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Report finds Kentucky improving legal help for poor youths

By Deborah Yetter

Legal help for poor youths in Kentucky's criminal justice system has improved dramatically in the six years after a 1996 study that termed it "bleak," according to a report released yesterday.

"All branches of government have recognized that this is a deficient system that needs to be brought up to speed," said lawyer Kim Brooks, principal author of the report researched by the Children's Law Center in Covington.

Debra Miller, executive director of Kentucky Youth Advocates, said, "It's encouraging to finally see some improvement."

Access to lawyers for poor youths -- and the quality of representation they get -- has been a long-running concern for lawmakers, children's advocates, judges and lawyers. Those concerns were highlighted in a 1996 report by Brooks' center that found many poor youths accused of crimes had no lawyers, and youths who were convicted had little or no access to lawyers once they entered a juvenile center.

The new report said the system still needs work. It said the state needs to provide enough money to ensure qualified and well-trained lawyers for juveniles in all parts of the state.

Youths in some counties reported rushed consultations with public defenders who seemed to know little about their cases and didn't adequately explain proceedings. In some areas, lawyers are overworked with crushing caseloads, the report said.

Kentucky also needs better community services for youths with emotional or mental disorders, it said, and lawyers and state officials should continue working to reduce the disproportionate number of minority youths in confinement.

"There are still some real challenges the defender system faces," said Brooks, executive director of the Children's Law Center.

In 1995, Kentucky entered a consent decree with the U.S. Justice Department to settle allegations that deplorable conditions at juvenile centers violated the civil rights of youths to humane treatment, rehabilitation and mental health and educational services.

State Public Advocate Ernie Lewis, who heads the state public defender system, said his office struggles with a tight budget and growing caseload to serve thousands of youths. But he said he's glad the new report noted improvements.

"I'm pleased it recognized the progress we've made since 1996," Lewis said.

The report, done in conjunction with the American Bar Association's Juvenile Justice Center, cites several factors that have led to improvements, including:

- An additional \$10 million over the past two years for the state Department of Public Advocacy to expand services. In 1996 the department covered 47 counties; it now covers 108 of Kentucky's 120 counties. Jefferson, Fayette and Boyd counties are served through separate, nonprofit public defenders' offices. Private lawyers under contract provide additional services.
- The creation in 1996 of a unit of public defenders to represent youths found guilty of offenses and sentenced to state juvenile facilities. The state agreed to pay for the unit to settle a lawsuit filed by Brooks' center on behalf of jailed youths with no access to lawyers.
- Creation in 1996 of the state Juvenile Justice Department to take over supervision and confinement of all youths charged with or found guilty of offenses.
- A decision last year by the state Court of Appeals that children in juvenile court are entitled to lawyers. Legislators this year approved a law requiring judges to appoint lawyers for youths charged with serious offenses or lesser offenses where they face possible detention -- such as defying a judge's order to attend school or stop running away.

Ralph Kelly, commissioner of juvenile justice, has said that in the past, it wasn't unusual for his agency to find youths admitting to serious felony charges and being sentenced to state juvenile centers without having talked to a lawyer.

He said his staff routinely refers such youths to public defenders. Those lawyers said they have been able to get some cases reversed and the youths released from custody after pointing out the lack of lawyers. Kelly was unavailable for comment yesterday.

Brooks said the report found few children committed to juvenile centers who had not had lawyers. "Six years ago, we would go into a facility and find kids who had never been represented," she said.

Brooks said investigators studied 14 counties, gathered additional information from judges and lawyers across the state and interviewed 170 youths in state facilities as part of the one-year study.

State Sen. Gerald Neal, D-Louisville and a sponsor of the 1996 law that created the Juvenile Justice Department, said he is heartened by the improvements. Neal said he gives credit to Kelly and his staff for working to create a better system aimed at providing safe and humane treatment for youths.

But while Kentucky has a far better juvenile justice system now, Neal remains concerned about the disproportionate number of minority youths in confinement.

Brooks' report noted that although minorities make up about 10 percent of the state's youth population, they account for about 41 percent of those detained. And minority youths account for

25 percent of those found guilty of offenses and committed to Juvenile Justice for supervision and treatment.

"That's a huge problem," Neal said. "That probably reflects a failure of many aspects of the system."

Kelly's office earlier this year identified that as an area of concern following a study by University of Louisville researchers who found that a disproportionate number of minority youths wind up in the juvenile justice system.

Brooks' report singled out Jefferson County's public defender office as an example of one that provides high-quality legal representation for poor youths. A team of 12 lawyers under Pete Schuler, head of the juvenile unit, handles between 4,500 and 5,000 cases a year, the report said.

It said the lawyers are well-trained, aggressive and work to stay in communication with their clients and ensure their rights are protected.

The report also singled out the unit with the state public defender's office that represents youths found guilty of offenses and committed to a state facility. Their work in part has led to a significant drop in the number of youths jailed without a lawyer, the report said.

"I really think it is one of the best teams in the country," Brooks said of the unit.