

Office of the Juvenile Defender Strategic Plan Report

*A Review of the Office's Accomplishments,
a Re-Assessment of the Quality of Juvenile Defense Counsel, and
a Plan for the Future of Juvenile Indigent Defense*

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EXECUTIVE SUMMARY

Purpose

Nearly a decade ago, the American Bar Association, Southern Juvenile Defender Center, and National Juvenile Defender Center released an assessment identifying deficiencies in North Carolina's quality of juvenile delinquency representation. To address the deficiencies noted, the North Carolina Commission on Indigent Defense Services (IDS Commission) formed a committee that advocated the creation of the Office of the Juvenile Defender (OJD) and made recommendations addressing OJD's operation as a central resource and juvenile defense consultant, the evaluation of the state's system of juvenile defense, the development and implementation of policies and guidelines, and the creation of training materials and training programs for juvenile defense counsel. To assess its progress in implementing the recommendations devised to address defense counsel deficiencies, OJD recently undertook a project to evaluate the current quality of juvenile defense representation and to develop strategies to improve such representation in the future.

Key Findings

The first phase of the project revealed that sixteen of the twenty recommendations have been addressed through OJD's work and collaboration with other juvenile justice stakeholders. Through surveys, interviews, and focus groups with juvenile defense counsel, prosecutors, judges, and Division of Juvenile Justice (DJJ) officials and staff, OJD received feedback on the quality of juvenile delinquency representation, including positive and proactive aspects of representation, as well as recommendations to improve the current quality of representation. Overall, there was a consensus that the advocacy of juvenile defense counsel, specifically during the adjudication stage, had increased over the years with the introduction of expressed interest advocacy and contract attorneys.

Along with the acknowledgements of progress, participants also made recommendations to enhance juvenile delinquency representation, which included the following specifically related to juvenile defense counsel:

- In an effort to be better prepared for court and to prevent delays, juvenile defense counsel should work harder to ensure that the first meetings with juvenile clients occur prior to arriving at the courthouse, and that interaction with clients remains professional at all times. Juvenile defenders should also work with DJJ staff to ensure that court reports (e.g., pre-dispositional reports and Department of Social Services reports) are received in a timely manner to ensure adequate preparation for the dispositional phase of court and to achieve better outcomes for juvenile clients.
- To provide quality representation, juvenile defense counsel should strongly consider filing pre-adjudication motions, contesting charges during plea arrangements, taking cases to trial, providing dispositional recommendations to the court, and appealing cases, where appropriate.
- Juvenile defense counsel should consider utilizing OJD's listserv, consultation services, and expert referral services when appropriate in an effort to brainstorm potential strategies and to improve the overall quality of representation.

- Juvenile defense counsel should pursue more delinquency-related training and cross-training opportunities with other stakeholders to ensure that they are knowledgeable about juvenile law, including issues of cultural competency.
- Juvenile defense counsel should consider collaborating with other juvenile justice stakeholders to address the high number of cases originating in the school system.

Participants also made recommendations affecting the juvenile justice system generally, which included the following:

- A collaborative approach to change the perception of juvenile delinquency court from an informal court for entry-level attorneys to a specialized court for experienced counsel could operate to elevate the stature of juvenile delinquency practice.
- Continuity of representation between district and superior court for transferred juveniles should be promoted.
- Better access to interpreters could ensure that juvenile clients receive fair treatment in court while enhancing the representation provided by juvenile defense counsel.
- An increase in the number of juvenile defenders in rural areas, specifically to handle conflict cases, would enhance local juvenile defense representation.
- Juvenile justice stakeholders should consider collaborating on common projects in an effort to promote best practices in juvenile delinquency court and related juvenile justice issues.
- Fees for juvenile defense counsel should be increased to reflect the specialized work rendered and in an effort to elevate the quality of representation.

As a result of gathering information evaluating the quality of juvenile defense counsel, OJD plans to develop approaches to address the recommendations in hopes of enhancing statewide juvenile delinquency representation.

INTRODUCTION

In North Carolina, the district court has original jurisdiction for juveniles between ages six and 15 who are alleged to be delinquent, as well as their parents and guardians, upon the filing and service of a petition and summons. Thereafter, juveniles have a constitutional right to counsel in all delinquency proceedings,¹ as codified under North Carolina law.² Because N.C.G.S. §7B-2000 provides that juveniles are presumed to be indigent in North Carolina, counsel must be appointed if an attorney has not been retained.

In 2003, the American Bar Association, Southern Juvenile Defender Center, and National Juvenile Defender Center conducted an assessment of the quality of juvenile defense counsel in delinquency proceedings in North Carolina. The assessment identified a significant number of deficiencies regarding juvenile defense practice. In response to the assessment, the North Carolina Commission on Indigent Defense Services (IDS Commission) formed a Juvenile Committee that made numerous recommendations for reform, including the creation of the Office of the Juvenile Defender (OJD). Following the creation of OJD by the General Assembly in 2004, the office opened in January 2005, with the mission of providing services and support to defense attorneys; evaluating the current system of representation and making recommendations as needed; elevating the stature of juvenile delinquency representation; and working with other juvenile justice actors to promote positive change in the juvenile justice system.

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. The first part of the effort involved assessing the progress made in implementing the Juvenile Committee's recommendations. The second part involved gathering information from various "user groups," including juvenile defense counsel, judges, prosecutors, and juvenile justice officials, utilizing surveys, focus groups, and individual interviews, to evaluate the current state of juvenile defense representation and the effectiveness of OJD. The data obtained will be utilized to begin developing approaches and implementing strategies to enhance juvenile delinquency representation over the next ten years.

PART I. IMPLEMENTATION OF THE JUVENILE COMMITTEE'S RECOMMENDATIONS

Along with the Juvenile Committee's recommendation that the General Assembly create a statewide Juvenile Defender position, the Committee also made several additional recommendations in the hope that their implementation would be a positive first step toward improving the representation afforded to juveniles in North Carolina. The Committee's recommendations covered a wide range of topics, including OJD's operation as a central resource and juvenile defense consultant, the evaluation of the state's system of juvenile defense, the development and implementation of policies and guidelines, and the creation of training materials and training programs for juvenile defense counsel. Of the 20 recommendations made in 2003, OJD has addressed 16 of them as follows.

Central Resource and Juvenile Defense Consultant

To better serve as a central resource and contact for juvenile defense counsel, OJD first identified juvenile defenders by surveying 800 known juvenile defense counsel and creating a

¹ See *In re Gault*, 387 U.S. 1, 51 (1967).

² See N.C.G.S. §7B-2000 (2011-2012 ed.).

roster for regular update. Thereafter, OJD worked to create a juvenile justice library of materials for juvenile defenders. One of the early resources OJD assisted with creating was the office's website, through which much of the work of the office has been made available, specifically the Juvenile Defender Manual, case law and legislative updates, special population guides, training and reference materials, motions and forms, reports, newsletters, and information pertaining to consultation services for trial and appellate level cases and expert referral services. OJD also assisted with creating a listserv to ensure that pertinent information was 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 to reform juvenile justice. (See Appendix A for organizations and projects.)

Evaluation of the System of Juvenile Defense

To evaluate the state's system of juvenile defense, OJD completed district site visits across most of the state to observe court, speak with court officials, and make recommendations to IDS as needed to improve the quality of representation. In at least 16 jurisdictions, OJD identified the strongest juvenile defenders, and assisted IDS with entering into contracts in hopes of establishing a strong network of juvenile defenders to serve juvenile clients and inexperienced defenders as mentors. Moreover, the office worked with several public defender offices to assess the efficacy of juvenile defense units and assisted with training new juvenile defenders.

As a result of district site visits, OJD conducted several projects in an effort to identify and implement best practices for quality representation. One project reviewed the files of committed juveniles and identified commitment errors, which resulted in creating new Administrative Office of the Court (AOC) forms, providing practice tips to juvenile defense counsel to decrease the likelihood of errors, and collaboration with juvenile justice organizations providing post-disposition representation and re-entry services. Another project involved providing consultation services to an education attorney on the delinquency roster with the goal of using a holistic approach to address delinquency and education matters simultaneously. In an effort to provide practice tips and strategies for special populations of youth, OJD created a series of guides for juvenile defense counsel representing Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (LGBTQ) youth, youth of color, including Hispanic/Latino youth, and girls. OJD also created an expert database for juvenile defense counsel following observations that experts were not being utilized frequently in juvenile delinquency cases.

In an effort to assess and enhance the existing data infrastructure for juvenile delinquency cases, OJD worked with the AOC J Wise Committee on the redevelopment of a database for juvenile delinquency cases. OJD assisted by providing advice regarding what data should be collected, the reclassification of events in the database to accurately document the progress of juvenile delinquency cases, confidentiality issues, and the creation of court calendars. The office also assisted with rewriting the fee application form for juvenile delinquency cases and conducted research on juvenile delinquency appeals (e.g., including the frequency with which appeals are filed, the types of issues argued on appeal, and the average length of time involved in appeals) in an effort to capture accurate data and to devise practice strategies for juvenile defense counsel.

