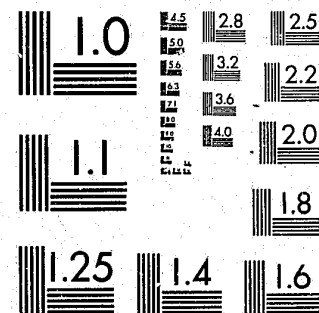


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**EVALUATION DESIGN
FOR THE
OFFICES OF THE PUBLIC DEFENDER**

Roberta Rovner-Piecznik
Alan Rapoport
Martha Lane

6109C

nlada

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FORWARD

The federal legal services program, established a short decade ago, has constituted the very core of the legal assistance movement. It has been an important catalyst, leading to the growth of the use of paraprofessionals, and legal assistance to indigents (civil and defender), to servicemen, and to the near-poor. It has provided impetus for the development of public interest law practice and clinical legal education. In short, the movement toward equal access to our justice system embraces a wide range of legal activity and has gained enormous, indeed, irresistible momentum over the last decade.

Until 1963 and Gideon v. Wainwright, our adversary system of justice provided no systematic, constitutionally guaranteed legal assistance to the poor in either civil or criminal cases. We relied exclusively upon the voluntary efforts of the private bar, the United Funds and dedicated individuals to provide "free" legal services and to nurture the concept of legal assistance to the indigent.

The legal assistance movement, however, began long before 1963. The conscience of this nation began to awaken to the injustices of denial of access to our justice system in the 50's and early 60's as a direct result of the civil rights movement. We began, as a nation, to awaken to the need for social change; the need to begin to implement those principles of freedom so pragmatically expressed in the writings of Thomas Jefferson and James Madison. We have begun to understand that the establishment of justice is our great purpose as a nation and that the principles enumerated in the Bill of Rights must be implemented on behalf of all persons and all segments of our society.

Five years ago, in early 1971, the National Legal Aid and Defender Association (NALDA) began to spearhead the move toward the creation of a national legal services corporation which would insure for the poor of our nation independent legal assistance of the highest quality. In 1975 this goal was finally realized. At the same time that NLADA began its work to establish an entity for the institutionalization of legal assistance on the civil side, it began to intensify its efforts toward awakening the nation to the importance of providing high quality services for the indigent accused.

The Law Enforcement Assistance Administration (LEAA) had, at that time, only recently become operational. Its enabling legislation spoke primarily to the question of crime reduction and more efficient law enforcement techniques. While there was some awareness of the role courts played in our criminal justice system, very little priority was given to this area. Defense services, an integral part of our justice system, was given even less attention. NLADA, therefore, initiated a program of educating the nation to the need for legal representation on the Defender side, in accordance with the mandates of

Gideon v. Wainwright and Argersinger v. Hamlin. And, over the last five years, NLADA, LEAA and other organizations working together have made great strides toward expanding and enhancing the quality of defender services throughout the nation. The Defender Evaluation Project classically illustrates the success of these cooperative efforts.

This study, the first of its kind, coupled with a most creative evaluation design, is destined to play an extraordinarily important role in our efforts to upgrade the quality and quantity of justice to the indigent accused.

The entire legal assistance movement is indebted to the project and its staff for this important contribution. For, it shall form the backdrop for the next five years of progress.

Frank Jones, Executive Director
National Legal Aid and Defender Association

ACKNOWLEDGEMENTS

A project with broad scope and diverse concerns always benefits from the critical comments of individuals with varying backgrounds and skills. The Defender Evaluation Project (DEP) was particularly fortunate in this regard. Initial and ongoing direction and critique was received by an Advisory Board with exceptional expertise:

Stuart Adams, Criminal Justice Consultant,
Berkeley, California

John Cleary, Chief, Federal Defender of San
Diego, Inc., San Diego, California

Laurence Dye, Deputy Director, Rehabilitative
Services, New York State Division for Youth,
Albany, New York

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of Criminal Defense Lawyers, Milwaukee,
Wisconsin

Joseph Trotter, Associate Director, The
American University Law Institute, Washington,
D.C.

Stanley Van Ness, Public Advocate, Department
of the Public Defender, State of New Jersey

Stimulating discussions took place with numerous defenders and criminal justice personnel across the country; too numerous, unfortunately, to mention each by name. Aid was also freely given by defenders at sites visited in the formative stages of the project: David Smith, Burlington, Vermont; William Sessions, Middlebury, Vermont; Peter Yellin, Rochester, New York; Richard Jorandby, West Palm Beach, Florida; and, C. David Weed, Miami, Florida.

Our thanks go out to each defender office which volunteered to be a test site for the first draft of the evaluation design. The offices which eventually underwent a trial evaluation included: the Criminal Division of the Legal Aid and Defender Society of Columbus, Ohio (James Kura); Monticello Legal Aid Society of Sullivan County, New York (Edward Leopold); and Clark County Public

Defender, Las Vegas, Nevada (Morgan Harris).

DEP was very fortunate to have secured the services of three outstanding teams of evaluators. The evaluators included: John Darrah, Gustav Goldberger, John Packel, Ben Rayborn, Peter Haynes, Alan Parlapiano, Paul Ligda, Carolyn Micklem, William Higham, Theodore Gottfried, Jack Kaufman, C. Richard Parker, and Charles Rouselle. I am not sure who was more brave, the chief defender of the office being evaluated by a design which was untested, or the teams which went into the field with the untested instruments and a design which often had them working late into the night. DEP's thanks to all.

Ongoing dialogue with Marshall Hartman and Nancy Goldberg, Director and Deputy Director, respectively, of the Defender Division of the National Legal Aid and Defender Association continually questioned the project's objectives and directions to stimulate staff thinking. Discussions with the staff of the National Center for Defense Management, William Higham, Gustav Goldberger, and Prescott Eaton provided additional perspectives for DEP to consider. Cheryl Martorana and Voncile Gowdy, both following and monitoring the grant for the Law Enforcement Assistance Administration of the U.S. Department of Justice, were always accessible, supportive and helpful.

Lastly, but most importantly, go my special thanks to a very hardworking DEP staff: Alan Rapoport, Martha Lane, Kathy Bradt, and Kate Lenski. Working as a team they shared complementary skills they often didn't realize they possessed until called into use; we all learned in the process. The evaluation design reflects the best they had, and a project filled with their cheerfulness and dedication to work. Melvin Keebaugh has earned my lasting gratitude for the awesome task of typing the final manuscript.

ROBERTA ROVNER-PIECZENIK, Ph.D.
Director, Defender Evaluation Project
June 30, 1976

PREFACE

Four Handbooks have been designed to assess the quality of services being delivered by defenders. In combination, they represent one evaluation strategy -- a strategy with built-in reliability, validity and practicality. The evaluation design is based upon the need for defender offices to comply with three major goals:

- Goal I: To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.
- Goal II: To ensure that the representation of clients is of high quality.
- Goal III: To assist in the exposition and improvement of the adversary process within the criminal justice system.

These goals were abstracted and synthesized from a variety of existing standards and material, as well as from suggestions of criminal justice personnel around the country. The evaluation design which has been developed to assess compliance with these goals was constructed after a review of the relevant literature, much discussion with defenders, their clients, criminal justice and community leaders, and a series of test evaluation.

The evaluation design focuses upon both office and attorney performance, and uses a variety of techniques to gather information: interviews, observation, case file and docket studies, and a management analysis. It is constructed around the activities of an independent evaluation team which engages in both pre-site and on-site data gathering, analyzing, and synthesizing. It should be stressed that the evaluation design developed is appropriate for the small (1-5 attorneys) and medium (6-25 attorneys) sized office. The evaluation of a large office would entail more evaluators, more days on-site, and additional issues of substance to account for those elements which come with increased size (e.g. decentralization, suprastructures). Handbook I (Preliminary Evaluation Period) details activities which are preliminary to the on-site visit of the entire evaluation team. Handbook II (Statistical Study of Defender and Court Case Files) outlines the procedures to be undertaken for two statistical studies: first, a study of case files in the defender office; and second, of cases handled by the court(s) before which defenders appear. Handbook III (On-Site Evaluation - Quality Representation) presents the approach

to be taken during the site visit by the evaluation team. It specifies the data to be gathered and provides instructions for its synthesis and analysis. It also contains the format for the final report of the evaluation team. Handbook IV (On-Site Evaluation - Management Analysis) sets the stage and specifies the activities for a management analysis of the previous three. These Handbooks constitute basic background reading for the individual(s) directing an evaluation of a defender office. Three additional Handbooks should be organized for use by the evaluation team: (a) Team Captain Handbook; (b) Team Member Handbook - Quality; and (c) Team Member Handbook - Management. Instructions for the preparation of these three Handbooks appear in the last section of this volume. Taken together, these Handbooks provide a method of determining whether a defender office is achieving the above goals, and present an evaluation design and format for results which should be helpful to an evaluation team and useful to the defender office.

Although the design was created for use in defender offices, its concerns are consistent with professional standards for all attorneys. The entire evaluation strategy focuses on the delivery of quality services to the client.

Flexibility has been built into the evaluation strategy. For example, a defender office can be evaluated without a statistical study of defender case files and/or without a management analysis of office operations. An evaluation team can decide to concentrate its efforts on one or more of the goals outlined above. The Handbooks have been designed for complementary use; their actual use and adaptation depends upon the needs of the defender office. Although the design is built around the evaluation of defender performance as it relates to adult defendants, it is readily adaptable to offices which handle juvenile and/or mental health problems.

A DESIGN FOR THE EVALUATION AND SELF-EVALUATION
OF THE OFFICES OF THE PUBLIC DEFENDER

EXECUTIVE SUMMARY

The concept of a publicly funded criminal defender is an old one; "advocates of the poor" existed in the Spain that Christopher Columbus left to discover America. Yet it was not until the 1963 landmark Gideon v. Wainwright decision (372 U.S. 335) that the U.S. Supreme Court supported the concept. That decision required that individuals unable to afford legal representation be provided with assistance of counsel at trial in all state prosecutions of serious criminal cases. This obligation was expanded in the 1972 Argersinger v. Hamlin decision (407 U.S. 25) through which states became obliged to provide counsel for indigent defendants whenever the possibility of incarceration existed.

The relatively recent expansion of both the concept and reality of the government's role in providing defender services to the indigent was accompanied by a concern with Standards for public defenders. Statements of minimum performance were issued by the American Bar Association, the National Advisory Commission of the Law Enforcement Assistance Administration, U.S. Department of Justice, and the National Legal Aid and Defender Association. From a concern for defender Standards it was but a short step to a concern for evaluating the quality of representation being given the indigent defendant.

Study Objectives

The Defender Evaluation Project (DEP) was a one year grant funded by the National Institute of the Law Enforcement Assistance Administration, U.S. Department of Justice, to the National Legal Aid and Defender Association. The project's objectives were two-fold:

1. To develop a model evaluation design which could be used by a team of consultants to assess the nature and adequacy of organized

defender offices in a particular jurisdiction; and,

2. To develop a self-evaluation manual which could be used internally by a defender office to pinpoint strengths and weaknesses in client representation and office management.

It was anticipated that both of these objectives would be achieved through the staffwork of a sociologist/evaluator, former public defender, and management analyst, field visits to defender offices around the country, and test evaluations in defender offices using the materials developed. Both evaluation designs were developed for the small (one to five attorneys) to medium-sized (six to twenty-five attorneys) office providing representation at the trial level.

The Evaluation Design

Evaluation research is a method of assessment which attempts to make the process of judgment both accurate and objective. An evaluation generally follows program implementation, and provides a basis for further planning and program refinement. It is not technical assistance, however, in which a defender office is given precise details on "how to" rectify problems. An evaluation should generally precede technical assistance, pointing out those areas in which strengths and limitations exist.

Goals and Objectives

A necessary feature of any evaluation is the existence of one or more goals or objectives towards which the program to be evaluated is working. A successful evaluation of a defender office should allow the evaluator to determine whether, and to what extent, the office is complying with these legal and professional standards. It should also provide the defender office with information and recommendations which are useful for improving both daily office operations and the quality of client representation.

The evaluation design developed was based upon the need for defender offices to comply with three major goals:

- Goal I: To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.

Goal II: To ensure that the representation of clients is of high quality.

Goal III: To assist in the exposition and improvement of the adversary process within the criminal justice system.

These goals were further divided into eleven objectives, found in Table 1. The goals and objectives were abstracted and synthesized from existing standards, a review of relevant literature, discussion with defenders, clients, criminal justice and community leader around the country, field visits to defender offices, and a series of test evaluations. The full evaluation design further divides each objective into a series of specific criteria for compliance against which the defender office's performance is rated. Handbooks are available which document the evaluation from defender office request through delivery of the final report.

The Evaluation Phases

The evaluation design was structured in four phases:

Phase 1. Preliminary Evaluation Period. During this period the evaluation request is formalized and the evaluation team and its captain selected. The skills required for any evaluation cover the following: legal, management, community, statistical, and administrative. The chief defender at the office to be evaluated is asked to complete a pre-evaluation profile of his/her office which is reviewed by staff together with the team captain during a preliminary site visit. The term "staff" refers to the individual or entity concerned with organizing and administering the evaluation effort. On some evaluations, staff and the team captain will be the same individual. These materials are summarized for and mailed to team members; the administrative and logistical aspects of the on-site evaluation are planned. This period should take approximately six weeks.

Phase 2. Case File/Docket Study Period. This aspect of the evaluation includes a statistical analysis of cases closed by the defender office during the preceeding six months of operation, and cases closed by the court during the same time period. The case file

TABLE 1

GOALS AND OBJECTIVES FOR THE DELIVERY OF DEFENDER SERVICES

<u>GOAL I:</u>	To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.
Availability/Immediacy	Objective 1) Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused upon him to be the subject of an investigation, or at the request of someone acting in his/her behalf.
Eligibility	Objective 2) Representation should be provided to any individual who is eligible and desires representation.
Scope	Objective 3) Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.
Duration	Objective 4) Representation should be available until all reasonable avenues of relief are exhausted.
<u>GOAL II:</u>	To insure that the representation of clients is of high quality.
Competence	Objective 1) Representation on behalf of clients should be competent.
Zeal	Objective 2) Representation on behalf of clients should be zealous.
Political Influence	Objective 3) Representation on behalf of clients should remain free from political influence.
Judicial Control	Objective 4) Representation on behalf of clients should remain free from improper judicial control.
Discrimination	Objective 5) Representation should not be affected by racial, cultural, religious or sexual characteristics of clients.
<u>GOAL III:</u>	To assist in the exposition and improvement of the adversary process within the criminal justice system.
Community Education	Objective 1) Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel.
System Improvement	Objective 2) Defenders should seek to improve the criminal justice system and other components therein.

and docket studies provide comparable information for the defender and private attorney. Data gathering, analysis, and interpretation should take approximately one month to six weeks, overlapping with the preliminary evaluation period.

Phase 3. On-Site Evaluation. Once pertinent materials have been summarized and distributed to the evaluation team members, and the case file/docket studies have been completed, the entire evaluation team visits the defender office site for a period of time ranging from five to seven days (depending upon size of office and nature of the evaluation).

During this on-site period team training is provided on the concepts and principles of evaluation research and on the utilization of the evaluation handbooks and materials developed through the grant. Extensive in-depth interviews with individuals in the defender office, criminal justice system, and community take place, as do observations of the attorneys and office personnel at work. The management analysis of office operations focuses on the management components of planning, organization, administration, and control. In general, the evaluation of a small office takes three to four evaluators on site for five days (including team training and report outlining); a medium-sized office, five evaluators on site for six to seven days.

Phase 4. Post-Evaluation Period. During this period team members attempt to reach consensus on the performance of the defender office and conclusions and recommendations they will highlight in their final report. A draft report outline is written on-site by the team members and expanded in the following weeks; it is edited by the team captain and reviewed by team members. A copy of the draft report is mailed to the chief defender for review and commentary. The final report, including dissenting team member and chief defender comments, if made, is then given to the defender office and/or agency requesting the evaluation. This period should take approximately one month.

A full-scale evaluation of a small or medium sized office, according to the phases defined above, should be completed within a four to six month period. The evaluation has been designed, however, with flexibility of time and budget in mind, so that it would be possible to omit some aspects of the evaluation.

Types of Data Gathered

Four types of data are gathered during the course of the evaluation:

1. Background: Information which describes the criminal justice system and general community within which the office operates, as well as some aspects of defender office operations. This information is gathered during the pre-evaluation preparation period; some of it will be validated by the evaluators during the on-site period.
2. Quantitative: Statistics which are drawn from a variety of sources. Two sources are closed defender case files and the court docket. Other sources include the daily jail visitor logbook, and probation and parole statistics. This information is gathered both prior to and during the on-site evaluation.
3. Qualitative: The subjective assessment of individuals who are asked to focus on a specified defender activity or function and to make a judgment about it. This information is gathered during the on-site evaluation through interviews with defenders, clients of defenders, criminal justice personnel and community groups, and through the observation of defenders at work.
4. Management: Data on the day-to-day aspects of office operations which indicate whether the operations of planning, organization, administration, and control are efficient and are fostering the achievement of the objectives established for defender offices. This information is gathered during the on-site evaluation period.

All of the data gathered are used in complementary fashion so that the team's final evaluation is based upon a large assortment of information which has been gathered through a variety of techniques.

Data Gathering Techniques

No one technique of data collection can be totally relied upon for a defender office evaluation. Rather, the information sought as indicators of defender/office performance will be gathered through a variety of techniques.

Statistical Analysis: A statistical analysis has two broad functions: (1) to summarize a large amount of information by using numbers to make the information more manageable; and, (2) to generalize about a large population on the basis of a sample drawn from this population. In the evaluation of a defender office, a statistical analysis of closed defender case files summarizes patterns of case handling and case outcome, as well as explores relationships among a large number of case variables. A similar analysis of the court docket allows comparison of defender activities with those of the private attorney and assigned counsel. Statistics are not used as an "evaluation" in their own right, but are gathered as a starting point from which interviews and observations take their cues.

Observation. Observation becomes a scientific technique only when it serves a formulated purpose, is carefully planned, and is recorded systematically. The major asset of observation is that an individual's actual behavior is observed. One need not try to predict that behavior from statements by that individual or others. In addition, observation is not dependent upon an interviewee's ability or willingness to articulate responses. The major limitation of this technique, however, is that the observer is never sure that the behavior witnessed is typical of the situation, or whether some of it has been "altered" for the observer. Also, the number of hours of observation time is severely limited by the time constraints of the evaluation. It is for these reasons that observation is not relied upon to "prove" a point, but is another source of information used to supplement or interpret information gathered through other techniques discussed. In the evaluation of a defender office, team members are asked to observe the conduct and activities of the defender during interactions with the court and clients.

Interviews. The interview, in contrast to observation, has the advantage of retrieving a great deal of information in a short period of time. Not only can the evaluator ascertain facts about behavior, but s/he can probe into beliefs about policies, reasons for beliefs, feelings, standards of action, and past behavior. Interviews conducted during the on-site period of a defender evaluation should be flexible and adaptable to the specific situation. The interview format developed specify the focal concerns of each interview, and are a guide for the interviewer. Each team member has the leeway to use additional questions deemed appropriate to a particular respondent or situation. To accomplish this, questions -- their content, sequence and wording -- are not fixed. This places a minimum of restraint upon the interviewer, but a maximum amount of pressure to know ahead to time what is being sought from a particular interviewee.

Content Analysis. Content analysis is a method of studying and analyzing communication in a systematic, objective and quantitative manner. Instead of observing people's behavior directly, or asking them to respond to questions in an interview, one looks at "communications" that people have produced or have

been produced about them. Newspaper accounts of the criminal justice system are the subjects for such a content analysis. For use in a defender evaluation, the assumption is made that the communications analyzed either: (a) reflect reality, or (b) offer a perception of reality. Both are important for evaluation purposes. A content analysis of newspaper articles is undertaken by staff prior to the on-site period, and a summary of findings given to team members.

Case Study. The case study is an approach to gathering data which views any unit as a whole. This technique's major asset lies in making a process understandable which incorporates the interaction of many variables at the same and at different times. It also allows time to be condensed, so that a full case, from pre-trial to post-conviction, can be reviewed in a relatively short period. On the other hand, this technique suffers from the problem of having its users generalize inappropriately from a few cases to many; that is, its users often make the faulty assumption that the few cases reviewed are representative of most or all cases handled. The case study technique is also used to scrutinize, in detail, a small number of cases handled by the defenders.

In addition to the above techniques, factual data will be gathered on the criminal justice system and community which will serve as background information against which other information will be interpreted.

Reliability and Validity of The Design

In order to undertake an evaluation, an evaluator must make judgments. These judgments, however, should not depend upon the subjective assessment of any one individual. An evaluation which is reliable means that the evaluation procedure will produce the same results each time it is applied, regardless of who the evaluators are. While the importance of individual expertise can not be minimized, the reliability of this design has been increased by stressing the careful selection and orientation of evaluators who have the requisite skills, by establishing a uniform method of exploring issues, interviewing individuals and collecting data, and by providing a standard reporting format.

Judgments should also be based upon what is actually taking place in a defender office. An evaluation which is valid means that the results of the evaluative procedure accurately reflect what exists in reality. The validity of this design has been increased by incorporating feedback from defenders on both the logistical and substantive aspects of the evaluation design, by fostering defender review and critique of any report issued by an evaluation team, by having team members reach final decisions through a consensus process, and by each team member interviewing similar individuals on topics which overlap with other team members.

Confidentiality

Superimposed on all working relationships and information gathered during the course of any evaluation is a strict policy of confidentiality which forbids dissemination of any information obtained in connection with the evaluation without the express consent of the defender office being evaluated. Any publicity generated during the evaluation process is within the sole control of the local defender.

The Self-Evaluation Manual

The self-evaluation manual was primarily designed for use by the head of a trial level defender office who wishes to determine the effectiveness of client representation given by his/her office. It was constructed to:

1. Highlight important defender issues;
2. Specify those activities against which an office's performance should be evaluated;
3. Provide a method by which an office can determine whether it is operating according to expected levels of performance; and,
4. Suggest a general approach to office improvement.

The standards of performance which appear in the manual were synthesized from recommendations of the American Bar Association, the National Advisory Commission of the U.S. Law Enforcement Assistance Administration, and the National Legal Aid and Defender Association. Defenders around the country were called upon to review the manual before it was revised and finalized.

The format of the manual is as follows: Simple questions are posited which ask whether a defender office is, or knows it is, performing certain activities. Questions which are answered in the affirmative indicate areas of strength. Questions which are answered "Uncertain" are followed by suggestions for gathering the appropriate data. Questions which are answered in the negative indicate areas of weakness and are followed by a general management approach for office reorganization.

The manual is written from the perspective that a defender office should provide its clients with the same high quality representation that is available to the affluent individual who retains private counsel. It also adopts the belief that defender offices have an obligation to ensure that any individual in their jurisdiction who faces the possibility of government-imposed loss of liberty will do so with competent and zealous

legal counsel at his/her side. If the defender cannot provide this service, s/he should take steps to see that someone else does.

Testing the Design

The evaluation design and accompanying materials were tested during three site evaluations using different evaluation teams. The independent criteria used for validation purposes to assess an office's performance were substantiated by team conclusions. Anonymous feedback received by DEP staff from interviewees at each site agreed that questions asked were relevant and that interviewers were professional and objective. Chief Defenders, although not always in agreement with team member conclusions, felt that the evaluations were fair and the results appropriate. DEP staff who were on site during each evaluation noted that the design was closely followed at each evaluation site. In short, there is little evidence to doubt the general reliability and validity of the evaluation design.

The self-evaluation manual was critiqued by a dozen defenders around the country and revisions were made accordingly. Some defenders felt the manual was too general; others stated that their office was implementing suggestions which appeared in the manual, and that it raised questions which they had not previously considered. The final evaluation of this manual, however, will lie with its usefulness to the large proportion of defender offices.

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HANDBOOK I

EVALUATION OVERVIEW

AND

PRELIMINARY EVALUATION PERIOD

The section which follows constitutes a complete Evaluation Overview and Preliminary Evaluation Period Handbook which outlines the initial stages of organizing an evaluation of a defender office. Its use is intended primarily for the Staff person who will be responsible for the overall coordination and administration of the evaluation. If no Staff position exists, the Team Captain will need to review this Handbook in detail.

A brief summary of this Handbook will be contained in each Team Member Handbook, according to guidelines appearing in the last section of this volume.

H A N D B O O K I
Evaluation Overview
and
Preliminary Evaluation Period

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Part I: Evaluation Overview

INTRODUCTION

The concept of a publicly funded criminal defender is not new, originally taking the form of an "Advocate for the Poor" in the Spain Columbus left to discover America. Columbus arrived in 1492. It was not until the late 19th century that the public defender concept arrived in the United States. Even then, it was controversial.

Los Angeles County established this country's first public defender office in 1913. Portland, Oregon; Omaha, Nebraska; and Columbus, Ohio, followed soon after. Additional offices appeared in California and Connecticut in the 1920's. In most parts of the United States, however, the provision of counsel for indigents in criminal cases was perceived as a matter of grace. That is, until the Supreme Court underlined the problem in its landmark decision in Gideon v. Wainwright (372 U.S. 335).

In its 1963 Gideon v. Wainwright decision, the U.S. Supreme Court required that individuals unable to afford legal representation be provided with assistance of counsel at trial in all state prosecutions of serious criminal cases. Two years prior to the Gideon decision, only 3% of the counties in the United States had existing defender systems. These systems serve approximately one-quarter of the country's population. Indigent defendants not covered by these systems were either unrepresented by counsel when they appeared in court, or were provided with lawyers who were obliged to render services without compensation. In Argersinger v. Hamlin (407 U.S. 25 1972), states became obliged to provide counsel for indigent defendants whenever the possibility of incarceration exists.

The American Bar Association and the National Legal Aid and Defender Association have been particularly helpful in giving life to these and subsequent Court decisions. By 1973, there were 650 defender systems and 5,034 defenders providing defense services to the needy. Almost two-thirds of the nation's population are presently being served by these defenders. Defender systems have been adopted by almost every metropolitan county and in more than half of the urban counties. Sixteen states have instituted statewide defender systems.

The relatively recent expansion of both the concept and reality of the government's role in providing defender services to the indigent was accompanied by concern with standards and goals for public defenders. Statements of minimum performance have been issued by the American Bar Association Committee on Standards Relating to Providing Defense Services; the National Advisory Commission of the Law Enforcement Assistance Administration; the

National Legal Aid and Defender Association's (NLADA) Second Discussion Draft, Proposed Standards for Defense Services; and a two-volume draft report of the Task Forces of the NLADA National Study Commission on Defense Services.

From a concern for performance standards, it was but a short step to a concern for evaluating the quality of representation being given to indigent defendants. As the defender movement has grown, questions have been raised about the adequacy of defender services. The American University Institute for Law and Social Justice, in conjunction with NLADA, through grant funds received from the Law Enforcement Assistance Administration, has played a vital role in building interest in and undertaking evaluations of defender offices. The evaluation design contained in this and the Handbooks which follow, builds upon these earlier efforts.

THE EVALUATION APPROACH

Evaluation research is a method of assessment which attempts to make the process of judgment both accurate and objective. An evaluation generally follows program implementation, and provides a basis for further planning and program refinement. It is not technical assistance, however, in which a defender office is given precise details on "how to" rectify problems. An evaluation should generally precede technical assistance, pointing out those areas in which strengths and limitations exist.

Goals and Objectives

A necessary feature of any evaluation is the existence of one or more goals or objectives towards which the program to be evaluated is working. A successful evaluation of a defender office will allow the evaluator to determine whether, and to what extent, the office is complying with legal and professional standards. It will also provide the defender office with information and recommendations which are useful for improving both daily office operations and the quality of client representation. Evaluation should be part of the process of planned change. A planning-action-evaluation cycle should be repeated until all objectives are realized, and as new goals and objectives are defined.

The three goals and eleven objectives to be used to assess the delivery and quality of defender services are found in Table 1. These have been developed through a careful process of reviewing existing standards and goals and discussing the significant issues with defenders and other criminal justice personnel. By specifying these goals and objectives, we are implicitly stating that each defender office¹ is under an obligation to perform a variety of functions for its clients, the criminal justice

1. The term "defender office" is used to indicate a particular office, and is used interchangeably with the term "site."

TABLE 1
GOALS AND OBJECTIVES FOR THE DELIVERY
OF DEFENDER SERVICES

<u>GOAL I:</u>	To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.
Availability/ Immediacy	<u>Objective 1)</u> Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused upon him to be the subject of an investigation, or at the request of someone acting in his/her behalf.
Eligibility	<u>Objective 2)</u> Representation should be provided to any individual who is eligible and desires representation.
Scope	<u>Objective 3)</u> Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.
Duration	<u>Objective 4)</u> Representation should be available until all reasonable avenues of relief are exhausted.
<u>GOAL II:</u>	To insure that the representation of clients is of high quality.
Competence	<u>Objective 1)</u> Representation on behalf of clients should be competent.
Zeal	<u>Objective 2)</u> Representation on behalf of clients should be zealous.
Political Influence	<u>Objective 3)</u> Representation on behalf of clients should remain free from political influence.
Judicial Control	<u>Objective 4)</u> Representation on behalf of clients should remain free from improper judicial control.
Discrimination	<u>Objective 5)</u> Representation should not be affected by racial, cultural, religious or sexual characteristics of clients.
<u>GOAL III:</u>	To assist in the exposition and improvement of the adversary process within the criminal justice system.
Community Education	<u>Objective 1)</u> Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel.
System Improvement	<u>Objective 2)</u> Defenders should seek to improve the criminal justice system and other components therein.

community, and the community-at-large. It is the task of an evaluator² to determine whether, how effectively, and how efficiently these functions are being performed. Standards developed by the A.B.A., N.A.C., and NLADA should be reviewed as needed background information (Appendix A). Following each objective are Criteria for Compliance (Table 2) which are based upon material standards, and which specify those activities which a defender office should undertake to be in compliance with the objectives.

To accomplish the specified objectives, the entire evaluation process must be perceived by the evaluator and defender office as a cooperative venture, with the exchange of information and insight of benefit to both parties. The evaluation itself utilizes a variety of techniques which, in combination, attempt to provide information which is reliable and valid.

Unfortunately, evaluators, in many places, have been viewed as fearsome and questionable. This is, for the most part, an inaccurate image which has grown out of the arrogance of some evaluator groups and the ignorance of some evaluatees. Thus, it is up to the evaluator by the way in which the evaluation is conducted, to assure the defender office that the evaluation is a means of assessing both the strengths and weaknesses of the current situation so that future operations can be improved.

Finally, it is critical that both evaluator and site realize that every evaluation is fallible. In this regard, a draft report of the evaluation will be returned to the office for review and comment, and information will be sought from the office about the deficiencies in the evaluation before the final report is produced.

The Evaluation Phases

The evaluation design which follows has been structured in four phases:

Phase 1. Preliminary Evaluation Period

During this period the evaluation request is formalized and the evaluation team and its captain selected. The Chief Defender at the office to be evaluated is asked to complete a pre-evaluation profile (PEP) of his/her office, which is reviewed by Staff³ together with the Team Captain during a preliminary site visit. These materials are summarized for use by evaluation team members and

2. The term "evaluator" is used in the third person singular, but may denote a team of two or more individuals.
3. The term "staff" refers to the individual or entity concerned with organizing and administering the evaluation effort. In some cases, Staff and Team Captain will be the same individual.

the administrative and logistical aspects of the on-site evaluation are planned. This period should take approximately six weeks. Details of Phase 1 are discussed in this Handbook.

Phase 2. Case File/Docket Study Period

This aspect of the evaluation includes a statistical analysis of cases closed by the defender office during the preceeding six months of operation, and cases closed by the court during the same time period. The case file and docket studies will provide comparable information for the defender, private attorney and assigned counsel. Data gathering, analysis, and interpretation should take approximately one month to six weeks, overlapping with the preliminary evaluation period. Details of Phase 2 are discussed in Handbook II - Statistical Study of Defender and Court Case Files.

Phase 3. On-Site Evaluation

Once pertinent materials have been summarized and distributed to the evaluation Team Members, and the case file/docket studies have been completed, the entire evaluation team will visit the defender office site for a period of time ranging from five to seven days (depending upon size of office and nature of the evaluation). During this on-site period, extensive in-depth interviews with individuals in the office, criminal justice system, and community will take place. A management analysis of office operations will be made, as will observations of the attorneys at work. The focus of the site evaluation, and the earlier design phases, will be on one or all of the goals and objectives outlined previously. Details of the on-site evaluation appear in Handbooks III and IV.

Phase 4. Post-Evaluation Review

This period encompasses a series of interrelated activities: team training, on-site evaluation; team consensus. Team Members focus on the substantive issues to be commented upon in the final evaluation report. A draft report, written by Team Members, is edited by the Team Captain, and reviewed by Team Members. A copy of the report is mailed to the Defender for review and commentary. The final report, including team and Defender commentary when written, is then given to the office and/or agency requesting the evaluation. This period should take approximately one month. Details of this phase are discussed in Handbook III.

A full-scale evaluation of a small or medium sized office, according to the phases defined above, should be completed within a four to six month period. The evaluation has been designed, however, with flexibility of time and budget in mind. It would be possible, for example, to omit Phase 2 (i.e., the statistical analyses), Phase 3 (i.e., the management analysis of one-or more of the objectives) or the evaluation of one or more of the Goals. It is strongly suggested, however, that Phase 1 (i.e. the Preliminary Evaluation Period) be kept intact; extensive pre-site preparation is necessary for good on-site work.

Types of Data Gathered

Four types of data are gathered during the course of the evaluation:

1. Background: information which describes the criminal justice system and general community within which the office operates, as well as some aspects of defender office operations. This information is gathered during the pre-evaluation preparation period; some of it will be validated by the evaluators during the on-site period.
2. Quantitative: statistics which are drawn from a variety of sources. Two sources are closed defender case files and the court docket. Other sources include the daily jail visitor logbook and probation and parole statistics. This information is gathered both prior to and during the on-site evaluation.
3. Qualitative: the subjective assessment of individuals who are asked to focus on a specified defender activity or function and to make a judgment about it. This information is gathered during the on-site evaluation through interviews with defenders, clients of defenders, criminal justice personnel and community groups, and through the observation of defenders at work.
4. Management: data on the day-to-day aspects of office operations which indicate whether operations of planning, organization, administration, and control are efficient and are fostering the achievement of the objectives held out for defender offices. This information is gathered during the on-site evaluation period.

All of the data gathered will be used in complementary fashion, so that the final evaluation is based upon a large assortment of information which has been gathered through a variety of techniques.

Data Gathering Techniques

No one technique of data collection will be totally relied upon for a defender office evaluation. Rather, the information sought as indicators of defender/office performance will be gathered through a variety of techniques.

Statistical Analysis Techniques. A statistical analysis has two broad functions: (1) to summarize a large amount of information by using numbers to make the information more manageable; and, (2) to generalize about a large population on the basis of a sample drawn from this population. In the evaluation of a defender office, a statistical analysis of closed defender case files summarizes patterns of case handling and case outcome, as well as explores relationships among a large number of case variables. A similar analysis of the court docket allows comparison of defender activities with those of the private attorney and assigned counsel. Statistics will not be used as an "evaluation" in their own right, but will be gathered as a starting point from which interviews and observations will take their cues.

Observation. Observation becomes a scientific technique only when it serves a formulated purpose, is carefully planned, and is recorded systematically. The major asset of observation is that an individual's actual behavior is observed. One need not try to predict that behavior from statements by that individual or others. In addition, observation is not dependent upon an interviewee's ability or willingness to articulate responses. The major limitation of this technique, however, is that the observer is never sure that the behavior witnessed is typical of the situation, or whether some of it has been "altered" for the observer. Also, the number of hours of observation time is severely limited by the time constraints of the evaluation. It is for these reasons that observation will not be relied upon to "prove" a point, but will be another source of information used to supplement or interpret information gathered through other techniques discussed. In the evaluation of a defender office, team members will be asked to observe the conduct and activities of the defender during interactions with the court and clients.

Interviews. The interview, in contrast to observation, has the advantage of retrieving a great deal of information in a short period of time. Not only can the evaluator ascertain facts about behavior, but s/he can probe into beliefs about facts, reasons for beliefs, feelings, standards of action, and past behavior. Interviews conducted during the on-site period of a defender evaluation should be flexible and adaptable to the specific situation. The interview formats presented in later sections specify the focal concerns of each interview, and are a guide for the interviewer. Each Team Member should have the leeway to use additional questions deemed appropriate to a particular respondent or situation. To accomplish this, questions -- their content, sequence and wording -- are not fixed. This places a minimum of restraint upon the interviewer, but a maximum amount of pressure to know ahead of time what is being sought from a particular interviewee.

Content Analysis. Content analysis is a method of studying and analyzing communication in a systematic, objective and quantitative manner. Instead of observing people's behavior directly, or asking them to respond to questions in an interview, one looks at "communications" that people have produced or have been produced about them. Newspaper accounts of the criminal justice system are the subjects for such a content analysis. For use in a defender evaluation, the assumption is made that the communications analyzed either: (a) reflect reality, or (b) offer a perception of reality. Both are important for evaluation purposes. A content analysis of newspaper articles will be undertaken by Staff prior to the on-site period, and a summary of findings given to Team Members.

Case Study. The case study is an approach to gathering data which views any unit as a whole. While its application has been consistently utilized in the field of social science, this approach is also relevant for the study of a defender's case file. This technique's major asset lies in making a process understandable which incorporates the interaction of many variables at the same and at

different times. It also allows time to be condensed, so that a full case, from pre-trial to post-conviction, can be reviewed in a relatively short period. On the other hand, this technique suffers from the problem of having its users generalize inappropriately from a few cases to many; that is, its users often make the faulty assumption that the few cases reviewed are representative of most or all cases handled. The case study technique will be used to scrutinize, in detail, a small number of cases handled by a number of defenders.

In addition to the above techniques, factual data will be gathered on the criminal justice system and community which will serve as background information against which other information will be interpreted.

CONCLUDING NOTES

Reliability and Validity

In order to undertake an evaluation, an evaluator must make judgments. These judgments, however, should not depend upon the subjective assessment of any one individual; an evaluation which is reliable means that the evaluation procedure will produce the same results each time it is applied, regardless of who the evaluators are. While the importance of individual expertise can not be minimized, the reliability of this design is increased by stressing the careful selection and orientation of evaluators who have the requisite skills, by establishing a uniform method of exploring issues, interviewing individuals and collecting data, and by providing a standard reporting format.

Judgments should also be based upon what is actually taking place in a defender office; an evaluation which is valid means that the results of the evaluative procedure accurately reflect what exists in reality. The validity of this design is increased by incorporating feedback from Defenders on both the logistical and substantive aspects of the evaluation design, by fostering continual Defender review and critique of any report issued by an evaluation team, by having Team Members reach final decision through a consensus process, and by each Team Member interviewing similar individuals on topics which overlap with other Team Members.

Confidentiality.

The evaluation process is subject to the constraints of confidentiality on two levels. Most fundamental is the recognition that defender clients, who often maintain a justifiable degree of skepticism about the criminal justice system and its components, are entitled to know that their confidences will be protected under the Attorney-Client privilege. While the use of this evaluation design necessarily requires consideration of privileged information in both reviews of case files and discussions with attorneys, no identifying reference to individual cases or clients will be made in the evaluation report.

Superimposed on all working relationships and information gathered during the course of any evaluation is a strict policy of confidentiality which forbids dissemination of any information obtained in connection with the evaluation without the express consent of the Defender Office being evaluated. Any publicity generated during the evaluation process is within the sole control of the local Defender. Evaluation personnel will refrain from any contact with the media.

TABLE 1

GOALS AND OBJECTIVES FOR THE DELIVERY
OF DEFENDER SERVICES

<u>GOAL I:</u>	To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.
Availability/ Immediacy	<u>Objective 1)</u> Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused upon him to be the subject of an investigation, or at the request of someone acting in his/her behalf.
Eligibility	<u>Objective 2)</u> Representation should be provided to any individual who is eligible and desires representation.
Scope	<u>Objective 3)</u> Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.
Duration	<u>Objective 4)</u> Representation should be available until all reasonable avenues of relief are exhausted.
<u>GOAL II:</u>	To insure that the representation of clients is of high quality.
Competence	<u>Objective 1)</u> Representation on behalf of clients should be competent.
Zeal	<u>Objective 2)</u> Representation on behalf of clients should be zealous.
Political Influence	<u>Objective 3)</u> Representation on behalf of clients should remain free from political influence.
Judicial Control	<u>Objective 4)</u> Representation on behalf of clients should remain free from improper judicial control.
Discrimination	<u>Objective 5)</u> Representation should not be affected by racial, cultural, religious or sexual characteristics of clients.
<u>GOAL III:</u>	To assist in the exposition and improvement of the adversary process within the criminal justice system.
Community Education	<u>Objective 1)</u> Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel.
System Improvement	<u>Objective 2)</u> Defenders should seek to improve the criminal justice system and other components therein.

TABLE 2

CRITERIA FOR COMPLIANCE

GOAL I
OBJECTIVE 1: Early representation should be available to potential clients. (Availability/Immediacy)

CRITERIA FOR COMPLIANCE

1. Representation is available to the potential client at time of arrest.
2. Representation is available to the potential client when s/he feels him/herself to be the subject of an investigation.
3. Representation is available to the potential client at the request of someone acting in his/her behalf.
4. Representation is available to the potential client at the time interrogation takes place.
5. Representation is available to the potential client when any line-up is held.

GOAL I
OBJECTIVE 2: Representation should be provided to any individual who is eligible and desires representation. (Eligibility)

CRITERIA FOR COMPLIANCE

1. Counsel is provided to any person who is financially unable to obtain representation without substantial hardship to self or family.
2. The ability of any person to post bond is irrelevant to the eligibility decision.
3. The definition of indigency is applied fairly and equitably to each potential client.
4. A preliminary assessment of eligibility is made upon initial contact with a potential client.
5. Routine procedures are utilized for dealing with cases of partial eligibility.

6. An individual deemed ineligible for representation is aided in obtaining competent private counsel.
7. Routine redress procedures are utilized for the individual who desires representation but is deemed ineligible.
8. Routine procedures are followed when an individual given representation is later proven to have been ineligible.

GOAL I

OBJECTIVE 3: Representation should be available throughout all criminal and related procedures at which an individual is faced with the possible deprivation of liberty or continued detention. (Scope)

CRITERIA FOR COMPLIANCE

1. Representation is available for all proceedings at which any individual charged with a misdemeanor offense faces possible incarceration.
2. Representation is available for all proceedings at which any individual is charged with a felony offense.
3. Representation is available for all juvenile court proceedings which might deprive the individual of liberty.
4. Representation is available for all mental health proceedings which might deprive the individual of liberty.
5. Representation is available for disciplinary proceedings against the confined client.
6. Representation is available for institutional grievances of the confined client.
7. Representation is available for administrative proceedings involving parole (i.e. hearings and revocations).
8. Representation is available for extradition proceedings.
9. Representation is available for formal proceedings involving diversion.
10. Representation is available for probation revocation proceedings.
11. Representation is available for civil and criminal contempt proceedings.

GOAL I

OBJECTIVE 4: Representation should be available until all reasonable avenues of relief are exhausted. (Duration)

CRITERIA FOR COMPLIANCE

1. Appellate recourse from adverse dispositions is available.
2. The appellate defender or division is independent of trial counsel.
3. Reasonable avenues of relief from adverse decisions involving parole are exhausted.
4. Reasonable avenues of relief from adverse decisions involving diversion are exhausted.
5. Reasonable avenues of relief from adverse determinations involving probation are exhausted.
6. Reasonable avenues of relief from disciplinary determinations are exhausted.
7. Reasonable avenues of relief from contempt proceedings are exhausted.

GOAL II

OBJECTIVE 1: Representation on behalf of clients should be competent. (Competence)

CRITERIA FOR COMPLIANCE

1. Entry-level orientation/training is provided for all staff to help them acquire/develop job skills.
2. Continued legal training is provided attorneys and support staff to keep them abreast of developments in criminal law, procedures, tactics.
3. Recruitment, selection, promotion and retention are based upon merit and performance.
4. Sufficient resources exist for good defense work.
5. Outside expert and support services are used to provide an effective defense.

6. Appropriate defender personnel assist attorneys in performing tasks not requiring attorney credentials or experience.
7. Case preparation and management reflects a competent defense.
8. Defenders are able to limit their workload if the assumption of additional cases might result in inadequate representation for some or all of that attorney's clients.
9. Each experienced defender has general responsibility and authority for services provided to his/her client.
10. Representation is comparable to that provided by a skilled and knowledgeable lawyer competent in the practice of criminal law.

GOAL II
OBJECTIVE 2: Representation on behalf of clients should be zealous. (Zeal)

CRITERIA FOR COMPLIANCE

1. The defender/client relationship should supercede the defender's obligation to the court.
2. Defender performance should encourage client confidence.
3. Non-legal needs/problems of clients are worked with during representation.
4. Client complaints are expeditiously processed and resolved.
5. Diversion alternatives are sought when advantageous to clients.
6. Charging alternatives are sought when advantageous to clients.
7. Sentencing alternatives are sought when advantageous to clients.
8. Vigorous advocacy of legal defenses and options occurs during the trial period.
9. Adverse discretionary decisions are challenged when detrimental to clients.

GOAL II
OBJECTIVE 3: Representation on behalf of clients should remain free from political influence. (Political Influence)

CRITERIA FOR COMPLIANCE

1. Recruitment and selection of chief defender is based on merit (i.e. demonstrated legal and administrative ability).
2. Staff recruitment and selection is made independent of political influence/interests.
3. Staff retention and promotion are independent of political influence/interest.
4. Case assignment is not influenced by external political pressures.
5. The attorney/client relationship is terminated only for good cause.
6. Defender office operational decisions are made independent of political considerations.
7. Continuity and stability of defender services are reasonably insulated from political change in the community.

GOAL II
OBJECTIVE 4: Representation on behalf of clients should remain free from improper judicial control (Judicial Control)

CRITERIA FOR COMPLIANCE

1. Recruitment and selection of the chief defender is based on merit (i.e. demonstrated legal and administrative ability).
2. Staff recruitment and selection is made independent of judicial influence/interests.
3. Staff retention and promotion are independent of judicial influence/interests.
4. Case assignment is not subject to judicial control.
5. The attorney/client relationship is terminated only for good cause.

6. Defender office operational decisions are made independent of judicial control.
7. Continuity and stability of defender services are reasonably insulated from judicial change in the community.

GOAL II

OBJECTIVE 5: Representation should not be affected by racial, cultural, religious or sexual characteristics of clients. (Discrimination)

CRITERIA FOR COMPLIANCE

1. Representation is not affected by racial characteristics of clients.
2. Representation is not affected by cultural characteristics of clients.
3. Representation is not affected by religious characteristics of clients.
4. Representation is not affected by sexual characteristics of clients.

GOAL III

OBJECTIVE 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel. (Community Education)

CRITERIA FOR COMPLIANCE

1. Defender staff participate in activities which contribute to community awareness of the workings of the legal system.
2. Information which increases community awareness is disseminated by the defender office.
3. Defender information intended for community use is in the appropriate language and style.
4. Defender office is responsive to requests from community groups.
5. Defender office maintains relations with social service organizations to promote mutual understanding.

