

EXECUTIVE

An Update For and About The AMERICAN COUNCIL of CHIEF DEFENDERS

Summary

A Publication of NLADA

December 2004

From the Director

Dear Colleagues:

This year's NLADA Annual Conference serves as my first annual conference as director of NLADA's Defender Legal Services. It has been nearly nine months that I have been in this position, and while daily duties have changed with no clients or court appearances, the just and righteous work of caring for the less fortunate and ensuring the rule of law, has however, remained the same.

We are making strides in the fight to control excessive public defender caseloads and are building upon the platform laid by Jim Neuhard and my predecessor, Scott Wallace, to seek reform in a number of defense systems across the country. The American Council of Chief Defenders (ACCD) and the Defender Policy Group of NLADA have approved the submission of a request for an ethics opinion to the ABA's Committee on Ethics and Professional Responsibility.

To further bolster our efforts, the National Association of Criminal Defense Lawyers (NACDL), in an attempt to bring the one thousand plus Chief Defenders that do not have affiliation with either national organization, into the community of reform, are offering a free one-year membership to both ACCD and NACDL upon becoming a member of NLADA. There is strength

and solidarity in numbers. And, it is a positive step to have NLADA and NACDL continue to work closely in confronting these challenges together.

Additionally, we have re-introduced *Executive Summary* to the ACCD community as a way to relay important information and foster stronger networks from state-to-state. We are also contemplating broadening the content of *Executive Summary* to appeal and meet the needs of the entire defender community. We would like to have a Chief's Corner, where we will discuss the issues of importance to the chief defender; a compilation of major news stories that focuses on major trends in criminal justice and indigent defense, and selections from newsletters of public

defender programs from across the country. This expanded publication would be delivered bimonthly and might necessitate a name change. We welcome your comments and feedback on the enclosed survey.

I hope to greet each of you at the NLADA Annual Conference and affirm again my belief that small groups of dedicated people can effect change on great scales.

Sincerely,


Ross Shepard
Director, Defender Legal Services
NLADA

The State of Indigent Defense in Georgia: An Overview

After decades of substandard assistance of counsel to its indigent accused, the State of Georgia has taken great strides toward upholding the promise of *Gideon*. With the passage of The Georgia Indigent Defense Act of 2003, the state recognized its responsibility regarding the oversight and funding of the indigent defense system, and created the Georgia Public Defense Standards Council ("the Council") to effectuate the necessary changes. The mission of the Council is "to ensure, independently of political considerations or private interests, that each client whose cause has been entrusted to a circuit public defender receives zealous, adequate, effective, timely, and ethical legal representation, consistent with the

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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.

Clipped from the Headlines

NATIONAL

The Washington Post reports that death sentences have reached its lowest level in thirty years. Citing a November 14th study by the Justice Department's Bureau of Justice Statistics, the Post questioned jurors' confidence in the reliability and fairness of capital punishment.

The New York Times reported on November 8, that "the number of inmates in state and federal prisons rose 2.1 percent" in 2003, despite a drop in crime. These numbers are pulled from a Justice Department study released on November 7 which showed more than 2.2 million Americans behind bars, almost 10 percent of whom were black men of 25 to 29 years of age.

FEDERAL

The Washington Post reported on November 9th that a unanimous U.S. Supreme Court ruled that a drunk-driving accident is not a "crime of violence" with consequences of removing a permanent resident, as there was no intent to cause harm. The ruling in *Leocal v. Ashcroft*, 03-583, the Court's first of three cases in this term delineating the rights of immigrants, was written by Chief Justice Rehnquist.

The National Law Journal reported on November 15th a swell of *pro se* cases in the 9th U.S. Circuit Court of Appeals. A 39% increase in the last few years have created a logjam, forcing the 9th Circuit's Task Force on Self-Represented Litigants to make recommendations to relieve the situation, "ranging from using law students to help handle the load – for academic credit – to granting firms success-based fee awards for handling the cases *pro bono*." The 9th Circuit is awaiting feedback on the recommendations.

The 3rd U.S. Circuit Court of Appeals has ruled that the taking of a hair sample cannot be considered a "search" and is therefore not in violation of the Fourth Amendment. The Court argued in

Coddington v. Evanko that hair samples are "more akin to fingerprinting and voice and handwriting exemplars, which have been held outside the ambit of Fourth Amendment protection," according to a November 8th story from the Legal Intelligencer.

