

**Office of the  
Juvenile Defender**

**A Look Back and A  
Vision for the Future**

**A Review of OJD's Impact on  
Juvenile Defense in North Carolina**

**April 2013**

## OVERVIEW

Nearly a decade ago, the American Bar Association, Southern Juvenile Defender Center, and National Juvenile Defender Center (NJDC) released an assessment identifying deficiencies in North Carolina's quality of juvenile delinquency representation.

To address the deficiencies noted, the North Carolina Office of Indigent Defense Services (IDS) formed a Juvenile Committee that advocated the creation of the Office of the Juvenile Defender (OJD) and made recommendations to enhance delinquency representation. Since its inception in 2005, OJD has worked with local and national stakeholders to improve the quality of juvenile defense.

In 2012, OJD engaged in a strategic planning effort to assess the progress and impact of the office, to evaluate juvenile defense representation, and to prepare a plan for the future. First, the office's progress in implementing the Juvenile Committee's recommendations was assessed. Next, information was gathered from various "user groups," including juvenile defense counsel, judges, prosecutors, and juvenile justice officials. Surveys, focus groups, and individual interviews were used to evaluate the current state of juvenile defense representation and the effectiveness of OJD.

What follows here is a summary of OJD's efforts and a direction for a path forward.

### **Mission**

OJD's mission can be described in four parts:

- (1) to provide services and support to juvenile defense attorneys,
- (2) to evaluate the current system of representation and make recommendations as needed,
- (3) to elevate the stature of juvenile delinquency representation, and
- (4) to work with juvenile justice advocates to promote positive change in the juvenile justice system.



**OJD worked closely with The North Carolina State Bar Board of Legal Specialization to establish a Juvenile Delinquency Criminal Law Sub-Specialty. The Bar is pleased to announce that the first class of attorneys will be sworn in as Certified Specialists in April 2013.**

## MILESTONES

OJD has accomplished many of the recommendations of the IDS Juvenile Committee, such as:

### **Serving as a Central Resource and Juvenile Defense Consultant**

To better serve as a resource, OJD identified juvenile defenders by surveying 800 known juvenile defense counsel and creating a roster for regular updates. OJD also assisted with creating a listserv to ensure that pertinent information is provided to juvenile defenders in a timely manner and to provide a means for juvenile defenders to communicate with one another. Over the years, OJD has built liaisons with several juvenile justice groups and collaborated to achieve common goals and juvenile justice reform. OJD has consulted with appellate attorneys in hundreds of cases, some of which yielded favorable results for juveniles. Of particular interest is the U.S. Supreme Court case

*J.D.B. v. North Carolina*,  
363 N.C. 664, 686 S.E.2d 135  
(2011)

### **Evaluation of the System of Juvenile Defense**

To date, OJD has visited more than 80 counties to observe court, speak with court officials, and make recommendations to IDS to improve the quality of representation. In 16 jurisdictions, OJD identified the strongest juvenile defenders and assisted IDS with entering into contracts in hopes of establishing a network of experienced and dedicated juvenile defenders.

### **Creation of Training Programs and Materials for Juvenile Defense Counsel**

Utilizing surveys and interviews, OJD, in collaboration with the University of North Carolina School of Government (SOG), established a training plan involving an annual one-day conference on general and specific topics, a biennial three-day new juvenile defender training, and other regional and local trainings as requested. SOG, with assistance from OJD, developed a practice manual for juvenile defense counsel that includes an overview of statutory law, practice suggestions, and model forms and motions.

### **Development and Implementation of Juvenile Defense Polices and Guidelines**

With the assistance of its advisory board and other juvenile justice stakeholders, OJD created a *Role of Counsel* statement, which was designed to help focus juvenile defense counsel and to set the foundation for training, and developed the *Performance Guidelines for Appointed Counsel in Juvenile Delinquency Proceedings at the Trial Level* and other initiatives. Thereafter, OJD developed model qualification standards for practice in juvenile delinquency court.

