

## **Chicago Tribune State's juvenile defense faulted**

### **Report says system is stretched too far**

**By Kayce T. Ataiyero; Chicago Tribune staff reporter**

**October 31, 2007**

Access to competent legal representation for indigent children in Illinois juvenile courts is compromised by an overburdened system that relies too heavily on plea bargaining and does not allow adequate time for consultation with attorneys, according to a report released Wednesday.

The lack of time, support and resources that Illinois juvenile defenders have is undermining their ability to effectively represent indigent children in Juvenile Court cases, according to a report written by attorneys at the Children and Family Justice Center at Northwestern University and the National Juvenile Defender Center.

"There are a range of issues and it has a tremendous, long-term impact on a child and their family. Juvenile Court is not kiddie court. It does not all go away anymore," said Patricia Puritz, executive director of the National Juvenile Defender Center and co-writer of the report. "All that child really has is their attorney."

The report outlines several barriers Illinois children face in receiving proper representation. Among them: More than 70 percent of all juvenile cases in Illinois are resolved by plea bargains -- many of those are entered at the child's first court appearance -- offering little opportunity for public defenders and others who defend the children to investigate or confer with the clients about the case. The over-reliance on plea bargaining makes it more likely juveniles would be convicted of a crime they did not commit or convicted of a harsher charge than they deserved, the report states.

The report also points to the delay in getting a lawyer as another barrier. Attorneys for children are usually appointed at the child's first court appearance -- in some cases after -- meaning there is no communication between the child and his or her lawyer prior to going before the judge. The result is that few attorneys are able to provide effective representation at detention hearings, and children who do not pose a safety or flight risk are being unnecessarily held in custody, the report states.

In addition, while investigators found examples of "stellar and innovative" representation of juveniles, the report said the level of advocacy was inconsistent statewide. Due to excessive caseloads, defense attorneys do not have regular contact with clients to discuss the case, with most interaction limited to court days. Few juvenile defenders have access to investigators, social workers and administrative staff to help in the representation of the children. Most have limited access to computers, research accounts or regular training, the report said.

#### **Caseload seen as problem**

Benjamin Wolf, associate legal director of the American Civil Liberties Union of Illinois said he agrees there is a need for stronger advocacy at juvenile hearings. Factors such as race and heavy caseloads contribute to more children being detained than there should be, he said.

"There is not enough attention paid by counsel and judges and others to the horrible disruption the child faces when he is detained. It is stigmatizing and puts pressure on them to plea so they can get out of jail," Wolf said. "It often amounts to punishment before [a finding] of guilty, so the case is over before it starts."

Bruce Boyer, director of the Civitas ChildLaw Clinic at Loyola University Chicago, said that based on what he was told about the report, its findings are "damning," not just of the representation of children, but of the entire juvenile justice system.

"They are treated as throwaway kids; you see that at every facet of the [report's] findings," Boyer said.

Boyer added that there are some very dedicated people who work on behalf of kids, "but you are never going to have a functioning system if you have a system where they are under constant pressure to plead, without resources and training, and you swamp them with caseloads," he said.

Linda Uttal, acting chief of the juvenile justice division in the Cook County public defender's office, said she could not comment because she had not seen the report. John Gorman, a spokesman for the Cook County state's attorney's office, said he also could not comment because he had not seen the report.

The report recommends the appointment of counsel before the first court appearance, for children's lawyers to provide zealous advocacy at all court proceedings and to develop ways of having regular contact with clients and to use language that children can understand. It also calls on the Illinois legislature to provide funding for the Illinois Juvenile Defender Resource Center, which was created this year through legislation. The 2008 fiscal year budget does not include money for the center, according to the report.

The Illinois assessment is one of 16 such examinations conducted nationally, and the results mirror problems found in other states, Puritz said.

Urged to meet standards

Cathryn Crawford, a clinical associate professor at Northwestern who also co-authored the report, said the recommendations are not "revolutionary" and are designed to encourage attorneys to meet standards that have long been in place.

"It is our hope that this will inspire defenders to be more proactive in insisting that there be more training, time and resources. It is to inspire the court system to be more self-reflective to ensure that justice is being served," Crawford said.

Cook County Circuit Court Chief Judge Timothy Evans said that while he could not comment on the specifics of the report, he applauded the effort to bring about better representation for children.

"We embrace advocacy that is designed to ferret out the truth, and we would encourage that kind of cogent advocacy at every point," Evans said.