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## **Study: juveniles routinely waive rights under pressure**

By Ken Kusmer

Nearly half of the Indiana youth who find themselves before a judge waive their right to an attorney, often under pressure placed on them and their parents by an overburdened criminal justice system, an investigation by state and local advocates found.

And nearly a quarter of 295 juveniles held in state prisons who were interviewed by investigators said they ended up there without the benefit of legal counsel, according to the report released Wednesday by the Washington, D.C.-based National Juvenile Defender Center and its state and regional partners.

Larry Landis, executive director of the Indiana Public Defender Council, said the report was shocking and an embarrassment to the state's legal system.

"Is this the quality of care of care we want?" Landis said. "Would we lock up kids and put them in prison without even giving them a lawyer? We don't with adults."

The report is the latest black eye for the state's juvenile justice system.

The Department of Correction in February settled civil rights complaints involving imprisoned youth with the U.S. Justice Department. That came after the Indiana State Bar Association issued a report in October saying the system must pay greater attention to children with mental illness if it wants to reduce costs and the number of delinquents who get in trouble again.

The latest report, whose collaborators included programs of the Indiana Juvenile Justice Task Force and the Covington, Ky.-based Children's Law Center, resulted from site visits and court observations in 11 Indiana counties selected to present a representative sample. A team of 14 investigators included public defenders, law professors and other attorneys from Indiana and across the nation.

The investigators found that despite the constitutional right to legal counsel, nearly half of the youth studied had waived that right and in some places the waiver rate was as high as 80 percent. The study did not reveal which counties were included.

The team talked to 295 youth held by the Department of Correction, and 23.7 percent said they had no legal counsel for reasons including being "caught red-handed" or not being able to afford it.

Also, local laws and legal practices frequently delay the appointment of public defenders to represent accused youth until it's late to affect critical decisions, such as whether the youth will be placed in detention, the report said.

Factors behind the high waiver rate include pressure from parents, not being fully informed of the right to counsel, and not placing enough importance on the role of defense counsel in delinquency proceedings, the report said. Economic status also was an issue: In many local jurisdictions, it was accepted that poor youth would not have attorneys.

"The first advice I would give is not to waive counsel," said Michael Jenuwine, who teaches in the legal aid clinic at the University of Notre Dame and was one of the report's investigators.

Jenuwine also said parents should encourage their children's attorneys to use all of the relevant outside resources, such as mental health professionals, to make sure the youths are receiving the proper help. Studies have found that as many as 18 percent of incarcerated youth have severe mental illnesses.

Parents often believe mistakenly that waiving the right to an attorney will resolve the legal problem more quickly, experts said.

"Sometimes, parents may put pressure on their kids. And the parents may not understand the importance of having counsel in these proceedings," said Elizabeth Kehoe, one of the authors of the study who's on the staff of National Juvenile Defender Center.

Parents often do not understand that there's no bail or bond available for detained juveniles, and that only a judge, not a jury, hears delinquency proceedings, said Bill Glick, executive director of the Indiana Juvenile Justice Task Force

"We frequently get questions from parents who say, 'Can you explain to me what happened in that court hearing?'" Glick said.