

EXECUTIVE

An Update For and About The AMERICAN COUNCIL of CHIEF DEFENDERS

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Summary

February 2003

Budget Crunch and Gideon's 40th on Tap for March ACCD Meeting

The ACCD will hold its annual Washington, DC, meeting on the eve of the 40th anniversary of the Supreme Court's landmark ruling in *Gideon v. Wainwright*. Gathering from March 10 – 12, the ACCD will focus on strategies for resisting defender agency budget cuts, making the most of Gideon's 40th, and educating Congress about the ACCD's top legislative priority: student loan forgiveness for public defense attorneys.

The two days immediately preceding are devoted to a special, free training event focused on communications skills for public defense agency heads.

The ACCD meeting starts at noon on Monday, March 10, with a roundtable discussion of how to deal with the budget cuts confronting most defender agencies as a result of state deficits. Featured will be successful strategies, such as in Maryland, where a well-coordinated education and lobbying campaign transformed the state public defender agency from a bloody casualty of the budget wars into the only victor among all state agencies. The meeting will be cosponsored by the Maryland State Public Defender agency and the Virginia Public Defender Commission.

Two important working documents

will be presented to the ACCD for discussion and possible ratification, to support chief defenders in resisting budget cuts. One will be an ethics opinion, explaining the ethical mandate on all chief defenders to refuse to accept more cases than they have resources to competently handle. The opinion will be based on national standards and caselaw (including the recent 9th Circuit opinion upholding \$1983 liability of a chief PD for allocat-

ing inadequate resources to clients based on whether he thought they were guilty, and for spending too little on training; see *Miranda v. Clark County*, in Defender News archive at www.nlada.org).

The other resource will be a white paper addressing the question of the impact of cutting a PD agency's budget. The paper will be a meta-analysis of all the state and local studies over the

continued on page 3

Gideon Commemorations

Opportunities abound for using the 40th anniversary of the *Gideon* ruling to advance the mission of your agency and protect your funding. It's a great chance to educate policymakers, the media and the public about the important values of indigent defense and the tragic costs of botching it.

Gideon Proclamation: NLADA has drafted a model proclamation with lots of educational whereas clauses, and a designation of March 18 as Gideon Day. It is designed to be issued by official entities like a state's chief justice or governor, or legislative or executive officials at the state or local level. Kentucky Chief Ernie Lewis got it adopted by the Kentucky state bar. Iowa Chief Tom Becker is shopping it to the governor and state legislature. It's in the Gideon section under Defender Resources, on NLADA's Web site.

Gideon's Heroes: Every month this year, NLADA will be honoring "those who do justice to Gideon's promise." We'll prepare a profile of a defender who has provided representation that lives up to the highest ideals of the right to counsel in

continued on page 4



The American Council of Chief Defenders (ACCD) is dedicated to securing a fair justice system by advocating sound public policy and ensuring quality legal representation of indigent people facing a loss of liberty or accused of a crime. The ACCD is a section of the NLADA. Membership is open to chief and deputy chief defenders of state, county, local and federal defender programs.

Focus on Technology

ACCD Previews New Forensic Sciences E-Library, Case Management System

ACCD members were among the first in the defender community to get a glimpse of two major new technology initiatives to benefit public defense agencies. At the ACCD meeting on Saturday, November 16, 2002 during the NLADA Annual Conference in Milwaukee, chief defenders gathered from 21 states and the District of Columbia, and discussed budget cuts and caseload increases. Topics included case management systems, specialty courts, training, forensics units and representation of mentally ill clients.

Defender Forensics E-Library

ACCDers in Milwaukee got a sneak preview of the new forensic science e-library subsequently added to NLADA's Web site. Go to www.nlada.org, click "Defender Resources," then the "Forensics Library" icon down the left-side.

The new resource aims to make state-of-the-art forensics expertise available to defenders across the country, who often have limited access to forensics resources. It is designed to encourage defenders to share information and build on each other's work, as well as to interest more experts in the various forensics fields to make themselves available to the public defense community.

The project is headed by Professor William C. Thompson, of the Department of Criminology, Law & Society at the University of California, Irvine, an attorney who is an expert on scientific evidence and has worked with defenders in the past on cases and training. He has received high praise from chiefs for his expertise and willingness to work in the indigent defense community. His work is supported by a grant from the Gideon Project of the Open Society Institute.

