

EXECUTIVE

An Update For and About The AMERICAN COUNCIL of CHIEF DEFENDERS

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Summary

Fall 2003

National *Gideon* Blue Ribbon Committee to Kick Off at Annual Conference

NLADA and the Constitution Project are forming a national blue ribbon committee, in honor of the 40th anniversary of the *Gideon* decision, to conduct a detailed examination of the status of indigent defense in America and produce a comprehensive agenda for reform. The Constitution Project is a Washington, DC, based nonprofit with experience using blue ribbon committees to devel-

op reform agendas, in areas such as the death penalty and judicial independence.

The grant-funded project will commence with a forum during the Defender Caucus at the NLADA Annual Conference in Seattle, November 13. Representatives of the committee will solicit recommendations from the field as to the areas of research and policy development that would be most use-

ful. Members of the committee will include officials with experience at the highest levels of government and the criminal justice system. The project will last one year, and result in a series of policy recommendations and model legislation. The project will be directed by Mary Broderick, who served as NLADA's defender director from 1985 through 1994.

"No Exceptions" Campaign Highlights Public Defense

NLADA in partnership with the American Bar Association, the National Association of Criminal Defense Lawyers and others, launched a major national campaign to educate the public and the media about problems confronting indigent defense and about the challenges of instituting reforms.

The "No Exceptions" campaign, sponsored by the Open Society Institute, is designed around the *Ten Principles of a Public Defense Delivery System* adopted by the ABA in 2002. Its

continued on page 3

ACCD MEETING: Saturday, November 15 from 8:30 am – 12:30 pm

On Saturday morning, the American Council of Chief Defenders (ACCD) will meet to share accomplishments and explore new ideas affecting public defender and assigned counsel programs. A new co-chair of the ACCD will be selected. Some of the topics that the ACCD will discuss include:

- **Surviving and Thriving in Tough Times:** Hear from an array of programs about the way they are managing in these tough financial times, and how some programs are finding new resources in unlikely places.
- **Technology:** Learn the latest about electronic case tracking systems and how technology can assist in program evaluations, as well as individual lawyers.
- **Legislative Update:** Hear the exciting developments on Capitol Hill regarding the fast-tracking of the Innocence Protection Act and loan forgiveness for defenders. Come join us for a lively discussion and a chance to meet new chiefs and their deputies.
- **Juvenile Justice:** Engage in a roundtable discussion on events in the juvenile justice community and strategies for improving juvenile justice for all.



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.

Updates on NLADA Technical Assistance Projects

The administration of Clark County, **Nevada**, responded to our evaluation of the public defender office very favorably upon its release in April 2003. All available attorney and social worker slots throughout the county currently frozen were immediately designated for the public defender, opened and posted. The County also authorized the hiring of a training director through a national search. NLADA has been retained by the County to continue to assist with the implementation of our recommendations. The County has committed to fulfilling all of the NLADA recommendations.

NLADA launched an assessment of indigent defense services in Avoyelles Parish, **Louisiana**, in mid-September. Basic funding for indigent defense in Louisiana is garnered through court costs collected on criminal offenses, including traffic tickets, in a range up to a statutorily authorized maximum of \$35 per case. Most revenue has come from fees on traffic violations, simply because those offenders can most afford to pay costs and fees. Yet because traffic offenses produce the most revenue, a District's funding is wholly unrelated to need. We are studying the effect this funding method has on representation in a poor rural Parish.

On July 1, 2003, the State of **Montana** assumed primary responsibility for the indigent defense system in District Courts. A bill that would have created an independent statewide indigent defense commission overseeing representation at both the trial and appellate level was defeated in the most recent legislative session leaving a question as to how the state will administer and oversee its new responsibilities. Worried that the rights of indigent defense clients are being abridged, the ACLU contacted NLADA to evaluate indigent defense services in

three counties, and calculate the level of funding needed to support the system in the hopes of assisting the state reform the system consistent with national standards and guidelines.

NLADA is currently working with both the Indigent Defense Services Commission and the 11 chief public defenders in **North Carolina** to create public defender performance outcome measures and evaluation processes for measuring the qualitative advantages of public defender systems that take into account the aims and concerns of all parties.

In **Rhode Island** primary services are provided by the state-funded Office of the Public Defender, a statewide office under the executive branch, but conflict cases are funded and administered through the judiciary. Over the summer, NLADA provided the Supreme Court with information on successful commission models and attended a meeting in September in which it was decided that the court

would work with the Office of the Public Defender to draft legislation to create a truly independent system in which a commission administers both the primary and conflict systems. NLADA will critique the draft legislation before it is introduced.

