

**The Honorable John Culberson**  
**Chairman**  
**Subcommittee on Commerce, Justice,**  
**Science, and Related Agencies**

**The Honorable Mike Honda**  
**Ranking Member**  
**Subcommittee on Commerce, Justice,**  
**Science, and Related Agencies**

**May 11, 2016**

**Re: Funding for “Answering Gideon’s Call” initiative in 2017 Commerce, Justice, Science, and Related Agencies Appropriations Act**

Dear Chairman Culberson and Ranking Member Honda:

The undersigned diverse groups are writing to request that the President’s request for \$5.4 million for the “Answering Gideon’s Call” initiative be included in 2017 Commerce, Justice, Science, and Related Agencies Appropriations Act. Fifty-three years ago, the US Supreme Court declared, “Any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided to him.” Despite progress over the last 50 years, the right to counsel in all criminal prosecutions announced in *Gideon* is far too often short-changed or ignored.

Numerous recent reports and court decisions have documented the severe underfunding of the public defense function across the country and the resulting failures to provide counsel when required by law. One of the best overviews is the 2009 report “Justice Denied” by The Constitution Project’s National Right to Counsel Committee. That distinguished group summed it up well: “Today, in criminal and juvenile proceedings in state courts, sometimes counsel is not provided at all, and it often is supplied in ways that make a mockery of the great promise of the Gideon decision and the Supreme Court’s soaring rhetoric.” Indeed, the deprivation of this right has gained such notoriety as to prompt Senator Grassley to hold hearings last year in the Senate Judiciary Committee.

Nationally, the average defender caseload is 360 cases, well above existing caseload standards. There are offices where attorneys handle well over 1000 felonies per year. While 22 states have state-based indigent defense systems, the others have county-based, which means those public defense systems are subject to unpredictable and frequently deficient funding streams. Forced to make cuts, offices have no money for training; indeed, in some offices, new defenders have no training before taking on hundreds of cases. Lack of adequate funding forces some jurisdictions to do triage, meaning accused persons are denied counsel for bail hearings and misdemeanor proceedings.

The lack of adequate financing for public defense increases pretrial detention, increases the length of sentences, increases the pressure on defendants to plead guilty, inevitably leads to wrongful convictions and results in a loss of confidence in our criminal justice system. The Department of

Justice distributes substantial funding to local criminal justice systems, but the vast majority of this funding is provided to law enforcement, further exacerbating resource imbalances.

The requested funding would bolster the Justice Department's recent steps to right the balance with technical assistance and training grants to benefit public defense providers. These grants have facilitated the development and adoption of practices that enhance professionalism and efficiency, such as standard checklists for representation and detailed timekeeping. Such innovations, combined with trainings and resources designed to meet the needs of specific jurisdictions, have helped public defender systems improve the quality of representation even while coping with tremendous caseloads and funding shortfalls.

The grant money provides direct local assistance in states that are most in need, and that assistance goes directly to those who are on the front line handling tremendous caseloads. It improves training, it helps defenders manage caseloads, and it promotes more effective advocacy, which in turn, can save taxpayers significant monies due to prolonged litigation, unnecessary incarceration costs, and potential wrongful conviction.

As Senator Grassley noted at a hearing he held last year, "Many states are not providing counsel as the Constitution requires." Likewise, three years ago, at the Justice Department's 50th Anniversary Celebration of *Gideon*, Attorney General Eric Holder observed: "America's indigent defense systems exist in a state of crisis." The Justice Department has taken important steps to alleviate the crisis, vindicating the principle that the poor and the wealthy should have equal access to justice. True justice in our adversarial system can only be achieved – and our fundamental rights can only be safeguarded – through the assistance of competent defense counsel. We therefore urge you to include the President's modest but extremely important finding request in the 2017 Commerce, Justice, Science, and Related Agencies Appropriations Act.

Sincerely,

National Association of Criminal Defense Lawyers  
The Constitution Project  
American Civil Liberties Union  
Sixth Amendment Center  
Gideon's Promise  
National Legal Aid and Defender Association  
Equal Justice Initiative  
Innocence Project

Texas Criminal Defense Lawyers Association  
California Attorneys for Criminal Justice  
Kentucky Association of Criminal Defense Lawyers  
Kentucky Public Advocacy Commission  
Washington Association of Criminal Defense Lawyers  
Mississippi Public Defender Association  
New York State Association of Criminal Defense Lawyers  
Pennsylvania Association of Criminal Defense Lawyers  
Defender Association of Philadelphia  
Florida Association of Criminal Defense Lawyers