LAWYERS IN CRIMINAL COURTS ARE NECESSITIES, NOT LUXURIES.

Gideon v. Wainwright
The mission of the Foundation for Criminal Justice® is to preserve and promote the core values of America’s criminal justice system guaranteed by the Constitution — among them due process, freedom from unreasonable search and seizure, fair sentencing, and assistance of effective counsel — by educating the public and the legal profession to the role of these rights and values in a free society. The Foundation supports the work of the National Association of Criminal Defense Lawyers® toward these ends.

The Foundation for Criminal Justice® (FCJ) is overseen by a Board of Trustees (Board), which manages the FCJ and oversees its programmatic and governance practices. The Board possesses and exercises all powers granted to the FCJ under the DC Non-Profit Foundation Act, the FCJ’s own Articles of Incorporation, and its bylaws. The finances of the FCJ are audited annually by independent certified public accountants. Audit results are reported to the Board by the FCJ’s Audit Committee, which oversees the foundation’s financial practices, internal controls, financial management, and standards of fiscal conduct. The Board meets approximately four times per year. It considers grant requests and oversees grants through periodic written and oral reports, and ensures that all projects comport with the mission of the FCJ and that grants are directly related to grantees’ charitable purposes.
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A Letter from the President about the Foundation for Criminal Justice®

After decades of excessively harsh and irrational criminal justice policies, there is now an emerging consensus that the time for criminal justice reform has arrived. Despite deep partisan divides with respect to many issues, there is one area where divergent ideological perspectives converge in agreement: the criminal justice system is broken. A wide array of groups from myriad ideological backgrounds came together throughout 2015 to address the need to reform all aspects of the system, including overcriminalization, oversentencing, underfunding of public defense, restoration of rights, and racial disparities endemic to the criminal justice system — the list goes on and on. But as optimistic as I am about this moment in the history of criminal justice, I am mindful of a fundamental truth: meaningful criminal justice reform requires the voice of the criminal defense bar.

Due process, equal protection, privacy rights, free speech, and countless other rights are defined by the criminal justice system and shaped by the often prosaic but always heroic efforts of criminal defense lawyers.

Reform is needed, and the Foundation for Criminal Justice® (FCJ) is uniquely positioned to guide the necessary reforms. The FCJ supports projects designed to protect the right to effective counsel, fight overcriminalization and prosecutorial misconduct, push back against oversentencing, protect against secret and unaccountable government searches into the private lives of citizens, promote restoration of rights and status after conviction or arrest, dismantle racial disparities within the system, and more. The FCJ promotes these reforms by supporting the criminal defense bar and the lawyers who shoulder the constitutionally-ordained mission to ensure that when the government uses its power to prosecute, it respects the fundamental rights and dignity of the individual. The FCJ and the criminal defense
bar bring the unique perspective necessary to reform a criminal justice system that too often ignores core principles like due process and the presumption of innocence.

The FCJ’s perspective is unique and invaluable. Unlike groups that focus solely on public advocacy or securing justice for the wrongly convicted, the FCJ and its partner organization, the National Association of Criminal Defense Lawyers® (NACDL®), both recognize that the contours of liberty are shaped by the everyday individual criminal cases that test the limits of government power in courtrooms throughout the country. While protection of those who are actually innocent is a vital concern, the question of guilt or innocence is seldom ascertainable with scientific certainty. Rather, it rests in the gray areas of credibility, intent, and perception. The FCJ’s efforts are grounded in the belief that due process, equal protection, privacy rights, free speech, and countless other rights are defined by the criminal justice system and shaped by the often prosaic but always heroic efforts of criminal defense lawyers.

But even those who violate the law still possess their fundamental human dignity. FCJ-supported projects reflect the belief that punishment should be proportionate and individualized, and that eventual restoration of rights is essential to the health and well-being of society.