GOAL III

OBJECTIVE 2: Defenders should seek to improve the criminal justice system and other components therein. (System Improvement)

CRITERIA FOR COMPLIANCE

1. Defenders are aware of the performance of criminal justice system components in discharging their duties properly.
2. Defenders undertake activities which promote the proper performance of their own role in the criminal justice system.
3. Defenders undertake activities which promote the proper performance of other participants in the criminal justice system.
4. Defenders undertake activities which promote proper institutional performance.
5. Defenders participate in professional programs/associations/committees with other representatives of the criminal justice system.

Part II: Preliminary Evaluation Period

INTRODUCTION

To a large extent, the success of an evaluation endeavor depends upon the amount and type of preliminary planning which takes place before an evaluation team arrives on-site at a defender office. What is the focus of the evaluation? Who should comprise the evaluation team? What information about the defender office and surrounding community should be known to the Evaluator prior to the team's visit? What should be done to alleviate apprehensions on the part of both the Evaluator and Defender? These and other questions should be answered in the course of the preliminary evaluation period. This period serves constructive and useful purposes for both Evaluator and Defender, and should be viewed as an activity, which, while providing necessary information to the evaluation team, begins a process in which the Defender plays a vital and ongoing role.

The following sections highlight the early activities which prepare the stage for the on-site evaluation. They are organized chronologically, in terms of activities which should take place prior to the on-site evaluation.

PROCESSING THE EVALUATION REQUEST

The evaluation process begins when a request for an evaluation is received by Staff. Whether the request has been made formally or informally, a telephone call is placed by Staff to the Requesting Agent to explore the request and discuss the precipitating circumstances.

Confirming the Request

This first telephone call is particularly important. The reasons behind the request for an evaluation of a defender office should be articulated. The potential consequences of an evaluation for the Defender, the criminal justice community, and general community should be discussed and anticipated. The capabilities and limitations of the evaluation should be established. For example, a discussion between Staff and Requesting Agent may establish that an evaluation is not the most appropriate action to resolve the problems presented; a feasibility study may be in order. This discussion might establish that the type of evaluation being requested is not within the evaluation's capabilities. Although the Handbooks for the evaluation of defender offices retain flexibility, they cannot hope to cover the full range of problems which may exist.

If, however, the needs of the Requesting Agent and the capabilities of Staff mesh, the Requesting Agent is mailed materials and forms which facilitate a formal request for an evaluation (Appendix B, Formal Request Letter, Application and Materials).

The issue of funds needed to undertake an evaluation should be broached during the first telephone call. The availability of funds is one factor which will determine the extensiveness of the evaluative endeavor. Thus, methods of potential funding should be discussed (e.g., L.E.A.A. local, state and regional funds). Alternative ways of approaching the evaluation should be discussed, as well as accompanying cost estimates (Appendix C, Evaluation Cost Estimate). For example, an extensive defender case file and court docket study can add over \$3,000 to the cost of an evaluation.

Staff should apprise the Requesting Agent of the turn-around time needed to complete an evaluation, from receipt of a formal request for an evaluation until the final evaluation report is critiqued by the Defender. The Requesting Agent should also be aware of the amount of time the evaluation team will spend on-site, and the amount of time the Defender (and his/her Staff) must make available to the Team Members.

Following this telephone conversation, a formal request form and information on approximating the cost/time of an evaluation should be mailed to the Requesting Authority.

The above discussion assumes that the Requesting Agent and Defender are the same party. When the Requesting Agent and Defender are not the same party, it is the responsibility of the former to approach the latter and secure his/her cooperation. There are many circumstances under which a Requesting Agent has the authority and/or legal mandate to undertake an evaluation of a Defender Office. This Agent, however, should be apprised of the fact that the reliability and validity of an evaluation done without the Defender's cooperation may be decreased. Without reasonable Defender Office cooperation the evaluation should not be conducted. Staff will know that cooperation has been secured by the receipt of a telephone call from the Defender which acknowledges his/her cooperation, discusses the items previously discussed with the Requesting Agent, and culminates in forwarding to the Defender the same materials previously mailed to the Requesting Agent. Only the Requesting Agent need complete a formal request for the evaluation. Staff, Requesting Agent and Defender must then decide the respective roles the latter two will play in authorizing and financing the evaluation.

A number of telephone calls and letters may need to be exchanged between the Staff and Requesting Agent/Defender Office to determine the appropriateness of the evaluation, its most probable focus, and the time and cost factors involved. Staff should stress that all appropriate local area, state and regional planning and authorizing commissions be advised by the Requesting Agent of the anticipated evaluation, and that Staff be copied in to each communication.

This entire procedure can take from one week to several months, depending upon who the Requesting Agent is, the organizational and governmental channels which must begin to flow, and the consensus which can be reached among the Agent, Defender and Staff on needs, finances, and time commitments. However, prior to the pre-evaluation

site visit, Staff and Requesting Agent/Defender should have agreed, in writing, to the parameters of the evaluation, including tentative alternative dates for the preliminary site visit and on-site evaluation. This letter should be drawn up by Staff (Appendix D, Letter of Evaluation Intent). The Defender should also agree to assume responsibility for gathering information requested by the evaluation group and making him/herself and staff available to the team throughout the on-site evaluation period.

To summarize this early period, the following information should be exchanged:

1. Reason(s) for the evaluation request;
2. Appropriateness of an evaluation for the desired outcome;
3. Potential consequences of the evaluation for defender, criminal justice system and community;
4. Cost of the evaluation and securing funding;
5. Defender cooperation (if requesting agent if not defender office);
6. Needed notification of local, state and regional criminal justice planning agencies; and,
7. Time needed for evaluation and tentative dates.

Pre-Evaluation Profile Materials

It is essential that prior to the preliminary evaluation site visit the Staff and Team Captain have specific background information on the defender office, the criminal justice system and local community. This pre-evaluation profile serves both Evaluator and Defender purposes.

EVALUATOR PURPOSES

1. A method of organizing objective, relevant information in summary form.
2. A method of providing evaluators, in advance of the site visit, with a common core of background information from which to start the evaluation.
3. An efficiency mechanism which saves on-site time by gathering readily available information and pointing out potential areas of concern to be focused upon during the evaluation.
4. Information which provides the evaluators with a basis for thinking about the site, and their own role in the evaluation.

SITE PURPOSES

1. A method of encouraging self-analysis and a rethinking of site goals, strategies, and accomplishments.
2. A method of sharing, with a source independent of the community, some of the office's concerns.
3. A process which enables a site to become a partner in the evaluation venture from the start.
4. Information which provides the site with a basis upon which to question the evaluator about the relevance and usefulness of his/her approach and materials.

5. Information which places a site in a political, historical, judicial, administrative, economic and community context, essential for appropriate interpretation of evaluation findings and recommendations.

To accomplish these purposes, a cover letter and set of forms (Appendix E, Letter to Site and Pre-Evaluation Profile (PEP) Forms), are mailed by Staff to Defender, requesting completion of the forms prior to the preliminary site visit by the Team Captain. The completed forms are to be returned to Staff, and form the basis of discussion during the preliminary evaluation site visit. A period of three weeks should be allowed between mailing the PEP forms to the Defender Office and the pre-evaluation site visit of the Team Captain and Staff.

Much of the information contained on the PEP forms will be validated by the evaluation team during the course of the evaluation.

SELECTING AN EVALUATION TEAM

The selection of evaluation Team Members and Captain is of particular importance to a successful and credible evaluation--successful and credible in both the Defender and evaluation worlds. It is important to consider the degree of "expertise" which every member of the team brings to the evaluator role. Ability to carry out necessary evaluation tasks depends upon a number of variables: the amount of previous experience had with the tasks at hand; personal attributes; the capacity to set personal convictions aside in favor of a group fact-finding process. Each must be considered in the selection of every Team Member.

General Aspects Composition

The composition and size of an evaluation team varies according to the size of office and scope of services performed, as well as the nature and extensiveness of the evaluation requested. A full evaluation of a 15-attorney office, for example, including a management analysis and case file/docket studies, requires a five-person team (including Captain) for one week on-site, plus one Staff member.

Three general points should be stressed in "constructing" a team. First, all members of a team should have excellent interpersonal skills. An evaluation is likely, under the best of circumstances, to strain the relationship between evaluation team and Defender. The fact that the primary function of the evaluation is to determine whether the Defender is providing quality legal representation poses a threat to the Defender and creates apprehension on

the part of the Evaluator. Given this situation, it may be the interpersonal skills of Team Members which determine the ease with which the site visits are carried out and the inclination of the Defender to accept the Evaluator's conclusions. Second, each team should be captained by an individual expert in defender services. This attorney should either be, or have familiarity with, the work of public defenders. This contributes immeasurably to the credibility of the evaluation and its final recommendations. Such individuals are also essential for assessing legal competence. Third, a full evaluation should take an interdisciplinary approach. Although attorneys are essential members of any evaluation team, the differing perspectives which can be brought to the evaluation by management and systems analysis, social service workers and non-professionals, and which in many cases are needed to complement legal skills, guarantee a healthy diversity of outlook.

There are advantages and disadvantages to selecting Team Members who have had prior experience as evaluators. The advantages lie with precisely what experience brings: ease of operations and the experiential base with which to assess new situations. In contrast, experience sometimes brings with it predetermined ideas which have been formed in prior evaluations, causing laxity in following the evaluation plan. It is suggested, therefore, that a mix of former and novice Team Members be sought for each evaluation with the Team Captain, whenever possible, having experience as a former evaluator.

It is particularly important for the team to work well together. Mutual respect is required, and professional conduct is expected at all times. Both the Team Captain and Staff should have veto power over members selected for each team.

Skills Required

The evaluation design covers a variety of issues, tasks and objectives which themselves define the evaluation skills required to implement it. Rather than specifying the "musts" for any single evaluation, the following suggests the types of skills needed for most evaluations.

Legal skills. For purposes of credibility and rapport with the criminal justice community, and in light of the need to assess legal competence, presently or recently practicing criminal defense attorneys should be utilized as Team Members. The Team Captain should be an individual with a Defender background and a reputation for quality legal representation.

Management skills. One aspect of the evaluation is to analyze management activities within the defender office, and the role they play in assuring efficient and effective representation. This calls for both management skills and a knowledge of the criminal justice system. An office manager or management analyst with expertise in the criminal justice system in general, or criminal law offices in particular, is as likely a candidate for this position as is the criminal defense attorney with a reputation for sound management in his/her own office.

Community skills. The relationship between the Defender and his/her clients, the groups and agencies s/he works with, and the community-at-large can be assessed by a variety of individuals with "community" skills, from investigators, to probation officers, to former clients, to individuals active in community affairs. This Team Member should have a knowledge of the functional aspects of the Defender's work and operations, yet be able to communicate as a non-attorney with the client and citizen community.

Administrative/Training skills. The complexities of the evaluation endeavor necessitate the assistance of an individual with administrative capabilities. While not a Team Member, this individual, called Staff, works directly with the Team Captain and Team Members to ensure that the logistics of the evaluation work smoothly. S/he would also train Team Members in the use of the evaluation Handbooks. If a Staff position is not funded for the evaluation, the Team Captain should be prepared to accept Staff responsibilities.

Roles Performed

Team Captain. Ultimate responsibility for the evaluation resides in the Team Captain, assisted in his/her administrative duties by Staff. The Captain is responsible for:

1. Communicating with the Defender to inform him/her of his/her acceptance of the position of Team Captain;
2. Deciding, with Staff, the choice of Team Members;
3. Reviewing the questions to be analyzed in the statistical analyses of the defender case files and court docket;
4. Conducting a preliminary site visit to gather information which the Defender has prepared and to gain familiarity with the office to be evaluated;
5. Reviewing assignments and schedules of each Team Member's duties in the field, at the start of the site evaluation, and discussing the summary information on the defender office, criminal justice and general community with Team Members;
6. Overseeing the on-site evaluation, including the opening presentation to the Defender, the daily debriefing sessions to review the day's activities, the last interview with the Defender, and the consensus to be reached by Team Members on the substance of the final report; and,
7. Preparing the final report, from writing introductory statements and editing a first draft prepared by Team Members, through final revisions and editorial work.

It is the Team Captain's responsibility to ensure that the information gathered by the evaluation team is of sufficient quality and quantity. Reservations about use of the evaluation design, the conduct of Team Members, or the information gathered should be discussed with Staff. It is essential that the Team Captain be

able to devote the time necessary for the evaluation and report preparation.

Team Members. Each Team Member plays a different role in the evaluation design, the role being assigned by the Team Captain after a consideration of a Member's unique set of skills. A Team Member is responsible for:

1. Reviewing preliminary materials sent to him/her by Staff, prior to the evaluation;
2. Participating in on-site Team Training immediately prior to the evaluation;
3. Taking responsibility for the evaluation of specific objectives;
4. Following his/her on-site daily schedule;
5. Taking part in daily Team Member debriefings to review the day's experiences and exchange ideas;
6. Remaining on-site after the visit is concluded to outline a report of his/her assigned evaluation area, and to formulate the final suggestions and recommendations;
7. Writing a draft report on the objectives for which he/she is responsible.
8. Critiquing the complete draft report mailed to each Team Member, suggesting changes in format and substance, where appropriate.

It is each Team Member's responsibility to inform the Captain of suggestions intended to strengthen the team's performance in the field. It is also his/her responsibility to remain on-site throughout the evaluation period.

Staff. A variety of administrative/training tasks are needed to carry out the evaluation, duties which a Staff person can remove from the Captain's responsibility. Staff is responsible for:

1. Discussing and formalizing evaluation plans with the Defender/Requesting Agent;
2. Developing a pool of potential Team Members;
3. Selecting the Team Captain, and working with him/her to select Team Members; distributing Team Members resumes to each Team Member;
4. Being the communication link between the Defender, Team Captain, and Team Members;

5. Mailing evaluation Handbooks and materials to Team Members;
6. Accompanying the Team Captain on the preliminary site visit, and handling related administrative matters;
7. Exploring and formalizing subcontracting procedures for the case file/docket studies; taking primary responsibility for summarizing the information for use by the team (see Handbook II);
8. Undertaking a content analysis of newspaper articles and distributing it to Team Members;
9. Summarizing Pre-Evaluation Profile forms and other materials for Team Handbooks;
10. Mailing appropriate materials to the Defender, Team Captain, and Team Members;
11. Scheduling interviews for the on-site evaluation period;
12. Handling administrative matters which arise prior to the evaluation (e.g., evaluation instrument, cash advances, tickets for travel, lodging information, materials) and during the evaluation (e.g., typing needs);
13. Conducting the Team Training at the start of the on-site evaluation; and
14. Ensuring the typing and distribution of draft copies of the Final Report and submitting the Final Report to the appropriate individuals.

It should be emphasized that the successful implementation of the best of evaluation designs depends on its users. Each Team Member's role is dependent on that of every other Team Member, and each must realize that s/he is part of a team effort.

Evaluator Pool

Staff should develop a pool of potential evaluators in each skill category who have expressed a desire to participate as a Member/Captain of an evaluation team. Names of individuals for this pool can be developed in many ways, ranging from discussions with former evaluators to contacting individuals whose writings are relevant. The individuals who comprise this pool should span the nation, so that any evaluation undertaken is as economical (in terms of travel funds and time) as possible.

As a potential evaluator is identified, a telephone call should be placed to the individual which (a) explains the nature of the evaluation effort, and (b) inquires about his/her field of expertise,

evaluation experience, interest in the undertaking, and availability. A letter which formalizes the potential arrangement should be mailed to the individual, accompanied by a request for the completion of a Resume Form and a Consultant Agreement Form (Appendix F).

An individual who is being considered as a member of a specific evaluation team must be screened to avoid the following:

1. Desire to use the evaluation period as a vacation;
2. Poor performance on prior evaluations;
3. Desire to use the evaluation as a tool to confirm pre-existing judgments about a particular office or defender;
4. Desire to participate in a specific evaluation because of friends in the office in question;
5. Plans to use the evaluation to achieve political ends; and,
6. Inability to use the Handbooks to guide the evaluation, imposing personal opinions and experiences on the Defender Office.
7. Inability to express him/herself well in writing.

This screening can be done during the course of telephone conversations with the individual who desires to be a potential evaluator, as well as through discussions with peers.

As an individual performs as an evaluator, a notation should be made in a file concerning his/her performance during the on-site visit and quality of contribution to the Final Report. Such comments should remain confidential but be used in future decisions on team choices.

Team Selection

Composition and Size

Selection of specific individuals to perform the roles of Team Member and Captain should be accomplished with the following considerations in mind:

1. The Defender Office to be evaluated, in terms of its staff size, scope of services, and number/location of courts before which defenders appear;
2. The scope of the desired evaluation, in terms of the number of Goals on which compliance is to be ascertained, and the request for a management analysis and/or case file/docket studies; and,

3. Background of potential evaluators, in terms of their prior evaluator experience, professional training, personal qualifications, and prior familiarity with individuals at the defender office to be evaluated.

The number of variations in any one of the factors above is so great that one fixed formula for team composition and size is difficult to specify. In addition, practical considerations are very relevant when selecting Team Members/Captain.

With these caveats in mind, Table 3 can serve to guide the selection of Team Members. The distinction between the small and medium sized defender offices, (which together comprise about 90% of all defender offices in the nation) is made for organizational purposes. The table excludes mention of Staff, the individual(s) who will be administratively directing the course of the evaluation. It assumes, however, that a full evaluation is being conducted, and that 3-4 days is the amount of time spent on-site in the actual evaluation of a small office; 4-5 days in the medium sized office. The full on-site visit, it should be remembered, which includes team training and report outlining, covers 5-6 days for the small office, 6-7 days for the medium office.

TABLE 3

TEAM MEMBER SELECTION

<u>Staff Selection Decisions</u>	<u>Office Size</u>	
<u>Size</u>	<u>Small (1-5 attorneys)</u>	<u>Medium (5-25 attorneys)</u>
	4 members, including Team Captain	5 members, including Team Captain
Professional Skills	2 legal, 1 management, 1 community	3 legal, 1 management, 1 community
Evaluation Experience	Captain has previously served as Team Captain or member	Captain has previously served as Team Captain or member. One additional Team Member with prior evaluation experience.
Personal Background	One member with relevant characteristics for rapport with prevalent minority in community.	One member with relevant characteristics for rapport with prevalent minority in community.

Selection Procedures

Team Captain. After an evaluation site has been selected and tentative evaluation dates established, Staff should choose a Team Captain from its evaluation pool. A telephone call to a potential Captain should outline:

1. The role played by the Team Captain and role played by Staff;
2. The time and writing commitment involved;
3. The name of the site to be evaluated and parameters of the evaluation;
4. The tentative evaluation dates; and
5. Names of potential Team Members.

Upon acceptance of the role and responsibilities of Team Captain, Staff mails a letter to the Team Captain which reiterates the major points made during the telephone conversation and confirms the appointment as Team Captain (Appendix G).

Staff should offer to send a letter of introduction from the Team Captain to the Defender Office, to open channels of communication (Appendix H). If the Team Captain prefers to write and mail it him/herself, Staff should receive a copy.

One copy of Handbooks I through IV are then mailed to the Team Captain under separate cover.

Team Members. While the Team Captain may suggest names for Staff to investigate, both must have veto authority over any specific individual proposed. Staff must be satisfied that a Team Member is deemed competent for the task required; the Team Captain must feel able to work well with each Team Member.

Telephone contact should be made by Staff with each agreed-upon potential Team Member, and appropriate letters, information, and a Team Member Handbook mailed to each (Appendix I and Team Handbooks sections of this volume). Team Members should be advised of their role in the evaluation and the future course of events.

It cannot be overemphasized that the Chief Defender at the office to be evaluated has no voice in the selection or veto of any Team Captain or Team Member, unless under exceptional circumstances and with strong cause.

The selection of both Team Captain and Team Members should be made with considerations of economy of time and money in mind.

Arranging for the Statistical Studies

Once the request for an evaluation has been processed, and the Team Captain selected, Staff has the responsibility for selecting and contracting with a university or consulting firm to undertake the data gathering, coding, key punching, and programming for the statistical analyses of defender case files and the court docket. (See Handbook II for further details). The statistical information generated through these studies becomes one source of evaluative information to be used in conjunction with the other information gathered. At the time of the preliminary evaluation site visit, contract negotiations should be finalized.

Arranging for the Media Analysis

A content analysis of articles about the criminal justice system and defender which have appeared in the local paper of the jurisdiction within the previous year, should be completed prior to the on-site evaluation.

Initial mail contact with the local newspaper should be made at least one month in advance of the evaluation team's site visit. Correspondence should be addressed to the newspaper librarian, with proper identification of the sponsoring agency for the evaluation. Dates of articles about the public defender office in particular or articles about the criminal justice system which relate to the office should be requested (Appendix J). The newspaper's librarian should be contacted by telephone approximately one week after receiving the letter to determine the amount of time the research will require. If the public defender's office has been particularly newsworthy, request dates of articles might cover only the past six months.

If the library demonstrates an unwillingness to cooperate, ask the City Editor of the newspaper for assistance.

The main branch of the jurisdiction's public library (either city or county) should have copies of local newspapers on file or on microfilm. If the newspaper is able to supply dates of relevant articles, a telephone call to the reference librarian of the public library can ascertain the existence of the newspaper file and how to undertake an analysis of the file.

If dates of pertinent articles are unavailable, inquire about the library's local clippings files. These clippings will not necessarily be kept under the heading of "Public Defender;" file headings will vary according to individual libraries. You may inquire about the existence of an index for their clippings files.

If no clippings file is available, it will be necessary for Staff to leaf through individual back issues of the local paper during the preliminary site visit.

This visit to the newspaper or library may be precluded if Staff, in making the preliminary arrangements, finds that the paper or library is willing to select, copy, and forward clippings to Staff (Appendix K, Analysis of Newspaper Articles).

Undertaking the Pre-Evaluation Site Visit

The pre-evaluation site visit to the Defender Office by the Team Captain and Staff, weeks prior to the on-site evaluation by the full team, is the occasion during which face-to-face dialogue is opened. The visit should take place after Staff has received the completed PEP forms and mailed one copy to the Team Captain. This visit affords time to discuss the completed PEP forms with the Defender and to resolve questions that both parties have concerning the process and outcome of the forthcoming evaluation.

During the visit, plans for the on-site evaluation are reviewed and the mechanics of the evaluation worked out. It is basically a time for the evaluation Team Captain to become sensitive to the site and community, so that the evaluation itself can be efficiently and effectively carried out in the limited amount of time available.

It is also a time during which Team Captain and Defender expectations for the evaluation are shared, and the roles to be played by all parties are clarified.

During this visit, Staff takes special note of the key individuals and agencies which should be visited at length during the on-site evaluation, and those with whom cursory contact should be made. Staff must ensure that all of the PEP forms and requested information are completed before the visit so that the logistics of scheduling the on-site evaluation can be settled via the telephone. Personal contact is also made at this time by Staff with the individuals or group which will be assuming responsibility for the case file and/or docket studies. A review of the manner in which case numbering and filing is done by both the defender office and court should result in specific directions to those handling the statistical analyses.

The following activities are the responsibility of Staff and Team Captain during the preliminary evaluation site visit:

STAFF

- Discuss possible calendar of on-site appointments with Defender, Defender staff and others
- Pinpoint key individuals and alternates for interview purposes

TEAM CAPTAIN

- Establish rapport with Defender
- Review PEP forms in detail with Defender

STAFF

- Contact Clerk of Court re: expected statistical study
- Review indexing and file structure in defender office and court docket(s) before meeting with statistical subcontractor
- Meet with subcontractor to discuss the case/file docket statistical analyses
- Gather maps (city and county) for distribution to Team Members
- Obtain copies of Defender contract, state statutes and/or local jurisdictional rules which pertain to Defender operations for Team Members
- Ascertain location of copier facilities
- Obtain signature of Defender on form letter of introduction for Team Captain and Team Members to potential interviewees (Appendix L)
- Request memo to Staff regarding impending evaluation (Appendix M)

Staff may be required to remain an extra day on-site to finalize negotiations for the statistical analyses and to complete the content analysis of the newspaper articles.

Planning for the On-Site Visit

Thorough planning during the period following the pre-evaluation site visit, but prior to the on-site evaluation, is an essential aspect of the evaluation design. It is a time during which a great amount of work falls to Staff to finalize logistical arrangements for the one-site evaluation as well as to analyze and distribute the data gathered. The major purposes of these activities are to enable the on-site evaluation to function smoothly, and to enable

TEAM CAPTAIN

- Establish contact with local jail to arrange interviews with clients during the on-site evaluation
- Request guided tour of office facilities and introductions to personnel
- Discuss method of contracting non-incarcerated former clients
- Discuss community (e.g. politics, attitudes toward law enforcement), criminal justice system of jurisdiction (e.g. structure, problems, strengths) and Defender Office (e.g. history, concerns)

the evaluation team to absorb a great deal of information about the office to be evaluated and the evaluation procedure itself, prior to its arrival on-site.

Staff, in consultation with the Team Captain, is responsible for supervising all administrative arrangements, and planning and formalizing all logistical procedures needed to bring the team to the site and perform the evaluation. This period should take approximately four to six weeks.

Scheduling Interviews

Scheduling interviews for the on-site evaluation is a difficult undertaking. It involves Staff familiarity with the evaluation design, the help of the Chief Defender in scheduling appointments with individuals in his/her office, and the pinpointing of key individuals so that Staff can arrange for on-site interviews from home base with criminal justice personnel, clients, and community members.

Scheduling during Pre-Evaluation Site Visit: Defender Office Personnel. Arrangements for Defender Office interviews should be done during the pre-evaluation site visit. This consists of Staff giving the Chief Defender: (a) a blank weekly calendar of the on-site evaluation period; and (b) a list of individuals on his/her staff with whom appointments are requested. Blocks of time should be reserved by the Defender for interviews with office personnel.

Although the actual scheduling of interviews within the specified time will not be accomplished during the pre-site visit, the blocked out time on the weekly calendar will allow Staff to schedule non-defender interviews from home base, with the knowledge that the Chief Defender will take responsibility for scheduling interviews with his office personnel. The Defender Office interview schedule must be received by Staff no later than one week prior to the on-site visit, to allow for the time needed to construct the Master Weekly Calendar for each Team Member.

It is impossible to specify exactly which individuals should be interviewed during any given evaluation. Numbers of interviewees and their respective positions must be meshed with the goals of the evaluation and the size/scope of work of the Defender Office visited. The following guidelines for interviews within the Defender Office should be adapted to individual circumstances:

<u>Office Personnel</u>	<u>Number</u>	<u>Time Needed</u>
Chief Defender	All	As needed
Deputy Director	All	As needed
Administrative Officer	All	As needed
Supervisors	All	1 1/2 hour periods
Staff Attorneys	75% or more	1 hour periods
Office Staff (law students, para-professionals, investigators, social workers, volunteers)	50% or more in each category	1/2 hour periods
Clerical	50%	As needed

It is difficult to judge the exact time needed for any particular interview or the exact number of interviewees needed. The following changes may be made once the evaluation begins:

1. The Chief Defender (together with his deputy) is interviewed at the start and conclusion of the evaluation and is generally available throughout the course of the evaluation for additional information;
2. Time is available following interviews with staff attorneys to observe them at work (e.g. in court, during client interviews in jail) and review the case files (one and one-half hour periods are set aside per interview);
3. Defender Office appointments are scheduled for the early part of the week, preferably the first and second days on-site;
4. The Team Captain and Chief Defender jointly determine the minimal number of interviewees in the Defender Office;
5. If the Chief Defender is also the Office Administrator, the legal and management Team Members interview him/her simultaneously for economy of time;
6. The appointment with the Office Administrator (with the management analyst Team Member) is scheduled for the first day of the evaluation.

The Team Captain should request that the Chief Defender send a memo to all office personnel, indicating the nature and dates of the impending evaluation and instructing staff to be cordial with the Team Members (Appendix M).

Scheduling after the Pre-Evaluation Visit: Community/Criminal Justice Personnel. Based upon the information gathered during the pre-evaluation visit, and the needs of the evaluation design, Staff

will arrange interviews with representatives of the criminal justice system, clients and community organizations. The scheduling for these interviews will be worked around the time blocks set aside for interviews with the Defender Office personnel and court observation periods.

Staff will routinely send a letter to each potential interviewee over the signature of the Chief Defender. This letter explains the purpose and format of the evaluation, and indicates that the addressee may be contacted for an interview or to suggest appropriate interviewees in his/her office. The letter stresses that interviews are sought with individuals who are or would like to be in regular contact with the defenders and their clients (Appendix I).

Telephone calls placed to each potential interviewee should follow the format below:

- (a) Introduce self and purpose of the telephone call
- (b) Explain evaluation purpose
- (c) Verify relationship to defender
- (d) Indicate time required for the interview
- (e) Set up appointment time and place.

The call should be followed by a formal letter from Staff which reiterates the telephone conversation and confirms the appointment (Appendix N).

It is impossible to specify the exact number and job positions of individuals who should be interviewed during any given evaluation. In one community a defender might appear in only two courts, before four judges; in another community he/she might appear in six courts, with a rotating group of twenty-four judges.

The most general guidelines for the selection of interviewees at any site is that the range of individuals with whom a defender is or should be in contact with should be included in the sample. Individuals who play a particularly significant role in defender activities in the specific community should receive concentrated attention. In an evaluation of a small office, 20-25 interviews can be managed by the evaluation team, in addition to discussions with the defenders themselves; in an evaluation of a medium-sized office the number falls between 50-60. These numbers allow for time needed for courtroom and/or jail observation. It is very important that the individuals selected as interviewees do, in fact, have knowledge about and/or work closely with the defender. This should be cleared via telephone before an appointment is scheduled. The following table outlines the range of individuals who should be considered for interviews (Table 4):

TABLE 4 Potential Interviewees for the On-Site Evaluation	
<u>Advisory Board</u> Chairman Board Members	<u>Number/Title</u> Representing different constituencies
<u>Private Attorneys</u>	Two or more
<u>Former Defenders</u>	Two or more
<u>Judges</u>	Representative sample of those before whom defenders most frequently appear
<u>Clients</u>	Former clients (incl. prisoners) Current clients (incl. those in jail)
<u>Prosecutor</u>	Chief Prosecutor (or Chief Assistant) Assistant Prosecuting Attorneys (two or more)
<u>Police</u>	Chief of Police (or Chief Assistant) Booking Officer Detective
<u>Jail Personnel</u>	Superintendent (Warden) Guard Rehabilitation Worker Chaplain Intake Officer
<u>Court Personnel</u> (in three busiest courts frequented by defender)	Bailiff Clerk of Court Assignments Clerk or Court Administrator
<u>Local Criminal Justice Planning Body</u>	Chairman (courtesy telephone call) Staff Member - Court specialist
<u>Bar Association</u>	Chairman (or Deputy) (courtesy telephone call) Member, committee relevant to defender services Head, minority Bar group(s)
<u>Community Organizations</u> (sample of concerned groups, e.g. ACLU, NAACP)	Director(s) Staff in small group meetings
<u>Prison Personnel</u>	Warden (courtesy telephone call) Guard Chaplain Counselor
<u>Parole</u>	Chairman, Parole Board (courtesy telephone call) Parole Officer (one or more)
<u>Probation</u>	Head, Probation Office Probation Officer (two or more)
<u>Appeals Attorneys</u>	Chief Staff Attorney (one or more)
<u>Community-Oriented Programs</u> (sample of relevant groups, e.g. Diversion, Supported Release, Half-way House, Offender Assistance Programs)	Director(s) Staff in small group meetings
<u>Funding Agency</u> (e.g., County Board, State Defender)	Chairman (courtesy telephone call) Staff member - court specialist
<u>LEAA</u>	Regional court planner (courtesy telephone call) State court planner (courtesy telephone call)

Constructing a Master On-Site Schedule

The following points should be kept in mind when constructing a master schedule for the evaluation of both the small and medium sized Defender Office:

1. Sunday is a convenient day to start the on-site evaluation; team training should be scheduled at this time;
2. The first day's appointments concludes early to allow for a potentially lengthy debriefing session;
3. Blocks of unscheduled free time are available throughout the evaluation period for observation periods, file reviews, and additions to the original schedule;
4. Telephone interviews occasionally take the place of personal interviews; the decision, however, is decided on-site and considers distances to be traveled, expected amount of "good" information from the interviewer, and redundancy in information already possessed;
5. Court schedules are taken into account when leaving blocks of unscheduled time;
6. Meetings of the entire evaluation team are held no later than 5 p.m. daily;
7. The last day of an evaluation is kept as open as possible so that "catch up" appointments are scheduled; and
8. The last day on-site consists of a report drafting meeting in which team consensus is sought on conclusions and recommendations.

A typical schedule for the evaluation of a small office is as follows in Table 5:

Table 5: Schedule for Small Size Office Evaluation

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday
9		Chief Defender	Interviews	Interviews	Optional Day	Report Drafting
9:30		↓	↓	↓		↓
10		Defender & Staff Interviews				
10:30		↓				
11						
11:30						
12						
12:30						
1	Team Training					
1:30	↓	Defender Staff & Other Interviews				
2		↓				
2:30						
3						
3:30						
4				Chief Defender		
4:30		Team Debriefing	Team Debriefing			
5		↓	↓			
5:30						
6				Free Time		
6:30						
7						
7:30						
8						

The intensity of the evaluation effort requires that each Team Member has time to collect his/her thoughts prior to the daily debriefing (more fully explained in Handbook III). The evening before the report writing day remains free for team relaxation.

A typical schedule for the evaluation of a medium-sized office is as follows in Table 6:

TABLE 6
Schedule for Medium-Size Office Evaluation

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
9		Chief Defender	Interviews	Interviews	Unscheduled	Optional	Report
9:30		↓	Observations	Observations	Time	Day	Drafting
10							
10:30							
11		Defender & Staff					
11:30		Interviews					
12		↓					
12:30					Interviews		
1					Observations		
1:30	Team Training	↓					
2							
2:30		Defender, Staff &					
3		Other					
3:30		Interviews					
4		Team	Team	Team	Chief		
4:30		Debriefing	Debriefing	Debriefing	Defender		
5		↓	↓	↓			
5:30					Free		
6					Time		
6:30							
7							
7:30							
8							

Team Assignments

The Team Captain should decide whether to assign Team Members (and Captain) to a specific area of responsibility for the final report prior to the team training session on-site. If assignments are made prior to the evaluation visit, Team Members can concentrate their review of the materials on their specific topic. This may not be desirable, however, since each Team Member will be gathering data on topics other than his/her "own".

To briefly reiterate our earlier discussion, the evaluation will focus on the effective and efficient attainment of three major Goals for Defender Offices. These goals have been subdivided into eleven Objectives (Table 1). During the course of the evaluation, different types of data will be gathered (i.e. background, quantitative, qualitative, management) on each of the objectives, and a mixture of skills (i.e. legal, community, management) will be needed to gather and analyze these data. Given this situation, each Team Member will gather information on all Objectives, although s/he will take responsibility for a more limited number of Objectives for purposes of the final report. The information gathered by a Team Member which does not pertain to his/her final report responsibilities is transmitted to the appropriate Team Member during daily debriefings.

To illustrate, a medium sized office can be evaluated by a five-member team, composed of the following skill categories: three legal, one community, one management. Team Member B (legal) is given primary responsibility for gathering, analyzing and synthesizing all data needed for assessing Goal I and its four Objectives. Although there will be an attempt to assign Team Member B to interviewees whose area of knowledge covers the Objectives in Goal I, other Team Members will also be interviewing individuals who can shed light on this area. Thus, during the nightly debriefing sessions, each Team Member will be responsible for summarizing and transmitting relevant information to the other Team Members.

Areas of Primary Responsibility. For purposes of writing the Final Report, the following breakdown of areas of primary responsibility by Team Members is suggested:

<u>Small Office</u>		<u>Medium Office</u>	
Team Captain	- Goal II, excluding Obj. 5	Team Captain	- all Objectives
Legal/Community	- Goal I	Legal	- Goal I
	- Goal III, plus Goal II, Obj. 5	Legal	- Goal II, excluding Obj. 5
Management	- Management Aspects, Goals I, II, III and additional Management Aspects	Community	- Goal III, Goal II, Objective 5
		Management	- Goals I, II, III and additional Management Aspects

In making on-site assignments, an attempt is made to assign a Team Member with primary responsibilities for a specific Goal to a preponderance of interviews which cover that Goal. However, considerations of reliability and validity require that several team members interview individuals who each have information on the same Objective, and that no one team member is assigned to interviewing all individuals in the same position (i.e. judges).

On-Site Interviews. Individuals are interviewed with specific Goals and Objectives in mind. For example, an interview with a representative of the organized Bar Association is structured to focus primarily on the Objectives in Goal II. If time and energy permit, however, questions can be asked by the Team Member which cover other concerns. An attempt should be made by Staff to assign Team Members to interviewees who can best shed light on the area of primary responsibility of that Team Member, although Team Member skills will also be considered in each assignment.

Tables 7 and 8 consist of suggestions for assigning Team Members to specific interviewees. They have been constructed on the basis of major areas to be focused upon with an interviewee.

A prison visit can require travel and take a full day's time. The Team Captain's title and legal credentials may be necessary to gain admission to a secured institution.

A master list of individuals to be interviewed on specific Objectives is presented on Table 9. Interview formats appear in Handbook III.

It should be noted that in the medium sized office, the Team Captain's interviews are supplementary to those of other Team Members. In the small sized office, the Team Captain takes on primary responsibility for Goal II, in addition to his/her other responsibilities.

Once interviews have been scheduled, and team assignments made, a Master Calendar for the on-site period is constructed for distribution during Team Training.

Summarizing Materials

The following materials are mailed by Staff to the Team Captain and Team Members as they become available.

1. Contracts, statutes and rules
2. Annual report
3. Case File/Docket Study. Results of the statistical analyses (See Handbook II)
4. Pre-evaluation profile information
5. Analysis of newspaper articles

Administrative Responsibilities

Staff is responsible for making travel and hotel arrangements for the evaluation team, as well as constructing a master on-site interview calendar and keeping the team informed of progress made.

TABLE 7 Small Office Interview Assignments

<u>Team Captain</u> <u>(Goal II, minus Obj. 5)</u>	<u>Legal</u> <u>(Goal I)</u>	<u>Management</u>	<u>Community (Goal III,</u> <u>(Goal II, Objective 5)</u>
Defender and Staff*	Defender and Staff*	Defender and Staff*	Non-incarcerated clients
Former Defender	Private Attorney	Defender Administrator	Community Organizations
Jail Personnel	Police Personnel	Court Administrator	Community-Oriented
Court Personnel	Prosecutor	Criminal Justice Planners	Programs
Bar Leadership	Probation Personnel	Funding Agencies	Jail Personnel
Judges	Court Personnel		Criminal Justice
Prison Personnel	Judges		Planners
Parole Personnel	Appellate Attorney		
Defender Board			
Incarcerated Clients**			
Appellate Attorney			

* Each Team Member will cover his/her own areas of responsibility when interviewing a Defender Attorney and staff. Legal Team Members should interview clients as time permits.

** A prison visit will usually require travel and a full day. The Team Captain's title and legal credentials may be necessary to gain admission to a secured institution.

TABLE 8 Medium Sized Office Interview Assignments

<u>Team Captain (Support)</u>	<u>Legal (Goal I)</u>	<u>Legal (Goal II, minus Obj. 5)</u>	<u>Management</u>	<u>Community (Goal III, Goal II, Objective 5)</u>
Defenders*	Defenders and	Defenders and	Defenders and Staff*	Non-Incarcerated
Former Defender	Staff*	Staff*	Defender Administra-	Clients**
Bar Leadership	Private Attorney	Judges	tor	Community
Defender Board	Police Personnel	Jail Personnel	Court Administrator	Organizations
Incarcerated Clients**	Prosecutor	Court Personnel	Criminal Justice	Community-Oriented
Prison Personnel	Court Personnel	Appellate Attorney	Planners	Programs
	Parole Personnel		Funding Agency	Probation Personnel

* Each Team Member will cover his/her own areas of responsibility when interviewing a Defender Attorney and staff. Legal Team Members should interview clients as time permits.

** A prison visit will usually require travel and a full day. The Team Captain's title and legal credentials may be necessary to gain admission to a secured institution.

TABLE 9 Master List of Interviewees by Objective Covered

	GOAL I				GOAL II					GOAL III	
	Availability	Eligibility	Scope	Duration	Competence	Zeal	Political Influence	Judicial Control	Discrimination	Community Education	System Improvement
Defender Office*	X	X	X	X	X	X	X	X	X	X	X
Private Attorney	X	X			X	X					
Former Defender		X					X	X	X		
Police Personnel	X	X			X						X
Jail Personnel (incl. chaplain)	X		X			X					X
Court Personnel	X	X			X	X					
Clients	X			X		X			X		
Criminal Justice Planners		X					X	X			X
Bar Leadership							X	X	X		X
Community Organizations	X						X		X	X	
Judges		X			X		X	X			
Prison Personnel (Corrections)	X		X	X		X					
Parole Personnel	X		X	X							
Probation Personnel			X	X				X			X
Defender Board		X					X	X		X	
Appellate Attorney				X	X			X			
Prosecution Personnel					X	X	X	X			
Community-Oriented Programs			X			X			X	X	
Funding Agency	X	X					X				X

* Each Team Member will cover his/her own areas of responsibility when interviewing Defender, Attorneys and staff. The management specialist will pay particular attention to office administration, supervision, and support personnel.

Team Captain Training

A successful evaluation selects Team Members who bring experience -- professional and personal -- to their roles. Equally important is the training given Team Members in the concepts and principles of evaluative research, in general, and the utilization of the Handbooks, in particular. Well-trained Team Members increase both the reliability and validity of the final evaluation report.

If a series of evaluations are planned in advance, training should be given all Team Captains and Team Members prior to their on-site visit. For purposes of efficiency, one training session can be held for both groups. Training should include:

- (a) A general introduction to evaluative research, that is, concepts, principles, design methods, data gathering approaches, analysis and interpretation;
- (b) A close scrutiny of the Handbooks and their approach to the evaluation of defender services, that is, the format, assumptions and strategies; and,
- (c) Specific training for those skills which are called for in the Handbooks, particularly the art of interviewing and observing.

A training session which includes all of the above takes a full day.

If an evaluation is an isolated occurrence, Team Training can be given at the opening session of the on-site evaluation. Handbook II addresses the problem of Team Training more fully.

SUMMARY: PRE-EVALUATION PERIOD

The Evaluation Request

The initial request for an evaluation results in a telephone conversation between the Evaluator and Requesting Agent which: (a) explores the request for the evaluation; (b) discusses the Requesting Agent's needs and expectations; (c) determines whether Evaluator capabilities meet Requesting Agent's needs; (d) anticipates time and cost factors; (e) discusses potential consequences of the evaluation; and, (f) discusses the formal request for the evaluation.

The Requesting Agent is then sent a standard request form, and materials on estimating time/cost. All appropriate planning and authorizing bodies are contacted by the Requesting Agent; the Evaluator is copied into all such communications. Where the Requesting Authority and the Defender are not the same party, cooperation of the Defender must be secured ahead of time. This stage of the preliminary evaluation period can take from several days to several months.

Once a formal request for an evaluation is received from a Defender Office, it is answered with an official acknowledgement by the Evaluator. The Team Captain and Members are then selected.

Team Selection

Team Members should bring to their task an experiential background, innate ability, and interpersonal skills which insure that the appropriate individual performs the appropriate role. The skills required for any evaluation cover the following: legal, management, community, statistical, administrative/training. The composition and size of an evaluation team, however, will vary according to a variety of Evaluation and Defender needs and cannot be easily predetermined. Each team member, including the Team Captain and accompanying Staff, has a specific role to play in the evaluation endeavor. The successful implementation of the evaluation design is dependent upon team work. In general, the evaluation of a small office should take 3-4 evaluators on-site for five days (including Team Training and report writing); a medium sized office should take 5 evaluators on-site for seven days.

Team Training

Training Team Members in the concepts and principles of evaluative research, in general, and the utilization of the Handbooks, in particular, is vital for a reliable and valid evaluation. Depending upon time and money factors, training can take place at the evaluation site immediately prior to the evaluation itself, or during a one-day evaluation training workshop.

The Pre-Evaluation Profile

A pre-evaluation profile of the Defender Office provides the

evaluation team with background information needed to place the evaluation findings in context, as well as a basic core of information from which to start the evaluation. The completion of these forms by the Defender encourages self-analysis and provides a mechanism through which s/he can question the Evaluator about the goals of the evaluation, its strategies, and the relevance of the materials. Pre-Evaluation Profile forms should be completed by the Defender prior to the Evaluator's pre-evaluation site visit.

Pre-Evaluation Site Visit

The pre-evaluation visit to the Defender Office by the Team Captain and Staff prior to the on-site evaluation, offers them a chance to collect and discuss the information contained on the pre-evaluation profile forms, gain a "feel" for the site, and be apprised of some of the problems to be confronted during the evaluation. This is a time during which the Defender continues to be made aware of the Evaluator's concerns, and makes constructive suggestions for carrying out the process and substance of the forthcoming evaluation. Staff has the particular responsibility of compiling necessary logistical information for the case file and docket studies as well as the other aspects of the evaluation.

Post Pre-Evaluation Site Visit

Following the pre-evaluation visit to the Defender Office a variety of activities take place which are the responsibility of Staff but which are undertaken in conjunction with the Team Captain. Team Member interviews with site personnel are scheduled and a master calendar of appointments is designed. Pertinent materials are gathered, summarized, and distributed to Team Members, including: contracts, statutes and rules, the annual report, the case file and docket studies, pre-evaluation profile materials, and the analysis of newspaper articles. Travel and hotel arrangements are also made for the evaluators.

APPENDICES

APPENDIX A

Standards Relating to the Provision of Defense Services

American Bar Association Project on Minimum Standards for Criminal Justice

Standards Relating to Providing Defense Services

Part 1. General Principles

1.1 Objective.

The objective of the bar should be to ensure the provision of competent counsel to all persons who need representation in criminal proceedings and to educate the public to the importance of this objective.

1.2 Systems.

Counsel should be provided in a systematic manner in accordance with a widely publicized plan employing a defender or assigned counsel system or a combination of these.

1.3 Local options.

By statute each jurisdiction should require the appropriate local subdivision to adopt a plan for the provision of counsel. The statute should permit the local subdivision to choose from the full range of systems a method of providing counsel which is suited to its needs and consistent with these standards and should allow local subdivisions to act jointly in establishing such a plan.

1.4 Professional independence.

The plan should be designed to guarantee the integrity of the relationship between lawyer and client. The plan and the lawyers serving under it should be free from political influence and should be subject to judicial supervision only in the same manner and to the same extent as are lawyers in private practice. One means for assuring this independence, regardless of the type of system adopted, is to place the ultimate authority and responsibility for the operation of the plan in a board of trustees. Where an assigned counsel system is selected, it should be governed by such a board. The board should have the power to establish general policy for the operation of the plan, consistent with these standards and in keeping with the standards of professional conduct. The board should be precluded from interfering in the conduct of particular cases.

1.5 Supporting services.

The plan should provide for investigatory, expert and other services necessary to an adequate defense. These should include

not only those services and facilities needed for an effective defense at trial but also those that are required for effective defense participation in every phase of the process, including determinations on pretrial release, competency to stand trial and disposition following conviction.

