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Contact: Jim Bray (217) 793-8416
Jason Ziedenberg
(202) 558-7974, ext. 312

Groundbreaking Report Finds “Obstacles and Barriers” To Effective Juvenile Defense

Report: Excessive Plea Bargaining, Lack of Effective Representation and Inadequate Resources

Chicago—Because defense attorneys are overwhelmed, do not receive adequate legal training, and children rarely meet their attorneys before their first court appointment, thousands of children face the prospect of incarceration and juvenile convictions that can stymie their rehabilitation, according to a comprehensive study conducted by a diverse range of professionals working in the state's juvenile justice system.

“Effective and zealous advocacy by juvenile defenders is critical to ensuring that the courts’ response to each young person promotes their rehabilitation and enhances public safety,” said Jonathan Fanton, President of the John D. and Catherine T. MacArthur Foundation. “It is particularly troubling that racial and ethnic disparities in the juvenile justice system are compounded when a child lacks effective representation.” The assessment is an integral part of a larger juvenile justice initiative in Illinois that is working to reduce ethnic and racial disparities in the system, to increase community-based services for youth and to ensure that young people are under juvenile court jurisdiction when appropriate.

“In half the counties visited, many children come to court wearing shackles, handcuffs and belly chains,” said Cathryn Crawford, clinical associate professor of law at Northwestern. “And because many kids throughout Illinois are meeting their lawyers for the first time before they step into court, reasonable judgment about how a case should proceed is seriously compromised.”

The study, authored by the Children and Family Justice Center of the Northwestern Law School and the National Juvenile Defender Center, was funded by the John D. and Catherine T. MacArthur Foundation. The report found that many attorneys assigned to represent children involved in the juvenile justice system lack the training, skills, time and resources needed to represent children effectively. As a result, the juvenile court system does not meet its obligations to ensure adequate legal representation for children accused of committing delinquent acts, to encourage rehabilitation, or to promote public safety. The Illinois study was produced by the Illinois Juvenile Defense Assessment Project, a collaboration of juvenile defense attorneys, prosecutors, probation officers, judges, law school professors and researchers.

To improve the fairness of the system and remove these “obstacles and barriers” to effective juvenile legal defense, the report recommends requiring and enabling defense lawyers to meet with young clients before court dates, limiting the use of shackles on children who appear in court, and state funding of a Juvenile Defender Resource Center for lawyers representing children in juvenile court.

“These children are putting their trust in a system that is supposed to protect them, but that system is failing them and the community” said Randolph Stone, Clinical Professor of Law, Mandel Legal Clinic, University of Chicago and former Public Defender of Cook County.

“Everyone has a stake in a juvenile justice system that provides effective counsel to children and ensures that they end up in the place most likely to give them a second chance,” said Jon Barnard, State’s Attorney of Adams County, Illinois.

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There are many devoted and talented attorneys attempting to provide competent representation to their child clients in Illinois, however, according to the report, there is disparity in the access to, and quality of, counsel across the state.

Because attorneys are often appointed moments before or during the child's first court appearance, there is frequently little or no communication between the child and his or her attorney before, and even after, appearing in court. As a result, many children and their families lack a full understanding of the process and are more likely to make critical decisions without the help of a lawyer – a violation of their rights under the state and federal law.

“These children are sometimes denied effective representation and due process at the most critical stages of the juvenile court proceedings,” said Judge George Timberlake, former Chief Judge, 2nd District. “Too many children in this state are represented by an overworked, under-skilled attorney, who the child doesn't get an opportunity to know, who walks in minutes before a decision is made about the rest of that child's life.”

An indicator of the unevenness in the quality of representation in Illinois counties is reflected in the timing and frequency of plea bargains - anywhere between 70-100 percent of juvenile cases are resolved in plea bargains, many at the child's first court appearance. In several of the counties visited, there had not been a trial in juvenile court in over a year. The acceptance of a plea bargain may be the best and most appropriate outcome in a case; however, when a case is resolved before an attorney has an opportunity to investigate the case and the child's needs, a young person may be adjudicated delinquent for a crime he did not commit or for a charge harsher than the specifics of the case warrant. Inappropriate reliance on plea bargaining may also result in a child's being sent to a “juvenile prison” institution that fails to provide rehabilitative opportunities and reduce future reoffending.

Recognizing the need to improve juvenile defense practices, Gov. Rod Blagojevich recently signed legislation creating the Illinois Juvenile Defender Resource Center to design, develop and implement model programs for the delivery of trial level defender services for youth appearing in delinquency court. However, although the legislation passed unanimously in the House and Senate and had the Governor's support, the State's FY 08 budget does not include funding for the Center.

The report, “An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings,” is **embargoed until 12:01 a.m. Wednesday, October 31, 2007 (Wednesday, newspaper editions)**. The Illinois Defender Assessment Project was funded by the John D. and Catherine T. MacArthur Foundation, through its support for *Models for Change: Systems Reform in Juvenile Justice* (www.modelsforchange.net). Models for Change is an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states. Underway in Illinois, Pennsylvania, Louisiana and Washington, the initiative seeks to accelerate movement toward a more efficient, fair and developmentally sound juvenile justice system which holds young people accountable for their actions, provides for their rehabilitation, protects them from harm, increases their life chances, and manages the risk they pose to themselves and the public. The John D. and Catherine T. MacArthur Foundation is a private, independent grantmaking institution helping to build a more just and sustainable world. Through the support it provides, the Foundation fosters the development of knowledge, nurtures individual creativity, strengthens institutions, helps improve public policy, and provides information to the public, primarily through support for public interest media. With assets of more than \$6.4 billion, the Foundation makes approximately \$260 million in grants annually. More information is available at www.macfound.org.

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