

PROTECTING AMERICA'S CHILDREN

Assessing the Promise of *In re Gault* 40 Years Later

Key Facts Regarding Juvenile Indigent Defense

Most young people who go before the court do not have qualified, well-resourced defense counsel.

Serious systemic issues impact juvenile defense.

- Juvenile defenders carry staggering caseloads – many juvenile defenders spend no more than a few minutes on routine cases.
- Juvenile defense practice is not specialized – most offices use juvenile court as a training ground for new attorneys.
- Practice standards, if they exist at all, vary widely and are not enforced.
- Oversight and monitoring of cases is highly unusual.
- Juvenile courts have become increasingly adversarial and punitive.

Juvenile defense delivery systems suffer from a crippling lack of resources.

- Juvenile defenders do not receive specialized comprehensive training on juvenile issues.
- Juvenile defenders lack basic support such as technology and adequate office space.
- Juvenile defenders lack access to adequate non-legal support, including access to investigators.
- Juvenile defense is considered less important than criminal defense, and receives far fewer resources.

Juvenile court culture is often perceived as hostile to due process and vigorous representation.

- Juvenile court suffers from second class status within the judicial system.
- Juvenile defenders feel pressured by other courtroom actors to bypass due process in the name of “saving and treating” children.
- Youth are encouraged to waive their right to counsel and proceed unrepresented by an attorney.

States have varied and inconsistent juvenile defense systems.

- The majority of states do not have statewide juvenile indigent defense delivery systems.
- Most juvenile indigent defense systems are funded by county or local dollars.
- Most jurisdictions independently choose whether to establish county or state-based public defender offices; contract or court-appointed counsel; non-profit law centers; and/or law school clinical programs.
- Juvenile indigent defense services are rarely free - children and families are assessed significant court costs.

Lack of qualified counsel has a lifelong, harmful impact on children caught in the delinquency system.

- Juvenile adjudications have serious collateral consequences, like: expulsion from school, limiting job prospects, disqualification and eviction from public housing, ineligibility to serve in the military.
- Low-income children of color who are adjudicated face a much greater likelihood of out-of-home placement.
- Studies show that time spent in detention actually increases the likelihood that children will recidivate.
- Resources are wasted when ineffective secure placements are used in lieu of highly successful community programs.

Deficiencies in the juvenile defense system can be addressed.

- Juvenile defense must be viewed as a specialty and forced rotation out of juvenile court must be eliminated.
- Model juvenile defender programs must be based on existing best practices.
- Juvenile court rules must be amended to reflect best practices.
- Additional data must be collected.
- Monitoring and oversight must be put in place.
- Juvenile defenders must have ongoing access to training and technical support.
- No child should ever be permitted to waive counsel without prior consultation with such counsel.