

Report: Pennsylvania Juvenile Defense Lacks Resources, Quality
State Needs Uniform System To Ensure Effective Representation, Advocates Say
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Too often in Pennsylvania, public defenders representing accused juvenile delinquents cannot appear in court with their clients at key points in the process because they are handling too many cases, according to a report, which examined juvenile defense throughout the state.

That's the conclusion of a report, issued by the Juvenile Law Center, a Philadelphia public interest law firm, and the American Bar Association in late October, which painted a bleak picture of the quality of juvenile representation throughout the state.

With average loads as much as 620 cases per attorney, more than half of the county defender offices surveyed said that case volume - compounded by inadequate social worker and investigator support - routinely make it difficult to represent their underage clients effectively. Defenders are often not present for detention hearings, and few reported having the time to seek discovery, file pre-trial motions or even go to trial, according to the report. Defenders also described the infrequency with which they interview probation officers or treatment staff to check up on juveniles committed to residential facilities throughout the system. Defenders tend to lean on probation officers to perform duties they don't have the time to do, like discussing pleas with the juvenile or their family.

While Philadelphia defenders are an exception to this trend, other counties in southeastern Pennsylvania aren't in such great shape, the report's authors said.

"These are problems that wouldn't be tolerated in the adult courts," said Laval Miller-Wilson, lead author of the study and an attorney at the Juvenile Law Center.

The study was based on a survey of 450 attorneys representing children in delinquency hearings around the state and also analyzed data from visits to county defender offices. Pennsylvania is one of three state governments that provide no funding for defending the indigent - juveniles or adults, said Miller-Wilson. Paying for public defenders and court-appointed contract attorneys is purely a local function, decided by 67 county governments in Pennsylvania.

The report suggests the state provide money to counties so they can hire more public defenders and, thus, reduce the caseload per attorney. Counties could then devote more social workers, investigators and paralegals to work in county juvenile units and improve defenders' efficiency. Right now, many county governments do not provide adequate resources, which can have devastating results. Montgomery County, for example, led the state with the highest average number of cases per attorney, 623 cases in 2001. Lehigh County had the second highest with an average 524 cases per attorney.

Richard Simon, who works as an assistant public defender in the child advocacy unit of the Montgomery County Public Defender Office, handles 10 to 15 juvenile delinquency cases a day, he said. Simon works the delinquency caseload with one other attorney in his office. The unit has no social worker and shares two investigators with the rest of their 40-defender staff.

"We do the best we can," Simon said. "It's a frustrating situation."

Simon said he gets little time to prepare for each case before he goes to court, often not meeting his client before he gets there, and rarely having time to find witnesses, much less prepare them. And without a social worker or investigator to do the legwork required for presenting a summary of a juvenile's background and situation, the two defenders are left to do the legwork themselves.

"But we can't be on the road because we're in court every day," Simon said. "We know these are all good things to do, we just don't have time to do them."

Recently, Simon's office has been working to secure a grant that would help to pay for one social worker to help out in the child advocacy unit, which handled 2,450 delinquency petitions in 2001, according to the report. That addition would be a huge help, Simon said.

The Defender Association of Philadelphia, however, doesn't have the same problems as Montgomery County, even though there were more than 10,000 delinquency petitions filed in Philadelphia in 2001. Miller-Wilson of the Juvenile Law Center singled out the association as providing a higher level of defense representation to juveniles than any other jurisdiction in the state. Miller-Wilson and the Philadelphia defenders attribute this success to the Defense Association's structure. As a nonprofit corporation functioning independently of the city government, it's overseen by a private board of directors while under contract with the city to provide legal services to a majority of its indigent defendants. This isolates them from the county politics other defender offices have to deal with, Miller-Wilson said.

"We can spend more money on training and put more experienced attorneys in the courtroom," said Ellen Greenlee, chief defender.

Greenlee's juvenile unit is 10 times the size of Montgomery County's with 20 defenders working on juvenile matters. Philadelphia's population is about twice as large as Montgomery County's. The Philadelphia Defender Association's unit employs a social worker for every two defenders in the unit, three full-time investigators and nine individuals as support staff, Greenlee said. And, Philadelphia courts devote five full-time judges to handling juvenile delinquency cases, as opposed to one full-time juvenile justice judge in Montgomery County.

Greenlee also said it's because her office treats "juvenile" like any other legal unit, she said. "This is a serious criminal matter that the child will live with forever," she said.

Juvenile defenders at the association have access to other parts of the office that deal with adult matters, such as the appellate division, said Robert Listenbee, chief of the Defender Association's juvenile unit.

"If there is a significant legal issue in the outcome of a case, or if there's been a wrong done to our client, we send the attorney handling the case to talk to the head of the appellate division," Listenbee said.

Last year the office appealed 19 juvenile delinquency matters to the Superior Court. But according to the report, appeals in juvenile matters are rare across the rest of the state. About 68 percent of defender offices with average caseloads above 20 did not file any appeals on behalf of their juvenile clients in 2001, but "the same organizations file many appeals for their adult clients," the report said.

"Most places don't treat juvenile matters the same they do adult matters," Greenlee explained, comparing Philadelphia to the rest of the state. But instead of viewing juvenile justice as a social services network charged with doing what's best for the child, it should be viewed as a legal system with a social services component, Greenlee said.

That is because under today's laws, juveniles can end up with much harsher sentences than they could even 10 years ago, said Laurence Steinberg, a psychologist at Temple University and head of the MacArthur Foundation research network on adolescent development and juvenile justice. "The old-style delinquency court is a bygone relic," said Steinberg. "Juvenile court has become much more adversarial, so it's much more important to have adequate defense." Children and adolescents are particularly vulnerable to making hasty or ill-informed decisions, Steinberg explained. "They lack a lot of the judgment and decision-making skills that adults have."

That's especially dangerous when an attorney does not appear to represent a minor in court, or when the court allows a juvenile to waive access to an attorney, which happened in 11 percent of all delinquency dispositions involving hearings in 2001, according to the report. Delaware County led the state with the highest number of attorney waivers with more than 1,400 in 2001.

The report called on state leaders to pay more attention to what private court-appointed counsel are doing, as well as public defenders. Many private lawyers who represent juveniles are also burdened with high caseloads, picking up the cases the public defenders cannot accept. They are also likely to go without the non-attorney support of social workers and investigators and provide even less post-conviction support to their clients than public defenders do.

As Greenlee said, everyone can stand to have fewer cases on their plate. "It comes down to some counties being better equipped to handle these cases than others," Miller-Wilson said. "A state like Pennsylvania needs to have a uniform system of assigning counsel. It's a systemic failure."