

Handout for meeting in Albany, June 6, 2014

On October 30, 2013, Attorney General Holder announced a total of \$6.7 million in grants to state and local criminal and civil legal services organizations across the country that provide legal defense services for the poor. These grants from OJP are part of the Justice Department's continuing efforts to improve indigent defense, which is often underfunded and understaffed, and to support training, mentoring, technical assistance, leadership development, and research to enhance the effectiveness of adult, juvenile, and tribal indigent defense practices.

Current Efforts: Below are resources and activities BJA supports in the area of indigent defense:

Training and Technical Assistance

- **Bronx Defender Office (BDX) Center for Holistic Defense.** Together BJA and BDX support public defender offices nationwide, replicating and mentoring Holistic Defense. Since 2009, nine offices have been awarded as mentoring sites. BDX has developed an assessment tool composed of four pillars of Holistic Defense to assist both small and large jurisdictions with implementation. BDX launched a documentary online about Holistic Defense in conjunction with live presentations, and the documentary will be integrated into BDX's training and technical assistance (TTA). BDX developed and launched a law school curriculum in a full-time class with Columbia Law School.
- **National Association of Criminal Defense Lawyers (NACDL).** NACDL and BJA support several training programs for defense attorneys. Under this grant NACDL identified jurisdictions for the delivery of targeted training sessions for public defenders and assigned counsel, meeting specific jurisdictional needs. NACDL will also meet other defense counsel training needs, such as regional trainings or "Bring Your Own Case" (BYOC) trainings. Additionally, NACDL will use the innovative Delphi pilot project currently running in the Missouri State Public Defender and implement this methodology in approximately five new jurisdictions, enabling those systems to better manage their workload. The results from this project will contribute the knowledge base for performance measures for providing right to counsel for all individuals.

Under another project, NACDL will replicate in three to five jurisdictions the Kentucky Department of Public Advocacy's (DPA) success with its "Kentucky Pretrial Release Manual." The Kentucky DPA widely distributed the manual to the Kentucky defense bar, among others, in an effort to provide attorneys with the tools necessary to engage in effective bail advocacy. These efforts have achieved demonstrable results and have contributed to significant savings for Kentucky's counties.

- **Seattle University.** Seattle University has a demonstrated history of providing intensive, site-specific TA which helps drive statewide systemic reforms. Seattle University and the Sixth Amendment Center (6AC) are providing immediate hands-on TTA to two states—Mississippi and Utah—which are uniquely positioned for substantive reform. In Mississippi, 6AC will perform survey and evaluation work

to educate policymakers on the value of the ABA Ten Principles, aiding the unfunded, legislatively established Office the Public Defender. In Utah, 6AC will work with the Utah Judicial Council and the Study Committee on the Representation of Indigent Criminal Defendants, conducting objective, standards-based evaluation in ten representative counties. The standards developed from the evaluation will then be used to assess trial-level indigent defense services, resulting in recommendations to the state legislature on what Utah needs to do to meet their constitutional obligations under the Sixth Amendment.

- **Gideon's Promise.** Gideon's Promise (GP) partners with public defender offices to build a community of committed and passionate attorneys to drive indigent defense reform across America. Their comprehensive model for change emphasizes client-centered values, ongoing trial advocacy training, mentoring, leadership development, and community-building. Under this grant GP is supporting: (1) 30 new attorneys, including criminal defense attorneys working on tribal lands, in the 3-year Corp 101 program where new public defenders are given the training and support they need to become effective criminal defense attorneys; (2) trainer and leadership development through an innovative and interactive program geared toward public defender trainers and supervisors and a semi-annual Leadership Summit, where chief defenders receive leadership training while they collaborate and strategize about how to most effectively apply the techniques and philosophies of the Gideon's Promise model to help foster change in their jurisdictions; and (3) the establishment of an advisory council that will produce and test at least 10 measures/indicators that will—for the first time—allow us to show the outcomes of providing effective assistance of counsel for all individuals. Gideon's Promise will work closely with BJA and other appropriate BJA-funded grantees on developing the measures.
- **San Francisco Public Defender's Office.** The San Francisco Public Defender's office has recently begun an initiative to develop practitioner checklists to better guide its attorneys through key moments in a case that are both substantive and user-friendly. The initiative is founded in literature – Atul Gawande's *The Checklist Manifesto* – that documents the value of checklists for complex and overworked systems, such as the legal system. The San Francisco Public Defender will create the first-ever local and nationally-applicable checklist system in partnership with the Center on Court Innovation to research and create a local and national model. The proposed checklist system would be adaptable by public defender offices and bar associations overseeing private court-appointed attorneys and will set a series of benchmarks detailing what is minimally required on an annual basis and provide resources so that each jurisdiction could ensure its attorneys are able to competently represent their clients, while avoiding costly errors.
- **American University (AU).** AU is partnering with the National Legal Aid and Defender Association (NLADA) to conduct a nationwide self-assessment (GIDEONline) to evaluate the degree to which state and local indigent defense providers are achieving the standards incorporated into the ABA Ten Principles. This will produce the first national empirical assessment of the quality of indigent defense services, measuring progress and improvements. They will use the information gathered from this assessment to help create training products responsive to the needs in the field and also to help target their site-specific TA toward jurisdictions which demonstrate a combination of need and a capacity to implement reforms.

