional setting can determine the trajectory of the adolescent offender’s future life.⁸⁹

While many young adolescents tried as adults can and do overcome these obstacles to become productive citizens, the evidence shows that the juvenile system achieves this goal far more successfully. Therefore, keeping young adolescents in the juvenile system is consistent with Proposition 57’s intent to promote public safety.

For the same reasons, it is also not necessary to waste taxpayer dollars on incarcerating young teens for decades in the adult system, and prohibiting transfer of young adolescents is also consistent with Proposition 57’s intent to reduce wasteful spending on prisons and to avoid court mandated releases by reducing overcrowding.

In light of the scientific and societal consensus on the vulnerabilities and disabilities of young adolescents, keeping young adolescents in the juvenile justice system is consistent with and furthers the intent of Proposition 57 by promoting public

⁸⁷ *Id.* at p. 60.

⁸⁸ *Ibid.*

⁸⁹ *Id.* at p. 61.

safety, emphasizing rehabilitation, and reducing costs for the adult prison system.

B. The Characteristics of Young Adolescents Demonstrate that Keeping These Youth in Juvenile Court is Consistent with the Transfer Scheme Under Proposition 57.

Another purpose of Proposition 57 was to have a judge, rather than a prosecutor decide whether a child should be tried as an adult. This enactment was made against the backdrop of statutory criteria for transfer that, given the evidence of their developmental immaturity, heavily favors keeping young adolescents in the juvenile system. (See Welf. & Inst. Code, § 707(a)(3).) Thus, when voters enacted Proposition 57's provision that allowed judges to transfer 14- and 15-year-olds to adult court, they also made clear that judges should only do so after considering statutory criteria that emphasize consideration of the very characteristics that make young adolescents particularly inappropriate for transfer.

For example, when considering a child's "degree of criminal sophistication" the statute instructs that relevant considerations include:

the minor's age, maturity, . . . the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment

(Welf. & Inst. Code, § 707(a)(3)(A)(ii).) The scientific research discussed above has shown that 14- and 15-year-olds are

especially immature—they are at the peak time in their lives for impetuous behavior and incapacity for weighing risks and consequences. (See *supra* Section I.A.) Young adolescents are also especially subject to influence by their family, peers, and environment, and often have extremely limited ability to extricate themselves from criminogenic settings. (See *supra* Section I.B.) Thus, it is not supportable to conclude that young adolescents have any significant degree of “criminal sophistication.”

The statute also provides that the judge should consider “whether the minor can be rehabilitated,” taking into account “the minor’s potential to grow and mature.” (Welf. & Inst. Code, § 707(a)(3)(B)(ii).) As discussed above, scientific research has shown that young adolescents have incredible capacity to grow and mature. (See *supra* Section I.C.) It is therefore impossible to conclude that a young adolescent cannot be rehabilitated. (See also *Graham v. Florida* (2010) 560 U.S. 48, 73 [130 S.Ct. 2011, 2029, 176 L.Ed.2d 825] [finding it “difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption”].)

The statute further provides that, while the judge should consider “the circumstances and gravity of the offense,” this consideration should include a number of factors related to the child’s level of culpability, including the child’s “mental state” and “mental or emotional development.” (Welf. & Inst. Code, § 707(a)(3)(E).) Here again, the characteristics of young adolescents, and their developmental status, significantly

diminish their culpability. (See *supra* Sections I.A&B; see also *Graham*, 560 U.S. at 68 [characteristics of youth indicate “transgression ‘is not as morally reprehensible” [quoting *Thompson v. Oklahoma* (1988) 487 U.S. 815, 835 [108 S.Ct. 2687, 2699, 101 L.Ed.2d 702]].) Thus, because the characteristics of young adolescents weigh heavily against transfer under the established criteria, it is consistent with the transfer process contemplated by Proposition 57 to prohibit transfer of 14- and 15-year-olds to adult criminal court.⁹⁰

Real Party in Interest and its supporting amici have argued that there are some young adolescents who commit such serious crimes that they should be considered more mature than typical young adolescents, and therefore would meet the criteria for transfer. (Real Party In Interest Br. at 44–45; Criminal Justice Legal Foundation Br. at 15–16; Cal. Dist. Att’y Assoc. Br. at 45 n.5.) However, the commission of a serious crime does not indicate heightened maturity. Rather, researchers have found that commission of violent crimes by juvenile offenders is linked to a *lack* of full maturity of the developing brain systems as well as traumatic experiences that have disturbed normal brain function.

⁹⁰ Further supporting the proposition that 14- and 15-year-olds do not meet the criteria for transfer, in the two years between the passage of Proposition 57 and SB 1391 during which these transfer criteria were utilized, no 14- or 15-year-olds were transferred to adult court. (Cal. Dept. of Justice, *Juvenile Justice in California* (2018) table 27, p. 86; Cal. Dept. of Justice, *Juvenile Justice in California* (2017) table 27, p. 86.)

