

On Gideon's 50th, Lawyers Lament Lack of Access to Justice

The District of Columbia is home to what's widely considered the gold-standard of local public defender offices, but a panel of right-to-counsel advocates today challenged the courts and the criminal justice community not to grow complacent.

"D.C. is a place where the expectations are incredibly high, and they should be," said Jonathan Rapping, a former local public defender who founded Gideon's Promise, an Atlanta-based organization that supports public defender offices in southern states. When it came to ensuring access to justice, he urged local attorneys and judges to ask among themselves, "What else can we do?"

Rapping was part of a panel today during the annual joint session of the Judicial Conference of the District of Columbia and the D.C. Bar. The theme of this year's bench-bar conference was access to counsel, in light of the 50th anniversary of *Gideon v. Wainwright*, the U.S. Supreme Court decision that secured the right to counsel for criminal defendants.

No judges sat on the panel, but they submitted anonymous thoughts by writing on index cards what the courts could do better or were already doing to make sure the system was fair, both in criminal cases and on the civil side, where there is no right to a lawyer.

The suggestions, read aloud by panel moderator and American University Washington College of Law Professor Angela Davis, included "exercise patience," regularly visiting the parts of the city and institutions – such as the D.C. jail – where defendants come from, and slowing the "assembly-line processing" of cases on high-volume dockets. Other judges wrote that they'd like to see more diversity among lawyers on all sides and to have more bilingual lawyers available.

District of Columbia Superior Court Senior Judge Truman Morrison III signed his name on his card, Davis said, writing that he made an effort to only appoint private lawyers to handle criminal cases if he thought they could handle the work. Rapping expressed concern in his remarks that the "quality can vary" when it came to private lawyers appointed by the court to represent indigent criminal defendants under the Criminal Justice Act.

When asked about *Gideon's* legacy, Rapping, referring to the right to counsel nationwide, said he was "not optimistic." Congressional funding for federal public defender offices had long been a

model, he said, but those offices were facing furloughs and layoffs under the federally mandated budget cuts known as sequestration. He said he was concerned that cuts to the federal public defender program would set a bad example for states.

Access to counsel in civil cases was also discussed at length. James Sandman, executive director of the Legal Services Corporation, which funds civil legal services groups across the country, said federal budget cuts had forced Legal Services Corporation-funded groups to shed more than 1,000 full-time employees. The state of civil legal services is "precarious," he said.

Sandman said that to cope with federal, state and local budget cuts, some legal services organizations were forced to take drastic measures, such as turning away domestic violence cases unless a child was involved. "This, in the United States of America. How can we let this happen?", he said.

Advocacy by the courts made a big difference in securing funds for legal services, Sandman said, urging judges to get involved and pointing to District of Columbia Court of Appeals Chief Judge Eric Washington and New York Court of Appeals Chief Judge Jonathan Lippman as models. Panelist Camille Holmes Wood, director of Leadership and Racial Equality at the National Legal Aid and Defender Association, echoed his call for greater judicial involvement.

Like many other jurisdictions, the majority of litigants in high-volume civil branches of Superior Court such as landlord-tenant and small claims are unrepresented. Rosanne Avilés, a supervising attorney at the Legal Aid Society of the District of Columbia, called for the expansion of court policies that allow lawyers to enter limited appearances and for judges to take a more active role in making sure pro se litigants understood court proceedings and available resources.

In situations where a person's basic human needs were at risk – their home, their children, or their safety, for instance – "having counsel can be life changing and very important," Aviles said.

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