Development and Implementation of Juvenile Defense Policies and Guidelines

With the assistance of its advisory board and other juvenile justice stakeholders, one of OJD's early projects involved creating a statement on the role of defense counsel that was distributed statewide. The purpose of the statement was to create a rule that helped focus juvenile defense counsel and set the foundation for training, performance guidelines, and other initiatives. Thereafter, with assistance from various committees, OJD developed model qualification standards for practice in juvenile delinquency court and performance guidelines that were intended to identify issues and to recommend effective approaches to resolving those issues. The guidelines serve as a training tool and resource for new and experienced juvenile defense counsel, as well as a tool for potential systemic reform in some areas.

Creation of Training Materials and Training Programs 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. See Appendix A for conference themes and training programs. With assistance from the SOG, OJD developed a practice manual for juvenile defense counsel that included an overview of statutory law, practice suggestions, and model forms and motions. The office also created a clearinghouse of juvenile defense materials relating to case law and legislation, as well as motions and forms, position papers, studies, and training and reference materials for juvenile defense counsel.

Remaining Recommendations

Despite the work of OJD over the years, four recommendations have not been implemented as of the date of this report. Those recommendations include developing and maintaining a list of referral and diversion programs, devising ways to encourage appropriate parental involvement in the juvenile delinquency process, developing caseload standards for juvenile defense counsel, and researching best practices for drafting court orders. While there are reasons why OJD has not addressed these recommendations, the office plans to research the feasibility of implementing these recommendations in the future.

PART II. EVALUATION OF THE OFFICE OF THE JUVENILE DEFENDER: USER GROUP RESPONSES

NORTH CAROLINA JUVENILE DEFENSE COUNSEL

In response to an online survey disseminated by OJD, more than 100 juvenile defense counsel representing over 60 North Carolina counties responded with significant feedback. Those surveyed included public defenders, IDS contract attorneys, and court-appointed attorneys. The survey captured information regarding the background of juvenile defense counsel and juvenile clients, juvenile delinquency representation, scope of appointment, and training and resources in an effort to evaluate juvenile delinquency representation and to gather recommendations to improve the work of OJD.

Juvenile Defense Counsel Background

Over 50% of juvenile defense counsel who responded to the survey had practiced law for at least 10 years, and approximately 29% had practiced in juvenile delinquency court for at least

15 years. Roughly 39% of those who responded to the survey spent between 5% and 10% of their total practice time in juvenile delinquency court. Similarly, 7% reported that they were IDS contract attorneys. In contrast, 86% of those surveyed indicated that they were appointed by the court, and over 60% of those attorneys revealed that they were solo practitioners.

Juvenile Client Background

Part of the survey gathered information on juvenile clients in an effort to assess trends. Over 60% of juvenile defense counsel reported that 25% or less of their juvenile clients were female. Over 50% of juvenile defense counsel reported that more than one-half of their juvenile clients resided in a household below the federal poverty line (see Figure 1).³ Fifty percent also reported that over half of their juvenile clients were African American; a majority reported that up to 25% of their juvenile clients were Hispanic/Latino, and up to 5% of the clients were Native American. More than half reported that up to 5% of their juvenile clients spoke English as a second language. Moreover, 95% of the juvenile defenders reported that up to 5% of their clients identified themselves as lesbian, gay, bisexual, or transgender (LGBT).⁴ In terms of education, over 50% reported that at least a quarter of their juvenile clients had an Individualized Education Program (IEP), although there was not a clear trend concerning Behavior Intervention Plans (BIP).

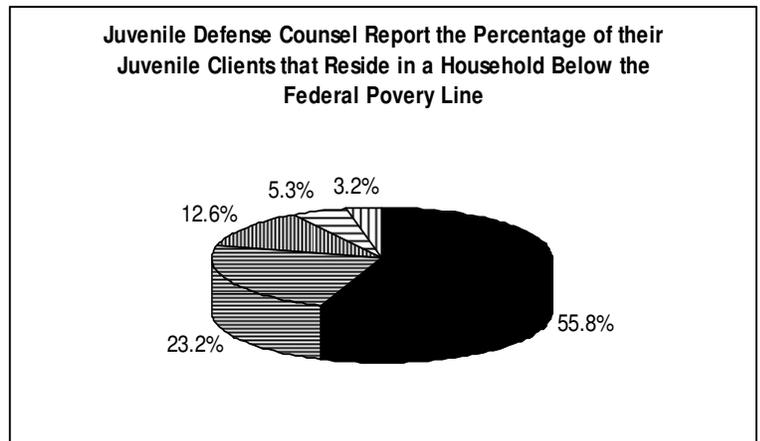


Figure 1 indicates that over a majority of youth represented by those responding to the survey live in impoverished conditions.

Juvenile Delinquency Representation

Sixty-two percent of juvenile defenders reported that they met over one-fourth of their clients for the first time at the courthouse. 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. Additionally, approximately one out of four reported filing pre-adjudication motions in at least 25% of their juvenile delinquency cases. Moreover, roughly 66% of responding juvenile defenders filed discovery motions, 51% filed suppression motions, 38% filed capacity motions, 29% filed Brady motions, and 17% admitted that they had not filed any motions.

Over 70% of the juvenile defenders who responded to the survey expressed that at least one-half of their delinquency cases ended in admissions. However, over 50% of the defenders

³ The Federal Poverty Line is currently \$23,050 for a family of four.

⁴ Given the difficulty involved with formally tracking the sexual orientation of juveniles and the scarcity of data collected by juvenile justice institutions concerning sexual orientation, researchers note that it is difficult to establish with certainty the number of lesbian, gay, bisexual, transgender, queer, or questioning (LGBTQ) youth in the juvenile justice system.⁴ Angela Irvine, *Symposium Volume: Genders on the Frontiers—Confronting Intersectionalities "We've Had Three of Them:" Addressing the Invisibility of Lesbian, Gay, Bisexual, and Gender Nonconforming Youths in the Juvenile Justice System*, 19 COLUM. J. GENDER & L. 675, 677-79 (2010).

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.

Of those responding to the survey, more than 90% reported appealing up to 5% of their

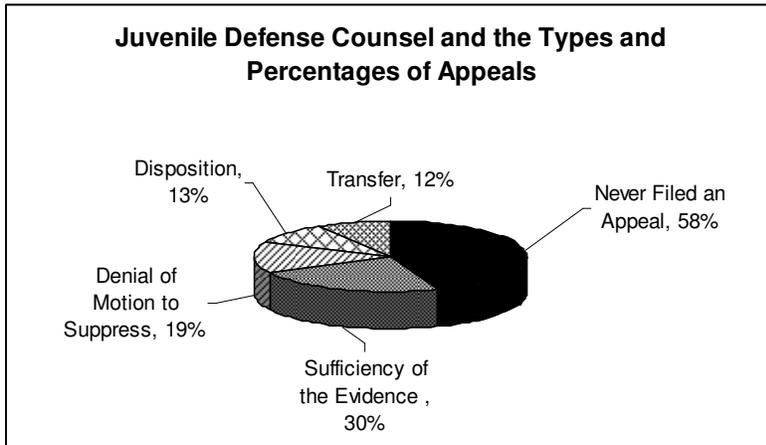


Figure 2 indicates that the majority of juvenile defense counsel who responded to the survey had never filed an appeal in a juvenile delinquency case.

juvenile adjudications. Of those who had filed a notice of appeal, approximately 30% filed in relation to sufficiency of evidence issues; 19% filed an appeal regarding a denial of a motion to suppress; 12% filed an appeal regarding transfer; 13% filed an appeal in relation to disposition; and 58% had never filed a notice of appeal in a juvenile delinquency case (see Figure 2). Over half of those responding to

the survey indicated that they objected to or proposed modifications to court counselors' proposed disposition plans in at

least one fourth of their delinquency cases. Furthermore, approximately 50% of juvenile defenders reported that they had presented their own disposition plans in, at most, 5% of their cases.

Scope of Appointment of Counsel for Juvenile Defense Counsel

Forty percent of those who responded to the survey believed that responsibility in juvenile delinquency cases ended when the juvenile aged out of the system. Other juvenile defenders believed that their responsibility ended after dispositional hearings (27%), when their clients completed probation (22%), or as determined on a case-by-case basis (11%). Approximately 20% reported that they had not filed extraordinary writs. However, of those who had filed writs in juvenile delinquency cases, 89% of their writs were habeas corpus petitions.

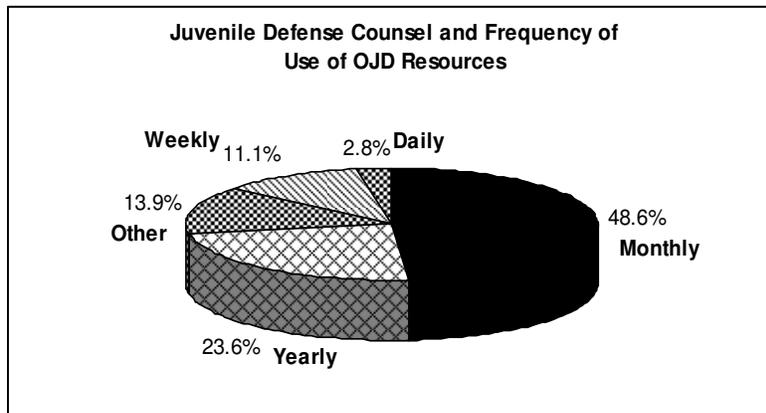
Training and Resources Utilized by Juvenile Defense Counsel

Of those responding to the survey, 68% reported that they had attended juvenile defender trainings in the past. Of those who had attended trainings, more than three-fourths of them attended the annual juvenile defender conferences and 36% participated in new juvenile defender training programs. Nearly 70% of those surveyed attended criminal CLEs, 40% attended local CLEs, and 28% attended virtual CLEs. 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.

