

**APPENDIX III**  
IAC Cases where Deficient Performance Found<sup>1</sup>

County	Most serious crime	Death Penalty?	Case name and Citation	Type of litigation	Year of Conviction	Type of Trial Defense Attorney <sup>2</sup>	Year Admitted to Bar	# yrs. atty. admitted to Bar upon conviction	Disciplinary Proceedings	Deficient Performance AND Prejudicial	Deficient Performance BUT No Prejudice	Description of IAC claim	IAC classification
Alameda County	Attempted Voluntary Manslaughter	No	Cheung v. Maddock 32 F. Supp. 2d 1150 (N.D. Cal. 1998)	Federal Habeas	1995	Private	1980	15	None	xxx		1) Failure to investigate victim's medical records showing that he was intoxicated 2) Failure to investigate defense that defendant's companion was the shooter 3) Failure to translate companion's tape-recorded statement in Cantonese admitting to the shooting and offer it into evidence.	Failure to Investigate: defense
Alameda County	Burglary - First degree	No	Mitchell v. Ayers 309 F. Supp. 2d 1146	Federal Habeas	1988	Private	1979		3/13/1999: Private reproof, public disclosure. Case #96-O-1533	x		Failure to investigate witness who could have corroborated D's account of events	Failure to Investigate: defense
Alameda County	Murder- First degree	Yes	Hovey v. Ayers 458 F. 3d. 892	Federal Habeas	1981					x		1) Failure to investigate mental health records relevant to mitigation. 2) Failure to properly prepare expert witness	1) Failure to investigate: Sentencing: death penalty mitigation 2) Lack of Trial Skills: failure to prepare expert witness
Butte County	Forgery and Practicing physical therapy without a license	No	People v. DeGarmo, 2003 WL 1751792 C.A. 2nd Dist [not published]	Direct Appeal	2002	Private	1999	3	None	x		Failure to object to erroneous restitution order	Other Sentencing Error
Contra Costa County	Felon in possession of firearm	No	People v. Burnett 71 Cal.App.4th 151 2nd Dist	Direct Appeal	1996	Public Defender	1991	5	None	x		Failure to object to prosecutor's closing argument based on a firearms incident different from and not transactionally related to the offense shown at the preliminary hearing.	1)Lack of Knowledge of Law: procedure 2)Lack of Trial Skills: failure to object to prosecutor's closing argument.
Contra Costa County	Felony Child Abuse	No	People v. Eldridge 2002 WL 31103022 C.A. 1st Dist. [not published]	Motion for New Trial	1996	Public Defender	1976	20	None. Inactive	x		Failure to investigate medical records and call expert witness to testify about complex medical condition of fragile infants born to drug addicted mothers and placed in defendant's care as foster mother.	1) Failure to Investigate- defense 2) Failure to present forensic evidence 3) Failure to call expert
Fresno County	Murder - Second degree	No	Roe v. Flores-Ortega, 160 F3d 534	Federal Habeas	1993	Public Defender	1976	17	None	x		Failure to file notice of appeal after promising to do so	Failure to File notice of Appeal
Humboldt County	Murder - Second degree	No	Seidel v. Merkel 146 F.3d 750 (1998)	Federal Habeas	1991	Private Attorney or Assigned Counsel	1976	15	None	x		Failure to conduct any investigation into defendant's psychiatric impairment despite the fact that it was clear from evidence available to counsel at time of trial that defendant had extensive history of mental problems based on organic brain damage which affected his perception of external threats and was relevant to self defense claim.	1) Failure to Investigate: defense 2) Failure to raise mental health issue- other
Kern County	Transportation and Poss. of Methamphetamine	No	People v. McCombs 2002 WL 31863511 C.A. 5th Dist. [not published]	Direct Appeal	2001	Assigned Counsel	1995	6	None	x		Failure to object to the admission of "assertive conduct" statement made in violation of Miranda	1) Lack of Knowledge of Law: procedure 2) Failure to Suppress Evid.