Part II. Assigned Counsel Systems

2.1 Systematic assignment.

An assigned counsel plan should provide for a systematic and publicized method of distributing assignments. Except where there is need for an immediate assignment for temporary representation, assignments should not be made to lawyers merely because they happen to be present in court at the time the assignment is made. A lawyer should never be assigned for reasons personal to the person making assignments. If the volume of assignments is substantial, the plan should be administered by a competent staff able to advise and assist assigned counsel.

2.2 Eligibility to serve.

Assignments should be distributed as widely as possible among the qualified members of the bar. Every lawyer licensed to practice law in the jurisdiction, experienced and active in trial practice, and familiar with the practice and procedure of the criminal courts should be included in the roster of attorneys from which assignments are made.

2.3 Rotation of assignments.

As nearly as possible assignments should be made in an orderly way to avoid the appearance of patronage and to ensure fair distribution of assignments among all whose names appear on the roster of eligible lawyers. Ordinarily assignments should be made in the sequence that the names appear on the roster of eligible lawyers. Where the nature of the charges or other circumstances require, a lawyer may be selected because of his special qualifications to serve in the case, without regard to the established sequence.

2.4 Compensation.

Assigned counsel should be compensated for time and service necessarily performed in the discretion of the court within limits specified by the applicable statute. In establishing the limits and in the exercise of discretion the objective should be to provide reasonable compensation in accordance with prevailing standards.

Part III. Defender Systems

3.1 Career service.

A defender plan should be designed to create a career service. Selection of the chief defender and staff should be made on the basis of merit and should be free from political, racial, religious, ethnic and other considerations extraneous to professional competence. The tenure of the defender and his staff should be protected similarly. The defender and staff should be compensated at a rate commensurate with their experience and skill, sufficient to attract career personnel, and comparable to that provided for their counterparts in prosecutorial offices.

3.2 Restrictions on private practice.

Insofar as local conditions permit, the defender office should be staffed with full-time personnel. All full-time personnel should be prohibited from engaging in the private practice of law, and part-time personnel should be prohibited from engaging in the private practice of law in criminal cases.

3.3 Facilities; library.

Every defender office should be located in a place convenient to the courts and be furnished in a manner appropriate to the dignity of the legal profession. A library of sufficient size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment should be provided.

Part IV. Types of Proceedings

4.1 Criminal cases.

Counsel should be provided in all criminal proceedings for offenses punishable by loss of liberty, except those types of offenses for which such punishment is not likely to be imposed, regardless of their denomination as felonies, misdemeanors, or otherwise.

4.2 Collateral proceedings.

Counsel should be provided in all proceedings arising from the initiation of a criminal action against the accused, including extradition, mental competency, post-conviction and other proceedings which are adversary in nature, regardless of the designation of the court in which they occur or classification of the proceedings as civil in nature.

Part V. Stage of Proceedings

5.1 Initial provision of counsel; notice.

Counsel should be provided to the accused as soon as feasible after he is taken into custody, when he appears before a committing magistrate, or when he is formally charged, whichever occurs earliest. The authorities should have the responsibility to notify the defender or the official responsible for assigning counsel whenever a person is in custody and he requests counsel or he is without counsel.

5.2 Duration of representation.

Counsel should be provided at every stage of the proceedings, including sentencing, appeal, and post-conviction review. Counsel initially appointed should continue to represent the defendant through all stages of the proceedings unless a new appointment is made because geographical considerations or other factors make it necessary.

5.3 Withdrawal of counsel.

Once appointed, counsel should not request leave to withdraw unless compelled to do so because of serious illness or other incapacity to render competent representation in the case, or unless contemporaneous or announced future conduct of the accused is such as to seriously compromise the lawyer's professional integrity. If leave to withdraw is granted, or if the defendant for substantial grounds asks that counsel be replaced, successor counsel should be appointed. Counsel should not seek to withdraw because he believes that the contentions of his client lack merit, but should present for consideration such points as the client desires to be raised provided he can do so without compromising professional standards.

Part VI. Eligibility for Assistance

6.1 Eligibility.

Counsel should be provided to any person who is financially unable to obtain adequate representation without substantial hardship to himself or his family. Counsel should not be denied to any person merely because his friends or relatives have resources adequate to retain counsel or because he has posted or is capable of posting bond.

6.2 Partial eligibility.

The ability to pay part of the cost of adequate representation should not preclude eligibility. The provision of counsel may be made on the condition that the funds available for the purpose be contributed to the system pursuant to an established method of collection.

6.3 Determination of eligibility.

A preliminary and tentative determination of eligibility should be made as soon as feasible after a person is taken into custody. The formal determination of eligibility should be made by the judge or an officer of the court selected by him. A questionnaire should be used to determine the nature and extent of the financial resources available for obtaining representation. If at any subsequent stage of the proceedings new information concerning eligibility becomes available, eligibility should be redetermined.

6.4 Reimbursement.

Reimbursement of counsel or the organization or governmental unit providing counsel should not be required, except on the ground of fraud in obtaining the determination of eligibility.

Part VII. Offer and Waiver

7.1 Explaining the availability of a lawyer.

When a person is taken into custody or otherwise deprived of his freedom he should immediately be warned of his right to the assistance of a lawyer. This warning should be followed at the earliest opportunity by the formal offer of counsel, preferably by a lawyer, but if that is not feasible, by a judge or magistrate. The offer should be made in words easily understood, and it should be stated expressly that one who is unable to pay for adequate representation is entitled to have it provided without cost to him. At the earliest opportunity a person in custody should be effectively placed in communication with a lawyer. For this purpose he should be provided access to a telephone, the telephone number of the defender or person responsible for assigning counsel, and any other means necessary to place him in communication with a lawyer.

7.2 Waiver.

The accused's failure to request counsel or his announced intention to plead guilty should not of itself be construed to constitute a waiver. An accused should not be deemed to have waived the assistance of counsel until the entire process of offering counsel has been completed and a thorough inquiry into the accused's comprehension of that offer and his capacity to make the choice intelligently and understandingly has been

made. No waiver should be found to have been made where it appears that the accused is unable to make an intelligent and understanding choice because of his mental condition, age, education, experience, the nature or complexity of the case, or other factors.

7.3 Acceptance of waiver.

No waiver of counsel should be accepted unless it is in writing and of record. If a person who has not seen a lawyer indicates his intention to waive the assistance of counsel, a lawyer should be provided to consult with him. No waiver should be accepted unless he has at least once conferred with a lawyer. If a waiver is accepted, the offer should be renewed at each subsequent stage of the proceedings at which the defendant appears without counsel.

American Bar Association Project on Standards for Criminal Justice

The Defense Function

Part I. General Standards

1.1 Role of defense counsel; function of standards.

- (a) Counsel for the accused is an essential component of the administration of criminal justice. A court properly constituted to hear a criminal case must be viewed as a tripartite entity consisting of the judge (and jury, where appropriate), counsel for the prosecution, and counsel for the accused.
- (b) The basic duty the lawyer for the accused owes to the administration of justice is to serve as the accused's counselor and advocate, with courage, devotion and to the utmost of his learning and ability, and according to the law.
- (c) The defense lawyer, in common with all members of the bar, is subject to standards of conduct stated in statutes, rules, decisions of courts, and codes, canons or other standards of professional conduct. He has no duty to execute any directive of the accused which does not comport with law or such standards; he is the professional representative of the accused, not his alter ego.
- (d) It is unprofessional conduct for a lawyer intentionally to misrepresent matters of fact or law to the court.
- (e) It is the duty of every lawyer to know the standards of professional conduct as defined in codes and canons of the legal profession and in this report, to the end that his performance will at all times be guided by appropriate standards. The functions and duties of defense counsel are governed by such standards whether he is assigned or privately retained.
- (f) In this report the term "unprofessional conduct" denotes conduct which it is recommended be made subject to disciplinary sanctions. Where other terms are used, the standard is intended as a guide to honorable professional conduct and performance. These standards are intended as guides for conduct of lawyers and as the basis for disciplinary action, not as criteria for judicial evaluation of the effectiveness of counsel to determine the validity of a conviction; they may or may not be relevant in such judicial evaluation of the effectiveness of counsel,

depending upon all the circumstances.

1.2 Delays; punctuality.

- (a) Defense counsel should avoid unnecessary delay in the disposition of cases. He should be punctual in attendance upon court and in the submission of all motions, briefs, and other papers. He should emphasize to his client and all witnesses the importance of punctuality in attendance in court.
- (b) It is unprofessional conduct for defense counsel to misrepresent facts or otherwise mislead the court in order to obtain a continuance.
- (c) It is unprofessional conduct for defense counsel intentionally to use procedural devices for delay for which there is no legitimate basis.
- (d) A lawyer should not accept more employment than he can discharge within the spirit of the constitutional mandate for speedy trial and the limits of his capacity to give each client effective representation. It is unprofessional conduct to accept employment for the purpose of delaying trial.

1.3 Public statements.

- (a) The lawyer representing an accused should avoid personal publicity connected with the case before trial, during trial and thereafter.
- (b) The lawyer should comply with the ABA Standards on Fair Trial and Free Press.

1.4 Advisory councils on professional conduct.

- (a) In every jurisdiction an advisory body of lawyers selected for their experience, integrity and standing at the trial bar should be established as an advisory council on problems of professional conduct in criminal cases. This council should provide prompt and confidential guidance and advice to lawyers seeking assistance in the application of standards of professional conduct in criminal cases.
- (b) Communications between a lawyer and such an advisory council should have the same privilege for protection of the client's confidences as exist between lawyer and client. The council should be bound by statute or rule of court in the same manner as a lawyer is bound not to reveal any disclosure of the client except (i) if the client challenges the effectiveness of the lawyer's conduct of the case and

the lawyer relies on the guidance received from the council; and (ii) if the lawyer's conduct is called into question in an authoritative disciplinary inquiry or proceeding.

1.5 Trial lawyer's duty to administration of criminal justice.

- (a) The bars should encourage through every available means the widest possible participation in the defense of criminal cases by experienced trial lawyers. Lawyers active in general trial practice should be encouraged to qualify themselves for participation in criminal cases both by formal training and through experience as associate counsel.
- (b) All qualified trial lawyers should stand ready to undertake the defense of an accused regardless of public hostility toward the accused or personal distaste for the offense charged or the person of the defendant.
- (c) Qualified trial lawyers should not assert or announce a general unwillingness to appear in criminal cases; law firms should encourage partners and associates to appear in criminal cases.

1.6 Client interests paramount.

Whether privately engaged, judicially appointed or serving as part of a legal aid system, the duties of a lawyer to his client are to represent his legitimate interests, and considerations of personal and professional advantage should not influence his advice or performance.

Part II. Access to Counsel

2.1 Communication.

Every jurisdiction should guarantee by statute or rule of court the right of an accused person to prompt and effective communication with a lawyer and should require that reasonable access to a telephone or other facilities be provided for that purpose.

2.2 Referral service for criminal cases.

- (a) To assist persons who wish to retain counsel privately and who do not know a lawyer or how to engage one, every jurisdiction should have a referral service for criminal cases. The referral service should maintain a list of lawyers willing and qualified to undertake the defense of a criminal case; it should be so organized that it can provide prompt service at all times.
- (b) The availability of the referral service should be

publicized. In addition, notices containing the essential information about the referral service and how to contact it should be posted conspicuously in police stations, jails and wherever else it is likely to give effective notice.

2.3 Prohibited referrals.

- (a) It is unprofessional conduct for a lawyer to compensate others for referring criminal cases to him.
- (b) It is unprofessional conduct for a lawyer to accept referrals by agreement or as a regular practice from law enforcement personnel, bondsmen or court personnel.
- (c) It is unprofessional conduct to accept referrals of criminal cases regularly except from an authorized referral agency or a lawyer referring a case in the ordinary course of practice.
- (d) Regulations and licensing requirements governing the conduct of law enforcement personnel, bondsmen, court personnel and others in similar positions should prohibit their referring an accused to any particular lawyer and should require them, when asked to suggest the name of an attorney, to direct the accused to the referral service or to the local bar association if no referral service exists.

Part III. Lawyer-Client Relationship

3.1 Establishment of relationship.

- (a) Defense counsel should seek to establish a relationship of trust and confidence with the accused. The lawyer should explain the necessity of full disclosure of all facts known to the client for an effective defense, and he should explain the obligation of confidentiality which makes privileged the accused's disclosures relating to the case.
- (b) The conduct of the defense of a criminal case requires trained professional skill and judgment; therefore, the technical and professional decisions must rest with the lawyer without impinging on the right of the accused to make the ultimate decisions on certain specified matters, as delineated in section 5.
- (c) To insure the privacy essential for confidential communication between lawyer and client, adequate facilities should be available for private discussions between counsel and accused in jails, prisons, court houses and other places where accused persons must confer with counsel.

- (d) Personnel of jails, prisons and custodial institutions should be prohibited by law or administrative regulations from examining or otherwise interfering with any communication or correspondence between a client and his lawyer relating to legal action arising out of charges or incarceration.

3.2 Interviewing the client.

- (a) As soon as practicable the lawyer should seek to determine all relevant facts known to the accused. In so doing, the lawyer should probe for all legally relevant information without seeking to influence the direction of the client's responses.
- (b) It is unprofessional conduct for the lawyer to instruct the client or to intimate to him in any way that he should not be candid in revealing facts so as to afford the lawyer free rein to take action which would be precluded by the lawyer's knowing of such facts.

3.3 Fees.

- (a) In determining the amount of the fee in a criminal case it is proper to consider the time and effort required, the responsibility assumed by counsel, the novelty and difficulty of the questions involved, the skill requisite to proper representation, the likelihood that other employment will be precluded, the fee customarily charged in the locality for similar services, the gravity of the charge, the experience, reputation and ability of the lawyer and the capacity of the client to pay the fee.
- (b) It is unprofessional conduct for a lawyer to imply that compensation of the lawyer is for anything other than professional services rendered by him or by others for him.
- (c) It is unprofessional conduct for a lawyer to overreach his client in setting the fee.
- (d) It is unprofessional conduct for a lawyer to divide his fee with a layman. He may share a fee with another lawyer only on the basis of their respective services and responsibility in the case.
- (e) It is unprofessional conduct to undertake the defense of a criminal case on the understanding that the fee is contingent in any degree on the outcome of the case.

3.4 Obtaining literary rights from the accused.

It is unprofessional conduct for a lawyer consulted by or

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representing an accused to negotiate with the accused to secure, either as part of his compensation or as a condition of the employment, right to publish books, plays, articles, interviews or pictures relating to the case.

3.5 Conflict of interest.

- (a) At the earliest feasible opportunity defense counsel should disclose to the defendant any interest in or connection with the case or any other matter that might be relevant to the defendant's selection of a lawyer to represent him.
- (b) Except for preliminary matters such as initial hearings or applications for bail, a lawyer or lawyers who are associated in practice should not undertake to defend more than one defendant in the same criminal case if the duty to one of the defendants may conflict with the duty to another. The potential for conflict of interest in representing multiple defendants is so grave that ordinarily a lawyer should decline to act for more than one of several co-defendants except in unusual situations when, after careful investigation, it is clear that no conflict is likely to develop and when the several defendants give an informed consent to such multiple representation.
- (c) In accepting payment of fees by one person for the defense of another, a lawyer should be careful to determine that he will not be confronted with a conflict of loyalty since his entire loyalty is due the accused. When the fee is paid or guaranteed by a person other than the accused, there should be an explicit understanding that the lawyer's entire loyalty is to the accused who is his client and that the person who pays the fee has no control of the case.
- (d) It is unprofessional conduct for a lawyer to defend a criminal case in which the lawyer's partner or other professional associate is the prosecutor or has participated in or supervised the prosecution at any stage.

3.6 Prompt action to protect the accused.

- (a) Many important rights of the accused can be protected and preserved only by prompt legal action. The lawyer should inform the accused of his rights forthwith and take all necessary action to vindicate such rights. He should consider all procedural steps which in good faith may be taken, including, for example, motions seeking pretrial release of the accused, obtaining psychiatric examination of the accused when a need appears, moving for a change of venue or continuance, moving to suppress illegally obtained evidence, moving for severance from jointly charged defendants, or seeking dismissal of the charges.

- (b) A lawyer should not act as surety on a bail bond either for the accused or others.

3.7 Advice and service on anticipated unlawful conduct.

- (a) It is a lawyer's duty to advise his client to comply with the law but he may advise concerning the meaning, scope and validity of a law.
- (b) It is unprofessional conduct for a lawyer to counsel his client in or knowingly assist his client to engage in conduct which the lawyer believes to be illegal.
- (c) It is unprofessional conduct for a lawyer to agree in advance of the commission of a crime that he will serve as counsel for the defendant, except as part of a bona fied effort to determine the validity, scope, meaning or application of the law, or where the defense is incident to a general retainer for legal services to a person or enterprise engaged in legitimate activity.
- (d) Except as provided in section 7.7, a lawyer may reveal the expressed intention of his client to commit a crime and the information necessary to prevent the crime; and he must do so if the contemplated crime is one which would seriously endanger the life or safety of any person or corrupt the processes of the courts and the lawyer believes such action on his part is necessary to prevent it.

3.8 Duty to keep client informed.

The lawyer has a duty to keep his client informed of the developments in the case and the progress of preparing the defense.

3.9 Obligations to client and duty to court.

Once a lawyer has undertaken the representation of an accused his duties and obligations are the same whether he is privately retained, appointed by the court, or serving in a legal aid or defender system.

Part IV. Investigation and Preparation

4.1 Duty to investigate.

It is the duty of the lawyer to conduct a prompt investigation of the circumstances of the case and explore all avenues leading to facts relevant to guilt and degree of guilt or penalty. The investigation should always include efforts to secure information in the possession of the prosecution and law enforcement authorities. The duty to investigate exists regardless of the accused's admissions or statements to the lawyer of facts constituting guilt or his stated desire to plead guilty.

4.2 Illegal investigation.

It is unprofessional conduct for a lawyer to use illegal means to obtain evidence or information or to employ, instruct or encourage others to do so.

4.3 Relations with prospective witnesses.

- (a) It is unprofessional conduct to compensate a witness, other than an expert, for giving testimony, but it is not improper to reimburse a witness for the reasonable expenses of attendance upon court, including transportation and loss of income, provided there is no attempt to conceal the fact of reimbursement.
- (b) In interviewing a prospective witness it is proper but not mandatory for the lawyer or his investigator to caution the witness concerning possible self-incrimination and his need for counsel.
- (c) A lawyer should not obstruct communication between prospective witnesses and the prosecutor. It is unprofessional conduct to advise a person, other than a client, to refuse to give information to the prosecutor or counsel for co-defendants.
- (d) Unless the lawyer for the accused is prepared to forego impeachment of a witness by the lawyer's own testimony as to what the witness stated in an interview or to seek leave to withdraw from the case in order to present his impeaching testimony, the lawyer should avoid interviewing a prospective witness except in the presence of a third person.

4.4 Relations with expert witnesses.

- (a) A lawyer who engages an expert for an opinion should respect the independence of the expert and should not seek to dictate the formation of the expert's opinion on the subject. To the extent necessary, the lawyer should explain to the expert his role in the trial as an impartial witness called to aid the fact-finders and the manner in which the examination of witnesses is conducted.
- (b) It is unprofessional conduct for a lawyer to pay an excessive fee for the purpose of influencing the expert's testimony or to fix the amount of the fee contingent upon the testimony he will give or the result in the case.

4.5 Compliance with discovery procedure.

The lawyer should comply in good faith with discovery procedures under the applicable law.

Part V. Control and Direction of Litigation

5.1 Advising the defendant.

- (a) After informing himself fully on the facts and the law, the lawyer should advise the accused with complete candor concerning all aspects of the case, including his candid estimate of the probable outcome.
- (b) It is unprofessional conduct for a lawyer intentionally to understate or overstate the risks, hazards or prospects of the case to exert undue influence on the accused's decision as to his plea.
- (c) The lawyer should caution his client to avoid communication about the case with witnesses, except with the approval of the lawyer, to avoid any contact with jurors or prospective jurors, and to avoid either the reality or the appearance of any other improper activity.

5.2 Control and direction of the case.

- (a) Certain decisions relating to the conduct of the case are ultimately for the accused and others are ultimately for defense counsel. The decisions which are to be made by the accused after full consultation with counsel are: (i) what plea to enter; (ii) whether to waive jury trial; (iii) whether to testify in his own behalf.
- (b) The decisions on what witnesses to call, whether and how to conduct cross-examination, what jurors to accept or strike, what trial motions should be made, and all other strategic and tactical decisions are the exclusive province of the lawyer after consultation with his client.
- (c) If a disagreement on significant matters of tactics or strategy arises between the lawyer and his client, the lawyer should make a record of the circumstances, his advice and reasons, and the conclusion reached. The record should be made in a manner which protects the confidentiality of the lawyer-client relation.

5.3 Guilty plea when accused denies guilt.

If the accused discloses to the lawyer facts which negate guilt and the lawyer's investigation does not reveal a conflict with the facts disclosed but the accused persists in entering a plea of guilty, the lawyer may not properly participate in presenting a guilty plea, without disclosure to the court.

Part VI. Disposition Without Trial

6.1 Duty to explore disposition without trial.

- (a) Whenever the nature and circumstances of the case permit, the lawyer for the accused should explore the possibility of an early diversion of the case from the criminal process through the use of other community agencies.
- (b) When the lawyer concludes, on the basis of full investigation and study, that under controlling law and the evidence a conviction is probable, he should so advise the accused and seek his consent to engage in plea discussions with the prosecutor, if such appears desirable.
- (c) Ordinarily the lawyer should secure his client's consent before engaging in plea discussions with the prosecutor.

6.2 Conduct of discussions.

- (a) In conducting discussions with the prosecutor the lawyer should keep the accused advised of developments at all times and all proposals made by the prosecutor should be communicated promptly to the accused.
- (b) It is unprofessional conduct for a lawyer knowingly to make false statements concerning the evidence in the course of plea discussions with the prosecutor.
- (c) It is unprofessional conduct for a lawyer to seek or accept concessions favorable to one client by any agreement which is detrimental to the legitimate interests of any other client.

Part VII. Trial

7.1 Courtroom decorum.

- (a) As an officer of the court the lawyer should support the authority of the court and the dignity of the trial courtroom by strict adherence to the rules of decorum and by manifesting an attitude of professional respect toward the judge, opposing counsel, witnesses and jurors.
- (b) When court is in session defense counsel should address the court and should not address the prosecutor directly on any matter relating to the case.
- (c) It is unprofessional conduct for a lawyer to engage in behavior or tactics purposefully calculated to irritate or annoy the court or the prosecutor.

- (d) The lawyer should comply promptly with all orders and directives of the court, but he has a duty to have the record reflect adverse rulings or judicial conduct which he considers prejudicial to his client's legitimate interests. He has a right to make respectful requests for reconsideration of adverse rulings.
- (e) Lawyers should cooperate with courts and the organized bar in developing codes of decorum and professional etiquette for each jurisdiction.

7.2 Selection of jurors.

- (a) The lawyer should prepare himself prior to trial to discharge effectively his function in the selection of the jury, including the raising of any appropriate issues concerning the method by which the jury panel was selected, and the exercise of both challenges for cause and peremptory challenges.
- (b) In those cases where it appears necessary to conduct a pre-trial investigation of the background of jurors the lawyer should restrict himself to investigatory methods which will not harass or unnecessarily embarrass potential jurors or invade their privacy and, whenever possible, he should restrict his investigation to records and sources of information already in existence.
- (c) In jurisdictions where counsel is permitted personally to question jurors on voir dire, the opportunity to question jurors should be used solely to obtain information for the intelligent exercise of challenges. A lawyer should not purposely use the voir dire to present factual matter which he knows will not be admissible at trial or to argue his case to the jury.

7.3 Relations with jury.

- (a) It is unprofessional conduct for the lawyer to communicate privately with persons summoned for jury duty or impaneled as jurors concerning the case prior to or during the trial. The lawyer should avoid the reality or appearance of any such improper communications.
- (b) The lawyer should treat jurors with deference and respect, avoiding the reality or appearance of currying favor by a show of undue solicitude for their comfort or convenience.
- (c) After verdict, the lawyer should not make comments concerning an adverse verdict or ask questions of a juror for the purpose of harassing or embarrassing the jury in any way which will tend to influence judgment in future jury service. If the lawyer has reasonable ground to believe that the

verdict may be subject to legal challenge, he may properly, if no statute or rule prohibits such course, communicate with jurors for that limited purpose, upon notice to opposing counsel and the court.

7.4 Opening statement.

In his opening statement a lawyer should confine his remarks to a brief statement of the issues in the case and evidence he intends to offer which he believes in good faith will be available and admissible. It is unprofessional conduct to allude to any evidence unless there is a good faith and reasonable basis for believing such evidence will be tendered and admitted in evidence.

7.5 Presentation of evidence.

- (a) It is unprofessional conduct for a lawyer knowingly to offer false evidence, whether by documents, tangible evidence, or the testimony of witnesses.
- (b) It is unprofessional conduct for a lawyer knowingly and for the purpose of bringing inadmissible matter to the attention of the judge or jury to offer inadmissible evidence, ask legally objectionable questions, or make other impermissible comments or arguments in the presence of the judge or jury.
- (c) It is unprofessional conduct to permit any tangible evidence to be displayed in the view of the judge or jury which would tend to prejudice fair consideration of the case by the judge or jury until such time as a good faith tender of such evidence is made.
- (d) It is unprofessional conduct to tender tangible evidence in the presence of the judge or jury if it would tend to prejudice fair consideration of the case unless there is a reasonable basis for its admission in evidence. When there is any doubt about the admissibility of such evidence it should be tendered by an offer of proof and a ruling obtained.

7.6 Examination of witnesses.

- (a) The interrogation of all witnesses should be conducted fairly, objectively and with due regard for the dignity and legitimate privacy of the witness, and without seeking to intimidate or humiliate the witness unnecessarily. Proper cross-examination can be conducted without violating rules of decorum.
- (b) A lawyer's belief that the witness is telling the truth does not necessarily preclude appropriate cross-examination in all circumstances, but may affect the method and scope

of cross-examination. He should not misuse the power of cross-examination or impeachment by employing it to discredit or undermine a witness if he knows the witness is testifying truthfully.

- (c) It is unprofessional conduct for a lawyer to call a witness who he knows will claim a valid privilege not to testify, for the purpose of impressing upon the jury the fact of the claim of privilege.
- (d) It is unprofessional conduct to ask a question which implies the existence of a factual predicate which the examiner cannot support by evidence.

7.7 Testimony by the defendant.

- (a) If the defendant has admitted to his lawyer facts which establish guilt and the lawyer's independent investigation established that the admissions are true but the defendant insists on his right to trial, the lawyer must advise his client against taking the witness stand to testify falsely.
- (b) If, before trial, the defendant insists that he will take the stand to testify falsely, the lawyer must withdraw from the case, if that is feasible, seeking leave of the court if necessary.
- (c) If withdrawal from the case is not feasible or is not permitted by the court, or if the situation arises during the trial and the defendant insists upon testifying falsely in his own behalf, the lawyer may not lend his aid to the perjury. Before the defendant takes the stand in these circumstances, the lawyer should make a record of the fact that the defendant is taking the stand against the advice of counsel in some appropriate manner without revealing the fact to the court. The lawyer must confine his examination to identifying the witness as the defendant and permitting him to make his statement to the trier or the triers of the facts; the lawyer may not engage in direct examination of the defendant as a witness in the conventional manner and may not later argue the defendant's known false version of facts to the jury as worthy of belief and he may not recite or rely upon the false testimony in his closing argument.

7.8 Argument to the jury.

- (a) In closing argument to the jury the lawyer may argue all reasonable inferences from the evidence in the record. It is unprofessional conduct for a lawyer intentionally to misstate the evidence or mislead the jury as to the inferences it may draw.

- (b) It is unprofessional conduct for a lawyer to express his personal belief or opinion in his client's innocence or his personal belief or opinion in the truth or falsity of any testimony or evidence, or to attribute the crime to another person unless such an inference is warranted by the evidence.
- (c) A lawyer should not make arguments calculated to inflame the passions or prejudices of the jury.
- (d) A lawyer should refrain from argument which would divert the jury from its duty to decide the case on the evidence by injecting issues broader than the guilt or innocence of the accused under the controlling law or by making predictions of the consequences of the jury's verdict.

7.9 Facts outside the record.

It is unprofessional conduct for a lawyer intentionally to refer to or argue on the basis of facts outside the record, unless such facts are matters of common public knowledge based on ordinary human experience or matters of which the court can take judicial notice.

7.10 Post-trial motions.

The trial lawyer's responsibility includes presenting appropriate motions, after verdict and before sentence, to protect the defendant's rights.

Part VIII. After Conviction

8.1 Sentencing.

- (a) The lawyer for the accused should be familiar with the sentencing alternatives available to the court and should endeavor to learn its practices in exercising sentencing discretion. The consequences of the various dispositions available should be explained fully by the lawyer to his client.
- (b) Defense counsel should present to the court any ground which will assist in reaching a proper disposition favorable to the accused. If a presentence report or summary is made available to the defense lawyer, he should seek to verify the information contained in it and should be prepared to supplement or challenge it if necessary. If there is no presentence report or if it is not disclosed, he should submit to the court and the prosecutor all favorable information relevant to sentencing and in an appropriate case be prepared to suggest a program of rehabilitation based on his exploration of employment,

educational and other opportunities made available by community services.

- (c) Counsel should alert the accused to his right of allocution, if any, and to the possible dangers of making a judicial confession in the course of allocution which might tend to prejudice his appeal.

8.2 Appeal.

- (a) After conviction, the lawyer should explain to the defendant the meaning and consequences of the court's judgment and his right of appeal. The lawyer should give the defendant his professional judgment as to whether there are meritorious grounds for appeal and as to the probable results of an appeal. He should also explain to the defendant the advantages and disadvantages of an appeal. The decision whether to appeal must be the defendant's own choice.
- (b) The lawyer should take whatever steps are necessary to protect the defendant's right of appeal.

8.3 Counsel on appeal.

- (a) Trial counsel, whether retained or appointed by the court, should conduct the appeal if the defendant elects to avail himself of that right unless new counsel is substituted by the defendant or the appropriate court.
- (b) Appellate counsel should not seek to withdraw from a case solely on the basis of his own determination that the appeal lacks merit.

8.4 Conduct of appeal.

- (a) Appellate counsel should be diligent in perfecting an appeal and expediting its prompt submission to the appellate court.
- (b) Appellate counsel should be scrupulously accurate in referring to the record and the authorities upon which he relies in his presentation to the court in his brief and on his oral argument.
- (c) It is unprofessional conduct for a lawyer intentionally to refer to or argue on the basis of facts outside the record on appeal, unless such facts are matters of common public knowledge based on ordinary human experience or matters of which the court may take judicial notice.

8.5 Post-conviction remedies.

After a conviction is affirmed on appeal, appellate counsel

should determine whether there is any ground for relief under other post-conviction remedies. If there is a reasonable prospect of a favorable result he should explain to the defendant the advantages and disadvantages of taking such action. Appellate counsel is not obligated to represent the defendant in a post-conviction proceeding unless he has agreed to do so. In other respects the responsibility of a lawyer in a post-conviction proceeding should be guided generally by the standards governing the conduct of lawyers in criminal cases.

8.6 Challenges to the effectiveness of counsel.

- (a) If a lawyer, after investigation, is satisfied that another lawyer who served in an earlier phase of the case did not provide effective assistance, he should not hesitate to seek relief for the defendant on that ground.
- (b) If a lawyer, after investigation, is satisfied that another lawyer who served in an earlier phase of the case provided effective assistance, he should so advise his client and he may decline to proceed further.
- (c) A lawyer whose conduct of a criminal case is drawn into question is entitled to testify concerning the matters charged and is not precluded from disclosing the truth concerning the accusation, even though this involves revealing matters which were given in confidence.

National Advisory Commission
on
Criminal Justice Standards and Goals

The Defense

Standard 13.1: Availability of Publicly Financed Representation in Criminal Cases

Public representation should be made available to eligible defendants (as defined in Standard 13.2) in all criminal cases at their request, or the request of someone acting for them, beginning at the time the individual either is arrested or is requested to participate in an investigation that has focused upon him as a likely suspect. The representation should continue during trial court proceedings and through the exhaustion of all avenues of relief from conviction.

Defendants should be discouraged from conducting their own defense in criminal prosecutions. No defendant should be permitted to defend himself if there is a basis for believing that:

1. The defendant will not be able to deal effectively with the legal or factual issues likely to be raised;
2. The defendant's self-representation is likely to impede the reasonably expeditious processing of the case; or
3. The defendant's conduct is likely to be disruptive of the trial process.

Standard 13.2: Payment for Public Representation

An individual provided public representation should be required to pay any portion of the cost of the representation that he is able to pay at the time. Such payment should be no more than an amount that can be paid without causing substantial hardship to the individual or his family. Where any payment would cause substantial hardship to the individual or his family, such representation should be provided without cost.

The test for determining ability to pay should be a flexible one that considers such factors as amount of income, bank account, ownership of a home, a car, or other tangible or intangible property, the number of dependents, and the cost of subsistence for the defendant and those to whom he owes a legal duty of support. In applying this test, the following criteria and qualifications should govern:

1. Counsel should not be denied to any person merely because

his friends or relatives have resources adequate to retain counsel or because he has posted, or is capable of posting, bond.

2. Whether a private attorney would be interested in representing the defendant in his present economic circumstances should be considered.
3. The fact that an accused on bail has been able to continue employment following his arrest should not be determinative of his ability to employ private counsel.
4. The defendant's own assessment of his financial ability or inability to obtain representation without substantial hardship to himself or his family should be considered.

Standard 13.3: Initial Contact with Client

The first client contact and initial interview by the public defender, his attorney staff, or appointed counsel should be governed by the following:

1. The accused, or a relative, close friend, or other responsible person acting for him, may request representation at any stage of any criminal proceedings. Procedures should exist whereby the accused is informed of this right, and of the method for exercising it. Upon such request, the public defender or appointed counsel should contact the interviewee.
2. If at the initial appearance, no request for publicly provided defense services has been made, and it appears to the judicial officer that the accused has not made an informed waiver of counsel and is eligible for public representation, an order should be entered by the judicial officer referring the case to the public defender, or to appointed counsel. The public defender or appointed counsel should contact the accused as soon as possible following entry of such an order.
3. Where, pursuant to court order or a request by or on behalf of an accused, a publicly provided attorney interviews an accused and it appears that the accused is financially ineligible for public defender services, the attorney should help the accused obtain competent private counsel in accordance with established bar procedures and should continue to render all necessary public defender services until private counsel assumes responsibility for full representation of the accused.

Standard 13.4: Public Representation of Convicted Offenders

Counsel should be available at the penitentiary to advise any inmate desiring to appeal or collaterally attack his conviction. An attorney also should be provided to represent: an indigent inmate of any detention facility at any proceeding affecting his detention or early release; an indigent parolee at any parole revocation hearing; and an indigent probationer at any proceeding affecting his probationary status.

Standard 13.5: Method of Delivering Defense Services

Services of a full-time public defender organization, and a coordinated assigned counsel system involving substantial participation of the private bar, should be available in each jurisdiction to supply attorney services to indigents accused of crime. Cases should be divided between the public defender and assigned counsel in a manner that will encourage significant participation by the private bar in the criminal justice system.

Standard 13.6: Financing of Defense Services

Defender services should be organized and administered in a manner consistent with the needs of the local jurisdiction. Financing of defender services should be provided by the State, Administration and organization should be provided locally, regionally, or statewide.

Standard 13.7: Defender to be Full Time and Adequately Compensated

The office of public defender should be a full-time occupation. State or local units of government should create regional public defenders serving more than one local unit of government if this is necessary to create a caseload of sufficient size to justify a full-time public defender. The public defender should be compensated at a rate not less than that of the presiding judge of the trial court of general jurisdiction.

Standard 13.8: Selection of Public Defenders

The method employed to select public defenders should insure that the public defender is as independent as any private counsel who undertakes the defense of a fee-paying criminally accused person. The most appropriate selection method is nomination by a selection board and appointment by the Governor. If a jurisdiction has a Judicial Nominating Commission as described in Standard 7.1, that commission also should choose public defenders. If no such commission exists, a similar body should be created for the selection of public defenders.

An updated list of qualified potential nominees should be maintained. The commission should draw names from this list and submit them to the Governor. The commission should select a minimum of three persons to fill a public defender vacancy unless the commission is convinced there are not three qualified nominees. This list should be sent to the Governor within 30 days of a public defender vacancy, and the Governor should select the defender from this list. If the Governor does not appoint a defender within 30 days, the power of appointment should shift to the commission.

A public defender should serve for a term of not less than four years and should be permitted to be reappointed.

A public defender should be subject to disciplinary or removal procedures for permanent physical or mental disability seriously interfering with the performance of his duties, willful misconduct in office, willful and persistent failure to perform public defender duties, habitual intemperance, or conduct prejudicial to the administration of justice. Power to discipline a public defender should be placed in the judicial conduct commission provided in Standard 7.4.

Standard 13.9: Performance of Public Defender Function

Policy should be established for and supervision maintained over a defender office by the public defender. It should be the responsibility of the public defender to insure that the duties of the office are discharged with diligence and competence.

The public defender should seek to maintain his office and the performance of its function free from political pressures that may interfere with his ability to provide effective defense services. He should assume a role of leadership in the general community, interpreting his function to the public and seeking to hold and maintain their support of and respect for this function.

The relationship between the law enforcement component of the criminal justice system and the public defender should be characterized by professionalism, mutual respect, and integrity. It should not be characterized by demonstrations of negative personal feelings on one hand or excessive familiarity on the other. Specifically, the following guidelines should be followed:

1. The relations between public defender attorneys and prosecution attorneys should be on the same high level of professionalism that is expected between responsible members of the bar in other situations.
2. The public defender must negate the appearance of impropriety by avoiding excessive and unnecessary camaraderie in and around the courthouse and in his relations with law enforcement officials, remaining

at all times aware of his image as seen by his client and community.

3. The public defender should be prepared to take positive action, when invited to do so, to assist the police and other law enforcement components in understanding and developing their proper roles in the criminal justice system, and to assist them in developing their own professionalism. In the course of this educational process he should assist in resolving possible areas of misunderstanding.
4. He should maintain a close professional relationship with his fellow members of the legal community and organized bar, keeping in mind at all times that this group offers the most potential support for his office in the community and that, in the final analysis, he is one of them. Specifically:
 - a. He must be aware of their potential concern that he will preempt the field of criminal law, accepting as clients all accused persons without regard to their ability or willingness to retain private counsel. He must avoid both the appearance and fact of competing with the private bar.
 - b. He must, while in no way compromising his representation of his own clients, remain sensitive to the calendaring problems that beset civil cases as a result of criminal case overloads, and cooperate in resolving these.
 - c. He must maintain the bar's faith in the defender system by affording vigorous and effective representation to his own clients.
 - d. He must maintain dialogue between his office and the private bar, never forgetting that the bar more than any other group has the potential to assist in keeping his office free from the effects of political pressures and influences.

Standard 13.10: Selection and Retention of Attorney Staff Members

Hiring, retention, and promotion policies regarding public defender staff attorneys should be based upon merit. Staff attorneys, however, should not have civil service status.

Standard 13.11: Salaries for Defender Attorneys

Salaries through the first 5 years of service for public defender staff attorneys should be comparable to those of attorney associates in local private law firms.

Standard 13.12: Workload of Public Defenders

The caseload of a public defender office should not exceed the following: felonies per attorney per year: not more than 150; misdemeanors (excluding traffic) per attorney per year: not more than 400; juvenile court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and appeals per attorney per year: not more than 25.

For purposes of this standard, the term case means a single charge or set of charges concerning a defendant (or other client) in one court in one proceeding. An appeal or other action for postjudgment review is a separate case. If the public defender determines that because of excessive workload the assumption of additional cases or continued representation in previously accepted cases by his office might reasonably be expected to lead to inadequate representation in cases handled by him, he should bring this to the attention of the court. If the court accepts such assertions, the court should direct the public defender to refuse to accept or retain additional cases for representation by his office.

Standard 13.13: Community Relations

The public defender should be sensitive to all of the problems of his client community. He should be particularly sensitive to the difficulty often experienced by the members of that community in understanding his role. In response:

1. He should seek, by all possible and ethical means, to interpret the process of plea negotiation and the public defender's role in it to the client community.
2. He should, where possible, seek office locations that will not cause the public defender's office to be excessively identified with the judicial and law enforcement components of the criminal justice system, and should make every effort to have an office or offices within the neighborhoods from which clients predominantly come.
3. He should be available to schools and organizations to educate members of the community as to their rights and duties related to criminal justice.

Standard 13.14: Supporting Personnel and Facilities

Public defender offices should have adequate supportive services, including secretarial, investigation, and social work assistance.

In rural areas (and other areas where necessary), units of local government should combine to establish regional defenders' offices that will serve a sufficient population and caseload to justify a supporting organization that meets the requirements of this standard.

The budget of a public defender for operational expenses other than the costs of personnel should be substantially equivalent to, and certainly not less than, that provided for other components of the justice system with whom the public defender must interact, such as the courts, prosecution, the private bar, and the police. The budget should include:

1. Sufficient funds to provide quarters, facilities, copying equipment, and communications comparable to those available to private counsel handling a comparable law practice.
2. Funds to provide tape recording, photographic and other investigative equipment of a sufficient quantity, quality, and versatility to permit preservation of evidence under all circumstances.
3. Funds for the employment of experts and specialists, such as psychiatrists, forensic pathologists, and other scientific experts in all cases in which they may be of assistance to the defense.
4. Sufficient funds or means of transportation to permit the office personnel to fulfill their travel needs in preparing cases for trial and in attending court or professional meetings.

Each defender lawyer should have his own office that will assure absolute privacy for consultation with clients.

The defender office should have immediate access to a library containing the following basic materials: the annotated laws of the State, the State code of criminal procedure, the municipal code, the United States Code Annotated, the State appellate reports, the U.S. Supreme Court reports, citators governing all reports and statutes in the library, digests for State and Federal cases, a legal reference work digesting State law, a form book of approved jury charges, legal treatises on evidence and criminal law, criminal law and U.S. Supreme Court case reporters published weekly, loose leaf services related to criminal law, and, if available, an index to the State appellate brief bank. In smaller offices, a secretary who has substantial experience with legal work should be assigned as librarian, under the direction of one of the senior lawyers. In large offices, a staff attorney should be responsible for the library.

Standard 13.15: Providing Assigned Counsel

The public defender office should have responsibility for compiling and maintaining a panel of attorneys from which a trial judge may select an attorney to appoint to a particular defendant. The trial court should have the right to add to the panel attorneys not placed on it by the public defender. The public defender's office also should provide initial and inservice training to lawyers on the panel and support services for appointed lawyers, and it should monitor the performance of appointed attorneys.

Standard 13.16: Training and Education of Defenders

The training of public defenders and assigned counsel panel members should be systematic and comprehensive. Defenders should receive training at least equal to that received by the prosecutor and the judge. An intensive entry-level training program should be established at State and national levels to assure that all attorneys, prior to representing the indigent accused, have the basic defense skills necessary to provide effective representation.

A defender training program should be established at the national level to conduct intensive training programs aimed at imparting basic defense skills to new defenders and other lawyers engaged in criminal defense work.

Each State should establish its own defender training program to instruct new defenders and assigned panel members in substantive law procedure and practice.

Every defender office should establish its own orientation program for new staff attorneys and for new panel members participating in provision of defense services by assigned counsel.

Inservice training and continuing legal education programs should be established on a systematic basis at the State and local level for public defenders, their staff attorneys, and lawyers on assigned counsel panels as well as for other interested lawyers.

**Preliminary Draft
Recommendations from the
National Study Commission
on Defense Services Draft
Report and Guidelines for
the Defense of Eligible
Persons, Volume II**

1. Nature of Cases Requiring the Assistance of Counsel

a. Effective representation should be provided to every eligible person in every proceeding the purpose of which is to establish the culpability of or status of such person, pursuant to a factfinding process, as a prerequisite to intrusions of the government in order to:

- (1) Impose sanctions resulting in a loss of liberty, or
- (2) Impose other legal disabilities.

b. Effective representation should be provided to every eligible person who is subject to loss of liberty or legal disability imposed by government, and who seeks to redress the deprivation by government of any right, privilege or immunity guaranteed by law.

2. Time of Entry

Effective representation for every eligible person should be available either when (a) the individual is arrested, (b) the person believes he is under suspicion of having committed or of participating in a crime, or (c) the person believes that a process will commence resulting in a loss of liberty or the imposition of a legal disability, whichever occurs earliest.

3. The Mechanics of Providing Early Representation

a. Legal representation should be available to every eligible person who (a) is arrested, (b) believes that he is under suspicion of a crime, or (c) believes that a process will commence resulting in a loss of liberty or the imposition of a legal disability. The defender office should respond to inquiries made by such a person or by any person acting in his behalf, whether or not the person is in the custody of law enforcement officials.

b. Where a publicly provided attorney interviews an accused and if it appears that the accused is financially ineligible for public defender services, the attorney should help the accused obtain competent private counsel and should continue to render all necessary defense services until private counsel assumes full responsibility for the case.

c. The defender office or assigned counsel program should provide sufficient personnel and communica-

tion facilities to enable it to provide emergency representation on a 24-hour basis.

d. The defender office or assigned counsel program should implement systematic procedures, including daily jail checks, to assure that prompt representation is available to all persons eligible for defender services.

e. The defender office or assigned counsel program should provide adequate facilities for interviewing prospective clients who have not been arrested or who are free on pre-trial release.

f. Upon initial contact with a prospective client, the defender or assigned counsel should: (1) Offer specific advice as to all relevant constitutional and statutory rights; (2) Elicit matters of defense and direct investigators to commence fact investigations; (3) Collect information relative to pretrial release; and (4) Make a preliminary determination of eligibility for publicly provided defense services.

g. The defender office or assigned counsel program should prepare and distribute an informational brochure describing in simple, cogent language or languages: (1) The rights of any person who may require the services of the defender; (2) The nature and availability of such services; and (3) The means for securing the services, including the phone number and address of the local defender office. Such brochures should be made available in all police stations, courthouses, and detention facilities, and should be posted in conspicuous places in those buildings. Where budgets permit or where local media provide free public announcements, the defender office should publicize its services in the media.

h. The procedures utilized in assuring early representation should, where necessary, be permitted as a limited exception to the procedure of providing continuous representation by a single attorney throughout the trial and sentencing. However, the defender office or assigned counsel program should implement systematic procedures for early case assignment and for informing the client of the name of the attorney who will represent him after the initial period.

i. It should be the *primary duty* of the law enforcement authority having custody of any person to: (1) Determine whether such person is represented by counsel, and if he is so represented, to contact his attorney immediately; and (2) Contact the defender office or assigned counsel program immediately upon determining that the detainee is not represented by counsel.

j. It should be the *secondary duty* of all employees of government who come into direct contact with any person to make inquiry into whether the primary duty of the custodial authority has been properly discharged. If not, this secondary duty extends, but is not limited, to prosecutors, parole and probation officers, personnel of pretrial release programs and their agents.

