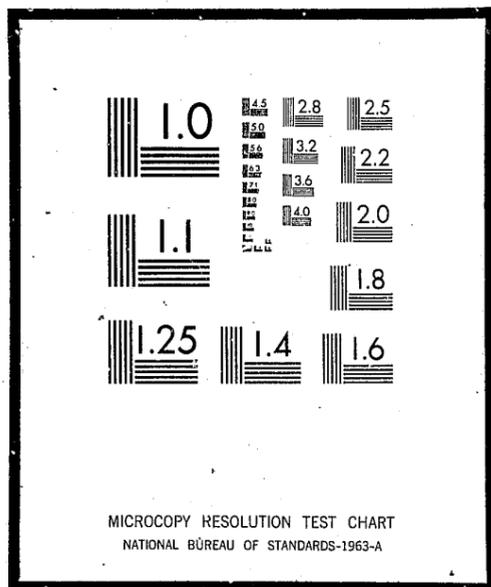


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U.S. DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE  
WASHINGTON, D.C. 20531

Date filmed 12/5/75

17908

K

D.C.

FIRST \* REPORT

District of Columbia -  
Correctional Services Program -

Public Defender Service, <sup>1st</sup> First Report

The Office of Criminal Justice  
Plans and Analysis  
1329 E St, N.W., Room 200  
Washington, D.C. 20004

May, 1974

## FOREWARD

"The primary aim of the Service's proposed Legal Services Program is to provide legal counseling and, in appropriate cases, actual representation to convicted inmates under the jurisdiction of the Department of Corrections.....The success or failure of the proposed Legal Services Program will depend upon whether or not the inmates are well served by the legal services afforded."

The aims of the Correctional Services Program stated in its grant application are very much to the point. Even given an expanded list of objectives <sup>1</sup> the grant was definitely made to a program which places the day-to-day delivery of legal services before test cases, test situations and test methodologies. Therefore the administrative staff of the program follow after the attorneys and what they report are the individual and cumulative results of many lawyer-client relationships. The direction of the program is being determined by the kind of problems Lorton inmates have.

1. Of these Five Points derived from CSP proposals, Point 2 remains the most important.
  1. To provide a central intake for requests for post-conviction assistance at included institutions, and to publicize this amenity to the institution populations.
  2. To deliver expert legal aid in the specialized area of post-conviction remedies.

(over

## COMMENTARY ON THE TABLES

### Introduction

For this first periodic report the staff studied cases from the program's first nine weeks of operation. The program took in cases on the very day it was funded, a month in advance of the operation timetable. This rushed beginning illustrates the pressure of the demand for post-conviction legal aid at Lorton. It also reflects the fact that the program's attorneys were already familiar with Lorton and could channel the requests addressed to them straight to the new organization.

~~It may well turn out that the results of this shakedown period~~ are at variance with the longterm trends which later reports will discover. For instance, referring to the point made in the previous paragraph, it seems that a disproportionate percentage of cases were referred to the program by its own staff (after meeting with an inmate at the institution) during the first three weeks of operation. Also that a disproportionate percentage of the first cases came from the Medium Security

- (1.) 3. To train student lawyers in post-conviction remedies.
4. To coordinate with and act as a resource center for other legal aid groups working in the field of post-conviction remedies.
5. To profile the demand for post-conviction remedies from residents of the District's post-conviction correctional institutions.

Facility, which in many ways is the most visible and accessible subdivision of the Corrections empire. Because the program was not yet being advertized to the inmate populations it perhaps attracted the naturally litigious, with a high proportion of "No Legal Recourse Available" cases, or the articulate with only minor problems, or just a certain type of case. Another extraordinary condition to be taken into account was that the legal staff to handle all cases consisted of only two lawyers and one law student. A greater volume of both incoming cases and cases processed can be expected for the next report.

Table 1

Percentage figures are correct to the second decimal place.

The nine-week period of study ran from March 11 to May 14; because the period was unequally divided between three months averages were made within each month to give comparable rates on incoming cases and cases closed. Totals and average rates are also given for the whole period.

These figures and the percentage of total cases closed reveal almost three times as many cases coming in as being closed. The program expects to work with a backlog; nonetheless it must lower the ratio of incoming cases to closed cases.