NLADA received a grant from the Open Society Institute to test the theory that community oriented defense services that address a breadth of client problems and needs produce better life outcomes, prevent recidivism, reduce crime and enhance public safety in a cost-effective manner. The project will develop a capacity to evaluate, monitor and promote effective community-based, problem solving indigent defense delivery systems. The **Holistic & Community-Oriented Defender Evaluation Project** selected the Fulton County (Atlanta, GA) Conflict Defender from a number of outstanding applicants to be a pilot evaluation test site for the project.

NLADA Staff Transitions

This year has presented both challenges and opportunities as we worked to maintain an aggressive substantive agenda while undergoing significant staff transitions. Staff changes have included: Jo-Ann Wallace's transition from heading up the Defender Division as its Chief Counsel as the result of her promotion to serve as the Senior Vice President for Programs at NLADA. Jo-Ann now oversees all aspects of defender and civil legal services programming.

Scott Wallace has stepped down as NLADA's longtime director of defender legal services. Scott has agreed to stay on two days a week in an "Of Counsel" position pending the transition to his successor. Cait Clarke, who directs the NLADA National Defender Leadership Institute, has agreed to serve as acting director of defender legal services, until a new director is hired.

The most recent departure was that of Steve Stall, who had been with NLADA for over four years. Steve was the defender division resources coordinator responsible for managing defender division administrative work and logistics, including responding to membership requests, updating the defender Web pages, developing the Management Resources Database and assisting with training and technical assistance requests from the field. We congratulate Steve, who recently passed his CPA examination and accepted an accounting position with the National Association of State Mental Health Program Directors in Alexandria, Virginia.

continued on page 4

Defending Immigrants Partnership On The Road and in Cyberspace

The first national **Defending Immigrants Partnership Training Conference** in Chicago, September 4, drew over 85 participants, including public defenders and assigned counsel from several counties and the federal defender's office in Illinois, as well as California, Indiana, Kentucky, Maryland, Minnesota, Nebraska, New Hampshire and Ohio. The trainers included state and federal defenders and notable immigration counsel with expertise in the immigration consequences of convictions. Topics covered included immigration fundamentals taught through a mock removal hearing, detention issues, crimes involving moral turpitude, aggravated felony offenses, analyzing underlying crimes and considering alternate pleas, illegal entry after removal, and post-conviction remedies. The Defending Immigrants Partnership, working with the Legal Assistance Foundation of Metropolitan Chicago, presented this program back-to-back with an equally successful training designed specifically for those practicing in Illinois courts.

Earlier this year, the Partnership offered immigration-consequences training in conjunction with local defender programs, law schools and immigrant advocacy groups in El Paso; Maryland; Lafayette, LA; Miami; New York; Newark, NJ; New Orleans; San Francisco; Tennessee; Vermont; Virginia, and by televideo hook-up to Madison, Wisconsin. We recently returned from the Federal Training Services branch CJA training in Scottsdale, Arizona, where we provided four sessions during the two-day program. In all, we have reached well over 1,000 defense and immigration counsel, who are better informed and prepared to provide competent and creative counsel for non-citizen defendants and immigration clients.

In addition, the Defending Immigrants Partnership embarks on its

second year of operations just in time to offer several immigration law sessions at the NLADA Annual Conference. The number of immigration law and immigrant status-related sessions offered at the annual conference this year reflects the diversity of both our civil and defender client communities and the significance of these issues to NLADA's members.

Leading off on Thursday, November 13, at 3:30 pm, will be **Management Models to Build Immigration Expertise**, which will address several approaches to providing expert immigration consultation that have been taken by local public defender programs. A panel including both program managers and in-house and consultant style defense practitioners will examine what works. We hope to develop an informal

No Exceptions Campaign

continued from page 1

theme is that no state in the nation fully complies with all ten principles, but should.

Each month since May 2003, the No Exceptions campaign has highlighted one key element of the *Ten Principles*, with facts and stories from individual jurisdictions. For example, May focused on the problem of excessive delays in the appointment of counsel, illustrated by stories such as an innocent man in Texas who spent three months in jail waiting for counsel to be appointed, and for counsel to figure out that police were looking for a different man with the same name.

The campaign name stems from the May literature and ABA Principle 3 directs that counsel must be appointed promptly, and usually within 24 hours of arrest or request - with *no exceptions*.

June examined the problem of excessive caseloads, and July/August focused on independence, including judicial interference and control over assigned counsel and arbitrary termination of politically appointed defender

network to stay in touch throughout the year and encourage the development of "in-house" immigration expert positions, and/or co-counseling or mentoring arrangements.

