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REPORT FINDS MANY HOLES IN JUVENILE CASES

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An overburdened Illinois juvenile justice system's reliance on overworked attorneys with little time to consult with clients puts indigent children at a disadvantage, according to a report released Wednesday.

Juvenile delinquency cases are rarely tried in many counties in Illinois, almost always plea-bargained.

Lawyers are often appointed only moments before or after the child's first court appearance.

Moreover, "In half the counties visited, many children come to court wearing shackles, handcuffs and belly chains," said Professor [Cathryn S. Crawford](#) of [Northwestern University School of Law](#).

These findings are part of the recently released report produced by the Illinois Juvenile Defense Assessment Project. Lawyers from NU's [Children and Family Justice Center](#) and the National Juvenile Defender Center wrote the report.

The report says that, overall, the representation of juveniles in Illinois is well below national standards

"Because defense attorneys are overwhelmed, do not receive adequate legal training, and children rarely meet their attorneys before their first court appointment, thousands of children face the prospect of incarceration and juvenile convictions that can stymie their rehabilitation," the report says.

Investigators visited juvenile courts in 16 counties throughout Illinois considered demographically representative of the whole state, said NU Law Professor Simmie Baer.

One major finding is that many defense attorneys who represent juveniles erroneously believe their role is to advance the "best interest" of the client rather than the client's "expressed interest."

This notion of the defense lawyer's role is shared by the prosecutors, judges and probation officers in the majority of Illinois counties, the report states.

"This expectation places severe and unwarranted constraints upon the independence of defense counsel and improperly limits zealous advocacy," the report continues.

Ethical and practice standards "dictate that the lawyer's duty in delinquency proceedings is the representation of the client's expressed interests," the report asserts.

Other major findings are:

- In numerous counties, children feel pressured to plead guilty by their parents, attorneys and sometimes judges who impose a 'trial tax' for not pleading guilty.
- In close to half the counties surveyed, judges reported holding few or no juvenile delinquency trials. "One judge stated that he had presided only over two trials in fourteen years."
- Few attorneys in Illinois outside major, metropolitan areas file any written, pre-trial motions, even for discovery. In some counties, the judges discourage filing of motions.
- Many public defenders reported that they had received no training before representing children in delinquency court.
- In most counties, public defenders had limited or no access to computers or online research, had no investigators and no social workers.

The report says, depending on the county, 70 percent to 100 percent of juvenile cases are resolved by pleas.

The report also urges the legislature and the governor to fund a proposed juvenile defender resource center to train lawyers throughout Illinois to represent children in juvenile court.

It recommends that defense lawyers be required to meet with young clients before court dates.

The report found the use of shackles, handcuffs and belly chains in most instances was based on the policy of the local sheriff "and not because the child posed a security risk."

Baer said the data on individual counties is confidential and the report is intended to focus on Illinois in general.

But, she said assessors found "a lot of similarities between ... urban and rural" counties.

However, the finding about juvenile defendants in shackles and chains "would not be true in Cook County," except in an extreme case of security, said Linda Uttal, acting chief of the Juvenile Justice Division of the Cook County public defender's office.

Moreover, Uttal said none of the public defenders who represent juveniles in delinquency cases in Cook County "are brand new attorneys.... They're all experienced attorneys that work in this division."

Also, Uttal said, "In Cook County, I think we have more of a model practice, in which our attorneys interview their clients before they ever appear before a judge."

The report says that when lawyers who represent juvenile defendants outside major metropolitan areas were asked why they do not file discovery motions, some said they trusted the police and prosecutors not to file "bogus charges."

These lawyers also trusted police and prosecutors to turn over pertinent information without a motion or court order.

The report found that in accepting pleas, many judges use "legalese that glosses over important concepts, including the rights to go to trial, to be represented by counsel, to remain silent and to put on a defense."

The report's recommendations include:

- The Illinois legislature "should establish a presumption of indigency for children in juvenile court proceedings."
- Judges should speak in clear language.
- "No child should be brought into the courtroom in shackles except under extraordinary circumstances" backed by evidence.
- Defense attorneys in juvenile cases need better pay and training, and access to investigators, experts and social workers.

The report was issued in the midst of the First Annual Collaborative Juvenile Justice Conference held Wednesday through Friday in the President Abraham Lincoln Hotel and Conference Center in Springfield.

The report is intended, Crawford said, "to try to get legislators, judges and defenders to use the information as a tool to reconsider the way we are providing defense services to youths and to come up with alternatives."

She said this year is the 40th anniversary of the U.S. Supreme Court decision that said children who face the possibility of incarceration are entitled to the same procedural protections as adults. The case was *In Re Gault*, 387 U.S. 1 (1967).

The Illinois Juvenile Defense Assessment Project is a collaborative effort of defense attorneys, prosecutors, probation officers, judges, law school professors and researchers.

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