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” and “Model Approaches to Providing Services” in New Mexico that were reported by one of the hearing witnesses, as well as “Recent Reform Efforts” that have occurred in the state. 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:

- Low salaries have led to serious recruitment problems for that New Mexico’s statewide public defender program.
- Despite the recommendations contained in national standards, there is no provision for formal, systematic training of indigent defense attorneys or support staff at either the state or local levels in New Mexico.
- In some of the rural areas of New Mexico where there are no statewide public defender trial units, separate lawyers are not provided for cases involving conflicts of interest, in violation of court decisions and rules of professional conduct.
- National standards recognize that the defense function must be independent from undue political and judicial influence to ensure the delivery of quality legal representation. In contrast, the witness noted that the New Mexico’s chief public defender is appointed by the
governor, which “undermines the validity of the Public Defender Department and takes away the power and role it should play in the entire political process for that statewide system.”

- In certain magistrate courts located in remote areas of the state where there is no public defender office, lawyers are not provided at initial appearances and waivers of counsel are accepted from some indigents accused of offenses carrying mandatory jail sentences who were not first afforded the opportunity to confer with a lawyer, in violation of national standards.

**Recent Reform Efforts**

- The New Mexico Supreme Court recently created a task force on the criminal justice system that is charged with examining the adequacy of funding for public defender services in that state.

**Model Approaches to Providing Services**

The following model approach to providing services was reported by the hearing witness:

- The New Mexico Public Defender Department maintains trial public defender units across the state equipped with updated technology (including e-mail, internet, case tracking, and case management systems) and supported by paralegals, investigators, social workers, alternative sentencing advocates, and technology and administrative staff. The agency also operates specialty units (dealing with appeals, death penalty, post-conviction, and mental health cases) and oversees contracts with private attorneys to provide services in conflict cases throughout the state. Contract counsel, moreover, are required to comply with state performance standards.