On Friday, November 14, the **Minimizing Immigration Consequences** session will be offered from 8:30-10 am. A panel of defense counsel and immigration attorneys will address client intake and status questions, detention issues, how to analyze individual offenses and determine whether there are alternate pleas available carrying fewer immigration consequences, and vacation of conviction based on an involuntary plea and other post-conviction and sentence strategies. The Defending Immigrants Partnership

continued on page 4

agency heads. The September/October piece highlights the need for parity between the resources available to the defense counsel and the prosecution so that public defense attorneys can fulfill their critical role in the justice system.

Each month's packet, professionally produced, is sent to hundreds of legal reporters all over the country, and posted on the campaign's Web site, at www.noexceptions.org. We are urging defenders across the country to make use of the materials, locally to support reform and raise awareness by relying on the information to educate policy makers, writing opinion pieces or editorials, or as background for other breaking news stories implicating indigent defense.

We also encourage you to refer reporters to the *No Exceptions* Web site to provide information about major national problems with indigent defense and possible solutions.

For additional information or for assistance, please contact NLADA at (202) 452-0620, ext. 502 or via e-mail info@noexceptions.org.

National Defender Leadership Institute (NDLI): Impact Leadership Executive Seminar Series Launched

In September, NDLI launched its first executive seminar series in Scottsdale, Arizona, where over 50 participants attended a three-day conference. Teams of defenders brought with them individualized leadership initiatives covering topics such as prisoner reentry, mental health units in defender offices, juvenile justice and community education initiatives. Civil legal services providers joined the defender community for collaborative leadership training, including participating as faculty members.

Committed to strengthening defender leaders and bringing the “best practices” of leadership information from all sectors to the defender community, NDLI has relied on experienced leaders in indigent defense and others to identify a list of seven must-have *Leadership Competencies and Practices for Defenders*.

An Effective Defender Leader:

- (1) Builds and sustains relationships, coalitions and community networks.
- (2) Maximizes impact by honing messages for multiple venues.
- (3) Recognizes and engages issues of power and difference.
- (4) Understands the personal dimensions of leadership through self-awareness.
- (5) Develops, facilitates and inspires a shared vision.
- (6) Fosters an environment of leadership development and growth.
- (7) Thinks strategically and acts tactically.

At this first seminar event, participants worked on the first three of the seven core leadership principles. Each team left with new ideas for implementing their leadership initiatives. Many will reconvene at the NLADA Annual Conference in Seattle for the **second**

Impact Leadership seminar on Friday, November 14, from 1:30-5:00 pm.

Continuing to build on the work in Scottsdale, seminar teams will further develop their messaging skills by working with professional storyteller and radio producer Joe McHugh.

Participants will practice their storytelling skills to build internal and external support for their leadership initiatives. They will also focus on the fourth competency: *understands the personal dimensions of leadership through self-awareness*. With greater self-awareness of individual and team leadership abilities, participants will be better positioned to be effective messengers, persuade key audiences inside and outside their offices and inspire others to act.

NDLI is also involved in two pilot projects: on-site management and leadership training seminars. The first will be a management conference for the Virginia Public Defense Commission

NLADA Staff Transitions

continued from page 2

The staff transitions have provided us with an opportunity to review the staffing structure of the division to determine the best configuration of an anticipated new defender team to implement the programmatic agenda. In that regard, in addition to hiring a new director we will bring on a new junior attorney (who will focus on Web content development and research for NDLI and DIP, as well as other activities) over the next couple of months, in addition to filling the resources coordinator vacancy. The closing date for applications for the director position is December 5, 2003. The vacancy announcement for the director position and all others can be found on NLADA's Web site at www.nlada.org.

and Virginia defender program chiefs in November near Richmond. The second will be an executive team and division chief training event for the Public Defender Service of Washington, DC, in December. In 2004, we will explore the feasibility of continuing on-site work.

The **Management Resource Database** (MRD) section of the NLADA Web site continues to grow. This is an ongoing project. The MRD provides defender managers with sample training materials, budgets, personnel and other policies and much more. Please send us any and all management materials to share with your colleagues in the defender community to assist them to improve their offices and ultimately help more clients receive quality legal representation. The MRD is currently accessible only to program and chief defender members.

Defending Immigrants Partnership

continued from page 3

has many new resources including state charts analyzing federal offenses, and offenses in California, Illinois, Florida, New Jersey, New York and Texas.

We are also covering the miles by setting up a regular space on the NLADA Web site for immigration hot tips, model pleadings and other resources. Charts analyzing the probable immigration consequences of state offenses for the states of California, Illinois and New Jersey, and for federal offenses, are now available and can be downloaded or referenced on-line. In addition, we are debuting model pleadings and instructions for seeking vacation of judgment in Florida state courts based on the judge's failure to warn of immigration consequences as prescribed by state statute. Stay tuned as our Web site develops and watch for us as we begin our second-year round of trainings!

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