

The Seattle Times
Wednesday, October 22, 2003

Study: Courts failing children

By Florangela Davila

Public defenders throughout Washington state are failing their juvenile clients. They're handling too many cases. They aren't being adequately trained. They're confused about their role. And in some counties, they're even absent from preliminary court proceedings.

The assessment and recommendations for improvement are outlined in a first-of-its-kind study of the attorneys who represent kids under 18 who stand accused of a crime. The report is being released today by the American Bar Association, the Northwest Juvenile Defender Center and the Washington Defender Association.

The Washington study is based on data from approximately half of the 230 attorneys identified by researchers as doing public-defense work on behalf of juvenile offenders. Written surveys were collected from attorneys in 33 of the state's 39 counties. The report, though, does not break down its findings by county.

It paints a portrait of a system overwhelmed by big caseloads and lacking uniform oversight:

- Most counties have not adopted public-defense standards, as required by state law. Attorneys get cases assigned without a system that takes into account their experience in defending children accused of particular crimes.
- Public defenders surveyed carry an average of 400 caseloads a year, in excess of the state-endorsed standard of 250.

In King County, the yearly caseloads average 330.

- Public defenders in only 11 of the state's 39 counties reported children are represented at probable-cause hearings, where the judge decides if a crime has been committed and if the child should be held in custody. In some counties, children appear without counsel up to 30 percent of the time.
- There is no comprehensive and regular training or supervision of public defenders for juveniles. In only a few locations do attorneys get regular reviews.
- Attorneys are confused about their role: Are they charged with doing what's best for the child or what the child has said he or she wants to have done?

Attorneys don't always represent their clients' stated interest, according to the report, titled "Washington, An Assessment of Access to Counsel and Quality of Representation in Juvenile Offender Matters."

What's needed is for attorneys to spend enough time with the child to explain their constitutional rights in a way they can understand, said the report's author, Elizabeth Calvin, an attorney and founder of TeamChild, an advocacy group working with juvenile offenders in five Washington counties.

The challenge, though, is that public defenders for juveniles are working with children who might not be mature enough to make decisions, who may have learning disabilities and/or mental-health problems or are victims of neglect and/or abuse. Or they might not have a caring adult in their lives, except for their attorneys.

"They are, in a word, vulnerable," the report says.

The state report, like those being released simultaneously today by the bar associations in Montana, Maine, Maryland, Pennsylvania and North Carolina, are sequels to a 1995 report looking at the quality of public defenders for juveniles nationwide.

"What we're learning is that representation of kids in juvenile courts is still very uneven," said Robert Schwartz, executive director of the Juvenile Law Center, a nonprofit legal service in Pennsylvania, who helped to author the national study. "What we're finding is that eight years later, the problems remain, and they're deep," Schwartz added. "Washington is not unique."

"Too many children, particularly children of color, fall victim to conveyor-belt justice — with kids rushed through a system riddled with institutional flaws without regard for their individual cases or needs," said Dennis Archer, president of the bar association. "The net result is a massive misdirection of resources that fails children and undermines public safety."

The pressure to move clients through the system, said Christie Hedman, executive director of the Washington Defender Association, leaves little time for a public defender to dive into a child's background and discover, say, mitigating factors. The result: More children end up in jail or detention.

The study comes at a time when the 2001 juvenile-arrest rate in Washington state — 62.3 per 1,000 — is the lowest reported in more than 23 years. Larceny remained the most prevalent offense, and girls were increasingly accounting for a higher percentage of those being arrested. A disproportionate number of racial minorities are also found in the juvenile-justice system.

The report, funded with federal money, with input from judges, prosecutors, detention staff and social workers, will be forwarded to state legislators and stakeholders who play a role in the juvenile-justice system. Recommendations include limiting attorney caseloads; requiring counties to enact standards of practice; creation of a state ombudsman's office; and changing state law so children are prohibited from waiving counsel.