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JUVENILE DEFENSE IN ILLINOIS WELL BELOW NATIONAL STANDARDS

CHICAGO --- Children charged with delinquent offenses in Illinois usually are assigned a defense attorney only right before, or sometimes not even until, the conclusion of their first appearance before a judge, according to a new report that concludes that representation of juveniles in Illinois falls well short of national standards.

The lack of communication between a child and a lawyer prior to stepping before a judge and the harmful effects that has on meaningful advocacy are among findings showing that the juvenile court system in Illinois is not living up to its obligation to effectively defend indigent children.

The report, "An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings," was authored by attorneys at the [Children and Family Justice Center at Northwestern University School of Law \(CFJC\)](#) and the National Juvenile Defender Center (NJDC). Funded by the John D. and Catherine T. MacArthur Foundation and produced by the Illinois Juvenile Defense Assessment Project, the comprehensive assessment of 16 representative counties in Illinois was undertaken by a diverse range of professionals, including defense attorneys, prosecutors, probation officers, judges, law school professors and researchers.

"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."

"Many of the children who are held pre-trial shouldn't be, and that affects what happens later with sentencing and intervention to help them," added [Simmie Baer](#), clinical assistant professor of law and supervising attorney at Northwestern. "And defense attorneys are routinely pleading the kids guilty, making reasonable investigations less likely and wrongful convictions more likely."

The report was written by the Children and Family Justice Center's Cathryn Crawford, Bernardine Dohrn, CFJC director, and Marjorie Moss; Thomas Geraghty, director of [Bluhm Legal Clinic at Northwestern](#); and Patricia Puritz, [National Juvenile Defender Center](#).

"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, [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.

The NJDC has conducted similar assessments in 15 other states, and the new report shows that youth and the attorneys representing them in Illinois operate in a system plagued with many of the deficiencies identified in other states.

Many devoted and talented attorneys are attempting to provide competent representation to their clients, but there is disparity in access to and quality of counsel across the state, the report concludes. Many attorneys in the juvenile system are overwhelmed and lack the training, skills, time and resources to represent children effectively, according to the findings.

The assessment team watched court proceedings; met with judges, prosecutors, defense attorneys, probation officers, parents and children; gathered statewide statistics; and examined issues such as how often attorneys meet with clients and plead cases.

A few highlights of findings:

- Failure to appoint an attorney as soon as possible means little or no communication with a lawyer before a child’s first court appearance.
- Because of the untimely appointment of counsel critical decisions are being made by many children and their families without the help of a lawyer -- a violation of their rights under state and federal law.
- More than 70 percent of cases heard in Illinois juvenile courts are resolved by plea bargains.
- In several counties, no trial had taken place in juvenile court in more than a year.
- Many pleas are entered at the child’s first court appearance, with virtually no meaningful investigations and little opportunity to make judgments about how cases should proceed.
- Inappropriate reliance on plea bargaining makes it more likely that a child will be adjudicated delinquent for a crime he did not commit or for a harsher charge than deserved.
- In accepting pleas, judges use inappropriate legalese that glosses over important concepts, including the right to go to trial.

- Excessive plea bargaining may result in a child's being sent to a "juvenile prison" institution that fails to provide rehabilitative opportunities and reduce future offenses.
- Because of the pervasiveness of plea bargaining, many lawyers for children have little trial experience and are reluctant to insist upon a trial.

The report stresses that across Illinois dedicated attorneys are working on behalf of children but "are struggling in a system that is overburdened and underfunded." Among the key recommendations, the report advocates the use of shackles on children must be limited and training and resources must be made available to provide timely appointment of counsel and zealous advocacy of cases. That includes state funding of a juvenile defender resource center for lawyers representing children in juvenile court.

(Gov. Rod Blagojevich recently signed legislation creating the Illinois Juvenile Defender Resource Center, which passed unanimously in the House and Senate, but the state's FY 08 budget does not include funding for the center.)

Quotes from leading professionals in Illinois' juvenile justice system:

"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. "Competent counsel is critical to ensuring that our system assesses each child individually, releases youth who are innocent or do not pose a risk to society and places convicted youth in rehabilitative programs."

"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 John Barnard, State's Attorney of Adams County, Illinois.

"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, 2<sup>nd</sup> District. "Too many children in this state are represented by an overworked, under-skilled attorney, whom 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."

The [Children and Family Justice Center](#) is part of Northwestern University School of Law's [Bluhm Legal Clinic](#), a leader in criminal justice reform that also houses the [Center on Wrongful Convictions](#), the [MacArthur Justice Center](#) and the [Center for International Human Rights](#).

The Illinois Defender Assessment Project, funded by The John D. and Catherine T. MacArthur Foundation, is part of [Models for Change: Systems Reform in Juvenile Justice](#), an effort to create successful and replicable models of juvenile justice reform through targeted investments in key states. Under way 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](http://www.macfound.org).

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