American Bar Association, SCLAID
8th Annual Indigent Defense Summit
Gideon at 50: The Way Forward
Dallas, Texas - February 9, 2013
“A public defender is not amenable to administrative direction in the same sense as other employees of the State . . . [because] a defense lawyer best serves the public, not by acting on behalf of the State or in concert with it, but rather by advocating the undivided interest of the client.”

*Polk County v. Dodson, 454 U.S. 312 (1981)*
INDEPENDENCE “VICTORIES”
“To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems.” – ABA Principle 1
DOJ announces an agreement with Shelby County, Tennessee (Memphis) to reform juvenile justice system

Pleading the Sixth: On December 18, 2012, the U.S. Department of Justice announced an agreement with Shelby County, Tennessee (Memphis) to usher in major reforms of the county's juvenile court system and the method for representing children in delinquency proceedings. Sweeping changes are afoot, including systemic safeguards, such as “independence,” “reasonable caseloads,” “attorney performance standards,” and “training” for the juvenile defense function, among others. The DOJ/Shelby County agreement is an acknowledgement that the American Bar Association’s Ten Principles are not just the parameters of a functioning adult indigent defense system, but a juvenile justice system as well.

On December 18, 2012 the United States Department of Justice (DOJ) announced a sweeping agreement with Shelby County, Tennessee (Memphis), as reported in the New York Times the same day. Far-reaching changes will take place in Memphis, as the DOJ is requiring that much of the American Bar Association’s Ten Principles of a Public Defense Delivery System be implemented to transform their current deficient non-system into a national model for juvenile justice. (For more on the problematic adult and juvenile representation systems that...
“[H]ow can a judge, whose functions are purely judicial, effectively discharge the obligations of counsel for the accused? . . . He cannot investigate the facts, advise and direct the defense, or participate in those necessary conferences between counsel and accused which sometimes partake of the inviolable character of the confessional.”

*Powell v. Alabama, 287 U.S. 45 (1932)*
INDEPENDENCE “HOT SPOTS”
Independence threatened as public defenders strive for parity in King County, Washington

Pleading the Sixth: In 2011, the Washington State Supreme Court affirmed a lower court ruling that employees of the four independent, non-profit public defense organizations in King County (Seattle) must be considered as county employees for the purposes of participation in the public employee retirement fund. As a settlement in the case looms, King County announced in November 2012 its intent to stop contracting with the public defender agencies and create a new county-employee public defender office. Will the push for “parity” result in a loss of independence for a right to counsel system that is regarded nationally as one of the best?

On November 29, 2012, the *Seattle Times* reported that King County executive is proposing to stop contracting with the four, independent non-profit organizations that provide right to counsel services when their current contracts expire on June 30, 2013, and, instead, create a county-employee public defender system. (For an explanation of how King County’s current indigent defense system is structured, see image below.) The proposed change is the direct result of a looming settlement in a class action suit in which the Washington Supreme Court affirmed a lower court’s determination that employees of the public defender agencies should be considered county employees for purposes of participating in the public employee retirement fund. Citing of the proposed plan shows that a new public defender office, supported by the county, will function outside of the existing contract system.

The Sixth Amendment Center’s blog, “Pleading the Sixth,” charts the success and failures in our nation’s efforts to provide a meaningful right to counsel. By providing historical, legal, and a standards-based context to local and national news stories, our goal is to provide our readers with the most useful and current information possible -- placing critical tools into the hands of those with the power to enact positive change.
MICHIGAN
Which state was the first in the nation to require:

(a) the appointment of counsel in all cases (including misdemeanors)

AND

(b) the payment of counsel for services rendered?
POP QUIZ

Hint: 1875
POP QUIZ
NEVADA

NEVADA

RECLAIMING
JUSTICE

A Report of the
Sixth Amendment Center
to the Nevada Supreme Court

Coming Soon
“The Sixth Amendment Center stands as our county’s best hope for fixing these problems and making criminal proceeding fair for the indigent accused. State and local policymakers and criminal justice stakeholders now have a place where they can go for independent, thoughtful information on the right to counsel and to have their indigent defense services objectively assessed. The Sixth Amendment Center offers free e-mail updates to anyone who wants to learn more about these issues and I urge all state and local policymakers to sign up. We are all in this struggle together. The payoff will be a justice system that works effectively and efficiently to convict the guilty and exonerating the innocent.”

Dennis Archer, Past President of the American Bar Association, Former Justice of the Supreme Court of Michigan, and former Mayor of the City of Detroit

“David Carroll’s regular national updates on events relating to the indigent defense system are a must-read for those of us eager to be informed and to help advance reforms.”

Virginia Sloan, President of The Constitution Project

“Pleading the Sixth presents in-depth reporting of major indigent defense news stories across the country. I encourage everyone concerned about America’s justice system to join this important e-mail notification list.”

Norman Lefstein, Professor of Law and Dean Emeritus, Indiana University, Robert H. McKinney School of Law