Likewise, the FCJ and the criminal defense bar understand the importance of using their unique capacity and perspective to help right historical wrongs. Today, thousands of federal inmates face the very real possibility that they are serving sentences far in excess of what they would have received under current law and policy. When the Obama administration sought pro bono assistance from the legal profession to assist inmates who would be serving substantially shorter terms had they been sentenced today, the FCJ and its partners rose to the challenge. Today, hundreds of people have been set free with the help of Clemency Project 2014™, made possible in part by support from the FCJ. I am so proud of the history and partners involved in this historic project, and of the FCJ’s role in it. This report tells that important story.

In establishing the right to counsel, the founders of this nation recognized the vital importance of providing an advocate for all accused, and in no way limited that right to the innocent and the wrongly accused. This is the unique concern of the FCJ and the nation’s criminal defense bar.

Sincerely,

Gerald B. Lefcourt
President, Foundation for Criminal Justice
In establishing a right to counsel, the founders of this nation recognized the vital importance of providing an advocate for all accused, and in no way limited that right to the innocent and the wrongly accused.
Mission and Statement of Principle

The FCJ preserves and promotes the core values of the American criminal justice system. The FCJ is a 501(c)(3) charitable not-for-profit organization committed to national criminal justice reform. Because the contours of America's core constitutional rights are shaped by that system, the single most critical check on government excess is provided by the Sixth Amendment and implemented by the nation's criminal defense bar. In furtherance of that belief, the FCJ supports projects that empower the criminal defense bar to fulfill its constitutional role. The robust defense of all accused persons is the most effective means of confronting governmental overreach and abuse. In this regard, the FCJ recognizes that justice is only possible when an adequately resourced advocate is available to test the propriety and legality of the government's invocation of its power to prosecute; that individuals should not be judged only by their worst moments; and that any punishment must be proportionate to the offense and the offender. Further, the FCJ believes that even for those who have been lawfully convicted of an offense, the criminal justice system must broadly embrace the restoration of rights for those who have paid their debt to society.

The Work of the FCJ

Ensuring Access to Competent Counsel

The FCJ supports activities to train defense lawyers who provide public defense and to reform public defense systems at the local, state, and federal levels. Its projects reflect the fundamental belief that counsel must be provided to all accused persons at any court appearance at which a guilty plea to any crime may be entered or at which liberty is at risk. The FCJ supports impact litigation, training programs, the production of reports and resources for stakeholders and reformers, and other efforts to advance the right to competent counsel.

Federal Indigent Defense 2015: The Independence Imperative

In the wake of the severe cuts to the provision of federal public defense services, NACDL created a Federal Indigent Defense Task Force to engage in a comprehensive study of the federal public defense system and the extent to which it comports with the American Bar Association’s Ten Principles of a Public Defense Delivery System. With direct support from the FCJ, the task force conducted the most comprehensive look at the federal public defense system in more than two decades. It identified several significant and persistent deficiencies in the system, which NACDL documented in Federal Indigent Defense 2015: The Independence Imperative.¹

This report was the product of 18 months of intensive work. The task force interviewed more than 130 individuals — judges, full-time defenders, panel attorneys, Administrative Office of the Courts (AO) personnel, and others whose work involves the federal public defense system.

The report signaled the possibility of real reform. Just hours before the official release, National Public Radio's Morning Edition featured an exclusive story on the report. The report drew the attention of the AO's newly-formed Judicial Conference Committee to Review the Criminal Justice Act Program. Whether by coincidence or consequence, the federal court system launched its own comprehensive study of the Criminal Justice Act and how it works — the first in more than 20 years. In an example of the impact that FCJ-supported reports often have, NACDL’s then-president E.G. “Gerry” Morris testified about the findings in Federal Indigent Defense 2015: The Independence Imperative at the inaugural hearing of the Judicial Conference Committee to Review the Criminal Justice Act Program.²
The robust defense of all accused persons is the most effective means of confronting governmental overreach and abuse.

