

**Joint Statement of the Kentucky Public Advocacy Commission
and the
Louisville-Jefferson County Public Defender Corp.
re: the Passage of HB 568**

The passage of HB 568 on March 16, 2023, represents the culmination of a decades-long effort to unify the statewide public defender system and consolidate indigent defense services in Kentucky under the Department of Public Advocacy (DPA). This legislation will “advance the equality, effectiveness and efficiency of public defense” throughout the state (see attached letter to Gov. Andy Beshear from former Public Advocates Ernie Lewis and Ed Monahan).

The overwhelmingly favorable vote on the bill came on the eve of the 60th anniversary of the U.S. Supreme Court’s decision in *Gideon v. Wainwright* last weekend, when the Court unanimously held that “any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.” It further held that the provision of counsel in criminal prosecutions is a constitutional mandate and that the responsibility for doing so applies to the state, not local government. In the wake of the Court’s ruling, Kentucky ultimately enacted KRS Chapter 31 in 1972 to comply with the requirements of the *Gideon* decision.

However, Jefferson County was the only one of Kentucky’s 120 counties at that time which was statutorily required to establish and fund a full-time public defender program. That requirement was legally suspect from the outset and, as DPA grew and evolved, it became increasingly difficult to justify it from a political, structural management, equitable and economic standpoint. Funding was an annual struggle for the Louisville office and, realistically, a separate, independent office and operation wasn’t sustainable. Consolidation has long been considered inevitable by past and current leadership in Frankfort and Louisville, dating back to the early 1980s. There has always been a recognition that it was never a question of whether merger would occur, only when.

The leadership of both DPA and the Louisville office has already initiated plans to discuss the implementation of this legislation. They intend to work collaboratively and effectively to accomplish a smooth, seamless transition that serves the interests of all, including the staff and the Courts, but most importantly our indigent clients.

Now is the right time to make the merger and consolidation a reality – we have seasoned, capable, well-motivated leadership in place at both offices; the financial situation and legislative support is optimal; the state employee reclassification process is underway; and the challenges facing public defense, now and in the future, must be proactively addressed and resolved without further delay.

A well-resourced public defense function is vital to ensuring fairness within our criminal legal system; 60 years ago, *Gideon v. Wainwright* made that clear.

That is why we also hope and expect that with unification of the defender system comes a greater allocation of resources to realize the promise of *Gideon*, which, despite the model structure of our statute and the quality of advocacy delivered by our defenders, remains inadequate to the task.

Prompt enactment of this legislation will set a positive tone and direction for the transition, hasten solutions to chronic problems in the defender system, address equitable compensation issues and improve staff morale, and eliminate any disruption in what is properly intended to be an apolitical, non-partisan process based upon sound public policy and national standards.

The Louisville-Jefferson County Public Defender Corp. is justifiably proud of the reputation its program has earned over the past 52 years, including its many awards and professional achievements reflecting excellence in advocacy and high-quality representation of its clients. The office's commitment to its mission on behalf of those who are indigent in the Louisville-Jefferson County community is steadfast and will continue after incorporation into and consolidation with DPA. It is a commitment that DPA shares and promotes. We are confident that this development will improve and enhance the overall delivery of defender services to our clients and to our courts. Both of our organizations are focused and intent upon forming an effective collaboration to complete the transition, which will further the success of the public defender system in the Commonwealth of Kentucky.

/s/

Cortney E. Lollar, Chair
Public Advocacy Commission

/s/

Margaret E. Keane, Chair of the Board of Directors
Louisville-Jefferson County Public Defender Corp.