

NY LAW JOURNAL
Tuesday, March 19, 2013
p. 1, col. 1

In Brief:

Groups Urge More Funding On 'Gideon' Anniversary

Advocates for poor criminal defendants gathered in Albany yesterday, the 50th anniversary of *Gideon v. Wainwright*, to call on Governor Andrew Cuomo to publicly promote better representation of poor defendants. The New York State Defenders Association, the New York Civil Liberties Union, the New York State Bar Association and the Innocence Project urged Cuomo to embrace better funding and quality for defense services.

Barry Scheck, cofounder of the Innocence Project, said he and other defense lawyers envisioned themselves being "liberty's last champions" with the help of *Gideon* when they were starting out decades ago. But the promises of *Gideon* have largely not materialized, he said. "It is, I think, over the last three decades, probably the single lagging area of criminal justice reform," he said.

The groups called on Cuomo to fully fund several *Gideon*-related initiatives in the state budget the governor is now negotiating with the Legislature, including programs to guarantee that defendants are represented by counsel at all first appearances in court and to reduce caseloads of upstate providers (NYLJ, March 18).

Donna Lieberman, the NYC-LU's executive director, said Cuomo should not wait for the suit her group has filed claiming inadequate criminal representation for the poor, *Hurrell-Harring v. State of New York*, 8866/07, to make substantial improvements. "A trial shouldn't be necessary," she said. "Meaningful reforms can happen today."

Cuomo's office had no immediate comment. Also among those advocating yesterday were Senators Jeffrion Aubry, D-Queens, Ruth Hassell-Thompson, D-Mount Vernon, Bronx Defenders, Brooklyn Defender Services, the Legal Aid Society and the 5Boro Defenders.

—Joel Stashenko

ALBANY TIMES UNION (Internet copy)
Tuesday, March 19, 2013

Poor's right to counsel unmet, advocates say

On 50th anniversary of Gideon ruling, defense system in state at issue

By Alysia Santo

Legal advocates and members of the state Legislature gathered Monday and called upon Gov. Andrew Cuomo to reform New York's public defender system.

Their appeal comes 50 years after the Supreme Court's unanimous 1963 ruling, *Gideon vs. Wainwright*, which found the Constitution guarantees criminal defendants the right to a lawyer. Since that decision, research has repeatedly indicated that New York's public defender system, which places the structural and fiscal burdens of operations on counties, is insufficient.

"This anniversary is not one for celebration, but for remorse for all the individuals over the years who have been denied adequate representation," said Assemblyman Jeffrion Aubry. "We ask that [Gov. Cuomo] bring the power of his office to correct this situation that has festered for too long."

The problems with indigent defense are well documented: In 2006, then-Chief Judge Judith Kaye described New York's situation as an "ongoing crisis" and concluded that "nothing short of major, far-reaching reform" can bring the state into constitutional compliance.

The New York Civil Liberties Union has brought a class-action lawsuit against the state that seeks to remedy a "persistent failure" to provide meaningful counsel to the poor.

Reform is "a matter of racial justice" said Assemblyman Karim Camara, who serves as chairperson of the New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus. "African-Americans are more than five times as likely as whites to need appointed counsel."

It's an issue that's also closely tied to wrongful convictions, said Barry Scheck, codirector of the Innocence Project, an organization that seeks to exonerate people who are imprisoned unjustly, often through DNA testing.

"When we fail to provide competent, effective counsel, the foreseeable, predictable consequence is that the innocent are convicted, the guilty are not apprehended, and the public safety is undermined," Scheck said.