“Increases in criminal and other behavior problems during adolescence are due . . . to the neurological and psychosocial immaturity that mark this developmental period.”⁹¹ Researchers have found that “delayed, or even incomplete, maturation” of the prefrontal cortex and the subcortical system may underlie violent behavior in youth.⁹² The prefrontal cortex, implicated in the “cognitive interpretation of emotion” is thought to “directly regulate activation of the subcortical system,” where emotional material is processed.⁹³ Researchers who studied juveniles who committed violent offenses and compared them to their “typically developing peers” found that “dysfunction in the prefrontal-striatal circuit . . . may be indicative of brain immaturity . . . specific to male violent juvenile offenders.”⁹⁴ Thus, young adolescents who commit violent offenses have been found to be *less* mature than their developing juvenile counterparts, causing them to be less capable of “suppress[ing] the inappropriate expression of emotions” and “achiev[ing] a more mature cognitive

⁹¹ Monahan et al., *Juvenile Justice Policy and Practice: A Developmental Perspective* (2015) 44 *Crime & Just.* 577, 581.

⁹² Chen Chen et al., *Regional Homogeneity of Resting-State Brain Abnormalities in Violent Juvenile Offenders: A Biomarker of Brain Immaturity?* (2015) 27 *J. Neuropsychiatry & Clinical Neurosciences* 27, 30.

⁹³ *Ibid.*

⁹⁴ *Ibid.*

style.”⁹⁵

The lack of brain development and maturity of violent juvenile offenders has also been traced to their increased risk of suffering from trauma.⁹⁶ Serious and violent juvenile offenders are “disproportionately victims of trauma, abuse, neglect, and maltreatment during childhood, as compared to the less severe or non-offending juvenile population.”⁹⁷ This trauma affects their “biological and psychological development” causing “neural impairment” and “disrupting the regulatory processes central to maintaining their normal wellbeing.”⁹⁸ This leads children and young adolescents with traumatic backgrounds to “use aggressive solutions to solve problems [more often] than non-injured children.”⁹⁹

Sociologists and psychologists have agreed that increased maturity in adolescents leads to them *desisting* from crime, not

⁹⁵ *Ibid.*

⁹⁶ Farrer et al., *Prevalence of Traumatic Brain Injury in Juvenile Offenders: A Meta-Analysis* (2013) 19 *Child Neuropsychology* 225, 227.

⁹⁷ Fox et al., *Trauma Changes Everything: Examining the Relationship Between Adverse Childhood Experiences and Serious, Violent, and Chronic Juvenile Offenders* (2015) 46 *Child Abuse & Neglect* 1, 2.

⁹⁸ *Ibid.*

⁹⁹ Farrer et al., *supra*, 19 *Child Neuropsychology* at p. 230.

increasing in delinquent and criminal behavior.¹⁰⁰ As individuals become better able to regulate their behavior, “they become less likely to engage in impulsive, ill-considered acts.”¹⁰¹ Their “desistance from antisocial behavior” is therefore the “*product* of psychological maturity.”¹⁰² Thus, contrary to arguments that the commission of a violent offense by a juvenile offender indicates greater maturity, “juvenile offending reflects psychological immaturity” already common in developing young adolescents and heightened by traumatic disturbances in normal brain function.¹⁰³

In light of the scientific and societal consensus on the vulnerabilities and disabilities of young adolescents, SB 1391 is consistent with and furthers the intent of Proposition 57 by requiring juveniles for whom the statutory transfer criteria strongly favor a finding of fitness for juvenile treatment to remain in the juvenile system.

Conclusion

Young adolescents are characterized by changeability, immature judgment, underdeveloped capacity for self-regulation,

¹⁰⁰ Steinberg et al., *Psychosocial Maturity and Desistance From Crime in a Sample of Serious Juvenile Offenders* (2015) *Juvenile Justice Bulletin*, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention 1, 2.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, italics added.

¹⁰³ *Ibid.*

vulnerability to negative influences and outside pressures, and a lack of control over their environment. California law has long recognized these vulnerabilities and disabilities of young adolescents. This consensus that young adolescents are unfinished works-in-progress who need careful protection and guidance supports a finding that preventing the trial of young adolescents as adults is consistent with and furthers the intent of Proposition 57. For the above stated reasons, the Equal Justice Initiative respectfully urges this Court to find that SB 1391 is constitutional.

Dated: August 6, 2020

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

I certify that the foregoing brief was prepared on a computer using Corel WordPerfect, and that, according to that program, this document contains 11,197 words.

/s/Rebecca P. Jones
REBECCA P. JONES

California Supreme Court No. S259011
Court of Appeal, Second Appellate District, Div. Six, No. B295555
Ventura County Superior Court No. 2018017144
O.G. v. Superior Court of Ventura County

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I declare under penalty of perjury that the following is true and correct: I am a citizen of the United States and employed in the City and County of San Diego. I am over the age of eighteen (18) years and not a party to the within above-entitled action; my business address is 3549 Camino del Rio South, Suite D, San Diego, California 92108; on this date I served the **APPLICATION OF THE EQUAL JUSTICE INITIATIVE TO FILE AMICUS CURIAE BRIEF AND AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER O.G.**, addressed as follows:

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O.G.
(Confidential Address)
(Petitioner)

I declare under penalty of perjury that the foregoing is true and correct. Executed August 6, 2020, at San Diego, California.

/s/ Rebecca P. Jones

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

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(PEOPLE)

Case Number: **S259011**

Lower Court Case Number: **B295555**

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8/6/2020

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