

Juvenile Defense Law School Clinics

Building Leaders, Client Capacity, and Innovation

ISSUE

Youth involved in delinquency proceedings are constitutionally entitled to have highly competent lawyers represent them at every critical stage of the case.¹ To provide this high-level representation, defense attorneys who work in juvenile court should receive specialized training: they should be familiar with the juvenile court process and the role of the juvenile defender, the unique needs and characteristics of child and adolescent clients, and standards and best practices for navigating the complexities of the juvenile court system. To date, too few attorneys are sufficiently trained in the specialized practice of juvenile defense, and there is a critical need to fill this gap and create a corps of excellence in the practice.

A lawyer's training and education begins in law school, yet there is a recognition that law schools need to provide more "skills training, experiential learning, and the development of practice related competencies."² Law school clinics are one way to address this acknowledged need for an increase in fundamental skills training and practical hands-on experience in law schools. Clinics that specialize in juvenile defense practice expose law students to the nuance and complexity of the juvenile justice system; train them to be skilled, thoughtful juvenile defense advocates who can forge meaningful relationships with their clients; teach juvenile defense-specific practice skills through observation of experienced clinical professors and hands-on experiences; and expose the strengths and weaknesses of the juvenile justice system first-hand.³ Students taking part in these clinics will gain the foundation to become not only zealous juvenile defenders but also leaders and reformers with the knowledge and motivation to address systemic flaws in juvenile defense and in the broader juvenile justice system.⁴

In addition to training future lawyers and leaders in the field, juvenile defense clinics expand client-serving capacity, both on their own and through partnerships. The ability of clinics to provide specialized legal services to an increased number of juvenile clients fulfills a particularly

urgent need in the current economic environment, when budget cuts, hiring freezes, and lay-offs have exacerbated the problems that many overtaxed juvenile defenders face. As a result of their resources and expertise, juvenile defense clinics are also uniquely positioned to develop specialized aspects of juvenile defense practice (*e.g.*, post-disposition representation) and to foster existing and new innovations in the field.

NATIONAL SNAPSHOT

There are 202 ABA-accredited law schools in the United States;⁵ of those 202 schools approximately 30 have clinical programs—and of those 30 clinical programs, only a handful provide opportunities to work on juvenile defense practice and/or policy issues. While many of the existing clinical programs have a longstanding tradition of providing sound training for students and highly specialized legal advice to their clients, the numbers alone make clear that law school clinical programs with a focus on juvenile defense should be expanded to many more schools across the country. Where programs already exist, there is always the possibility for further expansion, innovation, and partnership.

WORKING INNOVATIONS

A small number of law schools across the country have well-established juvenile defense clinics with a long history of providing students with specialized education and training in delinquency advocacy and in turn offering valuable client services, resources, and partnerships to the communities they serve. There are also new juvenile defense clinics—and new programs within preexisting clinics—that have broadened the scope of services offered and the number of students exposed to specialized training in the field. For example:

The Louisiana State University (LSU) Paul M. Herbert Law Center's Juvenile Defense Clinic

LSU's Juvenile Defense Clinic originated as a Juvenile Representation Workshop in 2003, and in 2009 a full juvenile clinical program was launched with the hope that it could serve as a model juvenile defense clinic and be replicated at law schools across the country.⁶ The clinical

program evolved after an 18-month period in which faculty reviewed books and articles on experiential learning and clinical pedagogy, conducted site visits to law school clinics across the country, and interviewed faculty at a range of schools beyond those visited.

The resulting juvenile defense clinical program is designed to teach students the skills, procedures, and substantive knowledge necessary to provide ethical, effective, and holistic representation to indigent youth at every stage of juvenile court. To this end, third-year law students are given intensive instruction in the substantive law, procedures, and concepts needed to defend youth in delinquency proceedings, as well as exploration of the policy issues involved in juvenile justice reform.

