

Evaluating the Effectiveness of the Los Angeles County Public Defense System at Representing Indigent Defendants During the Plea Bargaining Stage of Litigation For Violent Felonies

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Abstract

Pursuant to the 6th Amendment of the United States Constitution, the Supreme Court of the United States ruled that indigent defendants have a right to an attorney in crucial stages of the adversarial proceedings of criminal trials in *Gideon v. Wainwright*₁ in 1963. However, no normative structures were left to define what indigent representation entailed. Over the next half century, new rulings on these standards continued to define the nature of indigent public defense. In 1970, the Supreme Court case *McMann v Richardson*₂ found that plea bargaining was a critical stage of trial development, and thus clients had the right to counsel during the plea-bargaining stage. However, as of 2011, 94% of trials adjudicated in California state courts are disposed of during the plea-bargaining stage₃. While the Supreme Court ruled that effective representation was a right to all persons in the plea-bargaining stage of criminal proceedings, no research as of yet has been presented to address whether or not these standards have been addressed. The last and most recent Indigent Defense standards address in 2008 of Los Angeles, California found the county to be “adequately funded, well-staffed and meeting all current standards,” however the methods of standards assessment focused on the aggregate of cases, ignoring the specificities of the plea bargaining stage, as well as looked only at resources instead of actual outcomes achieved for their clients₄. This study thus looks specifically at the effectiveness, as defined by *Strickland v Washington*₅, of public defenders in the plea-bargaining stage in Los Angeles for the years 2013 through 2016.

Introduction

Indigent defense is a system of municipally employed attorneys who represent those who cannot afford for themselves an attorney Plea Bargaining is a stage of arbitration wherein defendants can negotiate to lower the charges levied against them by prosecutors

Gideon v Wainright, Established the right to indigent defense for criminal trials

McMann v Richardson, Extends rights from *Gideon* to plea bargaining stage

Strickland v Washington, Provides Ineffective assistance of Counsel (IAC) Standards

*Hill v Lockhard*₆, extended IAC standards to Plea-bargaining in accordance with *Strickland* and *McMann*

3 Important Studies currently serve as cornerstones of Indigent defense Research

- Hoffman, Rubin and Shepherd (2004)₇
 - Used reduction in sentencing time as well as interviews to asses results for defendants in Denver, Co, for 2002
 - Found the *Marginally indigent*
- Anderson and Heaton (2012)₈
 - Used reduction in time sentenced as ultimate metric
 - Compared different types of public defender in Philadelphia
- Cornwell (2015)₃
 - First to employ normative procedures used in Anderson and Heaton
 - Looked at multiple jurisdictions

Question and Hypotheses

Question

How effective, as a function of time sentenced, is the Los Angeles County public defense structure at representing the indigent during plea bargaining for violent criminal felonies?

Alternate hypothesis

Private counsel will be significantly more effective at representing their clients during the plea-bargaining stage, as represented by higher reduction in time served as well as more consistent results.

Null Hypothesis

There will be no significant difference in the outcomes achieved by public defenders and private defenders during the plea-bargaining stage, in neither terms of sentence reduction nor consistency.

Methods and Materials

- Adapted from Anderson and Heaton (2012)₈ and Hoffman, Rubin and Shepherd (2004)₇
- Reduction in time sentenced used as main metric for effectiveness as defined by *Strickland*
- Data set included defendants from 2013 to 2016 who plead guilty to 2nd degree murder or a lesser charge after plea bargaining
 - Excluded were those who plead to more than one charge, those represented by more than one type of attorney, those who plead *Nolo Contendere*, plead guilty alongside other defendant
 - Provided pursuant to California Public Records Act (PRA) request
- Two groups: Those represented by private and public counsel
- For each group mean reduction in sentencing, standard deviation was taken
- Welch's t-test performed to summarize the statistical significance of the results
- The limitations of this methodology were:
 - A small sample size of 49 total subjects
 - An inability of a correlational study to prove causation
 - Restrictions posed by the California Public Records Act

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Results and Discussion

- Public Defenders Achieve Average reduction in time sentenced of 6.345 years off the possible 15 year sentence
 - 4.55 year standard deviation
- Private defenders achieve average reduction in time served of 10.58 years off the possible 15 year sentence
 - 2.40 year standard deviation
- Yield a P-value of 0.010386, can reject the Null Hypothesis
- Average of Results
 - More experienced Attorneys tend to be private counsel
 - Plea-bargain negotiations require cultivated relationship with prosecutor
 - Los Angeles County Judges attest that defense departments are underfunded₃
 - Hoffman et al.'s *Marginally Indigent* have more defensible cases, tend to choose private counsel₇
- Consistency
 - Public Defenders have less consistent levels of experience
 - Indigent Defendants are less defensible by self selection



	Average Reduction in sentencing (years)	Percentage of sentence reduced	Standard Deviation (years)	Number of Clientele Represented	Number of Clientele Represented
Public Defenders	6.345	42.30%	4.55	12	12
Private Counsel	10.58	70.53%	2.40	29	29
Both	7.59	50.60%	4.422	41	41

Figure 1-Reduction in time sentenced

Figure 2- Summary of results achieved by both types of attorneys

Conclusions

As the data suggests that many defendants would have achieved more favorable results had they been represented by private counsel, the main components of the IAC standards appear to have been violated. While there is a strong correlation between the type of attorney and the results achieved, it is beyond the scope of this study and its limitations to definitively state a relationship. The results achieved by public defenders were not only less favorable, as suggested by a lower mean reduction in sentencing time, but also less consistent as suggested by a higher standard deviation.. These results, which represent plea-bargaining, would thus apply to 94% of cases disposed of in Los Angeles every year, as mentioned above. Ultimately, when considering the results, along with the standards for indigency, it is possible that the current state of the Los Angeles public defenders department is liable to ineffectively represent their clients, while also increasing the possibility of guilty persons being acquitted inequitably. As such, it can be reasonably concluded that the Public Defenders of Los Angeles County are less effective than their private counsel counterparts. However, without future research which involves a more comprehensive data set, the causes of the disparity are unknown. Without knowing the cause of said issue, determining a course for mitigation is difficult.

References

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