TABLE 1

CASES OPENED AND CLOSED

	March 11-31 (21 days)	April	May 1-14 (14 days)	
CASES OPENED	40	54	22	TOTAL 116
incoming rate per day	1.9	1.8	1.6	AVERAGE 1.8
CASES CLOSED	10	28	4	TOTAL 32
rate of closing per day	.5	.9	.3	AVERAGE .5

CASES CLOSED DURING TOTAL PERIOD EQUAL 36% OF CASES OPENED DURING TOTAL PERIOD

Table 2

The total number of actions during this period--and undoubtedly in future reporting periods as well--exceeds the total number of cases because the nature of some clients' cases demand more than one legal action on their behalf.

The actions contemplated or taken are broadly categorized as either "Criminal", "Administrative or "Civil", meaning that the attorney or law student proceeds under one of these categories of laws and regulations to resolve the case.

Table 2a shows as might be expected that the criminal law governs most cases that have been submitted to the program. If the percentage of criminal category actions were to drop precipitously during the operation of the program there would be a question whether the program had not worked itself out of a job, since this category of cases comprises the essential post-conviction remedies we have been funded to provide (see the Key Code, pages 8 and 9. Most civil cases will be referred to other organizations, such as N.L.S.P. However the demand for intra-institutional administrative remedies may well increase, if not to the point of changing the character of the program. It will be of interest whether it rises, falls or remains constant, in that this demand is

TABLE 2

a) CASE ACTIONS BY TYPE

<u>Type</u>	<u>No.</u>	<u>Percent</u>
CRIMINAL	90	73.2%
ADMINISTRATIVE	17	13.8%
CIVIL	<u>16</u>	<u>13.0%</u>
TOTAL	123	100.0%

b) CASE ACTIONS COMPLETED

<u>Type</u>	<u>No.</u>	<u>Percent</u>
CRIMINAL	44	35.8%
ADMINISTRATIVE	6	4.9%
CIVIL	<u>4</u>	<u>3.2%</u>
TOTAL	54	43.9%

c) PERCENTAGE COMPLETED WITHIN TYPE CATEGORY

48.9% of CRIMINAL actions

35.3% of ADMINISTRATIVE actions

25.0% of CIVIL actions

a telling indicator of inmate discontent.

Table 2b shows completed case actions running ahead of cases closed (54 as compared to 32) , and this figure, which reveals work on cases too complicated to be resolved in one step, might be considered a fairer base on which to evaluate the program's accomplishments.

Table 2c gives a truer picture of how quickly clients can expect to be helped when they apply to the program. It shows that almost half the criminal law related actions taken on during the nine week period were followed through to completion within the period itself. The chances of an administrative solution being found that quickly were less, but still one third of those clients received an answer to their administrative question within the period. Civil matters, which are customarily settled with less dispatch, follow the same slower pattern here.

Table 3

Table 3 represents a closer scrutiny of the three subtypes which were examined in Table 2. By referring to the Key on pages 8 and 9 one can learn in table 3a how many of a particular type of action CSP handled and how it rated as a percentage of all actions, criminal, administrative and civil. One can see,

CORRECTIONS SERVICES PROGRAM

Key Code for Type of Case and Disposition of Case

TYPE OF CASE: Cr = Criminal  
Civ = Civil  
Ad = Administrative  
OJ = Out-of-Jurisdiction  
VSC = Visitors' Service Center (completely non-legal)

Breakdown Within Type of Case

CRIMINAL: Cr-1 = Detainers from D.C. and other jurisdictions  
Cr-2 = Sentence Computation Problems  
Cr-3 = Formal Motions for Reduction of Sentence  
Cr-4 = Reductions of Minimum Sentences under 24 D.C. Code, §201(c)  
Cr-5 = Rule 36 Motions to Correct Court Clerical Errors  
Cr-6 = Collateral Attacks of Criminal Convictions  
Cr-7 = Parole Grant Representation  
Cr-8 = Parole Revocation Representation  
Cr-9 = Liaison with Court-Appointed Counsel on Pending Cases for Convicted Persons  
Cr-10 = Representation at Disciplinary Hearings  
Cr-11 = Extra-ordinary Writs  
Cr-12 = Civil Suits directed toward DCDC and/or Parole Board  
Cr-13 = Withdrawal of Plea Guilty (Rule 32)  
Cr-14 = Motion for New Trial (Rule 33)  
Cr-15 = Other (specify the specific legal cause of action)

