

North Carolina Juvenile Defender Manual

2008

**Lou A. Newman
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North Carolina Indigent Defense Manual Series
John Rubin, Editor



Production of this series is made possible by funding
from the North Carolina Office of Indigent Defense Services

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Printed in the United States of America

ISBN 978-1-56011-590-8

∞ This publication is printed on permanent, acid-free paper in compliance with the North Carolina General Statutes.

♻️ Printed on recycled paper

ABOUT THE NORTH CAROLINA INDIGENT DEFENSE MANUAL SERIES

The North Carolina Indigent Defense Manual Series is a collection of reference manuals addressing law and practice in areas in which indigent defendants and respondents are entitled to the representation of counsel at state expense. The series was created to address the need for comprehensive, up-to-date reference materials for public defenders and appointed counsel, who devote their time, skill, and effort to representing poor people. In addition to assisting indigent defenders with their responsibilities, the manuals also may be useful to others who work in the court system and who need a reference source on the law. In keeping with the School of Government's commitment to practical scholarship, the manuals are written by authors with subject-matter expertise in their respective fields, experience in developing effective educational materials, and knowledge of how things actually work in practice. The editor of the series is John Rubin, a member of the School of Government faculty who specializes in indigent defense education. For a current listing of manuals in the series, see www.indigentdefense.unc.edu. Production of the series is made possible by funding from the North Carolina Office of Indigent Defense Services, which is responsible for overseeing and enhancing the provision of indigent defense representation in North Carolina.

ABOUT THE AUTHORS OF THE NORTH CAROLINA JUVENILE DEFENDER MANUAL

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Preface

In its landmark 1967 decision, *In re Gault*, the U.S. Supreme Court recognized the importance, indeed the necessity, of providing counsel to juveniles in delinquency proceedings.

A proceeding where the issue is whether the child will be found to be ‘delinquent’ and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. The juvenile needs 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 he has a defense and to prepare and submit it. The child ‘requires the guiding hand of counsel at every step in the proceedings against him.’ . . . [W]e hold now that [the assistance of counsel] is . . . essential for the determination of delinquency, carrying with it the awesome prospect of incarceration in a state institution until the juvenile reaches the age of 21.

In re Gault, 387 U.S. 1, 36 (1967).

Juvenile delinquency representation is still a relatively new specialty, and states have struggled at times to provide the support and resources needed by juvenile defense counsel to be effective. We are excited to introduce the first-ever manual, specific to North Carolina law and practice, in this area. Our goal has been to provide a review of juvenile delinquency law and proceedings in North Carolina for the attorney new to practice in juvenile court, as well as to create a resource of statutory and case law for seasoned juvenile defenders. In our discussion of legal authority, we have attempted to incorporate practice suggestions at each stage of the proceedings. We hope the manual meets these goals. We also hope the manual will be a useful resource for others who need to understand this important area of law.

This manual would not have been possible without the support and assistance of many people. Thanks go to the members of the manual’s Advisory Board—Caitlin Fenhagen, Assistant Public Defender, Office of the Public Defender for District 15B, Orange and Chatham Counties, N.C.; Nelwyn Mpare, Clinical Supervising Attorney, North Carolina Central University School of Law, Durham, N.C.; Jon Myers, Attorney at Law, Lexington, N.C.; and Valerie Pearce, Managing Attorney, Center for Children’s Defense, Charlotte, N.C. They volunteered their time to review each chapter, offered their insights into the daily practice of representing juveniles, and endured long meetings to see this project to its conclusion. John Rubin, Professor of Public Law and Government at the UNC School of Government, supported the development of this manual in every possible way from conception to publication, reviewing multiple drafts of each chapter and providing input on the content and presentation. Thanks also go to Janet Mason, Gladys Hall Coates Professor of Public Law and Government at the UNC School of Government, for generously reviewing and commenting on the manual in its entirety and for sharing her vast knowledge of this area. We also want to acknowledge the National Juvenile Defender Center (NJDC)

for allowing us to reprint information about the special challenges of communicating with juvenile clients in Appendix 4–1 (Initiating the Attorney Client Relationship) of this manual. Staples Hughes, North Carolina Appellate Defender, provided clarifications on the topics of appeals and expunction of records. Finally, we appreciate the assistance of Elizabeth Barber, who took time away from her studies at UNC School of Law to cite check each chapter.

Special recognition goes to the Office of Indigent Defense Services and the School of Government for funding and supporting this manual. Their collaboration on this and other education projects has enhanced the resources available to indigent defense attorneys and has improved the service that they are able to provide to their clients. Thanks also go to Kevin Justice, Robby Poore, Sarah McConnaghy, Katrina Hunt, Chris Toenes, and Angela Williams of the Publications Division of the School of Government for their assistance in designing and producing the manual.

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August 2008