NACDL’s Public Defense Committee

The FCJ supports the efforts of NACDL’s Public Defense Committee to promote reform through litigation, education, and other projects. FCJ-supported efforts of the committee include the following projects:

* The committee sponsored the completion of *Gideon at 50, Part III*, the third in NACDL’s three-part series of reports on the status of the right to counsel fifty years after *Gideon v. Wainwright*. This study, anticipated to be published in 2016, will examine when and under what circumstances states require appointment of counsel in criminal cases. The two previous reports in the series examined assigned counsel rates and financial eligibility for appointed counsel. The report will arrive at a time of growing concern about the lack of counsel at first appearance and in misdemeanor courts.

* The committee supported the 2015 and 2016 summits of the American Bar Association Standing Committee on Legal Aid and Indigent Defendants.

* The committee helped facilitate the inaugural meeting of the *Right to Counsel National Campaign*, a multi-organizational effort to inform and engage policymakers, criminal justice stakeholders, and the community on the importance of meaningfully fulfilling the Sixth Amendment right to counsel.

* The committee helped facilitate several targeted training programs for public defenders throughout the country.

Supporting the Public Defense Bar

In 2015, with support from the FCJ, NACDL convened leaders of nationally prominent public defense organizations to focus on how the FCJ and NACDL can better engage the public defender community and more effectively provide public defender offices with education, resources, and advocacy support. The FCJ and NACDL, as the national criminal defense bar comprising both public defenders and private criminal defense lawyers (who often provide public defense services at the request of the court), stand together in support of the entire criminal defense profession. A strong public defense bar is a vital component in honoring the country’s commitment, enshrined in the Sixth Amendment, to the guiding hand of effective counsel.
Overcoming Overcriminalization, Promoting Discovery Reform, and Pushing Back Against Prosecutorial Misconduct

The FCJ works to reverse the trend of overcriminalization. In little more than a century, the number of federal crimes swelled from about 100 to approximately 5,000 today — a 50-fold expansion. And that explosion in newly criminalized conduct only includes new laws passed by Congress; estimates put the number of federal regulatory crimes at as many as 300,000. The nation’s addiction to criminalization clogs the judicial system, produces mass incarceration, and decouples the criminal justice system from its moral anchor.

The problem is compounded by a system that unduly imbues prosecutors with an excessively disproportionate array of tools, including unbridled charging authority, mandatory minimum sentences, and largely unreviewable discretion to control the flow of information to the defense. The threat of geometrically increased penalties for those who dare to challenge the government’s case, often without access to vital information consistent with innocence, unduly burdens the right to a trial. This is known as the trial penalty. The resulting systematic imbalance impels even innocent people to waive fundamental constitutional rights.

Here are just some of the ways that the FCJ stands up to overcriminalization and prosecutorial misconduct:

- Efforts to ensure broader discovery rights and more effective means to ensure that the defense is universally and timely given access to helpful information that prosecutors know or should know, such as NACDL’s efforts to bring greater transparency to how the federal government decides what evidence to make available to the accused;
- Support for panels and other events that highlight the damage wrought by overcriminalization and discuss the importance of a balance between the use of criminal and civil sanctions;
- Efforts to require that all criminal statutes include meaningful mens rea, or criminal intent, requirements;
- Opposition to the imposition of vicarious liability with insufficient evidence of personal awareness or neglect;
- Opposition to mandatory minimum sentences;
- Opposition to the undue expansion of the criminal law to regulate personal behavior and to inappropriately supplant civil regulatory regimes with criminal penalties; and
- Opposition to the unnecessary federalization of crimes traditionally reserved for state jurisdictions.
Preserving the Fourth Amendment in the Digital Era

The criminal defense bar plays an increasingly important role in defining individual privacy rights. The limit of the government’s power to conduct searches and seizures is tested in the context of everyday criminal cases, where the constitutional validity of the government’s surveillance and investigation methods is litigated when prosecutors offer evidence against someone who is accused of wrongdoing.

