During the 40th anniversary year of the U.S. Supreme Court’s decision in *Gideon v. Wainwright*, the American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants (ABA SCLAID) in 2003 held a series of public hearings to examine the implementation of the right to counsel in state court proceedings for poor persons accused of crimes. In January 2005, ABA SCLAID published its final report based on the testimony provided at the hearings, entitled “*Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice.*” This information sheet contains a short summary of the “Problems in Indigent Defense” and “Recent Reform Efforts” in Louisiana that were reported by hearing witnesses. For the complete information regarding each of the statements listed below (including references to hearing transcripts, reports, and other supporting materials), please see “*Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice,*” available at http://www.indigentdefense.org/brokenpromise.

**Problems in Indigent Defense**

The following problems were reported by the hearing witnesses:

- Local funding for indigent defense services in that state derives from court costs assessed against defendants for criminal violations and varies dramatically depending upon factors as unpredictable as the number of traffic tickets issued by police each month.

- Although national standards recommend that indigent defense attorneys receive reasonable compensation for reasons of fairness and to encourage vigorous representation, contract defenders in Louisiana generally do not receive sufficient compensation. For example, in one Louisiana parish, the contract defenders must provide for their own office out of the $34,000 total they receive per year in funding. As one witness remarked, “[t]he only way for these attorneys to make up the shortfall is to take private cases, which results in the representation of the indigent suffering.”

- Although national standards recommend that public funds be used to provide effective training, professional development, and continuing education to all counsel and staff involved in the delivery of indigent defense services, in Louisiana there is no provision for formal, systematic training of indigent defense attorneys or support staff at either the state or local levels.
Throughout Louisiana, district attorneys have more support staff and investigative assistance than public defenders, in addition to the use of police and crime labs. Further, district attorneys in Louisiana receive retirement benefits partially funded by the state, while public defenders generally do not.

The U.S. Supreme Court has acknowledged that defense counsel’s obligation to provide “effective assistance of counsel” includes the duty to consult with the client on important decisions and keep the client informed of important developments. Nevertheless, one witness reported that in 83% of the cases in Calcasieu Parish, Louisiana, “there is nothing to suggest that a public defender ever met his indigent client out of court. What happens, therefore, is that on the morning of the trial, the public defender will introduce himself to his client, tell him the ‘deal’ that has been negotiated, and ask him to ‘sign here.’”

Although Louisiana by statute requires the appointment of public defenders at a hearing to be held within seventy-two hours of arrest, in Calcasieu Parish, public defenders rarely meet with clients in felony cases prior to arraignment, which occurs an average of 315 days after arrest.

In Calcasieu Parish, Louisiana, the average delay from arrest to disposition in a criminal case is 501 days, which is more than twice the national average of 214 days. Aside from the potential violations of the constitutional right to a speedy trial, these delays disproportionately harm poor persons who, because they are unable to post bond, endure repeated delays while they remain locked up in jail.

In addition, the hearing witnesses reported that:

- indigent defense attorneys lack essential resources for mounting an effective defense, such as investigative, expert, and support services;
- oftentimes caseloads far exceed national standards, making it impossible for even the most industrious of attorneys to deliver effective representation in all cases;
- horizontal representation (i.e., the appointment of different lawyers for different stages of a case) is commonly practiced, contrary to guidance contained in national standards;
- in many cases, indigent defense attorneys fail to fully conduct investigations, prepare their cases, or advocate vigorously for their clients at trial and sentencing;
- indigent defense systems in the state are not fully independent from undue political or judicial influence;
- there is a lack of statewide oversight and structure for indigent defense services, resulting in a hodgepodge of local systems that are unsupervised and vary greatly in their effectiveness; and
- a recent survey of the jail in Calcasieu Parish revealed that one indigent accused person was detained for a year and a half before a lawyer was appointed in his case.

**Recent Reform Efforts**

The following reform efforts were reported by hearing witnesses:

- Efforts to build a reform coalition involving public defenders, contract lawyers, private attorneys, and community leaders are underway.
• In September 2004, a class action lawsuit was filed against the State of Louisiana, the Governor of Louisiana, and the Louisiana State Legislature alleging that inadequate funding and other deficiencies in Calcasieu Parish’s indigent defense system result in the effective denial of the constitutional right to counsel for indigent defendants. The lawsuit was filed pro bono by Sutherland, Asbill & Brennan LLP and Baker Botts LLP, with the support of the National Association of Criminal Defense Lawyers.

• In 2004, the Louisiana legislature created a task force to study the indigent defense system and to present findings and recommendations for statutory improvements. The task force includes representatives from all three branches of state government, as well as business leaders, the deans of the state’s four law schools, religious leaders, and individuals from the social services and legal services communities. The Louisiana State Bar Association supported the creation of this task force through a resolution adopted in 2003.

• National Legal Aid and Defender Association and the National Association of Criminal Defense Lawyers conducted assessments of indigent defense at both the parish and statewide levels in 2003. Further, ABA SCLAID contributed grant funds through its ABA Gideon Initiative in 2002 to study the criminal justice system in one Louisiana parish and the juvenile justice system statewide.