

## 50TH ANNIVERSARY OF GIDEON V. WAINWRIGHT

Mr. HARKIN. Mr. President, Monday marked the 50th anniversary of the Supreme Court's landmark decision in *Gideon v. Wainwright*. That decision recognized that every person accused of a crime, whether wealthy or poor, is guaranteed the right to counsel. At its core, *Gideon* is the promise of justice for all, including the most vulnerable citizens of our society.

We need to celebrate that landmark ruling and to recognize Clarence Gideon. In many instances throughout our history, it has been ordinary citizens who have led to the most profound changes in our country, and that is certainly the case here.

Clarence Gideon was a poor drifter with a history of drinking and gambling. He was charged in Florida with breaking and entering into a pool hall and stealing money from vending machines. When he requested a lawyer be appointed to represent him, because he could not afford to hire an attorney, he was told that a lawyer was only provided to defendants facing the death penalty.

From his prison cell at the Florida State Prison, Gideon wrote a handwritten note to the U.S. Supreme Court seeking to overturn his conviction because he had not been appointed a lawyer. That note read, simply: "The question is I did not get a fair trial. The question is very simple. I requested the court to appoint me attorney and the court refused."

That handwritten note led, 50 years ago Monday, to the Court unanimously declaring the "obvious truth" that "lawyers in criminal court are necessities, not luxuries." As the Court made clear:

In our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.

From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble idea cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

Mr. President, since *Gideon*, there has been progress. Since 1963, governments have expended greater resources in defending accused persons, and many more criminal defendants receive fairer trials with due process of law. And, we must acknowledge the thousands of lawyers, many of whom have the education and skills to command much higher salaries in the private sector, who have chosen to dedicate their careers to ensuring the rights of our most vulnerable citizens, those accused of a crime. As just one example, I am proud that I recently recommended Jane Kelly, a career Federal defender in Iowa, to the Eighth Circuit Court of Appeals, and I look forward to her speedy confirmation.

While we rightly celebrate *Gideon* and the progress over the last 50 years, we must acknowledge that we have much work still to do. As Attorney General Holder recently said,

[a]cross the country, public defender offices and other indigent defense providers are underfunded and understaffed . . . Millions of Americans still struggle to access the legal services that they need and deserve—and to which they are constitutionally entitled.

Even when a defendant is provided an attorney, too many are represented by attorneys who do not have the time, training, or tools to do their jobs properly. Many defendants are "represented" by lawyers who have hundreds of other cases and who lack requisite expertise and sufficient support staff. Too often the representation is perfunctory and so deficient as not to amount to representation at all.

According to a 2011 report by the Justice Policy Institute, only 27 percent of county-based public defender offices and 21 percent of state public defender systems have enough attorneys to meet national guidelines. Only 7 percent of county-based public defender offices have enough investigators to meet national guidelines, and 87 percent of small county-based public defender offices do not have a single full-time investigator.

As a result, too many defenders lack access to sufficient resources to interview key witnesses, collect or test physical evidence, or generally prepare a quality defense. A 2009 investigation by the Constitution Project, the National Legal Aid & Defender Association, and the National Right to Counsel Committee found documented instances in which public defenders carried as many as 500 active felony cases at a time—the American Bar Association recommends 150—and as many as 2,225 misdemeanor cases. The ABA recommends 400.

According to a Brennan Center report, the average amount of time spent by a public defender at arraignment is often less than 6 minutes per case. And, the National Law Journal article examining *Gideon*'s anniversary highlighted the fact that in Wisconsin, private lawyers who are hired to represent indigent defendants are paid \$40 an hour—unchanged since 1978. In Maryland, a State court of appeals last year ruled defendants are entitled to counsel at bail hearings. Rather than paying to ensure this right, the State legislature repealed the law instead.

Unfortunately, sequestration is exacerbating the problem. In Iowa, the Federal defender has notified the Federal courts that because of the sequester, each Federal defender employee will need to be furloughed for 20 to 24 days between April 8 and September 30. The Federal defender is being forced to close the Southern District Office on Mondays and the Northern District Office on Fridays. These furloughs and closings will put a strain on already overworked public servants and has the

risk of jeopardizing the quality representation every defendant in Iowa deserves.