ARIZONA

A November 14th investigation by the Arizona Republic shows the harsh reality of Arizona's ten-year trend of sending non-violent juvenile offenders to adult prisons housed with rapists, robbers, and murderers. With the formative teen years being spent in a culture of violence, the result is that one-in-four will become violent adult criminals when released. "A mad scientist couldn't have invented a worse approach," said Dan Macallair, executive director of the Center on Juvenile and Criminal Justice in San Francisco. "This is exactly what you shouldn't do."

CALIFORNIA

California's 3-Strikes reform efforts crumbled after opposition to Proposition 66 gained momentum in an eleventh-hour blitz by Gov. Schwarzenegger just days before the elections. With millions of dollars pouring into the state, what was once seen as a sure thing (polls showed 66% support heading into the campaign's final week), has since faltered. The Sacramento Bee and Los Angeles Times both have reports that promoters of Proposition 66 now have to return to the drawing board and perhaps plan for a legislative lobbying campaign.

The Los Angeles Times reports that law officials are ready to start expanding California's DNA database. Proposition 69 (approved by 61.9% of voters on November 2, 2004) "mandates that DNA be taken from every adult and juvenile convicted of a felony in California and from every adult arrested for certain felonies, including sex offenses,

murder and voluntary manslaughter." This ballot initiative will likely double the state's DNA database.

FLORIDA

Florida is suffering from a long backlog for felon civil rights appeals, according to a November 7th story in the Miami Herald. The Florida Clemency Board is often a last-chance option for ex-felons seeking to have their civil rights restored.

HAWAII

Hawaii will possibly have two new ballot initiatives in 2006 that will "deal with restoring the police 'walk-and-talk' practice of asking passengers at airports if they can be searched for drugs and allowing defendants' criminal histories to be introduced at trials," according to the Honolulu Advertiser. These proposals are expected to receive heavy opposition from civil rights advocates.

ILLINOIS

The Chicago Tribune reports a drop in Chicago's homicide rate partly do to the success of an antiviolence initiative called 'CeaseFire'. The program recruits former drug dealers and ex-cons to bring the message to the streets in "an aggressive campaign aimed at reining in street violence the same way public health groups have gone after AIDS and tuberculosis." Illinois provides \$5 million in funding for the program in 12 Chicago-area communities and four other cities in the state.

NORTH DAKOTA

Rising caseloads spur discussion of a new public defender system in North Dakota, according to the Minot Daily News. Over the last two years, drug cases involving methamphetamine have risen 250%; this increase risks crippling the state's criminal justice system. The discussion will continue during the 2005 legislative session, which begins on January 4th.



Chief's Corner

EYEWITNESS ID REFORM

Following a successful fall conference in Atlanta, and as part of new chapter of collaboration with the National Association of Criminal Defense Lawyers (NACDL), NLADA has joined forces with the Innocence Project and NACDL on a national legislative initiative regarding eyewitness identification reform. The Innocence Project has studied the issue – and the science behind eyewitness identification – very closely, and has identified “best practices” that will reduce the likelihood of mistaken identifications without significantly affecting the number or correct identifications.

In the initial phase of this project, NLADA and NACDL have targeted seven states that seem to be good candidates for action early on in the 2005 legislative sessions: California, Connecticut, Florida, Oregon, Rhode Island, Tennessee, and Virginia. In those cases we aim to build a network of support around the work being done on the ground. Some states already have reform efforts in place; in fact Rhode Island came very close to passing positive legislation late last session. We see a potential avenue for reform through an alliance of the already powerful state-based defender associations and their criminal defense lawyer counterparts.

With this effort as the foundation of a national legislative network, we are committed to pursuing this project in the target states. The Innocence Project

has developed model legislation and other useful resources to come up with the best possible bills to send through the various statehouses. If you are interested in receiving any materials on

this project or have any questions regarding eyewitness identification reform, please contact Jon Mosher (j.mosher@nlada.org) or Ross Shepard (r.shepard@nlada.org).

YAVAPAI COUNTY DEFENSE SYSTEM FAILING

Statement of Ross Shepard, Director, Defender Legal Services, NLADA

NLADA's Defender Legal Services has been following developments in Arizona regarding the actions of the Yavapai Board of Supervisors, and its dismissal of the county's chief defender. Letters were sent to the Board of Supervisors from NLADA, NACDL, and other organizations on behalf of Mr. DeRienzo. NLADA also released the following statement from Ross Shepard:

The National Legal Aid & Defender Association (NLADA) is concerned by the recent termination of Mr. DeRienzo. We have questions about the manner in which Mr. DeRienzo was relieved of his position; however, we are truly dismayed by the structural relationship that appears to exist between the Board of Supervisors and the Public Defender Office. As far as we can determine, this relationship appears to violate all nationally recognized standards on public defender independence.

