

DOES YOUR STATE DELIVER ON THE PROMISE OF COUNSEL TO ALL ITS CITIZENS?

Find out how the public defense system in your state delivers on its responsibility to provide counsel within 24 hours of arrest to anyone who can't afford an attorney. You can start by asking the following questions:

1. When do people who cannot afford counsel in your area receive counsel?
Upon arrest, after arraignment, well before trial or just before trial?
2. How often, if at all, do accused people remain incarcerated while awaiting a first meeting with an attorney?
3. Do accused people agree to plea bargains without the advice of counsel?
4. Do public defense attorneys have the time, tools and training to provide competent representation in your area?

Will the problem of providing timely counsel get worse after current budget cuts?

FOR MORE INFORMATION

If you would like to schedule an interview or get a state-based contact for indigent defense issues, please contact the Gideon Desk at 202-557-7693 or Gideon@spitfirestrategies.com.

For more information on the issue, visit:

American Bar Association,
www.abalegalservices.org/sclaid
www.abanet.org

National Association of Criminal Defense Lawyers
www.nacdl.org

National Legal Aid & Defender Association
www.nlada.org



NO EXCEPTIONS

A CAMPAIGN TO GUARANTEE A FAIR JUSTICE SYSTEM FOR ALL



THE PROMISE:

Qualified Counsel for Anyone Who is Accused of a Crime – Even If They Can’t Afford One

It’s a basic right: “equal justice under law” means that every American should stand equal before the courts. The U.S. Supreme Court ruled in the landmark case of *Gideon v. Wainwright* that the Constitution guarantees all Americans access to legal representation when facing prison time for criminal charges. If someone cannot afford to hire an attorney, the court is required to appoint one for him or her.

This year marks the 40th anniversary of *Gideon v. Wainwright*, which affirmed the principle guaranteed in the 6th Amendment to the United States Constitution: “The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours.” — Unanimous U.S. Supreme Court opinion in *Gideon*, March 18, 1963.

This guarantee legitimizes our legal system — if we can all count on getting qualified counsel, we can all trust our system of justice.

THE PROBLEM:

Too Many Americans Can’t Trust the System to Work for Them

In 2000, the U.S. Department of Justice declared that indigent defense in the United States is in a “chronic state of crisis.”

The Constitutional rights of people unable to afford counsel are routinely disregarded. Time and again, Americans are arrested and held indefinitely — or face charges, arraignments and the pressure to plea-bargain — without even the pretense of counsel. A person facing criminal charges who cannot afford an attorney can sit in jail for weeks or months before being assigned an attorney, or have his first conversation with his attorney in court. Those who do get counsel are often represented by attorneys who do not have the time, training or tools to do their jobs. Court-appointed lawyers are frequently overloaded, inexperienced or both. Some public defenders are so poorly funded that they can’t pay investigators or get access to essential defense tools such as DNA testing.

THE CAMPAIGN:

The public defense crisis in America is a serious nationwide problem – there is not one state that fully delivers on the *Gideon* ruling. Many states fall woefully short. Without the guarantee of qualified counsel in every single state, we do not have a fair justice system. It is that simple.

On the anniversary of *Gideon*, it is time to fulfill a 40-year-old promise.

The “No Exceptions” campaign aims to remind each state of its responsibility to promptly provide qualified counsel to anyone who is accused of a crime and can’t afford an attorney. **There are no exceptions to this rule.**

The “No Exceptions” campaign will focus on 10 principles that, if implemented in each state, would go far in guaranteeing fairness in our public defense system and finally delivering on the promise of *Gideon*.

Anyone accused of a crime who can’t afford an attorney on his or her own must get qualified counsel in 24 hours. **No Exceptions.**

To learn more about the campaign and the issue, visit www.NoExceptions.org.