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Kern County	Transportation of methamphetamine	No	People v. De La Cerda 2003 WL 21224079 C.A.5th Dist [not published]	Direct Appeal	2000	Public Defender	1982	18	None	x		Failure to object to police officer's purported expert testimony offered to prove defendant's subjective knowledge of both the nature and presence of methamphetamine found in vehicle in which he was a passenger.	Lack of Knowledge of Law: evidence
Kern County	Child Endangerment	No	People v. Donaldson, 113 Cal. Rptr. 2d 548 C.A. 5th Dist	Direct Appeal	1999	Public Defender	1995	4	None	xx		1) Failure to object to Prosecutor's testimony before she took the stand. 2) Failure to object to Prosecutor's closing argument, where she expressed her personal belief in D's guilt	1)Lack of Knowledge of Law- procedure 2) Lack of Trial Skills: failure to object to prosecutor's closing argument
Los Angeles County	Possession of contraband	No	Cortez v. Terhune, 96 Fed. Appx. 528, 2004 WL 958057 [not published]	Federal Habeas	2003	(Private) <sup>3</sup>	1982	21	None	x		Failure to comply with "Uniform Act" to secure out of state witness precluded admission of testimony that man in Arizona prison had admitted to sole possession of drugs found in his apartment.	Lack of Knowledge of Law: procedure
Los Angeles County	Robbery - Second degree	No	Aguirre v. Alameda, 120 Fed. Appx. 721 [not published]	Federal Habeas	2003					x		Failure to investigate Post Traumatic Stress Disorder (PTSD) relevant to self defense claim.	1) Failure to Investigate: defense 2) Failure to raise mental health issue- other
Los Angeles County	Armed Robbery	No	People v. Holguin 2002 WL 31862857 C.A. 2nd Dist [not published]	Direct Appeal	2001					x		Prosecutor filed amended strike allegation after the jury had been discharged. Counsel failed to object on the proper ground that defendant was entitled to have the same jury decide all strike allegations	Lack of Knowledge of Law: procedure
Los Angeles County	Murder - Second degree	No	People v. Robinson 2002 WL 973244 C.A. 2nd Dist. [not published]	Direct Appeal	2000	(Private)	1985	15	None		x	Failure to submit complete jury instructions on self-defense	Lack of Knowledge of Law: criminal law
Los Angeles County	Robbery	No	People v. Kindle 2002 WL1554118 2nd District [not published]	Direct Appeal	2000	Public Defender	1994	6	None	x		Failure to offer an eyewitness identification expert	Failure to call expert
Los Angeles County	Murder	No	Edwards v. Lamarque 439 F. 3d. 504	Federal Habeas	1999	(Private)	1969	30	None	x		Counsel elicited testimony from D that waived his marital privilege and allowed D's wife to testify that D made admissions to her.	Lack Knowledge of Law: evidence
Los Angeles County	Making Terrorist Threats	No	In re Beltran 2003 WL 21153291 C.A. 2nd Dist. [not published]	State Habeas	1999		1982	17	None	x		Counsel affirmatively misadvised defendant regarding whether he could be deported based on guilty plea.	Plea Advise: immigration
Los Angeles County	Murder - First degree	No	People v. Paredes 2003 WL 1958452 C. A. 2nd Dist. [not published]	Direct Appeal	1998	(Private)	1959	39	None	x		Counsel representing two co-defendants mistakenly waived any objection to one co-defendant's taped statement which implicated the other defendant.	1) Conflict of Interest 2) Negligence