4. Financial Eligibility

a. Eligibility Criteria

Effective representation should be provided to anyone who is financially unable, without substantial hardship to himself or to his family, to obtain such representation. This determination should be made by ascertaining the liquid assets of the person which exceed the amount needed for the payment of current obligations and which are not needed for the support of the person or his family. Liquid assets include cash in hand, stocks and bonds, bank accounts and any other property which can be readily converted to cash. The person's home, car, household furnishings, clothing and any property declared exempt from attachment or execution by law, should not be considered. The eligibility determiner shall not consider whether or not the person has been released on bond, or the resources of a spouse, parent or other person. If the person's liquid assets are not sufficient to cover the anticipated cost of effective representation, the person should be eligible for public representation. The cost of representation, for purposes of determining eligibility, should include investigation, expert testimony, and/or other costs which may be related to providing effective representation.

b. Method of Determination

The financial eligibility of a client for public representation should be made initially by a defender subject to review by a court on a finding of ineligibility. Eligibility should be determined by means of an affidavit which should be considered privileged under the attorney-client relationship. The client should be notified that he may be required to reimburse the state or county for all or part of the cost of representation. A decision of ineligibility which is affirmed by a judge should be reviewable by an expedited interlocutory appeal. The defendant should be informed of this right to appeal and if he desires to exercise it, the clerk of the court should perfect the appeal. The record on appeal should include all evidence presented to the court on the issue of eligibility and the judge's findings of fact and conclusions of law denying eligibility.

5. Recoupment

a. Trial Court Proceedings

(1) The court should not require reimbursement unless at the conclusion of the proceedings it determines that the convicted defendant has the present ability to pay all or a portion of the costs of legal representation incurred in that proceeding without manifest hardship to the defendant or his family. At the conclusion of criminal proceedings in trial court, a judge other than the sentencing judge, upon application of the state or county prosecutor, may require a convicted defendant to make reimbursement to the state or county for all or a portion of the cost to the state or county of the legal representation rendered on the de-

fendant's behalf at public expense in the event that it determines that the defendant is presently able to do so.

(2) No order of reimbursement should be ordered, however, unless the defender at the time eligibility is first established notifies the defendant of the potential obligation to reimburse the state or county. The defender should be required to provide such notice.

b. Proceedings After Trial

Should the defendant obtain legal representation at state or county expense in connection with a criminal appeal, or in a matter ancillary to a criminal prosecution such as probation or parole revocation proceeding or a *habeas corpus* proceeding, the state or county may seek to obtain reimbursement from the defendant through application to a judge of the court of original jurisdiction other than the sentencing judge. No order of reimbursement, however, should be made unless the defendant has the present ability to pay and has been given notice of the potential obligation to reimburse.

c. Reimbursement Procedures

(1) The application for reimbursement by the state or county prosecution should be made to the court no later than thirty (30) days following termination of the proceedings in issue. Following the application, the defendant's attorney should file a statement of the costs of legal representation at public expense and the defendant should file a declaration of his financial status, all of which are to be utilized by the court in making the determination regarding reimbursement.

(2) In determining the amount of payment to be made and the method of payment, the court should take into account the financial resources of the defendant and the nature of the burden that payment or costs will impose. The resources of spouse, relatives and other persons should not be considered in making this determination.

(3) The court may order payment in installments, or in any manner which it believes reasonable and compatible with the defendant's financial ability. In no event shall the time for payment exceed five (5) years.

(4) The defendant should have the right to obtain a modification or termination of the reimbursement order at any time while it has force and effect, on the basis that the order works manifest hardship to the defendant or his family brought about by circumstances which have changed since the order for reimbursement was entered.

d. Execution of Recoupment

(1) The state or county may recover such reimbursement through execution of the judgment. The execution of the judgment shall be conducted and enforced in the same manner and subject to the same exemptions that are applicable to civil actions. The judgment should not be enforced by contempt.

(2) Amounts recovered under this section should be paid into the general fund of the state or county or other contributing agency.

c. False Statements made in Connection with Reimbursement Determination

(1) If, following a negative or partial determination of reimbursement, it is determined that the defendant made material false and misleading statements to the court regarding his ability to pay for the cost of the legal representation at state expense, and that the defendant has the ability to pay all or a portion of the costs of legal representation in conformity with the provisions of paragraph 6(d) above, the state or county prosecutor may file suit for reimbursement and may obtain an order of complete or partial reimbursement.

(2) Said suit shall be filed no later than one year from the reimbursement determination by the court.

(3) Any person who knowingly submits to the court a materially false financial statement in connection with a determination of reimbursement for legal representation at public expense shall be guilty of a misdemeanor punishable by a fine of \$500.00 and/or by imprisonment of not more than six months.

(4) No information or testimony compelled of the defendant under these provisions, or any information directly or indirectly derived from such information or testimony may be used against the defendant in any criminal case, except in a prosecution under these provisions.

6. Mixed Systems

a. Administrative Structure of Mixed Systems

Alternative:

The defender office should be completely independent from the coordinated assigned counsel system. The defender should not participate in the appointment, regulation, or termination of the members of the assigned counsel pool. If proper funding exists, and exclusive of conflicts, the defender should make the necessary supporting services available to assigned counsel.

Alternative:

In a mixed system, the employed defender should be the assigned counsel administrator who has the responsibility, in cooperation with the private bar, and with the guidance of a policy-making board, for establishing and maintaining the panel of private lawyers, for the training program, for evaluation, for handling fiscal matters, for record keeping and for providing support services.

b. Allocation of Cases to Defenders and Assigned Counsel

Alternative:

Outside of conflicts and overload cases, the defender office should be appointed in all eligible cases except where the private bar has a pool of attorneys interested in trying criminal cases and an assurance that they

will receive training and regulation. In such cases, they should receive a percentage of cases in addition to overload and conflict cases.

In those jurisdictions where the private bar has a pool of attorneys interested in trying criminal cases and an assurance that they will receive training and regulation, the percentage of cases that pool attorneys should handle will depend upon the number of qualified attorneys available for that pool, the size of the local defender office, the number of cases that the defender office can effectively handle, and the ability and enthusiasm of the local private bar.

Alternative:

In a mixed defender and assigned counsel system the percentage of cases handled by each component of the system will depend upon the number of cases which the defender staff can handle effectively, and upon the composition, size and enthusiasm of the panel of private lawyers.

Except for cases involving multiple defendants, conflicts of interest, or matters requiring special expertise, there should be no fixed rule distinguishing the type of cases handled by the defender staff or the assignments to the panel of private attorneys.

The method of assigning cases should be in accordance with a fair and well-promulgated plan, and all eligible persons should have counsel appointed to represent them pursuant to this plan. The administrator shall be responsible for developing, promulgating and implementing this plan.

7. Ad Hoc Assigned Counsel

Appointment of counsel on a random or ad hoc basis is explicitly rejected as an appropriate means of furnishing legal representation in criminal cases.

8. Assigned Counsel Systems

a. Administration of Assigned Counsel Systems

(1) Governing Body

An assigned counsel system should be operated under the auspices of a general governing body. The majority of the governing body should be composed of attorneys appointed by the bar association of the area to be served. The functions of the general governing body should include the following: designing the general scheme of the system; specifying the qualifications for the position of administrator of the system; defining the function of the administrator and authorizing sufficient staff to support that function; prescribing salaries and terms of employment; adopting appropriate rules or procedures for the operation of the governing body itself, as well as general guidelines for the operation of the system; acting as a selection committee for the appointment of an administrator, or, in the alternative, providing for a special selection committee; exercising general fiscal and organizational control of the system; seeking and maintaining proper funding of the system; insuring the independence of

the administrator and assigned counsel; and advancing and encouraging the public, the courts and the funding source to recognize the significance of the defense function as a vital and independent component of the justice system.

(2) The Administrator: Qualifications, Functions, and Terms of Employment

An assigned counsel system should be administered by a qualified attorney licensed to practice in the jurisdiction where the system functions. In addition, the qualifications of the administrator should include, but not be limited to, the following: extensive experience in the field of criminal defense; experience in administration; ability to work cooperatively with other elements of the criminal justice system while retaining an independence of attitude to promote and protect the proper rendering of defense services; ability to maintain proper relations with the members of the bar and bar organizations in the area which is served by the system; and where the assigned counsel system co-exists with a public defender system with a separate administrator, the administrator should be capable of maintaining a cooperative and working relationship with such sister service.

The functions of the administrator shall include, but not be limited to, the following: developing and executing operational policy and control of the system; assisting the governing body in discharging its responsibilities; further assisting the governing body in the development of the budget, planning and fiscal controls; acquiring such staff as is necessary to carry out the mission of the system; designing the internal operational, administrative and fiscal controls necessary for the ordeal disposition of case work under the system; further designing and implementing such training and continuing education programs as are needed; and developing means and access to such support services as are required.

The administrator should have the authority to select the attorneys who shall comprise the panel of attorneys performing the case work; to suspend or dismiss the panel members for cause, subject to the review of the governing body; to hire and discharge such staff as is necessary to operate the system; to monitor the quality of the services being rendered, and the responsibility to take appropriate measures to maintain a competent level of service; to approve expenditures for the acquisition of needed support services, e.g. investigation, experts, etc.; to approve the payment of attorney fee vouchers; to develop the details of operational policy; to undertake, at his discretion, client representation; and to accept donations on behalf of the system.

The following in terms of employment should apply to the assigned counsel administrator: the administrator should be salaried sufficiently to attract a capable person and on a basis at least equal to the office of the prosecutor in the jurisdiction in which the sys-

tem serves and should enjoy reasonable fringe benefits on a similarly comparable basis. The administrator and staff should be allowed reasonable expenses to participate in continuing educational programs, bar association affairs, and defender association affairs. The administrator should serve for a definite term of years, no less than three nor more than six, and be eligible for reappointment for successive terms; and should not be removed from office in the course of a given term without good cause being shown, and after being afforded the right to a hearing before the governing body.

(3) Internal Fiscal Control

It is the responsibility of the governing body of the assigned counsel system, with the assistance of the administrator, to develop a fee schedule which will reasonably and fairly compensate the panel attorneys who furnish services on such cases as are assigned the panel. It should be the responsibility of the administrator to assist in developing a preliminary budget for review and ultimate adoption by the governing body.

(4) The Panel

To establish an assigned counsel system, it is necessary to solicit and enlist those members of the bar in the area which the system serves. The administrator should act as the appointing authority, admitting qualified applicants to the panel.

The panel membership should include all attorneys in the area to be served who display a willingness to participate in the program, and manifest the ability to perform at a competent level relative to criminal defense work. Provision should also be made for attorneys who are willing to learn criminal defense work, or to become more proficient in such work, to be inducted into the program upon completion of an appropriate training regime.

Standards of performance and conduct should be developed and disseminated among all panel members and potential panel members. If these standards are disregarded or breached, such conduct should be cause for either admonishment, suspension or removal from the panel.

(5) Assignment of Cases

The methodology employed for the assignment of cases will depend in large part upon local procedures and conditions. However, the following goals should be established with respect to the number and types of case assignments: The cases must be distributed in an equitable way among the panel members to ensure balanced workloads, generally through a rotating system, with allowance for variance where required; the more serious and complex cases must be assigned to attorneys with a sufficient level of experience and competence to afford proper representation; and apprentice members of the panel should only be assigned cases which will not overwhelm their capabilities, yet they must be given the opportunity to expand their

experience in a gradual and controlled manner.

The design of the overall system for making assignments, both generally, and in special cases, should be the responsibility of the administration.

(6) Establishing and Maintaining Attorney-Client Relationships

It is generally not administratively feasible, nor necessarily desirable for the client or for the overall effectiveness of the system to allow the client to select a particular panel member. Exceptions, however, ought properly be recognized under certain circumstances.

A procedure should be established to receive and deal with client complaints.

(7) Support Services

Provision must be made to furnish prompt and thorough support services and facilities to aid in the preparation, defense and disposition of cases.

b. Personnel Evaluations Within Assigned Counsel Systems

(1) All evaluations of panel attorneys should be conducted by the system administrators with the results of the evaluations reported to the attorney upon request of the attorney or at the discretion of the administration.

(2) A system of performance evaluations based on personal monitoring by the administrator, augmented by regular inputs from judges, prosecutors, other defense lawyers and clients should be developed. Periodic review of the files of selected cases should be made by the administrator.

(3) The criteria of performance utilized in evaluations should be that of a skilled and knowledgeable lawyer competent in the practice of criminal law.

(4) A certification program for criminal law specialists should be considered.

(5) An accreditation program within the appropriate national professional organization should be developed to encourage compliance with national standards and promote the general improvement of defense services.

c. Assigned Counsel Fees

(1) Adequate Compensation

(a) Assigned counsel should be adequately compensated for services rendered. In addition to the compensation awarded to assigned counsel, funds should be made available in a budgetary allocation for the services of investigators, expert witnesses and other necessary services.

(b) The amount of assigned counsel fees should be related to the prevailing rates among the private bar for similar services. These rates should be periodically reviewed and adjusted accordingly.

(2) Fee Structure

Consideration should be given to developing a fee

structure and to the effect of that fee structure upon the quality of representation. Fee structures should be designed to compensate attorneys for effort, skill and time actually, properly and necessarily expended in assigned cases.

Fee schedules, whether provided by statute or policy, should be designated to allow hourly in-court and out-of-court rates up to a stated maximum for various classes of cases, with provisions for compensation in excess of the scheduled maxima) in extraordinary cases.

(3) Processing of Fee Vouchers

It should be the responsibility of the administrator to approve fee vouchers in accordance with the fee schedules up to the recommended maximum allowances contained in such schedules. Requests for fees exceeding the recommended maximum or appeals from the administrator's actions should be received by a panel of attorneys appointed by the governing board. A copy of all fee vouchers should be simultaneously filed with the court.

(4) Sources of Funding for Assigned Counsel Programs

While states generally have the primary obligation for funding defense services to the legally indigent, the Federal Government should provide assistance through long-term direct matching grants. Where local government has the primary responsibility by statute, similar assistance should be furnished by the state. Grants should be contingent upon achieving and maintaining services at a level of quality commensurate with national standards. Provision should allow for supplemental funding from non-government sources, if available.

(5) Administration of Assigned Counsel Systems Funds

The financial administration of assigned counsel system funds should be in the form of an open-ended budget whereby compensation could be paid in accordance with caseload and the nature and extent of services rendered.

d. Training Assigned Counsel

(1) A single person or organization should assume the responsibility for training. Where there is an administrator, that individual should have the responsibility.

(2) Training programs must take into consideration the experience and expertise of attorneys to be trained.

(3) While only experienced and able attorneys should receive appointments, provision should be made to properly qualify less experienced attorneys who demonstrate an interest in and a potential for becoming qualified criminal attorneys.

(4) Formal training programs stressing lectures, demonstrations, and supervised participant involved should be regularly scheduled. Joint sponsorship of

such programs by defender organizations, local bar groups, and/or national organizations should be encouraged.

(5) Training programs should not only be provided, but, in addition, reasonable attendance should be required of attorneys who receive appointments.

(6) If the operating budget is not sufficient, funds should be requested from outside sources to initiate formal training or to further develop formal training programs.

(7) In addition to the formal training programs suggested above, appointed counsel should be encouraged to, from time to time, attend other criminal law-related seminars.

(8) Use should be made of both audio and video tapes for training purposes. Further, a national organization should consider providing, as a service, such tapes to defender offices and bar associations concerned with training criminal defense attorneys who regularly accept appointments in criminal cases.

(9) In addition to formal training programs, those responsible for the adequacy of assigned counsel should further assist counsel by providing as many as possible of the following services: an apprenticeship program, initial handout or package of material given to assigned counsel, an evaluation procedure, a motion and briefbank, library availability, information on experts, a newsletter, access to other attorneys for consultation, and law student assistance.

9. Structure of Defender Systems

a. Defender System Funding

(1) Sources of Funding

(a) Federal Funding

Although the states have the primary obligation, the Federal Government should provide financial aid to the states to assist in establishing and maintaining organized defender systems for delivery of uniform, quality legal services to eligible persons in criminal and related cases. Such assistance should be in the form of direct matching grants, and contingent upon maintenance of quality services in accordance with national standards.

(b) State Funding

(i) State Financing

Each state should provide full and adequate funding for all defense services in its jurisdiction regardless of the level of government at which those services are administered.

(ii) Local Contributions Prohibited

Political subdivisions served by state funded defense systems should be prohibited from contributing to the local defender office.

(iii) State Reimbursements to Localities

In a jurisdiction where the state will not undertake full funding, the state should reimburse

local governments for defense expenses that exceed a specified cost per case, providing that the local services meet standards for accreditation.

(c) Regional Funding

Where defense services are organized and administered on the regional level and in the absence of full state funding, participating local governments should allocate the costs among themselves in an equitable manner. Alternative bases include, but are not limited to, population, caseload, or equal sharing.

(d) Private Funding

Private funding is not a stable source of funding and should not be relied upon except for capital expenditures such as library acquisitions and equipment. The defender should be empowered to seek and receive private funds.

(e) Pro Bono Services

The private bar should not be required to provide defense services either as the primary delivery agent or for conflict/overflow cases on a pro bono basis.

(2) Administration of Funds

(a) The defender system should be an independent agency and should prepare and present its budget directly to the appropriating authority. The budget should not be presented as part of the judicial or executive budgets nor should it be subject to diminution or alteration by any branch of government other than the appropriating authority. The defender commission should review and advise the defender on the budget before its submission and provide support for the budget request.

(b) The defender should operate under an annual (or biennial) lump sum appropriation and should not be funded on a case by case reimbursement basis.

(c) The defender office budget should include all necessary expenditures including but not limited to office space, expert witnesses, and investigative services. The government should not have the option of providing these services directly to the defender.

(b) Selecting the Defender Director

(1) Special Selection Commission

A special selection commission should be created to appoint, and, to a limited extent, advise, the state defender director.

(2) Composition of Commission

The commission should consist of nine to thirteen members, depending upon the size of the community, the number of identifiable factions or components of the client population, and judgments as to which non-client groups should be represented.

Criteria for selection of commission members:

(a) The primary consideration in making up the composition of the special selection Commission should be that of ensuring the independence of the defender director.

(b) The members of the Commission should represent a diversity of factions in order to ensure insulation from partisan politics.

(c) No single branch of government should have a majority of votes on the Commission.

(d) Organizations concerned with the problems of the client community should be represented on this Commission.

(e) A majority of the Commission should be practicing attorneys.

(f) None of the members of the Commission should be judges or prosecutors.

(3) Staggered Terms

The Commission's members should serve staggered terms in order to ensure continuity and to avoid upheaval.

(4) Duties of the Commission

(a) The primary function of the Special Selection Commission is to select the Chief State Defender.

(b) The Commission should assist the State Defender Director in drawing up procedures for the selection of assistants or deputies.

(c) The Commission should receive possible client complaints, initiate statistical studies of case dispositions, and monitor the performance of the State Defender Director.

(d) The Commission should not interfere with the discretion, judgment and zealous advocacy of defender attorneys in specific cases.

(e) The Commission should prepare an annual report of the operations of the office of the defender.

(5) Meetings

The Commission should meet on a regular basis and should be presided over by a chairperson elected by its members.

(6) Expenses

The Commission should serve without pay, but should be reimbursed for traveling and other reasonable expenditures incurred as a result of membership.

(7) Meeting Procedures

A majority of members should constitute a quorum, and any resolution, policy adoption, or motion should require a vote of two-thirds of those present. However, selection of the Defender Director should require the vote of each member, due to the importance of the decision. There should be no voting by proxy.

(8) Qualifications of the Defender Director

The Defender Director should be a member of the bar of the state in which he is to serve. He should be selected on the basis of a non-partisan, merit procedure which ensures the selection of a person with the best available administrative and legal talent, regardless of political party affiliation, contributions, or other irrelevant criteria.

(9) Term of Office

The Defender Director's term of office should be from four to six years' duration and should be subject to renewal.

(10) Private Defender Agencies

(a) Criteria relating to the method of appointing the State Defender Director, the composition of the Special Selection Commission, the duties of the Commission, meetings, expenses, meeting procedures and qualifications of the Defender Director should apply equally to private defender agencies.

(b) Where a defender agency is established pursuant to contract, in order to maintain continuity and attract qualified personnel to the position of Defender Director, provision should be made, either by law or by contract, for the continuation of the defender service beyond the contract period.

(c) The scope of the services to be provided should be stated explicitly in the contract.

(d) Contracts for legal services should not be let on the basis of competitive bidding.

(e) The contract should specify the workload anticipated as it is related to the amount of funds being provided in order to provide a formula in the event that the anticipated workload is exceeded.

c. Level of Organization

(1) State Level Organization

(a) Centralized State Level Administration

First Alternative:

Delivery of defense services should be organized at the state level in order to ensure uniformity and equality of legal representation and supporting services provided, and to guarantee professional independence of the individual defender. This system should provide services by means of city, county, or multi-county programs, to every jurisdiction in the state.

Except in the case of pre-existing agencies, the planning and creation of local or regional defender offices should be undertaken by a state defender office which is responsible for providing all defender services, including trial level appellate and post-conviction services throughout the state.

The state defender should appoint deputy defenders to head the local and regional offices and should set general policy and guidelines regarding the operation of such offices and the handling of cases. The daily administration of the office and handling of individual cases should be the responsibility of the deputy defenders.

Second Alternative:

Independence of the appellate function from the trial function is essential. Whether the defender system is administered at a state or local level, it is necessary to establish a wholly separate defender system for appeals.

Third Alternative:

Local autonomy in defender systems is desirable. Whether funding is provided locally or by the state, defender offices should be locally administered.

(b) Pre-Existing Defender Agencies in a Statewide System

(i) The offices of the State Defender may contract with pre-existing qualified entities to provide services.

(ii) The State Defender shall be responsible for ensuring compliance by contracted programs with national standards.

(iii) Where the on-going program has determined to be in full compliance with national standards, it should be eligible to receive state funding for its program and the office of the state defender should provide any necessary back-up services.

(iv) Where the on-going defender or coordinated assigned counsel program does not comply with national standards, such jurisdiction should have 120 days in which to comply. If, upon reevaluation after that time, the program fails to meet national standards, the office of the State Defender should itself replace the prior program.

(c) Duties of State Defenders

(i) Evaluations

The office of the state defender should ensure that on-site evaluations of each defender office and of each jurisdiction or region which has retained its own defender or coordinated assigned counsel program be conducted not less than once a year.

The State Defender should make monitoring visits to offices around the state on a frequent basis.

The State Defender should contract with outside agencies periodically to have evaluations conducted.

(ii) Training

The office of the State Defender should provide initial training for all new defender staff attorneys and should conduct seminars for continuing education for the staff of all defender offices and coordinated assigned counsel programs in the state.

(d) Accreditation

An accreditation program within the appropriate national professional organization should be developed to encourage compliance with national standards and promote the general improvement of defense services.

(2) Regionalization of Defense Services

(a) In states which have not established the office of the state defender, local political subdivisions having a sufficient number of cases to occupy two more attorneys on a full-time basis should be required to establish an organized defender system. If a local political subdivision lacks a sufficient number of cases to

occupy the full-time services of at least two attorneys, it should be required to combine with other political subdivisions to establish a regional, organized defender system.

(b) Statewide regulations should be established in conformity with national standards governing the staff and budgetary requirements of local and regional defender offices, to ensure provision of uniform, quality legal services and to protect the independence of the office from political or judicial influence. Staffing requirements for regional offices should be related to travel time for attending court and jail facilities as well as to approved caseload standards.

d. Location of Defender Offices

(1) Location of Offices in a State Level Defender System

In a state level defender system, the principal office should ordinarily be located in the state capital, and other offices should be located with reference to population and caseload factors and access to trial and appellate courts and penal institutions.

(2) Location of Local Defender Offices

Local defender offices should be located near the appropriate courthouses, but never in such proximity that the defender becomes with the judicial and law enforcement components of the criminal justice system. Defender offices should maintain interview and waiting rooms in the courthouse.

(3) Branch Offices

Regional, metropolitan and single county defenders should establish branch offices whenever operational efficiency, defender's access to courts, or clients' access to defenders would be significantly enhanced thereby.

10. Internal Organization and Administration of Defender Systems

a. Task Allocation

(1) Task Allocation in Large Defender Offices

(a) Specialization

Defender organizations, in order to achieve more effective representation, increased cost effectiveness and improved client and staff satisfaction should analyze their operations for opportunities to achieve these goals through specialization. Specialization options should be considered for legal and support staff functions and tasks with the determination made for reasons of comparative advantage in performance of the task, consistent with an attorney's professional responsibility.

(b) Overall Responsibility and Initial Interview

The staff attorney should have the primary responsibility and final authority for managing, evaluating and coordinating all services provided to his client. The attorney should conduct the initial interview and

make an evaluation of the case prior to entry by specialists and supportive staff into the case.

(c) Use of Nonlawyer Specialists

Social workers, investigators, paralegal and paraprofessional staff should be employed to assist attorneys in performing tasks not requiring attorney credentials or experience and for tasks that support staff bring special skills and experience to performing.

(d) Continuity of Representation

The implementation of specialization by a defender office should not affect the ability of a staff attorney to represent a client from the beginning of the case through the sentencing stage as opposed to providing representation limited to particular stages of the client's case.

(e) Supervisory Ratio

Proper attorney supervision in a defender office requires one full-time supervisor for every ten staff lawyers, or one part-time supervisor for every five lawyers. The division of attorney personnel into functional sections.

(f) Administrative Assistant

Professional business management staff should be employed by defender offices to provide expertise in budget development and financial management, personnel and purchasing administration, data processing, statistics, recordkeeping and information systems, facilities management and other administration services if senior legal management, in the aggregate, are expending at least one manyear of effort for the above functions.

(g) Reassessment of Need for Special Position

Specialization should be piloted and evaluated to measure performance and cost effectiveness and related offsets due to fragmentation of tasks and increased management and coordinative requirements. Specialists and subspecialists should be functional in character and should not be used as a means for artificially raising salaries through specialist designation.

(h) Support Services for Assigned Counsel

Defender organizations should develop systems to provide appointed counsel with specialist and supportive service assistance in cases not involving or potentially involving a legal conflict, except where an assigned counsel plan provides specialty and supportive services through the plan administrator's office.

(2) Defender Programs in Rural Areas

Rural defender programs staffed by five or fewer attorneys should:

(a) in general, meet the standards prescribed for large and medium-sized defender offices.

(b) rotate attorneys so that each attorney becomes familiarized with each type of proceeding, type of case, and jurisdiction covered by the office.

(c) rotate routine administrative and public relations duties to ensure that each attorney is familiar with the operation of the programs and is known to the general public.

(d) have facilities and resources at least comparable to those of local full-time prosecutorial offices and on a par with facilities of a private law firm of comparable size.

(3) Appellate Defender Systems

(a) Relationship to Trial Counsel

Alternative:

The Appellate Defender System should be independent of and separate from the trial counsel.

(i) The office should be an organizationally independent office capable of formulating its own policies and standards.

(ii) Counsel on appeal should be different from trial counsel and capable of exercising independent review of the competence and performance of trial counsel.

(iii) An Appellate Defender should not have responsibility for any trial work while in an appellate division and should remain in an appellate division for a substantial period of time, so that continuous representation by the same defender can be given to a client throughout the appellate process.

Alternative:

The appellate function should be separate from the trial function, but in a state system for trials and appeals, it should be part of a single agency.

(b) Responsibility of the Appellate Defender Office to the Client

Where paraprofessionals and law students are utilized in the appellate process, the defender assigned to that client should establish a personal relationship with the client developed through personal interviews and continued contact.

(i) A copy of all pleadings filed for a client by the defender should be automatically forwarded to the client.

(ii) Because the client is not present at most appellate proceedings, the client should be informed automatically of the occurrence of all substantial hearings affecting his or her case and of all rulings and decisions significant to that case.

(iii) All such informative tasks in (i) and (ii) can and should be performed by administrative personnel to insure that such information is forwarded to the client.

(c) Relationship of Appellate Attorneys to Paraprofessionals and Law Students

The responsibility for handling a case on appeal is that of the staff attorney who must have direct responsibility for supervision of all paraprofessionals and law students who would have occasion to work on a case assigned to that attorney.

(d) *Expert Witness*

The Appellate Defender System should have available to it adequate resources for the hiring of expert witnesses and investigative services.

(e) *Administrative Personnel*

The Appellate Defender office should hire and train administrative personnel whose responsibility would be to maintain docket control cards, open files and accumulate all court records before the case is assigned to a defender and establish initial contact with the client to inform him of the appointment and what steps will follow in the process.

(f) *Briefbank and Library Facilities*

The Appellate Defender System should have available an adequate library and briefbank and access to a complete resource library.

(i) Adequate personnel should be available to operate the library and maintain and index a brief bank.

(ii) Individual staff attorneys should be provided with an annotated criminal code, court rules, and constitution and a subscription to the relevant advance sheets.

(iii) The Appellate Defender office should receive slip sheet copies of all opinions released by their jurisdictions appellate courts, which should be indexed and distributed by administrative personnel.

(4) *Use of Law Students*

(a) The primary responsibility for representing persons charged with crimes rests with this Nation's practicing bar. It is deplorable that law students are now filling gaps which should be filled by the practicing bar.

(b) Volunteer and compensated law students utilized as support (paraprofessional) personnel by a defender agency should be carefully supervised, given a broad range of experience, and, where appropriate, adequately compensated for their work.

(c) Law students functioning as subcounsel in a criminal matter should be thoroughly prepaid in criminal law and procedure, ethics, and court practice before being permitted to handle actual courtroom appearances.

(d) Law students may first-chair (handle the case as lead counsel) motions, hearings, and trials only after (a) he or she has been certified under a student practice rule; (b) the supervising defender has determined that the student is thoroughly prepared to handle the matter; (c) the supervising defender has determined that to the best of his knowledge and belief, the student will not bias either the court or the jury against the defendant;

(e) The client consents in writing to student representation.

(f) The consent of a trial judge for student trial

representation should not be required; such a requirement is undesirable.

(g) The requirement of close supervision necessitates that the supervising attorney have a complete understanding of the case a student is handling, has been available to the student prior to any court appearance for consultation and be physically present and immediately available for consultation during the time the student is presenting a matter in court.

(h) It is undesirable to have law students conducting initial substantive client interviews without the presence of a supervising attorney.

(i) Law students should not first-chair criminal cases in which the accused is charged with a serious crime. Serious crimes are defined as those charges involving complex legal, evidentiary, or tactical decisions with the likelihood of a substantial deprivation of liberty upon conviction.

(j) Before the start of any courtroom proceeding, both defender and client should indicate, on the court record, the client's consent to representation by the student.

(5) *Representation of Inmates*

The system of criminal justice which accords to the criminally accused defendant the full range of constitutional due process protections throughout the trial and appellate process, upon conviction, largely abdicates its responsibility to deliver representation to those who are confined in our penal institutions. Accordingly, each public defender office should make an assessment of the need for post-conviction representation of the criminally confined community in their jurisdiction, and, if indicated, establish a separate division of their office to deliver comprehensively that representation.

(a) In recognition of the breadth and scope of most prisoner's legal needs, the defender office should seek to utilize and incorporate existing community resources, including but not limited to, law students, paraprofessionals, jailhouse lawyers and volunteers, to assist it in delivering the required services. These individuals, however, must be carefully selected, properly trained and supervised, and their duties precisely defined.

(b) Since the legal claims of prisoners may require of defender staff attorneys many skills and/or substantive law knowledge not necessarily possessed by criminal law practitioners, this fact should be reflected in the program's hiring policies, training programs, law library content and internal office structure.

(c) The defender office may decide, due to lack of available resources, or lack of expertise, or for other reasons, to provide representation only in certain, specified kinds of cases. In this event, the defender should identify and coordinate with, alternative prison legal services programs and initiate an effective referral system for those cases beyond their scope.

b. *Policy Issues Related to the Handling of Cases*

(1) *Defender-Client Relationships and Choice of Counsel in a Defender's Office*

(a) *Defender-Client Relationships*

(i) Defenders should be mindful that their primary loyalty is to their clients. Defenders should seek to instill an attitude of trust and confidence in clients, and should scrupulously adhere to Canon Four's dictates regarding "The confidences and secrets of a client."

(ii) The defender should consult with his clients with sufficient frequency so that no client: (1) has doubts about the nature of his next court appearance; (2) misunderstands the defender's role in the plea-bargaining process; or (3) is called upon to make a decision on less than full information, or with less than adequate time to consider available choices.

(iii) Defender offices should devise means of obtaining feedback from clients in a systematic way, and should use information thus developed for tenure and promotion purposes and for enhancing the offices' sensitivity to client needs and generally improving the quality of representation.

(b) *Choice of Counsel*

(i) The initial assignment of particular cases to individual defender attorneys should be an internal function of the defender office. The Defender Director should discharge this function according to established office policy which takes into account (1) the desirability of permitting defendants some choice in the attorney selection process, and (2) the need for efficient functioning of the defender's office.

(ii) Whenever an attorney-client relationship has been established between a defender attorney and an accused, the defender office should not terminate or interfere with that relationship without strong cause, and the defender should stoutly resist any efforts by the court to terminate or interfere with that relationship.

(iii) Whenever it reasonably appears to a defender attorney that he is unable, for any reason, to furnish effective representation to a particular client, he should withdraw from the case with the consent of the client and the approval of the court, and should assist the accused in securing new counsel. The defender office should not seek to prevent the individual attorney's withdrawal under these circumstances.

(iv) Whenever a defender client requests that different counsel be assigned to his case, the Defender Director should investigate the grounds for the request and should assign new counsel to the client: if, (1) this constitutes the client's first such request; or (2) the investigation discloses that the defender attorney, for any reason, is unable to provide effective representation to the client. In all other cases the defender office should refuse to reassign the case, and should

inform the client of his right to petition the court for reassignment of counsel.

(v) Under no circumstances should the court attempt to assign particular cases to individual attorneys within a defender office.

(2) *Stage v. Continuous Representation*

Defender offices should provide for continuous and uninterrupted representation of eligible clients from initial appearance through sentencing up to but not including the appellate and post-conviction stages by the same individual attorney. Defender offices should urge changes in court structure and administration to reduce fragmentation and to facilitate continuous representation.

c. *Defender Personnel Policies*

(1) *Recruitment and Hiring of Personnel in Defender Offices*

(a) Defender systems and offices should actively recruit the best qualified attorneys available for staff positions by advertising on the local, statewide and national levels, and by formulating and promulgating hiring criteria and policies. Recruitment procedures should include special efforts to employ attorney candidates from minority groups which are substantially represented in the defender office's client populations.

(b) A national referral and placement service to facilitate nationwide public defender recruiting and placement should be instituted.

(c) Defender staff attorney appointments should be made by the Defender Director, should be based upon merit, and should be entirely free from political and other extraneous forces. Upon appointment, staff attorneys should be required to make a time commitment of from two to five years to defender service.

(d) Defender investigative staff should be systematically recruited, selected and supervised to ensure that the investigative function is properly discharged.

(2) *Supervision, Evaluation, Promotion and Firing of Defender Personnel*

(a) The professional performance of defender staff attorneys should be subject to systematic supervision, and evaluation efforts should be individualized, and should include monitoring time and caseload records, review and inspection of case files and transcripts, in-court observation and periodic conferences.

(b) Defender promotion policies should be tied to merit and performance criteria. Removal of staff attorneys should be only for cause, except during a fixed probationary period which an office may employ for newly hired attorneys.

(3) *Defender Training*

(a) The training of defenders should be syste-

matic, comprehensive, and at least equal in scope to that received by prosecutors. Every defender office should provide an orientation program for new staff attorneys. Intensive, entry-level training should be provided at the state or local level and, to the extent possible, defender hiring practices should be coordinated to facilitate an entry-level training program which newly hired attorneys are not assigned to routine office duties.

(b) Inservice training programs for defender attorneys should be provided at the state and local level so that all attorneys are kept abreast of developments in criminal law, criminal procedure and the forensic sciences. Every defender office should maintain an adequate library and pleadings bank, and staff attorneys should have ready access to appellate slip opinions, digests, legal periodicals and relevant loose-leaf services.

(c) Every defender office should seek to enroll staff attorneys in National and statewide training programs and courses that have relevance to the development of trial advocacy skills.

(d) Defender offices should provide training for investigative staff.

(4) Full-Time Defenders and Minimum Office Size

(a) Defender Directors and staff attorneys should be full-time employees, prohibited from engaging in the private practice of law. Regional defender offices which combine counties or districts should be created where necessary to produce a caseload of sufficient size to justify full-time personnel.

(b) No defender office should have fewer than two full-time defenders. Where this cannot be accomplished by regionalization, it should be accomplished by merging the criminal and civil legal aid functions.

d. Statistics and Recordkeeping

(1) Every defender office should maintain a central filing and record system with daily retrieval of information concerning all open cases. The system should include, at a minimum, an alphabetical card index system with a card containing detailed and current information on every open case, and a pocket book or calendar which contains future court appearance activity.

(2) Every defender office head should receive, on a weekly or monthly basis, detailed caseload and dispositional data, broken down by type of case, by type of function, by type of disposition, and by individual attorney workload. Large offices should employ a statistician to facilitate the record keeping and information retrieval process.

(3) Individual defender attorneys should be required to keep time records, and these records should be periodically tabulated by type of case, by court, and by type of function in a manner that will enable the defender director to articulate, assess, and justify caseload limitations.

e. The Defender's Role in the Community and the Criminal Justice System

(1) Every defender office should strive to instill in its members a high standard of professionalism and a sense of professional competence and excellence.

(2) The relationship between defenders and prosecuting attorneys should be characterized by the same high level of professionalism that is expected between other responsible members of the litigating bar.

(3) Defenders should be especially sensitive to the image they project to clients, and should accordingly refrain from demonstrations of camaraderie in and around the courthouse, the police station and the detention facility with prosecuting attorneys and other law enforcement personnel.

(4) Defenders should consult regularly with members of the judiciary in order to promote understanding and resolution of problems. Defender attorneys should be subject to judicial influence and supervision only in the manner and to the same extent as are lawyers in private practice.

(5) The defender should strive to eliminate areas of conflict and to develop areas of mutual cooperation and understanding with his fellow members of the legal community and organized bar, recognizing that bar support can assist the defender in securing an appropriate budget, resisting political pressure, and instituting criminal justice system reforms.

(6) Defender attorneys should involve themselves in programs and committees of the bar, and should encourage, promote and participate in programs of continuing legal education.

(7) The defender should scrupulously decline to represent defendants who are ineligible for defender services as such eligibility is determined by controlling standards; provided, however, that this policy does not interfere with the provision of early representation. Adherence to this policy should minimize the economic impact of the defender upon the private bar and, therefore, avoid unnecessary conflict with this important source of potential support for the defender. Where the accused has been determined eligible for defender services, the defender should withdraw from the case in deference to private counsel only upon request of the accused.

(8) The defender should educate the community about the purpose and function of his office. He should develop and maintain relations with community organizations to promote understanding of defender operations and to assist in improving defender services. He should include police, judges, prosecutors and corrections personnel in defender training programs. The defender should make speakers available for school and community organizations and should encourage media coverage and issue regular press statements. Every defender office should have an

official among whose responsibilities is press liaison. Each office should have a procedure by which media requests for information are channeled to the appropriate official.

11. Budget, Workload and Personnel Needs for Defender Offices

a. Projecting Future Personnel Needs

Alternative

(1-1) Defender office personnel needs should be projected by means of detailed resource planning. Such planning will require, at a minimum, detailed records on the flow of cases through the criminal justice process, and on the resources expended on each case at each step in the process.

(2) Data kept in the criminal justice system should be kept in a format that is intra-jurisdictionally compatible across all elements of the criminal justice system.

Alternative

(1-2) Defender office personnel needs should be projected by means of detailed resource planning. Such planning will require, at a minimum, detailed records on the flow of cases through the criminal justice process, and on the resources expended on each case at each step in the process. However, in jurisdictions which have not yet developed necessary input data to provide a scientific basis for accurately predicting future personnel needs, the caseload of a defender office should not exceed the following: Felonies per attorney per year: not more than 140; Misdemeanors (excluding traffic) per attorney per year: not more than 295; Juvenile Court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and Appeals per attorney per year: not more than 25. In offices lacking investigators, the maximum of felonies per attorney per year should be reduced to 97.

(2) Data kept in the criminal justice system should be kept in a format that is intra-jurisdictionally compatible across all elements of the criminal justice system.

b. Assessing and Solving Current Work Overloads

(1) Establishing Maximum Current Workload Levels

(a) The single most important objective for defender offices is to assure that all clients receive the effective assistance of counsel required by the sixth amendment to the constitution. This cannot be achieved by the ablest and most industrious lawyers when their workloads are excessive. Every defender office should establish maximum caseload standards for the office for individual attorneys. These standards should be approved by the defender's governing board.

(b) Caseload standards should reflect national

standards and guidelines. The determination by the defender office of whether the office caseload or the workload of an individual defender is excessive should take into consideration: (1) Objective statistical data; (2) Factors related to the local practice; and (3) An evaluation and comparison of the workloads experienced, competent private defense practitioners.

(2) Solving the Problem of Excessive Caseloads

(a) Defender office caseloads and individual defender attorney workloads should be continuously monitored, assessed and predicted so that, wherever possible, caseload problems can be anticipated in time for preventive action.

(b) Whenever the defender, having in mind the office's established workload standards, determines that the assumption of additional cases by the office might reasonably result in inadequate representation for some or all of the office's clients, the defender office should decline any additional cases until the situation is altered.

(c) The defender office, when faced with an excessive caseload, should diligently pursue all reasonable means of alleviating the problem, including: (1) declining additional cases and, as appropriate, seeking leave of court to withdraw from cases already assigned; (2) actively seeking the support of the judiciary, the governing board, the private bar, and the community in the resolution of the caseload problem; (3) seeking evaluative measures from the appropriate national organization as a means of independent documentation of the problem; (4) hiring assigned counsel to handle the additional cases; and (5) initiating legal causes of action.

Alternative

(d)-1 An individual attorney has the duty to keep the defender director advised of his workload in order to prevent an excessive workload situation.

Alternative

(d)-2 Individual attorneys in defender offices are entitled to be heard in the process of establishing caseload standards. If the office fails to establish standards, or if individual attorneys' workloads exceed established standards, an individual attorney who reasonably determines that the assumption of additional cases might reasonably result in inadequate representation for some or all of that attorney's clients should refuse to accept additional cases.

c. Defender Office Salaries

(1) The Defender Director's compensation should be set at a level which is commensurate with his qualifications and experience, and which recognizes the responsibility of the position. The director's compensation should be comparable with that paid to presiding judges, professionally appropriate when compared with the compensation of the private bar, and in no event less than that of chief prosecutor.

(2) The starting levels of compensation for staff attorneys should be adequate to attract qualified personnel. Salary levels thereafter shall be set to promote the Defender Director's policy on retention of legal staff and should in no event be less than that paid in the prosecutor's office. Compensation should be professionally appropriate when analyzed or compared with the compensation of the private bar.

(3) In order to attract and retain qualified support personnel, compensation should be comparable to that paid by the private bar and related positions in the private sector and in no event be less than that paid for similar positions in the court system and prosecution offices.

d. Nonpersonnel Needs in Defender Offices

(1) Budgets

(a) Defender offices should have a budget for operating expenses that will provide for a professional office, library and equipment comparable to a private law firm of similar size. The budget should be flexible so as to allow the defender to reallocate without prior approval of the funding agency.

(b) Defender office budgets should include funds for procurement of experts and consultants, ordering of minutes and transcripts on an expedited basis and for other services procurement. Defender offices should not be required to seek prior approval or post expenditure ratification except in those limited cases where the expenditure is extraordinary.

(c) Defender offices should have available up to five percent of their budget for administrative costs of payroll and financial management including audits, personnel and purchasing administration and data processing services. Smaller offices and project offices should be able to expend up to ten percent of their budget for these overhead expenditures.

(2) Office Space

Defender offices should be in nonpublic office space that offers ready access to the courts, detention centers and client-communities. The space should include separate offices for management, legal and social work staff, shared space for investigators, paraprofessionals and other support staff, secure space for confidential records, equipment and petty cash, and reasonable allocations of ancillary space related to staff size for reception and client waiting areas, conference rooms and library, mailroom and reproduction, supplies and storage. Separate toilet facilities should be provided for staff. Parking should be provided for staff that requires the use of an automobile for field tasks.

(3) Equipment Needs

(a) Defender offices should be equipped with quality communications systems including office telephone systems, beeper paging systems, telephone answering services and car phones.

(b) Defender offices should be equipped with

quality reproduction equipment which at high speed produces "printed pages" quality product. The equipment should include capability for automatic feeding, collating, reduction size of large originals, resolution of light originals, and two sided copying for book copying, forms reproduction, file reproduction and administrative document reproduction.

(c) Defender offices with appellate responsibility should be budgeted for implementation of word processing systems. Automatic typing systems which allow for corrections without retyping entire sections should be provided.

(d) Defender offices where data requirements warrant should have data processing facilities and services on lease or contract, designed for defender requirements. If the defender is included in a criminal justice information system, the system should be required to meet defender specifications regarding reporting frequency, data definition and format.

(4) Competitive Bidding for Budget Items

Defender offices should be exempt from governmental public bidding requirements for purchasing where the public bidding process cannot be completed for timely acquisition of service or equipment.

12. Diversion

a. Caution of Expansion of Diversion

Defender should seek to ensure that further expansion of diversion procedures be conditioned, or preceded by, systematic inquiry into (1) the impact of diversion on the defendant's constitutional and substantive rights, and (2) the impact of diversion on the defendant's lifestyle during and subsequent to the pendency of criminal charges.

b. Hearing on Denial or Termination

The decisions to grant or deny diversion and to terminate diversion once granted should be judicial decisions to be made under appropriate standards after a hearing at which the defendant is represented by counsel and during which all relevant facts are considered along with the recommendations of the prosecutor, the defense counsel, and other interested parties.

c. Counsel at All Stages

The defendant should have a right to the advice and assistance of counsel at all stages of the diversion process.

d. Initiative of Defendant

Inquiry into the potential eligibility of a defendant for diversion should be initiated only at the option of the defense.

e. Confidentiality

Diversion procedures should be accompanied by guarantees of absolute confidentiality for all statements made and information transmitted to decision-makers and counseling staff.

f. Waiver of Rights

The defendant should not be required to waive, as a precondition to participation in diversion, any right the waiver of which is not absolutely necessary to allow counseling procedures to be conducted.

g. Diversion as a Dispositional Alternative

Within the bounds of fact and law, the defense attorney should consider all available options, including diversion, in endeavoring to secure the best possible disposition for each individual client. The decision as to the disposition to be sought is one which must be made by the client, after the full and candid advice of the attorney. That advice should include, *inter alia*, the availability of Diversion, when applicable, and the attorney should be prepared to explain to the client all of the practical and legal ramifications of Diversion.

h. Diversion With Rights Preserved

Should the client elect to seek Diversion, the defense attorney must endeavor to protect those rights which the client wishes to exercise. To the extent that Diversion procedures and conditions conflict with those rights, the attorney should be prepared to challenge their legality and/or constitutionality.

i. Diversion Support Staff for Defenders

Defender offices should employ staff to gather and maintain information on all aspects of the available Diversion options and to assist defense counsel and defendants both in determining the suitability of any given program and in expediting the client's entry into a program when the client so desires.

13. Plea Bargaining

a. The Defense Attorney's Interaction With the Defendant

(1) Counsel's Role

Defense counsel should play an active role as counselor and advocate. The defense objective should be to obtain the most favorable result available to the accused within an existing system.

(2) Early Representation

Defense counsel should meet with the defendant as early as possible after initial contact is made. Counseling should take place in a setting affording privacy and dignity. At the first meeting, counsel should conduct a thorough interview and should explain the attorney-client relationship and any relevant court procedures.

