

Reflection on Gideon v. Wainwright 50th Anniversary  
Rockland County Times  
March 21st, 2013

BY JONATHAN GRADESS

A half century has passed since the Supreme Court's Gideon v. Wainwright decision directed states to provide counsel for the poor in criminal cases. New York continues to renege on this duty.

Responding to Gideon, New York set up a patchwork system of county-based providers, a "system" without meaningful oversight, appropriate funding, or adequate staffing.

Today more than 120 plans for criminal defense representation exist in an underfunded, politically compromised, inept "system" that more closely resembles a poorly regulated charity. And the three-year-old agency charged with fixing this, the Indigent Legal Services Office, has been crippled by unnecessary budget cuts, daunting sweeps of the fund it is charged with administering, and political interference and delay in the hiring of its staff. An upstate caseload reduction plan has been stricken from the executive's proposed budget and a host of other important public defense initiatives have been similarly eviscerated. And still, no one is truly minding the Gideon store.

All of this is a sad and unanticipated consequence of good faith but partial reform. For a decade a campaign supported by 70 percent of New Yorkers sought the establishment of a unified state level, state funded defender system. In 2010 New York took the first step and opened the Indigent Legal Services Office, which has been harmed by a lack of political independence.

But all this failure and recalcitrance, the hamstringing of the Indigent Legal Services Office, and budget cuts to defense services for the poor, pale by comparison to the harm to people.

Since 1978 I have directed the Public Defense Backup Center designed to improve the quality of public defense services statewide. The office receives thousands of pleas for help every year and trains thousands of lawyers. But our services are nowhere near enough (also cut in the proposed Executive Budget by \$1 million). The oversight of the Indigent Legal Services Office is also not enough. The money the Office distributes to counties, cut by \$4 million, is nowhere near needed levels. And that's only the beginning of the story of New York's neglect.

Every day men and women presumed innocent go without lawyers at arraignments in New York, plead guilty without counsel, are charged and overcharged for things they haven't done, go without their cases being investigated, and are not given the time to consult with their lawyers. Caseloads are unmanageable. The trial rate is too low; the plea rate too high. And while New York has extended the precious right to counsel to parents in Family Court, many parents lose their children to state custody not because they legally should, but because their lawyer was not equipped to articulate and litigate the basis for preserving the parent/child relationship.

All this human heartache and systemic dysfunction can be overcome by a renewed vision of what is right and the leadership of a courageous Governor to do it. Nationally for the past 50 years no political leader has tackled, let alone solved, the seemingly intractable problem of providing representation for those unable to afford counsel. A system of exemplary public defense services can save New York State and its

counties money, provide opportunities for significant agency consolidation, put forward substantial, cost effective mandate relief, and simultaneously provide justice.

On this 50th anniversary of Gideon, Governor Cuomo should embrace this long-term goal and become the nation's governor who leads the way.

---

Jonathan E. Gradess is executive director of the New York State Defenders Association, the mission of which is "to improve the quality and scope of publicly supported legal representation for low income people"

<http://www.rocklandtimes.com/2013/03/21/reflection-on-gideon-v-wainwright-50th-anniversary/>