

Gideon's court plea turns into 40 years of public defense

In all criminal prosecutions, the accused shall enjoy the right ... to have the assistance of counsel for his defense.
— The Sixth Amendment to the U.S. Constitution

The Ventura County Board of Supervisors has proclaimed today as Gideon Day in the county, to mark the 40th anniversary of the historic U.S. Supreme Court decision of *Gideon v. Wainwright*.

March 18, 1963, the court unanimously held that under our Constitution, no state could deny the Sixth Amendment right to counsel to an accused person who could not afford to hire a lawyer. It reasoned that "in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him."

The court's dream was to reverse the course of history where poor people faced the power of the prosecution and the force of the criminal justice system without a lawyer. It rejected the state of affairs that only those who could hire an attorney were given the best possible legal defense. The court's ruling resulted from the following facts:

Clarence Earl Gideon, an elderly defendant with an eighth-grade education, was charged in a Florida state court with felony breaking and entering into a pool hall with the intent to commit a misdemeanor. He had no money to hire a lawyer, so he asked the judge to appoint one. The judge answered Florida did not provide this right and denied his request. Gideon conducted his own trial, was convicted and sentenced to state prison.

From his prison cell, he prepared a motion to the U.S. Supreme Court, asking the court to reverse his conviction because Florida had denied him the right to the assistance of counsel guaranteed by the Sixth Amendment. Miraculously, his handwritten petition found its way to the desk of the justices. The result was *Gideon v. Wainwright* and its decree that counsel had to be provided for those accused of crimes who cannot afford to hire their own lawyers.

Gideon was a product of the Warren Court, whose pronouncements concerning rights of the accused have often been vilified and attacked. For example, the famous *Miranda* decision is now under assault, and the right to be free from illegal searches and seizures has been severely limited. But even the most extreme critics of such decisions do not contend it acceptable to deny counsel to indigent persons charged in criminal prosecutions.

After *Gideon*, it became apparent that merely for a defendant to have a lawyer standing at his side was not good enough. The question became: What methods could be developed so that qualified, properly compensated lawyers, with necessary supporting resources, were available to render competent representation to accused who were unable to hire a lawyer?

Unfortunately, in many areas of the country, the promise of *Gideon v. Wainwright*, although given lip service, is often unrealized. Horror stories abound of sleeping lawyers, poverty-level wages and shoddy lawyering under poorly supported and understaffed indigent defense systems. Despite a constant struggle to achieve funding in California, defense of poor people is vigorously and diligently pursued.

The main vehicle for achieving this



Ken Clayman

goal is a public defender office of full-time lawyers and staff whose exclusive duty is to represent poor people charged with crime. Boards of supervisors in most counties, including Ventura, have chosen this approach to implement the

Gideon case.

The Ventura County Office of the Public Defender was established in 1967, only four years after the decision was handed down. For nearly four decades, the office has pursued a mission to provide quality representation to its clients at the least expense to the taxpayers.

This is not an easy task. Few defendants can afford a lawyer. As a consequence, public defender attorneys handle most of the criminal cases in the courthouse — about 25,000 a year. These range from offenses such as petty theft to the most serious capital charges. They also represent minors in the juvenile court, people who are mentally ill, who are subject to a conservatorship, or who can be sent to jail for disobeying a court order.

All this is carried out by a staff of 50 attorneys, who receive the same compensation as the prosecutors of its counterpart, the District Attorney's Office. They are supported by investigators, legal assistants, sentencing specialists and clerical staff.

Each case is defended from beginning to the end, usually by the same lawyer. Every service needed to effectively represent the client in every step of the proceedings is provided. All necessary investigation is accomplished by a crack division of investigators. Any required motions are filed and argued. Needed expert witnesses are employed. Time and energy are devoted to training and developing the skills of the lawyers. Because the office is part of the civil service, the stability of the office and the quality of services delivered to the clients is enhanced. There is little turnover. The lawyers' familiarity with the criminal law, the courts and all aspects of criminal procedure is a great advantage in providing clients a quality defense.

This is all accomplished despite bare-bones funding. Though the public defender workload is staggering and its responsibilities heavy, its budget represents less than 3 percent of the total money spent on the county's criminal justice system. The office's frugal approach was recently recognized when it received the Ventura County Management Council's Doing More for Less Award.

Nonetheless, the Public Defender's Office continues to deliver the finest representation to its clients. This is due primarily to the willingness, dedication and commitment of the lawyers and supporting staff to labor countless hours. For example, in a capital case, it is not unusual for deputy public defenders to work 70-hour weeks for many months to prepare and try a case.

Because of the passion, devotion and relentless advocacy of these lawyers, the dream of *Gideon v. Wainwright* that "every defendant stands equal before the law" is a reality in Ventura County. With the continued support of the Board of Supervisors and the community, it will long endure.

— Ken Clayman is the Ventura County public defender.