

NORTH CAROLINA

An Assessment of the Right to Counsel and Quality of Representation in Delinquency Proceedings

Risk Factors

- In North Carolina, 23% of children under age 5 live in poverty
- North Carolina's 11% high school dropout rate among 16- to 19-year-olds is the 9th highest in the U.S.
- Every 15 minutes, a child is abused or neglected in North Carolina

Statutory Right to Counsel

- The North Carolina Juvenile Code provides that juveniles have a right to counsel in all proceedings, and counsel must be appointed for "any proceeding in which the juvenile is alleged to be (i) delinquent or (ii) in contempt of court when alleged or adjudicated to be undisciplined" (N.C.G.S. § 7B-2000 (a))
- All juveniles are presumed indigent (N.C.G.S. § 7B-2000 (b)), so the appointment of counsel is required and waiver of counsel is prohibited for juveniles unless private counsel is retained

Structure of Juvenile Indigent Defense System

- The Office of Indigent Defense Services must review and approve each district's plan for the appointment of defenders
- The variety of arrangements for provision of juvenile indigent defense services include: public defender offices that handle cases directly, public defender offices that oversee a list of appointed counsel, district court judges and/or local committees that establish lists of attorneys who can be appointed, and contractual arrangements

Key Findings

Access to Counsel

- Juveniles consistently have representation, but not at sufficiently early stages of their cases, so they are interrogated and often held in custody without seeing a lawyer
- Indigent parents are too often required to pay for their children's counsel without inquiry into their financial resources
- Various impediments, including the informality of juvenile court, the scant record of initial proceedings, and the lack of representation after disposition, make juvenile appeals rare

Quality of Representation

- North Carolina has no accountability or practice standards, so the quality of defense work varies tremendously
- Case disposal rates vary widely across the state, but in some counties 90% of juvenile cases end in plea bargains
- Defense attorneys inadequately prepare their cases, in large part because they have little or no access to investigative services
- 89% of defense attorneys meet their clients for the first time in the courtroom
- Some appointed counsel presuppose their juvenile clients' guilt, and do not advocate aggressively on their behalf because they put a higher priority on their relationship with the court than on their clients' best interests
- Defenders seldom advocate for particular dispositional alternatives to detention, but instead simply accept the recommendations of court counselors
- Post-dispositional and appellate advocacy are rare

Other Issues

- Minority children are overrepresented in the justice system, in part because they are more likely to be referred to juvenile court by schools, which generate two-thirds of juvenile cases
- Defenders have little training in mental health issues and community-based mental health programs are inadequate
- Juveniles are placed in pre-adjudicatory detention for too long and for inappropriate reasons
- Defenders do not advocate for special education needs