(3) Discussion of Possible Plea

The attorney should communicate a determination to represent the client fully, including representation at any hearings or trial. At the first interview or shortly thereafter, the attorney should advise the client he will discuss the case with the prosecution as a part of his full preparation and presentation, whether for

trial or other disposition. A general reference to plea bargaining may also take place early in the contacts with the client. But any decision as to a guilty plea should follow—not precede—full preparation of the case.

(4) Case Preparation

Full investigation embraces, at a minimum, a full interview with the client, full discovery from the prosecution, interview of both prosecution and defense witnesses and examination of physical evidence, including the scene of the crime. All issues of law raised by the facts, procedures, charges or statutes involved in a case must be thoroughly explored.

(5) Early Release From Jail

Defense counsel should seek the earliest possible pre-trial release of an accused in order to avoid the pressures inherent to the fullest possible extent from economic or familial pressures objective or approaches by police or prosecution. Defense counsel's objective should be to mitigate the tendency of defendants in custody to plead guilty to an unfavorable disposition.

(6) Informing the Client

In discussing possible dispositions with an accused, the attorney should explore the broadest range of factors and alternatives. The factors to be discussed include the nature of the charges, the facts of the case, the state of the evidence and possible defenses. The objectives include reduction of charges in severity or number, recommendations as to sentencing and alternative dispositions. At each point, the client's needs and preferences should be ascertained by defense counsel.

(7) The Client's Decision

The decision of whether or not to plead guilty must be made by the accused after full consultation with the attorney. Counsel must advise the accused of the collateral consequences of a plea of guilty as well as its effect as a waiver of the right to trial by court or jury and the right to confront or present witnesses, as well as a waiver of the privilege against self-incrimination. The defendant should also be advised that it is he, not the attorney, who enters the plea of guilty and that judicial inquiry will be made into the voluntariness of that plea and may not seek to coerce a choice by threatening to withdraw from the case or by using other means to inhibit the client.

(8) Maintaining Innocence While Pleading Guilty

A defendant may choose to plead guilty while still maintaining innocence and defense counsel may not obstruct that choice. Counsel must assure that the defendant has made an informed choice in the light of the alternatives realistically available. Upon entry of such a plea, counsel has no obligation to disclose the defendant's claim of innocence, although the defendant remains under an obligation to answer questions truthfully.

b. The Defense Attorney's Interaction With the Prosecutor

(1) Preparation for Plea Bargaining

An attorney should not consider himself prepared for effective plea bargaining until he has:

- (a) Thoroughly explored the factual and legal issues presented by a case;
- (b) Considered various extra-legal issues that are likely to affect the choice between plea and trial;
- (c) Developed background information about the defendant
- (d) Determined the defendant's eligibility for and willingness to accept various correctional programs;
- (e) Explored the various kinds of concessions that the defendant might offer to the prosecutors;
- (f) Evaluated the kinds of concessions that the prosecutor might make available to the defendant; and
- (g) Assessed the worth of these various concessions in light to the customary sentencing practices of the courts and the roles and practices of correctional authorities.

(2) The Filing of Pretrial Motions

A defense attorney should, with only limited and occasional exceptions, prepare and file the pretrial motions that would be necessary or desirable if his case were to go to trial before engaging in serious plea discussions with the prosecutor.

(3) Conflicts of Interest in Plea Bargaining

A defense attorney should not simultaneously represent both the defendant and another person who might be affected by the defendant's guilty plea or plea agreement.

(4) Loyalty to the Individual Defendant

Defense attorneys should view each case as an individual unit. Concessions for one client must never be sought at the expense of another.

(5) The Irrelevance of Workload and Financial Considerations

Neither the burden of a defense attorney's workload nor the amount of his financial compensation should play any part in his plea negotiation decisions. These decisions should be based solely on the best interest of each client.

(6) The Use of "Collective Bargaining" Strategies

Although extreme abuses of governmental power coupled with the effective consent of an attorney's client may sometimes justify coordinated action by these clients, it is improper to take all cases of a certain type to trial simply to improve a defense attorney's overall bargaining position.

(7) The Maintenance of an Adversary Spirit in Plea Bargaining

A defense attorney should approach the plea negotiation process in an adversary spirit, seeking the best

possible resolution of the case from his client's perspective. His relationships with prosecutors should be characterized by professionalism, mutual respect, and integrity.

(8) The Timing of the Bargain

Generalizations about when a defense attorney can most advantageously bargain with a prosecutor are likely to be inaccurate; the attorney must be alert to a variety of potentially relevant considerations.

(9) Negotiating or "Lobbying" with Persons Other than the Prosecutor

A defense attorney should consider the possibility of a legal challenge to the common practice of permitting police officers and complaining witnesses to control the prosecutor's exercise of his plea-negotiation discretion. In the absence of a successful legal challenge, it may be advisable to negotiate directly with these persons.

(10) Submitting the Case for Decision on the Basis of a Preliminary Hearing Transcript, Stipulating the Facts, and Admitting to a Finding

In appropriate cases, a defense attorney should consider the possibility of entering a not guilty plea and then submitting the case for decision on the basis of a preliminary hearing transcript, stipulating the facts, or admitting to a finding of guilty.

(11) The Defense Attorney's Response to a Broken Prosecutorial Promise

A defense attorney should take steps to reduce the danger of broken prosecutorial promises by memorializing certain plea agreements. When prosecutorial promises are nevertheless broken, the attorney should seek either recession of the agreement or specific performance as the interests of his client may dictate.

(12) "Continuous" Versus "Stage" Representation

To serve their clients effectively in plea negotiation, defender offices should be organized so that a single lawyer will represent the defendant from the initiation of the proceedings through sentencing.

(13) Supervision of Plea Bargaining

Senior attorneys in a defender office should monitor the plea agreements of staff attorneys and should actively encourage staff attorneys to seek advice on plea bargaining problems and practices.

(14) Plea Agreement in Writing

The defense attorney must seek to assure that both the prosecutor and defendant understand the terms of any plea bargaining. The defendant in particular must understand the nature of the charges to which he is pleading guilty and the minimum and maximum sentences accompanying them. (1) Whenever possible, plea agreements should be reduced to writing and signed by both prosecution and defense either in a

joint memorandum or by notations in their respective files. (2) Defense counsel should make careful notations routinely in his file of all plea negotiations. (3) The defense attorney's file should contain a form for the defendant's signature prior to entry of a guilty plea. The form should contain advice as to constitutional guarantees, the nature of the original charges and the nature of the plea agreement.

c. The Defense Attorney's Interaction With the Judge

(1) Judicial Participation in Plea Discussions

The judge should not initiate or participate in plea discussions.

(2) Judicial Ratification of Plea Agreements

The judge should have the power to ratify or reject any plea bargaining or to indicate the maximum sentence he would impose prior to entry of the plea.

(3) Withdrawal of Plea: Court's Failure to Honor Its Commitment

Should the court fail to honor its ratification of a plea bargain or its indicated maximum sentence, the defendant shall have the right to withdraw the plea of guilty and proceed to trial.

(4) Substitution of Judges

Upon retraction of a tentative plea agreement or the withdrawal of a conditional ratification or indicated maximum sentence, the judge shall upon the request of the defendant appoint a second judge to preside over the trial.

(5) Withdrawal of Plea: Court's Failure to Honor the Prosecutor's Recommendation

The defendant should have the right to withdraw any plea entered in reliance upon a recommendation by the prosecutor with which the judge does not concur.

(6) Inadmissible Information

The following categories of information should not be admissible against the defendant in a subsequent trial or other proceeding:

1. The fact that the defendant has engaged in plea negotiations.
2. The fact that the defendant has entered and subsequently withdrawn a plea of guilty.
3. Any statements made in the course of plea negotiations.

(7) Preparation for Bargaining With the Judge

The defense attorney must be fully prepared to present his client's case before seeking ratification of a bargain, requesting an indication of the maximum sentence, or otherwise discussing or entering the plea.

(8) Statements on the Record

The defense attorney should assure that all comments made by the court relevant to the disposition to be imposed upon the client's plea are preserved on the record in the presence of the defendant.

(9) Post-Conviction Remedies

The defense attorney must pursue all available remedies to enforce the plea agreement or obtain a withdrawal of the plea or to correct other deprivations of rights.

APPENDIX B

Formal Request Letter and Application

Dear Defender:

Pursuant to our recent telephone conversation(s) concerning an evaluation of your defender office, I am enclosing an application which should be returned as soon as possible. The return of this application, with a cover letter requesting an evaluation, will serve as your formal request for an evaluation of your office. This application will also serve the functions of enabling us to estimate the size, scope and cost of your evaluation.

I am also enclosing a brief description of the evaluation approach and the evaluation design Objectives for defender services. These Objectives were synthesized from accepted national standards, and provide the focus of the evaluation.

Throughout the evaluation, there should be an open dialogue and cooperation between the evaluation team and your program's staff in order to maximize the benefits to your office. In this regard, I ask you to complete the final question on the application with candor (i.e. existing problem areas on which the evaluation team should concentrate its efforts). All information received from this point will be considered confidential. If an evaluation is completed on your office, copies will be distributed only to you, the funding source, and the authority initially requesting the evaluation (if it differs from your office).

We welcome the opportunity to assist your program in providing the highest quality of service to your community and look forward to hearing from you.

Sincerely

Staff

APPLICATION FOR EVALUATION

Individual Requesting Evaluation (name, title, address, phone) _____

Office Name _____

Street Address _____

City, State, Zip _____

Telephone _____

Name of Jurisdiction _____

Population (estimate) _____
Urban (estimate) _____ % Rural (estimate) _____

Head of Office (name) _____ Support Staff _____ (number) _____

Number of Courts in Which Defenders Regularly Appear _____ No Judges _____ %
Type of Cases Handled: Felony _____ Juvenile _____
(estimate %) Misdemeanor _____ Mental Incompetence _____
Appeals _____ Other _____ (specify) _____

Current Budget \$ _____
Funding Sources: City _____ State _____ Other _____
County _____ Federal _____ (specify) _____

Branch Offices (number) _____ Divisions (names) _____

Special Programs: Training _____ Pretrial release _____
Diversion _____ Sentence Alternatives _____
Other _____ (specify) _____

Defender Selection: by independent board _____ by Judges _____
by election _____ other _____
by elected officials _____

Defender Tenure: set term (how long?) _____
at pleasure of (name and position) _____

Is there a law school nearby? (name and location) _____

Is there a prison nearby? (name and location) _____

Office's most serious problems (in order of importance):

THE EVALUATION APPROACH

Evaluation research is a method of assessment which attempts to make the process of judgment both accurate and objective. An evaluation generally follows program implementation, and provides a basis for further planning and program refinement.

A necessary feature of any evaluation is the existence of one or more goals or objectives towards which the program to be evaluated is working. A successful evaluation of a defender office will allow the evaluator to determine whether, and to what extent, the office is complying with legal and professional standards. It will also provide the defender office with information and recommendations which are useful for improving both daily office operations and the quality of client representation. Evaluation should be part of the process of planned change. A planning-action-evaluation cycle should be repeated until all objectives are realized or until goals and objectives are redefined.

The three goals and eleven objectives to be used to assess the delivery and quality of defender services are found on the following page. These have been developed through a careful process of reviewing existing standards and goals and discussing the significant issues with defenders and other criminal justice personnel. By specifying these goals and objectives, we are implicitly stating that each defender office is under an obligation to perform a variety of functions for its clients, the criminal justice community, and the community-at-large. It is the task of an evaluator to determine whether, how effectively, and how efficiently these functions are being performed.

To accomplish these objectives, the entire evaluation process must be perceived by the evaluator and defender office as a cooperative venture, with the exchange of information and insight of benefit to both parties. The evaluation itself utilizes a variety of techniques which, in combination, attempt to provide information which is reliable and valid. It is up to the evaluator, by the way in which the evaluation is conducted, to assure the defender office that the evaluation is a means of reviewing both the strengths and weaknesses of the current situation so that future operations can be improved before the final report is produced.

It is critical that both evaluator and site realize that every evaluation is fallible. In this regard, the draft report of the evaluation will be returned to the office for review and comment, and information will be sought from the office about the deficiencies in the evaluation.

The evaluation design has been structured in four phases:

Phase 1. Preliminary Evaluation Period

During this period the evaluation request is formalized and the evaluation team and its captain selected. The Chief Defender at the office to be evaluated is asked to complete a pre-evaluation profile (PEP) of his office, which is reviewed by Staff¹ together with the Team Captain during a preliminary site visit. These materials are summarized for use by evaluation team members and the administrative and logistical aspects of the on-site evaluation are planned. This period should take approximately six weeks. Details of Phase 1 are discussed in this Handbook.

Phase 2. Case File/Docket Study Period

This aspect of the evaluation includes a statistical analysis of cases closed by the defender office during the preceeding six months of operation, and cases closed by the court during the same time period. The case file and docket studies will provide comparable information for the defender, private attorney and assigned counsel. Data gathering, analysis, and interpretation should take approximately one month to six weeks, overlapping with the preliminary evaluation period. Details of Phase 2 are discussed in Handbook II - Statistical Study of Defender and Court Case Files.

Phase 3. On-Site Evaluation

Once pertinent materials have been summarized and distributed to the evaluation team members, and the case file/docket studies have been completed, the entire evaluation team will visit the defender office site for a period of time ranging from five to seven days (depending upon size of office and nature of the evaluation). During this on-site period, extensive in-depth interviews with individuals in the office, criminal justice system, and community will take place. A management analysis of office operations will be made, as will observations of the attorneys at work. The focus of the site evaluation, and the earlier design phases, will be on one or all of the goals and objectives outlined previously. Details of the on-site evaluation appear in Handbooks III and IV.

Phase 4. Post-Evaluation Review

This period encompasses a series of interrelated activities: team training, on-site evaluation; team consensus. Team members focus on the substantive issues to be commented upon in the final evaluation report. A draft report, written by team members, is edited by the Team Captain, and reviewed by team members. A copy of the report is mailed to the Defender for review and commentary. The final report, including team and Defender commentary (when written), is then given to the office and/or agency requesting the evaluation. This period should take approximately one month. Details of this phase are discussed in Handbook III.

1. The term "Staff" refers to the individual or entity concerned with organizing and administering the evaluation effort. In some cases, staff and Team Captain will be the same individual.

Four types of data are gathered during the course of the evaluation:

1. Background: information which describes the criminal justice system and general community within which the office operates, as well as some aspects of defender office operations. This information is gathered during the pre-evaluation preparation period; some of it will be validated by the evaluators during the on-site period.
2. Quantitative: statistics which are drawn from a variety of sources. Two sources are closed defender case files and the court docket. Other sources include the daily jail visitor logbook and parole statistics. This information is gathered both prior to and during the on-site evaluation.
3. Qualitative: the subjective assessment of individuals who are asked to focus on a specified defender activity or function and to make a judgment about it. This information is gathered during the on-site evaluation through interviews with defenders, clients of defenders, criminal justice personnel and community groups, and through the observation of defenders at work.
4. Management: data on the day-to-day aspects of office operations which indicate whether the operations of planning, organization, administration, and control are efficient and are fostering the achievement of the objectives held out for defender offices. This information is gathered during the on-site evaluation period.

All of the data gathered will be used in complementary fashion, so that the final evaluation is based upon a large assortment of information which has been gathered through a variety of techniques.

APPENDIX C

Evaluation Cost Estimate

The evaluation design has been developed so that the requesting authority can exercise a degree of choice regarding the extensiveness and cost of the evaluation.

A complete evaluation, including each of the four phases of the evaluation design, for an office with between one (1) and twenty (20) attorneys will cost approximately \$13,000. The major portion of this expense (\$10,000 in a 20 attorney office) covers travel, fees and on-site expenses for Team Members and Staff and is relatively consistent.

There are, however, a variety of alternative procedures available to the requesting authority which allow reduction in the scope and cost of the evaluation without impairing the validity of the work performed. Recalling that the fundamental approach in this design centers on three major goals (delivery of service, competence of legal work, and improvement of the adversary system), the requesting authority is in a position to focus the evaluation on any one or a combination of these goals according to its needs.

For example, if a Defender Office is concerned primarily with the effective and efficient delivery of legal and supportive services (Goal I), the evaluation could be limited to this one area. This might reduce the scope of the docket/case file studies, the size of the on-site evaluation team, and the length of the on-site visit. Such an evaluation would cost approximately \$5,400.

An evaluation directed at attorney performance under Goal II could also be done at reduced cost. This evaluation would still require an extensive docket study and wide range of interviews; consequently, the savings would not be great. A Goal II evaluation would cost approximately \$11,000.

Because Goal III concerns (i.e. exposition and improvement of the adversary process) are only one aspect of client service, an evaluation limited to this area is not recommended. Under appropriate circumstances, however, the cost would be less than \$3,000.

The foregoing illustrations are given only as an aid for cost estimation purposes and should not be considered descriptive of the mentioned evaluative techniques. Additional variables, including the size of the Defender Office staff and the nature of its jurisdiction, both legal and demographic, must be taken into account before more precise estimates can be made.

The size of the Defender staff and the number of courts, police, prosecutorial agencies, and community programs with which the Defender Office has regular contact will markedly affect the number of on-site interviews to be conducted and will be directly related to the evaluation cost. A small (5 attorney) rural office dealing with only a few courts, law enforcement agencies and community groups will cost less to evaluate than an office of equal size in a metropolitan area. On the other hand, as office size increases, and other factors remain equal, economies of scale are introduced.

Once an interest is expressed in an evaluation, the defender should contact the "court specialist" in his/her local, state or regional planning agency to ascertain whether money is available and to receive instructions on how to apply for funding. The "court specialist" may also be aware of other funding sources for the defender to contact. More precise costs for the evaluation of a particular office can be given upon review of the Evaluation Application form.

The cost of each evaluation varies depending upon the scope of the evaluation and the size of the office and the jurisdiction served. Once these factors have been determined, the team selected and the on-site time established, the user of this Handbook can accurately estimate the total costs of the evaluation by using the accompanying chart. This chart is based upon current government rates for consultants (\$115/day) and expenses (\$33/day for lodging and meals, \$25/day for ground transportation). In the event these rates are altered, the estimates should also be altered.

ON-SITE COSTS

Days On-Site	Daily Cost/ Team Member=\$115	Number of Team Members, Including Staff			
		4	5	6	3 (No Staff)
4	\$ 700	\$ 2800	\$ 3500	\$ 4200	\$ 2100
5	\$ 875	\$ 3500	\$ 4375	\$ 5250	\$ 2625
6	\$ 1050	\$ 4200	\$ 5250	\$ 6300	\$ 3150
7	\$ 1225	\$ 4900	\$ 6125	\$ 7350	\$ 3675
+					
Travel (includes pre-site visit)	\$ 1200	\$ 1400	\$ 1600	\$ 1000	
+					
Pre-Site Costs	\$ 350	\$ 350	\$ 350	\$ 350	
+					
Report Preparation	\$ 345 (3 days)	\$ 460 (4 days)	\$ 575 (5 days)	\$ 345 (3 days)	
+					
Printing, Typing and Supplies	\$ 200	\$ 300	\$ 400	\$ 200	
=					
TOTAL COSTS (without statistical study)					
Days		4	5	6	3 (No Staff)
4		\$ 4895	\$ 6010	\$ 7120	\$ 3995
5		\$ 5595	\$ 6885	\$ 8170	\$ 4520
6		\$ 6295	\$ 7760	\$ 9220	\$ 5045
7		\$ 6995	\$ 8635	\$10270	\$ 5570
+					
Statistical Study (subtract \$1000 if only studying defender files)	\$ 3000	\$ 3000	\$ 3000	\$ 3000	
=					
TOTAL COSTS (with statistical study)					
Days		4	5	6	3 (No Staff)
4		\$ 7895	\$ 9010	\$10120	\$ 6995
5		\$ 8595	\$ 9885	\$11170	\$ 7520
6		\$ 9295	\$10760	\$12220	\$ 8045
7		\$ 9995	\$11635	\$13266	\$ 8570

APPENDIX D

Letter of Evaluation Intent

Dear Defender,

The purpose of this letter is two-fold. First, it formally acknowledges our intent to conduct an evaluation of your office as discussed in our prior telephone conversations. Second, it provides you with further information regarding the goals of the upcoming evaluation.

A successful evaluation accomplishes two purposes. It allows the evaluator to determine whether, and to what extent, the defender office is complying with legal and professional standards. Once this assessment is completed, it provides the defender office with information and recommendations which are useful for improving both the daily operations of the office and the quality of client representation. To accomplish these objectives, the entire evaluation process must be perceived by the evaluator and defender office as a cooperative venture, with the exchange of information and insight of mutual benefit to both parties. [Insert re: parameters of the evaluation agreed upon]

You will soon be receiving a set of forms which constitute the beginnings of the Pre-Evaluation Preparation phase. The completed forms will sensitize the Team Captain, Team Members and Staff to your office -- its unique features and problems. They will also allow us to plan in detail the "mechanics" of the evaluation.

Please do not hesitate to call me if you have any questions. I look forward to meeting you.

Sincerely,

Staff

APPENDIX E

Letter to Site with
Pre-Evaluation Profile (PEP) Forms

Dear Defender:

We are pleased to be working with you in the evaluation of the _____ program. Since we view this evaluation as a cooperative venture between the evaluation team and your office, I encourage you to reread the enclosures mailed to you earlier which explain the general approach the evaluation team will be taking. I have also enclosed materials which I would like you to complete prior to the preliminary site visit to your office.

The purpose of this evaluation is to assess the accomplishments of your office and determine the extent to which your operations are meeting legal and professional standards. In this regard we ask you to respond quickly and accurately with the information you are being asked to provide the evaluation team.

You will notice that toward the end of the Pre-Evaluation Profile Forms enclosed, you are asked to comment about local problems and issues and strengths from the office's viewpoint. This will assist the evaluators in getting a sense of the environment in which your project operates, the range of problems facing the indigent in your community and within the criminal justice system, your office's strategies for dealing with them, what you feel your project's significant achievements have been, and your plans for the future.

Your help is extremely important in having the evaluation team make a thorough and fair assessment of your office. Please review the enclosed forms and begin completing them. The completed forms should be mailed to our office by _____ (Date) _____. We will furnish the Team Captain a copy of these forms, so that they can be reviewed prior to the preliminary evaluation site visit.

Sincerely,

Staff

PRE-EVALUATION PROFILE FORMS

Instructions to Defender

The information requested on the pre-evaluation profile forms will provide the evaluation team with necessary background data for its evaluation of your office. When precise information on a topic is not available, provide either an estimate of the requested data or an explanation as to why the material cannot be supplied. Under no circumstances should any space on the pre-evaluation forms be left blank. If terms used on the forms are not appropriate to your jurisdiction, replace them directly on the form and complete the question. The forms should be completed and received by Staff no later than (Date) . The pre-evaluation site visit to your office by Staff and Team Captain cannot be undertaken until the completed forms have been received. They will be reviewed by both Staff and Team Captain and form the basis for the pre-site visit and discussion.

1. Please contact the appropriate agencies for data which does not pertain to office matters.
2. Where statistics are requested but not available, note that the figures entered on the forms are estimates.
3. Where descriptions are requested (e.g. recent economic problems in the jurisdiction), give a concise narrative of the situation, its cause, its likely outcome, and effect on defender services in your area.
4. Names, addresses, and telephone numbers requested should be complete and exact; they will be used by Staff to schedule on-site appointments.

Thank you for your cooperation.

Defender Caseload Information

Instructions:

1. How does your office define a "case" for statistical purposes (e.g. by client, by charge, etc.)?
2. For each of the past three years indicate the number of "cases" opened and closed by your office in each of the following categories along with the percentage of office caseload represented. Note how many attorneys have been assigned to each type of case, if your staff is specialized. If not, put "unspecialized" across the "attorney" column and note the total number of lawyers at the bottom of the column for each year. If your office did not handle specified case types in a given year, put an "X" in the appropriate boxes. If there has been a major change in office "jurisdiction", attach a brief description of the change and its actual or expected effort in the office.

	19__				19__				19__			
	#	#	# of	% of	#	#	# of	% of	#	#	# of	% of
	Open	Closed	Attys	Caseload	Open	Closed	Attys	Caseload	Open	Closed	Attys	Caseload
Felony												
Misdemeanor												
Juvenile												
Mental												
Illness												
Parole												
Revocation												
Probation												
Revocation												
Appeals												
Other												
Total												

Defender Office Case Statistics

Instructions:

- 1. Offenses by Original Charge - Select the three most frequently occurring felonies and misdemeanors handled by your office and compile appropriate data. If clients are charged with multiple offenses, note only the highest charge. Key the prosecutor case information to the same charges. (Form 302)
- 2. Pleas - Note how many and what percentage of clients entered a guilty plea at first court appearance and whether that plea was to the original or to a reduced charge.
- 2A. Pleas - For all guilty pleas, indicate the number and percentage of cases disposed of according to original and reduced charges respectively.
- 3. Bail - Indicate for each year the number and percentage of clients in felony and misdemeanor cases who were in custody awaiting trial and the reasons why.
- 4. Dispositions - For each year show the number and percentage of felony and misdemeanor cases that were disposed of by dismissal, guilty plea or trial respectively.
- 4A. Trials Held - Of the cases that went to trial, how many (number and percentage) were tried by judge and jury respectively.
- 5. Trial Findings - For all trials, what were the number and percentages of cases resulting in judgments of not guilty, guilty as charged, and guilty to reduced charge respectively.
- 6. Sentences - Of sentences clients, how many (number and percentage) received the stated sentence in felony and misdemeanor cases respectively.

Defender Office Case Statistics

	19		19		19		19	
	Felony	Misd.	Felony	Misd.	Felony	Misd.	Felony	Misd.
	No.	%	No.	%	No.	%	No.	%
1. <u>Offenses by Original Chg</u>								
Felony								
Misdemeanor								
2. <u>First Pleas</u>								
Not Guilty								
Guilty								
Other								
2A <u>Pleas</u>								
To Original Charge								
To Reduced Charge								
3. <u>Bail Situation</u>								
Personal Recognizance/Parole								
Bail Required								
Posted								
Unmet								
Unbailable								
Not Applicable								
Data Unclear								
4. <u>Disposition</u>								
Dismissal								
Plea								
Trial								
4A <u>Trials Held</u>								
Jury								
Non-Jury								
5. <u>Trial Findings</u>								
Not Guilty								
Guilty as Charged								
Guilty with Reduction								
Hung Jury								
6. <u>Sentences</u>								
Deferred or Suspended								
State Prison								
County Jail								
Fine								
Other								

Court Statistics

Instructions: Contact the court clerks in the three courts in which your office most frequently appears for statistical information. If statistics are not kept, try for estimates.

- 1. How do courts in your area define a "case" (e.g. by charge, by person charged, etc.)?
- 2. For each of the past three years, indicate the total number of felony and misdemeanor cases filed in the three courts in which your office most frequently appears and the number of criminal judges.

	Criminal # Felony	Cases Filed # Misdemeanor	Number Criminal Judges
19 Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			
19 Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			
19 Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			
Trial Court - limited jurisdiction			

Yearly Court Case Statistics

Instructions: Contact clerks in the two or three criminal courts in which defenders most often appear. If relevant statistics are not maintained, try to get appropriate estimates.

Trial Court - Limited Jurisdiction - I	19 (#)	19 (#)	19 (#)
Total Cases			
Disposition Method			
Dismissal			
Plea			
Trial			
Trials Held			
Jury			
Non-Jury			
Trial Findings			
Not Guilty			
Guilty			
Defense Attorneys			
Public Defender			
Assigned Counsel			
Private Attorney			
No Counsel			
No Information			
Trial Court - Limited Jurisdiction - II	19 (#)	19 (#)	19 (#)
Total Cases			
Disposition Method			
Dismissal			
Plea			
Trial			
Trials Held			
Jury			
Non-Jury			
Trial Findings			
Not Guilty			
Guilty			
Defense Attorneys			
Public Defender			
Assigned Counsel			
Private Attorney			
No Counsel			
No Information			
Trial Court - General Jurisdiction	19 (#)	19 (#)	19 (#)
Total Cases			
Disposition Method			
Dismissal			
Plea			
Trial			
Trials Held			
Jury			
Non-Jury			
Trial Findings			
Not Guilty			
Guilty			
Defense Attorneys			
Public Defender			
Assigned Counsel			
Private Attorney			
No Counsel			
No Information			

Yearly Prosecution Case Statistics

Instructions: Contact the prosecution office/offices for two or three courts in which defenders most often appear. Indicate the number of prosecutors in each office and the numbers of felony and misdemeanor cases¹ handled in each of the last three years. If precise figures are not available, get estimates.

	19__	19__	19__
	Felony	Misdemeanor	Felony Misdemeanor
Prosecutor 1 # Assistants			
Prosecutor 2 # Assistants			
Prosecutor 3 # Assistants			

¹The prosecutor defines a case as:

Yearly Prosecution Case Statistics

Instructions:

1. Indicate on the form for each of the past three years the number of cases handled by the prosecutor in each defender-specified charge category. Estimate if necessary. Key charge categories to Defender case statistics (Form 102-1).
2. Indicate the number of cases disposed of by trial, dismissal, or guilty plea for both felonies and misdemeanors.
3. Of cases disposed of by plea, how many were to original charge and how many to reduced charges. If charges were reduced from felony to misdemeanor, note the number in the appropriate box.
4. Of trials held in felony and misdemeanor cases, how many were by judge alone, how many by jury?
5. For all trials, how many cases resulted in acquittal, guilty as charged, guilty of reduced charge respectively?

	19__	19__	19__
	Felony	Misd.	Felony Misd.
	No.	%	No. %
1. Offenses by Original Chg Felony			
Misdemeanor			
2. Disposition Method Dismissal Plea Trial No Info			
3. Pleas To Original Charge To Reduced Charge Reduced from Fel. to Misd			
4. Trials Held Jury Non-Jury			
5. Trial Findings Not Guilty Guilty as Charged Guilty with Reduction Hung Jury			

Community Climate

Give a brief demographic description of your jurisdiction, including: total population, indigent population, major employers, and whether the area is rural, urban, or mixed in character. Note the significant racial and ethnic groups in your community and their respective proportions of the total population. Indicate unusually large percentages of retired persons or students. This information may be obtained from census data available at your public library.

Problems or Issues in Community

Briefly describe any recent racial, social, or economic issues in your community which have had or will have an effect on the defender office.

Defender Office Contacts

Instructions: List individuals in the following categories who have either regular contact with or a particular interest in defenders and/or defender clients. This list will provide a basic contact group for interviews during the evaluation, so please be accurate with phone numbers and addresses.

Important Community Agencies and Groups

	Name & Address	Telephone	Contact Person
Legal Aid Services			
Civil Rights Groups (NAACP, ACLU)			
Minority Groups			
Poverty Groups			
Alcoholic Rehabili- tation Program (state or local)			
Drug Rehabilitation Program (state/local)			
Ex-offenders Group			
Public Social Services Agency			
Private Social Services Agency			
Concerned Citizen Groups			
Vocational Training Programs			
Other			

Contacts for Criminal Justice Legal Specialists Outside the Court

	Name & Address	Telephone	Contact Person
President of Local Bar Association			
Liaison with Local Bar Association			

Contacts for Criminal Justice Legal Specialists Outside the Court

	Name & Address	Telephone	Contact Person
Coordinator of Pro Bono Criminal Work			
Head of Clinical Law Program(s)			
Volunteer Programs (e.g. court, probation)			
Association of minority police			
Important private legal firms (with criminal practice)			
Minority private legal firms (with criminal practice)			
Private attorneys serving frequently as assigned counsel			

Regional, State and Local Criminal Justice Planning Bodies

	Name & Address	Telephone	Contact Person
State Planning Agency			
State Planning Agency			
Regional or County			
Regional or County			
Local			
Local			
LEAA Regional Representative			

Government Officials

Mayor

City/County
Council Members
Influential in
Defender Funding

Government or
criminal justice
liaison

[illegible]Advisory/Governing Board Members[illegible]

Individuals Playing a Significant Role in Funding

Name & Address	Position/ Affiliation	Telephone	Role/ Problem

Form 402-2

Form 403-3

I-116

Criminal Justice Officials With Whom the Defender Office Has Frequent Contact

Courts
Judges, including
Presiding Judge,
Lower Court;
Presiding Judge,
Superior Court

Clerk of Courts
Felony & Misdemeanor

Police
Chief of Police

Minority Police
Officer(s)

Jail
Sheriff

Supervisor -
Day Shift

Supervisor -
Night Shift

Guard(s)

Prosecution
Head Prosecutor

Chief, Lower Court

Chief, Superior Court

[illegible]

Form 403-4

I-117

Criminal Justice Officials With Whom the Defender Office Has Frequent Contact (cont.)

	Name & Address	Telephone	Nature of Problem
Assistant Prosecutors			
Probation Chief Probation Officer			
Probation Officer(s)			
Court Rehabilitation Division			
Parole Chief Parole Officer			
Parole Officer(s)			
Diversion Program Director			
Counselor(s)			
Alternative Correc- tional Programs (e.g. halfway houses)			
Juvenile Authority			
Bail Program			

State Agencies With Which the Defender Office Has Frequent Contact

Name & Address	Telephone	Contact Person	Nature of Contact/ Problem, if any

Community Agencies With Which the Defender Office Has Frequent Contact

Name and Address	Telephone	Contact Person	Nature of Contact/ Problem, if any

Criminal Justice Climate

Instructions: Give a brief narrative description of your criminal justice system and its participants. Include information on how judges, prosecutors and chiefs of law enforcement agencies are selected and their tenure in office. Then describe each category generally in terms of its members' attitudes toward the defender and their receptivity to change in the system. Indicate the effect you feel these attitudes have on the defender office or its clients.

Describe any recent statewide, regional, or local criminal justice issues and their impact on defender services.

Attach an organizational chart of the court structure in your jurisdiction and state.

Criminal Justice Salaries

Court Salaries

Position	Average Annual Salary	Salary Range
Felony Judges		
Misdemeanor Judges		
Court Clerk		

Prosecutor's Office Salaries

Position	Average Annual Salary	Salary Range
Chief Prosecutor		
Supervisory Attorneys		
Asst. Prosecutors		
Chief/Senior Investigator		
Investigators		
Office Administrator		
Para-legals		
Legal Secretary		
Clericals		

Police Salaries

Position	Average Annual Salary	Salary Range
Chief of Police		
Police Administrator		
Detectives		

Police Salaries (cont.)

Position	Average Annual Salary	Salary Range
Uniformed Officers		
Sheriff		
Undersheriff		
Jail Supervisor		
Deputies		

Criminal Justice System - Private Bar

Instructions: Contact private attorneys involved in criminal work either on retainer or court assignment. Get their estimates of the "going rate" for the relevant types of cases specified below.

How would you characterize the attitude of the local Bar towards the defenders (check one):

Active support _____ Active opposition _____
Passive support _____ Passive opposition _____

Approximate fee schedules for private defender attorneys:

Type of Offense	Retainer	Additional Charge for Trial Work	Hourly Rate
Murder			
Serious Felony			
Misdemeanor			
Serious Traffic			

Number of private attorneys doing criminal work frequently? _____

Percent private attorneys doing assigned criminal work? _____

Describe assigned counsel system in your jurisdiction. _____

Current fee schedule for assigned counsel:

Type of Offense	Hourly Rate	OR Per Case Rate	Per Court OR Appearance Rate
Murder			
Serious Felony			
Misdemeanor			
Serious Traffic			

Is there a maximum fee for assigned counsel? _____ If so, is it fixed by statute _____ by court rule _____ by common practice _____

Information on Surrounding Jurisdictions

Name of Jurisdiction	Pop. in 1000's	Percent Indigent	Rural, Urban Mixed	Type of Economy	Liberal, Cons, Mod	Type Indigent Defense System	# Deferdants in 19 <u> </u>	
							Felony	Misd.

Form 504

I-124

Political Climate

Describe the political climate in your community. First indicate the organization structure(s) of the local governmental unit(s) which provide defender funding. Then describe their orientation along liberal-conservative lines and their general attitude(s) toward minorities and the poor.

Finally, describe the social/political attitudes of active community organizations, the press and minority community groups. Mention any effect these attitudes have had on the defender office and its clients.

Defender Office Information

Address: _____ Telephone: _____
Day _____ Evening _____

Head Defender (Name): _____

Branch Office (if any): _____

PLEASE ATTACH A COMPLETE LIST OF DEFENDER OFFICE PERSONNEL BY FUNCTION
(if part-time, place asterisk by name)

Total Personnel	# Full-Time	# Part-time	Salary Range	Average Years in Office
Chief Defender				
Supervisory Attorneys				
Attorneys				
Investigators				
Social Workers				
Law Students				
Ex-Offenders				
Other Para-Legal Secretaries (Clerical)				
Office Administrator				

Method of securing personnel:

Chief Defender _____

Assistant Defenders _____

Attorney Specialization: No _____ Yes _____ If yes, check the following if appropriate:

By case type (i.e. juvenile, adult) _____ By seriousness of charge
(i.e. misdemeanor, felony) _____ By stage of adjudication (i.e.
horizontal/vertical) _____

Attorney Training: No _____ Yes _____
If yes, check following appropriate areas:

Orientation Yes _____ No _____ How long? _____

Describe: _____

In-Service Yes _____ No _____ How frequently? _____

Describe: _____

Prior evaluations of the Office: Yes _____ No _____

If Yes, please enclose a copy of the evaluation report and recommendations.

Prior evaluations of the criminal justice system in your jurisdiction: Yes _____ No _____

If Yes, please enclose a copy of the evaluation report and recommendations.

Defender Office Information - Advisory Board

Instructions: After providing the basic information requested on this form, give a brief narrative description of the Board's role in funding and operation of the defender office. Mention any significant intervention in defender operations and its effect on defender services. Does the Board or its members become involved in individual cases?

Advisory/Governing Board: Yes ☐ No ☐

If yes: Number Length of Term

Frequency of Meetings

Selection procedures

Which of the following are represented:

Criminal Justice community: Judges Prosecutors

Defense Law Enforcement

General community: Business leaders Community leaders

Bar

Consumer community: Poor Former clients

Other:

Board Minutes: Yes ☐ No ☐ If yes, attach minutes of last three meetings.

Defender Office Information - Budget

PLEASE ENCLOSE ONE COPY OF THIS YEAR'S REQUESTED AND APPROPRIATED BUDGET.

Date project first funded: Budget:

Total Budget: 19
(last three years) 19

19

Source of this year's funds:

Federal \$ % of total

State \$ % of total

Local \$ % of total

Other \$ % of total

Request periods:

Annually Semi-annually Monthly Other

To whom is proposed budget submitted:

To whom are budget reports submitted:

Report frequency:

Annually Semi-annually Monthly Other

Method of justifying budget:

Specially funded programs:

Recent funding problems:

DEFENDER OFFICE ORGANIZATIONAL CHART

Please attach an organizational chart of the structure within your defender office.

Form 704

I-130

DEFENDER OFFICE DEVELOPMENTAL HISTORY

Please construct a brief developmental history of the office. Include such developmental information as: circumstances under which the office (or defender system) was developed; provisions for indigent defense prior to the office's existence; original goals, size of personnel and budget for the office; course of growth over the years. Please try to restrict your comments to 3 typed pages or less.

FORM 705

I-131

DEFENDER OFFICE - SELF PROFILE

What are the critical problems facing the Defender Office of which the evaluators should be aware?

What are the major strengths of the Defender Office of which the evaluators should be aware?

What are the major weaknesses/needs of the Defender Office of which the evaluators should be aware?

Are there any statutory limitations which make the delivery of quality defense services difficult?

What are your recommendations for changes you would like to see made in the Defender Office?

DEFENDER OFFICE CASE FLOW

Briefly describe a "typical" felony and misdemeanor case from point of arrest through all court appearances to sentencing. Be sure to point out the entry point of the defender and the time intervals between arrest, defender contact and court appearances.

APPENDIX F

Letter of Consultant Interest
with Resume Form

Dear Consultant:

Your interest in participating as a consultant in an evaluation of a public defender office is welcomed. I am enclosing a resume form for you to complete and return. We must receive your resume before you can be considered as a member of our evaluator/consultant pool. Please return the consultant agreement form as well.

I look forward to hearing from you and hopefully working with you in the future.

Sincerely,

Staff

RESUME

Please return to:

Name _____

Home Address _____ Work Address _____

Telephone (include area code) Home _____ Work _____

Where do you prefer to receive mail? Home _____ Work _____

Maximum number of consecutive days away from home/office you can provide for each consultancy: _____

Amount advance notice required: _____

EDUCATION All higher education or special studies undertaken. List last completed work first.

DATES	UNIVERSITY, SCHOOL &/OR INSTITUTION (Name & address)	MAJORS, MINORS, GENERAL & SPECIAL AREAS OF STUDY OR RESEARCH	DEGREES, CERTIFICATES AND DATES
From: _____ To: _____			
From: _____ To: _____			
From: _____ To: _____			

PUBLICATIONS

Titles and subject matter of any relevant papers presented or published.

GENERAL WORK HISTORY

Full-time employment over last ten years. Specify where you have held different positions in the same organization.

Dates	Titles/positions & summary of functions	Reason for leaving
From: _____ To: _____		
From: _____ To: _____		
From: _____ To: _____		

PREVIOUS CONSULTANT EXPERIENCE

Dates	Working title & brief description of Consultancy	Name, Address, Title & Organization or Person to whom you reported	If a Written Report submitted, give Title, Date, Publishing Agency and identify part writ- ten or drafted by you.	Compensation Rate
From: _____ To: _____				
From: _____ To: _____				
From: _____ To: _____				
From: _____ To: _____				

What licenses and/or bar admissions and/or special accreditations do you hold or possess? _____

List any professional memberships not covered by the above.

SPECIAL SKILLS

List special skills, not apparent from your work history, which are relevant for the evaluation of a Public Defender Office (e.g. language skills -- any spoken or written language other than English; community relations skills -- ability to establish rapport with disadvantaged or minority groups.

REFERENCES (List three)

Name	Position	Address and Phone Number

Please attach any other pertinent information.

Previous experience as a Public Defender Evaluator No ☐ Yes ☐
If Yes, specify dates, site and your rate

DEFENDER EVALUATION PROJECT

CONSULTANT AGREEMENT FORM*

I agree to perform consultative services for _____, in accordance with such terms and provisions as are set forth in the attached letter of authorization and conditions of consultancy, or other information furnished by _____.

I will not claim compensation and reimbursement expenses for work in excess of my authorization for on-site work and report preparation without the prior approval of _____.

I further understand that any report I write shall be forwarded within five working days after completion of my site work, and that no compensation for fees will be paid until and unless a satisfactory assignment report is received by _____.

I agree that during the term of this contract and for a minimum of one year thereafter from the expiration date, I will not offer or sell to the client jurisdiction, either as a consultant, contractor or as a sub-contractor, any services or products related to any evaluative technical assistance or other work performed pursuant to my letter of authorization. Notwithstanding any provision of these conditions to the contrary, I shall be eligible to continue performance on current contracts and to accept new contracts from state and local government agencies with whom I am presently under contract. I agree that no disclosure will be made of matters discussed during the entire consultancy period unless expressly otherwise authorized.

Finally, I understand that the work product of any assignment is the sole property of _____ and that _____ has the sole responsibility for transmitting the work product to the client.

Consultant's Signature

Date

CERTIFICATION FOR UNITED STATES GOVERNMENT EMPLOYEES AND EMPLOYEES OF ORGANIZATIONS SUPPORTED WITH FEDERAL FUNDS

The work or portion thereof (specify) for which payment is requested will be performed while on authorized annual or compensatory leave from an agency or organization supported with Federal funds, and performed with the knowledge of the agency or organization.

Consultant's Signature

Date

APPENDIX G

Letter Confirming Team Captain Appointment
with Administrative Information

Dear Team Captain:

This letter serves as a confirmation of your appointment as Team Captain to head the evaluation of _____. The pre-site visit for this evaluation will take place on _____. The on-site evaluation will begin on _____ and continue through _____.

A training meeting for Team Captains will be held on _____ at _____. Evaluation handbooks and other pertinent materials will be distributed prior to this meeting. The meeting will begin promptly at _____.

An itinerary outlining travel and hotel arrangements which have been made for you is attached. Your airline ticket for the pre-site visit will be mailed to your home. You will find a travel and expense voucher and the appropriate administrative information included in this package.

Also enclosed is a consultant agreement form which must be signed and returned to Staff immediately.

Sincerely,

Staff

APPENDIX H

Letter of Introduction
from Team Captain to Defender

Dear Defender:

It is my pleasure to inform you that I will be the Captain of the evaluation team which will be visiting your office in the near future. Although I will be responsible for the evaluation, Mr/Ms _____ in a Staff position, will be handling the necessary administrative duties connected with our work.

I am looking forward to our first meeting at which time we will discuss the Pre-Evaluation Preparation forms which you have or will soon receive. Mr/Ms _____ will accompany me on this visit so that we may both gain familiarity with your office.

In addition to these pre-evaluation activities, I will also be actively involved in the selection of team members, dispersement of summary information gathered during the pre-site visit to team members, supervision of each members assignments and schedules. The final evaluation report is also my responsibility.

Again, I anticipate with pleasure our meeting to discuss the Pre-Evaluation forms. If you have any questions concerning the forms or their completion, please do not hesitate to contact me or Mr/Ms _____.

Sincerely,

Team Captain

APPENDIX I

Letter Confirming Team Member Appointment with
Administrative Information

Dear Team Member:

This letter serves as a confirmation of your appointment as a Team Member to assist in conducting an evaluation of _____ program. The on-site evaluation activities will begin at _____ on _____ and continue through _____.

An orientation session for Team Members will begin on-site at _____. Evaluation handbooks and other pertinent materials will be distributed prior to this meeting.

An itinerary outlining travel and hotel arrangements which have been made for you is attached. Your airline ticket will be mailed to your home. You will find a travel and expense voucher and the appropriate administrative information included in this package.

Also enclosed is a consultant agreement form which must be signed and returned to Staff immediately.

Sincerely,

Team Captain

A. FEES

B. PER DIEM (SUBSISTENCE)

C. REIMBURSEMENT OF PER DIEM AND TRAVEL EXPENSES

- I-142

[illegible]

Address _____

Name	Purpose of trip
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]
[Redacted]	[Redacted]

Departure: Time _____ Date _____
Return: Time _____ Date _____

<u>TRANSPORTATION</u>	<u>CHARGED</u>	<u>PAID</u>
Airplane (tourist), bus or train fare	\$ _____	\$ _____
Limousine, taxi or bus fare:		
-home/office to terminal & return		_____
-terminal to site of meeting & return		_____
Personal automobile--\$ per mile		
Total number of miles _____		_____
Airport parking		_____
Rental car		_____
Gas for rental car	_____	_____

Transportation Subtotal.....\$

SUBSISTENCE (Meals)

\$ per diem figures on quarter days beginning at midnight

\$ per quarter

No per diem for 10 hours or less

Number of days X \$ =

Number of quarters	X \$	=
--------------------	------	---

Subsistence Subtotal.....\$

LODGING

[illegible]

Lodging Subtotal.....\$

RECEIPTS FOR TRANSPORTATION, LODGING & PARKING ARE NECESSARY FOR REIMBURSEMENT. LODGING COSTS WILL BE REIMBURSED UP TO A MAXIMUM OF \$ /DAY.

OTHER EXPENSES (e.g., related telephone calls, roadmaps, etc.)

