

MARYLAND

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

Risk Factors

- Nearly 15% of Maryland's children lived in poverty in 2000
- Every 32 minutes, a child is abused or neglected in Maryland
- Gunfire takes the life of a child or teen in Maryland once every four days

Statutory Right to Counsel

- Maryland law states that children and youth have a right to counsel at every stage of the juvenile delinquency proceeding (§3-8A-20); if a child or a child's parent(s) cannot afford an attorney, they have a right to assistance from the Office of the Public Defender, but not until a waiver or adjudication hearing

Structure of Juvenile Indigent Defense System

- Maryland has a statewide Public Defender System, responsible for representing indigent adults and juveniles.
- The Office of Public Defender for the State of Maryland is an independent agency governed by a Board of Trustees

Key Findings

Unequal Access to Counsel

- More than one-third of children waive the right to counsel without proper advisement by the courts
- In most counties, a complicated eligibility process for public defender services prevents poor children from receiving counsel
- In many counties, children are not represented at initial hearings or after disposition, including at review and violation of probation hearings

Inadequate Assistance of Counsel

- Public defenders often first meet their juvenile clients at court just before adjudication and rarely, if ever, visit clients in detention
- Most public defenders do not investigate the underlying facts of cases or the educational, mental health and other social history information required to represent young clients
- Defenders rarely advocate for alternatives to detention or challenge juvenile counselors' recommendations for disposition
- Most public defenders rarely or never file appeals on behalf of juvenile clients

Overloaded, Unequipped and Under-Funded

- Maryland public defenders have caseloads that far exceed American Bar Association standards
- The Office of the Public Defender is underfunded and cannot provide local defender offices with necessary support staff, intake staff, investigators, attorneys and social workers

Detention in Maryland

- In most counties, youth do not have representation at detention hearings
- In Maryland, secure detention is used arbitrarily and inappropriately

Systemic Injustice

- In many counties throughout Maryland, minorities are over-represented in the juvenile justice system because intake policies, decisions to detain, and risk assessment instruments allow for subjectivity that tends to result in harsher treatment for African-American youth
- The special needs of girls, who often have psychological or family problems, are not addressed by the current system
- Children with mental illness or illnesses are overrepresented in the juvenile justice system, in part because the system is the only form of treatment available to many of Maryland's children
- Schools' zero tolerance policies allow the juvenile justice system to become a dumping ground for cases that do not belong in courts of law