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Los Angeles County	Murder	No	Mirzayance v Knowles 175 Fed. Appx. 142 [not published]	Federal Habeas	1997	Private	1963	34	None	x		Failure to present insanity defense	Failure to raise mental health issue
Los Angeles County	Attempted Murder	No	Gentry v. Roe 320 F.3d 891	Federal Habeas	1997	Private	1988	9	None	x		Counsel's perfunctory closing argument which called defendant derogatory names and failed to address weaknesses in state's case constituted deficient representation.	Lack of Trial Skills: Closing Argument
Los Angeles County	Assault w/ Deadly Weapon	No	Black v. Larson 45 Fed. Appx. 653 [not published]	Federal Habeas	1995	Public Defender	1983	12	suspended 1983 for failure to pay bar dues; reinstated later that year	x		Failure to interview and call two eyewitnesses who would have testified contrary to victim that defendant did not have a weapon during altercation.	Failure to Investigate: defense
Los Angeles County	Murder during Robbery	No	Villegas v. Yearwood 131 Fed. Appx. 93 [not published]	Federal Habeas	1995	Private	1979	16	1998: Suspended one year for mishandling client funds.	x		Counsel was unaware defendant would receive mandatory life sentence without parole if convicted and did not advise defendant of this fact when defendant chose to reject offer of 15 to life.	1) Plea Advise: other 2) Lack of Knowledge of Law: criminal law
Los Angeles County	Attempted Murder	No	Avila v. Galaza 297 F. 3d. 911(2002)	Federal Habeas	1991	Private	1973	18	numerous disciplinary actions:privately reprovred in 1989 and disciplined in 1995 for failing to perform legal services competently, return client files or keep records of client funds. In 2002 given 5 years probation for mishandling personal injury cases and ethical violations regarding client funds. Siill active.	x		Failure to investigate/introduce evidence that D's brother was the shooter	Failure to Investigate: defense
Los Angeles County	Murder - First degree	Yes	In re Lucas Cal.4th 682	State Habeas	1987	Assigned Counsel	Atty 1: 1962; Atty 2: 1969	Atty 1:25; Atty 2: 18	Atty 1: Inactive on 1/1/02; Atty 2: none	x		Failure to investigate available mitigation evidence of childhood abuse	Failure to Investigate: Sentencing: death penalty mitigation
Los Angeles County	Attempted Murder	No	Brown v. Myers 137 F.3d 1154(1998)	Federal Habeas	1987	Public Defender	1972	15	None	x		Failure to investigate and present alibi defense	Failure to Investigate: defense

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Los Angeles County	Murder	No	Goldstein v. Harris 82 Fed. Appx. 592 (not published)	Federal Habeas	1984	Private	1966	18	None	x		Failure to interview sole eyewitness to uncover impermissibly suggestive photo identification, where no physical evidence linked D to crime, counsel knew that witness's identification contradicted testimony of other witnesses for prosecution, and prosecution's other main witness was notorious jailhouse informant	Failure to Investigate: impeachment Failure to suppress: Eyewitness Identification
Los Angeles County	Murder - First Degree	Yes	Bloom v. Calderon 132 F. 3d 1267 (1997)	Federal Habeas	1983	Assigned Counsel	1967	16	1971: public reproof; 1997: discipline probation w/o actual suspension	x		Counsel delayed contacting psychiatric expert until just days before trial and did not investigate family social history which would have provided expert with evidence of severe childhood abuse and brain damage relevant to mens rea defenses.	Failure to Investigate: Defense
Los Angeles County	Murder - First Degree	Yes	Frierson v. Woodford, 463 F.3d 982	Federal Habeas	1979	Public Defender	1968	11	None	xx		1) Failure to investigate and present mitigating evidence of organic brain damage at the sentencing phase 2) Failure to object to defense witness's invocation in court of his 5th Amendment right against self-incrimination where investigation would have shown witness had been acquitted of the murder to which he confessed privately to defense counsel.	1) Failure to Investigate: Sentencing: Death Penalty Mitigation 2) Failure to raise mental health issue 3) Failure to Investigate: Other
Merced County	Murder - First degree	Yes	In re Jones 13 Cal.4th 552 (1996)	State Habeas	1982	Private	1949	33	no record: deceased	xxx		1) Counsel conducted only perfunctory investigation without hiring licensed investigator and failed to discover favorable witness 2) Inept cross-examination 3) Multiple failures to object to inadmissible and irrelevant prejudicial evidence	1) Failure to Investigate: defense 2) Lack of Trial Skills: cross examination 3) Lack of Knowledge of Law: evidence
Monterey County	Misdemeanor Battery	No	People v. Legaspi 2002 WL 31875989 C.A. 2nd Dist [not published]	Direct Appeal	2001	(Private)	1983	18	Suspended 1986: failure to pay bar dues	x		Failure to object to probation condition that D not associate with people who used or sold drugs regardless of whether D knew persons were users or sellers	Other Sentencing Error
Monterey County	Lewd acts on a child under 14	No	People v. Guerrero, 2002 WL 323542 [not published]	Direct Appeal	(1999)	Public Defender	1979	(20)	None	x		Failure to object to child molester profile testimony by prosecution expert	Lack of Knowledge of Law: evidence
Orange County	Probation Revocation	No	People v. Gayton 137 Cal.App.4th 96 C.A. 4th Dist	State Habeas	2004	Public Defender	1994	10	None	xx		1) Failure to examine client's probation report 2) Failure to introduce probation report to impeach false testimony of probation officer	Failure to investigate: impeachment
Orange County	Possession of controlled substances for sale	No	Ippolito v. Superior Ct 2003WL1711968 C.A. 4th Dist [not published]	Writ of Mandate	2003	Private	1983	20	None	x		Counsel, who is certified defense specialist, filed two separate motions violating procedural rule that all suppression issues under §1538.5 must be brought in one motion	Lack of Knowledge of Law: procedure Failure to suppress inadmissible evidence