Though still burgeoning, LSU's Juvenile Defense Clinic has already had many notable successes including:

- The clinic set up a working collaboration with the East Baton Rouge Parish Public Defender's Office. Clinical teaching staff and the public defender review the office's docket, select cases for clinic representation, and approach the client and parent regarding clinic representation. If both agree, the court appoints the clinic for representation. The clinic benefits from an assistant public defender co-teaching as adjunct faculty, and the public defender's office has a reduced caseload as a result of the collaboration.
- Students participate in special projects, policy initiatives, and impact litigation relevant to juvenile justice reform. For example, the clinic filed a successful *amicus* brief in a case establishing that a juvenile in competency proceedings could not be waived to criminal court, an opinion that was later cited in other Louisiana appellate jurisdictions before the holding was statutorily superseded.
- Students drafted writs and appeals on novel and complex issues of law. Student attorneys filed appeals in their own cases and also assisted the public defender's office with writs and appeals on a number of topics, from Fourth and Fifth Amendment suppression issues to the transfer of juvenile clients to adult court.

The Juvenile Defense Clinic has also laid the foundation for a new cadre of juvenile lawyers in the field, with former students now holding positions at public defender offices and child advocacy organizations throughout Louisiana. For example, five clinic alumni are employed by the 15th Judicial District Court (JDC) Public Defender's Office in Lafayette, with two dedicated full-time to juvenile defense. Clinic alumni are also working with the Mental Health Advocacy System's Child Advocacy Program and are serving as public defenders in Baton Rouge, Lake Charles, New Orleans, and the 21st JDC in Tangipahoa Parish and surrounding parishes.

Rutgers School of Law: The Criminal and Youth Justice Clinic (Newark) & The Children's Justice Clinic (Camden)

The Post-Disposition Advocacy Project was launched in 2009 within the Criminal and Youth Justice Clinic⁷ in Newark and in the Children's Justice Clinic⁸ in Camden (both part of Rutgers School of Law) to provide post-dispositional legal advocacy to incarcerated youth. New Jersey does not require juvenile court to conduct post-dispositional review hearings, and a child's right to counsel ends with the filing of the first direct appeal. As a result, prior to the Post-Disposition Advocacy Project, New Jersey youth were incarcerated, often for multi-year terms, with no access to counsel, no monitoring or oversight of conditions, no provision of services, and no release planning and parole. Through a collaborative partnership with the New Jersey Office of the Public Defender (OPD), the Post-Disposition Advocacy Project has brought lawyers, law students, and social work students into New Jersey's juvenile facilities for the first time. Incarcerated juveniles who are public defender clients are referred to Rutgers' Law faculty and students, who visit the New Jersey facilities several times a week. They monitor conditions of confinement and the delivery of education, health, mental health, and drug treatment services; advise clients on a myriad of issues, including the institutional grievance procedure, isolation practices, and parole classification; advocate for clients before the Parole Board and in parole hearings; assist clients in bringing administrative appeals from disciplinary and other agency decisions; work with clients and their families on re-entry issues, including re-enrollment in school; and, when necessary, institute court actions on behalf of clients.

The Post-Disposition Advocacy Project has achieved remarkable success since its inception in 2009, including:

- In one appeal brought by Rutgers, *State in the Interest of JJ*, the New Jersey Appellate Division held that a regulation permitting the transfer of youth from the juvenile justice system to adult corrections without notice, counsel, or the right to a hearing violates due process and ordered that the client in question (who, had been in an adult prison for over ten months) be returned to juvenile custody.
- In *State in the Interest of AM*, a client held on a parole violation petition was released after the Rutgers clinic defended him in a revocation hearing. This was the first time in many years that a young person had been represented at a revocation hearing or had successfully challenged a violation petition.
- The Project has also introduced a new generation of law students to the critical need for highly skilled and passionate juvenile defenders, as well as the rich rewards of juvenile defense work.