According to the American Bar Association (ABA)'s *The Ten Principles of a Public Defense Delivery System*, the importance of independence in indigent defense systems is explicitly outlined. This principle calls for the establishment of an independent oversight board whose members are appointed by diverse authorities, so that no single official or political party has unchecked power over the indigent defense function. We do not see such a structure in place in Yavapai County.

The county's failure to establish an independent oversight board has, at best, created the perception of undue political interference over the defense function. At worst it indicates a flawed criminal defense system that is in need of systemic reform. NLADA calls on county officials to reform the current system and stands ready to assist Yavapai County come into compliance with all national indigent defense standards.

Inside Defender Communities

ARIZONA

Under a change in the Arizona Rule of Criminal Procedure 17.2 going into effect December 1, 2004, judges will now be required to inform defendants of the immigration consequences resulting in a plea of guilty or no contest. This change joins at least 21 other states that require the judge to warn the criminally accused who are not U.S. citizens (For the Defense, Training Newsletter of the Maricopa Co. PD's Office).

Perhaps the passage of Proposition 200 on Election Day has inspired this change in Arizona Criminal Procedure Rule. Proposition 200 requires proof of citizenship when applying for public benefits and also criminalizes an employer's failure to report undocumented immigrants applying for such benefits. "Public benefits" may include everything from welfare, education, food assistance and disability benefits to police and fire assistance. The proposition offers no clear definition of public benefits, and fear has spread throughout an already wary immigrant community. Proposition 200 has inspired other groups around the country to support passage of anti-illegal immigration laws.

CALIFORNIA

Despite California's extensive experimentation over the years with correctional policies that focus on punishment, a recent study by the National Council on Crime and Delinquency (NCCD) shows that most Californians believe rehabilitation ought to play a central role in our correctional system. Not only does the survey show that most Californians favor rehabilitative correctional methods, but that they support the use of state funds to provide rehabilitative services both in and out of prison. Fifty-six percent of Californians agree that rehabilitation and education would help alleviate California's crime problem. In 1982, only 35% of Californians agreed to a similar question. The survey includes questions about the factors that contribute to recidivism and re-incarceration rates. For the complete

NCCD survey, please visit www.nccd-crc.org.

The Indigent Defense Guidelines Working Group is reviewing and updating the State Bar of California's *Guidelines for Indigent Defense Delivery Systems* first issued in 1980 and last updated in 1990. The ten-member Working Group is expected to present its proposed revised guidelines by December of 2005. For more information please visit the website of the State Bar of California (www.calbar.ca.gov).

CONNECTICUT

Fiscal Year 2003 was a difficult year for one of the best-regarded public defender agencies in the country. Because of the state's budget crisis, 33 employees of the Connecticut Division of Public Defender Services were laid off. Seven assistant and deputy assistant public defenders were among those lost. These losses increased individual case-loads and challenged Connecticut's efforts to provide constitutional representation to indigent defendants. As evidence of the Division's team spirit and dedication to its underserved populations, three investigators who were laid off agreed to stay on as volunteers and continue the work that is so critical to the provision of quality defense ("The Volunteer State," *The Hartford Courant*, 2/2/03). Although 18 of the 33 laid off staff were called back to work by mid-June, funding to maintain and increase staff continues to be the most pressing problem for the Division.

New Innocence Project

In the Summer/Fall 2004 issue of the Connecticut Division of Public Defender Services newsletter, *Discovery*, Chief Defender, Gerry Smyth, announced the Division's establishment of the *Connecticut Innocence Project*, a project that will rely on voluntary involvement by committed lawyers and staff to identify innocent persons currently incarcerated in Connecticut. Connecticut hopes to model its *Innocence Project* on other encouraging models around the country, such as Kentucky's model.

DELAWARE

Pay Parity

According to The Spangenberg Group's (TSG) 2004 Public Defender Review, Delaware is one of very few states to have salary parity between the Public Defender and Attorney General. TSG notes that Connecticut and Massachusetts are other states with salary parity. Maryland has also recently had success in achieving this goal. According to the TSG report, Delaware instituted a pay plan in 2000 with a clear salary structure and promotional opportunities for all staff members. The report suggests that this has helped keep experienced and dedicated attorneys on staff.