Fifty-one percent of juvenile defense counsel reported a utilization of technology while in the courtroom. Of those, three-fourths reported using smartphones, 43% used laptops, and 28%

used tablets.⁵ Those surveyed indicated that technology was used 85% of the time to research statutes. Moreover, more than 80% of those surveyed reported using resources created by OJD, including the website (91%), the listserv (60%), consultation services (38%), and expert referral services (18%). Of those reporting use of OJD resources, 49% indicated that resources were used monthly (see Figure 3).

Figure 3 indicates that juvenile defense counsel utilize resources created by OJD during representation.



Challenges and Improvements to Enhance Juvenile Delinquency Representation

In general, of those responding to the survey, there was consensus that there was an opportunity for improvement in juvenile delinquency cases 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 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 DSS 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).

NORTH CAROLINA PROSECUTORS

To gather the perspective of assistant district attorneys, OJD interviewed nine assistant district attorneys who had been recommended by the Conference of District Attorneys. They provided feedback on juvenile delinquency representation, resources, and challenges and improvements to enhance juvenile delinquency representation.

Juvenile Delinquency Representation

Participating assistant district attorneys noted that juvenile defense counsel were proactive in filing pretrial motions (e.g., mental health and sex offender evaluations, capacity, identification, joinder, confessions, and appeals of transfer), when appropriate. Assistant district attorneys also noted that juvenile defenders utilized experts, specifically for issues concerning competency, sex offense crimes, ballistics, fingerprints, and transfer. In terms of trials, one

⁵ A tablet means an iPad, Blackberry Playbook, Samsung Galaxy, etc.

prosecutor indicated that some cases were being tried that the court counselors should not have filed, while another prosecutor expressed sentiments that juvenile defenders were taking cases to trial that should not be tried. All of the prosecutors acknowledged that the adversarial approach of juvenile defenders had increased in recent years. One prosecutor noted that it was unclear if juvenile defenders were doing an adequate job of counseling their clients on the benefits and consequences of trial, although one prosecutor stated that having public defenders in the courtroom had greatly increased the level and quality of advocacy and had given juveniles a voice.

Training and Resources Utilized by Juvenile Defense Counsel

In terms of training, assistant district attorneys noted that they were aware of juvenile defense training programs, and knew local juvenile defense counsel to be attending such sessions. Prosecutors disagreed on whether juvenile defense counsel appeared to be knowledgeable about current juvenile delinquency issues, with the responses depending on whether juvenile defenders were court-appointed counsel or IDS contract attorneys. According to a prosecutor in a district with IDS contract attorneys, juvenile defense counsel was thought to be knowledgeable. Conversely, in a district that primarily uses court-appointed counsel, a prosecutor did not consider defense counsel particularly well versed in the nuances of delinquency law. Regarding use of technology, one assistant district attorney noted that juvenile defenders utilized smartphones during court.

Challenges and Improvements to Enhance Juvenile Delinquency Representation

Although the shift from best interest advocacy to expressed interest advocacy and the commitment to ensuring that all parties, including service providers, fairly address the juvenile's case were identified as positive changes in juvenile defense, assistant district attorneys noted that juvenile defenders had become too adversarial in some cases and created a level of familiarity with their clients that produced a less formal atmosphere in other cases. To enhance juvenile delinquency representation, prosecutors noted that juvenile defense counsel should be knowledgeable and informed advocates while not being overzealous, have access to printed juvenile defender training materials, and advocate appropriate services for their clients while maintaining professionalism. In more broad terms, assistant district attorneys indicated that adequate supervision of juvenile defense counsel, specifically newer juvenile defenders, would enhance representation.

NORTH CAROLINA JUDGES

Ten judges from across the state participated in two focus groups discussing their challenges as juvenile court judges, the current quality of juvenile delinquency representation, and challenges and improvements to enhance juvenile delinquency representation. The participants were from both rural and urban districts where juveniles were represented by public defenders, IDS contract attorneys, and court-appointed attorneys.

Challenges as Juvenile Court Judges

Judges mentioned that challenges in their experiences included the volume of cases; the difficulty in scheduling cases when defense counsel were appearing in other courts; the complexity of locating appropriate resources for juveniles, including mental health assessments and treatment; lack of parental support; and the length of time between implementing dispositions and review dates.

Juvenile Delinquency Representation

Participating judges were generally satisfied with the performance of juvenile defense counsel in their courtrooms, especially public defenders and contract attorneys, although representation was uneven in some districts. Judges identified strengths to include knowledge of the law, willingness to confer with juvenile court counselors, vigorous advocacy during the adjudicatory stage, and the ability to negotiate with the juveniles' parents and assistant district attorneys to reach a consensus during both adjudication and disposition.

Judges noted that juvenile defense counsel contested charges during adjudicatory hearings although trials were infrequent compared to plea arrangements. Pretrial motions were infrequently used, except for discovery purposes, although some judges reported an increase in the number of pretrial motions pertaining to confinement in detention. Other judges indicated that more pretrial advocacy, specifically concerning confinement in detention and release, would be beneficial for juvenile clients. Use of expert witnesses was also infrequent, but utilized when necessary according to judges. There was a consensus that juvenile defense counsel filed no motions for review at the disposition stage and rarely entered notice of appeal in juvenile delinquency cases.

Challenges and Improvements to Enhance Juvenile Delinquency Representation

Although there was agreement among the judges that moving to contracts with attorneys has been a positive step in raising the level of practice, judges identified several challenges to improving juvenile defense representation. Judges agreed that changing the perception of juvenile delinquency court has been difficult and that it continues to be viewed as an entry-level court where one begins practicing law as opposed to a respected court with experienced juvenile defense counsel. Judges concurred that there was a problem with juvenile defense counsel, specifically court-appointed counsel, meeting with their clients prior to court, which needed to be addressed to improve representation. Judges also agreed that having consistent juvenile defense counsel and assistant district attorneys in court would improve court hearings. Judges indicated that juvenile defense counsel should consult with school officials prior to hearings when appropriate, be culturally competent in their representation, and employ more creative strategies to ensure that the court has recommendations to consider outside of those offered by juvenile court counselors. Judges noted that providing additional training would be helpful, specifically free continuing legal education (CLE) hours for court-appointed juvenile defense counsel. Judges also provided general recommendations to improve representation, which included forming an association of juvenile court judges and interested stakeholders to promote best practices in juvenile court and increasing the pay rate of juvenile defenders, when feasible.

NORTH CAROLINA DIVISION OF JUVENILE JUSTICE (DJJ)

OJD worked with Division of Juvenile Justice (DJJ) officials to gather the input of court counselors from across the state. Court counselors completed questionnaires discussing the quality of defense counsel, and challenges and improvements needed to enhance juvenile delinquency representation.

Juvenile Delinquency Representation

Court counselors noted that juvenile defense counsel generally were advocates for their clients, although in some instances they observed a conflict between advocating the client's expressed interest rather than his or her best interest. As indicated by the surveys, interviews, and focus groups, court counselors agreed that juvenile defense counsel filed few pretrial motions outside of discovery motions, with the exception of public defender districts. With regard to the frequency of adjudicatory hearings, trials were occurring frequently in some jurisdictions, and the opposite was true in other jurisdictions. Polled court counselors noted that no motions for review of juveniles' dispositions were being filed. Moreover, although court counselors reported having consultations with juvenile defenders prior to the disposition hearing, they also noted that juvenile defenders failed to propose creative alternatives to their recommendations. Concerning appeals, court counselors noted that experienced juvenile defense counsel filed notices of appeal, but otherwise such filings were rare. Court counselors also noted that juvenile defenders needed to work to understand the clients' background and circumstances, to be more knowledgeable of juvenile delinquency law, and to engage in strong trial advocacy, where appropriate.

Challenges and Improvements to Enhance Juvenile Delinquency Representation

Court counselors noted that the system of contract attorneys has worked nicely in terms of having knowledgeable juvenile defense counsel. Court counselors also indicated that the informal attitude toward juvenile court was receding and that juvenile defenders have become stronger advocates for their clients. Despite these improvements, court counselors emphasized that juvenile defense counsel's failure to meet with their clients prior to court resulted in court delay, as well as a lack of knowledge about the clients' backgrounds and the circumstances of the cases. Another challenge noted was that court counselors observed some juvenile defenders failing to advocate fully for their clients in order to avoid potential conflicts with judges. Another problem some court counselors observed at times were cases being unnecessarily continued without the juvenile defender's objection. This practice resulted in extending the length of the case and increasing fees for juvenile defense counsel. Moreover, to ensure better representation, court counselors recommended that more juvenile defenders be placed in rural counties, especially to handle conflict cases, and that IDS consider increasing the amount of compensation in hopes of motivating juvenile defense counsel and thereby improving the quality of representation.