The collaboration between OPD and the Rutgers clinics provides great value to students, clients, and the wider community and serves as another example of a model to be studied so that post-dispositional legal partnerships can be sustained and replicated in other jurisdictions across the country.

University of Maine School of Law – Juvenile Justice Clinic

The impetus to create the Juvenile Justice Clinic (JJC) evolved as a result of findings from the National Juvenile Defender Center's assessment of Maine's delinquency system,⁹ which documented, among other things, a lack of training for juvenile defenders in the state. The JJC, which receives referrals for delinquency clients from juvenile probation officers, attorneys, detention facility staff, and mental health professionals, teaches student attorneys to provide the highest quality representation for their clients in the delinquency system, while working for systemic change through policy advocacy. Students represent children charged with criminal activity in Maine's juvenile courts. Each semester, student attorneys learn the concepts of holistic representation and engage in zealous advocacy to protect their clients' due process rights while also working with their clients to address the underlying causes of the alleged conduct. The systemic challenges the students face in the trenches of delinquency court then form the foundation for the clinic's policy work.

The JJC has had many marked successes in the courtroom and beyond, including:

- The JJC successfully fought to eliminate the indiscriminate shackling of children in Maine's courts through a course of negotiation with the judicial branch and the litigation of motions challenging Maine's practice of keeping children in handcuffs and leg shackles during court hearings. Students are currently surveying courts throughout the state to make sure they are in compliance with the District Court Chief Judge's new policy.
 - Clinic students actively participated in fighting key legislative battles by helping research and draft Maine's new juvenile competency law (15 ME. REV. STAT. 3318-A), advocating to allow juvenile matters to be dismissed pursuant to a mediated agreement (15 ME. REV. STAT. 891), and allowing juveniles to benefit from deferred dispositions (15 ME. REV. STAT. 3311-B).
 - In order to help serve Portland's significant population of homeless youth, the JJC developed a relationship with Preble Street and Pine Tree Legal Assistance to create "Tuesdays at the Teen Center," through which JJC students provide legal advice every other Tuesday at Preble Street's Teen Center. Some young clients' issues are addressed with a quick consult, while other teenagers with more complex problems become full representation clients.
- The JJC sought to address disproportionate minority contact (DMC) issues Maine through a partnership with the Muskie School of Public Service, now in its seventh year. Students helped Muskie design and publish a comprehensive assessment¹⁰ defining DMC problems and potential solutions. The assessment, published in 2009, led to Maine hiring a statewide DMC coordinator. It also opened the door to the involvement of the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). JDAI took Maine on as a statewide site in 2010. JJC students continue to work toward further assessment, as well as the implementation of potential solutions to racial disparities in the Maine juvenile court process.

RECOMMENDATIONS FOR REFORM

Law school juvenile defense clinics offer an invaluable platform to foster new lawyers and leaders in the field of juvenile defense and to provide desperately needed defense services to an increased group of indigent youth involved in the juvenile delinquency system. Going forward, NJDC recommends that:

- Law school Deans and Clinical Professors lay the foundation for a new cadre of specialized, passionate juvenile defenders by starting where legal education starts: law school and the practical skills and experience that come with working in a clinic;
- Law school Deans and Clinical Professors replicate working juvenile defense clinical models in law schools across the country to advance and sustain the work;
- Law school Deans and Clinical Professors create and develop partnerships between public defender offices and law school juvenile defense clinical programs. For example, The Office of the Juvenile Defender in North Carolina is developing a partnership with all seven law schools in the state to implement a law school-juvenile defense pipeline to cultivate strong advocates and future leaders in the field and to link students to employment opportunities following graduation;
- State and local public defender offices encourage juvenile defense and other youth advocacy organizations to pursue non-traditional collaborations with law schools in order to increase access to and quality of representation for youth in delinquency proceedings and to engage juvenile justice reform; and
- State and local defender offices and regional and national defender advocacy organizations foster university and law school collaborations with defense organizations as a means of hosting and/or developing resource and training centers to promote specialization in the practice of juvenile defense representation.

