

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

California Public Defenders Association Juvenile Defense Seminar
Monterey, California (January 24, 2009)
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In the Beginning, there was *In re Gault*

387 U.S. 1 (1967)

California children have had the statutory right to be represented by an appointed attorney in delinquency cases since the enactment of the Arnold-Kennick Juvenile Court Act, six years earlier, in 1961.

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At the time of the Governor's Special Study Commission on Juvenile Justice in 1959-1960, some judges supported the routine appointment of counsel, but others said:

- "It is not necessary. Those who are interested trust the court; those who are hostile bring an attorney."
- "No useful purposes would be served. It would create undue delay in most cases. I wouldn't advocate telling all clients."
- "I don't see any necessity for it because in 99% of the cases the youngster readily admits the allegations."
- "I never felt this was important. I don't want parents to feel their child would be better protected with an attorney."

A Study on the Administration of Juvenile Justice in California, for the Governor' Special Study Commission on Juvenile Justice, Part II, I.J. Shain and Walter R. Burkhart (1960), p. 12.

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Even after winning the right to represent children, our profession has faced serious challenges:

- Unequal access to training and support resources
- Inability to connect with one another for support and issue development
- Lack of clarity on standards for juvenile delinquency representation
- Structuring of our work that fails to meet our clients needs (education, post-disposition work)
- Compensation structuring in some places that is inadequate to the tasks we must perform
- Workloads that are too heavy to assure adequate representation
- Lack of career paths for juvenile defenders
- Exclusion from local and statewide policy discussions
- General lack of respect for or understanding of what we do with the public at large
- Even in professional organizations, being overlooked or viewed as a side issue

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Nonetheless, since the 1980's, we have enjoyed a series of notable achievements:

- CPDA Annual Juvenile Defense Seminar since the 1980s (two day seminar since 1992)
- L.A. County Public Defender Spring Training since 1984
- The Dog Book: A Practical Guide to Juvenile Delinquency Law since 1984
- Pacific Juvenile Defender Center, affiliate of National Juvenile Defender Center, since 1999
- Increasing presence of social workers, education, placement, and post-disposition specialists in defender offices in the new century
- Mobilization in relation to Youth Authority crisis beginning intensively around 2003
- Statewide list serve (CYACoalition) since 2004
- Statewide Fall Roundtable Training through PJDC and San Francisco P.D. since 2004
- Establishment of Loyola Center for Juvenile Law & Policy in 2004
- Special attention in State Bar Guidelines for Indigent Defense 2007
- Special attention in Judicial Council Delinquency Court Assessment 2008

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With these achievements has come the realization that we can have a strong juvenile defender community, and we can do a lot more.

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Fast Forward to 2007: Gault at 40



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In 2008, California was selected as one of 4 states nationally to participate in the MacArthur Juvenile Indigent Defense Action Network:

- Team led by Youth Law Center, with members from Pacific Juvenile Defender Center, L.A. County Public Defender, San Francisco Public Defender, Loyola Center for Juvenile Law & Policy, Center for Families Children & the Courts, and Human Rights Watch
- Multi-year project
- Work with MacArthur Models for Change and National Juvenile Defender Center
- First year devoted to building a statewide resource center

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First Year Goals Include:

- Outreach to every juvenile defense counsel in the state (no easy task) to connect them with PJDC
- Assessment of training and resource needs
- Launching of comprehensive PJDC web site with practice materials
- Organizational decisions about incorporation; affiliation
- Lay the groundwork for long term goals; e.g., assessment of workload, compensation; work with Judicial Council; training academy; practice standards and manuals; mentoring programs; litigation support

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Why is this Important?

- Juvenile defense attorneys have low status in criminal and juvenile courts.
- Public perceptions of juvenile clients as violent or unsympathetic leads to more punitive sanctions for children.
- Juvenile defense attorneys frequently have low status with the legal community and within their offices.
- Juvenile defense attorneys rarely take appeals. (PJDC amicus and NJDC support).
- Juvenile defense attorneys are confused as to what their proper role is in representing a juvenile client.
- Juvenile defense attorneys lack organizational and networking capabilities to address systemic problems in juvenile court.
- States are rarely held responsible for providing children with effective and zealous representation of counsel or lawful and humane treatment.

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Our JIDAN project will work to implement NJDC Ten Core Principles for Providing Quality Delinquency Representation:

1. Zealous Representation
2. Specialized Skill
3. Personnel and Resource parity
4. Expert and Ancillary Services
5. Supervision and Workload
6. Professional Accountability
7. Continuous Training
8. Right to Treatment
9. Educational Advocacy
10. Systematic Advocacy

Incompetent Youth In California Juvenile Justice

What's in it for defense counsel right now?

- Have access to practice materials, including sample motions and briefs, DJJ background materials, as well as case and legislative alerts
- Have access to PJDC juvenile delinquency amicus group
- Join PJDC (CYACoalition) list serve and you can talk to more than 200 juvenile defenders and advocates about cases, ideas, gripes, or whatever

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What You Can Do Right Now:

1. Fill out the survey and pass it to the aisle or put it in the box at the Conference desk.
2. Sign up for the PJDC defender list serve (CYACoalition) if you are not already on. Contact Jonathan Laba, Deputy Public Defender, Contra Costa County Public Defender's Office, 800 Ferry Street Martinez, CA 94553, telephone (925) 335-8081; jlaba@pd.cccounty.us.
3. Let us know how this project can be helpful to you.

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If You Have Questions or Want Further Information, Please Contact:

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