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Orange County	Armed Robbery	No	Peo. v. Ortega & Torres 2002 WL 99523 [not published]	Direct Appeal	2000	Private					X	Judge, Prosecutor and Defense Counsel all miscalculated mandatory minimum defendant should receive on a plea offer involving robbery with gun use enhancement. As a result defendant claimed he was misled into rejecting offer. He later received a higher sentence after conviction at trial.	Plea Advice: other
Orange County	Murder	Yes	Thompson v. Calderon 120 F.3d 1045 (1997)	Federal Habeas	1987	(Private)	1971	16	None	xx		1) Failure to investigate and present forensic evidence rebutting State's forensic evidence of rape 2) Failure to investigate and discover evidence impeaching two jailhouse informants	1) Failure to Investigate: impeachment 2) failure to Investigate: impeachment
Orange County	Murder - First Degree	Yes	Alcala v. Woodford 334 F3d 862 (2003)	Federal Habeas	1986					xxxx		1) Failure to support alibi defense with additional witness and business records which established time defendant was present. 2) deficient preparation of defense witness for cross-examination, who's credibility was seriously damaged by evasive answers and prior inconsistent statements. 3) Failure to investigate scene and call expert to impeach prosecution witness.	1) Failure to call witness 2) Lack of Trial Skills: failure to prepare witness 3) Failure to Investigate: impeachment 4) Failure to present forensic evidence
Orange County	Murder	Yes	Douglas v. Woodford, 316 F.3d 1079 (2003)	Federal Habeas	1985	Public Defender	1971	14	None	x	x	1) Although case file from defendant's prior conviction contained court order directing psychological testing, counsel failed to investigate mental illness of defendant and present mitigation during penalty phase. 2) Failure to investigate and develop a mental health defense at the guilt phase ( not prejudicial)	1) Failure to Investigate: Sentencing: death penalty mitigation 2) Failure to investigate: defense 3) Failure to raise mental health issue
Orange County	Murder	Yes	In re Viscotti 14 Cal. 4th 325 (1996)	State Habeas	1982	Private	1973	9	1985:convicted of criminal contempt; 1990: suspended 2 yrs; 1991: suspended additional year based on 8 complaints for misrepresentation and failure to perform services 1994 Resigned with charges pending 2001 Reinstated		x	Although on notice of brutal family history, counsel failed to investigate school and juvenile records and present available mitigation evidence of physical and psychological abuse by parents.	Failure to Investigate: Sentencing: death penalty mitigation

