

Press Release

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**NEW REPORT SHOWS INDIANA'S CHILDREN
ARE BEING DENIED DUE PROCESS**

Lack of Counsel Hinders Justice for Many Young Offenders

Indianapolis, IN - A report released today found that Indiana's system for ensuring constitutionally required defense services for children in the juvenile justice system is seriously flawed. The report, entitled "Indiana: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings," reveals that nearly half of Indiana's youth routinely waived their right to counsel in delinquency proceedings, and in some jurisdictions, the waiver rate is as high as 80%.

The assessment found that current laws and practices frequently delay appointment of counsel for youth accused of breaking the law, especially at the stage where critical decisions are being made, such as the use of detention. Appointment of counsel often occurs too late in the legal process and provides too little time for juvenile defenders to adequately represent their clients. The high rates at which youth waive their right to counsel is spurred by several factors, including pressure by parents, inadequate or

incomplete advisement of rights, and an overall undervaluation and misunderstanding of the role of defense counsel in delinquency proceedings.

The study was conducted by the National Juvenile Defender Center, the Central Juvenile Defender Center, a project of the Children’s Law Center, Inc. in Covington, Kentucky, and the Youth Law T.E.A.M. of the Indiana Juvenile Justice Task Force. The findings and recommendations in the report were based on extensive survey data from and interviews with juvenile court judges, magistrates, defense counsel, prosecutors and other juvenile court personnel; interviews with hundreds of incarcerated juveniles throughout Indiana; and site visits and court observations in various counties across the state.

“In many jurisdictions it has become tolerated, and even accepted, for poor youth to traverse through the juvenile justice system without representation,” explained Kim Brooks Tandy, the Executive Director of the Children’s Law Center, a partner for the assessment project.

The report found that in many jurisdictions, youth waive their right to counsel without even a basic understanding of the rights they are giving up. “Youths’ inability to understand the right to counsel and circumstances encouraging youth to waive counsel combine to give youth a hope that no serious consequences will result. Unfortunately, this hope is misplaced and youth often face consequences that they never contemplated,” said Tandy.

The report also finds that zealous representation from well-trained lawyers is seriously lacking in many jurisdictions. “Too many indigent youth are represented by public defender programs that are inadequately resourced, and many defenders lack the

specialized training required to handle these complex cases,” notes Patricia Puritz, Executive Director of the National Juvenile Defender Center. “The system does not ensure the early and timely appointment of counsel, nor does it ensure that this representation extends throughout the duration of the juvenile court process,” she adds.

Adding to the problem of inadequate representation and lack of access to counsel is the fact that Indiana’s juvenile justice system is overloaded with youth who would be more appropriately served through less restrictive means. The report notes that Indiana school systems refer a large number of cases to juvenile court for disciplinary reasons that could be better handled with the resources within the school. Many of these cases involve youth with serious mental health problems, turning the courts into a “de facto” mental health treatment system. “We are criminalizing and often incarcerating youth with significant mental health problems, using a more punitive approach, rather than developing appropriate community based alternatives. Courts should not be the dumping grounds for these youth,” said Bill Glick, Executive Director of the Indiana Juvenile Justice Task Force.

The report concludes with a number of important recommendations for the Indiana General Assembly, local counties and court programs, the state public defender office, local defender programs, bar associations, and law schools. The recommendations present a challenge to make sweeping reforms to Indiana’s juvenile defense system. Most importantly, the report recommends full funding of a system that will ensure all youth have early appointment of counsel in which waiver does not occur except in rare instances and only after consultation with an attorney. Also recommended is the creation

of a Juvenile Defender office that can focus on training and accountability issues for juvenile defenders, increase resources and advocate for effective policy changes.