PART III. RECOMMENDATIONS OF THE JUVENILE DEFENDER ADVISORY COMMITTEE

After analyzing the results of the surveys, interviews, and focus groups, OJD formed and met with a Juvenile Defender Advisory Committee (JDAC) to determine: (1) if any of the IDS Juvenile Committee's 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 issues OJD should focus on and how they should be prioritized.

Revisiting IDS Juvenile Committee Recommendations

In accordance with 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.

Of the four Juvenile Committee recommendations that had not been addressed, the JDAC noted that developing and maintaining a list of referral and diversion programs in each district would be beneficial. The JDAC recommended contacting local Juvenile Crime Prevention Councils (JCPCs) and human services agencies to begin compiling a list of current referral and diversion programs for juvenile defense counsel to utilize when making recommendations for their clients.

Practice Performance Issues

The JDAC noted several practice performance issues that should be addressed as follows, although priority regarding each issue was not discussed:

- **Initial Client Meetings:** OJD should continue to emphasize the importance of juvenile defense counsel meeting with clients prior to court. This practice will help to ensure that juvenile defenders are aware of the clients' history and the charges prior to commencing representation. OJD should also assist juvenile defenders by devising strategies to help attorneys better involve parents and develop strong relationships with clients to foster better communication and representation. OJD should continue emphasizing that juvenile defenders work to become aware of the clients' social history and seek continuances as appropriate to prepare adequately for cases in situations when juvenile defense counsel cannot meet with clients prior to court. There was also discussion of juvenile defenders going directly to the clients, such as to their homes or schools, in order to meet the clients prior to court. Furthermore, in order to ensure that attorneys have an adequate opportunity to meet with clients prior to court, some committee members noted that moving to a system with first appearances for all offenses could prove beneficial and therefore should be considered as a potential long-term approach.
- **Motions 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 motions.
- **Focused Training:** 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.
- **Cross-training Opportunities:** OJD should attend training provided by other juvenile justice stakeholders, such as DJJ and prosecutors, and bring back useful tools for the juvenile defense community. Additionally, OJD should collaborate with such stakeholders to provide training on the juvenile justice process and best practices.
- **Evaluation of Juvenile Defense Counsel:** OJD should develop a system that evaluates juvenile defense counsel, including IDS contract attorneys, on a regular basis. The JDAC noted that some part of the evaluation could be a peer-review process whereby juvenile defenders observe attorneys in other jurisdictions and provide feedback.

- Restitution Process: Given the number of juvenile delinquency cases that result in restitution orders and the inconsistent manner in which restitution is approached in various districts, OJD should provide strategies for handling restitution and facilitate training with other juvenile justice stakeholders on this issue.
- JWisE Access: OJD should continue collaborating with AOC staff to ensure that JWisE is in a format that is user-friendly to juvenile defense counsel, while also working to ensure statewide access in the near future.
- Access to Experts: Given the complexity of representing juveniles and the need for holistic representation, OJD should work to ensure that juvenile defense counsel has access to social workers, investigators, and sentencing specialists as funding allows.

Juvenile Justice Reform Issues

In regards to juvenile justice reform issues, the JDAC identified two high-priority areas for reform: (1) Juvenile Code reform; and (2) appellate reform. In regards to Juvenile Code reform, the JDAC indicated that such reform would be beneficial because there are several areas of the law that need to be revisited and updated to reflect best practices. There was discussion of the option of either creating a separate Rules of Juvenile Procedure or drafting new and revised rules to fit into the existing Juvenile Code. The JDAC reached a consensus that drafting new and revised rules for the existing code would be the better option short-term, and that a long-term alternative could be drafting a separate Rules of Juvenile Procedure.

In addition, the JDAC identified appellate reform as a pertinent issue for improvement. Some of the approaches discussed included OJD, in collaboration with other stakeholders, approaching the Court of Appeals and Supreme Court about providing educational resources on juvenile delinquency court practice; providing direction to trial counsel on specific issues that are ripe for appeal and advice on how those appeals should be handled; providing short-term training on mechanisms such as N.C.G.S. §7B-2600 and Rule 60 to appeal cases; utilizing specialized attorneys to handle juvenile delinquency appeals; and addressing appellate reform as part of any Juvenile Code reform.

Additionally, 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 in which new attorneys can be better prepared to enter this practice area. OJD should collaborate with law schools to encourage substantive and practical education. OJD should also explore the possibility of mentorships with current contractors and fellowship opportunities, such as the Equal Justice Works Public Defender Corps (now known as Gideon’s Promise).

PART IV. 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 in one three categories: contracts through requests for proposals, individually negotiated contracts, and public defender offices

- Key duties will include the identification of 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 advance level training

- OJD will work with SOG and the National Juvenile Defender Center on opportunities and resources
- Training should focus on the “front end” and “back end” of representation, namely:
 - timely meeting with clients, establishing communication and rapport, early investigation, and creative and effective negotiation
 - 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, and the community

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

Continue to monitor the following specific issues that impact delinquency representation, and collaborate and advocate for solutions:

- Raising the age of juvenile jurisdiction
- Addressing disproportionate minority contact and the underlying causes of racial disparity
- Addressing “school to prison pipeline”
- Considering the impact of North Carolina complying with the Sex Offender Registration and Notification Act

Establish a means for recruiting attorneys interested in practicing delinquency law

- Create a “classroom to courtroom pipeline” through
 - information, encouragement, and mentorship of potentially interested law students 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

CONCLUSION

Since the creation of the office, OJD has been tasked with providing services and support to defense attorneys; evaluating the current system of representation and making recommendations as needed; elevating the stature of juvenile delinquency representation; and working with other juvenile justice actors to promote positive change in the juvenile justice system. As a result of its review and strategic planning efforts, OJD hopes to develop and implement approaches that continue to address these tasks while addressing deficiencies noted in this report.

APPENDICES

**APPENDIX A:
RECOMMENDATIONS OF THE JUVENILE COMMITTEE AS ADDRESSED BY THE
OFFICE OF THE JUVENILE DEFENDER**

APPENDIX A: RECOMMENDATIONS OF THE JUVENILE COMMITTEE
AS ADDRESSED BY THE OFFICE OF THE JUVENILE DEFENDER

Recommendation: Serve as a central resource and contact for individual juvenile defenders statewide, as well as existing statewide and local juvenile defense committees and associations. Field questions from practitioners and perform case consultations as needed. Begin building liaisons with other juvenile justice groups.

OJD Website

The OJD website was created with the assistance of IDS staff. The website includes case law, recent legislation, training and reference materials, guides addressing special populations of youth (Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (LGBTQ) youth, youth of color, Hispanic/Latino youth, and girls); the Juvenile Defender Manual; motions and forms for juvenile delinquency court; a statement on the role of defense counsel; performance guidelines for juvenile defense counsel; reports and materials from the Youth Development Center (YDC) Projects; a synopsis of the Incarcerated Youth Advocacy Project (IYAP); quarterly newsletters produced in collaboration with North Carolina Advocates for Justice (NCAJ); as well as a request that defense counsel contact OJD for consultation services, expert referrals, and recommendations for school discipline and special education attorneys. The website also includes a list of juvenile defense contractors with contact information and related juvenile delinquency links. (2005-Present).

Case Law Updates

Each month OJD reviews, summarizes, and posts relevant NC Court of Appeals and Supreme Court decisions on the juvenile defense listserv and the OJD website. On the website, case law is organized by subject. Case updates are also distributed through the North Carolina Bar Association (NCBA) Juvenile Justice and Children's Rights section and NCAJ Juvenile Defense section newsletters. (2005-Present).

Legislative Updates

During the legislative session, OJD tracks legislation debated in the General Assembly and disseminates it if made into law by posting on the juvenile defender listserv and on the OJD website. OJD also provides breakdowns and tips on particularly impactful legislation. On the website, legislative summaries are organized by legislative session. Legislative updates are also distributed through the NCBA Juvenile Justice and Children's Rights section and NCAJ Juvenile Defense section newsletters. (2005-Present).

Consultations

OJD assists legal counsel with pending cases. It provides information for individual questions or ongoing consultation, for cases pending in delinquency court, adult trial court, or on appeal. 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). The case involved a 13-year-old Chapel Hill boy who was interviewed at school by law enforcement without being informed of his rights. The Supreme Court held that law enforcement may consider age as a factor when determining whether a suspect is in custody for the purpose of issuing the Miranda warning. OJD assisted by consulting and providing research to attorneys representing the youth in district court, the North Carolina appellate courts, and the U.S. Supreme Court. (2005-Present).

Appeals Review

The Office of the Appellate Defender is now notifying OJD when a juvenile appeals a commitment order. The office has worked on several appeals so far, assisting appellate counsel with identifying issues and brainstorming strategies. (2010-Present).

Delinquency Defense Law Forum

OJD has contributed to the SOG delinquency defense law forum with discussions of recent legislation, cases, and other juvenile justice matters such as extensions of commitments. (2009-Present).

