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Editor's Note

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EDITOR'S NOTE

INTRODUCTION TO VOLUME II MARGINS SYMPOSIUM 2002

The number of women incarcerated in America continues to rise. This presents a growing need to recognize that the incarceration of women raises many difficult issues differently than the incarceration of men.¹ On March 14, 2002, MARGINS sponsored a symposium entitled *Experiences of Women Inmates in the Twenty-First Century: How Well Does the System Serve Female Offenders and Their Families*.² This event corresponded to the broadcast of the radio documentary, "Forgotten Voices," co-produced by MARGINS and the University of Maryland, Baltimore County's Music Department. "Forgotten Voices" includes interviews with women detained at the Baltimore City Detention Center. The inmates and staff tell their stories and discuss the availability and effectiveness of rehabilitative services both in BCDC and in their communities. "Forgotten Voices" gives a valuable and intimate depiction of one facility's treatment of its female inmates.³ Articles developed from the symposium will examine issues raised by the growing incarceration of women including, but by no means limited to, the following.

WOMEN'S CRIMINALITY

In order to evaluate the efficacy of the modern corrections system in dealing with women inmates, it is important to understand its clientele. First, how and why do women come under the authority of the criminal justice system? Who are these female offenders, what crimes do they typically commit, and most importantly, why? Many have pointed to the nation's "War on Drugs" as a cause of the

1. See Barbara Bloom & Stephanie Covington, *Gender-Specific Programming for Female Offenders: What is it and Why is it Important?* (paper presented at the 50th Annual Meeting of the American Society of Criminology, Washington, D.C., November 11, 1998), available at <http://www.nicic.org/pubs/1998/015127.pdf>.

2. See MARGINS, *Symposium 2002*, at <http://www.law.umaryland.edu/margins/Symposium2002.asp>.

3. The documentary can be heard on the Internet using the free RealPlayer program. The audio file is archived on MARGINS' website at <http://www.law.umaryland.edu/margins/graphics/ForgottenVoices.rm>.

increasing incarceration rates of women.⁴ In contrast from men, most female drug convictions are for offenses related to drug use rather than drug trafficking. A study of California inmates found 71.9% of women were convicted on drug or property charges compared with only 49.7% of men.⁵

Various theories on female criminality abound.⁶ Like their male counterparts explanations for female crime often focus on socioeconomic conditions. Some theories are more gender specific. Feminist theories have developed two schools of thought on female criminality.⁷ Liberation feminists believe that as women move toward equality with men, escaping traditional gender roles, it is inevitable that women also move toward comparable offending rates.⁸ Oppression feminists disagree, stating that women commit crimes as a backlash against patriarchal oppression.⁹ Liberation feminists see offenders as agents, while oppression feminists see offenders as victims. How well do these and other theories explain the causes of female criminal behavior? How should these theories impact legal policy decisions?

4. Bloom & Covington, *supra* note 1, at 2. See MEDA CHESNEY-LIND, *THE FEMALE OFFENDER* 147 (1997); Paula C. Johnson, *At the Intersection of Injustice: Experiences of African American Women in Crime and Sentencing*, 4 AM. U. J. GENDER & L. 1 (1995); Stephen J. Schulhofer, *The Feminist Challenge in Criminal Law*, 143 U. PA. L. REV. 2151 (1995); Myrna S. Raeder, *Creating Correctional Alternatives For Nonviolent Women Offenders and Their Children*, 44 ST. LOUIS L. J. 377 (2000); Kathleen Daly & Michael Tonry, *Gender, Race, and Sentencing*, 22 CRIME & JUST. 201 (1997); Christopher M. Alexander, *Crushing Equality: Gender Equal Sentencing in America*, 6 AM. U. J. GENDER & L. 199 (1997).

5. See Bloom & Covington, *supra* note 1, at 2 (citing BARBARA BLOOM ET AL., *WOMEN IN CALIFORNIA PRISONS: HIDDEN VICTIMS OF THE WAR ON DRUGS* (Center on Juvenile and Criminal Justice 1994)).

6. See Dana M. Britton, *Feminism in Criminology: Engendering the Outlaw*, 571 ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 57 (September, 2000); Cheryl Hanna, *Ganging Up on Girls: Young Women and Their Emerging Violence*, 41 ARIZ. L. REV. 93 (1999).