The FCJ supports NACDL’s efforts to ensure that the Fourth Amendment remains a vibrant protection against encroachments on individual privacy and liberty. Here are some ways that the FCJ supports projects to protect the Fourth Amendment in the digital era:

- NACDL opposes the government’s use of suspicionless searches of electronic communications, such as warrantless government searches of international email, web-browsing content, and search-engine questions — searches that have serious implications for privacy and that uniquely impact the capacity of criminal defense lawyers to preserve the confidence of their protected conversations.

- NACDL challenges programs aimed at targeting and collecting information from the computers of people who operate anonymously online, even if the location of the targeted computer is unknown or outside of the jurisdiction of a judge authorizing the search.

- NACDL published Mail Cover Surveillance: Problems and Recommendations with support from the FCJ. The report comprehensively raises and evaluates issues concerning a program used by the United States Postal Service to secretly monitor the mail of Americans and to share information with law enforcement agencies, both without judicial review. The report also addresses news that federal prosecutors used the mail cover surveillance program to monitor the communications between at least one criminal defendant and his lawyers.4

- Recognizing the need to educate the defense bar and the public on monitored communications between attorneys and clients, NACDL began development of webinars focusing on encryption and monitored communications that draw upon top experts and that educate lawyers on what they need to know and do to protect their clients against emerging surveillance technologies and techniques, and how to ensure clients’ privacy and the privacy of communications with clients.5
The Fourth Amendment in the Digital Age

The Fourth Amendment has entered the digital age. New surveillance technologies and programs — from GPS tracking devices to automated license plate readers to bulk data collection — have upended traditional law enforcement practices and created new challenges for defense lawyers. On April 3, 2015, the FCJ co-sponsored The Fourth Amendment in the Digital Age with NACDL, American University Washington College of Law, and the Criminal Law Practitioner. At the symposium, practitioners, scholars, and technology experts discussed how digital searches, government surveillance programs, and new technologies are impacting Fourth Amendment protections in criminal cases, as well as litigation strategies to challenge these developing threats to privacy.6

The FCJ supported subsequent publication of a report and other articles in the wake of the symposium. The report offers an overview of the symposium and the substantive areas of concern related to new technological and legal changes that impact privacy in the digital age. In addition, the report offers detailed recommendations concerning legal strategy, public education, legislative advocacy, and policy in this area.7
**Body Cameras**

Following high-profile encounters between police and citizens, especially encounters with fatal endings such as the shooting of Eric Garner in Staten Island, N.Y., and the shooting of Michael Brown in Ferguson, Mo., NACDL embarked on an FCJ-supported endeavor to document major issues and recommendations concerning police-worn body cameras. The issues surrounding the use of police-worn body cameras are legion. Questions abound concerning both how footage from body cameras might bolster claims of abuse by police, as well as how governments and courts should balance and address the public’s interest in seeing the footage. Other questions deal with the right of a criminal defendant or investigation target to access footage, and a subject or crime victim’s interest in maintaining privacy. Drawing upon support from the FCJ, NACDL commenced an exhaustive project to respond to these questions, and more, in a forthcoming policy report.8

**Preserving Liberty in the National Security Era**

The FCJ rejects the false notion that appeals to national security can be a legitimate excuse to erode fundamental constitutional protections and principles. The FCJ supports several programs at the nexus of national security and criminal law. These efforts are focused on training and supporting attorneys in national security cases; monitoring the military commission proceedings at Guantánamo and providing support for the military and civilian defense counsel; and exposing abuse and distortion of the criminal justice system under “terrorism exceptions” that threaten to permanently diminish core constitutional principles. Supported activities include:

- Monitoring legislative and policy developments for new provisions that affect the constitutional rights of individuals before the military commissions and the potential for transferring the practice of indefinite detention to the United States;
- Providing expertise, consultation, and support to the military and civilian lawyers representing detainees charged in the military commissions;
- Tracking of “terrorism exceptions” in non-terrorism cases and seeking to ensure that these exceptions do not seep into everyday criminal prosecutions; and
- Continuing to fulfill NACDL’s role as an observer at the Guantánamo military commission proceedings.
Restoring Rights and Status After Conviction