Liaisons with Local Justice Groups

OJD works with several local agencies/organizations, boards, and committees in an effort to bring a juvenile defense viewpoint to various juvenile justice and children's rights issues. They include the Division of Juvenile Justice (DJJ) (formerly Department of Juvenile Justice and Delinquency Prevention), the NCBA Juvenile Justice and Children's Rights Section, the Administrative Office of the Courts (AOC) Forms Subcommittee, the Governor's Crime Commission Disproportionate Minority Contact (DMC) Subcommittee, the NCAJ Juvenile Defense Section, Action for Children, the Youth Accountability Task Force, and the Family Court Advisory Committee. Some examples of noteworthy work that OJD has completed with various boards and committees are as follows:

- **DJJ:** OJD has maintained a relationship with DJJ since OJD was created, working on specific issues such as representation of committed juveniles, forms, the age of juvenile jurisdiction, and other policies and procedures. (2006-Present).
- **AOC Forms Subcommittee:** OJD has worked to ensure that the rights of juveniles are protected by precise forms that correctly interpret the procedures of the Juvenile Code. (2006-Present).
- **NCBA Juvenile Justice and Children's Right Section:** As council member, OJD has performed several functions in this organization, including assisting with organizing training, writing for the newsletter, helping draft resolutions, presenting at trainings, and advocating for children's rights. (2006-Present).
- **Action for Children:** OJD has worked with this children's advocacy group addressing such juvenile justice issues as shackling, protection of confidentiality, and the age of jurisdiction in delinquency court. OJD also presented at forums, brainstormed strategies, and assisted in drafting information papers. (2006-Present).
- **Youth Accountability Task Force:** The Juvenile Defender was appointed to the Task Force to develop an implementation plan for raising the age of juvenile jurisdiction, and the report was released in 2011. As a member of the Task Force, the Juvenile Defender also served on the legal workshop and chaired a subcommittee reviewing the length of jurisdiction. (2009-Present).
- **AOC:** OJD has worked with AOC on several committees, including forms, dual jurisdiction, family court, and JWisE (see below). OJD also frequently interacts with AOC on legal or logistical issues involving juvenile justice.

- **JWise Committee:** OJD worked with AOC on completing an initial phase of the re-development of the JWise database as it relates to delinquency court. This phase included reclassifying events in the database to document the process of juvenile cases. The changes were implemented in June 2010. OJD also assisted with IDS' request for access to juvenile data. Currently, the office is continuing to serve on the JWise Committee and related subcommittees to address issues as needed. (2007-Present).
- **NCAJ Juvenile Defense Section:** OJD helped develop the stand-alone Juvenile Defense Section of NCAJ to address the needs of the juvenile defense community. As part of the collaboration, OJD and NCAJ have worked to promote juvenile justice reform and other legislation to improve juvenile justice; to co-edit a quarterly juvenile defense e-newsletter; and to pursue juvenile delinquency law as a board-certified specialty of law. (2006-Present).
- **NC State Bar:** OJD has worked closely with the North Carolina State Bar on the creation of the juvenile delinquency subspecialty of criminal law. The Supreme Court of North Carolina approved the rules of the subspecialty in 2011. The Juvenile Defender served on the sub-specialty committee that developed guidelines and an exam. The first class of specialists will be recognized officially in April 2013. (2009-Present).
- **School Discipline and Special Education Attorneys:** OJD created a school discipline and special education attorney database to serve as a resource for juvenile defense attorneys. These attorneys provide representation for students who are facing school disciplinary issues or who have disabilities and who either get special education services or should be receiving special education services. (2009).
- **Coalition to Prevent Child Sexual Abuse:** OJD worked with the Coalition by offering technical support and assistance regarding offender treatment and the efficacy of the Adam Walsh Act/Sex Offender Registration Notification Act. (2011-Present).

Liaisons with National and Regional Justice Groups:

- **National Juvenile Defender Center (NJDC):** The North Carolina assessment of access to counsel and the quality of representation in delinquency proceedings was completed in October 2003 by the American Bar Association Juvenile Justice Center, and the South Juvenile Defender Center (SJDC), in collaboration with the NJDC and the IDS. Since the inception of the office, NJDC and the OJD have collaborated on juvenile justice policy issues, training objectives, and mutual objectives. The Juvenile Defender assisted in assessing the quality of juvenile defense in other states, including South Carolina, Illinois, West Virginia, Mississippi, and Colorado. The Juvenile Defender has also presented at several NJDC Leadership Summits. As Director of SJDC (see below), the Juvenile Defender also sits on the NJDC National Advisory Board. (2003-Present).
- **Southern Juvenile Defender Center:** From 2005 to 2010, the Juvenile Defender served as a member of the advisory committee of SJDC. In mid 2010, the Juvenile Defender was

selected by NJDC to become the director of SJDC. SJDC currently offers technical assistance and resources to juvenile defenders in seven southern states (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana). The first tasks undertaken as director included reorganizing the advisory committee from the various states, serving as caucus leader and national advisory board member at the Juvenile Defender Leadership Summit, beginning to gather information about and to visit the states in the region, developing short and long-range plans for the Center, and offering listservs to each state. Additionally, as director, the Juvenile Defender visited the seven states and met with local partners, with future visits on an as-needed basis. During some of the visits, the Juvenile Defender presented on juvenile justice issues (e.g., SJDC Summit in Alabama; Georgia Youth Law Conference; Barry University Juvenile Justice Center in Florida; Louisiana State Defender Training; and Mississippi Youth Court Conference. (2005-Present).

Recommendation: Identify the attorneys who are representing juveniles in delinquency proceedings throughout the State, and develop ways to connect and support those attorneys through listservs and other means.

District Site Visits:

OJD is committed to visiting juvenile court in each county in North Carolina and, thus far, has visited three-quarters of the counties. During the visits, OJD observed court, spoke with court officials, and made recommendations to IDS as needed to improve the quality of juvenile defense representation. To facilitate district site visits, a district protocol was created in 2005 to ensure that the same steps in the process were followed for each district. The protocol involved using a questionnaire to record information during court as well as during interviews and/or discussions with defense counsel and court officials. After the visit, information is compiled to be utilized if needed at a future time, and any identified materials or training needs are provided and implemented, respectively. In some cases, following a district site visit, contracts have been entered into to address the lack of defenders and/or to improve the quality of representation. (2005-Present).

OJD Listserv:

With the help of IDS staff, a listserv was created to allow juvenile defense counsel to discuss case problems, systemic issues, and other relevant topics quickly and efficiently. Using prior indigent defense lists as a starting point, OJD identified approximately 782 attorneys, with over half (351) of those attorneys responding to a brief survey. Currently, there are 265 subscribers. (2005-Present).

OJD Roster of Juvenile Defenders:

OJD developed and issued a brief survey to 800 known juvenile defense counsel, with over half of the attorneys responding to the survey. Periodically the office updates the list by contacting the juvenile clerks across the state, and currently, there are a total number of 692 juvenile defenders on the roster. (2005-Present).

Recommendation: Evaluate the existing systems and practices, and the current quality of representation, in various areas of the State through site visits, courtroom observations, and other means. Identify best practices and programs that provide effective quality representation for juveniles. Consult with other jurisdictions as needed.

Policy Development:

After conversations in the field with various juvenile justice stakeholders, and research of other jurisdictions, an Advisory Board, created to assist the Juvenile Defender in focusing the goals and tasks of the office, considered several drafts of a statement on the role of defense counsel in delinquency proceedings. The purpose of the statement was to create a rule or guiding principle that would not only help focus juvenile defense counsel, but also set the foundation for training, performance guidelines, and other initiatives. A final draft of the statement was presented to and approved by the IDS Commission. Thereafter, OJD worked with committees to develop model qualification standards for practice in delinquency court and performance guidelines for issues that might arise at each stage of a delinquency proceeding. The purpose of the guidelines was to identify issues that might arise at each stage of a delinquency proceeding and to recommend effective approaches to resolving those issues. The goal was that the guidelines serve as a training tool and resource for new and experienced juvenile defense attorneys, as well as a tool for potential systemic reform in some areas. (2005-2007).

District Site Visits and Development of Contracts:

Thus far, OJD has visited three-quarters of the counties in North Carolina in an effort to improve the quality of juvenile defense representation. Following a district site visit or in other cases where a need was identified, OJD recommended that IDS enter into contracts with juvenile defense counsel to strengthen local juvenile defense representation. Currently there are contracts in sixteen counties in the state. (2007-Present).

Post Disposition Representation/Youth Development Center Project:

In 2008, in an effort to determine whether there might be a need for committed juveniles to access legal counsel post-disposition, OJD reviewed 147 juvenile commitments (from 2007) from 11 counties in nine districts. Key findings revealed that two out of three cases contained at least one error. 16.4% of the juveniles' files contained correctible errors. OJD also predicted that based on the data, the true error rate could be as high as 43.8%. As a result of the initial findings of the project, the office worked with court officials to revise and draft new court forms; to recommend court and legal practice training and reform; and to conduct research on sections of the Juvenile Code governing commitment to determine how the Code needs to be revised to reduce illegal commitments and how best to go about providing access to counsel post-disposition. In 2009, OJD performed a follow-up review in collaboration with the University of North Carolina Juvenile Justice Clinic to review commitments. Key findings from the review revealed that 27.1% of the files contained correctible errors.

