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## NACo seeks indigent defense system reform for rural America

**WASHINGTON, D.C.** – The National Association of Counties' (NACo) and several national organizations are seeking assistance from the U.S. Department of Justice (DOJ) in setting up demonstration programs for establishing public defender systems in rural America.

Counties play a significant role in indigent defense counsel programs and NACo has long supported adequate multi-government funding and training for this critical part of the country's criminal justice system.

Two historic U.S. Supreme Court decisions – *Gideon v. Wainwright* and *Argersinger v. Hamlin* – have long established that Americans in the criminal justice system have a Constitutional right to legal counsel even if they cannot afford it.

In *Gideon* the court ruled nearly five decades ago that states must provide competent counsel to indigent defendants in felony cases. That mandate has been consistently extended to any case that may result in a potential loss of liberty, including misdemeanors (*Argersinger*) and juvenile delinquencies (*In re Gault*).

County governments, however, have struggled to shoulder the states' responsibilities under *Gideon* and subsequent court rulings. Leaving counties responsible for administering and funding indigent defense services can put an undue financial hardship on rural jurisdictions.

As a result of declining revenues and budget shortfalls, county officials today are in the unenviable position of having to choose between funding needed services such as health care and human services and upholding the constitutional commitment to guarantee adequate public defense services.

Earlier this year at NACo's 75<sup>th</sup> Annual Conference in Washoe County, Nev., the nation's counties adopted new policy urging rural counties – typically counties of fewer than 50,000 residents – to implement multi-county public defender systems. These systems would enable a full time public defender to serve within a multi-county circuit similar to multi-county district attorney offices. The policy states that a full time public defender should be an active participant in the local criminal justice system.

NACo and other national organizations (see quotes below) are calling on the U.S. Justice Department to work with counties and assist them in setting up demonstration programs for establishing public defender systems in rural communities.

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“Too often, rural communities cannot afford to establish an effective indigent counsel system due to limited local resources and a void of available criminal defense counsel,” said NACo President Glen Whitley, County Judge, Tarrant County, Texas. “The federal government can play a role in helping counties develop more efficient and effective regional systems. We can both save taxpayers’ money and improve the current system through a multi-county approach.”

NACo is eager to work with DOJ to address the challenge. For example, NACo Justice and Public Safety Steering Committee Chair David Hudson, County Judge, Sebastian County, Ark., suggests that in some cases financially-challenged rural counties may be able to supply office space for the public defender at the County Courthouse.

“NACo feels strongly that the public defender should be part of the local Criminal Justice Coordinating Council and fully engaged in the planning process,” Hudson said.

Quotes from supporting national organizations:

**Timothy J. Murray, Executive Director  
Pretrial Justice Institute (PJI)**

“The Pretrial Justice Institute is proud to join with NACo, in calling for reform our of nation’s Indigent Defense Services. NACo’s concept of developing regional, multi-county public defender pilot programs represents a pragmatic and cost effective solution to a serious challenge faced by small and primarily rural communities. PJI applauds NACo’s leadership in addressing this significant shortcoming in our nation’s justice systems.”

**David LaBahn, President and CEO  
Association of Prosecuting Attorneys**

“Encouraging multi-county systems in rural America makes a lot of sense to many prosecutors in our association. In order to assist in our efforts to enhance the quality of justice, we support the idea of demonstration programs that fully involve the prosecution and judicial communities. Scheduling may be a problem, but if we can send a man to the moon we should be able to get the prosecutor, the judge and the public defender to the same county courthouse at the same time.”

**David Carroll, Research Director (NLADA)  
National Legal Aid & Defender Association**

“Though it has been nearly 50 years since the U.S. Supreme Court deemed the right to attorney for those unable to afford one ‘fundamental and essential’ to fair trials, public defense services in America are plagued by deep-rooted, chronic problems that prevents states and counties from fulfilling their constitutional duties. These problems are particularly acute in rural America in those states that have chosen to delegate its right to counsel obligations to its counties. NLADA pledges to work with NACo, DOJ and others to remedy these systemic deficiencies. In addition to the position taken by NACo, prudent use of taxpayer dollars requires that state and county policy-makers reduce the need for public defense attorneys by removing non-violent, low level felonies and misdemeanors from the formal justice system through diversion, mediation and/or reclassification of crimes to non-jailable infractions where it is safe, reasonable and prudent to do so.”

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*The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation’s 3,068 counties. NACo advances issues with a unified voice before the federal government, improves the public’s understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit [www.naco.org](http://www.naco.org).*