Federal, state, and local law enforcement arrest some 11 million people annually. And it is estimated that nearly 70 million adults have criminal records, and at least 45,000 collateral consequences of arrest or conviction have been documented by the American Bar Association. This vast array of legal restrictions, generalized discrimination, and social stigma has become more severe, more public, and more frequently permanent. These consequences affect virtually every aspect of human endeavor, including employment and licensing, housing, education, public benefits, credit and loans, immigration status, parental rights, and even volunteer opportunities. Collateral consequences can be a criminal defendant’s most serious punishment, permanently relegating a person to second class status.

With FCJ support, NACDL continues to follow up on its groundbreaking report, *Collateral Damage: America’s Failure to Forgive or Forget in the War on Crime — A Roadmap to Restore Rights and Status after Conviction or Arrest.* NACDL began efforts to convene an ideologically diverse coalition of groups to further discuss the recommendations of this report, and to develop implementation strategies. This Roadmap Consortium comprises an unprecedented array of ideologically diverse organizations that has united in a common effort to promote the appropriate restoration of rights and status for individuals with criminal histories. The consortium continues work on principles and a statement of purpose, and is planning several initiatives that will call attention to the numerous collateral consequences of arrest or conviction. It will also encourage local, state, and federal entities to address this pernicious and ubiquitous problem.

This commitment is based upon a broad recognition that human beings are capable of growth and change and are entitled to full and fair opportunities to overcome past mistakes. It reflects a universal appreciation for the virtue of forgiveness and the belief that society benefits when individuals are provided with avenues to have their legal rights fully restored.
Training and Resources for Defense Attorneys

FCJ support facilitated NACDL’s collaboration in the development of *Trial Defense Guidelines for Representing a Child Facing a Possible Life Sentence*. The guidelines were published by the Campaign for the Fair Sentencing of Youth, and reflected the involvement of NACDL and several other organizations. NACDL’s board of directors ratified the guidelines in early 2015. NACDL continues to work with juvenile justice organizations and juvenile defense lawyers to spread awareness of the guidelines.

The FCJ also provided essential support for the establishment of the National Forensic Science College, which held its inaugural session in 2014 and met for the second time in 2015.\(^5\) The college cultivates a national network of forensic science litigators, and equips the criminal defense bar to prevent the misuse of forensic science by law enforcement, including through the affirmative use of forensic science to support the defense of the accused. Over 125 trainees participated in the 2015 session of the college.

Through its support for NACDL’s public defense reform and litigation efforts, the FCJ helped NACDL provide training programs for public defense providers via jurisdictionally specific training curricula and programs aimed at addressing specific regional and local needs. NACDL used its FCJ-supported Public Defense Litigation and Reform Fund to augment logistical costs that could not be allocated to other outside funding streams. These programs took place across the country, and programs relying in part on FCJ support were conducted in Austin, Tex.; Seattle, Wash.; Syracuse, N.Y.; and Wilmington, Del.
Resources for the Defense Bar

Many of the criminal justice efforts that the FCJ supports pay dividends for years, often in areas entirely unanticipated by the originally supported project. The FCJ supported NACDL’s Resource Counsel Project with the intent of providing access to technical assistance for court-appointed counsel, contract defenders, and solo and small firm defense attorneys, among others. NACDL’s resource counsel has developed broad, web-based resources, and has provided innumerable attorneys with direct technical assistance.

In early 2012, news broke about systemic and widespread deficiencies in the FBI’s microscopic hair comparison evidence, raising the specter of an untold number of innocent people convicted of crimes on the basis of flawed forensic evidence. The FBI and the Department of Justice, working in collaboration with NACDL and others, launched a Microscopic Hair Comparison Review project. The extensive review encompasses thousands of cases in which FBI microscopic hair comparison was used to link a defendant to a crime.

NACDL’s role in the Microscopic Hair Comparison Review is made possible because the FCJ initially funded a Resource Counsel position. This support enabled NACDL to play a leading role in the review and possible re-litigation of cases involving flawed microscopic hair analysis.