In 2010, OJD and North Carolina Prisoner Legal Services (NCPLS) began discussing the issues raised by the reviews. Thereafter, NCPLS sought and received a grant from Z. Smith Reynolds to address commitment issues and conditions of confinement through a project titled Incarcerated Youth Advocacy Project (IYAP). The purpose of IYAP is to provide post-disposition representation addressing commitments and conditions of confinement. Throughout 2011, OJD has worked with IYAP to help identify juveniles in need of services, facilitate communications with DJJ and other parties, and provide any technical support as needed. During this time, OJD also assisted Legal Aid with its Juvenile Re-entry Advocacy Project. The project works with juveniles committed to a YDC or placed in long-term facilities who are returning to the community with special education or mental health needs. OJD has assisted with facilitating communications with DJJ and other parties, and providing assistance as requested.

(2006-Present).

Legal Aid Collaboration/Vance County Project:

OJD and Advocates for Children’s Services began meeting in 2009 in an effort to provide a “holistic model” continuum of legal services for children who have special education needs and/or school disciplinary issues and are petitioned to juvenile court. Following brainstorming sessions, Legal Aid placed an attorney on the delinquency roster in Vance County to accept cases arising out of school incidents. The goal was to determine whether this attorney, who specialized in education rights issues, could influence better outcomes for juveniles by utilizing his skills in both delinquency and school-related matters. OJD provided consultation assistance to the attorney as needed. Unfortunately, the project ended because the Legal Aid attorney was removed from the list. Before an appeal could be made to the Vance County office, the office closed due to budgetary constraints. (2009-2011).

Appeals Review:

OJD, primarily through interns, embarked on a research project reviewing delinquency appellate decisions from 2002 through 2009. The purpose of the study was to determine why the appellate process is not being fully utilized to review delinquency cases. Indeed, the appellate courts only issue about 40 decisions annually out of the thousands of cases heard in the trial courts. Issues considered were training topics, practical barriers, and any legislative or rule reform that might be necessary. Data gathered included jurisdiction of the appeal, length of the appeal process, and issues raised. OJD also surveyed trial attorneys requesting information related to why appeals were taken.

The office also recently researched the issue of expediting appeals. Currently, it takes about 16 months for an appeal to be completed, but only 12 months for a juvenile to complete probation or be released from a YDC. The office has spoken with in- and out-of-state experts about the possibility of expediting appeals. OJD is also considering pursuing alternate methods of expedited review, such as motions to reconsider and extraordinary writs. (2009-Present).

Guides Addressing Special Populations of Juveniles:

OJD has developed a series of guides for attorneys representing special populations of youth. So far, OJD has published guides on Addressing Disproportionate Minority Contact (DMC) in Juvenile Court and Representing Lesbian, Gay, Bisexual, Transgender, Queer, or Questioning (LGBTQ) Youth, Hispanic/Latino youth, and girls in the juvenile justice system. In the future, OJD plans to release guides on Native American youth and youth of poverty. (2011-Present).

Recommendation: Assess the existing data infrastructure for juvenile delinquency cases and identify ways to enhance data collection. In conjunction with other groups, such as DJJ and the General Assembly, explore ways to make more data and resources available to juvenile defense practitioners.

JWise Participation and Consultation:

OJD has worked with the AOC on redevelopment of the JWise database as it relates to delinquency court. OJD worked on issues such as data to be collected, confidentiality issues, and creation of court calendars. OJD has also assisted with access to juvenile data. This phase included reclassifying events in the database to document accurately the process of juvenile cases, and changes have been implemented. The office continues to serve on this Committee and to assist with juvenile delinquency information as needed. (2007-Present).

Fee Application Form:

OJD assisted IDS staff in rewriting the fee application form for juvenile delinquency cases. The form was crafted in an attempt to capture more data regarding delinquency representation. (2009-2010).

Recommendation: Identify training needs and existing groups that might meet those needs. In conjunction with other groups like the School of Government (SOG), formulate a long-term training plan.

Via survey and interviews, OJD and SOG established the current training plan: an annual one-day Juvenile Defender conference on general and specific topics and a biennial three-day new juvenile training for defenders with two years or less experience. OJD has also presented at various other trainings in the state.

Recommendation: Evaluate the need for expert assistance in juvenile cases and consider developing procedures to govern the appointment of experts in those fields.

Expert Database:

OJD created an expert database to serve as a resource for juvenile defense attorneys. OJD surveyed recommended experts and developed the database based on specialty, background, and geographic location. Experts are available to evaluate/assess juveniles and to testify during trials when necessary. OJD recommends appropriate experts upon request from juvenile defenders. (2009).

Recommendation: Develop and maintain a clearinghouse of materials on North Carolina juvenile law and practice.

Juvenile Justice Library:

OJD maintains a clearinghouse of case law; recent legislation; training and reference materials, including practice and training manuals; motions and forms; position papers; studies; and other juvenile justice related materials. OJD is constantly updating its library of written and electronic materials from state, regional, and national sources. (2005-Present).

Recommendation: Report regularly on findings and initiatives to the IDS Commission. Prepare materials and reports about juvenile defense issues as needed for the General Assembly.

Commission Updates:

OJD reports to the IDS Commission at least annually, and three policy initiatives have so far been approved—attorney role statement, model qualification standards, and YDC Project.

Since 2010, quarterly updates have been provided to the Juvenile Committee. OJD plans to provide quarterly updates to the full Commission as well in 2012. (2006-Present).

Reports to the General Assembly:

The office has been requested by General Assembly members and staff to answer questions or to present to committees and commissions on juvenile defense and juvenile justice issues. On specific topics such as the shackling of juveniles in court, raising the age of juvenile jurisdiction, and accessing juvenile records as it relates to confidentiality, OJD has acted as a resource for individual legislators. Additionally, the first YDC Project Report was delivered to several members of the General Assembly (2009-2011).

Youth Accountability Planning Task Force:

The General Assembly created the Youth Accountability Planning Task Force, a group of juvenile justice and other stakeholders to develop an implementation plan for raising the juvenile jurisdiction age from 16 to 18. The main issues involved were what laws should be changed or added to incorporate this new population, what services needed to be in place to effectively serve the new population, and how much would the transition and ultimate change cost or save the state. The full Task Force met every other month to discuss how the change will affect some of the core areas of juvenile justice (including mental health, education, and DJJ), and the work groups met as needed to provide the Task Force with the recommendations for the final report. The Juvenile Defender served on the Task Force, and served as part of the planning committee. After meeting as required, the Task Force, along with accompanying work groups, met and provided a report to the General Assembly. (2011).

Recommendation: In conjunction with the IDS Commission, develop and implement uniform qualification standards for juvenile defense attorneys.

Qualification Standards:

In June 2006, the IDS Commission approved model qualification standards for practice in juvenile delinquency court. The standards require knowledge, training and experience necessary for effective juvenile defense practice. To date, all but two of the public defender jurisdictions have adopted the standards. Following dissemination and adoption, the office sent a survey to the public defender offices to evaluate the impact of the standards on the availability and quality of counsel, with the results being positive. (2005-2008).

Recommendation: Work with other groups such as SOG to develop a handbook or manual that, among other things, includes materials on the nuts and bolts of juvenile defense, checklists, and sample forms and motions. Work with IDS to publish the manual in hard copy and by posting on the IDS website.

Juvenile Defender Manual:

OJD worked with SOG to develop a practice manual for juvenile defense counsel, which was published in 2008. The Manual included an overview of statutory law, practice suggestions, and model forms and motions. Specific topics included in the manual were as follows: an overview of juvenile delinquency proceedings; rights and protections afforded to juveniles; juvenile court jurisdiction and parties to juvenile proceedings; communications with juvenile clients; petitions and summons; capacity to proceed; custody hearings; probable cause and

transfer hearings; discovery; motions to suppress; adjudicatory hearings; disposition hearings; probation; commitment to DJJ; appeals; and expunction of juvenile records. (2009-Present).

Recommendation: In conjunction with the IDS Commission, develop and implement specialized performance guidelines for juvenile defense attorneys that address, among other things, the proper role for juvenile defense attorneys at each stage in the delinquency process.

Role of Defense Counsel:

The role of defense counsel statement was developed by OJD and the Juvenile Defender Advisory Board and has been distributed to all district court judges and chief court counselors in an effort to promote “expressed interest” advocacy in juvenile defense. OJD has also presented on various juvenile justice topics to law schools and undergraduate classes, and participated on several panels at seminars discussing juvenile defense and other juvenile justice topics. (2005-Present).

Performance Guidelines:

Draft guidelines were sent to defense counsel, district attorneys, judges, and state DJJ administration for comment. After review of the comments and editing, the final draft was approved by the IDS Commission in December 2007. The guidelines followed the role of defense counsel statement and provided best practices for juvenile defense counsel at every stage of delinquency proceedings. The guidelines identify issues that arise at each procedural stage and recommend effective approaches to resolving those issues. The guidelines were disseminated statewide and made available on both the IDS and OJD websites. (2006-2008).

