NOW, THEREFORE, BE IT RESOLVED, that the Pennsylvania Bar Association adopts and endorses the ABA Ten Principles Of A Public Defense Delivery System as the best practices standard and formal criteria for the systemic delivery of indigent defense legal representation in the Commonwealth of Pennsylvania;

BE IT FURTHER RESOLVED, that the Pennsylvania Bar Association President and the Pennsylvania Bar Association staff are authorized to take whatever steps are deemed necessary to communicate this resolution, including communication of this position to the public.

Dveera Segal, Paul Knudson Burke
Chairs, Access to Justice Committee
Civil & Equal Rights Committee

April 19-23, 2012
Date of Approval

*Unanimously approved by the Board of Governors on May 9, 2012
**Unanimously approved by the House of Delegates on May 11, 2012

– Report follows on next page –
RESOLUTION OF THE PENNSYLVANIA BAR
ASSOCIATION ADOPTING AND ENDORSING THE
AMERICAN BAR ASSOCIATION’S TEN PRINCIPLES
OF A PUBLIC DEFENSE DELIVERY SYSTEM

WHEREAS, in Gideon v. Wainwright, 372 U.S. 335 (1963), the United States Supreme Court concluded that “reason and reflection require us to recognize that 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”. The Gideon court declared that “lawyers in criminal courts are necessities, not luxuries”, and it required that states must provide counsel to indigent defendants in felony cases;

WHEREAS, Gideon’s mandate under the federal Sixth Amendment right to counsel, made obligatory upon the states by the Fourteenth Amendment, has consistently been extended to any case that may result in the potential loss of liberty including misdemeanors, juvenile delinquency cases, direct appeals, and other critical stages in criminal and delinquency proceedings;

WHEREAS, the Pennsylvania State Constitution, Article 1, Section 9, recognizes the right of the accused “to be heard by himself and his counsel”; and the Pennsylvania Supreme Court, through its rule making authority, and case decisions has continued to recognize and to expand the right to counsel;

WHEREAS, the Commonwealth of Pennsylvania, through the Public Defender Act, 16 P.S. Sections 9960.1, et seq., has delegated to the counties the delivery of indigent defense legal representation through the establishment of public defender and assigned counsel services funded by the counties;

1 Argersinger v. Hamlin, 407 U.S. 25 (1972)
2 In re Gault, 387 U.S. 1 (1967)
WHEREAS, across the Commonwealth, indigent defense legal representation services are provided through the county public defender offices, contract legal services, and court assigned counsel programs;

WHEREAS, the PBA recognizes and endorses the findings of the Pennsylvania Joint State Government Commission’s Report entitled *A Constitutional Default: Services to Indigent Defendants in Pennsylvania*, which concluded that “Pennsylvania is generally not fulfilling its obligation to provide adequate, independent defense counsel to indigent persons”;

WHEREAS, the American Bar Association (“ABA”) studied and considered the evidence based, best practices for the delivery of effective, high quality, ethical, and conflict–free representation of accused persons who cannot afford to hire an attorney, and, in 2002, adopted the *Ten Principles of a Public Defense Delivery System*\(^7\), which are recognized as the national standard for indigent defense delivery systems;

WHEREAS, the Philadelphia Bar Association, the Allegheny County Bar Association, the Wilkes Barre Law and Library Association, the Centre County Bar Association and the Pennsylvania Association of Criminal Defense Lawyers have passed resolutions adopting the *ABA Ten Principles of a Public Defense Delivery System* as the best practices standard and formal criteria for the delivery of indigent defense legal representation;

WHEREAS, the PBA has reviewed and considered the *ABA Ten Principles of a Public Defense Delivery System*, and concludes that the *ABA Ten Principles of a Public Defense Delivery System* constitute the best practices standard for the delivery of indigent defense legal representation services in the Commonwealth of Pennsylvania;

\(^7\) Pennsylvania is the ONLY state that provides no funding for indigent defense legal services, resting the entire fiscal responsibility upon county governments. See, *State, County and Local Expenditures for indigent Defense Services pp. 74-76, Appx.10 (November, 2010)*, The Center for Justice, Law, and Society at George Mason University.

\(^8\) The ABA Ten Principles were adopted by the House of Delegates following study and recommendation from the following ABA committees: Standing Committee on Legal Aid and Indigent Defense, Criminal Justice Section, Government and Public Sector Lawyers Division, Steering Committee on the Unmet Legal Needs of Children, Commission on Racial and Ethnic Diversity in the Profession, and Standing Committee on Pro Bono and Public Service.