

News Release

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LEGAL SYSTEM SHORTCHANGES FLORIDA'S CHILDREN *New Report Finds System Denies Justice for Many Young Offenders*

Miami, FL—According to a new report released today, Florida's system for providing constitutionally guaranteed defense services for poor children accused of crimes is seriously flawed. *Florida: An Assessment of Access to Counsel & Quality of Representation in Delinquency Proceedings*, issued today by the National Juvenile Defender Center, found that lack of indigent defense resources, late appointment of counsel, and multiple systemic barriers converge to deny children in the delinquency system their fundamental constitutional right to legal representation.

“Almost 40 years after the United States Supreme Court determined that children are entitled to certain due process rights under the Constitution, most notably the right to counsel, many children in Florida still do not have access to the kind of constitutional protections envisioned by the Court,” stated Patricia Puritz, Executive Director of the National Juvenile Defender Center and co-author of the report. “Too many children are hastily shuttled through the justice system without meaningful assistance of counsel and without a clear understanding that a juvenile court adjudication is likely to carry lifelong consequences,” said Puritz

The Assessment found that in many places, youth waive their right to counsel without even the most basic understanding of what they risk by relinquishing their right to an attorney. As a result, too many children are navigating the legal system alone at complex, fast-paced hearings where critical decisions are being made that have lasting implications. Many factors contributed to these waivers. The most notable among them included pressure by parents to resolve cases quickly through plea agreements and avoid potentially hefty fees and other court costs; pressure by judges to keep the court docket moving, which sometimes results in youth receiving mixed signals from the court about the role and responsibility of defense counsel; and inadequate time for lawyers to meet with their clients before the proceedings begin.

Glaringly, the Assessment also revealed that wrist and leg shackles, sometimes with belly chains, are routinely used on detained children every day in many juvenile courtrooms across the state. Children were observed chained to each other or to fixed objects in the courtroom in several places. This demeaning practice has a chilling effect on the fair administration of justice. Steps taken to halt the unnecessary practice of shackling children in chain gang-like fashion in places like Miami-Dade and Broward are to be commended.

The Assessment also found that, in many places, juvenile defenders labor under staggering caseloads, with little to no investigative or administrative support, often at wages lower than those paid to prosecutors with similar experience, and in hectic courtrooms where efficiency often trumps children's rights. Many defenders lack the specialized training required to handle these complex cases, in part because juvenile cases are not a priority for many defender offices.

While many juvenile defenders who were interviewed expressed a genuine concern for the children they served, Cathryn Crawford, co-author of the report, stated that "zealous defense advocacy for children in Florida cannot be described as either common or widespread." Crawford added "With few exceptions, we observed little to no pre-trial advocacy or motions practice, few actual trials, and little to no appellate advocacy." In courtrooms all over the state, it was observed that the vast majority of delinquency cases are resolved through plea agreements, often entered into very early on before the case has been properly investigated or children have had a proper opportunity to talk to their lawyers.

Carlos Martinez, Chief Assistant Public Defender for Miami-Dade, lauded the report as an important tool to improve juvenile defense services: "Public defenders throughout Florida are determined to use this report as a road map to ensure that each child is represented by well-trained, well-resourced defense counsel every time that child sets foot in a courtroom. We need the legislature to adequately fund juvenile defense."

Martinez added that he hopes the report will bring attention to the need for improving juvenile confidentiality laws to allow children an opportunity to grow up without stigma and to become productive adults. "Few people in Florida realize that a juvenile arrest is not a slap on the wrist. All juvenile arrest records in Florida are considered public. In many counties, children are being saddled with housing, employment and college consequences because they are pleading guilty to offenses without an attorney."

Florida's juvenile courts have become a dumping ground for children from the school and mental health systems. Scores of children with mental health problems and minor school-related misconduct were observed flooding juvenile court dockets. These practices are having an undue impact on girls and on African-American youth, who are pushed into the system in disproportionately large numbers.

The report concludes with a number of important recommendations for the Florida state legislature, the Department of Juvenile Justice, state and local bar associations, the judiciary, juvenile defenders, law enforcement, citizens' groups, and law schools and universities. Most importantly, the report recommends:

- *Juvenile defenders must be adequately resourced.* Florida should increase the resources available to improve legal representation in delinquency court, with support for attorneys including investigative staff, support staff and training resources.
- *Children should not go through the system alone.* Too often, youth are making critical decisions without the help of counsel. Therefore, consistent with national standards, restrictions on waiver of counsel must be established, such that waiver is the exception, not the rule.
- *Income should not be allowed to determine access to justice.* Florida should undertake a comprehensive review of indigence determinations and other fees assessed in juvenile court, because these fees effectively act as barriers to legal representation for children whose families cannot afford them.
- *End the practice of shackling youth.* Except in extenuating circumstances, the practice of shackling youth by hand, foot and belly chain for court appearances should be abandoned.
- *The Florida Public Defender must take internal steps to tilt the system towards fundamental fairness.* The quality of representation in juvenile court must be improved through early appointment of counsel, dramatically reduced defender caseloads and additional attorney training.
- *Establish a minimum age for juvenile court jurisdiction.* Florida should establish a minimum age for juvenile court jurisdiction, and children under 12 should be diverted from juvenile court.

The Assessment was conducted by the National Juvenile Defender Center, with the endorsement of the Supreme Court of Florida, the Florida Bar Association, and the Florida Public Defender Association. The findings and recommendations in the report were based on extensive survey data collected in 2005 from interviews with juvenile court judges, defense counsel, probation officers, prosecutors and other juvenile court personnel, and site visits and court observations in 15 counties cutting across 10 of Florida's 20 judicial circuits. Counties were selected based on a variety of factors, including population, geography, demographics, and juvenile arrest data and disposition rates. The sample included urban, suburban, and rural counties. The full report is available on the web at www.njdc.info or by calling 202/452.0010.