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Plumas County	Murder - First degree	No	Orner v. Farmon, 116 F. Appx. 844 (not published)	Federal Habeas	1997					x		After jury hung in murder trial of wife, where defense played videotaped statement of dying husband stating his wife did not shoot him, counsel agreed, without conducting any investigation, not to use videotape in retrial in exchange for the prosecutor's promise not to use a new witness who claimed husband had declared "the bitch shot me." The new witness was unreliable and subject to impeachment.	Failure to investigate: impeachment
Riverside County	Murder with Special Circumstances	Yes	People v. Jones 30 Cal. 4th 1084	Direct Appeal	1991	(Private)	1978	13	None		x	Failure to find person defendant claimed was real shooter	Failure to Investigate: defense
Riverside County	Murder	Yes	Farmer v Ratelle 131 F.3d. 146 (1997) [not published]	Federal Habeas	1982	Private	1971	11	None	x		Failure to present evidence that another man, after being acquitted of the murder, then confessed that he had been the actual killer.	1) Failure to call witness 2) Failure to conduct investigation properly.
Sacramento County	Triple murder	Yes	Allen v. Woodford 395 F.3d 979	Federal Habeas	2001						x	Failure to investigate and present death penalty mitigation; held error but not prejudicial due to "overwhelming evidence in aggravation."	Failure to Investigate: sentencing: death penalty mitigation
Sacramento County	Transportation of cocaine into county jail	No	People v. Maxwell 2003 WL 21040585 C.A. 3rd Dist. [not published]	Direct Appeal	2001					x		Failure to object to the post verdict amendment adding a 3 year enhancement	Other Sentencing Error
Sacramento County	Murder - Second degree	No	Rios v. Rocha 299 F.3d. 796	Federal Habeas	1987	Assigned Counsel	1974	13	None	x		Failure to investigate and interview witnesses which would have supported a misidentification defense.	Failure to Investigate: defense
Sacramento County	Murder	Yes	Bean v. Calderon 163 F.3d. 1073(1998)	Federal Habeas	1981	Assigned Counsel	1956	25	No record: deceased	x		Failure to investigate childhood abuse and adequately present evidence of mental retardation.	1) Failure to Investigate: Sentencing: death penalty mitigation 2) Failure to raise mental health issue
San Bernardino	Rape	No	Baylor v. Estelle 94 F.3d. 1321(1996)	Federal Habeas	1989	Assigned Counsel				x		Failure to subpoena Sheriff's Crime Laboratory criminalist who conducted test favorable to defendant. Rapist was secretor; defendant was not.	Failure to present forensic evidence

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San Bernardino County	Burglary - Second degree	No	Bowen v. Giurbino 305 F. Supp. 2d. 1131	Federal Habeas	2000					x		Failure to object to prosecutor's improper closing argument which referred to defendant's prior convictions	1) Lack of Knowledge of Law: evidence 2) Lack Trial Skills: failure to object: closing argument
San Diego County	Attempted Murder	No	People v. Anzalone 141 Cal. App. 4th 380 C.A 4th Dist	Direct Appeal	2004	Public Defender	1994	10	None	x		Failure to object to prosecutor's misstatement of law (concurrent intent)	Lack of knowledge of Law: criminal law
San Diego County	Murder- First Degree	No	In Re Nourn 52 Cal Rptr 3d 31	State Habeas	2003	Retained	1984	19	None	x		Failure to conduct investigation or apply for expert assistance in developing Battered Woman's Syndrome defense for Cambodian refugee known to be in an abusive relationship with actual killer.	Failure to Investigate: defense
San Diego County	Receiving a stolen vehicle	No	In re Anthony J., 117 Cal. App. 4th 718 C.A 4th Dist	State Habeas	2002					x		Failure to file appeal from judgment	Failure to file notice of appeal
San Diego County	Battery w/ serious bodily injury	No	People v. Weisman 2002 WL 225945 C.A. 4th Dist. [not published]	Direct Appeal	2000						x	Failure to exclude character evidence presented during videotaped interview of victim allowed into evidence by counsel	Lack of Knowledge of Law: evidence
San Diego County	Murder - Second degree	No	Tran v. Lamarque 172 Fed.Appx.722 [not published]	Federal Habeas	1999	Private	1970	29	None		x	1) Failure to object to or seek a limiting instruction regarding the admission of taped police interrogations which contained hearsay, speculation and personal opinions of the officers.	Lack of Knowledge of Law: evidence
San Diego County	Murder (of 2 cops)	Yes	Daniels v. Woodford 428 F. 3d. 1181	Federal Habeas	1984	Assigned Counsel	1965	19	Inactive on 1/1/06	x		Failure to investigate mitigating evidence of mental illness.	1) Failure to Investigate: Sentencing: death penalty mitigation 2) Failure to raise mental health issue
San Francisco County	Robbery and Attempted Car Jacking	No	Jones v. Calderon; 2116 Fed Appx.868 [not published]	Federal Habeas	1994	Public Defender	1986	8	none	x		Failure to investigate defendant's prior conviction before advising him to reject a 7 year plea offer. D had one prior conviction based on two counts of burglary (which counted as two prior strikes). Convicted at trial, D was sentenced under 3 strikes to 30 years to life.	Failure to Investigate: other
San Francisco County	Murder - Second degree	No	Nunes v. Miller, 350 F.3d 1045	Federal Habeas	1993					x		Failure to fully communicate terms of manslaughter plea offer. D convicted of murder at trial.	Plea advise:other

