

Indiana



Primary Indigent Defense Delivery System: Public Defender/Assigned Counsel/Contract*

Population in 2002: 6,159,068**

**Percentage of State Plus County Expenditures in FY 2002 Attributable to State vs. Counties:
45.9% from State; 54.1% from Counties****

*Source: "Gideon's Broken Promise: America's Continuing Quest for Equal Justice," by the ABA Standing Committee on Legal Aid and Indigent Defendants, at page 5 (December 2004), available at <http://www.indigentdefense.org/brokenpromise/fullreport.pdf>.

**Source: "State and County Expenditures for Indigent Defense Services in Fiscal Year 2002," by The Spangenberg Group (on behalf of the ABA Standing Committee on Legal Aid and Indigent Defendants), at 4 and Table (September 2003), available at <http://www.abanet.org/legalservices/downloads/sclaid/indigentdefense/indigentdefexpend2003.pdf>.

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 SCLAD) 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 SCLAD 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 "Model Approaches to Providing Services" in Indiana that were reported by one of the 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 witness:

- The state's indigent defense systems are not fully independent from undue political and judicial influence, contrary to guidance contained in national standards. As the witness stated, "[r]ecently, I learned of an incident that provides a vivid illustration of what sometimes happens when judges control the defense function. A part-time defender advised the Indiana Public Defender Commission that the trial judge in his county was refusing to assign cases to him. When interviewed, the judge readily explained that he regarded the defense attorney as a problem because his frequent visits to his jailed clients led to complaints from other defendants whose court-appointed lawyers visited them much less frequently. The judge also stated that this same defense lawyer filed too many motions, and as a result prosecutors were less willing to plea bargain the cases of his clients. Finally, the judge noted that the defense lawyer's reimbursement claims were higher than those submitted by other defenders, which meant that his representation was costing the county too much money."

In addition, the hearing witness reported that:

- problems resulting from funding and resource inadequacies were exacerbated during 2003 due to the state's enormous budget deficit; and
- there is insufficient statewide oversight and structure for indigent defense services; many local systems are unsupervised and vary greatly in their effectiveness.

Model Approaches to Providing Services

The following model approach to providing services was reported by the hearing witness:

- Indiana has a state commission, known as the Indiana Public Defender Commission, which is authorized by statute to reimburse counties 40% of their expenditures in felony and juvenile cases, provided the counties create an independent board to oversee defense services and comply with the commission's caseload, qualification, and other standards for representation. Currently, 53 of the state's 92 counties have adopted the commission's standards and established independent boards. The Indiana legislation was cited in an ABA resolution as an effective means for enforcing indigent defense standards.