The painstaking work conducted throughout 2015 resulted in a major milestone just weeks into the new year. On January 26, 2016, George D. Perrot was granted a new trial in Massachusetts based on newly discovered evidence that the FBI’s microscopic hair comparison testimony contained scientifically invalid statements. Perrot was the first person whose conviction was vacated based on the results of the Microscopic Hair Comparison Review.
Opposing Racial Bias in the Criminal Justice System

The FCJ has provided significant support to initiatives designed to address racial and ethnic disparities in the criminal justice system. The FCJ plans to continue to support events, webinars, and other projects designed to directly address and reduce these disparities and their impact.

The FCJ recognizes that a lack of jury diversity also contributes to disparate outcomes. While the United States Constitution nominally disallows systematic exclusion of persons from jury service based on race or ethnicity, in reality there are many everyday obstacles that deter some from serving that contribute to continued underrepresentation of certain communities. The FCJ will support efforts to encourage jury service by persons from historically underrepresented communities through a video of vignettes delivered by leaders in the legal, civil, and human rights communities, and by ordinary citizens whose lives have been impacted either by jury service or jury verdicts. The goal of this project is to instill a renewed sense of civic participation in jury service, one of the fundamental bedrocks of freedom.

The Grand Jury, Equal Justice, and Racial Fairness

The FCJ and NACDL co-hosted a two-part webinar on grand jury practice in the United States: *Reexamining the Grand Jury: Prosecutors, Police, and Race.* The grand jury system has long drawn criticism for failing to serve its purpose as a shield against unwarranted charges. Recently, however, a new charge has been leveled: that prosecutorial influence over the grand jury permits law enforcement misconduct to go unpunished. The webinar examined due process for targets and witnesses, as well as possible methods to achieve equal justice and racial fairness.13
Promoting Diversity in the Criminal Defense Bar

With support from the FCJ, NACDL instituted a Diversity Task Force Fellowship program in criminal defense law, designed for law students from historically underrepresented backgrounds. The fellowship places law students from historically underrepresented backgrounds with exceptional and experienced criminal defense attorneys, and the fellows experience criminal defense practice firsthand during their eight-week placements. Through 2015, 21 law students received these fellowships over the program’s six-year span. The fellowship program entered its seventh year in 2016. It is representative of a unique contribution to improving the criminal defense bar that has a powerful and positive impact on the careers of its alumni.

Whitney Williams

Whitney Williams, a 2015 Summer Fellow, represents the exceptionally talented individuals that both participated in the program and use it to start their careers in criminal defense. Whitney spent her summer with the Neighborhood Defender Service of Harlem (NDS) in New York City. In addition to shadowing one of the service’s litigation attorneys, she spoke on the record during arraignments, composed letters to district attorneys regarding sentencing policy, and had significant interaction with clients. Whitney has a strong passion for community leadership and giving a voice to the voiceless. While she has had a wealth of experience in her law school’s criminal defense clinic, a private criminal defense and civil rights firm, and the Columbia, Mo., housing authority, Whitney came to NACDL to simultaneously observe the daily routine of public defenders in court while learning about advocacy strategies for criminal justice policy reform. Originally from St. Louis, Whitney received her undergraduate degree from the University of Missouri with a major in Political Science and Sociology, and a minor in Social Justice. She graduated from IIT Chicago-Kent College of Law in the spring of 2016, with certificates in both Public Interest Law and Criminal Defense Litigation. As a result of her NACDL Diversity Task Force Fellowship, Whitney secured a highly coveted and extremely competitive position as an NDS Fellow in the 2016 class and began her career as a public defender at NDS in September 2016. She credits her post-graduation two-year fellowship position with NDS to NACDL and the FCJ and the invaluable experience the fellowship provided in the summer of 2015.
Clemency Project 2014™

The Foundation for Criminal Justice was among the first supporters of Clemency Project 2014™, an unprecedented, independent effort by the nation's bar. A working group including the American Bar Association, the American Civil Liberties Union, Families Against Mandatory Minimums, many federal public and community defenders, and the National Association of Criminal Defense Lawyers, the project continued its FCJ-supported efforts in 2015 to identify potential clemency petitioners and to recruit and train volunteer lawyers to assist them in securing clemency.