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San Francisco County	Murder - First degree	Yes	In re Thomas 39 Cal. Rptr. 3d 845	Federal Habeas	1986	Public Defender	1967	19	Inactive - 1992		x	Failure to investigate to find supporting witnesses which would have corroborated testimony of single defense witness that third party was killer	Failure to investigate: defense
San Francisco County	Murder - First degree	Yes	Coleman v. Calderon, 150 F.3d 1105 (1998)	Federal Habeas	1981	Public Defender	1970	11	None		x	Failure to introduce evidence that hair found on victim's hand was inconsistent with defendant's hair. Supplemental report from crime lab never read by counsel although allegedly given to someone in his office.	Failure to Investigate: other
San Joaquin County	Robbery	No	People v. Franklin, 2002 WL 1859137 C.A. 3rd Dist [not published]	Direct Appeal	2001	Public Defender	1979	22	None		x	Trial counsel's motion to strike a prior was based upon an erroneous understanding of the law.	Lack of Knowledge of Law: procedure
San Mateo County	Robbery	No	Banks v. Muller 2003 WL 1798298 U.S. District Ct. N.D. Cal ( 2003) [not published]	Federal Habeas	1997	Assigned Counsel	1965	32	None	x		After successful appeal defendant was resentenced on remand and after specifically being instructed to do so, counsel failed to file notice of appeal concerning new sentence.	Failure to file notice of appeal
San Mateo County	Murder - First degree	Yes	Beardslee v. Woodford 358 F.3d 560 (2004)	Federal Habeas	1989	Assigned Counsel	1966	23	1995: public reproof		x	Failure to conduct mitigation investigation into defendant's background and mental state before deciding on strategy which relied upon defendant's cooperation in admitting to other crimes	Failure to Investigate: Sentencing: death penalty mitigation
Santa Clara County	Poss. of cocaine	No	People v. Thimmes 138 Cal. App. 4th 1207 C.A. 6th Dist	Direct Appeal	2005	(Private)	1979	26	None	x		Failure to investigate record of prior conviction which would have disclosed that defendant had not been warned of three strikes consequences if he committed another felony.	Failure to investigate: sentencing: other
Santa Clara County	Resisting or attempting to deter performance of executive officer's duties	No	People v. Lopez, 129 Cal.App.4th 1508	Direct Appeal	2003						xx	1) Failure to object to improper impeachment of defense witnesses with evidence of mere arrests and misdemeanor conduct not amounting to moral turpitude. 2) Failure to object to prosecutor's closing argument which portrayed defendant's profanity prefaced invocation of his right to counsel as an admission of guilt.	1) Law of Knowledge of Law: evidence 2) Lack of Trial Skills: Failure to object to prosecutor's closing argument.
Santa Clara County	Poss. of ammunition by a felon; Poss. of Meth	No	People v. Avilla 2002 WL 1897473 C.A. 6th Dist. [not published]	Direct Appeal	2001	Public Defender	1997	4	None	x		Failure to object to Court's imposition of consecutive sentences w/o stating reasons.	Other Sentencing Error