7. See Hanna, *supra* note 1, at 106.

8. See *id.* at 107 (citing FREDA ADLER, *SISTERS IN CRIME: THE RISE OF THE NEW FEMALE CRIMINAL* 95 (1975)).

9. *Id.* (citing Meda Chesney-Lind, *Girls, Gangs, & Violence: Anatomy of Backlash*, 17 HUMAN. & SOC'Y 321 (1993)).

WOMEN'S INCARCERATION EXPERIENCE

Second, partially because of the relatively small number of female offenders compared to men, advocates for women inmates continue the struggle to ensure that women receive programs and services afforded to male prisoners.¹⁰ With respect to vocational training programs, female inmates often do not have access to the same quality of services as men. Frequently the programs are limited to activities conforming to traditional gender roles such as cosmetology, sewing, typing, and homemaking, rather than programs that could train women to be economically independent upon release.¹¹

In addition, researchers have found that gender-specific programs may be necessary to ensure that the incarceration experience is not more harsh than that experienced by the similarly sentenced male offender. Bloom and Covington outlined the principles of effective gender-specific programs:

- Equality does not mean sameness; in other words, equality of service delivery is not simply about allowing women access to services traditionally reserved for men—equality must be defined in terms of providing opportunities which are relevant to each gender. Thus, treatment services may appear very different depending on to whom the service is being delivered;
- Gender-specific programs are not simply “female only” programs that were designed for males;

10. See Rebecca Jurado, *The Essence of Her Womanhood: Defining the Privacy Rights of Women Prisoners and the Employment Rights of Women Guards*, 7 AM. U.J. GENDER SOC. POL'Y & L. 1, 3 (1999) (citing, e.g., *Casey v. Lewis*, 834 F. Supp. 1477, 1551 (D. Ariz. 1993) (stating that male prisoners in mental health facilities were offered more substantive training and education programs than their female counterparts); *McCoy v. Nevada Dep't of Prisons*, 776 F. Supp. 521, 524 (D. Nev. 1991) (stating that male prisoners had access to a wider variety of educational and recreational programs than female prisoners); *Canterino v. Wilson*, 546 F. Supp. 174, 211-12 (W.D. Ky. 1982), *vacated in part*, 869 F.2d 948 (6th Cir. 1989) (discussing disparities in the quality of vocational school courses in men's and women's prisons, including the exclusion of women prisoners from certain sectors of “on the job” training programs and work release programs); *Glover v. Johnson*, 478 F. Supp. 1075, 1086 (E.D. Mich. 1979) (stating that female prisoners had access to training in five broad occupational areas while male counterparts had access to 20 different vocational programs)).

11. *Id.* at 13. See generally Donna L. Laddy, *Can Women Prisoners be Carpenters? A Proposed Analysis for Equal Protection Claims of Gender Discrimination in Educational and Vocational Programming at Women's Prisons*, 5 TEMP. POL. & CIV. RTS. L. REV. 1 (1995).

- Females' sense of self is manifested and develops differently in female specific groups as opposed to coed groups;
- The unique needs and issues (e.g., physical/sexual/emotional victimization, trauma, physical and mental health, pregnancy and parenting) of women and girls should be addressed in a safe, trusting and supportive women-focused environment;
- Whenever possible, women should be treated in the least restrictive programming environment available. The level of security should depend on both treatment needs and concern for public safety;
- Treatment and services should build on women's strengths/competencies and promote independence and self-reliance; and
- Cultural awareness and sensitivity should be promoted and the cultural resources and strengths in various communities should be utilized.¹²

Enduring problems in female incarceration also include prisoner abuse, privacy issues, providing adequate physical and mental health care, and the availability and efficacy of substance abuse treatment for women.

IMPACT ON CHILDREN OF INMATE MOTHERS

Third, academics and policymakers have paid little attention to the impact of female incarceration on the families left behind.¹³ Research shows that 70% of female prisoners in state and federal prisons are single parents compared to 18% of their male counterparts.¹⁴ Incarceration often puts the parental rights of these

12. Bloom & Covington, *supra* note 1, at 9-10.

13. "[R]elatively little is actually known about the causal role that the penal sanctioning of parents plays in children's lives, alone or in combination with other experiences and events in the lives of these children." John Hagan & Ronit Dinovitzer, *Collateral Consequences of Imprisonment for Children, Communities, and Prisoners*, 26 CRIME & JUST. 121, 144 (1999) (citing Stewart Gabel, *Behavioral Problems in Some of Incarcerated or Otherwise Absent Fathers: The Issue of Separation*, 31 FAMILY PROCESS 303, 303-14. (1992)).