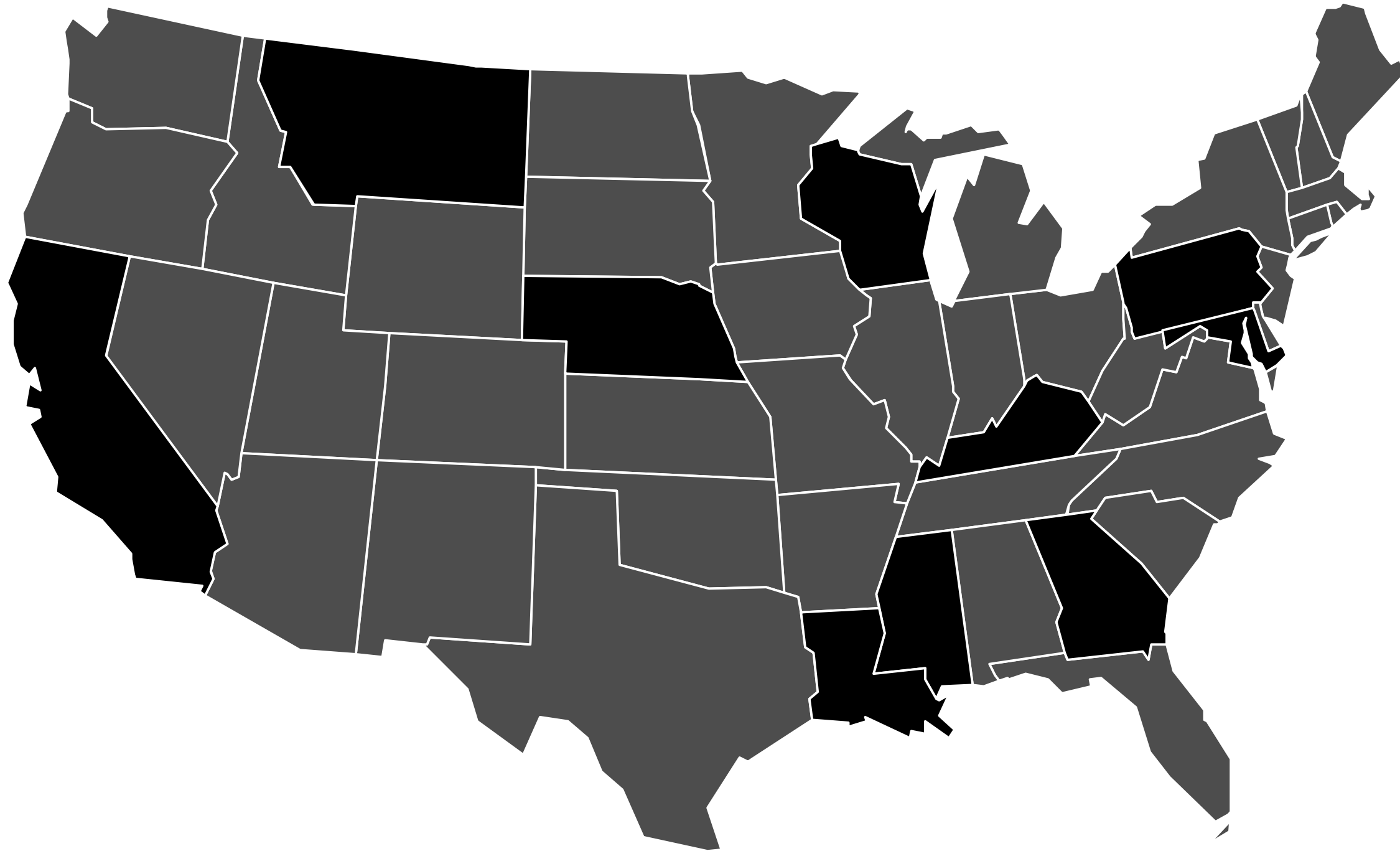
DELIVERING ON THE PROMISE:

10 Principles to Follow

The American Bar Association has identified 10 principles that, if adopted and fully implemented by states, would strengthen public defense in America and increase public confidence that the system is fair.

The ABA Ten Principles of a Public Defense Delivery System require that:

- * The public defense system is independent;
- * Attorneys have the necessary ability, training and experience to handle their cases;
- * Both public defenders and the private bar actively participate in the system;
- * The same attorney represents the client from initial assignment until the case is completed;
- * An attorney is provided promptly to anyone who cannot afford representation;
- * Attorneys have on-going legal education and training;
- * Attorneys have confidential access to – and sufficient time to meet with – their clients;
- * Attorneys are regularly supervised according to national and local standards; and
- * Each attorney's workload is controlled to enable them to provide quality representation;
- * The workload, salaries and resources of defense attorneys are on par with those of prosecutors, and defense counsel is an equal partner in the justice system.



A SYSTEM IN CRISIS:

The Long Wait for Counsel

The ruling in *Gideon v. Wainwright* — and subsequent court expansions of the right to counsel — applies to every state. Yet, in states across the country, Americans are being arrested and held — sometimes for months — without access to legal counsel. People without the money to hire a lawyer are often charged, arraigned, and plead guilty without ever speaking to an attorney.

WHAT SHOULD HAPPEN:

The Standard for Providing Counsel Quickly

Anyone who is arrested for a crime should be screened for eligibility, and defense counsel should be assigned and notified of appointment within 24 hours of the person's arrest, detention, or request for counsel.

WHAT REALLY HAPPENS

Too many people who have been arrested for a crime and cannot afford an attorney wait a long time to get access to counsel. To document how widespread the problems are, this map highlights stories and statistics about people around the United States who have been denied access to an attorney within 24 hours of their arrest.

CALIFORNIA: In Riverside County, 12,000 people a year plead guilty without ever talking to a lawyer.

GEORGIA: In Atlanta, Tony Humphries was charged with jumping a subway turnstile to escape paying a \$1.75 fare. He sat in jail for 54 days before a lawyer was appointed — far longer than the sentence he would have received if convicted.

KENTUCKY: Juveniles who have been accused of a crime often do not have access to an attorney until arraignment even when they have been taken into custody.

LOUISIANA: Accused people who cannot afford an attorney in Lake Charles typically meet their public defender for the first time an average of 281 days — more than nine months — after their arrest.

MARYLAND: Maryland law does not require courts to appoint attorneys at bail hearings. As a result, many accused people who cannot afford an attorney do not have access to counsel at these hearings and for a long time thereafter.

MISSISSIPPI: At age 50, Gail Chester was arrested on a shoplifting charge and sent to the Harrison County Jail. Chester sat in jail for 11 months before a lawyer was appointed to look into the facts of her case and another month before she actually talked to him — in court on the day her case was supposed to go to trial. Finally, nearly 14 months after her arrest, Chester pled guilty to misdemeanor shoplifting and was released from the jail.

MONTANA: In 2002, the ACLU filed a lawsuit against Montana's public defense system on behalf of a young woman who was detained in the Flathead County Jail for seven months without any help from an attorney.

NEBRASKA: According to the Omaha City Prosecutor, accused people who cannot afford an attorney who can't make bail stay in jail an average of 20 days because public defenders have so many cases that they can only get to the jail on certain days to meet with new clients.

PENNSYLVANIA: In Pittsburgh, a 19-year-old innocent man sat in jail for 15 months because his public defender had neither the time nor the resources to visit him.

WISCONSIN: In the state of Wisconsin, more than 11,000 accused people who cannot afford an attorney a year plead guilty without ever talking to a lawyer.