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BRIGHAM YOUNG UNIVERSITY

PRELAW REVIEW

- Rehabilitation and "Tough Love":
Balancing Two Approaches
to Juvenile Crime *Ross J. Davidson*
- Preventing Juvenile Crime through
Adult Sentencing *Eric Nelson*
- Juveniles and the Ability to Form
Intent to Kill *Elisa Clements*
- The Mental Health Factor in Juvenile
Rehabilitation *Benjamin F. Manwaring*
- The Ethical Foundations of Blended
Juvenile Sentencing *Matthew C. Jennejohn*
- Juvenile Delinquents: Reclamation,
Not Retribution *David Stankiewicz*
- School Violence: A Case for Stronger
Parental Liability *Syed Fabad Saghir*
- The Fundamentally Flawed Approach
to Reducing Juvenile Crime *Morgan M. Williams*
- Too Young to Vote, Old Enough
to Be Executed *J. Michael Isom*
- Juvenile Waiver: What Does It Mean
for American Teens? *Terence Lee Robinson*
- Why Juveniles Should Not Be
Tried as Adults *Michael Bailey*

2002
VOLUME 16





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VOLUME 16, 2002



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VOLUME 16, 2002

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The *Brigham Young University Prelaw Review* is published once each year and remains the only known undergraduate journal of its kind. The contents of this volume represent the opinions of the authors and not necessarily those of the editing staff, advisors, Brigham Young University, or its sponsoring institution, The Church of Jesus Christ of Latter-day Saints.

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VOLUME 16, 2002

Rehabilitation and "Tough Love": Balancing Two Approaches to Juvenile Crime <i>Ross J. Davidson</i>	1
Preventing Juvenile Crime through Adult Sentencing <i>Eric Nelson</i>	9
Juveniles and the Ability to Form Intent to Kill <i>Elisa Clements</i>	17
The Mental Health Factor in Juvenile Rehabilitation <i>Benjamin F. Manwaring</i>	27
The Ethical Foundations of Blended Juvenile Sentencing <i>Matthew C. Jennejohn</i>	37
Juvenile Delinquents: Reclamation, Not Retribution <i>David Stankiewicz</i>	45
School Violence: A Case for Stronger Parental Liability <i>Syed Fahad Saghir</i>	53
The Fundamentally Flawed Approach to Reducing Juvenile Crime <i>Morgan M. Williams</i>	61
Too Young to Vote, Old Enough to Be Executed <i>J. Michael Isom</i>	67
Juvenile Waiver: What Does It Mean for American Teens? <i>Terence Lee Robinson</i>	79
Why Juveniles Should Not Be Tried as Adults <i>Michael Bailey</i>	87

The editing staff would like to graciously acknowledge those organizations and individuals who have supported the *Brigham Young University Prelaw Review* in this, its sixteenth volume:

Brent Dunn, ACE LSAT

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PUBLISHER'S NOTE

This is the sixteenth edition of the *Brigham Young University Prelaw Review*. When I first conceptualized this project eleven years ago, I never could have imagined how it would evolve into such a sophisticated publication. Its development is a credit to the many student editors who have sacrificed their time and energy to its production.

I am especially pleased with the increase in the number of submissions. Since 1999, we have had a writing competition format that the students have responded to enthusiastically. As Publishing Advisor I attempt to anticipate what subjects and subtopics would be exciting to students to research and write about as well as be intriguing to our readers.

Violence in American schools has affected our college students today in personal ways. Their generation has been forced to submit to searches and walk through metal detectors at school. The implicit threat of potential violence permeates their experience. Something has changed dramatically in society when our young people turn on each other in violent ways. Well-developed, long-standing theories of human behavior are being challenged by the violence. Some believe that children are born as perfect beings, only to be corrupted by mankind and the human condition. Others espouse the idea that children need to be improved, having come in a somewhat uncivilized condition that requires corporal punishment from society. Many other theories—political, economic, philosophical, and religious—exist and become codified in juvenile justice legislation in different ways in various states. Criminal justice theories examine the continuum of responses, from retribution to rehabilitation. Judges and juries are forced to balance justice and mercy, public safety, and the economics of prison populations. The media uses the events to both educate the public as well as exploit the highly publicized incidents for financial gain. The devastation to a community racked by violent episodes takes years to overcome.

BYU students have had the opportunity to explore various aspects of the law in relation to juveniles who commit violent crimes. The many papers submitted reflected a variety of responses. We have attempted to provide you with a number of different points of view in this edition of the *Brigham Young University Prelaw Review*.

I express my deep appreciation to the professional review board, many of whom are my close personal and professional friends, for their time and attention to the submissions. They have made many helpful suggestions that have helped the staff working with the authors. I also thank Kristian Johnson for the many hours spent in producing the quality look of the journal, and Craig Garrick for the hours spent in fund-raising. Finally, I express my deepest appreciation to Julia Sidsel Geary, Editor-in-Chief, of the *Review*. Her commitment and attention to detail, her professionalism and excellent management skills, are evident in this issue. I appreciate the rest of the editorial board for their many hours of dedication to the publication of this issue. I also express my sincere appreciation to those businesses and BYU departments whose donations make the *Review* possible. Thank you to all.

EILEEN CRANE

Publishing Advisor

Prelaw Advisor, Brigham Young University

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EDITOR'S NOTE

Anyone who turns on the evening news or flips open the national, or even local, newspaper is aware that violence among our nation's youth is an escalating problem. Who is responsible for this growing juvenile violence trend? How should we punish juveniles who commit heinous crimes? Juries, judges, and we as a nation are faced with these tough decisions. This is the controversial issue that we selected as the 2002 *Brigham Young University Prelaw Review* topic. Our undergraduate authors have chosen different angles to this debatable issue.

It is challenging for students who have limited, if any, legal experience to produce a work of this style. As the first undergraduate journal of its kind in the nation, we have faced challenges and, in turn, reaped rewards. *The Prelaw Review*, in its sixteenth volume, is the result of the support of many dedicated individuals. Among those to be noticed is our publishing advisor, BYU's Prelaw Advisor, Eileen Crane. Not only was this journal her brain child, but she has been a constant source of advice and support throughout the journal's creation process. Our production advisor, Linda Hunter Adams, should also not go unrecognized. She has guided us through long hours of fine-tuning this journal. I would also like to recognize the editors who have each worked on polishing and bringing to publishable quality our author's articles. Our authors have also put in countless hours in working and reworking their articles. My Managing Editor, Craig Garrick, deserves special thanks for his extensive help in fund-raising and in advice-giving. Kristian Johnson, our Production Editor, also deserves praise. He has spent many long nights perfecting the journal's lay-out, raising it to an even more professional standard. Lastly, I would like to thank our generous financial donors, many of whom have made our journal possible with their donations since the beginning of the *Prelaw Review*.

We hope you find our journal insightful and thought-provoking.

JULIA SIDSEL GEARY
Editor-in-Chief

