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## And equal justice for all

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This could be the year New York finally moves to reform our county-based system of public defense services for defendants who cannot afford a private lawyer.

Advocates from around the state are preparing to come to the Capitol on Wednesday to commemorate "Gideon Day," named after the landmark 1963 U.S. Supreme Court decision in *Gideon vs. Wainwright* that enshrined the right of all defendants to an effective defense.

In New York, that right is illusory at best. A commission named by former Chief Judge Judith Kaye described the underfunded, overwhelmed current system as an ongoing crisis.

The Legislature this year can finally begin that reform by embracing Judge Kaye's call to create an Independent Public Defense Commission to carry out a state takeover of the operation and financing of the current system. That commission found the current system to be, in Judge Kaye's words, "so poorly designed, so badly fractured between the State and localities, and so overburdened that only a complete overhaul would suffice."

The current patchwork system is one where lawyers burdened by unmanageable caseloads and lack of access to basic investigatory resources — as required by the American Bar Association's Ten Principles of a Public Defense Delivery System — struggle against all odds to represent their clients.

The system is also a disaster for local taxpayers forced to bear the burden of a massive mandate that collectively costs counties more than a quarter billion dollars annually to provide services mandated, but not funded, by the state.

Even in these tough fiscal times, creating a public defense commission makes sense.

The \$3 million annual start-up cost need not impact the general fund. It can come from a special Indigent Legal Services Fund created earlier this decade to augment county spending and improve services.

While some county leaders fear that the state will simply impose standards without covering the additional costs those standards could require, a provision currently under discussion to cap county costs at an average of annual county spending during a three-year period ending in 2006 should give taxpayers assurance that they will not be forced to pay more for what the state should be paying for in the first place.

But the greatest cost is paid every day by countless people who sit in prison solely because of their inability to mount an effective defense.

With 80 percent or more of defendants qualifying for public defense services, far too many are subjected to an assembly line of injustice where they do not meet their lawyers until right before hearings where they are pressured to accept pleas for the convenience of the system before they ever get a chance to exercise their constitutional right to argue their innocence.

The Black, Puerto Rican, Hispanic and Asian Legislative Caucus recently wrote to Gov. David Paterson and legislative leaders, "Deficient public defense services lead to expensive and discriminatory overuse of prisons and the criminal justice system."

We wrote that the current system creates a "ripple effect of wrongful incarceration, wrongful convictions, and wrongful denial of parental rights" that affects entire communities, with rents unpaid, jobs lost and children forced into foster care at great cost to taxpayers and greater cost to family cohesion.

With Paterson and leaders of both legislative chambers having endorsed the Kaye Commission findings, and with protections for county taxpayers addressed, it is time for New York to begin living up to its self-professed commitment to equal justice.

And we should do it before a judge orders us to do so in connection with a New York Civil Liberties class-action suit that charges the current system is so broken as to be unconstitutional.

We shouldn't have to wait another 46 years before justice, so long delayed, is no longer denied.

Assemblyman Darryl Towns, D-Brooklyn, is chair and Sen. Ruth Hassell-Thompson, D-Bronx, is secretary of the state Legislature's Black, Puerto Rican, Hispanic and Asian Caucus.