ADMINISTRATIVE:

Ad-1 = Training for D.C. Correctional Staff  
Ad-2 = Assist in disputes between inmates and correctional staff  
Ad-3 = Assist in getting custody changed  
Ad-4 = Assist in obtaining furloughs  
Ad-5 = Assist in obtaining Pre-Parole Work Release; six months  
Ad-6 = Assist in obtaining Work furlough; 14 months prior parole  
Ad-7 = Other (specify the specific task)

CORRECTIONAL SERVICES PROGRAM

Key Code for Type of Case and Disposition of Case

CIVIL LAW PROBLEMS:

- Civ-1 = Divorce, Separation, Annulment
- Civ-2 = Child Custody, Support
- Civ-3 = Personal Injury Cases
- Civ-4 = Return of Personal Property seized by  
Law Enforcement People
- Civ-5 = Collection of Salary due an inmate prior  
to incarceration
- Civ-6 = Other (specify the specific cause of action)

DISPOSITION BREAKDOWN:

- + = Positive
- = Negative
- 0 = No Legal Recourse Available  
(frivolous or barred by law, etc.)

TABLE 3 BREAKDOWN OF ACTIONS WITHIN TYPE CATEGORY

<u>Type</u>	(a)		(b)			
	<u>No. of</u> <u>Actions</u>	<u>% of</u> <u>Total</u>	<u>Completed</u>	<u>DISPOSITION</u>		
				<u>Positive</u>	<u>Negative</u>	<u>No Legal</u> <u>Recourse Available</u>
CR1 Detainers	16	13.0%	43.8%	85.7%	14.3%	0
CR2 Computation	8	6.5%	75.0%	33.3%	0	66.6%
CR3 Motions to red.	17	13.8%	35.2%	16.6%	16.6%	66.6%
CR4 24 D.C., §201c	7	5.7%	28.6%	50.0%	50.0%	0
CR5 Rule 36	1	.8%	100.0%	100.0%	0	0
CR6 Col. attack	9	7.3%	55.6%	0	20.0%	80.0%
CR7 Par. grant rep.	6	4.9%	33.3%	100.0%	0	0
CR8 Par. rev. rep.	2	1.6%	0	0	0	0
CR9 Liaison	7	5.7%	100.0%	28.5%	14.2%	57.1%
CR10 Disciplin. rep.	3	2.4%	0	0	0	0
CR11 Extra-ord.writs	2	1.6%	50.0%	100.0%	0	0
CR12 Suits v. DCDC	0	-	-	-	-	-
CR13 Rule 32	1	.8%	100.0%	0	0	100.0%
CR14 Rule 33	0	-	-	-	-	-
CR15 Miscellaneous	11	8.9%	54.5%	16.7%	0	83.3%
AD1 Train DC staff	0	-	-	-	-	-
AD2 Mediate disputes	0	-	-	-	-	-
AD3 Change custody	6	4.9%	0	0	0	0
AD4 Obtain furlough	1	.8%	100.0%	100.0%	0	0
AD5 Get work release	3	2.4%	33.3%	100.0%	0	0
AD6 Get work furlo'	0	-	-	-	-	-
AD7 Miscellaneous	7	5.7%	57.1%	75.0%	25.0%	0
CV1 Divorce	3	2.4%	0	0	0	0
CV2 Child custody	2	1.6%	0	0	0	0
CV3 P.I. cases	1	.8%	0	0	0	0
CV4 Return property	2	1.6%	0	0	0	0
CV5 Collect salary	0	-	-	-	-	-
CV6 Miscellaneous	8	6.5%	50.0%	100.0%	0	0
	<u>123</u>	<u>99.7%</u>				

