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# Developing Post- Disposition Representation in North Carolina

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# Problem: No Express Right to Post- Disposition Counsel

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- NC statutory law is unclear as to whether juveniles are afforded legal counsel once disposition is entered
- Attorneys presume that representation ends once disposition is entered

# Goal: Provide Right to Counsel for Juvenile Post-Disposition

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- The details:
  - Which juveniles should be represented? Committed juveniles? All juveniles post-disposition?
  - What issues should juveniles be represented on?
  - Are there any current protections in place?
  - What laws or rules need to be changed/created?

# Plan: 2008 YDC Project

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## ■ Project Goals

- To review court files and determine if there were errors resulting in defective commitments;
- To identify reasons for defective commitments that were found;
- To develop an understanding of practices and training needs for juvenile justice system actors and to improve current training;
- To cure defective commitments, if possible; and
- To determine the need for ongoing review of commitment cases, and issues relating to post-disposition representation

# Plan: 2008 YDC Project

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- Selected counties based on geography, type of counsel, number of juveniles previously committed
- Partnered with chief district court judges
  - temporary administrative order
- Briefed NC Department of Juvenile Justice and Delinquency Prevention
- Notified District Attorneys

# Results: 2008 YDC Project

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- 2 out of every 3 cases had at least one legal error that could have affected the decision to commit
- 16.4% of the files had an error that could be immediately corrected, while 40.4% had an error that could lead to a change in the juvenile's commitment
- Out of the 83 files with possible correctable errors, 24 were corrected
- Most Frequent Errors
  - Incorrect or unknown legal basis for commitment
  - Incorrect disposition level option
  - Critical missing information

# Other Findings: 2008 YDC Project

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## ■ Court Practices

- Multiple disposition orders
- Local forms
- Orders entered without notice
- Incorrect disposition level options

## ■ Defense Counsel Practices

- Receiving court orders and commitment orders
- Contesting allegations
- Appealing commitments
- Requesting credit for time served
- Establishing extraordinary circumstances

# Follow Up: Awareness and Training

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- Distributed the report state and nationwide to interested parties
- Presented at 2009 NC Annual Juvenile Defender Training on disposition advocacy
- Presented at numerous other trainings and presentation opportunities



# Follow Up: 2009 Voluntary Review of Commitments

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- Eight participating counties
- Purpose:
  - Identify and remedy defective commitments
  - Gather data
  - Forecast and prepare for permanent review procedure
- Partnership with UNC Juvenile Justice Clinic
- Work with appellate counsel on commitment issues

# Follow Up: Youth Development Center Work Group

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- Comprised of defense counsel, prosecutors, judges, NC Department of Juvenile Justice, court system representatives, Prisoner Legal Services
- Main Issues:
  - Legislation review/reform
  - Official state form review
  - Post-disposition representation/ access to counsel

# Next Steps

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- Continue to train attorneys and bring awareness to issues
- Work with NC Prisoner Legal Services on a grant for pilot project to provide representation
- Continue to work with the UNC Clinic and approach other clinics to perform reviews
- Pursue legislation to clarify laws and provide access to counsel