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 Illinois that were reported by one of the 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](http://www.indigentdefense.org/brokenpromise).

### Problems in Indigent Defense

The following problems were reported by the hearing witness:

- Although national standards recommend that indigent defense attorneys receive reasonable compensation for reasons of fairness and to encourage vigorous representation, inadequate fees for assigned counsel in Illinois lead to substantial recruitment and retention problems. According to the witness, “[o]ur statute provides that for a misdemeanor case, assigned counsel can be paid a fee of $150, and for a felony case, $1,250. That statute has not been changed for twenty-five years. The practical result is that, at least with respect to non-death penalty cases, the practice of criminal law by public defenders has pretty much wiped out participation by most of the private bar.”

- Further, the problem of inadequate attorney compensation often is compounded because many attorneys providing indigent defense services have enormous law school debts, yet are unable to obtain loan forgiveness.

- 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.
However, in the larger public defender offices in Illinois, with the exception of homicide cases, initial court appearances are frequently handled by different attorneys than those who provide representation during the remainder of the case.

In addition, the hearing witness reported that:

- there is great resource disparity between prosecution and indigent defense;
- oftentimes caseloads far exceed national standards, making it impossible for even the most industrious of attorneys to deliver effective representation in all cases;
- indigent defense systems in the state are not fully independent from undue political or judicial influence; and
- there is a lack of statewide oversight and structure for indigent defense services, resulting in a hodgepodge of local systems that are unsupervised and vary greatly in their effectiveness.