Recommendation: Assess the desirability, feasibility, and cost-effectiveness of forming specialized juvenile units in existing public defender offices, as well as creating regional juvenile defender resource centers, and prepare recommendations for the IDS Commission and General Assembly.

Regional Juvenile Defender Research:

The OJD developed a regional juvenile defender system and proposed it to the IDS director in 2005 as a possible model for the future. The office also worked with several public defender offices in determining the efficacy of juvenile defense units and assisted in training the new defenders. The office also plans to assist IDS during the Request for Proposal process. (2005-Present).

Recommendation: Establish in each judicial district a network of experienced juvenile defense attorneys who can serve as mentors for new attorneys handling delinquency cases.

Juvenile Defense Contracts:

During district visits, OJD attempts to identify the strongest defenders in each jurisdiction, with the hope of establishing such a network of defenders in the future. Additionally, with the implementation of juvenile defense contracts, OJD suggested that contractors assist in monitoring and helping other juvenile defense counsel in their counties as deemed necessary. It appears that contractors have taken a leadership role in their communities and assist new defenders as needed. (2008-Present).

Recommendation: Evaluate the existing policies and procedures governing the use of interpreters in juvenile cases and work with other groups to make changes as needed.

Special Population Guides:

OJD drafted a series of guides for defense counsel representing “special populations” of youth. One of the guides provided practice tips for defense counsel representing Hispanic/Latino Youth, and contained a section with tips on securing an interpreter for court proceedings. (2011).

Recommendation: Identify feasible ways to promote cultural change in juvenile court, and work with other groups to develop and conduct cross-training programs with other actors in the juvenile justice system.

Role of Defense Counsel:

The role of defense counsel statement was distributed to all district court judges and chief court counselors in an effort to promote “expressed interest” advocacy in juvenile defense. OJD has also presented on various juvenile justice topics to law schools and undergraduate classes, participated on several panels at seminars discussing juvenile defense and other juvenile justice topics, and continues to do so as requested (2007-Present).

Training Assistance:

OJD has worked with the SOG to develop program content and identify faculty for several conferences and seminars. Outlined below are presentations that specifically addressed subject matters identified by the Juvenile Committee as an educational area of interest.

The Proper Role of Juvenile Defenders at Each Stage in the Delinquency Process.

- Ethical Issues in Juvenile Court, by Lawrence J. Fine (2005 Annual Juvenile Defender Conference)
- Role of Defense Counsel, by Phillip J. Penn (2006 Regional Juvenile Defender Workshops)
- The Right to Counsel: Ethics and the Scope of Your Representation, by Eric J. Zogry (2007 Annual Juvenile Defender Conference)
- Ethics and the Role of Counsel in Delinquency Proceedings, by Mary Ann Scali (2008 New Juvenile Defender Program)
- Role of Defense Counsel in Delinquency Proceedings (2009 Annual Juvenile Defender Conference)

The Nuts and Bolts of Juvenile Delinquency Defense and Practical Skills for Juvenile Trial Lawyers.

- Introduction to Juvenile Court, by Janet Mason (2005 Annual Juvenile Defender Conference)
- Motions Practice, by Tamar Birckhead (2006 Regional Juvenile Defender Workshops)
- Introduction: SROs, Offenses, and Major Cases, by Eric J. Zogry (2006 Annual Juvenile Defender Conference)
- Theory of Defense, by John Rubin (2006 Regional Juvenile Defender Workshops)

- Motions Practice – Sample Motions, by Tamar Birckhead (2007 New Juvenile Defender Program)
- Language of Juvenile Court, by Janet Mason (2008 New Juvenile Defender Program)
- Juvenile Court Overview, by Janet Mason (2008 New Juvenile Defender Program)
- Stages of Juvenile Proceedings, by Janet Mason (2008 New Juvenile Defender Program)
- The Nuts and Bolts of Probable Cause and Transfer Hearings, by Eric Zogry (2008 Annual Juvenile Defender Conference)
- New Defenders Outline, by Janet Mason (2010 New Juvenile Defender Program)
- What’s Different About Juvenile Court, by Eric J. Zogry (2012 New Juvenile Defender Program)
- Overview of Juvenile Delinquency Proceedings, by Janet Mason (2012 New Juvenile Defender Program)

Juvenile Court Procedures.

- Probation Violations and Motions for Review, by Heather Hiner (2005 Annual Juvenile Defender Conference)
- Juvenile Court Post Trial Hearings, by Mary Wilson (2009 Juvenile Defender Conference)
- Probation Violations, by Mary Wilson (2009 Juvenile Defender Conference)
- Evidence Blocking, by John Rubin (2012 New Juvenile Defender Program)

Client Interviewing and Counseling Techniques.

- Interviewing the Child-Client, by Valerie Pearce (2007 Annual Juvenile Defender Conference)
- Talking to Teens in the Justice System: Strategies for Interviewing Adolescent Defendant, Witness and Victims, edited by Lourdes M. Rosado, (2007 New Juvenile Defender Program)
- Communicating with Child and Adolescent Clients, Witnesses and Victims, by Tamar Birckhead (2010 New Juvenile Defender Program)
- Interview Sheet of Juvenile Client, by C. Renee Jarrett (2012 New Juvenile Defender Program)
- Talking to Kids, by Frances Castillo (2012 Annual Juvenile Defender Conference)

Child and Adolescent Development, including Mental Health and Educational Disabilities.

- Developmental Framework, by Simmie Baer (2011 Annual Juvenile Defender Conference)
- Developmental Framework for Miranda Issues, by Simmie Baer (2011 Annual Juvenile Defender Conference)

Juvenile Addiction, Mental Retardation, and Mental Illness.

- See Juvenile Competency, Culpability, and Maturity below

Juvenile Competency, Culpability, and Maturity.

- Evaluating the Case for Capacity/Motion to Suppress, by Valerie Pearce (2007 Annual Juvenile Defender Conference)
- Practical Tips for Attorneys on Using Capacity, by Valerie Pearce (2007 Annual Juvenile Defender Conference)
- The Right Against Self Incrimination: Challenging Confessions on the Basis of Capacity, by Dr. Cindy Cottle, Ph.D. (2007 Annual Juvenile Defender Conference)
- Neuropsychological Factors Affecting Decision-Making and Culpability in Juvenile Offenders, by Dr. Jack Spector, Ph.D., ABPP (CN), Clinical Neuropsychologist (2009 Annual Juvenile Defender Conference)
- Kids Are Different (Adolescent Brain Development), by Antoinette Kavanaugh, (2012 New Juvenile Defender Program)
- Adolescent Brain Development: The Science, by Dr. Cindy Cottle, Ph.D. (2012 Annual Juvenile Defender Conference)
- Assessment 101, by Dr. Katrina Kuzyszyn-Jones, Psy.D. (2012 Annual Juvenile Defender Conference)
- Litigating in the Age of *J.D.B.*, *Graham* and *Miller*, by Jessica Feierman (2012 Annual Juvenile Defender Conference)

Investigative Techniques and Resources.

- School Investigations – Sample Motions, by Mark Trustin (2006 Annual Juvenile Defender Conference)
- The Right to Confrontation: Cross-Examination of Child Victims in Sex Offense Cases, by Maitri “Mike” Klinkosum (2007 Annual Juvenile Defender Conference)
- Electronic Evidence, by Allyson Haynes (2010 Juvenile Defender Conference)
- Discovery, by Mary Wilson (2010 Annual Juvenile Defender Conference)
- School-Based Searches and Interrogations, by Whitney Fairbanks and Frances Castillo (2010 Annual Juvenile Defender Conference)
- Searches, Seizures, and Interrogations: Fighting the Law and Winning, by Barbara Fedders (2010 New Juvenile Defender Program)
- Information Gathering, by Erwin Byrd and Jason Langberg (2011 Annual Juvenile Defender Conference)
- Information Gathering and Sharing, by Erwin Byrd and Jason Langberg (2011 Annual Juvenile Defender Conference)
- Developing a Pre-Adjudication Investigation and Discovery Plan, by Tobie Smith (2012 New Juvenile Defender Program)

Preparing Effective Social History and Mitigation Materials.

- The Dual Jurisdiction Child, by Rick Croutharmel (2009 Annual Review Conference)
- A Fine Mess: Dual Jurisdiction Cases, by Meader Harriss (2011 Annual Juvenile Defender Conference)

Effective Negotiations.

- Putting the Bargain Back in Plea-Bargaining, by Kevin Jones (2008 Annual Juvenile Defender Conference)

The Appropriate Use of Community Resources and Diversion Programs.

- Juvenile Diversion Alternatives, by Peter Wood (2006 Annual Juvenile Defender Conference)

Cultural Competency, Including Cultural Diversity and Barriers to Effective Representation.

- Disproportionate Minority Contact: A Panel Discussion, Facilitated by Eric J. Zogry (2011 Annual Juvenile Defender Conference)

Disproportionate Minority Representation in the Juvenile Justice System.

- Disproportionate Minority Contact: A Panel Discussion, Facilitated by Eric J. Zogry (2011 Annual Juvenile Defender Conference)

The Significance of Protections under Miranda and N.C.G.S. 7B-2101, and the Admissibility of Out-of-Court Statements and Confessions.