- **Capital Case Training for Public Defenders.** BJA's **Capital Case Litigation Initiative** program provides training on death penalty issues to defense attorneys representing indigent defendants in state capital cases. Goals of the program include: increasing the number of capital litigation attorneys trained in capital case procedures and strategies and to improve the quality of legal representation provided to indigent defendants through innovative approaches.
- **BJA's National Training and Technical Assistance Center (NTTAC).** Through NTTAC, BJA can provide technical assistance to jurisdictions to meet their constitutional obligation to provide adequate representation to indigent defendants. Services can include providing assistance to assess the overall effectiveness and efficiency of indigent defense systems, developing recommendations to assure that adequate and appropriate indigent defense services are provided consistently throughout the state to ensure constitutional adequacy, and determining the appropriate measures for evaluating a defender services program. At least three states will receive TTA assistance (Mississippi, Tennessee, Utah).

Grants to State, Local and Tribal Jurisdictions

- **Answering Gideon's Call: Strengthening Indigent Defense through Implementing the ABA Ten Principles of a Public Defense Delivery System.** In FY 2012, BJA awarded \$1.2 million in grants to four agencies in Texas (Harris County), Delaware, Massachusetts, and Michigan. Each of the grantees partnered with a research organization in order to track outcomes. DOJ's expectation is that investments in this grant program will not only pay dividends in the jurisdictions that received an award, but – through evaluation – will contribute more broadly to indigent defense knowledge and practice on approaches to improving the quality of indigent defense services.
- **The John R. Justice (JRJ) Program,** a student loan repayment program administered by BJA for qualified public defenders and state prosecutors who agree to remain in their post for at least 3 years, helps defender offices recruit and retain lawyers who work to ensure the integrity of the criminal justice system. Over the last 3 years, the JRJ Program has reimbursed approximately \$7 million toward student loans for state and local public defenders.
- **Tribal Civil and Criminal Legal Assistance (TCCLA) Program.** TCCLA provides grant funding that enhances and improves access to tribal justice systems; and that serves to strengthen and improve the representation of indigent respondents in civil causes of action and indigent defendants in criminal cases under the jurisdiction of Indian tribes. These services are also targeted to tribes that meet the federal poverty guidelines. In FY 2013, BJA made two awards for direct civil indigent services and three awards for direct criminal indigent services.
- **Justice Assistance Grant (JAG) Program.** Since 2010, DOJ has identified indigent defense as one of several key priority areas for maximizing the effectiveness of JAG funding. BJA encourages states and State Administering Agencies (SAAs) to use JAG funds to support the vital needs of the indigent defense community and include indigent defense providers as part of their strategic planning partners. Current reporting indicates that there are 14 Recovery Act JAG subgrantees and 24 JAG subgrantees that identified funds allocated for indigent defense, for a total of approximately \$2.2 million.

JAG factsheet - https://www.bja.gov/Publications/JAG_Fact_Sheet.pdf.

JAG technical report - <https://www.bja.gov/Publications/JAGTechRpt.pdf>.

Resources

- **Right to Counsel (Indigent Defense)**

The U.S. Department of Justice established the **Access to Justice Initiative (ATJ)** in March 2010 to address the access-to-justice crisis in the criminal and civil justice system. ATJ's mission is to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. The Initiative's staff works within the Department of Justice (including BJA), across federal agencies, and with state, local, and tribal justice system stakeholders to increase access to counsel and legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers.

