

For immediate release
June 22, 2010

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State-wide Report Finds Disturbing Barriers to Competent Juvenile Court Representation
West Virginia's code often trumped by actual court practice

Washington, DC—A comprehensive evaluation of West Virginia's juvenile indigent defense delivery system finds despite the state's progressive juvenile code, many lawyers demonstrate a fundamental lack of understanding as to the role of defense counsel in delinquency court and juvenile court practice is characterized by a sense of malaise.

The National Juvenile Defender Center has issued *West Virginia: An Assessment of Access to Counsel and quality of Representation in Juvenile Delinquency Court*, conducted in close collaboration with members of West Virginia's juvenile justice community. Chief Justice of the Supreme Court of West Virginia Robin Davis thanked the NJDC for their diligent work on the report and stated, "The Court will review this report and take it under advisement."

"Over 40 years ago, the United States Supreme Court determined that children are entitled to certain due process rights under the Constitution," said Patricia Puritz, NJDC's executive director and co-author of the report. "Subsequently," she continued, "the West Virginia Supreme Court of Appeals issued a series of critical rulings emphasizing the protection of those rights. We were tasked by members of West Virginia's juvenile justice community to determine if those rights were being afforded to West Virginia's court-involved youth and in many cases they were not."

The report found the culture of courtroom civility, one of the state's best assets, to also be one of its greatest hindrances to protecting a juvenile's due process rights. Many defenders reported experiencing overwhelming pressure to yield to the wishes of probation, the prosecution, and the court in service to the best interest inertia that seems to animate juvenile court culture around the state.

West Virginia youth overwhelmingly reported little to no contact with their defense attorneys, prior to meeting in court, leaving no room for meaningful consultation. As noted by the Pennsylvania Interbranch Commission on Juvenile Justice, established in the wake of the Luzerne judges' scandal, this practice can lead to disastrous results. "Defense lawyers occupy the unique position of giving children a voice in the process by representing the child's expressed interest." (Pennsylvania Interbranch Commission on Juvenile Justice Report issued May 2010).

The state's severe economic woes have lead to a dearth of resources available to court-involved juveniles, including adequate training.

The report did find the community's unanimous and bright line commitment to not allowing children to waive counsel and the liberal indigence requirements that support the right of a juvenile to be effectively represented by counsel at all stages of juvenile proceedings, to be promising and forward thinking practices. A number of recommendations for different system stakeholders conclude the report.

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“Providing counsel to children accused of crimes or delinquency is an important due process right that the West Virginia judiciary strives to protect,” said Davis. “As the report indicates, our statutes protecting those rights are among the best in the nation. Other issues noted in the report may need to be addressed.”

West Virginia is part of the Mid-Atlantic Juvenile Defender Center (MAJDC), which collaborated on the assessment. “We look forward to working with West Virginia to make this report a catalyst for positive change, said MAJDC co-directors, Melissa Goemann and Kris Henning. “We hope that the West Virginia legislature will recognize the need to provide increased funding for the public defender service to enable them to have adequate resources to support their juvenile defenders and provide necessary training for them.”

A copy of the report is available at <http://www.njdc.info/> under Assessments.

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