GEORGIA

Fulton County Conflict Defender, Inc./Alternative Sentencing and Mitigation Institute, Inc. (ASMI)

Treatment Diversion Calendar (TDC) – misdemeanor clients who have been identified as having mental health problems and who volunteer for the program are diverted to a specialized court (TDC) within the Magistrate Court. Participants in this program must maintain six months of treatment compliance under supervision of the court and accompanied by intensive case management. Participants may choose at any time to withdraw and transfer their case to State Court for normal criminal proceedings. Results: 55.8% of terminated TDC clients served by FCCD/ASMI social workers graduated from the program due to compliance with treatment.

Superior Court Program – the Superior Court Program was established in 1993 as the first defense-based alternative sentencing collaboration with FCCD attorneys. ASMI social workers provide assessments and social investigations into mitigating factors that may promote alternatives to incarceration for persons suffering from social and/or psychological deficits. Evaluations of the Superior Court Program are based on a cost/benefit analysis. Results: over \$1,000,000

was displaced from incarceration into community alternatives.

INDIANA

In a small but encouraging feat, both the Porter County and Adams County Chief Public Defenders successfully persuaded the county councils to allow them to hire additional public defenders to lessen the burden of excessive caseloads.

In June 2004, Porter County Chief PD, James Tsoutsouris, received funds to hire two additional attorneys. In his three decades on the job, Tsoutsouris has never had to request additional help in the middle of the budget year; however, almost all of his deputy public defenders are carrying caseloads far in excess of those recommended by the Indiana Public Defender Commission. One of his deputies was assigned 613 cases last year (*Indiana Defender*, September '04).

In August 2004, Adams County Chief PD, Pat Miller, was also granted funds to hire an additional PD to aid his overburdened office. His small office now has a total of three public defenders. In convincing the council, Miller noted that several other counties smaller than Adams have three public defenders and that at least one county similar in population to Adams has six public defenders (*Indiana Defender*, Oct. '04).

Warrick County Superior Court Judge Keith Meier applied to the National Institute of Corrections (NIC) to review and evaluate his court and suggest ways in which it can better serve adult offenders. Judge Meier is concerned with the growing number of drug and alcohol offenders that pass through his court for whom a term of incarceration may not be the most appropriate sentence. He would appreciate expert input in dealing with his struggle to keep the community safe while alleviating the prison system. Judge Meier recognizes that NIC usually works with more urban areas, but hopes that they will consider his county for review (*Indiana Defender*, Oct. '04).

KENTUCKY

Caseload Crisis

While the Kentucky Department of Public Advocacy has achieved great success in creating a nearly complete full-time defender system, the state's caseload crisis is escalating beyond emergency status. The caseload per attorney in the Department of Public Advocacy (DPA) continues to increase each year while the budget remains relatively static. In 2001, a DPA trial attorney opened 420 new cases of mixed offenses (felony, misdemeanor, juvenile and capital cases). From FY 2002 to FY 2004, average Kentucky caseloads have increased from 434 new cases per lawyer to 489. The national standard for mixed caseloads is 310 cases per lawyer. In FY 04, the DPA has identified 16 of the 29 full-time

defender offices facing a crisis situation with each attorney carrying between 500 and 600 cases.

The Kentucky Department of Public Advocacy has published a helpful guide for attorneys trying to preserve a persuasive trial record. The articles detail how to use facts, objections, suppression hearings and motions to ensure for your client a favorable position if the case proceeds to the appellate level. For a copy of the September 2004 edition of *The Advocate* (Volume 26, Issue No. 5), contact the Kentucky Department of Public Advocacy at (502) 564-8006.

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Letter From the Maryland Public Defender

During fiscal year 2004, the Office of the Public Defender achieved several of its key goals at maintaining the high quality representation provided to indigent defendants throughout the state. These include the Caseloads Initiative, a case-weighting study, pay parity between OPD attorneys and attorneys from the Attorney General's Office and the passage of legislation that prohibits juvenile respondents from waiving the right to counsel without first consulting with counsel.

