

## **The American Bar Association Juvenile Justice Center's Report on Juvenile Delinquency Representation in North Carolina**

OCTOBER 22, 2003, North Carolina Office of Indigent Defense Services, Durham, NC:

The American Bar Association today released a report on the access to counsel and quality of representation in juvenile delinquency proceedings in North Carolina. The North Carolina report was prepared in cooperation with the state Office of Indigent Defense Service ("IDS"). Additional reports were released in 5 other states—Maine, Maryland, Montana, Pennsylvania, and Washington. All of the reports identified institutional problems that prevent the states' juvenile defense systems from providing indigent children with adequate defense representation.

While the successes and failures reported in each state varied, all of the reports "paint a disturbing picture" according to ABA President Dennis W. Archer. "Too many children, particularly children of color, fall victim to conveyor belt justice—with kids rushed through a system riddled with institutional flaws without regard for their individual cases or needs. The net result is a massive misdirection of resources that fails children, and undermines public safety."

The studies are part of a nationwide effort to evaluate state juvenile defense systems and determine whether those systems are protecting children's constitutional and statutory rights. Some of the key findings in the North Carolina report include:

- Juveniles consistently have representation, but not at sufficiently early stages of their cases, so they are interrogated and often held in custody without seeing a lawyer.
- The quality of juvenile defense is very uneven across the state, with some juveniles receiving excellent representation and others receiving seriously deficient representation. This is partly due to the fact that there are no statewide accountability or practice standards, and insufficient training opportunities for juvenile defense attorneys.
- Juvenile defense attorneys inadequately prepare their cases, in large part because they have little or no access to investigators and other support services.
- Too many attorneys have insufficient contact with their young clients. 89% of attorneys surveyed reported meeting their clients for the first time at the courthouse on the day of a hearing.
- Juvenile defense attorneys rarely file pre-adjudication motions, including competency motions.
- North Carolina overuses and misuses pre-adjudicatory detention. Some youth are held in secure detention for extended periods of time awaiting placement in treatment programs.
- Case disposal rates vary widely across the state, but in some counties 90% of juvenile cases end in plea bargains. Such a high rate of pleas raises concern about whether these cases are being adequately investigated and evaluated.
- Defenders rarely advocate for particular dispositional alternatives to detention, and instead simply accept the recommendations of court counselors.
- Post-disposition representation of adjudicated youth is virtually non-existent.
- Various impediments—including the informality of juvenile court, the scant record of

initial proceedings, and the lack of representation after disposition—make juvenile appeals rare. There were fewer than 20 appeals from delinquency adjudications throughout the state during fiscal year 2001-02.

- Indigent parents are too often required to pay for their children’s counsel without inquiry into their financial resources.
- Minority children are overrepresented in the justice system, in part because they are more likely to be referred to juvenile court by schools.
- Defenders have little training in mental health issues, and community-based mental health programs are inadequate.

The report makes 15 recommendations about what the state can do to improve the representation of North Carolina’s children. Some of the recommendations are:

- Ensure that juveniles are advised of their rights and have the assistance of counsel at the earliest possible stage in the juvenile process.
- Consistently allocate sufficient resources to support the meaningful representation of juveniles in delinquency proceedings.
- Designate a statewide Juvenile Defender under the oversight of IDS to bring together resources and expertise from across the state, continue the evaluation process, and implement specific policies and programs as needed.
- Evaluate detention statutes, policies, and practices and work to stop the misuse and overuse of secure detention at all stages in the delinquency process.
- Develop appropriate strategies and services to reduce the disproportionate minority representation in the state’s juvenile justice system.
- Develop specialized qualification and performance guidelines for juvenile representation.
- Create and support activities and programs that would elevate the status of indigent juvenile defense practice.
- Conduct an examination of existing juvenile caseloads, and ensure that those caseloads are consistent with the expectations for quality representation.
- Develop and offer comprehensive training programs for attorneys representing youth in delinquency proceedings.
- Support pilot projects in more counties to increase the availability of diversion opportunities and community-based treatment alternatives.
- Develop procedures for expediting appeals in juvenile delinquency cases.

“Effective defense representation can make all the difference,” ABA President Archer said. “Lawyers who are trained to handle issues unique to juvenile defense and capable of finding appropriate alternatives to detention can help keep kids from getting trapped in the system and decrease their likelihood of becoming adult offenders later in life.”

According to IDS Executive Director Tye Hunter, “IDS hopes everyone involved in North Carolina’s juvenile justice system will read this report and give us their feedback. This report has

a real potential to start a dialogue among all participants in the juvenile justice system—not just the defense community, but also judges, prosecutors, court counselors, law enforcement, schools, and other system actors. We all need to work together to secure better justice for our children.” The IDS Commission invited the ABA Juvenile Justice Center to North Carolina to conduct this evaluation, and is organizing to address the deficiencies that have been identified. Hunter added, “IDS wants suggestions from the front lines on how to implement the recommended reforms.”

A copy of all of the state reports can be found at [www.abanet.org/media](http://www.abanet.org/media). The North Carolina report is also available on the IDS website at [www.ncids.org](http://www.ncids.org) under the “News & Updates” link.

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