On January 30, 2014, then-Deputy Attorney General James Cole announced that the Obama administration would consider commuting the prison sentences of non-violent offenders who had received severe prison sentences but would likely have received significantly lesser sentences under current sentencing law and policy. Simultaneously, Deputy AG Cole issued a call to the legal profession to provide pro bono assistance to help identify eligible inmates and assist them in the preparation of clemency petitions. On April 23, 2014, Deputy AG Cole described specific criteria that would qualify an inmate for commutation. The prisoner must be serving a federal sentence that, if imposed today, would be substantially shorter; have a non-violent history with no significant ties to organized crime, gangs or cartels; have served at least 10 years; have no significant prior convictions; and have demonstrated good conduct in prison.

Within weeks of the Deputy Attorney General's January announcement, Clemency Project 2014™ was established. The project immediately began to develop the infrastructure needed to recruit and train attorneys on how to review and
screen the tens of thousands of requests for assistance that it would receive. The project established a means for the intake, processing, and assignment of inmate requests, as well as for managing the thousands of attorney volunteers derived from various sectors of the legal profession.

The FCJ has supported the project directly, and has channeled support from many other individual donors, foundations, and organizations. The FCJ disburses dedicated funds to NACDL, which serves as the fiscal agent for CP 2014 and provides the infrastructure necessary to support the project.

The scope of the project is unprecedented. By the end of 2015, the project received over 33,000 requests from federal prisoners for volunteer assistance. The project set out to ensure that every applicant who appears to meet the criteria has a volunteer lawyer to prepare and submit a timely clemency petition; but each request required careful screening to ensure that the inmate met the specific criteria set forth by the Department of Justice. By the end of the year, the project had already finished screening more than 25,000 of the requests, and had begun to submit petitions for clemency in earnest — and even started to see the project bear fruit. President Barack Obama commuted nearly 200 sentences over the course of 2015, including the sentences of 35 inmates whose petitions for clemency were supported by Clemency Project 2014™.

The work of Clemency Project 2014™ continued beyond 2015. By the beginning of September 2016, President Obama had granted clemency to hundreds more petitioners, including 301 people whose petitions were supported by Clemency Project 2014™. Of those 301 grantees supported by the project, 127 people were serving life sentences, and 44 were serving sentences of 30 years or longer. The efforts of Clemency Project 2014™ resulted in sentence reductions estimated to total over 5,100 years. The project continues to submit petitions.
Criminal Justice Reform Research and Publications

Much of the work that the FCJ supports results in new research, the publication of groundbreaking, cutting-edge reports and papers, or conferences and symposia aimed at furthering criminal justice reform projects. Recent projects have addressed topics including:

- **The Fourth Amendment and the Digital Age**: New surveillance technologies and programs — from GPS tracking devices to automated license plate readers to bulk data collection — have upended traditional law enforcement practices and created new challenges for defense lawyers. At this symposium, criminal law practitioners, scholars, and technology experts discussed how digital searches, government surveillance programs, and new technologies are impacting Fourth Amendment protections in criminal cases as well as litigation strategies to challenge these developing threats to privacy.

- **Mail Cover Surveillance: Problems and Recommendations** comprehensively raises and evaluates issues concerning a program used by the United States Postal Service to secretly monitor the mail of Americans and to share information with law enforcement agencies, both without judicial review. The report also addresses news that federal prosecutors used the mail cover surveillance program to monitor the communications between at least one criminal defendant and his lawyers.