Fiscal Year 2004 began the first year of the Caseloads Initiative. The budget committees and the General Assembly funded 58.5 new positions despite the difficult economy. The impact of these new positions on attorney caseloads was significant in those districts where the positions were allocated. There is no doubt that these positions are critical to reducing caseloads in many districts and slowing caseload growth in others. However, the full impact of the Caseloads Initiative in achieving compliance with the ABA standards will not be visible until the Caseloads Initiative's third year.

In conjunction with its Caseload Initiative, the OPD hired the National Center for State Courts to conduct a comprehensive case-weighting study to develop Maryland-specific caseload standards. The study, to be completed in 2005, will yield caseload standards for each area of Maryland practice. The Caseload Initiative along with the case-weighting study places the OPD on track to bring agency caseloads into compliance with ABA standards.

Also this past year, after four years of effort, the OPD achieved pay parity for all of its attorneys. With support from the Ehrlich administration and the General Assembly, OPD attorneys will receive in fiscal year 2005, salaries equal to that of attorneys from the Office of the Attorney General.

Another significant accomplishment during fiscal year 2004 was the passage of legislation that mandates that no juvenile can waive counsel without an opportunity to consult with counsel. This new law will ensure that no child is forced to navigate the juvenile justice system alone.

I am proud of the Office of the Public Defender and all of its employees who work every day to protect the rights of the indigent and serve the underprivileged. Through the efforts of its entire staff, the Maryland Office of the Public Defender has earned a national reputation for the highest quality of professionalism and superior representation for the people we serve.

Nancy S. Forster
Public Defender
September 30, 2004

The State of Indigent Defense in Georgia: An Overview

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guarantees of the Constitution of the State of Georgia, the Constitution of the United States and the mandates of the Georgia Indigent Defense Act of 2003; to provide all such legal services in a cost efficient manner; and to conduct that representation in such a way that the criminal justice system operates effectively to achieve justice.”

The American Bar Association’s *Ten Principles of a Public Defense Delivery System* was the basis for the initial request that a Supreme Court Commission be established to judge Georgia’s indigent defense system.

The eleven-member Council stands as an independent agency within the judicial branch of the state government of Georgia. The Governor, Lieutenant Governor, Speaker of the House, Chief Justice of the Supreme Court, and Chief Judge of the Court of Appeals each appoint two council members to serve four year terms. The eleventh member is a circuit defender appointed by the circuit defenders. Of the eleven members of the Council one is a public defender, two are superior court judges, one is a law professor, and another three are practicing attorneys with a significant history of commitment to indigent defense improvements. As much as possible, the system is free from political influence, however, the legislators created an oversight committee within the Georgia General Assembly that must give final approval to any standards adopted by the Council that might have a fiscal impact on the state.

Michael Mears was hired as the Council’s first director in January 2004, and is based in Atlanta. As the director, he is chiefly responsible for the administration and coordination of the Council’s operations and supervises compliance with rules, policies, procedures and standards adopted by the Council.

The General Assembly has appropriated \$45 million for a 12 month annualized budget period beginning July 1, 2005 (the legislature also allocated

\$22 million to the Council to cover operating costs for the nine months leading up to July 1, 2005). The \$45 million budget will in essence provide sufficient attorneys, support staff, etc., to handle about 55 to 60 % of the indigent defense needs in Georgia which include felony and occasionally misdemeanor cases in superior court and juvenile cases in juvenile court. Prior to the reform efforts, the state provided funding for a little over 10% of the indigent defense needs in Georgia, and counties were responsible for the rest. Unfortunately, most estimates place the price-tag around \$80 million for a fully state-funded indigent defense system in Georgia.

Therefore the counties are responsible for providing sufficient funding for state, magistrate, and probate courts as well as funding for those cases which exceed the acceptable caseloads for superior and juvenile court defenders.

In a number of instances, the counties enter into “intergovernmental contracts” with the Council to provide the additional services they will need in state courts, magistrate courts, and probate courts. The county government will contract with the Council and provide it with additional funding (above the state funding) to hire the necessary attorneys and staff to handle those courts not covered by the statute and will also provide for the attorneys and staff required above the Council’s 55% contribution. It is anticipated that about 38 or 39 of the circuits will enter into these types of contracts.

Taking into account the additional attorneys which will be hired as a result of the intergovernmental agreements, the council will have approximately 300 attorneys employed statewide in its public defender offices soon after January 1, 2005.