The forensics e-library is organized by topic area, ranging from fingerprinting, hair and fiber analysis, handwriting analysis and DNA, to more esoteric areas such as glass shattering analysis. It is designed to permit posting materials with differing levels of access, so that some information is available to the general public while some will be available only to defenders.

Professor Thompson is working with NLADA and a steering committee of defenders to develop policies and practices for the e-library that will both ensure quality and protect the confidentiality of materials that should not be widely distributed. To maintain the large volume of materials and screen postings, Professor Thompson is recruiting individuals from the public defense and academic community who have expertise in a specific forensics area to be in charge of a particular content area on the site. He is currently working with attorneys in the forensics units of the Cook County, Illinois, District of Columbia and Los Angeles County public defender offices. If you or someone on your staff would like more information you may contact Professor Thompson at wcthoms@uci.edu.

Because of the great demand for this type of Web service, for-profit forensics Web sites are springing up, but they are priced for the profit-making bar. Our goal of making thorough forensics information and expertise available *free of charge* will succeed only with wide participation and input from our defender community. *Please share this information with your staff and put anyone on your staff who you think could be helpful on the project in touch with Professor Thompson!* The URL is www.nlada.org/Defender/forensics/for_lib?

Atticus Case Management

Representatives of the Public Defender Service for the District of Columbia demonstrated the capacities of "Atticus," a powerful case management system that PDS recently implemented. Atticus is a custom-built, client/server software application that provides comprehensive case management functionality for attorneys, staff and management. It permits recording, tracking and analysis of all case-related data across the agency and fosters more effective collaboration on cases within and across divisions.

Atticus offers modules tailored for all PDS divisions including Adult, Juvenile, Appeals, Mental Health, Civil and Special Litigation as well as for support services, including Investigations, Offender Rehabilitation (social workers) and Defender Services (assignment office). Integrated security allows attorneys to view information only on their own cases, while providing managers and executives with aggregate information. A built-in conflict-checking module enables PDS executives to lock cases in the event of a conflict and to take necessary steps to resolve conflicts.

Director Ron Sullivan would like to make the program available to interested defender offices through NLADA. Under the leadership of David Carroll, director of research & evaluation, NLADA's Defender legal services division will be working with PDS, NLADA's Technology Section (newly created by the Board of Directors in Milwaukee) and members of the ACCD to devise a process to make this and other case management applications more widely available to the indigent defense community. Contact David

continued on page 4

KUDOS ...

to Maryland State Chief **Steve Harris**, for getting his new Republican governor to single out indigent defense as the only state agency to get a proposed budget increase for the year (\$2.9 million, for 50 additional staff) ... to Seattle Chief **Bob Boruchowitz**, for getting a Soros Justice Senior Fellowship from the Open Society Institute, to work to reduce significantly the number of people facing misdemeanor and juvenile prosecution without counsel, and to increase diversion alternatives ... to Tennessee Chief **Andy Hardin**, for so quickly putting to use NLADA's new Defender Communications Toolkit, in a legislative presentation on his budget ... and to Massachusetts Chief **Bill Leahy**, for a great Gideon Anniversary op-ed in the *Boston Herald* on February 18.

March ACCD Meeting

continued from page 1

years comparing the cost of salaried public defense agency staff versus hourly compensation for ad hoc assigned counsel, demonstrating that, in light of the ineluctable mandate of Gideon, cutting defender agency budgets is likely to result in overall increases in indigent defense costs, and possible decrease in quality.

Day 2 of the ACCD meeting, Tuesday, March 11, is devoted to legislative advocacy, including advocacy training, substantive briefings, visits with Members of Congress, and closing with a congressional reception. Issues include public defender student loan forgiveness (a bipartisan bill is expected to be introduced by Illinois Senator Dick Durbin before the time of the

Upcoming Defender Training

P R O G R A M S

Life in the Balance
March 15 - 18, 2003
Austin, TX

Defender Trainers Section Meeting and Train the Trainer
May 8 - 10, 2003
New Orleans, LA

Defender Advocacy Institute
May 30 - June 4, 2003
Dayton, Ohio

NLADA's Annual Conference
November 12 - 15, 2003
Seattle, WA

Appellate Defender Training
December 4 - 7, 2003
New Orleans, LA

For more information about NLADA Trainings and Conferences, visit www.nlada.org

meeting), congressional commemoration of Gideon, and the Innocence Protection Act. Senator Durbin has been invited to meet with the full ACCD.

