Ensuring the 6th Amendment Right to Counsel in Juvenile Delinquency Court

110 years ago, Colorado was the second state in the nation to establish a separate juvenile court for children accused of misconduct that would be criminal if committed by an adult, in order to hold children accountable for their behavior though developmentally appropriate responses and treatment that both protects the public and assists the child in becoming a productive member of society.

Juvenile delinquency court is for 10 to 17 year old children accused of conduct that would be criminal if committed by an adult. The most common charge is theft, followed by assault, burglary, drugs, criminal mischief, trespass, and harassment. Over 80% of all juvenile court convictions are for non-violent offenses. Regardless of the case type, all children have a RIGHT to defense counsel under state and federal constitutions and by Colorado statute.

The Bill of Rights of the United States and Colorado Constitutions guarantee children due process of law, access to courts, and the right to counsel in juvenile delinquency court under the United States Supreme Court decision of In re Gault (1967), extending protections in Gideon v. Wainright (1963) to children.

Children in juvenile delinquency proceedings face direct consequences, such as secure confinement, shackling, placement outside of their family home in a residential or locked treatment center, and probation. The collateral consequences of a juvenile adjudication can have lasting detrimental effects on a child’s current and future ability to attend school, secure housing, obtain a job, obtain credit, or enroll in college, all of which hinder the ability to recover from a juvenile delinquency adjudication.

Defense counsel plays a critical role for children in juvenile court by protecting against unfairness, promoting accuracy in decision making, presenting alternatives to decision makers, helping children understand the court-proceedings and the consequences of decision making, and representing children’s expressed interests during the case.

Children are different from adults, and the representation of a child client requires specialized skills and training. Yet juvenile defense has not consistently been treated as a specialty practice. A report from and statewide disparities exist as to how and when children access counsel and the quality of representation children receive in delinquency proceedings.

Because children and families face barriers in accessing the courts and counsel, a significant percentage of children and families proceed without counsel, enter waivers of counsel without consultation with a lawyer, and children enter guilty pleas without a full advisement of the long term collateral consequences of juvenile adjudications.

COLORADO CAN DO BETTER. SUPPORT AN ITERIM COMMITTEE TO STUDY ACCESS TO JUSTICE AND COUNSEL FOR CHILDREN IN JUVENILE DELINQUENCY COURT.

<table>
<thead>
<tr>
<th>Children &amp; Families Going Pro Se in Colorado Juvenile Delinquency Court</th>
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<tbody>
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<td>Calendar Year Case Filed</td>
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<tr>
<td>-------------------------</td>
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<td>2012</td>
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75% of youth filed in juvenile delinquency court are initially detained in a secure facility.

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