



*Now is the time for a national organization led by defenders singularly devoted to effective public defense.*

## I. Introduction

Fifty years after the United States Supreme Court recognized the right to counsel as "fundamental and necessary," across this country there remains grave systemic failure in providing competent counsel to those who need it most: the poor and disproportionately people of color. Like the poor people we represent, brave public defenders proudly stand by their clients and fight to defend their clients' liberty, but they lack a voice. It is time for public defenders to become unified, unwavering, irrepressible clarions for justice. This country needs a clear and focused voice advocating for the right to counsel, appropriately resourced and independent indigent defense systems generally, and specifically for public defenders.

The time is now for a national organization led by defenders singularly devoted to promoting the policies and ideals of strong and effective public defense services. While the federal government can bring pressure to bear upon states and counties, non-governmental organizations can provide funding to promote change through public information, education and lobbying, and states and local governments can undertake reform, those efforts must be directed by the experts in the field -- public defenders. The impetus for change must be the service providers themselves: public defenders assuming the responsibility as catalysts for change. Public defenders must stop accepting the current status of indigent defense in this country and mobilize for a new direction and new policies.

The time for action is now. The time to coalesce around a new and unique organization for the sake of the right to counsel is now. That organization is the National Association of Public Defenders (NAPD).

The creation of a National Association of Public Defenders will be ambitious, formidable, and daunting. But there is no better group than public defenders to take on the challenge of creating and leading a compelling national voice for the right to counsel. The NAPD will be a working organization. It is time to start the work.

2013 is the 50<sup>th</sup> Anniversary of the United States Supreme Court mandate that every state must provide counsel to those too poor to afford counsel. There are over 950 public defender offices and over 15,000 public defenders in the United States. Every day, facing what many would describe as insurmountable obstacles, public defenders across this country proudly stand next to their clients determined to protect the rights of the poor accused by the government. We fight to defend liberty, to convey dignity, and to provide a voice for our clients who have been relegated to the fringes of our society. We strive to protect the constitutional rights of our clients who--due to their poverty-- are often treated as if they have somehow forfeited those rights. This anniversary year will likewise mark the point in history when public defenders assumed the responsibility as catalysts for change.

## II. Purpose

When speaking at the ABA's National Summit on Indigent Defense in 2012, Attorney General Eric Holder said, "the need to take action has never been more clear – or more urgent. Across this country too many public defender offices struggle to provide the quality of representation the constitution demands due to a paucity of resources, excessive workloads, flawed organizational models, and inappropriate systems influences. As a result, too many poor people, and disproportionately people of color, are left to languish in jail for weeks, or even months, before counsel is appointed--if counsel is appointed at all. Too many clients meet their lawyer only minutes before they enter guilty pleas to crimes where no independent investigation has been conducted, no evidence testing has taken place, and where no challenge to the state's allegations of wrong-doing has been attempted. Too many children--labeled "delinquents"--enter our juvenile justice systems not knowing where to turn for guidance, possessing little or no understanding of their rights, the charges that have been brought against them, or the potential sentences, or collateral consequences they face. In too many jurisdictions across this country, the system approach to the Sixth Amendment's right to counsel is to create a criminal justice system designed to coerce citizens to waive their right to counsel altogether and simply plead guilty."

No criminal justice agency, legislative entity, politician, or government department understands indigent defense better than public defenders. Yet, for the lack of a unified voice, public defenders have little impact on many of the policies that affect their clients and their agencies. A singular national voice led by defenders will have an impact on the development of policies, strategies and systems to meet our nation's constitutional obligation to provide legal representation to the poor. Public defenders need to claim

their rightful position as the experts regarding the right to counsel and the systems designed to provide that valuable right.

The NAPD will be the unwavering voice for public defenders and public defender leaders across this country. It will be the advocate for all things regarding the right to counsel. It will advocate for the people we represent, as well as for public defenders themselves. NAPD will educate and support public defenders and those working in related disciplines engaged in the work of indigent defense. Whether providing counsel and direction regarding systemic development, effective legislative strategies, systems management, IT development, workload/caseload expertise, litigation and appellate skill-set development, or administrative and leadership training, support and development, the NAPD will stand ready to provide the needed expertise and experience to indigent defense providers and policy makers.

Through the membership of thousands of public defenders across the country, change can happen. Effective public defense systems can become a priority and a reality. Offices that are presently islands unto themselves will have thousands of other public defenders and members of related disciplines to turn to and rely on when needed.

In addition to providing education, and support to public defenders across the country, NAPD will join with organizations serving related disciplines, advocacy groups and other stakeholder partners to act as a single, focused voice for improving indigent defense in this nation. NAPD will be the voice and advocate for public defenders at the local, state, and national levels, for both state and federal public defenders.

### III. Mission Statement

The National Association of Public Defenders promotes strong criminal justice systems, policies and practices ensuring effective indigent defense, system reform that increases fairness for indigent clients, and education and support of public defenders and public defender leaders.

### IV. Project Description

The NAPD will be a national public defender organization with thousands of members. NAPD will promote best practices and strive towards improving the delivery of services to clients, improving the administration of justice, and supporting the development and reform of public defense systems.

Members will participate in different sections of the organization. Sections will include:

- Public Defender Leaders/Deputies/Managers;
- Assistant Public Defenders

- Part-time public defenders from assigned counsel, contract, and conflict systems
- Trainers;
- Social Workers/Mitigation Specialists/Immigration Specialists;
- Investigators;
- IT staff; and
- Administrators.