14. See Jessica Y. Kim, Note, *In-Prison Day Care: A Correctional Alternative for Women Offenders*, 7 CARDOZO WOMEN'S L.J. 221, 225 (2001) (citing Elise Zealand, *Protecting the Ties that Bind from Behind Bars: A Call for Equal Opportunities for Incarcerated Fathers and Their Children to Maintain the Parent-Child Relationship*, 31

parents at risk. Today, twenty-nine states have explicit statutory provisions that include parental incarceration as one of the criteria in supporting termination of parental rights or adoption.¹⁵ Incarcerated women are almost five times more likely to lose their children to foster care than are male inmates.¹⁶

The incarceration of mothers also punishes their children. The Women's Prison Association recently reported that the children of incarcerated mothers

have a greater tendency to exhibit many of the problems that generally accompany parental absence including: low self-esteem, impaired achievement motivation and poor peer relations. In addition, these children contend with feelings like anxiety, shame, sadness, grief, social isolation and guilt. The children will often withdraw and regress developmentally, exhibiting behaviors of younger children, like bedwetting As the children reach adolescence, they may begin to act out in anti-social ways. Searching for attention, pre-teens and teens are at high

COLUM. J.L. & SOC. PROBS. 247, 247-249 (1998); TRACY L. SNELL, U.S. DEP'T OF JUSTICE, WOMEN IN PRISON: SURVEY OF STATE PRISON INMATES 2, tbl. 1 (1994).

15. Dr. Lanette P. Dalley, *Imprisoned Mothers and Their Children: Their Often Conflicting Legal Rights*, 22 HAMLINE J. PUB. L. & POL'Y 1, 17 (2000)(citing ALA. CODE §26-18-7(a)(4) (1992 & Supp. 1998); ALASKA STAT. § 47.10.080(o) (Lexis through 1998 Sess.); ARIZ REV. STAT. §8-533(B)(4) (West 1999); CAL. WELF. & INST. CODE §366.26(c)(1) (West 1998 & Supp. 1999); COLO. REV. STAT. §19-3-604(1)(b)(III) (1998); DEL. CODE ANN. tit. 13, §1103(a)(5)(a)(3) (Supp. 1998); FLA. STAT. ANN. §39.806(1)(d) (West Supp. 1999); GA. CODE ANN. §15-11-81(b)(4)(B)(iii) (1994 & Supp. 1998); IDAHO CODE §16-1602(t)(2) (Supp. 1998); 750 ILL. COMP. STAT. ANN. 50/1-1(D)(r), (s) (West Supp. 1999); IOWA CODE ANN. §232.116(1)(i)(2), 232.116(2)(a) (West Supp. 1999); KAN. STAT. ANN. §38-1583(b)(5) (Supp. 1998); LA. STAT. ANN. CHILDREN'S CODE, art. 1194 (West 1999 Supp.); MASS. GEN. LAWS ANN. ch. 210, §3 (c)(xiii) (West 1999); MISS. CODE ANN. §93-15-103(3)(f) (Supp. 1998); MO. ANN. STAT. §211.447(6)(6) (West Supp. 1999); MONT. CODE ANN. §41-3-609(2)(e), 41-3-609(4)(b) (1997); N.H. REV. STAT. ANN. §170-C:5(VI) (Supp. 1998); N.J. STAT. ANN. §9:3-46(a) (West 1999 Supp.); N.M. STAT. ANN. §32A-4-2(C)(4), §32A-4-28(B)(2) (Michie 1998 Supp.); N.Y. SOC. SERV. LAW §384-b(7)(e)(ii)-(f) (McKinney Supp. 1999); OHIO REV. CODE ANN. §2151.41.4(E)(12), (13) (Anderson 1998 Supp.); OKLA. STAT. ANN. tit. 10, §7006-1.1(12) (West 1999); OR. REV. STAT. §109.322 (1989 & Supp. 1998); R.I. GEN. LAWS §15-7-7(a)(2)(i) (1998 Supp.); TENN. CODE ANN. §36-1-102(1)(A)(iv) (1998 Supp.); TEX. FAM. CODE ANN. §161.001(1)(Q) (West 1999 Supp.); WIS. STAT. ANN. §48.13(8) (West 1998 Supp.); WYO. STAT. ANN. §14-2-309(a)(iv) (Michie 1997)).

