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Fifty Years After Landmark Decision, No State Fulfills Children's Constitutional Right to Counsel

WASHINGTON, DC — A new report released by the National Juvenile Defender Center on the 50th anniversary of the Supreme Court decision that affirmed children's right to counsel reveals that nearly every state falls short of its constitutional obligation to provide effective lawyers for youth.

Access Denied: A National Snapshot of States' Failure to Protect Children's Right to Counsel (the *Snapshot*) found that in both law and practice, basic rights are routinely withheld from young people in the juvenile justice system. Based on statutory analysis and interviews with juvenile defenders in all 50 states, the District of Columbia, and Puerto Rico, the *Snapshot* exposes gaps in procedural protections for children — gaps that perpetuate the over-criminalization of youth, racial and economic disparities, and the fracturing of families and communities.

“Children's constitutional right to counsel can only be accessed through a series of hurdles, including an actual price tag, in a majority of states in this country,” said **Mary Ann Scali, Executive Director of the National Juvenile Defender Center**. “This report uncovers the high rate at which the guarantees of justice for children are discarded at the expense of young people's futures.”

Hundreds of thousands of children are funneled through juvenile courtrooms every year without well-resourced, skilled attorneys at their side. Juvenile defenders are uniquely positioned to investigate the facts of the case and prepare a strong defense; ensure the child's voice is valued in court proceedings; and demand fair treatment, especially for a young person under state supervision — on probation or in a locked facility. Youth who do not have legal representation are at a staggering disadvantage in a system that incarcerates more children than any other country in the world.

“On this historic anniversary, we must recognize that the juvenile court system can't function as it should unless children are afforded their constitutional rights,” said **Steven Hawkins, President of the Coalition for Public Safety**. “When young people receive the appropriate supports, opportunities, and protections, state and local governments will make important strides toward reducing recidivism and improving community safety. This begins with honoring children's right to an attorney.”

The *Snapshot* explores five fundamental barriers to access to counsel for children: Eligibility procedures that prevent appointment of a publicly funded attorney; fees

charged to children for what should be a “free” public defender; appointment that happens too late in the process for children to receive strong representation; permissive waiver of counsel; and the stripping of young people’s right to an attorney after sentencing.

These barriers disproportionately affect youth of color — and thus, prevent them from accessing their right to counsel and important constitutional protections at every stage of juvenile court proceedings.

“The absence of effective defense counsel for children perpetuates racial disparities in the juvenile court system and erodes the very foundation of justice on which the system must stand,” said **Robert Listenbee, Former Administrator of the Office of Juvenile Justice and Delinquency Prevention**. “To take away children’s right to an attorney is to take away any hope for recourse against abuses of the system, including those motivated by malice or fear. As a country, we cannot be silent on this crisis. This report is a powerful tool to inspire change and action for the just treatment of children.”

The *Snapshot* recommends the automatic appointment of juvenile defenders for every child and representation throughout the entirety of children's cases. States should also collect and analyze data on children’s access to counsel, and abolish any fees charged to youth for publicly funded attorneys.

“Families should never have to doubt the integrity of the court system or worry if their child will receive the constitutional protections that make this country more equitable and more safe,” said Scali. “The achievable solutions outlined in the *Snapshot* will move states closer to fulfilling the promise of justice for all children.”

The National Juvenile Defender Center is dedicated to promoting justice for all children by ensuring excellence in juvenile defense. Through community building, training, and policy reform, we provide national leadership on juvenile defense issues with a focus on the deprivation of young people’s rights in the court system. For more information, please contact Sarah Edwards, Development and Communications Manager, at 314-494-5348.

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