that requests for motions for a reduction in sentence and for setting aside detainers together constitute over a quarter of all requests that the program received during this nine week period; also that the program has not, so far, been asked to take on a civil suit against the Department of Corrections or Parole Board, or a motion for a new trial or any of several kinds of administrative and civil problems. Of the remaining categories, it turns out that the largest are the catch-alls for miscellaneous subtypes within the three types. CR-15 includes requests for expunging a conviction, advice on the possibility of a new trial and information on the status of an appeal. AD-7 includes requests for intervention in proposed transfers to federal institutions, ascertaining parole status and developing a parole plan. CV-6 includes requests to find appellate counsel, collect an inheritance and obtain proper medical treatment. Requests for help in dealing with the prison hospital are coming in frequently enough to warrant a separate reporting category, and changes on this line may be made in the next report.

The percentages in Table 3 are based within each subtype. Thus requests for us to liaison with an inmate's court-appointed counsel (CR-9) have all been carried out ("Complete") one way or another. The possible dispositions are listed in the three

columns headed "P" (positive) "N" (negative) and "NLA" (no legal recourse available). The outcome of 28.5% of CR-9's is classified as positive, 14.2% as negative and 57.1% as not susceptible to aid on our part.

Table 4

Table 4a shows who referred cases to the program during the nine week period. Table 4b takes a month-by-month look at those figures, giving a percentage breakdown of the numbers in each month, based on that month's totals. There are no fixed type categories for this information, so new referring agencies will be listed in future reports as they appear.

Table 5

Table 5a shows where the inmates whose cases we have been handling are located at the time when their request is first directed to the program (inmates are sometimes moved while CSP works on a case). It was no surprise that during this first nine weeks the great majority of cases came from the Medium Security Facility. More unexpected was the fact that the program received no requests from Half-way Houses while receiving several requests from the D.C. General Lock Ward and the Security Pavillion at St. Elizabeth's.

Table 4

a) APPLICANTS REFERRED BY:	Program staff	(56)	48.3%
	Defendant's letter	(18)	15.5%
	Crim. Justice clinic	(12)	10.3%
	LAWCOR	(7)	6.0%
	C&P Officer	(5)	4.3%
	Nat. Prison Project	(5)	4.3%
	Other govt. official	(4)	3.4%
	Relative	(2)	1.7%
	G'town Legal Interns	(2)	1.7%
	Public Defender Serv.	(2)	1.7%
	Defendant's phoning	(1)	.9%
	District Bar	(1)	.9%
	Jailhouse lawyer	(1)	.9%
	<b>TOTAL</b>	<b>116</b>	<b>100.0%</b>

b) MONTH-BY-MONTH REFERRALS

	March	April	May
<u>referred by individuals</u>			
Correctional Staff	(29) 72.5%	(20) 37.0%	(7) 31.8%
Defendant's letter	(2) 5.0%	(9) 16.7%	(7) 31.8%
C&P Officer	(2) 5.0%	(3) 5.6%	(0)
Other gov't official	(3) 7.5%	(1) 1.9%	(0)
Relative	(1) 2.5%	(1) 1.9%	(0)
Defendant's phoning	(0)	(1) 1.9%	(0)
Jailhouse lawyer	(0)	(0)	(1) 4.5%
<u>referred by programs</u>			
Crim. Justice Clinic	(2) 5.0%	(8) 14.8%	(2) 9.1%
LAWCOR	(0)	(7) 12.9%	(0)
Nat. Prison Project	(0)	(1) 1.9%	(4) 18.1%
G'town legal interns	(0)	(1) 1.9%	(1) 4.5%
Public Defender Serv.	(0)	(2) 3.7%	(0)
District Bar	(1) 2.5%	(0)	(0)
<b>TOTALS</b>	<b>40 100.0%</b>	<b>54 100.2%</b>	<b>22 99.8%</b>

