



Spotlight on: KENNETH I. CLAYMAN, PUBLIC DEFENDER

Written by: Susan M. Webb

Everything about Kenneth Clayman strikes you as extraordinary – his impressive height, keen intellect and electric ability to grab your attention and command respect. Even more impressive is his success in turning these finely-honed attributes into a precision punch to the prosecution. Now in his 19th year as Public Defender of Ventura County, Ken Clayman runs an office of 79 attorneys, investigators and support staff, and handles a \$7 million budget. What matters most to Mr. Clayman, though, are the people – the people he works with and the people he defends. He isn't moot when describing his staff: "zealous, professional, admirable, dedicated, and tireless" are just a few of the key phrases he employs to describe this aggressive group. And then there are the clients – the underdogs of the criminal justice system. Just as ardently as he expounds the virtues of his crew, he expresses his desire to protect the rights of those the rest of society would rather forget. His duty, as mandated by the Constitution and our Board of Supervisors, is to provide every indigent person who enters the legal system with the right to counsel. His team is on the forefront of our most basic Sixth and Fourteenth Amendment rights of due process and effective assistance of counsel. Working exorbitant hours is not uncommon for this driven advocate and his staff, who pursue justice for their clients at the hands of tough prosecutors and a conservative bench.

A native New Yorker, Mr. Clayman moved to LA with his family when he was seven. Upon graduation from high school and San Diego State College, he attended UCLA Law School, obtaining his J.D. in 1966. Mr. Clayman started his fledgling career as a trial lawyer in the Los Angeles Public Defender's Office in 1967, after a brief stint in private practice. After a decade of trial work, he was shifted to management positions as he climbed the Los Angeles Public Defender's career ladder. In 1984, he moved to Ventura County and assumed the position of Public Defender, where he has created a top-notch group of trial attorneys and investigators on a shoe-string budget. On March 11, 2003, Mr. Clayman made a presentation to the Board of Supervisors on *Gideon v. Wainwright*, a groundbreaking case celebrating its 40th anniversary. In addition, his article on *Gideon* recently appeared in the *Star*.

Q: For starters, did you always know you wanted to be a public defender?

A: No, I didn't and I really hadn't thought of it. Although, as I look back, I realize that because of my upbringing, my influences, my philosophy, I was always really bred to be one. My heroes were Atticus Finch, the heroic lawyer in "To Kill a Mockingbird," and Perry Mason. I was a very argumentative type of kid and I think I always had sort of the underdog mentality. But it wasn't a conscious decision until I was in my career.

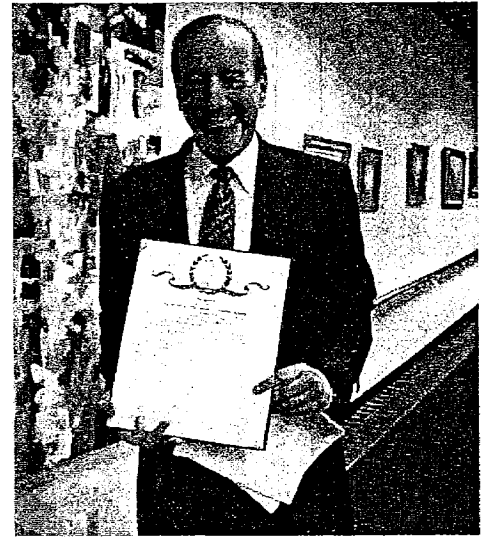
Q: An important case, *Gideon v. Wainwright*, was decided 40 years ago, on March 18, 1963.

A: Yes. Mr. Gideon was accused of breaking into a pool hall with the intent to commit a crime and, in Florida, that was a felony. In fact, when Mr. Gideon was denied his right to an attorney by a judge, that's when he, an elderly man with an 8th grade education, tried his own case and was convicted. He went to state prison and it was from that prison cell that he scribbled in pencil his writ of habeas corpus that somehow found its way to the desk of a justice of the Supreme Court. This case decreed that all persons charged with a crime and who could not afford an attorney were entitled to have an attorney.

Q: Quite a historic ruling. When you started your career as a public defender four years later in 1967, did you realize the impact of this case decision at that time?

A: Honestly, I don't have a distinct memory of it being a major part of the law school curriculum. The professors weren't up there telling us, "Here's this wonderful case. I hope a good segment of the students will devote their lives or part of your careers to either joining offices or doing something to represent poor people charged with crimes." I think the problem with a case like *Gideon* is even though it's a monumental case for poor defendants, it's not well known to many people.

Q: What I didn't realize when conducting some research on this case is that



not every county in the United States has a public defender's office.

