During the 40th anniversary year of the U.S. Supreme Court’s decision in *Gideon v. Wainwright*, the American Bar Association’s Standing Committee on Legal Aid and Indigent Defendants (ABA SCLAID) in 2003 held a series of public hearings to examine the implementation of the right to counsel in state court proceedings for poor persons accused of crimes. In January 2005, ABA SCLAID published its final report based on the testimony provided at the hearings, entitled “Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice.” This information sheet contains a short summary of the “Problems in Indigent Defense” in California that were reported by hearing witnesses. For the complete information regarding each of the statements listed below (including references to hearing transcripts, reports, and other supporting materials), please see “Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice,” available at http://www.indigentdefense.org/brokenpromise.

Problems in Indigent Defense

The following problems were reported by hearing witnesses:

- Varying levels of local funding for indigent defense have led to disparities in the quality of representation throughout the state of California. Consequently, the measure of justice received by an indigent defendant may depend more upon location than the actual merits of a case.

- In certain counties, funding for as expert witness services—deemed essential by national standards to mounting an effective defense—is insufficient.

- A review of California counties revealed that, for every $100 the prosecution receives in funding, indigent defense receives an average of $60.90. As a consequence, there are disproportionately more prosecutors than public defenders throughout the state.

- In order to establish close and confidential attorney client relationships and emulate the way in which law is practiced on behalf of retained clients, national standards have long recommended the practice of “vertical representation,” whereby the same attorney initially assigned to a case provides continuous representation throughout the court proceedings.
some California counties, however, insufficient resources prevent public defenders from providing vertical representation, whereas vertical prosecution is common because the prosecutor’s office has more funding.

- Witnesses reported that some judges in California encourage waivers of the right to counsel and subsequent pleas of guilty in California and make no attempt to determine whether an accused’s waiver is knowing, voluntary, and intelligent before accepting it, as required by Supreme Court decisions; nor do they follow additional guidance contained in national standards. For example, a witness from California reported the following occurrence in Riverside County: “I went into municipal court to watch an arraignment. The judges told the defendants, ‘If you plead guilty today, you’ll go home. If you want an attorney, you’ll stay in jail for two more days and then your case will be set for trial and, if you can meet the bail amount, you’ll be released.’ Almost everybody in the room pled guilty. And of course the system is not opposed to that because the court moves on.”

- Counsel frequently is not provided to indigent defendants in violation of federal constitutional rights, state law, or national standards. According to one witness who is the chief defender in Riverside County, “[o]ur court admitted in 2002 that 12,711 people pled guilty in Riverside County, California to misdemeanor charges without ever speaking to a lawyer. That’s because in 1986, because of some budget problems at that time, the public defender was removed from municipal court arraignments. Every year since I’ve been in the County of Riverside, four years now, I’ve requested funding to get back into misdemeanor courts and have been denied that funding on each occasion. And as a result of the monies we have—we handle about 38,000 cases per year, my office alone—we don’t have the resources to put people in misdemeanor courtrooms.”