TABLE 5

a) APPLICANTS LOCATED AT:	Medium Security	(65)	56.0%
	Maximum Security	(21)	18.1%
	Miscellaneous	(11)	9.5%
	Youth Center 1	(10)	8.6%
	Minimum Security	(6)	5.0%
	Youth Center 2	(3)	2.6%
	Half-way Houses	(0)	-
		<b>116</b>	<b>99.8%</b>

b) ORIGIN OF APPLICATIONS, MONTH-BY-MONTH

	March	April	May
Med.	(25) 62.5%	Med. (29) 53.7%	Med. (11) 50.0%
Misc.	(6) 15.0%	Max. (10) 18.5%	Max. (6) 27.2%
Max.	(5) 12.5%	Misc. (5) 9.3%	YC 1 (3) 13.6%
YC 1	(3) 7.5%	YC 1 (4) 7.4%	Min. (2) 9.1%
Min.	(1) 2.5%	Min. (3) 5.6%	Misc. (0) -
YC 2	(0) -	YC 2 (3) 5.6%	YC 2 (0) -
H.H.	(0) -	H.H. (0) -	H.H. (0) -
	<b>40 100.0%</b>	<b>54 100.1%</b>	<b>22 99.9%</b>

N.B. "Miscellaneous" includes cases from medical and psychiatric lock wards and from the street.

Table 5b breaks down the location of incoming cases by the month. It shows several trends in terms of increasing and decreasing percentages of monthly totals--an increase in requests from the Maximum and Minimum Security Facilities, a decrease from Medium--but the numbers involved are too small to base predictions on.

The smallness of the statistical base also makes it meaningless to build percentages showing how, for instance, requests are referred to CSP from the different Department of Corrections facilities, or whether requests from the different facilities fall into characteristic groupings. These or any other tables which the granting agencies request can be included in the next report.

#### ADMINISTRATION OF THE PROGRAM

The Program's first financial reporting sheet has already been submitted by Candy Moore.

All key steps in the Program's work plan (see grant application, page 4) were completed on or before schedule.

The problems encountered during the program's first nine weeks of operation concerned both internal adjustments and external hindrances. In the former category were the delays and difficulties met in coordinating CSP with the already existing Bar Association volunteer program. After considerable negotiation (for example see the memorandum, pages 16 & 17, of a general meeting of both organizations; most conversations were held with the Chairman only) the Bar Association volunteers have agreed on our proposed plan. They will take up to a dozen cases from us per week (so far the number has not been half that many) for which we will obtain face sheets and some background information. They may also use the program's offices at the Lorton Complex (lack of privacy has been a problem in their interviews up till now).

During this period staff hiring continued and newer members were not yet completely integrated into the program. None of the staff members had their jobs completely defined: those parts that were occasionally presented difficulties. The attorneys, for example, had to find ways to successfully manage their work as lawyers and their work as administrators.

Thanks to careful advance planning the office procedures

MEMORANDUM OF MAY 6th MEETING WITH LAWYERS TO LORTON

Kirby Howlett opened the meeting by giving an introduction to the Correctional Services Program. He explained how it was funded, what it hoped to do, what people it would employ and who it would coordinate with. Suella Pipal then outlined the mechanics of a referral plan for Lawyers to Lorton approval. This plan would involve CSP in obtaining Face Sheets and Judgement & Commitment papers on each of the inmates whose cases we would turn over to Lawyers to Lorton. This information would be transmitted to the lawyers before they went down on Wednesday evenings (the day before by PDS messenger). Once at Lorton they could use the CSP offices to conduct more controlled, private interviews. We would in no way supervise the work of the volunteer attorneys, but we would contact them if they had not informed us within a reasonable time of when and how the case was closed, and we would make our reference materials and advice available to them.

Only three lawyer members and the two lawyer chairmen of the Committee made it to the meeting (the bus strike was on). Their reactions seemed on the whole favorable. Several specific objections were raised, which we answered in the following manner.

"How would a fixed low callout assure adequate employment for the two-hour session, given inmates' usually high no-show rate?" Gitner said that all the inmates selected would be earnest to the degree that they had already contacted the program for help, and that we could tinker with the numbers until an optimum had been reached.

"Is it in the spirit of Lawyers to Lorton to only be accessible to prescreened inmates?" Others in the Committee itself pointed out that at the moment they saw only those inmates selected by the inmate coordinator, and that our clearing house could spread a wider net.

"But if you cant write a convincing letter you dont get through to CSP". Our staff explained the many ways an inmate can ask us for help--by phone, through a relative or C&P Officer, by walking in from the street or by buttonholing one of our people on our frequent visits to Lorton.