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Santa Clara County	Robbery	No	People v. Gexxi 2003 WL 42546 C.A. 6th Dist (not certified)	Direct Appeal & State Habeas	2001					xxx		1) Failure to subpoena business records which would have supported wife's alibi testimony. 2) Failure to call expert 3) Failure to interview witness who could impeach officer's testimony.	1) Failure to Investigate: defense Failure to call expert 2) Failure to investigate: impeachment
Santa Clara County	Felon in possession of firearm	No	People v. Valencia 2002 WL 220936 C.A. 6th Dist [not published]	Direct Appeal & State Habeas	2000	(Private)	1994	6	1998: private reproof for failing to provide competent legal services 2000: probation: failed to take MPRE as ordered	xx		1) Advised defendant to plead to two counts when conviction on only one count could have been obtained after trial. 2) Failure to investigate prior conviction and advised defendant to plead to enhancement when record of conviction would not have been sufficient to prove enhancement.	1) Plea Advise: other 2) Lack of Knowledge of Law: criminal law 3) Failure to Investigate: Defense
Santa Clara County	Burglary of a vehicle	No	People v. Deleon 2002 WL 1038834	Direct Appeal	2000	Public Defender	1983	17	11/19/1993 Discipline, probation; no actual susp. Case #92-C-18458	x		Failure to object to trial court's manner of calculating the restitution fine	Other Sentencing Error
Santa Clara County	Battery & Making criminal threats	No	People v. Bustos 2002 WL 31875987 C.A. 6th Dist [not published]	State Habeas	1998	Public Defender	1993	5	Was inactive on 9/14/00, but is now active		x	Failure to advise D of the immigration consequences of his guilty plea.	Plea advise:immigration
Santa Clara County	Carrying a concealed dagger	No	Cordova v. Terhune, 164 Fed.Appx.609 [not published]	Federal Habeas	1996	Private	1971	25	None	x		Alleged that counsel affirmatively misled defendant into believing plea offer "would always be there." Offer was later withdrawn.	Plea Advise: other
Santa Clara County	Murder	Yes	Caro v. Woodford, 280 F.3d 1247 (2002)	Federal Habeas	1981					x		Failure to investigate and present mitigating evidence concerning childhood abuse and exposure to toxic chemicals which caused brain damage.	1) Failure to Investigate: Sentencing: death penalty mitigation 2) Failure to raise mental health issue
Solano County	Unlawful driving or taking of a vehicle	No	People v. Jansen 2003 WL 1562613 C.A. 1st Dist. [not published]	Direct Appeal	2001	Public Defender	1975	26	None	x		Failure to timely disclose to prosecution a list of trial witnesses and statements resulted in adverse jury instruction and prosecutor being permitted to make adverse comments about witnesses in closing argument.	Other
Tulare County	Receiving stolen property; petty theft; conspiracy	No	People v. Marshall 2002 WL 382854 C.A. 5th Dist [not published]	Direct Appeal	1998	(Private)	1972	26	Several disciplinary actions Disbarred 2005	x		In "egregious behavior" counsel pursued a nonviable defense of entrapment and sabotaged the defendant's defense by portraying defendant as a liar when he testified he was factually innocent.	Lack of Knowledge of Law: criminal law Lack of Trial Skills: closing argument
Ventura County	Felony Murder - First degree	No	People v. Callahan 124 Cal. App. 4th 198	Appeal from grant of motion for new trial	2003	(Private)	1980	23	None	xx		1) Failure to impeach prosecution witnesses 2) Failure to Call Defendant to testify	Lack of Trial Skills: failure to cross examine Failure to call witness

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Ventura County	Assault w/ intent to rape	No	People v. Andrade 79 Cal. App. 4th 651 (2000)	Motion for new trial	1999	(Public Defender)	1991	8	None	xxx		1) Failure to interview character witnesses 2) Failure to properly impeach complaining witnesses because he was unfamiliar with their statements. 3) Failure to allow defendant to testify	1) Failure to Investigate: defense 2) Lack of Trial Skills: failure to cross-examine 3) Failure to call witness

<sup>1</sup>Based on State Appellate and Federal Habeas decisions decided within the past 10 years. This chart is a work in progress as there are additional cases still being processed.

<sup>2</sup> Public Defender is either an attorney from a county public defender office or contract defender office. Assigned Counsel is a private attorney who wa appointed by the Court. Private indicates a retained attorney.

<sup>3</sup>Data in parenthesis, excluding case citations, indicates best estimate based on available data.