- **Federal Indigent Defense 2015: The Independence Imperative**: In the wake of the severe cuts to the provision of public defense services during sequestration in 2013, NACDL created a Federal Indigent Defense Task Force to examine the federal public defense system. The task force, with support from the FCJ, assessed the level of independence afforded to the Defender Services Office and considered whether reforms are necessary to ensure adherence to the ABA’s Ten Principles of a Public Defense Delivery System. After extensive research and more than 130 interviews with key stakeholders, the task force identified several significant, persistent deficiencies in the system. This report explores those concerns and offers seven recommendations to assure a robust federal public defense system.

These reports and more are available at [www.nacdl.org/reports](http://www.nacdl.org/reports).
2 These expenses also included support for the webinar, “Reexamining the Grand Jury: Prosecutors, Police, and Race,” infra, p 14.

1 Funds conveyed in this area directly support NACDL’s efforts in a broad array of areas including: Public Defense Reform; Overcriminalization; Fourth Amendment and Privacy; National Security; Rights Restoration; Ending Racial Disparities; and more.

Foundation for Criminal Justice®
2015 Financial Report
September 30, 2015

Assets
Cash and cash equivalents $ 642,187
Accounts Receivable and promises to give 70,322
Investments 854,215
Prepaid expenses 3,960
Total Assets $ 1,570,684

Liabilities and net assets
Liabilities:
Accounts Payable & Accrued Expenses $ 10,733
Grants payable to NACDL 190,383
Total liabilities 201,116

Net Assets:
Unrestricted:
Undesignated 409,779

Trustee designated:
Gala fund 311,247
Capital campaign fund 70,523
Gideon fund 69,831
Clemency Project fund 50,000
Total unrestricted net assets 911,380

Temporarily restricted net assets 444,533
Permanently restricted net assets 13,655

Total net assets 1,369,568

Total liabilities and net assets $ 1,570,684
2015 Awards Dinner: *Privacy in the Digital Age: Freedom, the Fourth Amendment, and the Future*

The FCJ thanks the sponsors and supporters of its 2015 annual awards dinner, *Privacy in the Digital Age: Freedom, the Fourth Amendment, and the Future*. The event, which took place on July 24, 2015, at the Denver Center for the Performing Arts, centered on the role of the Fourth Amendment as the starting place in the work to protect privacy and individual liberty. It was a magical evening that featured remarks by Michael E. Tigar, and Peter Goldberger received NACDL’s Robert C. Heeney Memorial Award.

The FCJ thanks those whose support made its 2015 awards dinner such a success.

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1. Federal Indigent Defense 2015: The Independence Imperative, along with an executive summary, as well as many of the documents to which the report cites, are available at www.nacdl.org/federalindigentdefense2015.
3. The Gideon at 50 reports are available online at www.nacdl.org/reports.
4. Mail Cover Surveillance: Problems and Recommendations is available online at www.nacdl.org/reports.
5. FCI-supported webinars on Keep It Confidential: Protecting Your Privileged Client Communications with Encryption, conducted early in 2016, are available at www.nacdl.org/fourthamendment.
6. Learn more about The Fourth Amendment and the Digital Age at www.nacdl.org/FourthAmendmentInTheDigitalAge/, where one can read the report and watch the panels as broadcast on C-SPAN2.
7. Id.
8. NACDL’s forthcoming publication concerning police-worn body cameras will be available at www.nacdl.org and www.nacdl.org/reports.
10. The National Forensics College was presented in partnership with the Benjamin N. Cardozo Law School.
11. Co-participants in the hair analysis review project include The Innocence Project, David Koropp and colleagues at Winston & Strawn LLP, and Michael R. Bromwich, Managing Principal of The Bromwich Group, who served as the Inspector General of DOJ from 1994-99.
12. For more information on the Microscopic Hair Comparison Review Project, see www.nacdl.org/haircomparison.
13. Reexamining the Grand Jury: Prosecutors, Police, and Race can be viewed online at www.nacdl.org/grandjury.
14. The total number of years of reduced sentences is based on a predicted 80-year life span for grantees who had been serving a life sentence. *