16. See Alexander, *supra* note 4, at 219 (citing TRACY L. SNELL, U.S. DEP'T OF JUSTICE, WOMEN IN PRISON 6 (1994)).

risk for delinquency, drug addiction and gang involvement.”¹⁷

Should additional services be created to serve the children of incarcerated mothers? Should the judicial determination of what is an appropriate sentence ever take into account the extraordinarily punitive impact a custody sentence will have on the offender’s family?¹⁸ The recent trends in sentencing guidelines leave judges minimal discretion for treating family responsibilities as a mitigating circumstance that would lead to probation as an alternative to prison. This has created disparately harsh results for incarcerated mothers and their children.¹⁹

LEGAL REMEDIES TO GENDER INEQUALITY IN THE CORRECTIONS SYSTEM

Lastly, where salient inequalities are found between men and women inmates, how effective are the available legal remedies? The lack of some prison programs and services has been challenged as constitutionally inadequate relying on the Eighth Amendment and Equal Protection Clause.²⁰ However, constitutional challenges brought on behalf of female prisoners often have not been effective in securing programs and services specifically relevant to female prisoners.²¹ The challenges failed because the requested program is not compelled by a constitutional right; the lack of the program does not amount to cruel and unusual punishment, or the program’s focus on the unique needs of women negates the equal protection argument because with respect to program the male and female prisoners are no longer similarly situated.²²

17. John Hagan & Ronit Dinovitzer, *Collateral Consequences of Imprisonment for Children, Communities, and Prisoners*, 26 CRIME & JUST. 121, 145 (1999)(quoting WOMEN’S PRISON ASSOCIATION, *BREAKING THE CYCLE OF DESPAIR: CHILDREN OF INCARCERATED MOTHERS* 9 (1995)).

18. See, e.g., Karen R. Smith, *United States v. Johnson: The Second Circuit Overcomes the Sentencing Guidelines’ Myopic View of “Not Ordinarily Relevant” Family Responsibilities of the Criminal Offender*, 59 BROOKLYN L. REV. 573 (1993).

19. See generally Alexander, *supra* note 4.

20. See Jurado, *supra* note 10, at 16-19.

21. See *id.* at 18. (citing KATHERINE GABEL, NATIONAL INSTITUTE OF CORRECTIONS, U. S. DEP’T OF JUSTICE, *THE LEGAL ISSUES OF FEMALE INMATES* (1983); Rhodes v. Chapman, 452 U.S. 337, 348 (1981); Women Prisoners of D.C. Dep’t of Corrections v. District of Columbia, 93 F.3d 910, 923, 918-32 (1996); Berrios-Berrios v. Thornburgh, 716 F. Supp. 987, 990-91 (E.D. Ky. 1989); Klinger v. Department of Corrections, 31 F.3d 727, 731-32 (8th Cir. 1994)).

22. See *id.* at 17-19.

How have challenges to the inadequacy of gender-neutral programs provided to women fared since the Supreme Court's most recent and relevant application of the heightened scrutiny standard for gender discrimination in *United States v. Virginia*?²³ How does that decision meld with the holding of *Turner v. Safley*, that the proper inquiry for prisoners' claims of constitutional violations is "whether a prison regulation that burdens fundamental rights is reasonably related to legitimate penological objectives, or whether it represents an exaggerated response to those concerns"?²⁴

In forthcoming editions of MARGINS in Volume 2, some of the participants at the 2002 Symposium will address these and other related issues. The diverse panelists represented a wide range of professions related to the incarceration of women. Hopefully, this multidisciplinary discussion can enhance the knowledge of those who shape corrections law and policy as they deal with the continuing increase in the number of incarcerated women.

The published discussion begins in this issue with an article by Dr. Kenneth Kerle and a reprint of a recent study from the Chicago Coalition for the Homeless. Dr. Kenneth Kerle is currently the Managing Editor of *American Jails Magazine* and a leading expert on jail policy and management. In his article, he describes the treatment women receive in America's jails.

Additionally, in this issue we are fortunate to present a study conducted by the Chicago Coalition for the Homeless in October 2001. The study was conducted as a survey of women detained at the Cook County Jail in Chicago, Illinois. The author presents the findings and makes several recommendations for changes in corrections policy concerning women.

23. 518 U.S. 515 (1996).