Day 3 includes a congressional visit debriefing and discussion, Gideon-40 strategies for attendees to use the following week back home, and a special discussion with representatives of the National Governors Association, the National Association of Counties, and the National Conference of State Legislatures, about the impact of state and local budget pressures on indigent defense, and some strategies for dealing with such pressures.

The communications training is scheduled to take place in the two days immediately before the ACCD meeting. Fifteen defender leaders will learn to

craft effective messages in support of indigent defense, focusing on improving individual communication skills, as well as on expanding our collective ability to gain visibility on indigent defense issues. Participants in this hands-on training will learn how to develop and deliver motivating messages, will practice writing and telling persuasive stories, and will rehearse effective radio and telephone interviews. In addition to learning how to pitch to different media outlets, each participant will walk away with a written Gideon op-ed and know how to get it placed.

Gideon Commemorations

continued from page 1

America, and send it to legal trade press and local outlets in the region of the honoree. Again, see the Gideon page, and use it to nominate an inspiring defender.

Gideon Symposium: One-day event in Washington, DC, looking back and looking forward. “*Gideon at 40: Facing the Crisis, Fulfilling the Promise*,” convened by NLADA, the National Association of Criminal Defense Lawyers, and Arnold & Porter (the firm that represented Gideon in the Supreme Court), will feature discussions by *Gideon’s Trumpet* author Anthony Lewis, Steve Bright, Yale Kamisar, and many others.

Blue Ribbon Commission: NLADA is working to establish a national blue ribbon commission to examine the state of Gideon’s promise in America today, and chart a course – including legislative solutions – for improving it. It is expected to be launched during the Gideon year.

Defender agencies are planning their own commemorations around the states: the **Connecticut Division of Public Defender Services** has a wide array of Gideon activities planned, including events at the state capitol, public and community outreach and a speakers bureau, and commemorative buttons, pencils (like the one Gideon used to write his cert petition), posters and brochures; the **NY State Defenders Association** will descend on Albany for a special Gideon Day lobbying blitz; and in Tennessee, the **Knoxville Community Law Office** will hold a major national two-day conference March 28-29, with chief defenders and other experts from all over the country.

Please share your plans with NLADA, and we’ll share them with the rest of the ACCD.

Every chief defender’s indispensable Bookmark: www.nlada.org/Defender

The nation’s only source of daily news clips and other resources from around the country exclusively for and about public defense.

Some of the latest stories:

- Don’t give in to TX counties’ efforts to weaken prompt appointment of counsel; fairness is more important than saving money (*Houston Chronicle* editorial)
- Budget crunch in conservative Indiana makes legislators reject new mandatory minimums and prison-building, and search for alternatives for nonviolent offenders (*Indianapolis Star*)
- As Gideon’s 40th anniversary approaches, the problem is not just inadequate counsel, but defendants with no counsel at all, writes Seattle chief PD (*Defense, PDF*)
- Commission appointed by AZ AG recommends statewide PD system, training and experience standards, ban on juvenile executions, other reforms (*Associated Press*)
- On Gideon’s 40th anniversary, the promise is still unfulfilled in MA, writes state’s chief PD (*Boston Herald* op-ed, with PDF brief of 22 state AGs in support of Gideon’s petition)
- State senator urges election of PDs in GA, in apparent effort to undermine quality and uniformity of indigent defense, as bill for new statewide PD system cruises through legislature (*Atlanta Journal Constitution*)
- Comprehensive analysis of Ashcroft’s proposed Patriot II legislation (ACLU)
- Seattle police, with DA’s support, to adopt sequential blind lineups, weeks after attending national conference on preventing wrongful convictions featuring eyewitness ID expert Gary Wells, star of NLADA Web-training CLE (*Seattle Times*)
- Oregon prosecutors get legislative hearings to air their complaints about frivolous “Rolls Royce” PD expenses for experts; defenders outraged (*Oregonian*)

Focus on Technology

continued from page 2

(d.carroll@nlada.org) for more information or to assist in this initiative.

Also present at the ACCD meeting was the public defender from the East European republic of Lithuania, accompanied by Valerie Wattenberg, a translator from the Open Society Institute. Wattenberg asked ACCD members for input about reasonable systems for appointment and payment of defenders, to make Lithuania a model for public defense in the region. Her email address is vawattenberg@aol.com.

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