

PENNSYLVANIA

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

Juvenile Court Data

- There were 42,486 juvenile court dispositions in Pennsylvania in 2001
- There were 102,209 juvenile arrests in Pennsylvania in 2001, accounting for 23.4 percent of total arrests in the state
- 4,720 juvenile arrests in 2001 were for violent crimes, and 6,873 were for drug-related offenses
- 20,421 juveniles were admitted to secure pre-trial detention facilities in 2001, an increase of 16.7% since 1997

Statutory Right to Counsel

- Youth are entitled to legal representation “at all stages” of delinquency proceedings (42 Pa. C.S. § 6337)

Structure of Juvenile Indigent Defense System

- Each county is required by state statute to appoint a public defender, though indigent defendants may be represented by court-appointed counsel if the public defender has a conflict of interest
- Pennsylvania provides neither state funding for, nor statewide oversight of, indigent defender services

Key Findings

Pennsylvania’s juvenile indigent defense system is uneven and inadequately funded

- Juvenile defenders have little supervision, no required training, and minimal practice standards
- Defenders do not have access to enough resources, including training, support from investigators and experts, basic technology (such as phones and computers), and adequate compensation

Juveniles have limited access to counsel

- Many juveniles do not have counsel at critical stages of the juvenile justice process, despite the law’s clear mandate and the harmful consequences of not having a lawyer
- Bureaucratic complications often delay the appointment of counsel, leaving juveniles without representation in the crucial early stages of their cases
- High average caseloads in juvenile public defender offices prevent defenders from adequately serving juveniles because they lack the time to talk to clients, investigate cases, or prepare thoroughly for trials, dispositions, and appeals

Quality of counsel varies dramatically from county to county resulting in “justice by geography”

- Many defenders have not had appropriate training in crucial areas such as adolescent development, communicating with children, and the legal implications of mental illness
- In some areas of the state, defenders do not regularly file pre-trial motions or advocate for their clients’ treatment needs at disposition hearings
- Many defenders rarely file appeals or represent their clients at post-disposition review hearings
- Many defenders do not monitor their clients’ progress in programs or institutional placements

Other systemic issues impact juvenile defense

- In some counties, judges and prosecutors frown on vigorous advocacy by defense counsel
- Probation officers have significant control of the outcome of juvenile cases, even when defenders are appointed, in large part because defenders often defer to their recommendations for treatment and punishment
- Juvenile defenders lack knowledge and training about the legal contexts in which mental health evaluations are needed for their clients
- Children of color are overrepresented in the justice system
- School policies are increasing the number of children referred to juvenile court and excluded from returning to school