**In 2009 OJD released the *Youth Development Center Commitment Project Report*. The report addressed errors affecting juveniles in commitment facilities and provided an impetus for training, form revision, more legal challenges, and the creation of two projects providing juveniles with representation post disposition.**

## KEY FINDINGS

Through surveys, interviews, and focus groups with juvenile defense counsel, prosecutors, judges, and the Division of Juvenile Justice (DJJ) officials and staff, OJD received feedback on the quality of juvenile delinquency representation.

### Juvenile Delinquency Representation

Regarding origination of the cases, over 75% of juvenile defense counsel responding to the survey believed that at least a quarter of their juvenile delinquency cases originated in the school system. More than 70% of the juvenile defenders who responded to the survey also expressed that at least one-half of their delinquency cases ended in admissions. However, over 50% of the defenders reported that, of the admissions made by their juvenile clients, between 50% and 100% of those cases resulted in an admission to a lesser-included offense. There was not a clear trend among juvenile defenders responding to the survey regarding what percentage of their cases ended in adjudicatory hearings. However, a majority of those surveyed agreed that over half of their cases proceeded immediately from adjudication to disposition.

### Challenges and Improvements to Enhance Juvenile Delinquency Representation

In general, of those responding to the survey, there was a consensus that there was an opportunity for improvement in juvenile delinquency representation in their counties. Those surveyed indicated that the most significant factors that hindered their ability to provide full representation to juvenile clients were difficulty in meeting with clients, “boilerplate” recommendations from the court, and complex family situations. Consequently, juvenile defenders reported that the changes that would most improve the quality of defense services were earlier access to court information (e.g., disposition and Department of Social Services’ reports), improved relations with school systems (resulting in reduced school-based offenses coming to court), and collaboration or cross training with other juvenile justice stakeholders (e.g., judges, prosecutors, and court counselors.)

### Training and Resources Utilized by Juvenile Defense Counsel

Sixty-eight percent of those surveyed reported that they had attended juvenile defender trainings in the past. Of those who had attended trainings, more than 75% attended the annual juvenile defender conferences and 36% participated in new juvenile defender training programs. In regard to future trainings, surveyed juvenile defense counsel reported an interest in sessions discussing school searches and seizures, motions and writs, school system interaction, and appeals and transfer hearings.

**OJD has developed a series of guides for attorneys *Representing Special Populations of Youth*. The guides provide insight regarding special considerations when representing special populations, including communication techniques, trial strategies, and suggestions for appropriate dispositional alternatives.**

## **RECOMMENDATIONS OF THE JUVENILE DEFENDER ADVISORY COMMITTEE**

After analyzing the results of the evaluation, OJD established a Juvenile Defender Advisory Committee (JDAC) of practicing attorneys and other defense counsel experts to determine: (1) if any of the IDS Juvenile Committee's original recommendations should be revisited; (2) which practice performance issues OJD should focus on and how they should be prioritized; and (3) which juvenile justice reform matters OJD should focus on and how they should be prioritized.

### **Training**

In partnership with superior court practitioners, OJD should continue providing training on filing motions in juvenile delinquency court in an effort to improve representation. The collaboration with superior court practitioners and exposure to felony cases could provide more insight for juvenile defense counsel as they file and work on appeals.