"Lawyers to Lorton counts on some frivolous cases at every session; a full load of heavy cases is beyond volunteers' capacity." A member of the Lawyers to Lorton Committee answered to say that the screening process we had proposed did not seem so exhaustive as to eliminate all but the most complicated cases--which is exactly correct. Furthermore, CSP would try to provide what appears to be a varied bag of cases for each session.

"What about the role of Lawyers to Lorton paraprofessionals in a system where cases come to us half-documented and having to do with purely legal matters?" Suella Pipal, herself a paraprofessional member of the Committee, said that she saw substantial work for that group within the cases we would refer, but that in any case she would monitor her fellow-members reactions during the first months, and perhaps propose changes in scheduling to better fit the work load.

At the same time, Visitors' Services Center, which trains the Lawyers to Lorton paraprofessionals, was represented by its Director and Office Manager, who wanted to discuss with us the possible expansion of their services from the Jail to Lorton. They do not have the people yet, and cant recruit them until they have a program to offer. Howlett suggested a separate meeting to go over plans, as none of this was connected with the questions being discussed.

Bill Bucknam asked the Committee to consider its anticipated contribution to Fitzgerald's salary. Lawyers to Lorton had been willing to the extent of \$100 if Fitzgerald would be on hand for their Wednesday night sessions, as in the past. Their executive chairman has said that it would be hard to justify that sum on any other basis. We pointed out that the system we had proposed obviated the need for him to be there to keep order and provide background information on the clients--his most important functions. We asked that the background work that he would be doing uptown and on daytime visits to Lorton be considered in its place. The V.S.C. people suggested that he be used as an orientation guide and resource person. A member of the Committee reminded them that they already have money earmarked for some kind of staff person--the implication that they could well give it to Fitzgerald understood. There seemed to be sentiment for allocating the money in general recognition of Fitz's services, but the Committee leadership cut that off and the question was left unresolved.

set up to handle incoming and continued cases have functioned smoothly and effectively. No changes have yet been necessary. Two form letters were developed to handle recurring problem requests (see pages 20, 21 and 22).

By submitting a report early in the operation timetable the administrative staff expect helpful criticism to shape their next report more nearly to L.E.A.A. requirements, besides providing the program with a useful "early historical document" on its work.

**PUBLIC DEFENDER SERVICE**

FOR THE DISTRICT OF COLUMBIA

601 INDIANA AVENUE, N.W.

WASHINGTON, D.C. 20004

(202) 625-1200

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J. PATRICK HICKEY  
DEPUTY DIRECTOR

Dear

Your request for legal assistance has been received in this office. Unfortunately, the Correctional Services Program of the Public Defender Service is only able to provide criminal post-conviction relief to convicted persons.

Your problem is civil in nature and therefore we are unable to represent you. I am, however, referring your letter to Neighborhood Legal Services, 666 - 11th Street, N.W., Suite 335, Washington, D.C. 20001. Someone from that office should be in touch with you in the near future. If you have not heard anything within a month, please contact me.

Very truly yours,

Kirby S. Howlett, Director  
Correctional Services Program

KSH:jb

cc: Neighborhood Legal Services

**PUBLIC DEFENDER SERVICE**

FOR THE DISTRICT OF COLUMBIA

601 INDIANA AVENUE, N.W.

WASHINGTON, D.C. 20004

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Page Two

Once I receive this information, your case will be screened and a determination made as to whether you have a cause of action which we can assist you on. If we can take your case, a Program staff member will immediately interview you; if not, you will be notified by mail.

Very truly yours,

Kirby S. Howlett  
Correctional Services Program

Dear :

Your letter dated \_\_\_\_\_ addressed to \_\_\_\_\_ requesting legal assistance has been received.

KSH:jb

The Correctional Services Program of the Public Defender Service does provide convicted persons with representation in appropriate cases. Due to our limited resources, it is not possible for a Program lawyer to interview you without knowing more about the legal problem you desire assistance on.

Accordingly, will you please provide me with xerox copies of all Judgment and Commitment papers for all cases you were convicted of together with a xerox copy of your face sheet. You can obtain these from the Records Office at the institution. Send these back to me along with a detailed statement of the legal problem facing you and for which you want representation.

**END**