Effective January 1, 2005, 42 circuits will have a fully operational public defender office. In addition, at least two regional conflict defender offices will be open in January 2005. A five member

Georgia

Capitol: Atlanta

Number of Counties: 159

Population: 8,684,715

Largest City: Atlanta (4.1 million)

Persons under 5 years old: 7.3%

Persons under 18 years old, 26.5%

Persons 65 years old & above: 9.6%

Density: 141 people per square mile

Homeownership Rate: 67.5%

(In 2000 some 72 percent of the state’s total population lived in towns and cities)

Educational Attainment

78.6% high school graduate or higher

24.3% bachelor’s degree or higher

Employment and Poverty

3.6% Unemployment

Median household income: \$42, 433

9.9% families below the poverty level

13% individuals below the poverty level

Adult Offenders (10/22/04)

Probation 135,592

Prisoners 48,887

Parolees 24,322

Total 208,801

Indigent Defense System

Quick Reference:

Title: Georgia Public Defense Standards Council

Director: Michael Mears

Address: 104 Marietta St., Suite 200
Atlanta, GA 30303
(404) 232-8900
(800) 676-4432
Fax: (404) 651-5706
Website: www.gpdsc.com

Oversight: 11-member independent appointed council; statewide system with 49 judicial circuits

Budget: \$45 million/year

Funding sources:

- 55% state; 45% county
- 10% fee on fines and criminal bonds
- new \$15 fee on all civil filings
- \$50 application fee for applicants for indigent defense services

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Circuit Selection Panel will be responsible for identifying, recruiting, and ultimately selecting qualified attorneys to be the Circuit Public Defender in each of the 49 judicial circuits on the five-member Circuit Selection Panels. The Governor, the Lieutenant Governor, the Speaker of the House, the Chief Justice, and the Chief Judge of each circuit will appoint one member to each of the 49 Circuit Panels.

Fifteen counties were eligible to apply to "opt out" of the new indigent defense system in 2004, i.e. single county judicial circuits. Out of the fifteen eligible counties, seven applied for permission to run their own program under the general supervision of the Council, but without a public defender office under the direct supervision of the State. Of the seven counties that applied for permission to opt out, the Council granted permission to four counties: Houston, Douglas, Cobb and Gwinnett. Houston and Douglas already have county funded public defender offices and Cobb and Gwinnett have an appointed panel system under the direct supervision of an attorney. Three counties were denied permission to opt out (such programs did not satisfy the Council that they would be able to meet the state's standards): Clayton, Cherokee and Forsyth. The Council hopes to have a public defender office up and running in those counties within 90 days of January 1, 2005. The Council aims to comply with national standards on caseload limitations, but will not have final, accurate data on caseload information until mid-2005. All of the data available is anecdotal and is not considered credible at this point in time. The Council is in the process of installing a statewide case management system which would provide accurate, verifiable caseload data. It will be at least six months before there is acceptable data upon which caseload standards can be applied.

Information from conversations with Michael Mears and materials from the Georgia Public Defender Council's website were used in compiling this report

NLADA and NACDL Join Forces

In an effort to reach out to an even greater number of chief defenders than those already embodied in the American Council of Chief Defenders (ACCD), NLADA has joined forces with the National Association of Criminal Defense Lawyers (NACDL).

NLADA and NACDL are partners in a common cause: protecting and supporting the right to counsel embodied in the Sixth Amendment. For many years, both organizations have promoted independence, proper funding, and reasonable caseloads for indigent defender systems throughout this country. In the year ahead, our goal is to pool our resources and present a stronger, united front on the common issues we share.

NACDL's current President is Barry C. Scheck, co-founder and co-director of the Innocence Project, and a former

public defender. A Professor of Law at the Benjamin N. Cardozo School of Law in New York City, he has served for more than twenty-one years as the director of Clinical Education, Trial Advocacy Programs, and the Jacob Burns Center for the Study of Law and Ethics. Mr. Scheck has been a friend and close ally of NLADA's.

NLADA and NACDL sent a letter to all non-member chiefs, jointly signed by Barry Scheck and Ross Shepard, offering a one-year membership to NLADA, the ACCD and NACDL for the significantly discounted price of \$90. If you are a chief defender who is not a current member of NLADA or NACDL, and are interested in this membership offer, please contact Jane Ribadeneyra, NLADA's director of membership, at 202-452-0620 x234 or e-mail her at jriba@nlada.org.