When criminal defendants lack quality representation, there is a heightened risk of our justice system making egregious mistakes. We have learned all too well, especially with the advent of DNA evidence, that an unknowable number of genuinely innocent persons have been wrongly convicted. For innocent persons to lose their liberty or, in the case of the death penalty, their lives, is a travesty of justice. It is a national shame. And, as Attorney General Janet Reno once said, "in the end, a good lawyer is the best defense against wrongful conviction." There is no more telling example than *Gideon* himself. After the Supreme Court ruled in his favor, he was retried, only this time with a lawyer. The jury took 1 hour to acquit him.

Recognizing that we must improve our system of representation for indigent Americans, I am proud to cosponsor the *Gideon's Promise* Act, introduced Monday by Senator LEAHY.

Not only does the basic right guaranteed for criminal defendants in *Gideon* five decades ago remain not yet fully realized, it is also outrageous that there remains no guaranteed right to counsel in the civil context. As James Sandman, president of the Legal Services Corporation, recently said,

Most Americans don't realize that you can have your home taken away, your children taken away and you can be a victim of domestic violence but you have no constitutional right to a lawyer to protect you.

This issue is personal for me. Before I was elected to Congress, I practiced law with Polk County legal aid in Iowa. I can honestly say the work I did with legal aid is some of the most important and rewarding of my career. I learned firsthand that, without access to an attorney, the poor are often powerless in the face of injustice and wrongdoing, even within a judicial system that purports to ensure equal justice under law.

At the Federal level, since the administration of President Nixon, we as a nation have supported civil legal aid programs through the Legal Services Corporation. And, make no mistake: these programs have made a crucial difference to millions of low-income Americans. Recipients of LSC funding help clients secure basic human needs, such as wrongly denied Society Security benefits and health care. Low-income Americans receive aid with consumer, housing and employment issues. LSC-funded attorneys help parents obtain and keep custody of their children, assist parents in enforcing child support payments, and help women who are victims of domestic violence. In addition, LSC has greatly expanded its capacity to meet the legal needs of veterans, active-duty servicemembers and their families, and has been critical in providing legal assistance to Americans impacted by deadly natural disasters.

Unfortunately, however, too many Americans today cannot afford critical civil legal representation. In many parts of the Nation, more than 80 percent of those who need an attorney go without one. Nationally, over 50 percent of applicants for federally funded legal services who request legal aid are turned away because programs lack adequate funding. In other words, American citizens are being denied justice not because of the facts of their case or because of governing law, but solely because they cannot afford an attorney. This is not justice. And, to state the obvious, it makes a mockery of the principle of equal justice under the law.

I want to thank Senators MIKULSKI and SHELBY for all of their hard work and effort with respect to the fiscal year 2013 appropriations bill and for protecting critical funds for LSC. That bill provided \$358 million for LSC, a \$10 million increase over fiscal year 2012, which itself was a \$56 million cut from fiscal year 2011. This is still far less than the amount appropriated in fiscal year 1995, which would be about \$594 million in today's dollars, and even further below the amount appropriated in fiscal year 1981—about \$800 million in today's dollars. But this week's bill was a critical increase in a difficult budget environment and I am grateful.

At the same time, however, it is long past time for us as a nation to make clear that all Americans, whether wealthy or poor, have the right to legal representation. It was President Nixon who created the Legal Services Corporation and who said,

I would suggest there is no subject which is more important to the legal profession, that is more important to this nation, than . . . the realization of the ideal of equal justice for all.

As my former Republican colleague Pete Domenici declared:

I do not know what is wrong with the United States of America saying to the needy people of this country that the judicial system is not only for the rich. What is wrong with that? . . . That is what American is all about.

On Clarence Gideon's gravestone in Hannibal, MO, is a quote drawn from the letter he wrote to Abe Fortas, who was appointed to represent him before the Supreme Court. It reads, "Each era finds an improvement in law for the benefit of mankind."

Directly across from the Senate stands the marble judicial temple of the Supreme Court, and above its entrance is engraved the most fundamental principle and ideal of our system of criminal justice. It says, simply, "Equal Justice Under Law." Let us as a nation continue to strive to fulfill the promise of our Constitution, for both criminal and civil litigants. "Equal Justice Under Law" must be more than an aspiration chiseled on a marble façade; it must be a concrete reality for ALL of our fellow citizens.

#### TRIBUTE TO GEORGE "CHIP" WALTER, JR.

Mr. CHAMBLISS. Mr. President, today I wish to pay tribute to George "Chip" Walter, Jr. Chip, a career veteran of the Navy, currently serves as the Director of the Office of Congressional Affairs at the Central Intelligence Agency, CIA. As the vice chairman of the Senate Select Intelligence Committee, I have had the pleasure to work with Chip in this position and have greatly appreciated his professionalism, knowledge, and dedication, which has benefited not only me but also numerous other Members and staff here in Congress. He is an exemplar of public service to our country.