24. 482 U.S. 78, 87 (1987). See Rosemary M. Kennedy, *The Treatment of Women Prisoners After the VMI Decision: Application of a New "Heightened Scrutiny,"* 6 AM. U. J. GENDER & LAW 65 (1997); Laddy, *supra* note 11; Jennifer Arnett Lee, Note, *Women Prisoners, Penological Interests, and Gender Stereotyping: An Application of Equal Protection Norms to Female Inmates,* 32 COLUM. HUMAN RIGHTS L. REV. 251 (2000); Angie Baker, Note, *Leapfrogging Over Equal Protection Analysis: The Eighth Circuit Sanctions Separate and Unequal Prison Facilities for Males and Females in Klinger v. Dep't of Corrections,* 76 NEB. L. REV. 371 (1997).

COMING IN MARCH 2003 . . .**EXPANDING THE SIXTH AND FOURTEENTH AMENDMENTS' RIGHT TO
COUNSEL TO INDIGENTS IN CIVIL CASES: THE CIVIL *GIDEON*
MOVEMENT:
MARGINS' SYMPOSIUM 2003**

In March 2003, MARGINS will hold a symposium on the possibility of securing a right to counsel for indigent persons in civil cases. In 1963, the U.S. Supreme Court held that the Sixth Amendment guarantees indigents in non-capital criminal cases the right to court-appointed counsel.²⁵ The petitioner, Clarence Gideon, was the first poor, uneducated individual to receive free legal aid in a non-capital criminal case. Before *Gideon*, only defendants in death penalty cases had the right to receive government-funded counsel.²⁶ However, it was at least a decade before all the states followed suit. Today, the method for providing indigent defendants with counsel in criminal cases has evolved into the public defense system. This service is available at both the federal and state levels, and has made significant progress in the last thirty years.

However, indigents in civil cases still lack the right to government-funded counsel. This lack of access to legal representation causes many additional problems for individuals already suffering in poverty. For example, indigents without counsel are frequently unable to enforce their property rights. Eighty percent of the 30,000 New Yorkers, who are evicted each year, lack representation to challenge their displacement from their homes.²⁷ Indigent consumers lacking professional legal assistance are unable to effectively use the intimidating U.C.C. or common law contract principles to effectively enforce their rights against wealthy businesses.

The stakes are very high for indigent litigants. Indigent parents, having no right to counsel in custody disputes, lose the ability to fight for their right to see and/or raise their children. Indigent litigants lose causes of action and defenses because of their lack of

25. *Gideon v. Wainwright*, 372 U.S. 335 (1963).

26. *Powell v. Alabama*, 287 U.S. 45 (1932).

27. See Christy Harlan, *New York Bar Says Volunteer Lawyers Can't Make Dent in Eviction Problem*, WALL ST. J., Dec. 21, 1998.

education and legal knowledge, especially when trying to meet statutes of limitations, and other court-imposed obligations.²⁸

According to California Justice Earl Johnson, “[w]hen it comes to the legal entitlement to free counsel for indigent civil litigants, the United States is in a distinct minority among the industrial democracies of the world.”²⁹ In Maryland, “about 80 percent of low-income residents, who need a lawyer in civil disputes, can’t get one.”³⁰ The Civil *Gideon* movement asks: does a legal right really exist if you lack the means or ability to enforce it?

However, indigent civil litigants are not completely without access to counsel. There is a federally funded organization called the Legal Services Corporation (LSC), which is also established in many states. The LSC was created in 1974 “to provide legal representation for poor people in civil matters.”³¹ This entity still exists today, but as the facts and statistics show, it is unable to meet the extensive demand. According to a recent study by the American Bar Association, “forty percent of low income households surveyed had civil legal problems in the last twelve months, but could not obtain counsel.”³²

Opponents who question the necessity of a Civil *Gideon* point out that due process considerations at trial effectively ensure the indigent civil litigants receive a just outcome. While indigent civil litigants do not have a constitutional *right* to counsel, appointment of counsel at the trial court’s discretion remains an option. However, the burden of proving that due process demands an indigent litigant be provided counsel is high. The Court, in *Lassiter v. Dept. of Social Services*, held: “the Court’s precedents speak with one voice about what “fundamental fairness” has meant when the Court has considered the right to appointed counsel, and we thus draw from them the presumption that an indigent litigant has a right to appointed counsel only when, if he loses, he may be deprived of his physical liberty.”³³ It is against this presumption that all the other elements in the due process decision must be measured.”³⁴ The standard for overcoming this presumption is “whether the three *Eldridge* factors [the private

28. See Joan Grace Ritchey, *Limits on Justice: the United States’ Failure to Recognize a Right to Counsel in civil Litigation*, 79 WASH. U. L.Q. 317, 337 (2001).