Other Expenses Subtotal.....\$

TOTAL	\$
-------	----

Less Advance	\$
--------------	----

Balance Due (Reimbursement) \$

Balance Due	\$
-------------	----

DATE: _____ SIGNED: _____ APPROVED: _____

APPENDIX J

Letter to Local Newspaper

Dear Librarian:

The _____ is planning an evaluation of the defender program in _____. As part of the evaluation effort, we would like to determine what newspaper coverage the defender office and criminal justice system has had in the last year.

We would appreciate it if you would take the time to make copies of the contents of your clipping files relating to _____ defender program to be forwarded to our office. In order to obtain a knowledge of the local criminal justice system, it is also necessary for us to obtain copies of clippings on the following topics: police, prosecutors, courts, corrections and private bar. If your schedule allows the time for you to undertake this project, please enclose a billing statement with the copies.

If you find this task is not possible, we would appreciate a list of clipping dates that we may examine either in your office or the local public library.

Thank you for your time and cooperation. I will be following up this letter with a telephone call.

Sincerely,

Staff

APPENDIX K

Analysis of Newspaper Articles

The analysis of newspaper articles should including the following information:

- ° Name of newspaper
- ° Time span covered by articles
- ° Total number of articles reviewed
- Number of articles concerning Defender Office, Courts, Police, and other components of the local criminal justice system
- Percentage of articles in each group which are positively slanted, negatively slanted, or strictly informational
- ° Overview of issues mentioned frequently; local issues which appear to affect the defender office, e.g. budget cuts; strong positive or negative feelings toward the defender office or other components of the criminal justice system

CONTINUED

2 OF 6

APPENDIX L

Letter to Potential Interviewees

Dear

I have arranged for a team of consultants from _____ to conduct an evaluation of our office during the week of _____. They will assist us in providing more effective and efficient defense and related services to our clients and to the community.

The evaluation team will be here for _____ days, and will try to interview a comprehensive sample of people in this area who are knowledgeable about out office and about the criminal justice system in general.

It is my understanding that _____ may try to contact you for an appointment or for suggestions on appropriate people to interview during the visit. The evaluators will be interested in talking with individuals who have frequent contact with our staff and/or clients. I would appreciate your assistance in providing the evaluators with your most candid opinions and ideas when you speak with them. I am assured that all interviews will be strictly confidential between you and the evaluators, and that no comments will be attributed to any individual, either directly or indirectly, in their report.

Thank you for your help in this effort. If you are unable to keep an appointment which has been set for you, please notify the defender office with a suggested alternative.

Sincerely,

PUBLIC DEFENDER

APPENDIX M

Memo to Defender Staff Re: Evaluation

To: All Staff
From: Chief Defender
Date:

Re: Evaluation of our office

I have arranged for a team of consultants to conduct an evaluation of our office during the week of _____. Their report will assist us in providing more effective and efficient defense services to our clients and to the community.

The team will be in our area for approximately _____ days and will try to interview a large sample, if not all, of the office staff. Please be candid with the interviewers and open your files and records to them.

All interviews will be strictly confidential between each of you and the evaluators, and no comments will be attributed to any individual, either directly or indirectly, in their report.

APPENDIX N

Letter Confirming Interviewee
Appointment

Dear _____:

As we discussed today, a team of consultants from _____ will be conducting an evaluation of _____ (Defender Office) during the week of _____. A member of the evaluation team will meet with you in your office at _____ on _____ for a candid discussion in connection with the evaluation effort. If you find that you are unable to keep this appointment, please contact _____ in the Defender Office.

Please be assured that all interviews will be strictly confidential between you and the evaluators, and that no comments will be attributed to any individual, either directly or indirectly in the evaluation report.

Thank you for your time and cooperation.

Sincerely,

STAFF

HANDBOOK II

STATISTICAL ANALYSIS

The section which follows constitutes a complete Statistical Handbook which outlines a method by which a statistical analysis of defender office case files and of the court docket can be undertaken. Its use is intended primarily for the Staff person (or Team Captain) who subcontracts to have the statistical analyses performed, and for the Subcontractor who performs those analyses.

Its educational value for the entire team of evaluators will depend entirely on whether an evaluator chooses to review this material. Each Team Member Handbook contains a brief summary of this Statistical Handbook, in addition to the completed analyses which have been made available by Staff prior to the on-site visit by the team.

H A N D B O O K I I

Statistical Study

Defender and Court Case Files

Roberta Rovner-Piecznik
Alan Rapoport
Martha Lane

Assisted by:
Kathy Bradt
Kate Lenski

June 1976

Defender Evaluation Project
National Legal Aid and Defender Association
Suite 601, 2100 M Street, N.W.
Washington, D.C. 20037

National Institute of Law Enforcement
and Criminal Justice
Law Enforcement Assistance Administration
Grant Number 74-NI-99-0049
U.S. Department of Justice

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STATISTICAL STUDY OF
DEFENDER AND COURT CASE FILES

INTRODUCTION

A considerable amount of statistical data on the performance of defenders is available in every defender office in the form of the case file. Comparable information is available on the behavior of private attorneys and assigned counsel through the docket/files of the criminal court. Although these data have been accumulated for other purposes, they can provide useful information on defense activities in general, and the defender office, in specific. Such information can be used to raise issues which can be probed more deeply during the on-site interviews.

A case/file docket study represents one quantitative (i.e. statistical) method of describing case management and case outcome. This information relates directly and indirectly to the specified goals and objectives for defender offices (Appendix A, Goals and Objectives for Defender Offices). In contrast to "softer" (i.e. qualitative) techniques of gathering information, such as the interview, a statistical study is not dependent upon the subjectivity of individuals. It is highly standardized and uniform in its approach to data collection and analysis. Its format is as follows:

1. A selected sample of case files is exposed to a fixed set of questions;
2. Responses are systematically classified according to a predeveloped code and set of definitions; and,
3. Information gathered undergoes a statistical analysis.

In terms of the present evaluation, the statistical information generated through this study becomes one source of evaluative information, to be used in conjunction with the other information gathered. This point cannot be overemphasized.

Defenders have posed a variety of arguments against using case statistics in an evaluation of office performance. First, they have stated that no two cases are alike, suggesting that techniques which

combine cases for statistical purposes neglect essential differences. Second, defenders have pointed to the wide variation in defender offices and practices; differences in definitions and recording procedures make it difficult, they maintain, to compare statistical data from two or more offices. Third, they have pointed out that each criminal jurisdiction is unique in its historical development, statutory restrictions and informal norms; this uniqueness disallows the use of statistics unless accompanied by an in-depth knowledge of a particular community. Fourth, they object that even when the context necessary for interpretation is known, the statistics cannot be meaningfully interpreted because no statistical standards for the "good" defender office exist.

Since these criticisms are of concern to defenders, they should be understood and addressed in turn. Statistical analyses do not neglect essential differences; rather, they point out common patterns of performance which are noticeable when cases are grouped, but which are difficult to discern when cases are viewed on a case-by-case basis. We agree that it is difficult to accurately compare statistical data across offices; as a result, it is something this evaluation design neither suggests nor does. We also agree that a statistical analysis of case files alone does not provide a valid technique for evaluating the performance of defenders. However, the statistical analysis described in this Handbook is of value because it will be used in conjunction with data gathered during both the pre-evaluation and on-site phases of the evaluation. And finally, while no statistical standards for the "good" defender office exist, professional standards can certainly be used as a relative yardstick for defender performance.

The Handbook which follows is divided into two sections: the statistical study of case files within the defender office, and the statistical study of cases handled by the court. For purposes of organization they are referred to as the case file (defender office) and docket (court) study.

The Case File (Defender Office) Study

Information to be Gathered

A statistical study of case files within the defender office should gather information in four major areas:

1. Cases handled by the office (e.g., charge type);
2. Defendant characteristics (e.g., sex);
3. The process of case management (e.g., bail); and,
4. Case disposition and sentence (e.g., plea, probation).

The terms case and defendant are used interchangeably, assuming that an individual defendant and set of charges for which s/he tried represent a single case. Two defendants tried for a single charge represent two cases. One defendant with multiple charges represents a single case, unless multiple cases are filed and separate adjudication procedures are employed. Definitions, however, may change from defender office to defender office and from court to court. The major concern is that the definition of "case" is made clear (on the summary analysis) for a particular office jurisdiction and all data are recorded consistently by the data gatherers for that site.

Case Sampling

It is not necessary to look at each case file handled by the defender office to gain basic information on the types of cases and defendants being represented, and the typical management and outcome of cases. It is more economical, in terms of time, effort and financial expenditure, to obtain the desired information for a portion, that is a sample, of an office's cases. From the perspective of good evaluative research, information on a sample of the total number of cases will generally suffice as a basis from which to generalize conclusions to all cases. The sample procedure utilized, however, must be adequate to produce results which can be generalized to the full group (i.e. universe of cases).

Sampling Criteria. Cases from which the statistical analysis is conducted should be drawn from a systematic or random sample of closed case files of individuals charged with criminal offenses. Two criteria for case inclusion should prevail:

1. The case should have reached final adjudication six months prior to the study date (see Sampling Period, p.5); and,
2. The case should have appeared in court as either an adult misdemeanor or felony.

Sampling Technique. Although there are a variety of sampling procedures, the systematic sample is expedient whenever a large sample is to be drawn and the universe is great. In systematic sampling the evaluation.

1. Decides the number of case files s/he wants to sample;
2. Establishes the total number of cases from which s/he is to select his/her sample; and,
3. Goes through the files taking every k^{th} case, starting with a randomly selected case as the first k case.

To illustrate: if we want to select a sample of 200 case files from

six months of closed cases totalling 1800 cases, we can take every ninth case. The choice of first case, however, must be determined by some random process, such as the use of a table of random numbers. For example, if the number six is selected as a starting point, the sample will consist of cases numbered 6, 15, 24. . . . When cases which come up do not fit the sampling criteria (i.e. closed eight months previously), or do not fit the charge categories selected, they should be disregarded, and the case situated immediately behind that one in the file selected instead.

There is a situation in which systematic sampling may produce bias. Cases may have been filed in such a manner that a trend occurs which is picked up in the sampling procedure. That is, the filing technique has the same periodic or cycle characteristic that corresponds to the sampling function (e.g., every k^{th}). Although this situation is unlikely to occur in the filing of closed cases, it should be considered before sampling begins.

When defender offices combine all misdemeanor and felony cases within one file, a systematic sampling of that file should contain the same proportion of misdemeanor and felony cases as the office has handled throughout the sampled time period. When defender offices maintain separate files for misdemeanors and felonies, their independence should be maintained and they should be systematically sampled within each group.

In conclusion, the sampling procedure will remain basically the same, although the k^{th} number will alter depending upon the way the files are arranged and the type of analysis which is anticipated.

Numbers to be Sampled. The number of case files to be sampled is not related to the number of cases defenders have closed during the time period sampled; it is related to the type of analysis which is contemplated and the scope of the universe to be represented. Suppose, for example, it is known that of the 1800 cases handled, 1200 (2/3) were adjudicated in misdemeanor court and 600 (1/3) were adjudicated in felony court. A sample of 200 should reflect these case proportions; the sample would contain approximately 67 (1/3) felony cases and 133 (2/3) misdemeanor cases. If 67 felony cases are not enough to suit the type of analyses to be performed, however, a proportionate sample might not be chosen. Absolute numbers might be more appropriate for analysis purposes. Misdemeanor files would be selected until the 100th case was sampled; felony cases would continue to be selected until the 100th case was reached. While felony and misdemeanor cases would both be represented they would be disproportionate to the distribution of the year's cases.

Since different charges are represented in differing proportions of an office caseload (e.g., 60% assault, 10% homicide), a study which attempts to gain some information on all or a large number of charges should gather a sample which is considerably larger than a study which is focused on one charge type. A sample of 250, for example, allows for a good analysis of cases within three typical

charge categories. Time, money, and effort might be saved if only three specific charge which are frequently presented by the office in both the misdemeanor and felony courts were selected. In this situation, a total of 100 cases per charge type (50 in lower court, 50 in upper court) should be ample for the purposes of analysis. The Team Captain should determine, however, whether information on only one charge type is sufficient for the team's purposes. It is suggested that at least three charge categories be sampled in both the lower and upper courts to give a more representative picture of charges handled and that approximately 100 cases in each category (misdemeanor and felony) be sampled.

Sampling Period. The period from which cases are to be sampled can be problematic. An evaluation which attempts to reflect the latest defender performance might be tempted to choose from cases closed within the most recent three-month period. A short sampling period, however, can reflect a large degree of transitory fluctuation. An evaluation which strives to represent the last year's performance may contain enough cases closed under "old" office policies to minimize its usefulness as a recent evaluation tool. Given these situations, it is suggested that cases closed for the period no earlier than two months and no later than six months prior to the evaluation be sampled. By taking a sample of cases which have been closed for a minimum of two months we are assuming that cases which will be appealed have already been filed.

Coding

Coding is a technical procedure by which data are categorized. Through coding, raw data are transformed into questions and responses that can be tabulated and counted.

The Code. A code for the transformation of case files data into questions and responses appears in Appendix B. The Code contains a series of questions, beginning with question 5 and ending with question 35.

The data requested from the case files can be abstracted from a number of papers found in the defender files: the original complaint, police report, application for representation, defender case notations. The Code incorporates data that is readily available in defender files. The Code is flexible, however, and can be added to or deleted from to best reflect what is contained in a particular defender office's files. In some instances, a few files within the defender office should be checked to gather complete information on a case.

In the process of its development, the case file Code was utilized by coders and the question/response categories revised to suit the data found in most case files. The Code was also revised to omit data upon which coder judgement was needed and data which were unreliably entered onto files by defenders. As noted earlier, the Code requests information on case characteristics, defendant

characteristics, case management and case outcome.

Data Code Sheet. To facilitate the use of the Code, it has been abbreviated in language and reduced in physical size to fit on one Data Code Sheet (Appendix C). This Sheet is the one which coders use for easy reference when going through a case file; the Code itself is a back-up resource.

Data Coding Form. The Data Coding Form (Appendix D) is used to transform the information requested by the Data Code Sheet (and Code) into questions and responses which can easily be punched onto computer cards. The eighty columns running across the Form correspond to a maximum of eighty separate questions (characters) whose responses may be written on the sheet. Each Form has 24 rows running down its side; each row can represent a separate, complete case file.

To illustrate, defender case file 113 (a number arbitrarily selected for Coder purposes) occupies the first three characters of the Coding Form and appears in the third row down, after case file 111 and 112 (Figure 1). According to the Code and Data Code Sheet, question number five (5) pertains to "sex of defendant". Coding for "sex" is as follows: (1) male; (2) female; and blank if unknown. Column four (4) remains blank for purposes of organization, to set off the case file number from the coded questions. If the defendant in case file number 113 is a female, the Form should be completed as follows:

Figure 1
Coding Form

[illegible]

Computer Cards. Once the coding process has ended, the information on the Coding Form is transferred to Computer Cards. Each card represents one case file and contains (going across the card) room for 80 pieces of information (as does the Coding Form). Below each of the 80 columns are numbers zero to nine, in which one hole may be punched to indicate a specific response to a specific question.

To illustrate, the same defender case file 113 discussed above for a female defendant, will appear, when punched, as follows. The darkened areas, in Figure 2, represent holes which are punched in the card. The series of numbers ranging from 1 through 80 represent the coded questions. Thus, the first three columns are coded to case file number 113. The fourth column is left blank for purposes of clarity of presentation, and the fifth column (coded for sex) is punched with a two (for female). The numbers "113 2" which appear on the top of the card are merely to help the data gatherer in reading the card; the computer scans the punched holes directly below the column in order to "read" the card.

Figure 2
Computer Card

113 2

[illegible]

The machine used for punching information onto the Computer Cards is called the Key punch, a device similar to an electric typewriter keyboard. On the Key punch, holes are punched onto a stiff card, as are numbers which appear at the top of the Computer Card.

Coding Reliability. There are many things that make the coding process reliable:

1. Case file data must be adequate in supplying enough relevant information for reliable coding;

2. Code categories (questions) must be well-defined, that is, be based on a single classificatory principle, mutually exclusive, and exhaustive in its response categories; and,
3. Coders must have the appropriate training. That is:
 - a. Definitions of cases and classifications are provided;
 - b. The code is explained and illustrated with examples from the case files; and,
 - c. Practice coding is done with a sample of the files under the supervision of staff or sub-contractor.
4. Checks for coder reliability are undertaken during the data gathering process and again after the computer print-out is retrieved.

Different types of material present different degrees of difficulty in achieving reliability. In general, the more highly structured the material to be coded and the simpler the categories used, the higher the reliability. The type of case file information to be collected in this study does not require a judgment process on the part of the Coders and, thus, has some reliability built into it.

Coder Training. Staff (or Team Captain) should take over the training function of those who will be coding the data. The following general instructions should be followed by Coders:

1. All questions on the Coding Sheet should be completed on the Data Coding Form. Responses will be in a form which can be directly punched onto IBM cards. Where a specific item of information cannot be found in a case file, the file should be cross-checked to see if the information has been recorded elsewhere, or the item should remain blank.
2. The Data Coding Form should be completed in pencil, by inserting the appropriate response (see Code responses) in the square which corresponds to the question being asked.
3. One column is used for a question with codes of 0-9. Two columns would be designated for one question when the possible responses exceed nine, although this does not occur in the present Code.
4. The first three columns of the Coding Form are for

the evaluator's code number for the file reviewed. It is suggested that the evaluator's code begin with number 111.

5. When no information on a particular question is available, the column for that question remains blank.
6. Coded case file information begins with Item 5.
7. The evaluator should maintain, on a separate sheet of paper, the actual defender case file number which has been keyed to sequential Code numbers assigned for purposes of the study (Figure 3)

Figure 3
Master Case File Key

<u>Defender Case File No</u>	<u>Study Number</u>
20563	111
39243	112
41720	113

It may be necessary at the start of the coding phase to determine which information is available in the case file and which information may have to be gotten from police, bail agency, and/or court records. It is for this reason that a master sheet equating the coder's sequential numbering system with that of the actual case file number must be kept.

The subcontractor must be responsible for controlling for coder reliability. This might be accomplished by having coders switch a small number of coded cases with each other and recode them as a check on one another. The subcontractors, on a daily basis, should determine that that is being done and on a weekly basis observe it in operation. The last check on reliability will be performed after the data is programmed; it will be clear from the print-out whether the data is reliable.

Programming the Analysis

No study should be planned without anticipating what will be done with the data or without being concerned with the possible interpretation of findings. While the relationship between analysis and interpretation varies from study to study, these two processes are so inextricably interwoven that interpretation will be considered as a special aspect of analysis rather than a distinct operation.

In pre-computer days, much time was spent in organizing data and tabulating it either by hand or by counter-sorter (a machine which sorted and counted cards on one question at a time). These techniques were tedious, especially with a large amount of data requiring complicated treatment. They produced a minimal number of tables required for analyses. Analysts avoided studying relationships involving several variables (i.e. different types of data) because of the labor involved. As a result, important questions went unanswered.

The only appropriate method for the analysis of case file data today is by electronic computer, a machine which has to be programmed to complete statistical tabulations. A Program is a set of instructions which tell the computer to perform certain tasks. Packaged programs already exist for specified operations. The Statistical Package for the Social Sciences (SPSS) is one packaged program designed to compute statistics typically used by social scientists, and which suits the need of our study. The program needed for the evaluation of the defender case file data has already been developed (see Appendix E) and is ready for use.

Control cards are a set of punched IBM cards which tell the computer which program it will run (i.e. the specific operations it will perform) and what variables it will consider. Directions for the punching of these cards are inherent in the program developed (Appendix E).

The analysis should accomplish several things:

1. Describe the pattern in which defender cases are distributed on each question in the Code (i.e. frequency distribution); and,
2. Show whether relationships exist between data (i.e. different questions) in the files (i.e. cross-tabulation).

Frequency. A frequency distribution is the overall distribution of a given variable (i.e. question) on its values (i.e. responses). The analysis is particularly interested in characterizing what is typical in the sample of cases selected and indicating how widely individual cases vary from other cases. For example, how many cases, on the average, are pleaded guilty by the defendant. (Question 21 on the Code), and how many go to trial. We may want to know whether there is much variation in the frequency of a defendant going to trial as compared with other cases.

To describe these patterns we are interested, in addition to frequency, in the statistics which describe:

1. Mode - the response which occurs most often for all the cases;

2. Median - the middle response, or case lying exactly in the center after all the cases have been ordered;
3. Mean - the average response, or sum of responses for each case divided by the number of cases;
4. Variance - a measure of dispersion of responses around the mean. This is one way of measuring how closely each case scores in comparison with the mean;
5. Standard deviation - another measure of dispersion of responses around the mean which looks into the average distance of scores around the mean;
6. Standard error - a measure of sampling variability; that is, the variation which occurs by chance because a sample rather than an entire population is used; and,
7. Range - indicates the extremes of variation within the cases; the minimum response subtracted from the maximum.

A computer print-out for Question 21 (i.e. Disposition Method) might appear as follows:

Figure 4
Hypothetical Computer Print-Out

Defender Case File Study		
Method of Disposition		
Variable Label	Code	Frequency
Dismissal	1	50
Plea	2	125
Trial	3	20
Alternative	4	5
MEAN	50	
MODE	125	
STD ERROR		
VALID CASES		
STD DEV		
RANGE		
MEDIAN		
VARIANCE		
MISSING CASES		

According to Figure 4, the plea is the most often used method of disposition. The mean or average of cases is 50; the mode, or most typical response is 125. The other statistics have not been computed for reasons of simplicity.

Cross-tabulation. A cross-tabulation is a joint frequency distribution which exhibits the relationship between different data (i.e. questions). For example, we might hypothesize that a relationship exists between being female (Question 5) and being given a light sentence (the responses to Question 25 have been simplified for illustrative purposes). We could test this hypothesis with the following:

Table 1
Hypothetical Data on Sex and Sentencing

		No Confinement	Fine	Confinement
Sex	Male	10 (10%)	10 (10%)	80 (80%)
	Female	40 (40%)	40 (40%)	20 (20%)

It can be concluded from Table 1 that sex of defendant (i.e. female) appears related to sentence received (i.e. fine and probation).

A second hypothesis could be, however, that this relationship is spurious; the real relationship exists between prior conviction record and sentence. It just happens that females are less likely to have a prior conviction record. We could test this hypothesis by elaborating upon the original analysis:

Table 2
Hypothetical Data on Sex, Prior Record and Sentencing

Sex and Record		No Confinement	Fine	Confinement
Male	many priors	---	---	80 (80%)
	no priors	10 (10%)	10 (10%)	---
Female	many priors	---	---	20 (20%)
	no priors	40 (40%)	40 (40%)	---

It can be concluded from Table 2 that for the variable of sex, sentence received is related to whether or not the defendant has a conviction record. Since we have now found a variable (conviction record) which appears to account for the original relationship, we have to conclude that there is no direct relationship between sex and sentence received.

In programming of the computer, it is instructed, where appropriate, to measure three-way relationships. The computer also gives a measure of the strength of association of two or more variables, and measures of the statistical significance of the relationship (which tells the likelihood that the finding occurred by chance).

Interpretation.

The data gathered and analyzed according to SPSS should be summarized by Staff or subcontractor in terms of the stated goals and objectives of the defender evaluation (Appendix F. Analysis Questions). This report should be given to both the team captain and team members. These statistics, by themselves, do not serve as an "evaluation". Rather, they serve to:

1. Provide the Team Members with a statistical background on the type cases handled by the office, the method of case handling, and case outcome; and,
2. Highlight topics and issues which should be probed more deeply in interviews during the on-site evaluation.

It cannot be overemphasized that at the present time there are no statistics which "measure" quality of representation. Trial rates, the use of the guilty plea, or sentencing patterns are rarely meaningful as reflection of defender work. Since these statistics often are better reflectors of the workings of the entire criminal justice system than they are of defender performance, they can only be interpreted with accompanying information on that system. For example, the greater or lesser number of "bad" cases which enter and persist in a system, due to decisions made by prosecutors and police, affect defender caseload and subsequent defender actions. The better the screening job done by the prosecutor, the worse the plea bargaining and trial record of the defender (in terms of pleas to a lesser charge or acquittals at trial). In short, while statistics can be presented, their interpretation awaits more comprehensive information on the criminal justice system, much of which will be subjective in nature.

It is also essential to remember that there are many more variables which provide information on the delivery and quality of defender services than those which appear on the Code or can be gotten through a statistical study. Information on client contact,

for example, can only be gotten during the on-site evaluation, and then will be a composite of police and corrections records and client opinion.

With this caveat in mind, the "questions" the computer will analyze will be grouped according to the goals and objectives of the defender evaluation (Appendix A).

The Docket (Court) Study

The docket study is similar to the case file study in many respects: cases are sampled for information contained in the files and the resulting data are coded and analyzed. The purpose of the Docket Study, however, is comparative. That is, comparative information is sought between cases handled by the defender and those handled by private attorneys and assigned counsel. Since this is its main function, a docket study should not be undertaken in the absence of a case file study, for it excludes cases handled by the defender.

To avoid redundancy, the description of the docket study which follows highlights only those differences from the case file study. It is suggested that the reader refer back to appropriate sections of the case file study for elaboration of specific points and directions.

Information to be Gathered

The statistical study of court files will gather information in the same areas as that of the defender study:

1. Cases handled by the court;
2. Defendant characteristics;
3. The process of case management; and
4. Case dispositions and sentences.

The terms "case" and "defendant" are again used interchangeably.

Case Sampling

The sampling criteria and sampling technique specified in the defender case file study will again be utilized: three charge

categories of misdemeanor and felony cases closed within the six months prior to the study date will be systematically sampled. In this case, a sample of 100 cases, in both the lower and upper courts, will suffice for the analysis to be undertaken.

The sample should be taken using the court's docket book, completing as much of the information requested as possible. A master list of docket numbers sampled, similar to that done for the defender case file study, must be kept so that case files can be cross-referenced, where necessary, to complete the information requested. The docket study, in contrast to the case file study, may involve a two-step process: a sample drawn from the dockets (with some information gathered), and a search for information in the case files themselves.

Coding

The coding procedure utilized in the defender case file study will again be utilized. The Code used for the docket study (Appendix G) remains similar to that used for the case file study, with most changes reflecting the lesser amount of information in the court files.

A Data Code Sheet for the courts has been designed (Appendix H). The Data Coding Forms utilized are identical to those used in the case file study. Coder training for use of both the case file and docket study codes should be done simultaneously by Staff.

Analysis and Interpretation

As for the case file study, the analysis has already been programmed (Appendix I). The questions relating to defender objectives (Appendix J) have been transformed into the program for the analysis to be undertaken. The information obtained on private attorneys and assigned counsel through the docket study should be comparable to that collected on defenders through the case file study.

Logistics of the Study

The case file and docket studies will both be the responsibility of Staff (or Team Captain). The following tasks comprise Staff functions in this regard:

Contracting for the Statistical Studies

Once it has been established between Staff and Defender that a case file/docket study will be undertaken, the Chief Defender

should be asked for his/her recommendations for potential subcontractors. Staff will probably be interested in contacting universities (e.g., colleges of criminal justice, departments of sociology or political science), law schools, and private consulting firms within or near the Defender Office's jurisdiction. A phone call should be placed and the possibility of subcontracting the statistical studies discussed. The following points should be made to the potential contractor:

1. The nature of the entire project and role of statistical analysis;
2. The need for one or more of the following: coding, keypunching, programming, and analysis;
3. Use by contractor of the predeveloped materials and code;
4. Access to the Defender files and dockets assured by Staff;
5. Role of contractor: hire and train employees, supervision; reliability checks; timeliness of work product; acceptable product form; one or two statistical studies;
6. Mechanics of contract: time involved (e.g., up to one month); financial arrangements (e.g., professional rate - \$115/day; coder rate - \$3 to \$5/day); and,
7. Confidentiality of materials studied and data obtained.

Staff should gain a clear understanding of:

1. The potential contractor's qualifications for the task;
2. His/her ability to produce a timely product;
3. The extent and nature of his/her duties which might interfere with the training, supervision, and review of employees and their work; and,
4. His/her ability to hire sufficient staff to carry out the projected activities.

The communication should be closed by: (a) exchanging addresses; (b) asking that a resume be mailed to you; and (c) informing him/her that Staff will be back to him/her by telephone within the week.

After two or three such telephone conversations, Staff should

decide whether a visit with a few potential subcontractors is necessary to select one for the evaluation, or whether only a second round of telephone calls will be necessary to make that decision. If the choice of consultant is made via the telephone, a follow-up letter should be mailed which reiterates points made during the telephone conversation (Appendix K), along with a Contract and attached Cost Analysis Sheet (Appendix L), and a copy of the Statistical Handbook. If the choice of consultant cannot be made via the telephone, each potential party should receive a follow-up letter and Handbook. In both instances, arrangements should be made for Staff to meet with the potential consultant during the preliminary site visit to the Defender Office.

A breakdown of anticipated costs appears in Appendix M.

The Preliminary Site Visit

The potential subcontractor(s) should be phoned shortly before the Preliminary Site Visit is to occur, and an appointment should be confirmed for a meeting between Staff and consultant during this visit. Staff should review Defender Office case files prior to the meeting with the potential subcontractors to (1) know their condition and (2) their filing method. The difficulties involved in selecting a sample of cases (misdemeanors and felonies) within a given time period should be ascertained. The Defender Office should also provide Staff with information on:

1. the total number of misdemeanor and felony cases arraigned in the previous year;
2. the percentage of cases handled by the Defender in the lower and superior courts, versus private and assigned counsel;
3. the three most frequent charges handled in the lower and superior courts;
4. the number of different courts before which Defenders appear, and those which account for the largest proportion of clients.

This information will be of help in determining answers to questions which arise during discussion with the subcontractor(s). The statistical studies should be discussed in great detail at the meeting with the subcontractor(s):

1. The sampling methodology to be used (systematic or random);
2. Discussions regarding the number of cases to be sampled; the sampling time-frame; the charge types

to which the sample is restricted; whether the misdemeanor or felony samples should be maintained separately; the number of courts to be sampled; a master list equating case number with new number given by coders;

3. The method by which entree for the subcontractor and his/her employees has been assured in the Defender Office and Court(s). This may entail letters mailed by the Defender to individuals in the courts, bail agency, diversion program and others who control access to needed files;
4. Reiteration of the working time-frame and financial arrangements;
5. Reiteration of the confidentiality of the work; and,
6. Reiteration of expected tasks to be performed by subcontractor, including hiring and supervising employees and reviewing their work product.

If the Contract can not be signed during this visit, it should be finalized no later than the week following the preliminary site visit. It can not be emphasized sufficiently that the Contract, or a letter of understanding, should specify those conditions under which work will be deemed unacceptable (e.g., reliability proves poor upon programming data, work product sufficiently late to exclude meaningful use by evaluation team). Data code sheets should be given to the subcontractor, if needed. The boundaries of consultant responsibility should be determined. For example, the subcontractor may not have a ready capability to keypunch and program data. In this case, Staff should be prepared to receive the coded data and complete the steps necessary to analyze the data. If the subcontractor has programming capability, Staff should give him/her the predeveloped program and analysis questions.

Training the Coders

Staff should expect to spend an additional day or two at the evaluation site to:

1. Orient the subcontractor and coders to the purposes and methodology of the evaluation, in general, and its statistical aspects, in particular;
2. Distribute copies of the Codes and Data Code Forms;
3. Train the subcontractor and coders in the use of the Code;
4. Be available to uncover and work through initial

sampling problems;

5. Code a sample of cases with coders; and
6. Check reliability of coders and train them to periodically do their own checks.

Given the most experienced of contractors, initial training by Staff is essential to ensure a reliable product.

It should be stressed that all coders (3-4 will be needed to gather the data within the established time frame) should receive the initial training given by the Staff. If new coders are added during the study period, unreliability of coding is increased. Given this situation of coder dropouts and new employees, subcontractors will be expected to play an active role in training, direction, supervision, and reliability checks.

Supervising the Study

Staff should remain available throughout the study period to answer questions. The subcontractor, however, should take responsibility for the day-to-day direction of the work product and supervision of workers. Weekly contact between Staff and the subcontractor should take place, so that Staff is aware of unanticipated problems and concerns, and can correct initial misunderstandings. Unreliability of the data analyzed will be viewed as a lack of proper supervision on the part of the subcontractor.

Disseminating Study Findings

Once the statistical study information has been analyzed and summarized, by either Staff or the subcontractor, it should be incorporated into Team Member Handbooks and mailed to the Team Captain and Team Members.

The entire statistical study should take approximately four to six weeks from the date at which contractual negotiations with a consultant (or firm) are concluded. The subcontractor's fees should be paid upon successful execution of the contract.

APPENDICES

APPENDIX A

GOALS AND OBJECTIVES FOR THE DELIVERY OF DEFENDER SERVICES

- GOAL I: To facilitate the effective and efficient delivery of legal and supportive services to all persons who need and qualify for public representation in criminal and related proceedings.
- Availability/Immediacy Objective 1) Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused upon him to be the subject of an investigation, or at the request of someone acting in his/her behalf.
- Eligibility Objective 2) Representation should be provided to any individual who is eligible and desires representation.
- Scope Objective 3) Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.
- Duration Objective 4) Representation should be available until all reasonable avenues of relief are exhausted.
- GOAL II: To insure that the representation of clients is of high quality.
- Competence Objective 1) Representation on behalf of clients should be competent.
- Zeal Objective 2) Representation on behalf of clients should be zealous.
- Political Influence Objective 3) Representation on behalf of clients should remain free from political influence.
- Judicial Control Objective 4) Representation on behalf of clients should remain free from improper judicial control.
- Discrimination Objective 5) Representation should not be affected by racial, cultural, religious or sexual characteristics of clients.
- GOAL III: To assist in the exposition and improvement of the adversary process within the criminal justice system.
- Community Education Objective 1) Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel.
- System Improvement Objective 2) Defenders should seek to improve the criminal justice system and other components therein.

APPENDIX B

DEFENDER OFFICE CASE FILE DATA GATHERING CODE*

Defendant Characteristics

5. Sex of defendant
 - (1) Male
 - (2) Female
6. Racial background of defendant
 - (1) White
 - (2) Non-White
7. Age of defendant
 - (1) Under 18 years
 - (2) 18 - 30
 - (3) Over 30 years
8. Marital status of defendant
 - (1) Never married
 - (2) Married and/or common law living with spouse
 - (3) Divorced or separated
9. Educational attainment of defendant
 - (1) High school not completed
 - (2) Graduated high school (or equivalent diploma)
 - (3) College attended and/or completed
10. Number of previous convictions of defendant
 - (1) No previous convictions
 - (2) One previous conviction
 - (3) 2 or more previous convictions
11. Employed at time of arrest
 - (1) Yes
 - (2) No

Case Characteristics

12. Seriousness of initial offense charged
 - (1) Local ordinance, violation
 - (2) Misdemeanor
 - (3) Felony

*Items for which there is no information should remain blank.

13. Frequently occurring misdemeanors and felonies*

- (1) (misdemeanor)
- (2) (misdemeanor)
- (3) (misdemeanor)
- (4) (felony)
- (5) (felony)
- (6) (felony)

Case Management

14. Bail arrangement

- (1) Bail case (set and posted)
- (2) Jail case (set but unmet)
- (3) ROR/conditional release
- (4) No bail set
- (5) Not applicable (e.g. disposed of on the same day)

15. Amount of bail, if applicable

- (1) \$.00 - \$ 500
- (2) \$501 - \$1000
- (3) \$1001 - \$2500
- (4) \$2501 - \$5000
- (5) Over \$5000

16. Interval between arrest date and date of assignment of defender

- (1) Within 24 hours
- (2) 2 -3 days
- (3) 4 days to 1 week
- (4) Over 1 week

17. Interval between date of arrest and date of contact with defender

- (1) Within 24 hours
- (2) 2 -3 days
- (3) 4 days to 1 week
- (4) Over 1 week

18. Interval between date assignment received and date of contact with defender

- (1) Within 24 hours
- (2) 2 -3 days
- (3) 4 days to 1 week
- (4) Over 1 week

19. Interval between initial arraignment and case closing (i.e. sentence)

- (1) Immediate
- (2) 1 - 10 days
- (3) 11 days - 1 month
- (4) 1 - 3 months
- (5) 3 - 6 months
- (6) 6 months - 1 year
- (7) Over 1 year

*The specific responses to this question will vary by defender office and should be inserted following a discussion with the Chief Defender.

20. Interval between conviction and sentence

- (1) Immediate
- (2) 1 day - 1 week
- (3) 1 week - 1 month
- (4) 1 - 2 months
- (5) 2+ months
- (6) Not applicable (e.g. dismissal, acquittal)

21. Disposition method

- (1) Dismissal
- (2) Plea
- (3) Trial (e.g. acquittal, conviction)
- (4) Other (e.g. diversion)

22. If dismissal, at what stage?

- (1) Initial arraignment/bail determination
- (2) Probable cause determination (Magistrate or Grand Jury)
- (3) Trial court - misdemeanor
- (4) Trial court - felony
- (5) Not applicable (e.g. plea, trial)

23. If plea, its nature

- (1) Plea to original charge
- (2) Plea to reduced charges
- (3) Not applicable (e.g. trial, dismissal)

24. If trial, the conclusion

- (1) Guilty to original charge
- (2) Guilty to reduced charge
- (3) Acquittal
- (4) Not applicable (e.g. plea, dismissal)

25. Sentence type

- (1) No confinement (e.g. suspended sentence, probation)
- (2) Confinement (including time served)
- (3) Confinement in lieu of fine
- (4) Fine
- (5) Other
- (6) Not applicable (e.g. dismissal, acquitted)

26. Confinement sentences given

- (1) Up to 1 year
- (2) 1 to 5 years
- (3) 5+ years
- (4) Special alternative or treatment (e.g. drugs, job training, counseling)
- (5) Not applicable (e.g. probation)

27. Case continued into appeal stage

- (1) Yes
- (2) No
- (3) Not applicable (e.g. dismissal, acquittal, plea)

28. Interval between case disposition and filing appeal
(1) Immediate (5) 3 to 6 months
(2) Within 1 week (6) 6+ months to 1 year
(3) 1 week to 1 month (7) Over 1 year
(4) 1 to 3 months (8) Not applicable (e.g. dismissal, acquittal, plea)
29. Change in attorney during case
(1) No change
(2) Defender to other (e.g. assigned or private)
(3) Private or assigned to defender
30. Stage of defender entry
(1) Pre-arrest
(2) Time of arrest
(3) At bail/arraignment
(4) During trial period
31. Was any post-conviction representation given by defender?
(1) Yes
(2) No
(3) Not applicable (e.g. acquittal, dismissal, plea)
32. Waiver of hearing
(1) Yes
(2) No
(3) Not applicable (e.g. dismissal)
33. Number of Pre-trial motions filed
(1) Yes
(2) No
34. Bond review motions filed (e.g. habeas corpus)?
(1) Yes
(2) No
35. Subpoenas issued by defender?
(1) Yes
(2) No

**APPENDIX C
DEFENDER OFFICE CASE FILE DATA CODE SHEET***

Defendant Characteristics

5. Sex of defendant
 - (1) Male
 - (2) Female
6. Racial background of defendant
 - (1) White
 - (2) Non-White
7. Age of defendant
 - (1) Under 18 years
 - (2) 18 - 30 years
 - (3) Over 30 years
8. Marital status of defendant
 - (1) Never married
 - (2) Married and/or common law living with spouse
 - (3) Divorced or separated
9. Educational attainment of defendant
 - (1) High School not completed
 - (2) Graduated high school (or equivalent diploma)
 - (3) College attended and/or completed
10. Number of previous convictions of defendant
 - (1) No previous convictions
 - (2) One previous conviction
 - (3) 2 or more previous convictions
11. Employed at time of arrest
 - (1) Yes
 - (2) No

Case Characteristics

12. Seriousness of initial offense charged
 - (1) Local ordinance, violation
 - (2) Misdemeanor
 - (3) Felony
13. Frequently occurring misdemeanors and felonies**
 - (1) (misdemeanor)
 - (2) (misdemeanor)
 - (3) (misdemeanor)
 - (4) (felony)
 - (5) (felony)
 - (6) (felony)

Case Management

14. Bail arrangement
 - (1) Bail case (set and posted)
 - (2) Jail case (set but unmet)
 - (3) ROR/conditional release

- (4) No bail set
- (5) Not applicable (e.g. disposed of on same day)
15. Amount of bail, if applicable
 - (1) \$ 00 - \$ 500
 - (2) \$ 501 - \$1000
 - (3) \$1001 - \$2500
 - (4) \$2501 - \$5000
 - (5) Over \$5000
16. Interval between arrest date and date of assignment of defender
 - (1) Within 24 hours
 - (2) 2 - 3 days
 - (3) 4 days to 1 week
 - (4) Over 1 week
17. Interval between date of arrest and date of contact with defender
 - (1) Within 24 hours
 - (2) 2 - 3 days
 - (3) 4 days to 1 week
 - (4) Over 1 week
18. Interval between date assignment received and date of contact with defender
 - (1) Within 24 hours
 - (2) 2 - 3 days
 - (3) 4 days to 1 week
 - (4) Over 1 week
19. Interval between initial arraignment and case closing (i.e. sentence)
 - (1) Immediate
 - (2) 1 - 10 days
 - (3) 11 days - 1 month
 - (4) 1 - 3 months
 - (5) 3 - 6 months
 - (6) 6 months - 1 year
 - (7) Over 1 year
20. Interval between conviction and sentence
 - (1) Immediate
 - (2) 1 day - 1 week
 - (3) 1 week - 1 month
 - (4) 1 - 2 months
 - (5) 2 months
 - (6) Not applicable (e.g. dismissal, acquittal)
21. Disposition method
 - (1) Dismissal
 - (2) Plea
 - (3) Trial (e.g. acquittal, conviction)
 - (4) Other (e.g. diversion)

22. If dismissal, at what stage
 - (1) Initial arraignment/bail determination
 - (2) Probable cause determination (Magistrate or Grand Jury)
 - (3) Trial court - misdemeanor
 - (4) Trial court - felony
 - (5) Not applicable (e.g. plea, trial)
23. If plea, its nature
 - (1) Plea to original charge
 - (2) Plea to reduced charges
 - (3) Not applicable (e.g. trial, dismissal)
24. If trial, the conclusion
 - (1) Guilty to original charge
 - (2) Guilty to reduced charge
 - (3) Acquittal
 - (4) Not applicable (e.g. plea, dismissal)
25. Sentence type
 - (1) No confinement (e.g. suspended sentence, probation)
 - (2) Confinement (including time served)
 - (3) Confinement in lieu of fine
 - (4) Fine
 - (5) Other
 - (6) Not applicable (e.g. dismissal, acquitted)
26. Confinement sentences given
 - (1) Up to 1 year
 - (2) 1 to 5 years
 - (3) 5+ years
 - (4) Special alternative or treatment (e.g. drugs, job training, counseling)
 - (5) Not applicable (e.g. probation)
27. Case continued into appeal stage
 - (1) Yes
 - (2) No
 - (3) Not applicable (e.g. dismissal, acquittal, plea)
28. Interval between case disposition and filing appeal
 - (1) Immediate
 - (2) Within 1 week
 - (3) 1 week to 1 month
 - (4) 1 to 3 months
 - (5) 3 to 6 months
 - (6) 6 months to 1 year
 - (7) Over 1 year
 - (8) Not applicable (e.g. dismissal, acquittal, plea)
29. Change in attorney during case
 - (1) No change
 - (2) Defender to other (e.g. assigned or private)
 - (3) Private or assigned to defender

30. Stage of defender entry
 - (1) Pre-arrest
 - (2) Time of arrest
 - (3) At bail/arraignment
 - (4) During trial period
31. Was any post-conviction representation given by defender?
 - (1) Yes
 - (2) No
 - (3) Not applicable (e.g. acquittal, dismissal, plea)
32. Waiver of hearing
 - (1) Yes
 - (2) No
 - (3) Not applicable (e.g. dismissal)
33. Number of Pre-trial motions filed
 - (1) Yes
 - (2) No
34. Bond review motions filed (e.g. habeas corpus)?
 - (1) Yes
 - (2) No
35. Subpoenas issued by defender?
 - (1) Yes
 - (2) No

* Items for which there is no information should remain blank.
 **The specific responses to this question will vary by defender office and should be inserted following a discussion with the Chief Defender.