A: California has 58 counties and 39 of them have chosen to have public defender offices. It is at the discretion of the Board of Supervisors whether the Public Defender is elected or appointed. There is only one elected public defender in California and that's in San Francisco. The rest of us are appointed by the Board's of Supervisors. And then there's a listing of all the duties that a public defender can undertake. Essentially it's representing every person who comes through the door of the courthouse who qualifies for our services. The problem with *Gideon* is, all of a sudden, potentially millions of defendants all over the country are going to have lawyers provided for them by the states and the question became, "How do you do it?" Basically, there are three ways of doing it: You can appoint lawyers privately but this is very expensive. Or, you can set up a contract where lawyers or law firms submit bids. It's generally been found to be not a good system because the low bidder gets the contract, so there's a real question of quality of work. Then over the years, contract prices get raised and there's very limited oversight in the budgeting process. But the one vehicle that's been found to be the most effective way of presenting high quality service at the lowest cost to the taxpayer is an office of the public defender.

Continued on page 4

Q: Today, persons now charged with a crime have the opportunity to use a court-appointed attorney, the Public Defender's Office, or hire a private attorney. Chief Justice Warren Burger once stated, "We are more casual about qualifying the people we allow to act as advocates in the courtrooms than we are about licensing our electricians." What do you think about the quality of representation between these different professionals?

A: Justice Burger would have been pleased by the advocacy in Ventura County. There is a very, very high quality of representation for indigent clients in this County. The real goal of the Public Defender's Office is to ensure that every person who comes through these doors gets the kind of representation that she or he would get if they were able to hire the best private attorneys. This happens because of the high quality and determination of the attorneys working in my office - their dedication, their hard work, their knowledge of the law and the judicial system, their training, education, and willingness to work inordinate numbers of hours. They sometimes work 70 hours a week, seven days a week, when working on a capital case. And I think when you get that kind of dedication—along with the same attributes in supporting staff - it's priceless. Their skills and abilities provide a very high level of defense for these persons and we're very proud of that - that's the goal.

Q: You have approximately 70 people in your office, is that correct?

A: We have a staff of 79, including 50 lawyers and 11 investigators, a couple of sentencing specialists, two legal assistants, and clerical employees, all working towards providing the highest quality defense.

Q: I know from working in the DA's Office in the past that the caseload is voluminous and they appear to have three times as many staff.

A: We're about a third of the staffing of the DA's office and we figure we handle 2/3rds of the work. (Laughs.) Having heavy caseloads is one of the characteristics of a public defender's office. The Board has an obligation to provide this constitutionally mandated service and it's more than just having a lawyer standing there. There has to be quality representation. I think the way our office is structured, we're able to do it despite the heavy caseload and for the reasons that I mentioned. In very many ways, it's a very thankless job because often the clients are suspicious of us because we're a government agency. And the public has the idea that we're overworked and underpaid and don't provide the same kind of services that a private attorney would give. It's not really a job that you do to get great ego satisfaction.

Q: Do you foresee any changes in state law regarding the rights of indigents in the near future?

A: I don't think there's anything new coming down the line. Gideon was a Warren Court decision, and while many of that court's cases granting rights to the accused have been criticized and tinkered with, no one has suggested that a person unable to afford a lawyer should not have one provided for him. The biggest problem with it is to make Gideon work. It's always a struggle to get the resources and the personnel to do the job. Of course we need greater funding. For example, one of things that is very advantageous for the District Attorney's Office is they receive grants for all types of different areas but there are no grants made available for the

defense of those persons. So that's a constant struggle. We are a mandated service that has to be performed. If we are cut so that we cannot do it capably, private lawyers will be appointed at far greater expense.

Q: Do you believe there is "Equal Justice Under the Law," as is so famously etched above the entrance to the US Supreme Court building?

A: It holds true if the issue is every person being capably represented. But it's harder in general for poorer people to get a fair shake from the courts.

Q: If you could go back to your early years and do it all over again, would you pick this profession or change anything in your life?

A: My only regret is how fast time has gone. I have had a very rewarding career and a terrific opportunity to work with people that I enjoy being with. I'm still like a kid in the candy shop - I get inspired by people spending their lives representing those who have nothing and often have no one else. I can't think of anything better and it's been a great privilege.

Q: You've answered all my questions. Is there anything you would like the readers to know?

A: I think one of the problems is that sometimes people just don't know what the Public Defender's Office is. When they do, there's often skepticism, both on the part of the clients and the public. It's difficult for them to believe that we're able to do a quality job. But I believe that the people who need us get the best possible representation at the least possible expense. As I've mentioned to the Board of Supervisors, we're able to provide a Don Perignon defense on a Miller Lite budget. (Laughs.) ◀

4



If you have a contribution or suggestion for an article you would like considered for inclusion in the next edition of Kaleidoscope, please contact the Editor, Christy Madden, at CEO Loc #1940, by FAX at 654-5106, by phone at 654-2679 or through the County e-mail system.

Mailing List Updates:

Please be sure to let me know if someone in your department leaves the County employ and when you add someone to your department that qualifies under the Management MOA. It is very important to keep me in the loop! Thanks for your help in this matter. Shelah Harris at 654-3195, or CEO L#1940, or shelah.harris@mail.co.ventura.ca.us