

# TALKING POINTS

## DEFEND CHILDREN: A BLUEPRINT FOR EFFECTIVE JUVENILE DEFENDER SERVICES

### KEY MESSAGES

- 1. The Crisis In Juvenile Defense:** Too many children, and particularly children of color, are denied their constitutional right to a lawyer in America's juvenile courts.
- 2. The Need for Effective Juvenile Defenders:** The essence of access to justice for children is access to counsel.
- 3. Justice Requires Wholesale Juvenile Defense Reforms:** With data, collaboration, creativity, and a commitment to building strong juvenile defense systems in every state, we will fulfill the constitutional right to legal counsel for every youth who faces arrest, prosecution, and incarceration.

### THE CRISIS IN JUVENILE DEFENSE

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*Too many children, and particularly children of color, are denied their constitutional right to a lawyer in America's juvenile courts.*

- It's an open secret that countless children accused of crimes are arrested, prosecuted, and convicted every year without ever seeing a lawyer. NJDC observed excessive waiver of counsel in 62 percent of states assessed. In some counties, that number is as high as 80 percent.
- The juvenile court system imposes dual injustices by violating the civil rights and due process rights of youth. Children of color are disproportionately arrested, charged, and confined in comparison to white youth. Black youth made up 17 percent of the youth population in 2010, but 31 percent of all arrests, and Latino youth experienced similar arrest rates. In 2011, Black youth were 269 percent more likely than white youth to be arrested for violating curfew laws, and 250 percent more likely to be arrested for a property offense.
- Children are funneled into the juvenile court system for nonviolent, normal adolescent behavior. Without access to quality counsel, they are more likely to get tangled in the deep end of the system and even end up in adult prison.

### THE NEED FOR EFFECTIVE JUVENILE DEFENDERS

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*The essence of access to justice for children is access to counsel.*

- Children have a constitutional right to representation in juvenile court. The U.S. Supreme Court afforded children that right in its 1967 landmark decision, *In re Gault*.

### THE NEED FOR EFFECTIVE JUVENILE DEFENDERS *cont.*

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*The essence of access to justice for children is access to counsel.*

- Specialized juvenile defenders insist upon fair juvenile court proceedings, guarantee the child's voice is heard at every stage of the process, and safeguard the due process and equal protection rights of the child.
- Effective representation promotes positive outcomes for youth. When children have a trained and specialized attorney, we prevent them from being drawn too deeply into the juvenile justice system. The less contact children have with court, the more likely they are to graduate from high school and stay out of the system.

### JUSTICE REQUIRES WHOLESALE JUVENILE DEFENSE REFORMS

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*With data, collaboration, creativity, and a commitment to building strong juvenile defense systems in every state, we will fulfill the constitutional right to legal counsel for every youth who faces arrest, prosecution, and incarceration.*

- As states consider juvenile justice reform, children's access to defense counsel and the quality of representation provided must be central components of every initiative.
- New and innovative strategies should be implemented to attract diverse talent to juvenile defense as a sustainable, specialized career path.
- Separate, specialized juvenile defender offices should be created to provide training, resources, and support for juvenile defenders to effectively represent youth.
- We need dedicated mechanisms for collecting data, setting benchmarks, and measuring progress in access to and quality of legal representation for youth at the federal, state, local, and tribal levels.

## ABOUT THE BLUEPRINT

The Blueprint is a roadmap for reforming juvenile defense systems to ensure that children's constitutional right to an attorney is fulfilled. The strategies laid out in the Blueprint are drawn from thousands of hours of observation in juvenile courtrooms and assessments of state juvenile defense systems that measure access to and quality of children's legal representation. Further, the recommendations are informed by U.S. Department of Justice findings that show widely unequal justice by zip code, income, race, ethnicity, sexual orientation and gender expression and identity.

## BLUEPRINT RECOMMENDATIONS

### **01 Champion, Uphold, and Fund Children's Right to Counsel**

### **02 Ensure Meaningful Access to Counsel Throughout the Delinquency Process**

Every child who faces arrest, prosecution, or sanctions imposed by the state should be represented by counsel until the child is no longer under the supervision of the justice system.

### **03 Implement Strong, Well-Resourced, and Specialized Juvenile Defense Systems**

All juvenile defense systems should be sufficiently funded, due process-based, technologically equipped, developmentally sound, and respectful of and responsive to cultural differences.

### **04 Eliminate Racial and Ethnic Disparities**

The over-inclusion of children of color in our juvenile justice system and their disproportionate treatment once involved is undeniable. It is critical to address this disproportionality and combat implicit and explicit bias throughout the justice system.

### **05 Attract and Retain New and Diverse Talent to the Field of Juvenile Defense**

Specific attention must be paid to developing a corps of excellence and attracting a diverse body of talent, expertise, and leadership to the juvenile defense field.

### **06 Protect the Rights of Youth Who Face Additional Discrimination and Violation of their Constitutional Rights**

Children who face additional risks and barriers to fair treatment require specialized attorneys who are trained to recognize, monitor, and uphold their rights.

### **07 Fund and Implement Mechanisms to Collect Data, Conduct Assessments and Court Observations, and Initiate Evaluation and Research**

Dedicated juvenile defense research, evaluation, and data collection must be established and are required to create a baseline, measure progress, and sustain effective juvenile defense systems.