- Search, Seizure and Interrogation - Sample Motions, by Caitlin Fenhagen (2006 Annual Juvenile Defender Conference)
- Preparing and Litigating Suppression Motions in School Cases, by Caitlin Fenhagen (2006 Annual Juvenile Defender Conference)
- Evaluating the Case for Capacity/Motion to Suppress, by Valerie Pearce (2007 Annual Juvenile Defender Conference)
- Practical Tips for Attorneys on Using Capacity, by Valerie Pearce (2007 Annual Juvenile Defender Conference)
- Motion to Suppress Seized Evidence, by Matt Wunsche (2007 New Juvenile Defender Program)
- The Right Against Self Incrimination: Challenging Confessions on the Basis of Capacity, by Dr. Cindy Cottle, Ph.D. (2007 Annual Juvenile Defender Conference)
- Juvenile Search, Seizure and Interrogation Law, by Matt Wunsche (2008 New Juvenile Defender Program)
- Interrogation, by Randee Waldman (2012 New Juvenile Defender Program)
- Search and Seizure and Interrogation in Schools, by Randee Waldman (2012 New Juvenile Defender Program)

Effective Representation at Transfer Hearings.

- Mandatory Waiver of Juvenile Court Constitutional Argument, by Eric J. Zogry (2008 Annual Juvenile Defender Conference)
- The Nuts and Bolts of Probable Cause and Transfer Hearings, by Eric J. Zogry (2008 Annual Juvenile Defender Conference)
- Preparing for the Transfer Hearing, by John Cox (2008 Annual Juvenile Defender Conference)
- The Transfer Hearing: Working with Experts, by Dr. Cindy Cottle, Ph.D. (2008 Annual Juvenile Defender Conference)
- Transfer and the “Adultification” of Juvenile Proceedings, by Jessica Feierman (2012 Annual Juvenile Defender Conference)

Special Education and Advocacy.

- Special Education and Delinquency: Advocacy Techniques, by Eric J. Zogry (2006 Annual Juvenile Defender Conference)
- Special Education and Delinquency: Advocacy Techniques Checklist, by Eric J. Zogry (2006 Annual Juvenile Defender Conference)
- Special Education and Delinquency: Overview, by Christine O. Trottier (2006 Annual Juvenile Defender Conference)
- Special Education and Disability Rights, by Barbara Fedders and Jason Landberg (2012 Annual Juvenile Defender Conference)

North Carolina’s Statutory Graduated Sentencing Scheme.

- Counting Points Summary, by Kathy Dudley (2006 Regional Juvenile Defender Workshops)
- Disposition Charts (2007 New Juvenile Defender Program) Prior Record Form (2007 New Juvenile Defender Program)
- Scoring Prior Record Form (2007 New Juvenile Defender Program)
- Calculating Your Client’s Prior Delinquency History Level, by Whitney Fairbanks (2012 New Juvenile Defender Program)

Effective Dispositional, Post-Dispositional, and Appellate Advocacy.

- Determining Dispositional Options for Delinquent Juveniles, by Janet Mason and Eric J. Zogry (2006 Regional Juvenile Defender Workshops)
- Dispositions: Options for Your Client, by Eric J. Zogry (2008 New Juvenile Defender Program)
- Developing a Disposition Plan, by C. Renee Jarrett and Melanie McElroye (2009 Juvenile Defender Conference)
- Health Insurance Check List for Court Counselors by NC Health Check, by Sarah Somers (2009 Juvenile Defender Conference)

- Mental Health Service Definitions, by Sarah Somers (2009 Juvenile Defender Conference)
- NC Medicaid's Early and Periodic Screening, Diagnosis and Treatment Program: Health Check, by Sarah Somers (2009 Juvenile Defender Conference)
- North Carolina Medicaid Resources, by Sarah Somers (2009 Juvenile Defender Conference)
- Putting Medicaid to Work for At-Risk and Delinquent Youth, by Sarah Somers (2009 Juvenile Defender Conference)
- Sample Disposition Letter, by Renee Jarrett (2010 New Juvenile Defender Program)
- Disposition Advocacy, by Renee Jarrett (2010 New Juvenile Defender Program)
- Tips for Dynamic Dispositional Advocacy, by Renee Jarrett (2010 New Juvenile Defender Program)
- Making the Most of It: Disposition Advocacy in Delinquency Proceedings, by Paddison Hudspeth (2011 Annual Juvenile Defender Conference)
- The State of Things: YDC Project Report, by Eric Zogry and Brandi Clemmons (2009 Juvenile Defender Conference)
- Post Disposition and Probation Violations, by Mary Wilson (2012 New Juvenile Defender Program)
- Preserving the Record and Making Objections at Trial: A Win-Win Proposition for Client and Lawyer, by Ira Mickenberg (2007 Annual Juvenile Defender Conference)
- Preserving the Record on Appeal in Delinquency Cases, by S. Hannah Demeritt (2010 Juvenile Defender Conference)
- Preserving the Record on Appeal, by Danielle M. Carman, Anne M. Gomez, and Julie R. Lewis (2007 Annual Juvenile Defender Conference)

Creating a Record for Appeal and Preserving Appellate Issues.

- Preserving the Record and Making Objections at Trial: A Win-Win Proposition for Client and Lawyer, by Ira Mickenberg (2007 Annual Juvenile Defender Conference)
- Preserving the Record on Appeal in Delinquency Cases, by S. Hannah Demeritt (2010 Juvenile Defender Conference)
- Preserving the Record on Appeal, by Danielle M. Carman, Anne M. Gomez, and Julie R. Lewis (2007 Annual Juvenile Defender Conference)

Ways to Challenge Inappropriate Uses of Secure Detention.

- Secure Custody, by Robin Henderson (2005 Annual Juvenile Defender Conference)
- Model Detention Interview Form Draft, by Midwest Juvenile Defender Center and Elizabeth Kooy (2007 New Juvenile Defender Program)
- The Use and Abuse of Juvenile Detention (2007 New Juvenile Defender Program)

- Detention Advocacy, by Eric J. Zogry (2010 New Juvenile Defender Program)
- Detention Advocacy, by Barbara Fedders (2012 New Juvenile Defender Program)

Potential Collateral Consequences of Delinquency Adjudication.

- Juvenile Adjudications, Selected Collateral Consequences and Expungement, by Brandi Clemmons (2010 Juvenile Defender Conference)
- SB 920 & SB 984 Fact Sheet: How My Juvenile Record May Affect Me If I Am Charged as an Adult, by Brandi Clemmons (2010 Juvenile Defender Conference)
- The Collateral Consequences of Adjudication, by Lisa Campbell (2011 Annual Juvenile Defender Conference)

Ethical Considerations in Delinquency Proceedings.

- Ethical Issues in Juvenile Court, by Lawrence J. Fine (2005 Annual Juvenile Defender Conference)
- Role of Defense Counsel, by Phillip J. Penn (2006 Regional Juvenile Defender Workshops)
- Ethics and the Role of Counsel in Delinquency Proceedings, by Mary Ann Scali (2008 New Juvenile Defender Program)
- The Right to Counsel: Ethics and the Scope of Your Representation, by Eric J. Zogry (2007 Annual Juvenile Defender Conference)
- Ethical Issues in Transfer Hearings, by Valerie Pearce (2008 Annual Juvenile Defender Conference)
- Kids Are Different, Simmie Baer (2011 Annual Juvenile Defender Conference)
- Fairness Freaks: An Introduction to Procedural Justice, by Tamar Birckhead (2012 Annual Juvenile Defender Conference)

APPENDIX B:
RECOMMENDATIONS OF THE JUVENILE COMMITTEE NOT YET ADDRESSED BY
THE OFFICE OF THE JUVENILE DEFENDER

APPENDIX B: RECOMMENDATIONS OF THE JUVENILE COMMITTEE
NOT YET ADDRESSED BY THE OFFICE OF THE JUVENILE DEFENDER

Although 16 of the 20 recommendations made by the IDS Juvenile Committee have been addressed, four of the recommendations have not been addressed. Those recommendations include the following:

Recommendation: Develop and maintain lists of referral and diversion programs in each district. Develop contacts with dispositional resources around the State.

The number and volatility of the programs necessitates more resources to adequately keep up with frequent programming changes. In an effort to assist attorneys in identifying local resources, OJD is assessing the feasibility of establishing an on-going intern position to work with local Juvenile Crime Prevention Councils (JCPCs), court counselor offices, etc. to develop and update lists of referral and diversion programs.

Recommendation: Ways to encourage appropriate parental involvement in the delinquency process.

OJD is considering addressing this issue through either a series of essays or publications or a webinar.

Recommendation: In conjunction with the IDS Commission, develop caseload standards for juvenile defense attorneys that are appropriate to North Carolina.

OJD plans to implement any caseloads established by IDS and plans to begin researching this issue given the discussions regarding raising the age of juvenile jurisdiction.

Recommendation: Provide training on drafting court orders.

In the past, it has been OJD's position that attorneys should not be drafting orders. OJD plans to research this issue and determine if IDS has a position on attorneys drafting court orders.