

Central Juvenile Defender Center Press Release

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JUSTICE CUT SHORT: AN ASSESSMENT OF ACCESS TO COUNSEL AND QUALITY OF REPRESENTATION IN DELINQUENCY PROCEEDINGS IN OHIO

Covington, Kentucky: A new study released today in Ohio found that Ohio's system for ensuring constitutionally required defense services for poor children in the juvenile justice system is seriously flawed. "Justice Cut Short: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings," details disturbing findings that children are frequently denied their basic legal right to meaningful legal representation, and are often discouraged from asserting their right to an attorney at all. Further, the report suggests that juvenile courts in Ohio have become the "dumping grounds" for scores of children with mental health problems, minor school related misconduct, and other adolescent problems. In particular, African American youth appear to be among those who are pushed into the system in largely disproportionate numbers.

"Can we honestly say that 35 years after our Supreme Court decided *In re Gault* that we have lived up to the spirit and intent of that historic decision?" remarked Patti Puritz, Director of the American Bar Association Juvenile Justice Center. "Despite the best intentions of many, the juvenile indigent defense system in Ohio is broken and sorely in need of repair." The study was conducted by the American Bar Association Juvenile Justice Center in Washington, D.C., in partnership with the Central Juvenile Defender Center through the Children's Law Center, Inc. in Covington, Kentucky, and the Juvenile Justice Coalition, Inc. in Ohio. It includes extensive survey data from juvenile court judges, magistrates and defense counsel, as well as interviews with hundreds of incarcerated youth throughout Ohio. A team of national and state experts in juvenile delinquency representation also conducted site visits to a sampling of counties across the state to observe courtroom proceedings, and interview parents, youth, judges, lawyers, probation staff, detention center staff and other key juvenile justice stakeholders.

Ohio has the fifth highest number of youth incarceration in the country, with only California, New York, Florida and Texas ranking higher in overall numbers. "Yet perhaps the most pervasive finding in the study is that it has become a tolerated if not accepted practice that large numbers of poor youth throughout Ohio go unrepresented, even during some of the most critical proceedings that affect their liberty interest," explained Kim Brooks, the study's coordinator.

The study found that in many jurisdictions, youth waive their right to counsel without even the most basic understanding of what they are giving up having been explained. "Our investigators found that in

case after case, the circumstances encouraged youth to waive their rights in hopes that nothing serious would happen. In Ohio, unfortunately, serious consequences do result for scores of young people,” Brooks noted. In a number of courts, there is a striking absence of defense counsel visibility. In short, the study found prevalent a culture that devalues the defense bar as an important part of the system, and fails to ensure that children have access to advocacy.

Vigorous representation for youth who were assigned counsel also varied from jurisdiction, but investigators overall found meaningful representation lacking at the arrest or detention hearing stage, little pre-trial or trial advocacy, and appellate and post-disposition work were extremely limited or non-existent in many jurisdictions. Lack of compensation, lack of training, and inconsistency in technology and other support systems for attorneys were contributing factors in some jurisdictions.

The need for strong advocacy is even more critical in Ohio, where the courts appear to be inundated with youth with mental health problems, minor offenders who could be served in the community, and school based complaints for misconduct. “Juvenile courts in Ohio have become the dumping grounds to criminalize mentally ill youth we don’t otherwise know how to treat,” explains Darlene Kamine, one of the study coordinators. “Too often does our system rely on incarceration instead of hospitalization for children who are mentally ill.”

The alarming number of minority youth incarcerated in Ohio, and the lack of availability for services for female offenders are two other significant factors where the lack of advocacy hampers service delivery.

The report concludes with a number of important recommendations for local counties and court systems, the state public defender office, local defender programs, bar associations and law schools. The recommendations present a challenge to make sweeping reforms in Ohio’s indigent juvenile defense system, and calls for leadership from a variety of entities. “Because that’s the way we’ve always done it is not an acceptable answer. Challenging the status quo on behalf of a client demands strong advocacy, particularly for children facing dire consequences,” notes Jeff Liston, a private attorney in Columbus who co-chairs the Juvenile Justice Committee of the Ohio Bar Association.

A complete copy of the report is available by calling 859-431-3313. The study has been funded in part by the Ohio State Bar Foundation, the George Gund Foundation, the Columbus Bar Foundation, and the Cincinnati Bar Foundation.