29. See Earl Johnson, Jr., *The Right to Counsel in Civil Cases: An International Perspective*, 19 LOY. L.A. L. REV. 341, 345 (1985).

30. See Joe Surkiewwicz, THE DAILY RECORD (Baltimore), Nov. 2, 2000, at 1C.

31. See Francis T. Murphy, *Now is the Time to Revitalize Legal Services*, 209 N.Y.L.J. 83 (1993).

32. Ritchey, *supra*, note 14, at 329.

33. 452 U.S. 18 (1981).

34. *Id.* at 26-27.

interests at stake, the government's interest, and the risk that the procedures used will lead to erroneous decisions], when weighed against the presumption that there is no right to appointed counsel [in civil cases], suffice to rebut that presumption and thus to lead to the conclusion that the Due Process Clause requires the appointment of counsel."³⁵ Those who argue against extending the right to counsel in civil cases explain that this balancing process sufficiently enables indigents to adequately enforce their rights in civil suits.

Others point out that establishing a Federal right to counsel in civil cases is not necessary because many states have already implemented similar rights through their state constitutions. The Court itself in *Lassiter* noted "33 States and the District of Columbia provide statutorily for the appointment of counsel in termination [of parental rights] cases."³⁶ Therefore, if states continue to create rights to counsel in civil cases, even short of an absolute right in all causes of action, it really is not necessary for recognition of a "Civil *Gideon*" via the Federal Constitution.

Noting the Supreme Court's refusal to recognize a right to counsel in civil cases, advocates have suggested new alternatives to ensure that legal assistance can be provided to a larger proportion of indigents. One suggestion is the creation of a mandatory pro bono service.³⁷ There is debate, however, surrounding what sort of provisions should be made mandatory. Who, if anyone, should be exempt from mandatory service? For example, judges, government attorneys, legal services lawyers, and public defenders, have all been mentioned as being exempt due to their existing status as public servants.³⁸

Other questions are who would qualify as an indigent, or who would benefit from the pro bono services? Maryland has adopted the same definition of indigent in its public defense statute as the federal public defense statute.³⁹ Both the federal statute and the Maryland statute define an indigent as one who is unable to pay for adequate legal representation. In addition, both statutes state that income is not dispositive, and that ability to afford counsel, after basic living expenses are paid, is the ultimate inquiry. Yet another hotly debated

35. *Id.* at 31(citing *Matthews v. Eldridge*, 424 U.S. 319 (1976)).

36. *Id.* at 34.

37. See Esther F. Lardent, *Mandatory Pro Bono in Civil Cases: The Wrong Answer to the Right Question*, 49 MD. L. REV. 78 (1990); Talbot D'Alemberte, *Tributaries of Justice: The Search for Full Access*, 73 FLA. B.J. 12 (1999).

38. See Lardent, *supra* note 23, at 81; D'Alemberte, *supra* note 23, at 20.

39. See 18 U.S.C. § 3006A (2002); Md. Ann. Code art. 27A (2002).

issue is who will pay for the services, or how to raise revenue to fund those services.

A final issue is should a mandatory pro bono service be established, how "mandatory" would the service be? There needs to be a mechanism or mechanism or means to enforce the requirement. A problem could be posed when trying to enforce this requirement on non-practicing attorneys, or attorneys who are barred in several states.

Another alternative to a "Civil *Gideon*" is to expand the existing LSC, or pass state statutes requiring government-funded administrative agencies that provide services to the poor to pay for legal fees, if the agency was found to have denied the indigent an entitled benefit.⁴⁰ However, because the Court has refused to extend the right to appointed counsel to civil indigent litigants, it is unlikely Congress will approve more funding for the LSC.⁴¹ In addition, the latter solution does not address the needs of individuals who sue corporations or private individuals.

There are many issues surrounding the debate over whether a "Civil *Gideon*" is not only feasible, but constitutionally required. In March 2003, MARGINS will be holding a symposium to discuss these and related issues. Continue to check our website for further details including a "Call for Papers."⁴² Articles from the 2003 symposium will be published in Volume III of MARGINS.

BRIAN P. MARRON*

40. See D'Alemberte, *supra* note 23, at 14, 19.

41. See John McKay, *Federally Funded Legal Services: A New Vision of Equal Justice Under Law*, 68 TENN. L. REV. 101, 102 (2000).

42. The URL of the MARGINS website is <http://www.law.umaryland.edu/margins>.

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