PROGRAM
PROGRAM

	PUNCHING INSTRUCTIONS
--	-----------------------

OF
ELECTRO NUMBER*

[illegible]

II-26

APPENDIX D
DATA CODING FORM

* A standard card form, IBM electro 888157, is available for punching statements from this form

**Number of forms per pad may vary slightly

APPENDIX E

DEFENDER CASE FILE STUDY - KEY PUNCHED CARDS NEEDED TO RUN SPSS

column	column
1	16
//STANDARD JOB CARD	
// EXFC SPSS	
//SYSIN DD *	
RUN NAME	THE DEFENDER FILE STUDY
VARIABLE LIST	ID.VAR05 TO VAR35
INPUT MEDIUM	CARD
N OF CASES	*****
INPUT FORMAT	FIXED(F3.0,1X,31F1.0)
VAR LABELS	VAR05,SFX/VAR06,RACIAL OR ETHNIC BACKGROUND/VAR07,AGE/ VAR08,MARITAL STATUS/VAR09,EDUCATION/VAR10, PREVIOUS CONVICTIONS/VAR11,EMPLOYED/VAR12, INITIAL OFFENSE/VAR13,NATURE OF OFFENSE/VAR14, RAIL ARRANGEMENT/VAR15,AMOUNT OF RAIL/VAR16, ARREST TO ASSIGNMENT/VAR17,ARREST TO CONTACT/VAR18, ASSIGNMENT TO CONTACT/VAR19,ARRAIGNMENT TO CLOSING/VAR20, CONVICTION TO SENTENCE/VAR21,DISPOSITION METHOD/VAR22, STAGE OF DISMISSAL/VAR23,NATURE OF PLEA/VAR24, CONCLUSION OF TRIAL/VAR25,SENTENCE TYPE/VAR26, CONFINEMENT SENTENCES GIVEN/VAR27,CASE APPEALED/VAR28, DISPOSITION TO APPEAL/VAR29,ATTORNEY CHANGED/VAR30, STAGE OF DEFENDER ENTRY/VAR31,POST-CONV. REPRESENTATION/ VAR32,WAIVER OF HEARING/VAR33,PRE-TRIAL MOTIONS/VAR34, BOND REVIEW MOTIONS/VAR35,SURPONAS ISSUED
VALUE LABELS	VAR05(1)MALE(2)FEMALE/VAR06(1)WHITE(2)NON-WHITE/VAR07(1) UNDER 18(2)18 - 30(3)OVER 30/VAR08(1)NEVER MARRIED(2) MARRIED, COM. LAW(3)DIV-SEP/VAR09(1)HS NOT FINISHED(2) HS GRAD(3)ATTEND. COLLEGE/VAR10(1)0(2)1(3)OVER 1/VAR11, VAR27,VAR31 TO VAR35(1)YES(2)NO(3)N.A./VAR12(1) LOCAL ORD.(2)MISD.(3)FELONY/VAR13(1)MISD-1(2)MISD-2(3) MISD-3(4)FELONY-1(5)FELONY-2(6)FELONY-3/VAR14(1) SET AND POSTED(2)SET BUT UNMET(3)PROR-COND(4)NOT SET(5) N.A./VAR15(1)TO \$500(2)\$501 TO \$1000(3)\$1001 TO \$2500(4) \$2501 TO \$5000(5)OVER \$5000/VAR16 TO VAR18(1) WITHIN 24 HOURS(2)2-3 DAYS(3)4 DAYS - 1 WEEK(4) OVER ONE WEEK/VAR19(1)IMMED.(2)1 - 10 DAYS(3) 11 DAYS - 1 MON.(4)1-3 MON.(5)3-6 MON.(6)6 MON. - 1 YR. (7)OVER 1 YEAR/VAR20(1)IMMED.(2)1 DAY - 1 WEEK(3) 1 WEEK - 1 MON.(4)1-2 MON.(5)2-4 MON.(6)4+ MON.(7)N.A./ VAR21(1)DISMISS.(2)PLEA(3)TRIAL(4)OTHER/VAR22(1) INITIAL ARRAIGN(2)PROBABLE CAUSE(3)TRIAL - MISD.(4) TRIAL - FELONY(5)N.A./VAR23(1)ORIGINAL CHARGE(2) REDUCED CHARGE(3)N.A./VAR24(1)GUILTY - ORIGINAL(2) GUILTY - REDUCED(3)ACQUI. (4)N.A./VAR25(1)NO CONF.(2) CONF.(3)CONF FOR FINE(4)FINE(5)OTHER(6)N.A./VAR26(1) UP TO 1 YR.(2)1-5 YRS.(3)5+ YRS.(4)SPECIAL ALTER.(5)N.A./ VAR28(1)IMMED.(2)UNDER 1 WEEK(3)1 WEEK - 1 MON.(4) 1-3 MON.(5)3-6 MON.(6)6+ MON. - 1 YR.(7)OVER 1 YR.(8) N.A./VAR29(1)NO CHG.(2)FROM A DEFENDER(3)FROM A PRIVATE /VAR30(1)PRE-ARST(2)TIME OF TRIAL(3)BAIL-ARN(4) DURING TRIAL
VALUE LABELS	VAR05 TO VAR35(0)MISSING RESPONSE
RECODE	VAR05,VAR06,VAR11,VAR33 TO VAR35(3 THRU HIGHEST=0)/VAR07 TO VAR10,VAR12,VAR23,VAR27,VAR29,VAR31,VAR32(4 THRU HIGHEST=0)/VAR16 TO VAR18,VAR20,VAR21,VAR24,VAR30(5 THRU HIGHEST=0)/VAR14,VAR15,VAR22,VAR26(6 THRU HIGHEST=0)/ VAR13,VAR25(7 THRU HIGHEST=0)/VAR19,VAR20(8 THRU HIGHEST=0)/VAR28(9 THRU HIGHEST=0)
MISSING VALUES	VAR05 TO VAR13(0)/VAR14(0,5)/VAR15 TO VAR19(0)/VAR20(0,7) /VAR21(0)/VAR22(0,5)/VAR23(0,3)/VAR24(0,4)/VAR25(0,6)/ VAR26(0,5)/VAR27(0,3)/VAR28(0,8)/VAR29,VAR30(0)/VAR31, VAR32(0,3)/VAR33 TO VAR35(0)
FREQUENCIES	INTERFER=VAR05 TO VAR11(0,3),VAR14 TO VAR18,VAR30(0,5), VAR29,VAR27(0,3),VAR28(0,8) 1,2,3,4,5,6,9,10,11
STATISTICS	
READ INPUT DATA	
CROSSTABS	VARIABLES=VAR12,VAR13,VAR14(0,6)/TABLES=VAR14 BY VAR12 VAR13
OPTIONS	7
STATISTICS	1,2,3
FREQUENCIES	INTERFER=VAR19,VAR21 TO VAR26(0,8)
STATISTICS	1,2,3,4,5,6,9,10,11
CROSSTABS	VARIABLES=VAR10,VAR12 TO VAR15,VAR21,VAR25(0,8)/ TABLES=VAR21 BY VAR14,VAR10/VAR15 BY VAR10/VAR21 BY VAR12,VAR13/VAR25 BY VAR10,VAR12,VAR13
OPTIONS	7
STATISTICS	1,2,3
FREQUENCIES	INTERFER=VAR31 TO VAR35(0,3)
STATISTICS	1,2,3,4,5,6,9,10,11
CROSSTABS	VARIABLES=VAR05,VAR06,VAR10,VAR12 TO VAR14,VAR21, VAR25(0,8)/ TABLES=VAR05,VAR06 BY VAR12 TO VAR14,VAR21,VAR25/ VAR21,VAR25 BY VAR05,VAR06 BY VAR13,VAR10
OPTIONS	7
STATISTICS	1,2,3
FINISH	
/*	
//	

DIRECTIONS FOR THE USE OF THE SPSS PROGRAMS USED IN THE DEFENDER FILE AND COURT DOCKET ANALYSES

The SPSS program package which is needed to run these programs is VERSION 6. Before beginning work at any Computer Center, first make sure that VERSION 6 is available at that location.

The first step in assembling your program Deck is to have both the SPSS programs found in Appendices E and I keypunched and verified by an experienced keypuncher. This should eliminate as many problems as possible. The keypuncher should begin with the RUN NAME card and end with the FINISH card. The format instructions should be followed completely, as inaccurate keypunching will cause SPSS program errors. The job control language included is for an IBM 360 OS machine and must be changed as needed.

The DATA INPUT CARDS should also be handled by an experienced keypuncher who should both keypunch and verify the data. Make sure that all data is correctly identified as to what it is so as to avoid analyzing the wrong data.

After the data and the PROGRAMS have been keypunched, the process of organizing the programs and putting them into their final form is at hand. There are three (3) major tasks involved in doing this:

1. Locate a programming consultant or an experienced programmer at the computer center which you plan to utilize, and have this person assist you in preparing the proper JOB CARD and JOB CONTROL LANGUAGE CARDS so that they meet the computer center's particular requirements. Make the proper changes in the program decks and proceed to the next step. (A helpful hint: both programs should run no more than 5000 lines and five minutes);
2. The "N OF CASES" card must be replaced with another card with the same first 15 columns, i.e. "N of cases" starting in column 1 and the EXACT number of cases beginning in column 16. For example:

cc 1	cc 16
N of cases	123

for a DATA COUNT of 123 cases.

3. The final step in organizing your program is the placing of the data deck in your SPSS Program. First, make sure that the proper data is being placed in the SPSS Program, i.e. the docket study data should be placed in the program for

analyzing the docket data (RUN NAME : The Court Docket Study). The data should be placed directly following the card with "READ INPUT DATA" in the first 16 columns. Only actual case cards should be put in the SPSS Program, as stray cards and even blank cards will cause severe errors. Also, it is important to have exactly the same number of cards in your data deck as on the "N of cases" card. Remember, be careful with the placement of your data; it must follow the "READ INPUT DATA" card and be exactly the same number as on the "N of cases" card.

If, after a first attempt at running the program it fails, it is strongly suggested that you consult an experienced programmer or programming assistant at the computer center.

APPENDIX F

Analysis Questions -- Defender Case File Study

Profile of defendant characteristics *

Sex (5)
Race (6)
Age (7)
Marital Status (8)
Educational Attainment (9)
Number of Previous Convictions (10)
Employment at Time of Arrest (11)

Profile of Cases

Seriousness of Offense Charged (12)
Offenses Frequently Occurring (13)

Availability/Immediacy

1. What is the interval between arrest date and date of assignment of defender? (16)
2. What is the interval between arrest date and date of contact with defender? (17)
3. What is the interval between the date the assignment is received by defender and date of contact with defendant? (18)
4. What was the stage of defender entry in the case? (30)

Eligibility?

1. Was there a change in attorney during the case? (29)

Duration

1. Were cases continued into the appeal stage? (27)
2. What time interval passed between case disposition and the filing of an appeal? (28)

Competence

Case Management

1. What is the bail status of defendants? (14)

* Analyses questions keyed to Defender Office Case File Data Gathering Code, Appendix B.

2. What are the amounts of bail established? (15)
3. Is bail status related to seriousness of offense? (14 x 12)
4. Is bail status related to type of charge? (14 x 13)
5. Is amount of bail related to number of previous convictions? (15 x 10)
6. What are the methods by which cases are disposed? (21)
7. Is method of case disposition related to bail status? (21 x 14)
8. Is method of case disposition related to number of previous convictions? (21 x 10)
9. Is method of disposition related to seriousness of offense? (21 x 12)
10. Is method of disposition related to type of offense? (21 x 13)
11. What is the interval between initial arraignment and case closing (19)
12. What is the interval between conviction and sentencing? (20)

Case Outcome

13. At what stages are cases dismissed? (22)
14. What is the nature of pleas taken? (23)
15. What are the conclusions of trials held? (24)
16. What types of sentences are given? (25)
17. How long are sentences in terms of confinement periods? (26)
18. Is type of sentence related to number of previous convictions? (25 x 10)
19. Is type of sentence related to seriousness of offense charged? (25 x 12)
20. Is type of sentence related to type of offense charged? (25 x 13)

Zeal

1. Was any post-conviction representation given by the defender? (31)
2. Were hearings waived? (32)

3. Were pre-trial motions filed? (33)
4. Were bond review motions filed? (34)
5. Were subpoenas issued by the defender? (35)

Discrimination

Sex

1. Do different sexes commit the same offenses? (5 x 12; 5 x 13)
2. Does bail status differ by sex of defendant? (14 x 5)
3. Does previous conviction record differ by sex of defendant? (10 x 5)
4. Is disposition method related to sex of defendant? (21 x 5)
When controlled for by offense? (21 x 5 x 13)
When controlled for by previous convictions? (21 x 5 x 10)
5. Is sentence type related to sex of defendant? (25 x 5)
When controlled for by offense? (25 x 5 x 13)
When controlled for by previous convictions? (25 x 5 x 10)

Race

1. Do different races commit the same offenses? (6 x 12; 6 x 13)
2. Does bail status differ by race of defendant? (14 x 6)
3. Does previous conviction record differ by race of defendant? (10 x 6)
4. Is disposition method related to race of defendant? (21 x 6)
When controlled for by offense? (21 x 6 x 13)
When controlled for by previous convictions? (21 x 6 x 10)
5. Is sentence type related to race of defendant? (25 x 6)
When controlled for by offense? (25 x 6 x 13)
When controlled for by previous convictions? (25 x 6 x 10)

APPENDIX G

COURT DOCKET STUDY DATA GATHERING CODE*

Defendant Characteristics

5. Sex of defendant
 - (1) Male
 - (2) Female
6. Racial background of defendant
 - (1) White
 - (2) Non-White
7. Age of defendant
 - (1) Under 18 years
 - (2) 18 - 30
 - (3) Over 30 years
8. Number of previous convictions
 - (1) No previous convictions
 - (2) 1 previous conviction
 - (3) 2 or more previous convictions
9. Employed at time of arrest
 - (1) Yes
 - (2) No

Case Characteristics

10. Seriousness of initial offense charged
 - (1) Local ordinance, violation
 - (2) Misdemeanor
 - (3) Felony
11. Frequently occurring misdemeanors and felonies (used in Defender case file analyses)
 - (1) (misdemeanor)
 - (2) (misdemeanor)
 - (3) (misdemeanor)
 - (4) (felony)
 - (5) (felony)
 - (6) (felony)

Case Management

12. Bail arrangement
 - (1) Bail case (set and posted)
 - (2) Jail case (set but unmet)
 - (3) ROR/conditional release
 - (4) No bail set
 - (5) Not applicable (e.g. disposed of on same day)

*Defender cases should be omitted from sample.

13. Amount bail, if applicable
 - (1) \$.00 - \$ 500
 - (2) \$ 501 - \$1000
 - (3) \$1001 - \$2500
 - (4) \$2501 - \$5000
 - (5) Over \$5000
14. Interval between initial arraignment and case closing (i.e. sentence)

(1) Immediate	(5) 3 - 6 months
(2) 1 - 10 days	(6) 6 months - 1 year
(3) 11 days - 1 month	(7) Over 1 year
(4) 1 - 3 months	
15. Interval between conviction and sentence

(1) Immediate	(4) 1 - 2 months
(2) 1 day to 1 week	(5) 2+ months
(3) 1 week to 1 month	(6) Not applicable (e.g. dismissal, acquittal)
16. Disposition method
 - (1) Dismissal (evidentiary)
 - (2) Plea
 - (3) Trial (e.g. acquittal, conviction)
 - (4) Other (e.g. diversion)
17. If plea, its nature
 - (1) Plea to original charge
 - (2) Plea to reduced charge
 - (3) Not applicable (e.g. trial, dismissal)
18. If trial, the conclusion
 - (1) Guilty to original charge
 - (2) Guilty to reduced charge
 - (3) Acquittal
 - (4) Not applicable (e.g. plea, dismissal)
19. Sentence type
 - (1) No confinement (e.g. suspended sentence, probation)
 - (2) Confinement (including time served)
 - (3) Confinement in lieu of fine
 - (4) Fine
 - (5) Other
 - (6) Not applicable
20. Confinement sentences given
 - (1) Up to 1 year
 - (2) 1 to 5 years
 - (3) 5+ years
 - (4) Special alternative or treatment (e.g. drugs, job training, counseling)
 - (5) Not applicable (e.g. probation)

21. Change in attorney
 - (1) No change
 - (2) Defender to other (e.g. assigned or private)
 - (3) Private or assigned to defender
 - (4) Change, but difficult to be precise
22. Waiver of hearing
 - (1) Yes
 - (2) No
 - (3) Not applicable
23. Pre-trial motions filed
 - (1) Yes
 - (2) No
24. Bond review motions filed (e.g. habeas corpus)
 - (1) Yes
 - (2) No
25. Subpoenas issued
 - (1) Yes
 - (2) No

APPENDIX H
COURT DOCKET STUDY DATA CODE SHEET*

Defendant Characteristics

5. Sex of defendant
 - (1) Male
 - (2) Female
6. Racial background of defendant
 - (1) White
 - (2) Non-White
7. Age of defendant
 - (1) Under 18 years
 - (2) 18-30 years
 - (3) Over 30 years
8. Number of previous convictions
 - (1) No previous convictions
 - (2) 1 previous conviction
 - (3) 2 or more previous convictions
9. Employed at time of arrest
 - (1) Yes
 - (2) No

Case Characteristics

10. Seriousness of initial offense charged
 - (1) Local ordinance, violation
 - (2) Misdemeanor
 - (3) Felony
11. Frequently occurring misdemeanors and felonies (used in Defender case file analyses)
 - (1) (misdemeanor)
 - (2) (misdemeanor)
 - (3) (misdemeanor)
 - (4) (felony)
 - (5) (felony)
 - (6) (felony)

Case Management

12. Bail arrangement
 - (1) Bail case (set and posted)
 - (2) Jail case (set but unmet)
 - (3) ROR/conditional release
 - (4) No bail set
 - (5) Not applicable (e.g. disposed of on same day)

13. Amount bail, if applicable
 - (1) \$ 000 - \$ 500
 - (2) \$ 501 - \$1000
 - (3) \$1001 - \$2500
 - (4) \$2501 - \$5000
 - (5) Over \$5000

14. Interval between initial arraignment and case closing (i.e. sentence)
 - (1) Immediate
 - (2) 1 - 10 days
 - (3) 11 days - 1 month
 - (4) 1 - 3 months
 - (5) 3 - 6 months
 - (6) 6 months - 1 year
 - (7) Over 1 year

15. Interval between conviction and sentence
 - (1) Immediate
 - (2) 1 day to 1 week
 - (3) 1 week to 1 month
 - (4) 1 - 2 months
 - (5) 2 plus months
 - (6) Not applicable (e.g. dismissal, acquittal)

16. Disposition method
 - (1) Dismissal (evidentiary)
 - (2) Plea
 - (3) Trial (e.g. acquittal, conviction)
 - (4) Other (e.g. diversion)

17. If plea, its nature
 - (1) Plea to original charge
 - (2) Plea to reduce charge
 - (3) Not applicable (e.g. trial, dismissal)

18. If trial, the conclusion
 - (1) Guilty to original charge
 - (2) Guilty to reduced charge
 - (3) Acquittal
 - (4) Not applicable (e.g. plea, dismissal)

19. Sentence type
 - (1) No confinement (e.g. suspended sentence, probation)
 - (2) Confinement (including time served)
 - (3) Confinement in lieu of fine
 - (4) Fine
 - (5) Other
 - (6) Not applicable

20. Confinement sentences given
 - (1) Up to 1 year
 - (2) 1 to 5 years
 - (3) 5 plus years
 - (4) Special alternative or treatment (e.g. drugs, job training, counseling)
 - (5) Not applicable (e.g. probation)

21. Change in attorney
 - (1) No change
 - (2) Defender to other (e.g. assigned or private)
 - (3) Private or assigned to defender
 - (4) Change, but difficult to be precise

22. Waiver of hearing
 - (1) Yes
 - (2) No
 - (3) Not applicable

23. Bond review motions filed (e.g. habeas corpus)
 - (1) Yes
 - (2) No

25. Subpoenas issued
 - (1) Yes
 - (2) No

*Defender cases should be omitted from sample

APPENDIX I

COURT DOCKET STUDY - KEY PUNCHED CARDS NEEDED TO RUN SSPS

column	column
1	16
//STANDARD JOB CARD	
// FXEC SPSS	
//SYSIN DD	*
RUN NAME	THE COURT DOCKET STUDY
VARIABLE LIST	ID,VAR05 TO VAR25
INPUT FORMAT	FIXED(F3.0,1X,21F1.0)
INPUT MEDIUM	CARD
N OF CASES	*****
VAR LABELS	VAR05,SEX/VAR06,RACIAL OR ETHNIC BACKGROUND/VAR07,AGE/ VAR08,PREVIOUS CONVICTIONS/VAR09,EMPLOYED/VAR10, INITIAL OFFENSE/VAR11,NATURE OF OFFENSE/VAR12, RAIL ARRANGEMENT/VAR13,AMOUNT OF BAIL/VAR14, ARRAIGNMENT TO CLOSING/VAR15,CONVICTION TO SENTENCE/ VAR16,DISPOSITION METHOD/VAR17,NATURE OF PLEA/VAR18, CONCLUSION OF TRIAL/VAR19,SENTENCE TYPE/VAR20, CONFINEMENT SENTENCES GIVEN/VAR21,ATTORNEY CHANGED/VAR22, WAIVER OF HEARING/VAR23,PRE-TRIAL MOTIONS/VAR24, BOND REVIEW MOTIONS/VAR25,SURPONDAS ISSUED
VALUE LABELS	VAR05(1)MALE(2)FEMALE/VAR06(1)WHITE(2)NON-WHITE/VAR07(1) UNDER 18(2)18 - 30(3)OVER 30/VAR08(1)0(2)1(3)OVER 1/ VAR09,VAR22 TO VAR25(1)YES(2)NO(3)N.A./VAR10(1) LOCAL ORD.(2)MISD.(3)FELONY/VAR11(1)MISD-1(2)MISD.-2 (3)MISD.-3(4)FELONY-1(5)FELONY-2(6)FELONY-3/VAR12(1) SET AND POSTED(2)SET BUT UNMET(3)ROR-COND(4)NOT SET(5) N.A./VAR13(1)TO \$500(2)\$501 TO \$1000(3)\$1001 TO \$2500(4) \$2501 TO \$5000(5)OVER \$5000/VAR14(1)IMMED.(2) 1 - 10 DAYS(3)11 DAYS - 1 MON.(4)1-3 MON.(5)3-6 MON.(6) 6 MON. - 1 YR.(7)OVER 1 YR./VAR15(1)IMMED.(2) 1 DAY - 1 WEEK(3)1 WEEK - 1 MON.(4)1-2 MON.(5)2-4 MON.(6) 4+ MON.(7)N.A./VAR16(1)DISMISS.(2)PLEA(3)TRIAL(4)OTHER/ VAR17(1)ORIGINAL CHARGE(2)REDUCED CHARGE(3)N.A./VAR18(1) GUILTY - ORIGINAL(2)GUILTY - REDUCED(3)ACQUIT.(4)N.A./ VAR19(1)NO CONF.(2)CONF.(3)CONF. OVER FINE(4)FINE(5)OTHER (6)N.A./VAR20(1)UP TO 1 YR.(2)1-5 YRS.(3)5+ YRS.(4) SPECIAL ALTER.(5)N.A./VAR21(1)NO CHG.(2)FROM A DEFENDER (3)FROM A PRIVATE(4)CHANGE - UNCLEAR VAR05 TO VAR25(0)MISSING RESPONSE
VALUE LABELS RECODE	VAR05,VAR06,VAR09,VAR23 TO VAR25(3 THRU HIGHEST=0)/VAR07, VAR08,VAR10,VAR17,VAR22(4 THRU HIGHEST=0)/VAR16,VAR18, VAR21(5 THRU HIGHEST=0)/VAR12,VAR13,VAR20(6 THRU HIGHEST=0)/VAR11,VAR19(7 THRU HIGHEST=0)/VAR14,VAR15 (8 THRU HIGHEST=0)
MISSING VALUES	VAR05 TO VAR11(0)/VAR12,VAR20(0,5)/VAR13,VAR14(0)/ VAR15(0,7)/VAR16(0)/VAR17,VAR22(0,3)/VAR18(0,4)/ VAR19(0,6)/VAR21,VAR23 TO VAR25(0)
FREQUENCIES STATISTICS READ INPUT DATA	INTEGER=VAR05 TO VAR11,VAR21,VAR12,VAR13,VAR16(0,6) 1,2,3,4,5,6,9,10,11
CROSSTABS	VARIABLES=VAR08,VAR10 TO VAR13,VAR16(0,6)/ TABLES=VAR12 BY VAR10,VAR11,VAR16/VAR13 BY VAR08/VAR16 BY VAR08,VAR10,VAR11
OPTIONS	7
STATISTICS	1,2,3
FREQUENCIES	INTEGER=VAR14,VAR15,VAR17 TO VAR20(0,7)
STATISTICS	1,2,3,4,5,6,9,10,11
CROSSTABS	VARIABLES=VAR08,VAR10,VAR11,VAR19(0,6)/TABLES=VAR19 BY VAR08,VAR10,VAR11
OPTIONS	7
STATISTICS	1,2,3
FREQUENCIES	INTEGER=VAR22 TO VAR25(0,3)
STATISTICS	1,2,3,4,5,6,9,10,11
CROSSTABS	VARIABLES=VAR05,VAR06,VAR08,VAR10 TO VAR12,VAR16, VAR19(0,7)/TABLES=VAR05,VAR06 BY VAR10 TO VAR12,VAR08, VAR16,VAR19/VAR16,VAR19 BY VAR05,VAR06 BY VAR11,VAR08
OPTIONS	7
STATISTICS	1,2,3
FINISH	
/*	
//	

APPENDIX J

ANALYSIS QUESTIONS -- COURT DOCKET STUDY

Profile of defendant characteristics*

- Sex (5)
- Race (6)
- Age (7)
- Number of previous convictions (8)
- Employment at time of arrest (9)

Profile of cases

- Seriousness of offense charged (10)
- Offenses frequently occurring (11)

Eligibility

1. Was there a change in attorney during the case? (21)

Competence

Case Management

1. What is the bail status of defendants? (12)
2. What are the amounts of bail established? (13)
3. Is bail status related to seriousness of offense? (12 x 10)
4. Is bail status related to type of charge? (12 x 11)
5. Is amount of bail related to number of previous convictions?
(13 x 8)
6. What are the methods by which cases are disposed? (16)
7. Is method of case disposition related to bail status?
(16 x 12)
8. Is method of case disposition related to number of previous
convictions? (16 x 8)
9. Is method of disposition related to seriousness of offense?
(16 x 8)

* Analysis questions follow the order of those in the Defender Case File Study, Appendix F. They are also, Keyed to Court Docket data gathering Code (Appendix H).

10. Is method of disposition related to type of offense?
(16 x 11)
11. What is the interval between arraignment and case closing?
(14)
12. What is the interval between conviction and sentencing?
(15)

Case Outcome

13. What is the nature of pleas taken? (17)
14. What are the conclusions of trials held? (18)
15. What types of sentences are given? (19)
16. How long are sentences in terms of confinement periods? (20)
17. Is type of sentence related to number of previous convictions?
(19 x 8)
18. Is type of sentence related to seriousness of offense
charged? (19 x 10)
19. Is type of sentence related to type of offense charged?
(19 x 11)

Zeal

1. Were hearings waived? (22)
2. Were pre-trial motions filed? (23)
3. Were bond review motions filed? (24)
4. Were subpoenas issued? (25)

Discrimination

Sex

1. Do different sexes commit the same offense? (5 x 10; 5 x 11)
2. Does bail status differ by sex of defendant? (12 x 5)
3. Does previous conviction record differ by sex of defendant?
(8 x 5)
4. Is disposition method related to sex of defendant? (16 x 5)
When controlled for by offense? (16 x 5 x 11)
When controlled for by previous convictions? (16 x 5 x 8)

5. Is sentence type related to sex of defendant? (19 x 5)
When controlled for by offense? (19 x 5 x 11)
When controlled for by previous conviction? (19 x 5 x 8)

Race

1. Do different races commit the same offense? (6 x 10; 6 x 11)
2. Does bail status differ by race of defendant? (12 x 6)
3. Does previous conviction record differ by race of defendant?
(8 x 6)
4. Is disposition method related to race of defendant? (16 x 6)
When controlled for by offense? (16 x 6 x 11)
When controlled for by previous convictions? (16 x 5 x 8)
5. Is sentence type related to race of defendant? (19 x 6)
When controlled for by offense? (19 x 6 x 11)
When controlled for by previous conviction? (19 x 6 x 8)

APPENDIX K

LETTER REQUESTING STATISTICAL STUDY CONSULTATION

The following letter should be sent to the appropriate individual at either a local university, law school, criminal justice center or consulting agency.

Dear -----:

I enjoyed our conversation of (insert day) in reference to your help with a statistical analysis of cases represented by the public defender of (insert jurisdiction). This letter should clarify the points which were made and the role you may be asked to play.

(Insert name of firm) has been called upon to conduct an evaluation of the office of the public defender of (insert jurisdiction). This evaluation will call for a team of (number) evaluators to be on-site for (number of days) during the month of (month). One aspect of the evaluation involves two statistical studies: one, of cases handled by the public defender (from his/her case files); and the other, of cases handled by private attorneys and assigned counsel (from the court docket). Coders (keypunchers, programmers, and/or analysts) are needed, to aid us in the collection and categorization of data drawn from these files. The coding process should be relatively simple. (The firm) has already developed a Code and standard operating procedures. It will be your responsibility to select, train, supervise, and act as a reliability check for the coders (keypunchers, programmers, and/or analysts). (The firm) will do the coding (keypunching, programming, and/or analysis of the data collected. Access to defender and court files will be obtained for you and your assistants ahead of time by (the firm). Assistants will be paid at a rate of (\$___) per hour. The consulting fee for the supervisor is (\$___) per day, plus related expenses, travel, and telephone. The work should begin approximately (date). The completed project is needed by (date).

I am enclosing a Statistical Handbook, which should give you a good idea of what the Defender and Court Case File analyses entail, and information which will illustrate how your work will fit into the overall scheme of the evaluation design. Also included are a tentative contract and a cost analysis sheet. Please review the contract. Since we will be meeting to discuss these studies, take notes on any sections of the contract or Handbook that are unclear or seem infeasible to you. Then give me an estimate of the total costs involved in the work you and your assistants will be doing for us. Break this total figure down into the various subcategories indicated on the cost analysis sheet.

I would appreciate it if you would mail a copy of your resume as soon as possible. My secretary will call you several days in

advance to confirm our appointment. Please feel free to call me any time you have questions (phone number).

I look forward to meeting with you (and others) on (day) at (location). Thank you for your cooperation.

Sincerely,

APPENDIX I

CONTRACT FORM FOR STATISTICAL STUDY CONSULTATION

THE DEFENDER EVALUATION PROJECT

SUBCONTRACT BETWEEN

(subcontractor)

and

(the firm)

THIS SUBCONTRACT, made this _____ day of _____, 1976 by and between _____ (hereinafter referred to as Subcontractor and the firm (hereinafter referred to as _____).

WHEREAS, _____ desires to have subcontractor perform certain work and services hereinafter described, and subcontractor desires to perform such work; and

WHEREAS, the work and services hereinafter described to be performed by subcontractor are related to the work and services to be furnished by _____ to the evaluation team for the public defender of _____;

NOW THEREFORE, in consideration of the mutual covenants contained herein, it is agreed by and between the parties as follows:

ARTICLE I. SCOPE OF WORK

_____ agrees to complete the following tasks in its role as a subcontractor to (the firm) _____ will be directed by (the firm), in the performance of its scope of work.

ARTICLE II. KEY PERSON

Subcontractor acknowledges that the person who will provide technical direction for the design, implementation and evaluation of the project components being undertaken is _____ (NAME) _____. If at any time during the term hereof, _____ (Name) _____ ceases to be actively engaged in directing the work being done under this agreement by _____, (the firm) shall have the right to cancel the agreement.

ARTICLE III. PERSONNEL

Subcontractor agrees to select and assign qualified assistants to execute the subject research project and agrees that all of said

work shall be performed in a competent and professional manner.

ARTICLE IV. TIME OF PERFORMANCE

The services of Subcontractor are to commence when this agreement has been executed by the parties, and shall be completed according to the time frame in Article I. Subcontractor shall furnish (the firm) with reports reasonably requested that fall within the general scope of work.

ARTICLE V. COMPENSATION

Is it understood between the parties that the best current estimate of the total cost of the work specified in the Proposal is \$ _____, as more particularly set forth in the Cost Analysis of _____ (date) (included as Attachment I to this agreement). It is further understood and agreed that Subcontractor shall use said money to defray the following costs of the research investigation described in the proposal:

The compensation of _____ (number) assistants for direct labor or services and the payment of such travelling or other expenses as the Subcontractor may consider necessary and desirable, provided they are approved in advance by (the firm), all in the execution of said research, and other costs (overhead, general and administrative costs, fringe benefits).

(The firm) agrees to make payments to Subcontractor in accordance with the following:

(a) Subcontractor will render one billing for all actual costs covered under this agreement. The format of the billing shall consist of a single comprehensive statement reflecting expenditures by type and amount on a form to be provided by (the firm) and shall be supported by certified vouchers or invoices covering all billed expenditures. (The firm) will then reimburse in an expeditious manner.

(b) Money will be paid when (the firm) determines that the work contracted for has been performed by Subcontractor in accordance with this agreement.

(c) It is expressly understood and agreed that (the firm) is not obligated to reimburse Subcontractor in excess of \$ _____ unless (the firm) agrees, in writing, to pay additional amounts of money.

ARTICLE VI. DISPUTES

Except as otherwise provided in this contract, any dispute

concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by (the firm) which shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the Subcontractor. The decision of (the firm) shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Subcontractor mails or otherwise furnishes to (the firm) a written appeal. An Administrator duly authorized for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Subcontractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Subcontractor shall proceed diligently with the performance of the contract and in accordance with (the firm's) decision.

ARTICLE VII. TERMINATION

(a) If Subcontractor shall fail to fulfill in a timely and proper manner its obligations under this contract or violates any of the provisions of this agreement, (the firm) shall have the right to terminate, in whole or in part, this subcontract by sending written notice of termination to Subcontractor five working days prior to the effective date of such termination.

(b) It is expressly understood and agreed that in the event that the Prime Grant is terminated or the funding thereunder ceases, (the firm) may, at its option, terminate, in whole or in part, this subcontract by sending written notice of termination to Subcontractor five working days prior to the effective date of such termination.

(c) Upon notification that the subcontract has been terminated, whether pursuant to paragraph (a) or (b) of this Article, Subcontractor shall immediately stop all work under this subcontract on the date and to the extent specified in the notice of termination. Subcontractor shall not place any orders or subcontracts for materials, services, or facilities, except as may be necessary for the completion of such portion of the work as is not terminated. Upon termination of this subcontract, whether pursuant to paragraph (a) or (b) of this Article, (the firm) agrees to compensate Subcontractor for all work performed prior to said termination and not previously paid for under the provisions of Article V.

Notwithstanding the above, Subcontractor shall not be relieved of liability to (the firm) for damages sustained by (the firm) by virtue of any breach of the contract by Subcontractor and (the firm) may withhold any payments to Subcontractor for the purpose of set-off until such time as the exact amount of damages due (the firm) from Subcontractor is determined.

ARTICLE VIII. CHANGES

(The firm) may request changes in the scope of the services of Subcontractor to be performed hereunder. Such changes, which are mutually agreed upon between Subcontractor and (the firm) shall be incorporated in written amendments to this contract.

ARTICLE IX. EQUAL OPPORTUNITY

Subcontractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. Subcontractor will take affirmative action in its recruitment procedures and ensure that employees are treated during employment without regard to their race, creed, color, sex, age or national origin.

ARTICLE X. INTERESTS OF SUBCONTRACTOR

Subcontractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Subcontractor further covenants that in the performance of this contract no person having any such interest shall be employed.

ARTICLE XI. CONFIDENTIALITY

(The firm's) policies require that no disclosure be made of matters discussed during the entire consultancy period unless expressly otherwise authorized.

ARTICLE XII. CERTIFICATION OF NONSEGREGATED FACILITIES

Subcontractor certifies that it does not and will not maintain or provide its employees any segregated facilities at any of its establishments, and that it does not or will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

ARTICLE XIII. ASSIGNABILITY

Subcontractor shall not assign any interest in the same without the proper written consent of (the firm) provided, however, that claims for money due or to become due Subcontractor from (the firm) under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to (the firm).

ARTICLE XIV. RECORDS

Subcontractor agrees to keep a record of pertinent books, documents, papers and records involving transactions relating to this contract. Subcontractor agrees to keep financial and cost accounting data. Subcontractor agrees that (the firm) or any of their duly authorized representatives shall have access to and the right to examine, audit, excerpt and transcribe any directly pertinent books, documents, papers and records of the contractor, involving transactions relating to this contract. Such material must be retained for three years. The retention time shall be calculated from the end of the contractor's fiscal year in which the final entry was made in the records retained.

Subcontractor and (the firm) have caused this agreement to be duly executed under seal the day and year first above written.

Date

by _____

Subcontractor

(name and position)

Date

The Firm

APPENDIX M

ANTICIPATED STUDY COSTS

The cost of conducting one statistical study (e.g. defender case file) will be approximately \$2000. The second case study recommended (i.e. the docket study) will cost an additional \$1000. The following figures are approximate for one study.

Data Gathering and Coding (250 cases - 200 hours, \$4.50/hour)	\$ 900.00
Punching and Verification (7 hours at \$6/hour)	42.00
Coder Supervision (4 days at \$115/day)	460.00
Computer Cost	25.00
Miscellaneous (pads, data code forms, travel expenses)	50.00
	<u>\$ 1477.00</u>
Field Supervision (optional) (1 day at \$150/day)	150.00
Analysis (optional) (2 days at \$150/day)	300.00
	<u>\$ 1927.00</u>

The accessibility and availability of files, as well as the completeness of data contained in any single file source, will vary the time/cost involved in the data gathering stage. Another source of cost variation will stem from the decision to hire the local consultant to analyze and summarize the data gathered, and to give him/her supervisory responsibilities over all phases of the evaluation (data gathering, punching and programming).

HANDBOOK III

QUALITY REPRESENTATION

The section which follows constitutes a complete Quality of Representation Handbook which outlines a method by which the quality of representation given to clients by a Defender Office can be evaluated. Its use is intended primarily as background/reference material for Staff, although the material it contains will form the basis of each Team Captain and Team Member's Handbook.

H A N D B O O K I I I

Quality Representation

Roberta Rovner-Piecznik
Alan Rapoport
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Assisted by:
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June 1976

Defender Evaluation Project
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Washington, D.C. 20037

National Institute of Law Enforcement
and Criminal Justice
Law Enforcement Assistance Administration
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INTRODUCTION

The preceeding two Handbooks provided an overview of the evaluation design and a detailed description of the activities which take place prior to the on-site evaluation period. This Handbook, and the one which follows, focus on the activities of the evaluation team from the time the team is oriented to the overall evaluation design and trained in the use of the Handbooks, to the point at which the team's Final Report is forwarded to the Defender Office and Requesting Agent.

To effectively use the design outlined in the succeeding pages, several points should be understood by each Team Member. First, there is no single evaluation design which can be tailored to the unique character of each defender office. Flexibility, therefore, has been purposefully built into this evaluation design. Second, any evaluative research which is to be carried out in the "field", rather than in a laboratory, must be concerned with what is feasible and practical. This naturally restricts the evaluators from undertaking some activities which, although desirable from an evaluative viewpoint, are unconscionably costly and time-consuming. Third, the quality of defender services rendered cannot, and should not, be viewed independently of the criminal justice system and community within which it operates. With this in mind, any evaluative judgment to be made on the work of the defender office or the extent of its compliance with the Criteria for Compliance (CFC) outlined in the Handbook is meaningless without the appropriate data to interpret and explain the reasons for that judgment; the reasons may be outside the control of the Defender. Fourth, the best of evaluative designs is not self-executing. Its success in the assessment of a defender office depends, in large part, upon the skills and knowledge of its users.

The sections which follow are ordered chronologically, from the first meeting of the evaluation team on-site, to the submission of the final report. Analyses of a variety of data will already have been accomplished by Staff (e.g., statistical analysis of defender and court case files, content analysis of newspaper articles), and tentative Team Member assignments to a content area may have been made.

TEAM TRAINING

Areas Covered

In any written overview of the development and problems of program evaluations, the topic of evaluator training is noticeably lacking. While the academician focuses on the concepts, principles, design, measurement, and techniques of evaluation, the evaluator in the field has to be just as concerned about whether s/he has received the orientation and training needed to implement the pre-developed evaluation package.

Prior to the on-site visit, the Team Captain may have received a full day of training for his/her role in implementing the evaluation design. Team Members will be trained in a one-day session on-site to qualify them to use the design. The session should begin no later than 1:00 p.m., and will cover:

1. A detailed review of the entire evaluation design, from its philosophy, through its data gathering techniques, to its final report;
2. A discussion of specific data gathering techniques and their appropriate usage;
3. The assignment of Team Member responsibilities, in terms of each member's specific area of concentration (e.g. Goal I), for purposes of the final report, and his/her daily on-site schedule; and,
4. A discussion of the site to be evaluated, using the information gathered on the preliminary evaluation profile (PEP) forms, the summaries of the statistical studies, the annual report, and relevant contracts, statutes and jurisdictional rules.

Staff will take responsibility for leading the discussion of (1) and (2); the Team Captain will lead the group in (3) and (4). The training session, at the Team Captain's discretion, may conclude with a discussion led by an individual from the community who has particular expertise on local criminal justice practice and procedure. A detailed outline of the team member training session appears in Appendix A.

Each Team Member should leave the session understanding the role s/he will be playing throughout the on-site period. Materials should be checked to ensure that each has all relevant schedules and forms for the on-site activities. Extra copies of all information and forms will be available from Staff, who will be stationed throughout the on-site period in the Defender Office.

Assigning Responsibilities

The evaluation team has been selected on the basis of skills needed to effect a competent evaluation. The assignment of areas or primary responsibility (e.g. specific Objectives per Team Member) and the daily interview schedule should be made with a concern toward assuring a reliable and valid evaluation. Although it may occasionally appear that some efficiency is lost by the assignment methodology proposed, if the following suggestions are taken, the competency, reliability, and validity of the final report will be enhanced.

1. Each Team Member should be assigned to those areas in which s/he has acknowledged skill. While the areas to be assigned to the management analyst and community/consumer team member are relatively fixed (i.e. management in the former case, Goal III, Goal II, Objective 5 in the latter), the professional background of each of the legal Team Members should be analyzed by the Team Captain before these assignments are made;
2. On the first day of scheduled interviews, each Team Member should be assigned to those individuals which can offer the most information on his/her primary area of responsibility. Although this should always be a consideration in the assignment of interviews, problems of time and travel will cause some alterations in scheduling during the on-site period; and,
3. One Team Member should never be responsible for interviewing all individuals within a specified category (e.g. judges).

The above approach ensures that the appropriate Team Member takes primary responsibility for the Objectives in which s/he has expertise, but several Team Members, if not all, will have a role in gathering data for each Objective. The reader is encouraged to review Handbook I, pp. 31-43 for greater specificity in assignments and schedules.

Site Protocol

The following are suggested site protocol which all Team Members are expected to observe:

1. The success and credibility of the evaluation effort hinges on the professional treatment of privileged information. Therefore, all information gathered during the pre-evaluation period and on-site visit should be kept strictly confidential during and following the evaluation;
2. Each Team Member is required to participate in all team meetings, from team training through daily debriefings to drafting the final report;
3. Punctuality for scheduled interviews is expected;
4. Proper business attire is expected;
5. Team Members should resist excessive references to their offices during interviews/discussions with Defender Office personnel and others. At no time should the Defender Office feel that its system is being compared with another;
6. It is essential that Team Members not disagree with each other on matters of the evaluation in the presence of Defender Office personnel. Such disagreement will only serve to lessen the credibility of the entire evaluation. Differences in opinion among Team Members should be resolved in closed team sessions;
7. The evaluation team should avoid all contact with representatives of the local news media. Any public relations to be carried on is entirely the business of the Defender;
8. A Defender's offer to entertain the evaluation team during its on-site visit should be politely refused;
9. Professional conduct is expected at all times; gossip and confrontations should be studiously avoided;
10. Each Team Member has an obligation and is encouraged to recommend to the Team Captain suggestions intended to strengthen the team's performance in the field.

If a Team Member is unable to complete the on-site evaluation, his/her responsibilities will be shared by the other Team Members.

ON-SITE EVALUATION LOGISTICS

Opening Interview

The first interview of the on-site evaluation takes place between the Defender (and Deputy, if desired) and the full evaluation team. The purpose of this meeting is four-fold: (a) to establish rapport and exchange introductions; (b) to provide the Defender with an overview of the week's activities; (c) to enable each Team Member to question the Defender in the specific areas of his/her major concentration; and (d) to give the Defender an opportunity to state general concerns about the evaluation and specific opinions about what the evaluation should cover.

This interview should open a dialogue with the Defender which can be continued on an as-needed basis at various times during the week, with different Team Members. The meeting should be viewed as a discovery period. It is not structured to resolve issues or to suggest changes in office practices. The session should be limited to two hours. It is imperative that no one Team Member monopolize the discussion and that each of the meeting's purposes are accomplished.

At the close of the meeting the Team Captain should request a guided walking tour of the office for the entire group.

Daily Debriefing Sessions

At the close of each day's activities, but prior to dinner, the entire team will meet in the Team Captain's room at their place of lodging to discuss the day's experiences. These daily debriefing sessions are one of the most important elements in a successful evaluation. These meetings should achieve the following:

1. Help the team develop a comprehensive picture of the defender office and local criminal justice system;
2. Provide for the exchange of information and insights among Team Members on the Goals, Objectives and Criteria for Compliance; and
3. Enable the Team Captain to monitor the progress of the evaluation and coordinate all activities.

The following suggestions are offered to make the daily debriefings as efficient as possible:

1. Debriefings can be quite lengthy if the discussion is

allowed to wander. It is the Team Captain's responsibility to ensure that the exchange of information is well-structured and concise.

2. Prior to each debriefing session, Team Members should review and organize their day's notes, placing notations in margins to indicate the Objective about which a statement pertains. This saves time during the meeting. It can be done in free minutes during the day or immediately before the start of the debriefing session.
3. Debriefing sessions should rotate the order in which goals are discussed, so that each Team Member has a chance to initiate a session. For example, the first day's debriefing starts with a discussion of Goal I, which is followed by Goals II and III. The second day's debriefing starts with a discussion of Goal II, followed by Goal III, Management, and Goal I.
4. The discussion of Management should begin during the second debriefing session. This gives the management analyst time to review office policies and procedures.

During the evaluation period the debriefing sessions will change in character. The first session typically lasts the longest (re: three hours), for Team Members are first getting a grasp on the use of the materials. It is up to the Team Captain to make sure that Team Members stay on the topics assigned, and that discussions proceed systematically. Problems in the use of materials should be discussed at this time.

By mid-week in the evaluation of the medium-sized office, each Team Member should inventory his/her activities, determining whether, for example, the number and types of interviews have been balanced in terms of the information forthcoming. Readjustments in the following day's schedule should be made at this time, if necessary. Weak points in the collection of data should be pointed out and the decision made how to refocus energies. Team Members should have sufficient familiarity with the Defender Office and criminal justice system at this time to start drawing conclusions about whether an Office is meeting the Criteria for Compliance which defines each Objective.

Debriefing sessions can be shortened by limiting discussion to information obtained each day which is either new, contradictory to prior information, or useful as an illustration to be considered for inclusion in the final report. Cumulative discussion of each day's information need not take place.

The atmosphere in which these daily debriefing sessions are held should be relaxed. The session includes the evaluation group only, so that discussions can be candid and remain confidential. The debriefing session is an important part of the work day and should not be used as a cocktail hour.

Every daily debriefing session follows the same format. Each Team Member briefly reviews his/her day's activities and leads a short discussion on each Objective in his/her area of concentration (e.g. Goal I, Objectives 1, 2, 3, & 4), going systematically through the Criteria for Compliance and relevant notes taken throughout the course of the day. When this Team Member's presentation is concluded, any other Team Member who has gathered information on any of these areas during the day, in turn, shares the information. The Team Member leading the discussion takes extensive notes on the information gathered for him/her by others, to be incorporated into the final report. Using this approach, each Team Member benefits from the information and insights gained by every other Team Member, and obtains the documentation upon which to base conclusions and recommendations. At the close of each meeting, each Team Member should use the Objective Checklist to reevaluate the direction of his/her on-site activities and the need for more information in specific areas or from specific individuals.

Closing Interview

The last interview of the on-site evaluation again takes place between the Defender (and Deputy, if desired) and the full evaluation team. The purpose of this meeting is: (a) to thank the Defender for requesting or agreeing to the evaluation and accommodating the evaluation team; (b) to describe the range of activities undertaken and types of individuals contacted throughout the evaluation period; (c) to reiterate the type of input and information which will be used in formulating the final report; (d) to outline the stages still remaining in the finalizing of a report; (e) to give the Defender an opportunity to comment on the conduct of the evaluation, ask questions of the Team Captain, and provide additional information which s/he may feel the evaluation team has overlooked; and, (f) to ask the Defender about individual Team Member concerns about issues on which further interpretation and insight is needed. Although this is the closing session of the evaluation, new insights and interpretations into the defender office and criminal justice system operations can still arise during this interview.

The closing interview will not be used to present the Defender with problems, conclusions, solutions or recommendations. Although the team has exchanged information daily, the Office has not yet been rated on compliance with the Criteria, nor has the evaluation team attempted to reach a consensus on conclusions and recommendations. The tone of the meeting should be friendly, but attempts by the Defender to learn about and debate team conclusions should be discouraged.

Reaching Consensus

Each Team Member will remain on-site one day following the closing interview with the Defender. During the first half of

the day Team Members are expected to reach consensus on whether, and to what degree, the Defender Office is in compliance with the Criteria and Objectives. The format for the final report should be reviewed before the meeting.