<http://www.justice.gov/atj/grant-info.html>

<http://www.justice.gov/atj/resource-publication-4-17-12-rev.pdf>

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National Criminal Justice Association Webinars that Help Demystify Federal Grants for Public Defenders

The first two are targeted more specifically for a defender audience (with the first building on the second); the third and fourth webinars are also helpful to understanding grants relevant to defenders and include speakers who mention the role of public defenders in local programs and as partners on State Administering Agencies. All four webinars can be found here: <http://www.ncja.org/webinars-events/ncjabja-webinar-series/webinar-archives#reframing>

1. Reframing Public Defense

Sponsored by the National Criminal Justice Association ([NCJA](#)), the Department of Justice's Access to Justice Initiative ([ATJ](#)) and the National Legal Aid and Defender Association ([NLADA](#)) *Reframing Public Defense* built off of the 2013 [Strengthening Indigent Defense: Understanding State and Federal Resources](#) webinar. The fourth in a series of webinars which seek to help the court and public defense community enhance their competitiveness for local, state and federal funding, *Reframing Public Defense* provided practical examples of how public defender offices have changed how they frame their work and built partnerships that enhance their effectiveness and improve justice system outcomes. In addition to a high level discussion on using a systems based perspective to reframe the work of public defenders, attendees heard how the Kentucky Department of Public Advocacy and the San Francisco Public Defender's Office have leveraged their efforts to obtain new state, local, federal and foundation funding.

Presenters for this webinar Included:

- Edward C. Monahan, Public Advocate, Kentucky Department of Public Advocacy
- Jeff Adachi, Public Defender, San Francisco Public Defender's Office
- Jenni Katzman, Senior Counsel, Access to Justice- Department of Justice
- Nancy Gist, Interim Director, Defender Legal Services-National Legal Aid and Defender Association
- Simin Shamji, Manager, Clean Slate and Specialty/Reentry Unit - San Francisco Public Defender's Office

2. **Expanding Stakeholder Involvement: Promoting Inclusive System Planning**

As criminal justice agencies seek to promote change, address public safety concerns or plan for resource allocation, they often look to established commissions, boards and councils. These planning bodies can be very helpful for promoting strategic planning, coordinating efforts and addressing issues that affect multiple systems or agencies. Despite the potential for comprehensive and inclusive system planning to decrease crime, strengthen neighborhoods, and achieve cost savings, not all system partners that work with offenders on the front and back ends of our justice system have been consistently included in state and local system planning efforts. Whether one is talking about behavioral health systems, public health agencies, social service providers, public defenders, community corrections agencies or employment service programs; there are often numerous non-traditional partners with overlapping client populations, interests and missions. Recognizing the value of inclusive system planning, the Department of Justice's Edward Byrne JAG solicitation encourages inclusive system planning and in 2012 for the first time required applicants to submit a program narrative that not only describes the strategic planning process, but also identifies the stakeholders currently participating in the process. *Expanding Stakeholder Involvement: Promoting Inclusive System Planning* will explore how different levels of government have looked to improve their justice systems by engaging with non-traditional system partners. Presenters will discuss how their organizations have looked to expand the number of involved stakeholders, the benefits that can come with inclusive system planning and address some of the challenges that can arise with expanded representation on planning and advisory bodies. Speakers for this webinar are Edison R. Aponte, associate deputy director, Bureau of Justice Assistance (BJA); Melancla Clark, Senior Counsel, Access to Justice Initiative, Jeanne M. Smith, director, Colorado Division of Criminal Justice and Dr. Lee Ayers, Oregon Criminal Justice Commission and the Jackson County Public Safety Coordinating Council.

3. **Strengthening Court Systems: Understanding State and Federal Resources**

With state budgets tight, it is increasingly important for court systems to look outside of traditional legislative appropriations for funding and resources. Without adequate funding, the administration of civil and criminal justice suffers, producing not only diminished outcomes for court involved individuals but increasing system costs for related justice partners. This webinar, *Strengthening Court Systems: Understanding State and Federal Resources*, highlighted multiple grant opportunities available through State Administering Agencies (SAAs) and various federal partners. In addition to discussing how court administrators can engage with and stay apprised of funding opportunities; this webinar highlighted some of the federally funded training and technical assistance opportunities offered to court systems. Attendees also heard from court administrators about the process of applying for grant funds and showcase strategies for integrating court functions into criminal justice resource planning.

Presenting for this webinar were Brooke Marshall (Executive Director, MT Board of Crime Control); Bradley D. Fowler (Planning and Organizational Development Officer, NCJ Administrative Office of the Courts); Hon. Dina E. Fein (First Justice, Springfield MA); Michael Coelho (Assistance Secretary for Policy and Planning, MA Executive Office of Public Safety and Security); Jonathan Faley (Associate Deputy Director, Bureau of Justice Assistance, U.S. Department of Justice); and Karen Lash (Senior Counsel, Access to Justice Initiative).

4. **Expanding Stakeholder Involvement: Promoting Inclusive System Planning**

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OVC Victim Compensation for New York

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