These sections will provide intra-organizational membership support, assistance, and training, but will also collaborate with outside organizational partners advocating for systemic change, and will engage in work designed to enhance the quality of indigent defense.

## V. Values of NAPD

### 1. Justice

"Justice" is a process and an outcome. NAPD will work to secure justice for poor people, people of color, and other disenfranchised groups in this country who are represented by public defenders, by providing training and assistance to public defender leaders and staff, and by working with funders, legislators, government agencies, and other policy makers to enhance the quality of indigent defense systems in this country.

### 2. Dignity and Worth of Person

NAPD respects our clients, their families and significant others. Clients will play a meaningful role in the work of this organization. NAPD will work to address the overincarceration of our clients as well as the numerous onerous collateral consequences that are destroying many client communities.

### 3. Competent and Zealous Representation

NAPD rejects *Strickland* as a working professional standard. Instead, NAPD members will strive to adhere to the highest standards of practice and an ongoing commitment to professional development.

### 4. Fidelity and Loyalty to the Client

NAPD members pledge unwavering loyalty to their clients. Recognizing the impact of criminal cases on the lives of our clients and their families, NAPD commits to addressing the effect of a criminal charge on the other parts of their lives.

## 5. Visionary and effective leadership

NAPD recognizes that effective leaders are essential to advocating for public defense externally and supporting public defenders internally.

## VI. Goals and Objectives

1. Position NAPD as the national voice on indigent defense;
2. Educate, train, and support public defender leaders, public defender staff, and members of related disciplines engaged in the work of indigent defense to enable them to provide the highest quality legal representation possible;
3. Serve as an indigent defense expert in the development and assessment of delivery systems, appropriate workloads for public defenders, and appropriate funding levels to maintain those systems;
4. Educate criminal justice organizations, legislative bodies, and governmental agencies regarding the value of a fully functional criminal justice system and the futility of present day criminal justice practices and policies;
5. Provide meaningful IT and administrative education, training and support to public defender offices across the country;
6. Provide education, training, and assistance for effective legislative goals and strategies that will improve indigent defense;

In 2002 the American Bar Association's House of Delegates approved *The ABA Ten Principles of a Public Defense Delivery System*. The NAPD recognizes those *Ten Principles* as an effective and practical guide to the development and maintenance of a viable indigent defense delivery system. An overarching goal of NAPD will be to embody and promote the *ABA Ten Principles*.

## VII. Methodology and Timelines

Phase One: At its inception, NAPD's initial outreach will be to a small representative group of public defender leaders/directors/managers of public defender offices and/or leaders of statewide public defender organizations. These director/leaders will create the structure and by-laws of NAPD, and will solicit interested individuals to form an oversight board that will guide the future growth of NAPD.

Phase Two: The directors/leaders/managers group will be expanded to form the first full division of NAPD; the directors/leaders/managers will guide policy development and

lead the organization. This group will also solicit grants/funding requests from government and NGOs to supplement dues and to fund policy advocacy. At the completion of this phase, NAPD will have employed an executive director.

Phase Three: The outreach and creation of other public defender sections will begin. These will include assistant public defenders, trainers, social workers/mitigation specialists, immigration specialists, investigators, IT, and administrators.

Phase Four: Upon the creation of these sections, each one will participate in training conferences, membership drive initiatives, consultation with individuals seeking systems reform across the country, and the development of effective campaigns designed to reform and improve indigent defense systems.

## VIII. Benefits/Outcomes

There are substantial benefits when public defense systems are properly structured and funded. Public defenders who competently and zealously represent their clients, with manageable workloads and professional independence, have the capacity to ensure that the rights guaranteed by our Constitution are protected. Supporting strong public defense is fundamental to one of our most basic beliefs: No one should be deprived of their liberty unless and until they are proven guilty. Public defenders lower costly incarceration rates for counties and states by advocating for, and securing, pre-trial release, alternative sentencing, and reduced sentences for their clients. Public defenders empower clients to sever their connection with the criminal justice system and lead the productive lives they want to lead. Public defenders reduce wrongful incarceration and protect the innocent from the loss of liberty. Public defenders reduce expensive appeals, post-conviction proceedings, and habeas corpus litigation. Public defenders ensure that justice has true meaning everywhere.

## IX. Support and Needs

Initially, NAPD will be formed by the hard work and donated time of a committed group of public defender leaders and significant stakeholders. However, to fund even the smallest advancements, it will immediately need to start to collect dues from members and shortly thereafter, seek grants and other funding opportunities. It will also need the support of the community of individuals and interest groups that support indigent defense. NAPD will seek partnering opportunities with groups like the ABA Standing Committee on Legal Aid and Indigent Defense, the National Legal Aid and Defender Association (NLADA), the National Association of Criminal Defense Lawyers (NACDL), the American Constitution Project, the Sixth Amendment Center, the Federal Defenders Association, and the Brennan Center. Fostering a relationship with the Access to Justice Office at the Department of Justice will also be instrumental to the ultimate success of NAPD. Private funding opportunities will be necessary and relationships with Open Society Foundations, the Ford Foundation, and the Atlantic Philanthropies are

needed. An energetic and committed executive director will be necessary to carry the vision of NAPD into a reality.

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