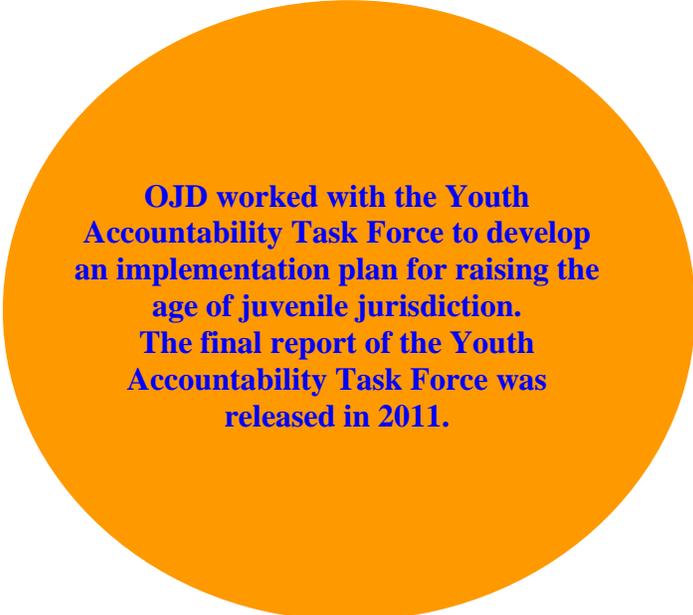
Additionally, OJD should emphasize that juvenile delinquency practice is a specialized practice and implement more focused training for juvenile defense counsel, such as new felony defender training and advanced juvenile defender training for seasoned juvenile defense counsel.

### **Policy**

To further the goals of serving as a central resource and contact for existing statewide and juvenile defense committees and associations, the JDAC noted that OJD should continue to collaborate with committees and associations to address specifically: (1) raising the age of juvenile jurisdiction; and (2) working to prevent the enactment of the Adam Walsh Act/Sex Offender Registration Notification Act.

### **Outreach**

The JDAC recognized that, under the future system of contractual services, it may be difficult for new attorneys to become juvenile defenders. OJD should develop means by which new attorneys can be better prepared to enter this practice area by collaborating with local law schools to encourage substantive and practical education and should explore the possibility of establishing mentorships with current contractors. Finally, OJD should also explore potential fellowship opportunities, such as the Equal Justice Public Defender Corps (now known as Gideon's Promise).



**OJD worked with the Youth Accountability Task Force to develop an implementation plan for raising the age of juvenile jurisdiction. The final report of the Youth Accountability Task Force was released in 2011.**

## **FUTURE GOALS and OBJECTIVES**

Based on the results of the evaluation and the feedback of the JDAC, OJD hopes to further its mission by pursuing the following initiatives:

### **Work with IDS to develop an appropriate infrastructure that effectively supports delinquency representation**

- Representation will be primarily provided by one of three methods: contracts through requests for proposals; individually negotiated contracts; and Public Defender Offices
- Key duties will include identifying potential contractors, providing effective support and oversight for all attorneys, and creating a system for recruitment (see below)
- OJD will also work with the Public Defender Administrator to improve the support of delinquency assistant public defenders

### **Continue efforts to provide introductory, intermediate, and advanced training**

- OJD will work with SOG and the National Juvenile Defender Center on opportunities and resources
- Resources will focus on the “front end” and “back end” of representation, namely:
  - timely meeting with clients, establishing communication and rapport, and early investigation
  - dispositional planning and advocacy, post-disposition representation, and appeals

### **Enhance outreach efforts to further elevate the stature of juvenile delinquency representation by providing a juvenile defense viewpoint to various stakeholders: “constituents, clients, community”**

- Provide more information to attorneys through technology
- Work more closely with the IDS Juvenile Committee and the IDS Commission
- Develop a model for soliciting feedback from clients and/or parents and guardians
- Share updates and information with other juvenile justice actors, build alliances, and cross-train

### **Continue to monitor issues that impact delinquency representation, and collaborate and advocate for solutions**

- Age of juvenile jurisdiction
- Disproportionate minority contact
- School to prison pipeline
- Sex Offender Registration and Notification Act

### **Establish a means for recruiting attorneys interested in practicing delinquency law**

- Create a “classroom to courtroom pipeline” through
  - encouragement and mentorship at the high school level
  - working with law schools to provide substantive education, practical training, and post-graduate opportunities
  - exploring funding for fellowships/scholarships
  - working with juvenile defenders to provide mentorships/apprenticeships



**To read the full report, please visit**  
<http://www.ncids.org/JuvenileDefender/History/StrategicPlanReport.pdf>