Inside Defender Communities

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VIRGINIA

From the VA-IDC Annual Report

The newly created Virginia Indigent Defense Commission (VA-IDC) will be busy this coming year. The VA-IDC plans to integrate the court-appointed counsel and public defender systems into one agency and develop the infrastructure necessary to fulfill its statutory duties. It will work to build the infrastructure by enforcing standards of conduct for all attorneys, conducting trainings and upgrading information technology.

In July 2004, the VA-IDC embarked on an initiative called "The Year of the Client." This initiative will refocus the entire agency and staff on providing client-focused, superior representation. The VA-IDC also aims to bring the public defense system into compliance with national standards by reforming the private bar fee caps, ensuring parity of

salary and resources between public defenders and prosecutors, increasing the resources for trial skills training and enforcing caseload caps. For more information, contact Richard Goemann, executive director, at (804) 225-3297.

WYOMING

For the first time in the 26-year history of the Wyoming Public Defender Program, the U.S. Supreme Court granted *certiorari* in a case submitted to them by the Wyoming Public Defender's Office. The case, *Sarr, Michael W. v. Wyoming*, involves the violation of the constitutional prohibitions against double jeopardy (in the Wyoming Supreme Court see case no. 2004 WY 20).

From Wyoming to Saipan

Wyoming Deputy Public Defender, Will Bierman, has accepted a position as a Federal Public Defender in Saipan, a US Protectorate in the Pacific.

Georgia Circuit Defenders ‘Proclaim’ Leadership Skills to Build a Robust Public Defense Program

Picture this: you fly to Atlanta airport then drive about two and a half hours to a lovely state park conference center in McRae, Georgia. You walk into the conference room and unexpectedly you are surrounded with ‘super sized’ white boards and on them are public defense-related proclamations such as: “The cry of the poor is not always just, but if you don’t listen to it, you will never know what justice is.” (Howard Zinn, *A People’s History of the United States*). Each of the large quotes is more inspiring than the next. Excitement is in the air among the forty-seven participants and six faculty members. You have just walked into the first leadership and management training for the new Georgia Circuit Defenders. On November 18–19, 2004 Georgia Public Defender Mike Mears graciously welcomed faculty members and united the Circuit defenders as pioneers in building a statewide defender system that will significantly bolster the pursuit of equal justice throughout Georgia. This conference was supported by the Georgia Public Defender Standards

Council (www.gpdsc.com) and organized by Jon Rapping, formerly of Public Defender Service in DC and now is the new director of training for Georgia’s evolving indigent defense system.

The McRae leadership conference highlighted leadership fundamentals, coaching skills, core management techniques, and client-centered advocacy to assist each Circuit defender in running their respective offices. The faculty consisted of Ernie Lewis and Ed Monahan from Kentucky, Avis Buchanan and Cait Clarke from Washington, DC, Richard Goemann from Virginia, and Ron Sullivan from Connecticut. Participants expressed their appreciation for the information the diverse faculty relayed at the McRae leadership training. Even though this event provided more of an overview of fundamentals, sessions did focus on specific issues identified by a few Circuit defenders. They also worked through a series of ethical hypotheticals relating to public defense (i.e., counseling lawyers on the interplay between their duty to their clients and ethical

concerns). Through interactive sessions, Circuit defenders learned how to coach the best performance out of their staff. They learned management skills that would help them embrace different office personalities or work styles. Client-centered advocacy was the cornerstone of each plenary session and small group activity.

The ‘super sized’ white boards with the inspiring quotes held new meaning for each participant and faculty member as they were taken down and packed away on the final day. The struggle to build a model Georgia indigent defense system has been long and hard-fought. In the room there was a real sense of a shared commitment to protecting the right to counsel in Georgia’s criminal courts. It is now time for the leadership to fulfill its mandate while other defenders nationwide watch and applaud the efforts of the GPDSC, Circuit defenders, frontline-lawyers and staff members. The McRae leadership conference itself was a proclamation that Georgia’s public defense leaders are ready to lead.

Newest Addition to NLADA

NLADA is pleased to welcome Defender Legal Services’ newest member, Catherine Beane, new director of the National Defender Leadership Institute. She joins NLADA after serving as Indigent Defense Director for the National Association of Criminal Defense Lawyers. As an old friend, we are sure that it will be a smooth transition for her. Cait Clarke has decided to step down as director of NDLI in order to concentrate more of her time on family and to develop her management leadership consulting practice. Fortunately, she will continue with NLADA on a consulting basis, and will maintain a presence in the community.

Please join us in welcoming Catherine to NLADA!

National Legal Aid & Defender Association

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