CONCLUSION

Implementing these recommendations will expand client-serving capacity and law school partnership opportunities while offering new avenues for fundamental skills training, client exposure, and

hands-on experience to law students—a clear “win” for young clients, their communities, law schools, public defender offices, and law students. In addition, law school clinics play a vital role in promoting systemic reform.

¹ In *Re Gault*, 387 U.S. 1, 36 (1967) (noting that juveniles need “the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether [they have] a defense and to prepare and submit it” (footnote omitted)); *see also* NAT’L JUVENILE DEFENDER CTR. & NAT’L LEGAL AID & DEFENDER ASS’N, *TEN CORE PRINCIPLES FOR PROVIDING QUALITY DELINQUENCY REPRESENTATION THROUGH PUBLIC DEFENSE DELIVERY SYSTEMS* (2008) [hereinafter *TEN PRINCIPLES*]; NAT’L JUVENILE DEFENDER CTR., *NATIONAL JUVENILE DEFENSE STANDARDS* (2012) [hereinafter *NAT’L JUV. DEF. STDS.*].

² *See* AM. BAR ASS’N TASK FORCE ON THE FUTURE OF LEGAL EDUC., *Draft Report and Recommendations*, 2, 24 (2013), http://www.americanbar.org/content/dam/aba/images/news/PDF/draft_report_of_aba_task_force_september_2013.pdf (“Much of what the Task Force heard from recent graduates reflects a conviction that they received insufficient development of core competencies, particularly those relating to representation and service to clients, that make one an effective lawyer.”).

³ *See* Thomas F. Geraghty, *The Criminal / Juvenile Clinic as a Public Interest Law Office: Defense Clinics; The Best Way to Teach Justice*, 75 *MISS. L.J.* 699, 713-17 (2006).

⁴ *Id.* at 720 (“Clinical programs that focus on the representation of criminal defendants can help future leaders of the bench and bar to identify practices that in the future we must change.”).

⁵ *See ABA-Approved Law Schools*, AM. BAR ASS’N, http://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools.html (last visited Sept. 11, 2014).

⁶ The LSU Juvenile Defense Clinic was launched with the assistance of a Models for Change grant from the John D. and Catherine T. MacArthur Foundation.

⁷ The Criminal Youth and Justice Clinic at Rutgers School of Law grew out of the Urban Legal Clinic, one of the first law school clinical programs in the country. The mission of the Clinic is to provide legal representation to incarcerated youth and to adults in minor criminal, juvenile post-dispositional, parole, and actual innocence matters, and to engage in public policy advocacy regarding juvenile justice reform.

⁸ The Children’s Justice Clinic was established in 2007 with a mission to provide legal assistance to delinquent youth in Camden. Since its inception, the Children’s Justice Clinic has expanded to include representation of youth throughout the counties of southern New Jersey.

⁹ AM. BAR ASS’N JUVENILE JUSTICE CTR. ET AL., *MAINE: AN ASSESSMENT OF ACCESS TO COUNSEL AND QUALITY OF REPRESENTATION IN DELINQUENCY PROCEEDINGS* (2003).

¹⁰ BECKY NORÉUS ET AL., *UNIV. OF S. ME. MUSKIE SCH. OF PUBLIC SERV., DISPROPORTIONATE MINORITY CONTACT IN MAINE: DMC ASSESSMENT AND IDENTIFICATION* (December 2009).



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The National Juvenile Defender Center (NJDC) is a non-profit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC provides support to public defenders, appointed counsel, law school clinical programs, and non-profit law centers to ensure quality representation in urban, suburban, rural, and tribal areas. NJDC also offers a wide range of integrated services to juvenile defenders, including training, technical assistance, advocacy, networking, collaboration, capacity building, and coordination. To learn more about NJDC, please visit www.njdc.info. If there is a topic you would like NJDC to explore in an issue brief, please contact us by sending ideas to inquiries@njdc.info.