

STANDARDS OF JUSTICE

Louisiana's Juvenile Justice System

MAY 2005

To ensure for all Louisianans reliability and fairness in our criminal justice system, Louisiana should adopt the following **Standards of Justice** as the minimum criteria for the provision of indigent defense. These standards are based on the American Council of Chief Defenders and National Juvenile Defender Center *Ten Core Principles for Quality Delinquency Representation through Indigent Defense Delivery Systems*.

STANDARDS OF JUSTICE

Introduction to the Principles

In 1967 through the case *In Re Gault* the United States Supreme court held children and youth in delinquency proceedings have the right to counsel and as a result states must provide counsel to indigent children and youth. Thirty-seven years later, in response to a national crisis in juvenile indigent defense delivery services, the American Council of Chief Defenders and the National Juvenile Defender Center developed the *Ten Core Principles for Providing Quality Delinquency Representation through Indigent Defense Delivery Systems*. The *Ten Core Principles* provide criteria for states to follow in providing indigent defense services to children and youth in delinquency proceedings to fulfill the mandates of *Gault*.

Louisiana's indigent defense delivery system must recognize that children and adolescents of every age are at varying stages of physical, emotional, neurological and intellectual development. Only through skilled, holistic and zealous juvenile delinquency defense advocacy will children and adolescents lives be positively impacted. Louisiana's current system – which lacks resources, appropriate training, skilled juvenile public defenders and national standards – is seriously deficient, threatening community stability by failing to provide adequate counsel to children in Louisiana.

In Re: Gault declared that “Under our Constitution, the condition of being a boy does not justify a kangaroo court.” The Louisiana Justice Coalition believes that the *Ten Core Principles* are the fundamental criteria to ensure Louisiana provides qualified counsel to protect a child or youth's constitutional rights.

1. Zealous Representation

Standard: Counsel's paramount responsibility to children charged with delinquency offenses is to zealously defend them from the charges levied against them and to protect their due process rights throughout the delinquency process. The indigent defense delivery system must provide children with continuous legal representation throughout the delinquency process including, but not limited to, detention, pre-trial motions or hearings, adjudication, disposition, post-disposition, probation, appeal, expungement and sealing of records.

2. Specialized Skill

Standard: Representing children in delinquency proceedings is a complex specialty in the law and is different from, but equally as important as, the legal representation of adults. Louisiana's indigent defense delivery system must also acknowledge the specialized nature of representing juveniles processed as adults in transfer/waiver proceedings. Delinquency representation is not a training assignment for new, inexperienced and untrained attorneys. Delinquency cases are complex, and their consequences have significant implications for children and their families. As a consequence, Louisiana's indigent defense delivery system must encourage experienced and trained attorneys to provide delinquency representation.

3. Personnel and Resource Parity

Standard: Louisiana's juvenile indigent defense delivery system must provide a professional work environment and adequate operational resources such as office space, furnishings, technology, confidential client interview areas and current legal research tools. Moreover, it must ensure the provision of all litigation support services necessary for the delivery of quality services, including, but not limited to, interpreters, court reporters, social workers, investigators, paralegals and other support staff. These resources should be comparable to resources dedicated to the delivery of indigent defense services for adults, as well as resources dedicated to the prosecution.

4. Expert Services

Standard: Louisiana's indigent defense delivery system must support requests for essential expert services throughout the delinquency process and whenever individual juvenile case representation requires these services for effective and quality representation. These services include, but are not limited to, evaluation by and testimony of mental health professionals, education specialists, forensic evidence examiners, DNA experts, ballistics analysis and accident reconstruction experts.

5. Supervision and Workload

Standard: Louisiana’s indigent defense delivery system must monitor caseloads for juvenile public defenders to permit the rendering of quality representation. The workload of juvenile indigent defenders – appointed or otherwise – should never be so large as to interfere with zealous advocacy, continuing client contact or ethical representation.

6. Professional Standards and Accountability

Standard: Louisiana’s indigent defense delivery system must adopt guidelines and clearly define the vision and expectations for the delivery of quality juvenile legal representation. These guidelines should be consistent with national guidelines or standards, or state and/or local guidelines if they exceed national standards. Additionally, Louisiana’s indigent defense delivery system must provide administrative monitoring, coaching and systematic reviews for all attorneys and staff representing children in delinquency. This supervision should include contract defenders, assigned counsel and employees of defender offices.

7. Continuous Training

Standard: Louisiana’s indigent defense delivery system must support, encourage and provide juvenile indigent defense team members comprehensive training on topics including, but not limited to, detention advocacy, litigation and trial skills, dispositional planning, post-dispositional practice, educational rights, appellate advocacy and administrative hearing representation. Juvenile delinquency defense is a specialty, requiring continuous training in unique areas of the law. This training should utilize both internal and external resources and experts.

8. Right to Treatment

Standard: Juvenile defense counsel must consult with clients and, independent from court or probation staff, actively seek out and advocate for treatment and placement alternatives that best serve the unique needs and dispositional requests of each child. Juvenile indigent defenders must provide independent post-disposition monitoring of each child’s treatment, placement or program to ensure that rehabilitative needs are met, and intervene when necessary. Louisiana’s indigent defense delivery system must work in partnership with other juvenile justice agencies and community leaders to minimize custodial detention and the incarceration of children and to support the creation of a continuum of community-based, culturally sensitive and gender-specific treatment alternatives.

9. Attention to Educational Needs

Standard: Louisiana’s indigent defense delivery system must recognize that access to education and appropriate educational curriculum is of critical importance to juveniles facing delinquency adjudication and disposition. Juvenile public defenders – through direct representation or collaborations with community-based partners – must advocate for the appropriate provision of the individualized educational needs of clients. Louisiana’s indigent defense delivery system must work with community leaders and relevant agencies to advocate for and support an educational system that recognizes the behavioral manifestations and unique needs of special education students. Public defenders should also work with juvenile court personnel, school officials and others to find alternatives to prosecutions based on zero tolerance or school-related incidents, cutting off the “schoolhouse to jailhouse” pipeline.

10. Systemic Advocacy

Standard: Louisiana’s indigent defense system must demonstrate strong support for the right to counsel and due process in juvenile delinquency. This support is essential to maintain a juvenile justice system that is fair, nondiscriminatory and rehabilitative. Louisiana’s indigent defense delivery system must actively participate in the community to improve school, mental health and other treatment services and opportunities to children and families involved in the juvenile justice system. The fundamental purposes of juvenile court are to: 1) provide a fair and reliable forum for adjudication, and; 2) to provide adequate support, resources opportunities and treatment to assure the rehabilitation and development of competencies of children found to be delinquent.



LOUISIANA JUSTICE COALITION

Fighting For Fairness

**Louisiana Justice Coalition
1600 Oretha C. Haley, Floor 2
New Orleans, Louisiana 70113**

www.lajusticecoalition.org

504-522-3949 (o) 504-522-5430 (f)

The Louisiana Justice Coalition (LJC) will ensure the creation of a fully funded, statewide indigent defense system that complies with national standards set by the American Bar Association *Ten Principles of a Public Defense Delivery System* and the American Council of Chief Defenders and National Juvenile Defender Center *Ten Core Principles for Quality Delinquency Defense through Indigent Defense Delivery Systems*. LJC has initiated a public education campaign to highlight the crisis in Louisiana's indigent defense system and to bring about reform. The campaign will create a sustained base for coalition members to continue to advocate for fundamental fairness in Louisiana's criminal justice system for all of our citizens.

This publication was made possible, in part, by a grant from the U.S. Justice Fund of the Open Society Institute.