

News Roundup

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The focus in Raleigh this week was mostly on the budget. The Senate released its initial proposal, which differs from the Governor's. As the *News and Observer* discusses here, the Senate budget would move the SBI and the Crime Lab from the Attorney General's control to the Governor's. Proponents of the move note that the other statewide law enforcement agencies are part of the Department of Public Safety, while opponents argue that the SBI has greater independence under the Attorney General. Because the Attorney General appears likely to run for Governor, politics are involved as well. The House hasn't weighed in yet and there is a long way to go before the budget is final.

In other news:

Juvenile age bill not moving. Recall from last week's roundup that H 725, a bill that would raise the juvenile age for many misdemeanors, passed the House. At least so far, it's not moving in the Senate. The [bill tracking page](#) shows that it hasn't even had a first reading or been assigned to a committee.

Impact of Hall. Earlier this week, [I blogged about Hall v. Florida](#). That's the United States Supreme Court case holding that, for purposes of determining a defendant's eligibility for the death penalty, states can't define intellectual disability (formerly mental retardation) as requiring an IQ score of 70 or below. The ruling was based on the measurement error inherent in IQ tests and the more flexible definition of intellectual disability that now prevails in the medical community. [In the New York Times](#), a leading anti-death penalty lawyer estimated that only 10 to 20 cases may be affected across the country – essentially, cases involving defendants with IQ scores between 71 and 75 in states that previously adopted a hard cutoff at 70. The prosecution-oriented blog Crime and Consequences [seems happy with that figure as well](#). It strikes me as low. First, by considering only pending cases, it ignores all the future cases that the ruling will affect. Second, even as to pending cases, it doesn't sound right. Accepting Justice Kennedy's count of nine states that arguably imposed a hard cutoff – and remember that Justice Alito counted more in his dissent – that would mean only about 1 or 2 death row inmates per state with IQs in the low 70s. But the IQ distribution on death row almost certainly skews lower than the distribution among the general public. According to [this data](#), more than 20% of Texas prison inmates have IQs of 80 or below. [This study](#) reports that the mean IQ in prison is 92. In the UK, [the BBC reports](#) that about 25% of inmates have IQs below 80. My guess is that IQs in the low 70s will turn out to be reasonably common on death row. But time will tell.

The Supreme Court's secret revisions of the law? I missed this last week, but Adam Liptak at the *Times* wrote [this piece](#), which begins: "The Supreme Court has been quietly revising its decisions years after they were issued, altering the law of the land without public notice." The story claims that some of the revisions – often made in between the initial release of an opinion and the publication of the official United States Reports – are substantial, though it doesn't provide compelling recent examples. (Historically, Chief Justice Taney apparently added 18 pages to his *Dred Scott* opinion after it was announced, which sounds pretty significant.) For true Supreme Court nerds, the Court's website [breaks down the four "generations"](#) an opinion goes through on its way to the United States Reports.

Best friend of the court. The *Wall Street Journal* Law Blog has a [sweet profile of Camry](#), a mixed-breed dog who works four days per week in the Marion County, Ohio, courthouse. His job is to "make the courthouse a friendlier place," and he can be "called upon to cheer up children interviewed for a custody evaluation or to sit with people

during private judicial proceedings, greet juveniles assigned to reentry programs or accompany witnesses at hearings.” He responds to the command “visit” by putting his head on a person’s lap to be petted, and also rises up for hugs on demand. No word on why he was named after a car. Perhaps he is bland but reliable? Or engages in unintended acceleration?