Prior to his position at the CIA, he held numerous legislative affairs positions within the Department of Defense, including director of Legislative Affairs for Central Command, which included a year tour in Kabul, Afghanistan, as the legislative adviser to the commander of Central Command. It was in Kabul where I and many other Members met Chip as we traveled on codefs to Afghanistan at the height of the war. His professionalism and affable nature made a great impression on me and others.

His work with the Senate Select Committee on Intelligence began with the nomination and confirmation of GEN David Petraeus to be Director of the CIA. Soon after, he was named director of the Office of Congressional Affairs at the CIA, where he managed the day-to-day relationship between Congress and the Agency. The Congressional Affairs position at the CIA is always a difficult job, but these last few months have been particularly challenging with the confirmation of a new CIA Director, along with implementing lessons learned in the aftermath of the September 11, 2012, Benghazi attacks. Chip showed a resolute trustworthiness through these difficult times that many Members of Congress appreciated. Chip has given much to this Nation through his dedicated and selfless service. Let me take a minute to recount some of his other accomplishments which include a long and distinguished career as a naval aviator, from which he retired as a captain in 2011.

Chip, a native of Sudbury, MA, graduated from the U.S. Naval Academy in May 1983. He was designated a naval aviator in 1985. His first assignment was in Brunswick, ME, where he served as an instructor pilot, mission commander, and formation instructor. During that assignment he completed three deployments to the Mediterranean and North Atlantic. In the summer of 1989, he reported to Fleet Replacement Squadron, FRS, THIRTY in Jacksonville, FL, where he earned the designations of FRS instructor pilot, advanced training instructor, formation instructor, and alternate naval aviation training and operations procedures standardization, NATOPS, evaluator for Naval Air Forces Atlantic.

He served as the flag secretary of Carrier Group TWO in 1991, and in Oc-

tober 1992, he deployed in the USS *John F. Kennedy* Battle Group to the Mediterranean in support of OPERATIONS PROVIDE PROMISE and PROVIDE COMFORT. In August 1993, he attended the Naval War College, Newport, RI, and graduated with distinction in June 1994. In November 1994, he reported to Patrol Squadron TEN while deployed to Naval Air Station Sigonella, Sicily and later completed a tri-site deployment to Keflavik, Iceland; Roosevelt Roads, Puerto Rico; and Howard Air Force Base in Panama, serving as the operations officer. In November 1996, Captain Walter began work in the Bureau of Naval Personnel as the assistant Washington placement officer.

Following his tour in the Bureau, he was assigned as the executive assistant to the Chief of Navy Legislative Affairs. In the spring of 2000, Captain Walter reported to Patrol Squadron ONE as the executive officer. He assumed command of the "Screaming Eagles" Squadron in February 2001 and completed a Western Pacific deployment. After his command tour, he reported to the Joint Staff and served in the Force Structure, Resources, and Assessment Directorate, J8, and later as the Chairman's deputy director of Legislative Affairs. In September 2005, he was assigned as the executive assistant for director of Air Warfare, N88. In June 2006, he assumed duties as commander TASK FORCE SIX SEVEN. In addition to traditional duties of the commander TASK FORCE SIX SEVEN, he was designated commander of the Black and Caspian Sea for Naval Forces Europe. In July 2008, he assumed the duties as the director, CENTCOM Legislative Affairs. He deployed to Kabul, Afghanistan, in July 2010, for a year tour as the legislative adviser to the commander, General Petraeus. Captain Walter became director of Congressional Affairs for the Central Intelligence Agency on September 26, 2011.

Over the course of his career, Chip has consistently served in highly selective and challenging assignments, demonstrating the quality of his character and abilities. Because of men like Chip, we have an able and ready military that truly is a global force for good. Throughout his distinguished career he has represented our country and Navy with dignity and honor, and this is why I am so privileged to pay tribute to this fine sailor and American.

In a few weeks, Chip will be moving on to another assignment. I speak for many of us who have worked with him when I say he will be missed and not easily replaced. I want to thank his wife, Kim, along with his three children, Kristyn, Bethany, and Griffin, who have lovingly supported him throughout his career in the military and government. Chip, thank you for your distinguished service to our country. I wish you and your family Godspeed and continued happiness as you start a new chapter in your lives.