Each Team Member is responsible for leading a discussion which focuses on his/her area of concentration. The discussion should proceed Objective-by-Objective as follows:

1. The Team Member leading the discussion gives his/her conclusions on whether the Criteria for Compliance and Objectives are being met, using the following rating guide:

Never/Occasionally	= less than 25% of the time
Sometimes	= between 25% and 50% of the time
Frequently	= between 50% and 75% of the time
Usually/Always	= over 75% of the time

Supporting evidence and illustrations should accompany each conclusion.

2. Team Members discuss whether they concur with the opinions expressed, stating their reasons in all cases.
3. Team Members reach consensus on assessing compliance with Criteria, shaping the tone and adding the words which best describe their collective meaning.
4. The Team Member leading the discussion offers his/her ideas for recommendations to be made to the Defender Office, if any.
5. Team Members reach consensus on the recommendations to be made and their order of priority.

Differences of opinion among Team Members will, of course, occur. If these differences cannot be resolved during the final team session, they will be noted in the Final Report with the appropriate justifications. During the second half of the day, each Team Member is expected to outline his/her draft final report and leave a copy of the outline with the Team Captain (for security reasons). The team as a group should review the section in this Handbook which covers writing the final report, before any writing begins.

The Final Report

Each Team Member is required to draft a preliminary report on his/her area of responsibility, based on the outline developed during the on-site visit. The Final Report Format (pp.) should be used as a guide for this draft.

Each Team Member should forward the draft report on his/her area of concern to the Team Captain within one week following the

on-site visit. The Team Captain is responsible for editing and synthesizing these draft reports, adding the appropriate sections outlined in the final report format (e.g. methodology), and creating a full draft report which is consistent in style and tone. This draft should then be mailed to each Team Member for concurrence, and to check for accuracy of content and intent. Individual Team Members will be allowed one week to forward comments to the Team Captain. If disagreements occur which cannot be resolved to the satisfaction of individual Team Members, dissenting positions will be accepted for attachment to the final report.

After receiving Team Member comments and incorporating them into the report, a draft final report should be sent by the Team Captain to the Defender. The Defender will be asked to comment on the accuracy of the factual information in the report. If the Defender disagrees strongly with the conclusions and recommendations reached by the evaluation team, he/she will be given five (double spaced) pages in an appendix to the final report to cite his/her concerns and position.

The Final Report will be sent to the Defender Office and the Requesting Agency, if two separate parties exist. It cannot be overemphasized that the Final Report is confidential. Distribution and public dissemination is left entirely to the discretion of the Defender and/or Requesting Agency.

Assessing Compliance

Each Team Member will be asked to assess the extent to which a Defender Office appears to be complying with the CFC's and Objectives. Based upon consensus, the Team Members should attempt to "rate" the Office on a four-point scale. The words "rate" and "scale" are used with great reservation.

A rating system, of any kind, is a way of taking a qualitative description (e.g., poor, fair, good, excellent) and giving it a numerical counterpart (e.g. poor=1, excellent = 4), on a continuum. It is always arbitrary whether a description will be divided into four, five, or ten parts (i.e. numbers). The Compliance rating is similar. It takes a series of descriptive terms to assess extent of compliance to CFC's and arrives at a common understanding among Team Members about what each term means. To illustrate:

Never/occasionally	= less than 25% of the time.
Sometimes	= between 25% and 50% of the time.
Frequently	= between 50% and 75% of the time.
Usually/always	= over 75% of the time.

It is important that: (a) each Team Member has the same understanding of what a given rating will mean; and that (b) each category to be rated (e.g. sometimes, frequently) can be distinguished from the others.

Once descriptions are reduced to the appearance of a scale,

however, there is a tendency to think of the items as numbers with exact meanings; that is, to think of a "sometimes" as one unit higher than an "occasionally"; "usually" as two units higher than a "sometimes". Once this occurs, it is a simple step to giving the terms numbers (i.e. 1, 2, 3, 4) and thinking that they can be added or divided.

Although all of this can be done, Team Members will not be asked to do it to reach numerical summation of a Defender Office's degree of compliance on a particular Objective. First, while for ease of discussion we might arbitrarily agree that "sometimes" will mean 25-50% of the time, it will be almost impossible to assess an accurate percentage for each category from the variety of data gathered for most CFC's. Only a small portion of the data gathered will be statistical in nature. Second, it is as difficult to discriminate precisely among different categories along an entire scale (e.g., "sometimes" from "frequently") as it is to discriminate percentages within each category.

It should also be pointed out that the Criteria for Compliance within a given Objective may cover a variety of concerns. For example, the Objective of "zeal" takes into consideration the varying activities of efforts to challenge the criminal justice system, and efforts to be sensitive to client needs in non-legal matters. To conclude in a Report that "Defender Office X is in compliance with Objective 2, 75% of the time" would disguise more than it would illuminate, for it would tell little about the range of activities the Defender Office is performing.

Given this perspective, it would be both misleading and inaccurate to "add" ratings given on a series of CFC's within one Objective to come out with a "total" or "average" rating for each Objective.

For the Final Report, a discussion of "degree of compliance" will be useful only when referring to CFC's. Even then, the rating system is offered to help guide the discussion and need not be taken literally. The rating concept loses validity and meaning when extended to a discussion of particular Objectives, and should not be used in that connection.

The use or non-use of a rating system is a matter of judgment and personal prejudice. There is no doubt that it is less cumbersome to list numbers than to talk about a multiplicity of variables which interact to make a Defender Office function in a particular fashion. It is our best assessment, however, that for this evaluation to have meaning for Defenders or any party who reads it, any rating to be done should be applied solely at the CFC level.

FOCUS OF THE EVALUATION

Goals, Objectives and Criteria for Compliance

It was previously stated (Handbook I) that the Goals and Objectives which are the focus of this evaluation have been drawn from a variety of sources (e.g. ABA, NAC, NLADA). They represent the most recent thinking in the field. They are also Goals and Objectives which are generally acceptable to most Defenders.

The Objectives have been separated one from the other, for organizational purposes. In the daily operation of a Defender Office they blend into a composite whole. For this reason, Team Members will be highly dependent upon one another for sharing information gathering in the field. Each Objective has been further subdivided into a series of Criteria for Compliance for which data will be gathered and against which an Office's performance will be rated.

Indicators

The assessment of Defender Office compliance with the Criteria for Compliance* (CFC), will be based upon indicators of performance (i.e. performance measures). These are essentially items which give the evaluator some direct or indirect indication that the Defender Office is complying with the criteria established.

A variety of Indicators are generally needed to provide the necessary information to make an accurate assessment of compliance with any one criterion. These Indicators vary from the highly qualitative (e.g. interviewee opinion) to the heavily quantitative (e.g. statistical) to the descriptive (e.g. geographical). Each type of Indicator should be used in complementary fashion to either make an assessment of whether an office is complying with the CFC or to give meaning to that assessment through interpretation and explanation.

The Indicators listed in the following sections are not exhaustive of all possible Indicators, nor will each be appropriate to every Defender Office evaluation. They have been selected for presentation in this Handbook because they are applicable to a large proportion of small and medium sized Defender Offices, and because, from a practical standpoint, the potential list of Indicators had to be reduced to those most useful when gathering information in a limited amount of time.

*The two-volume draft report of NLADA's National Study Commission on Defense Services has been of particular aid in the development of the Criteria for Compliance.

They will be generally helpful and should be used as a starting point by Team Members at any site. In the course of each evaluation, new Indicators will probably emerge and should be used in the evaluation of that Defender Office.

It should be emphasized that the Indicators do not attempt to impose "numbers" which are considered "right" for any Defender Office. Workload standards are not established; the "correct" frequency with which the Defender goes to trial is not given; an "appropriate" number of dismissals and acquittals is not suggested. At this time, no agreement exists among professionals on any of these matters. "Right" numbers will vary according to local criminal justice practices. Numbers can, however, pinpoint extreme behavior and should be used as starting points for further inquiry.

Gathering Information

The on-site evaluation is limited largely to interviews, observations, and reviews of files and records, (e.g. visitors' logbook at local jail). For this reason, it is important that this section of the Handbook be read carefully. The following information, basic to these techniques of gathering information, should form the basis of each Team Member's mode of operation:

Observation

Observation becomes a scientific technique only when it serves a formulated purpose, is carefully planned, and is recorded systematically. A major asset of observation is that an individual's actual behavior is observed, and one need not try to predict behavior from what a person says s/he does. In addition, observation is not dependent upon an interviewee's ability or willingness to articulate responses. The major limitation of this technique, however, is that the observer is never sure that the behavior being witnessed is typical of the situation, or whether some of it has been "altered" for the observer's sake or because of transitory problems. It is for this reason that observation will not be relied upon too heavily to "prove" a point, but will be used in conjunction with other techniques to interpret information gathered.

In order to make observations as reliable and valid as possible, the following points should be kept in mind:

1. The content of each observation should be clearly related to the specific Objective/CFC on which a Team Member is gathering information;
2. The best time for recording information is on-the-spot and during the event, as long as note-taking does not interfere with the ongoing activity. Key words and impressions should be expanded as soon as possible after the period of observation;

3. There is no substitute for an independent check on the accuracy of any observation. Whenever possible, more than one Team Member should observe the same or similar events. And these observations should be shared with the entire team during the daily debriefing sessions; and,
4. Friendliness, interest and apparent neutrality on the part of the observer will enhance the naturalness of the activity which is being observed.

Since it is difficult to know whether the behavior being observed has been altered because of the presence of an observer or some other variable, the Team Member is encouraged to describe what was observed to the observee, ask him/her whether this was typical behavior, and then weight the response along with data gathered through other means.

The observer can increase the objectivity of his/her own observations by indicating in the notes which statements refer to actual events and which represent interpretations. The length of an observation period will vary, depending upon the circumstances and the judgment of the evaluator. Observations which are suggested on the Indicators/Instructions pages in the sections which follow are accompanied by detailed instructions covering what should be focused upon.

Interviews

The interview, in contrast to observation, has the advantage of retrieving a great deal of information in a short period of time. Not only can the evaluator ascertain facts about behavior, but s/he can probe into beliefs about facts, reasons for beliefs, feelings, and past behavior.

Interviews conducted during the on-site period of a defender evaluation should be flexible and adaptable to the specific situation. The interview formats presented in Appendix 2 for each Objective specifies the focal concerns of each interview, and are meant to be guides for the interviewer. It is important that each Team Member have the leeway to add questions that s/he deems appropriate to a particular respondent or situation. To accomplish this, questions -- their content, sequence and wording -- are not fixed. This places maximum responsibility upon the interviewer to know ahead of time what is being sought from a particular interviewee.

A major limitation of the interview technique is knowing whether an interviewee has been candid. The following are suggested to increase candor:

1. Establishing Rapport. The ability of the interviewer to gain accurate and complete information from the interviewee will depend upon the establishment of rapport. To establish rapport, the interviewer should be friendly toward the interviewee, show interest in what s/he has to say, and exhibit confidence in him/herself and the worth of the evaluation. Anything which hinders the establishment of rapport will be detrimental to the purposes of the interview. Extreme dress, exaggerated mannerisms, and the use of technical language or slang patterns of speech should be avoided, as it diverts attention away from the interview and interviewee.

Every interview should begin with a statement of the interviewer's name and present position (and past work, if relevant), identification of the sponsor and the purposes for the interview, as well as assurances of confidentiality. The interviewer should be prepared to produce a business card or letter of introduction.

The interview should be held in private, and distraction kept to a minimum. The interviewer should request that "calls be held" during the course of the interview, if at all possible;

2. Asking the Questions. The interviewer is obligated to be a critical and intelligent questioner, not a passive listener or adversarial debater. S/he should be familiar enough with the concerns of the evaluation, and with the Objectives and Criteria for Compliance to ask questions in a normal conversational manner. If the respondent does not appear to understand the question, reword it. The interviewer should never carry the conversation or "put words in the respondent's mouth" in order to obtain a suitable answer;

Do not pass over questions that seem to have been answered indirectly in the response to another question. A direct question may elicit a slightly or entirely different answer than the earlier comment seemed to suggest. The essence of the interview is the ability to probe any response given until the interviewer is satisfied that s/he fully understands the interviewee's intentions on the topic being discussed. Do not be afraid to probe.

If the respondent gives a "don't know" answer, make sure that s/he really means it. S/he may not clearly understand the question or may need a few moments to think about it. Do not hurry to fill a silence with another question. Encourage the respondent to think about the answer, repeat the question, or ask probing questions. Do not suggest, by leading remarks or voice inflection, a specific answer being sought.

Avoid showing the interviewee the schedule of appointments. If inquiries are made, give assurances that a great many individuals will be interviewed and asked for recommendations.

A direct question on sensitive topics may be counter-productive. Information desired on racial discrimination, for example, may be more readily gathered through questions which inquire into the background of the typical defendant and charges, and how they are handled by the court, than from directly asking "Do you discriminate by race in your handling of cases?" Each interview is unique, however, and it remains with the interviewer to determine the best approach to achieve a candid response;

3. Recording the Responses. Accuracy and completeness are the interviewer's goals in recording responses. Before leaving the respondent check to see that all the questions have been asked and all answers recorded. The interviewer should record the respondent's exact words to the greatest extent possible. Paraphrasing, summarizing or "polishing up" slang, cursing or bad grammar not only risks distorting meaning and emphasis, but also losing the tenor of the reply. It is perfectly permissible to ask a respondent to wait until the interviewer gets down "that last thought". Begin to write while the respondent is talking; do not wait until an entire answer is completed.

Make an effort to keep the written responses neat and legible;

4. Closing the Interview. The interview should be closed in a deliberate, but not abrupt, manner. Be sure to thank the interviewee for his/her time and attention.

As soon as possible after the interview, the interviewer should read over notes taken, completing half-finished answers and adding whatever information can be recalled. Optimally, this should be done prior to the team debriefing session later in the day.

The length of each interview will vary, depending upon the time made available by the interviewee and the number of topics to be covered. An interview of longer than one hour is not suggested.

Records

A considerable amount of data on the behavior of its members is available in every community through records. To neglect the existence of records would needlessly disregard potentially relevant information.

The potential usefulness of available records -- be they a daily calendar of Defender appointments kept throughout the year, or a visitors' logbook at a local jail -- requires that the evaluator be familiar with the better known sources of data and display ingenuity in discovering less well-known materials. It also requires that the

evaluator be aware of the many facets of the topic being explored and the many different questions related to the topic.

There are limitations inherent in a record review:

1. An individual or agency from which the records are available may not be willing or able to provide them;
2. There may be a high degree of inaccuracy in the records, due to omissions and errors in notations;
3. The records have been kept for specific purposes in which falsification has been deliberate (e.g. propaganda purposes).

To a large extent, the same methodology which is used in the statistical analysis of defender case files is again useful: (a) an entire universe (e.g. jail visitor logbooks) or a sample of that universe is reviewed (e.g. two months of jail visitor logs); and, (b) the data sought from the record is specified beforehand (e.g., number of Defender visits and percentage of Defender clients in jail at any given time).

It is up to each Team Member, however, to determine the relevance and accuracy of records reviewed. Suggestions for record reviews appear on the Indicators/Instruction pages in the sections which follow.

Case Study

The case study is an approach to gathering data which views any unit as a whole. This technique's major asset lies in potentially making a process -- which incorporates the interaction of many variables at the same and at different times -- more understandable. It also allows time to be condensed, so that a full case, from pre-trial to post-conviction, can be reviewed in a short period of time. On the other hand, this technique suffers the problem of having its users make the faulty assumption that the few cases reviewed are representative of most or all cases handled. Definite instructions as to what an evaluator is searching for in a case are essential so that each evaluator does not impose his/her own limited expertise upon the subject of study. Such instructions are found in the Indicators/Instruction sections.

Evaluation Instructions

Prior to the on-site evaluation each Team Member will possess a Team Member's Handbook which includes:

1. Pre-evaluation profile materials on the Defender Office, the criminal justice system and community;

2. A copy of contracts, statutes and jurisdictional rules under which the Defender Office operates;
3. A summary and analysis of the statistical studies of defender case files and the court docket;
4. The most recent Defender Office annual reports;
5. An analysis of articles recently appearing in the local newspaper which focused on the Defender Office and criminal justice system; and
6. Information on Goals, Objectives, Criteria for Compliance, Indicators, methods of gathering and using the data, and suggestions for writing the final report.

The Team Captain's Handbook will be similar to that of each Team Member, except that it will be more detailed in some areas (e.g. logistics, team training).

Each Team Member will be given primary responsibility for several Objectives. Prior to undertaking the first site interview, the site information available in the Team Member Handbook should be reviewed, with particular attention paid to the information which pertains to the Team Member's area of primary responsibility.

The Team Member with primary responsibility for a particular set of Objectives is responsible for gathering all or most of the Indicators noted for those Objectives or for seeing that they are gathered for others. Information will be exchanged with other Team Members during the daily debriefings.

The sections which follow have a standard format:

1. Statement of the Objective
2. Commentary. Brief remarks on the Objective which are of particular importance to the evaluator.
3. Criteria for Compliance. Statements which represent a desired performance and which will be used as the bases for assessing the extent to which a Defender Office is meeting the Objective established.
4. Indicators and Instructions. Items which can be taken as full or partial indication that the CFC's and Objectives are being met. To avoid redundancy, one summary list of Indicators has been drawn per Objective, rather than per CFC; one Indicator can often shed light on several criteria. Directions are given for data-gathering which should aid in the collection of data by evaluators.

5. Objective Checklist. A cumulative checklist which should be used by the Team Member with primary responsibility for an Objective to review, on a daily basis, those Indicators which have been gathered.

Any questions relating to the propriety and/or clarity of the evaluation of an Objective should be brought to the attention of the entire team.

Interviewees will usually be able to provide information on more than one Objective. A master listing indicating which Objectives are to be covered with which interviewees appears in Appendix B. This list has been transformed into Interview Formats which should be used for each interviewee (Appendix C). Special instructions for observations and record searches are found on the second page of each interview format.

To avoid redundancy in record searches, only the Team Member assigned the first interview in an agency in which records are to be reviewed (e.g. jail) should be responsible for gathering that data, and then for transmitting it to others during the daily debriefing sessions.

INDICATORS OF DEFENDER PERFORMANCE

GOAL I
OBJECTIVE 1:

Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused upon him/her as a likely suspect, or feels him/herself to be the subject of an investigation, or at the request of someone acting in his/her behalf.
(Availability/Immediacy)

GOAL I

OBJECTIVE 1: Early representation should be available to potential clients. (Availability/Immediacy)

The Objective of "availability" is primarily designed to assure that where circumstances exist which would warrant an affluent individual to consult with an attorney in a criminal matter, the poor person will likewise be able to consult with the public defender. Implicit in the concept of availability is the question of early representation. It is well known among participants in the criminal justice system that the assistance of counsel in the first few hours after arrest is crucial to effective representation, particularly if interrogation takes place (Escobedo v. Illinois, 378 U.S. 478, 1964). Statements made at this time by the client without legal counsel may make it difficult or impossible for the attorney to provide effective assistance under the 6th Amendment to the U.S. Constitution.

Current data indicate that most defender clients are in contact with an attorney within 72 hours after arrest, but rarely within four hours. Although limitations beyond the control of the local defender exist in any given jurisdiction, the defender has the burden to take steps to correct any situation which denies the poor client equal access to an attorney.

GOAL I

OBJECTIVE 1: Early representation should be available to potential clients. (Availability/Immediacy)

CRITERIA FOR COMPLIANCE

1. Representation is available to the potential client at time of arrest.
2. Representation is available to the potential client when s/he feels him/herself to be the subject of an investigation.
3. Representation is available to the potential client at the request of someone acting in his/her behalf.
4. Representation is available to the potential client at the time interrogation takes place.
5. Representation is available to the potential client when any line-up is held.

CONTINUED

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GOAL I, OBJECTIVE 1: Early representation should be available to potential clients. (Availability/
Immediacy)

Nature of Data Gathered	Indicators	Instructions
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender policies and procedures	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics 1. <u>Defender</u> a. % clients contacted prior to arrest b. % clients contacted at time of arrest c. % clients contacted after arrest, prior to court appearance d. % clients contacted at time of first court appearance e. % clients contacted after first court appearance 2. <u>Police</u> a. Statistics on line-ups, confessions, polygraph tests without attorney present b. Lawsuits over 3 year period 3. <u>Court</u> a. % waivers of counsel b. Stage of waiver 4. <u>Private Attorney</u> a. % clients contacted prior to arrest b. % clients contacted at time of arrest c. % clients contacted after arrest, prior	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. 1. The information requested should be gathered during the course of or following interviews or observation periods. Where precise information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages. 2. 3. 4.

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GOAL I, OBJECTIVE 1: Availability/Immediacy

Nature of Data Gathered	Indicators	Instructions						
	to court appearance d. % clients contacted at time of first court appearance e. % clients contacted after first court appearance							
3. Media	A. Local Newspaper Articles B. TV spots, programs C. Radio spots, programs D. Telephone advertisements E. Brochures, posters, cards, audio-visual materials F. Newspaper advertisements	A. Review appropriate Appendix in Team Member Handbook B. } C. } Gathered during the D. } course of or following E. } interviews or observation F. } periods						
4. Reports	Annual Defender Report - statements and statistics related to availability.	Review appropriate Appendix in Team Member Handbook						
5. Interviews	Each interview will attempt to ascertain: <table><tr><th>CRITERIA FOR COMPLIANCE BEING MET</th><th>OTHER QUESTIONS</th></tr><tr><td>Is representation available: - at time of arrest - when subject of investigation - at request of another party - at line-up - at interrogations</td><td>1. Opinion of Objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change</td></tr></table>	CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS	Is representation available: - at time of arrest - when subject of investigation - at request of another party - at line-up - at interrogations	1. Opinion of Objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change	Interviews should be obtained from: <table><tr><td>Chief Defender Defenders Defender Staff Private Attorneys Police Personnel Jail Personnel Court Personnel Clients</td><td>Community Organizations/ Agencies Prison Personnel Parole Personnel Funding Agency</td></tr></table>	Chief Defender Defenders Defender Staff Private Attorneys Police Personnel Jail Personnel Court Personnel Clients	Community Organizations/ Agencies Prison Personnel Parole Personnel Funding Agency
CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS							
Is representation available: - at time of arrest - when subject of investigation - at request of another party - at line-up - at interrogations	1. Opinion of Objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change							
Chief Defender Defenders Defender Staff Private Attorneys Police Personnel Jail Personnel Court Personnel Clients	Community Organizations/ Agencies Prison Personnel Parole Personnel Funding Agency							
6. Observations	A. Defender 1. Nature of information imparted to defendant (e.g. rights, attorney-client privilege, case handling, stages of adjudication)	A. Spend time with Defenders given a new case, and during first contact with client. Station self in appropriate place (e.g. precinct court).						

GOAL I, OBJECTIVE 1: Availability/Immediacy

Nature of Data Gathered	Indicators	Instructions
	2. Nature of information gathered (e.g., arrest, charge, bond status) 3. Observe how and when referral decisions are made and/or Defender availability is ascertained B. <u>Defender</u> 1. Information imparted to defendant 2. Role played by Defender 3. Gather literature available to client, and determine its accessibility and usefulness. Determine whether police notify defender office of individuals requesting counsel. C. <u>Police</u> 1. Information imparted to defendant 2. Role played by Defender 3. Gather literature available to client, and determine its accessibility and usefulness.	B. Sit in <u>court of first appearance</u> (or appropriate place) to observe the appointment process. C. <u>In police precinct</u> , observe the situation under which the defendant is booked.
7. Records	A. <u>Police Logbook or Files</u> (for Defender Clients) 1. Time of arrest 2. Whether an attorney was contacted 3. Timelag between arrest and defender contact 4. Whether line-up had taken place 5. Whether polygraph had taken place 6. Whether confession given 7. Determine number and percentage of Defender clients and clients without an attorney B. <u>Jail Logbook</u> (for Defender Clients) 1. Determine the number and percentage of Defender clients and clients without an attorney	A. Review logbook and/or other records for preceeding month. B. Review logbook and/or other records for preceeding month

GOAL I, OBJECTIVE 1: Availability/Immediacy

Nature of Data Gathered	Indicators	Instructions
8. Management	<ul style="list-style-type: none"> 2. Time of detention 3. Whether the client had representation 4. Timelag between detention and defender contact <p>A. By Objective, review</p> <ul style="list-style-type: none"> 1. Planning 2. Organization 3. Administration 4. Control <p style="text-align: center;">OR</p> <p>B. By management operations, review:</p> <ul style="list-style-type: none"> 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources 	<p>A. {</p> <p style="margin-left: 100px;">Gathered during the course of the management analysis (Handbook IV)</p> <p>B. }</p>

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit, by the Team Member with primary responsibility for this Objective.
Check (✓) when information is gathered on topic by any Team Member.

Goal 1, Objective 1: Early representation should be available to potential clients. (Availability/Immediacy)

Data Gathered and Reviewed

1. Codes

_____ Statutes
_____ Jurisdictional Rules
_____ Defender Policies and Procedures

2. Statistics

_____ Defender Case File Statistical Analysis
_____ Court Docket Statistical Analysis
_____ Other Statistics
_____ Defender
_____ % clients contacted prior to arrest
_____ % clients contacted at time of arrest
_____ % clients contacted after arrest, prior to court appearance
_____ % clients contacted at time of first court appearance
_____ % clients contacted after first court appearance
_____ Police
_____ Statistics on line-ups, confessions, polygraph tests without attorney present
_____ Lawsuits over 3 year period
_____ Court
_____ % waivers of counsel
_____ Stage of waiver
_____ Private Attorney
_____ % clients contacted prior to arrest
_____ % clients contacted at time of arrest
_____ % clients contacted after arrest, prior to court appearance
_____ % clients contacted at time of first court appearance
_____ % clients contacted after first court appearance

3. Media

_____ Local newspaper articles
_____ TV spots, programs
_____ Radio spots, programs
_____ Telephone advertisements
_____ Brochures, posters, cards, audio-visual materials
_____ Newspaper advertisements

Goal I, Objective 1

4. Reports

_____ Annual Defender Report - statements and statistics related to availability

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Private Attorneys
_____	Police Personnel
_____	Jail Personnel
_____	Court Personnel
_____	Clients
_____	Community Organizations/Agencies
_____	Prison Personnel
_____	Parole Personnel
_____	Funding Agency
_____	Other

6. Observations

<u>Number</u>	<u>Site</u>
_____	Defender - first contact with client
_____	Defender - court of first appearance
_____	Police precinct

7. Records

_____ Police Logbook or Files
_____ Time of arrest
_____ Whether an attorney was contacted
_____ Whether line-up had taken place
_____ Whether confession given
_____ Timelag between arrest and defender contact
_____ Jail Logbook
_____ Time of detention
_____ Whether the client had representation
_____ Timelag between detention and defender contact
_____ Number and % of clients without attorney

8. Management

Discuss with Management Analyst

GOAL I
OBJECTIVE 2:

Representation should be provided to any individual who is eligible and desires representation.
(Eligibility)

GOAL I

OBJECTIVE 2: Representation should be provided to any individual who is eligible and desires representation.
(Eligibility)

COMMENTARY

The determination of eligibility for public representation is a perplexing problem throughout the criminal justice system. Surveys have found that existing eligibility criteria being employed do not comport with realistic evaluations of the cost of retaining private counsel. In others, the eligibility criteria are not being applied equally to all individuals.

The problem is critical in the felony area because of the potential expense of full representation through appeal. It is less obvious, but equally important, in the misdemeanor area where representation at public expense may mean the difference between fair trial and assembly line justice. Recent studies have shown that the Argersinger decision (407 U.S. 25) has been implemented sporadically; defendants are often not being advised of their right to counsel or are actively discouraged from exercising that right.

GOAL I

OBJECTIVE 2: Representation should be provided to any individual who is eligible and desires representation.
(Eligibility)

CRITERIA FOR COMPLIANCE

1. Counsel is provided to any person who is financially unable to obtain representation without substantial hardship to self or family.
2. The ability of any person to post bond is irrelevant to the eligibility decision.
3. The definition of indigency is applied fairly and equitably to each potential client.
4. A preliminary assessment of eligibility is made upon initial contact with a potential client.
5. Routine procedures are utilized for dealing with cases of partial eligibility.
6. An individual deemed ineligible for representation is aided in obtaining competent private counsel.
7. Routine redress procedures are utilized for the individual who desires representation but is deemed ineligible.
8. Routine procedures are followed when an individual given representation is later proven to have been ineligible.

GOAL I, OBJECTIVE 2: Representation should be provided to any individual who is eligible and desires representation. (Eligibility)

Nature of Data	Indicators	Instructions
1. Codes	<ul style="list-style-type: none"> A. Statutes B. Jurisdictional Rules C. Defender policies and procedures 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods.
2. Statistics	<ul style="list-style-type: none"> A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics <ul style="list-style-type: none"> 1. <u>Defender</u> <ul style="list-style-type: none"> a. % case ineligible for Defender representation b. % case partially eligible for Defender representation 2. <u>Court</u> <ul style="list-style-type: none"> a. % cases pleading without attorney over 3 year period b. % cases assigned to defenders and assigned counsel over 3 year period c. # cases appealed because of ineffective representation 3. <u>Police</u> <ul style="list-style-type: none"> # defendants in jail without representation at time of visit 4. <u>Private Attorney</u> <ul style="list-style-type: none"> a. Cost of private counsel for typical misdemeanor/felony b. Cost of private counsel for plea/trial 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. <ul style="list-style-type: none"> 1. The information requested should be gathered during the course of or following interviews or observation periods. 2. Where precise information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages. 3. 4.
3. Media	<ul style="list-style-type: none"> A. Local Newspaper Articles 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook

GOAL I, OBJECTIVE 2: Eligibility

Nature of Data	Indicators	Instructions
	B. TV spots, programs C. Radio spots, programs D. Brochures, cards, posters, audio-visual materials	B. } Gathered during the course C. } of or following interviews D. } or observation periods
4. Reports	A. Annual Defender Report - statements and statistics regarding eligibility B. Background information on community climate	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook
5. Interviews	Each interview will attempt to ascertain: <div> <div>CRITERIA FOR COMPLIANCE</div> <div> 1. Eligibility based on hardship to client 2. Ability to post bond is irrelevant 3. Fair application of indigency criteria 4. Preliminary assessment at 1st contact 5. Routine procedures-partial eligibility 6. Referrals to private counsel if eligible 7. Redress for persons denied representation 8. Procedures for change of eligibility status </div> </div> <div> <div>OTHER QUESTIONS</div> <div> 1. Opinion on Objective 2. Complaints/problems 3. Need for change 4. Effort toward change </div> </div>	Suggested interviewees: <div> <div>Chief Defender</div> <div> Defenders Defender Staff Private Attorneys Judges Police Personnel Court Personnel </div> </div> <div> <div>Criminal Justice Planners</div> <div> Former Defenders Defender Board Funding Agency </div> </div>

GOAL I, OBJECTIVE 2: Eligibility

Nature of Data	Indicators	Instructions
6. Observations	A. <u>Defender</u> 1. Concern about eligibility 2. Steps toward determining eligibility	A. Spend time with defenders being <u>assigned a new case.</u>
7. Records	None Required	
8. Management	A. By Objective, review: 1. Planning 2. Organization 3. Administration 4. Control <u>OR</u> B. By management operations, review: 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources	A. } B. } Gathered during the course of the management analysis (Handbook IV)

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit, by the Team Member with primary responsibility for this Objective.
Check (✓) when information is gathered on topic by any Team Member.

Goal 1, Objective 2: Representation should be provided to any individual who is eligible and desires representation. (Eligibility)

Data Gathered and Reviewed

1. Codes

_____ Statutes
_____ Jurisdictional Rules
_____ Defender Policies and Procedures

2. Statistics

_____ Defender Case File Statistical Analysis
_____ Court Docket Statistical Analysis
_____ Other Statistics
_____ Defender
_____ % cases ineligible for Defender representation
_____ % cases partially eligible for Defender representation
_____ Court
_____ % cases pleading without attorney over 3 year period
_____ % cases assigned to defenders and assigned counsel over 3 year period
_____ # cases appealed because of ineffective representation
_____ Police
_____ # defendants in jail without representation at time of visit
_____ Private Attorney
_____ Cost of private counsel for typical misdemeanor/felony
_____ Cost of private counsel for plea/trial

3. Media

_____ Local newspaper articles
_____ TV spots, programs
_____ Radio spots, programs
_____ Brochures, cards, posters, audio-visual materials

4. Reports

_____ Annual Defender Report - statements and statistics regarding eligibility
_____ Background information on community climate

Goal 1, Objective 2

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Private Attorneys
_____	Judges
_____	Police Personnel
_____	Court Personnel
_____	Criminal Justice Planners
_____	Former Defenders
_____	Defender Board
_____	Funding Agency
_____	<u>Other</u>
_____	_____
_____	_____

6. Observations

Number

Defender - new case assignment

7. Records

None Required

8. Management

Discuss with Management Analyst

GOAL I

OBJECTIVE 3:

Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention. (Scope)

GOAL I

OBJECTIVE 3: Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention. (Scope)

COMMENTARY

One of the goals of our system of justice must be to assure that effective representation is available in every proceeding and at each stage of the proceeding where it is necessary to insure a fair and just process. This is applicable in strictly criminal trials and also in many quasi-criminal or criminal-related hearings as well. Of particular concern are juvenile and mental health commitment situations, extraditions, and parole and probation hearings which might result in the initiation or continuation of incarceration.

The effective assistance of counsel is essential to the fairness of all such proceedings. While the defender need not be the representative in all circumstances, this Objective places a burden upon him/her to assure that the local jurisdiction makes effective representation available to the indigent individual whenever liberty is threatened.

GOAL I

OBJECTIVE 3: Representation should be available throughout all criminal and related procedures at which an individual is faced with the possible deprivation of liberty or continued detention. (Scope)

CRITERIA FOR COMPLIANCE

1. Representation is available for all proceedings at which any individual charged with a misdemeanor offense faces possible incarceration.
2. Representation is available for all proceedings at which any individual is charged with a felony offense.
3. Representation is available for all juvenile court proceedings which might deprive the individual of liberty.
4. Representation is available for all mental health proceedings which might deprive the individual of liberty.
5. Representation is available for disciplinary proceedings against the confined client.
6. Representation is available for institutional grievances of the confined client.
7. Representation is available for administrative proceedings involving parole (i.e. hearings and revocations).
8. Representation is available for extradition proceedings.
9. Representation is available for formal proceedings involving diversion.
10. Representation is available for probation revocation proceedings.
11. Representation is available for civil and criminal contempt proceedings.

GOAL I, OBJECTIVE 3:

Representation should be available throughout all criminal and related proceedings at which an individual is faced with possible deprivation of liberty or continued detention. (Scope)

Nature of Data	Indicators	Instructions
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender policies and procedures	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods.
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics 1. <u>Defender</u> a. # and % of felony cases represented b. # and % of felony cases represented c. # and % of juvenile hearings d. # and % of cases represented in disciplinary hearings, former or new client e. # and % of cases represented in institutional grievances, former or new client f. # and % of cases represented in parole hearings and revocations g. # and % of cases represented in extradition h. # and % of mental health proceedings i. # and % of diversion proceedings j. # and % of probation revocation cases k. # and % of civil and criminal contempt proceedings 2. <u>Court</u> a. % misdemeanor cases represented by	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. 1. Information requested should be gathered during the course of or following interviews or observation periods. Where information is inaccessible, unavailable or absent, ask interviewees for their estimation of numbers and percentages 2.

GOAL I, OBJECTIVE 3: Scope

Nature of Data	Indicators	Instructions
	defender, assigned and private counsel b. % felony cases represented by defender, assigned, and private counsel c. % unrepresented	
	3. <u>Corrections</u> a. # and % of disciplinary hearings; without counsel, with defender, assigned, or private counsel	3. }
	4. <u>Parole</u> a. # and % of hearings, without counsel, with defender, assigned or private counsel b. # and % of revocation hearings, with defender, assigned, or private counsel c. % change between trial and revocation hearing, from private to public counsel or vice versa	4. } 5. }
	5. <u>Probation</u> a. # and % of revocation hearings; % without counsel; % with defender, assigned, or private counsel b. % change between trial and revocation hearing, from private to public counsel or vice versa.	
3. Media	A. Local Newspaper Articles B. TV spots, programs C. Radio spots, programs D. Telephone advertisements E. Brochures, posters, cards, audio-visual materials F. Newspaper advertisements	A. Review appropriate Appendix in Team Member Handbook B. } C. } Gathered during the course of D. } or following interviews or E. } observation periods F. }

GOAL I, OBJECTIVE 3; Scope

Nature of Data	Indicators	Instructions																										
4. Reports	<p>A. <u>Annual Defender Report</u> - statements and statistics on scope of representation</p> <p>B. Background information on defender office</p> <p>C. <u>Annual Parole Report</u> - statements and statistics regarding defender representation in parole hearings and revocations</p> <p>D. <u>Annual Probation Report</u> - statements and statistics regarding defender representation in probation revocations</p>	<p>A. Review appropriate Appendix in Team Member Handbook</p> <p>B. } C. } Gather and review Annual Reports following Interviews. D. }</p>																										
5. Interviews	<p>Each interview will attempt to ascertain:</p> <table><tr><th>CRITERIA FOR COMPLIANCE BEING MET</th><th>OTHER QUESTIONS</th></tr><tr><td>Is representation available at:</td><td>1. Opinion on</td></tr><tr><td>- misdemeanor</td><td>Objective</td></tr><tr><td>- felony</td><td>2. Complaints/problems</td></tr><tr><td>- juvenile</td><td>3. Need for change</td></tr><tr><td>- mental health</td><td>4. Effort toward change</td></tr><tr><td>- disciplinary proceedings</td><td></td></tr><tr><td>- institutional grievances</td><td></td></tr><tr><td>- parole hearings and revocations</td><td></td></tr><tr><td>- extradition</td><td></td></tr><tr><td>- diversion</td><td></td></tr><tr><td>- probation revocations</td><td></td></tr><tr><td>- civil and criminal contempt hearings</td><td></td></tr></table>	CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS	Is representation available at:	1. Opinion on	- misdemeanor	Objective	- felony	2. Complaints/problems	- juvenile	3. Need for change	- mental health	4. Effort toward change	- disciplinary proceedings		- institutional grievances		- parole hearings and revocations		- extradition		- diversion		- probation revocations		- civil and criminal contempt hearings		<p>Interviews should be obtained from:</p> <p>Chief Defender Defenders Defender Staff Prison Personnel Parole Personnel Probation Personnel Jail Personnel Community-Oriented Programs</p>
CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS																											
Is representation available at:	1. Opinion on																											
- misdemeanor	Objective																											
- felony	2. Complaints/problems																											
- juvenile	3. Need for change																											
- mental health	4. Effort toward change																											
- disciplinary proceedings																												
- institutional grievances																												
- parole hearings and revocations																												
- extradition																												
- diversion																												
- probation revocations																												
- civil and criminal contempt hearings																												
6. Observations	<p>A. <u>Parole</u></p> <p>1. Description of process</p> <p>2. Role played by defender</p>	<p>A. During <u>hearing</u></p> <p>B. During <u>revocation hearings</u></p>																										

GOAL I, OBJECTIVE 3: Scope

<u>Nature of Data</u>	<u>Indicators</u>	<u>Instructions</u>
	<ul style="list-style-type: none"> B. <u>Probation</u> <ul style="list-style-type: none"> 1. Description of process 2. Role played by defender 	<ul style="list-style-type: none"> B. During <u>revocation hearings</u>
7. Records	<ul style="list-style-type: none"> A. <u>Prison phone log or files</u> <ul style="list-style-type: none"> 1. Frequency of calls to defender and non-defender attorneys 2. Ask for an explanation of the "typicality" of the situation and problems in reaching the defender. B. <u>Prison visitors log -</u> <ul style="list-style-type: none"> 1. Frequency of visits by defenders and non-defender attorneys 2. Ask for an explanation of the "typicality" of the situation and problems in reaching the defender. 	<ul style="list-style-type: none"> A. Review calls placed to defender office during one-month period. B. Review visits by defenders to one or more clients during one-month period.
8. Management	<ul style="list-style-type: none"> A. By Objective, review: <ul style="list-style-type: none"> 1. Planning 2. Organization 3. Administration 4. Control <li style="text-align: center;"><u>OR</u> B. By management operations, review: <ul style="list-style-type: none"> 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources 	<ul style="list-style-type: none"> A. } <ul style="list-style-type: none"> Gathered during the course of the management analysis (Handbook IV) B. }

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit, by the Team Member with primary responsibility for this Objective.
Check (✓) when information is gathered on topic by any Team Member

Goal 1, Objective 3: Representation should be available throughout all criminal and related proceedings at which an individaul is faced with the possible deprivation of liberty or continued detention.
(Scope)

Data Gathered and Reviewed

1. Codes

- Statutes
- Jurisdictional Rules
- Defender Policies and Procedures

2. Statistics

- Defender Case File Statistical Analysis
- Court Docket Statistical Analysis
- Other Statistics
 - Defender
 - # and % of misdemeanor cases represented
 - # and % felony cases represented
 - # and % juvenile clients
 - # cases represented in disciplinary hearings, former or new client
 - # cases represented in institutional grievances, former or new client
 - # cases represented in parole hearings
 - # cases represented in extradition
 - # and % of mental health proceedings
 - # and % of diversion proceedings
 - # and % of civil and criminal contempt proceedings
 - Court
 - % misdemeanor cases represented by defender, assigned and private counsel
 - % felony cases represented by defender, assigned and private counsel
 - % unrepresented
 - Corrections
 - # and % of disciplinary hearings without counsel, with defender, assigned or private counsel
 - Parole
 - # and % of revocation hearings without counsel, with defender, assigned or private counsel
 - % change between trial and revocation hearing, from private to public counsel or vice versa

Goal I, Objective 3:

Probation

- # and % of revocation hearings without counsel, with defender, assigned or private counsel
- % change between trial and revocation hearing, from private to public counsel or vice versa

3. Media

- Local newspaper articles
- TV spots, programs
- Radio Spots, programs
- Telephone advertisements
- Brochures, posters, cards, audio-visual materials
- Newspaper advertisements

4. Reports

- Annual Defender Report - statements and statistics on scope of representation
- Background information on defender office
- Annual Parole Report - statements and statistics regarding defender representation in hearings and revocations
- Annual Probation Report - statements and statistics regarding defender representation in revocations

5. Interviews

Total Number	Position
	Chief Defender
	Defenders
	Defender Staff
	Prison Personnel
	Parole Personnel
	Probation Personnel
	Jail Personnel
	Community-Oriented Programs
	Other

6. Observations

Number	Site
	Defender during parole hearings
	Defender during parole revocation hearings
	Defender during probation revocation hearings

Goal I, Objective 3:

7. Records

- _____ Prison phone log or files
 - _____ Frequency of calls to defender and non-defender attorneys
 - _____ Ask for an explanation of the "typicality" of the situation and problems in reaching the defender
- _____ Prison visitors log
 - _____ Frequency of visits by defenders and non-defender attorneys
 - _____ Ask for an explanation of the "typicality" of the situation and problems in reaching the defender

8. Management

Discuss with Management Analyst

GOAL I

OBJECTIVE 4:

Representation should be available until all reasonable avenues of relief are exhausted. (Duration)

GOAL I

OBJECTIVE 4: Representation should be available until all avenues of relief are exhausted. (Duration)

COMMENTARY

In a sporadic but inexorable trend, the Supreme Court has extended to the indigent criminally accused the right, under the 6th amendment to the U.S. Constitution, to legal counsel at all critical phases of a criminal prosecution. The constitutional right of prisoners to access to the courts, arising out of the 1st and 14th amendments, is well recognized. One federal circuit court recently termed prisoner access to courts "the fundamental constitutional right." (475 F. 2d 475, 5th Cir. 1973). While the U.S. Supreme Court has repeatedly struck down rules or practices which might impede court access, it has failed to specify exactly what a state must do affirmatively to assure the implementation of the right.

The constitutional basis for requiring the state and federal government to provide indigent prisoners with legal counsel is somewhat vague, but the practical advantage -- to the prisoner, criminal justice system and community -- of assuring comprehensive legal services outweigh any seeming deficiencies in the legal arguments. The range of representation required by state statutes varies considerably. While many states have not yet implemented U.S. Supreme Court decisions such as Argersinger (407 U.S. 25), others provide defenders even in strictly civil proceedings. Because the assistance of counsel is so fundamental to the fairness of all legal proceedings, and the deprivation of liberty is so serious a sanction in our society, the defender must take steps to insure that all reasonable attempts to obtain release from incarceration are made, either by defenders or some other appropriate organization.

GOAL I

OBJECTIVE 4: Representation should be available until all reasonable avenues of relief are exhausted. (Duration)

CRITERIA FOR COMPLIANCE

1. Appellate recourse from adverse dispositions is available.
2. The appellate defender or division is independent of trial counsel.
3. Reasonable avenues of relief from adverse decisions involving parole are exhausted.
4. Reasonable avenues of relief from adverse decisions involving diversion are exhausted.
5. Reasonable avenues of relief from adverse determinations involving probation are exhausted.
6. Reasonable avenues of relief from disciplinary determinations are exhausted.
7. Reasonable avenues of relief from contempt proceedings are exhausted.

GOAL I, OBJECTIVE 4: Representation should be available until all reasonable avenues of relief are exhausted. (Duration)

Nature of Data	Indicators	Instructions
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender policies and procedures	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics <ol style="list-style-type: none"> 1. <u>Defender</u> <ol style="list-style-type: none"> a. # misdemeanor cases convicted (trial) and % appealed b. # felony cases convicted (trial) and % appealed c. # cases represented involving adverse parole decisions d. # cases represented involving adverse diversion decisions e. # cases represented involving adverse probation decisions f. # cases represented involving relief from disciplinary determinations g. # cases represented involving relief from contempt proceedings 2. <u>Appeals</u> <ol style="list-style-type: none"> a. % defender cases missing filing period b. % cases switch from private to public counsel and vice versa c. # cases appealed each year, for last 3 years - (explain change) d. # writs from prisoners without 	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. <ol style="list-style-type: none"> 1. <div style="border-left: 1px solid black; padding-left: 10px; margin-left: 10px;"> The information requested should be gathered during the course of or following interviews or observation periods. Where information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages </div> 2.

GOAL I, OBJECTIVE 4: Duration

Nature of Data	Indicators	Instructions
	<p>representation - (explain)</p> <p>e. breakdown of grounds for appeal, and % ineffective counsel (public and private)</p> <p>3. Probation # and % of appeals from adverse decisions, defender versus private counsel</p> <p>4. Parole # and % of appeals from adverse decisions, defender versus private counsel</p> <p>5. Diversion # and % of appeals from adverse decisions, defender versus private counsel</p>	<p>The information requested should be gathered during the course of or following interviews or observation periods. Where information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages</p> <p>3.</p> <p>4.</p> <p>5.</p>
3. Media	<p>A. Local Newspaper Articles</p> <p>B. TV spots, programs</p> <p>C. Radio spots, programs</p> <p>D. Telephone advertisements</p> <p>E. Brochures, posters, cards, audio-visual materials</p> <p>F. Newspaper advertisements</p>	<p>A. Review appropriate Appendix in Team Member Handbook</p> <p>B.</p> <p>C. } Gathered during the course of or following interviews or observation periods.</p> <p>D. }</p> <p>E. }</p> <p>F. }</p>
4. Reports	<p>A. Annual Defender Report - statements and statistics related to duration issues</p> <p>B. Annual Parole Report - statements and statistics regarding defender representation</p> <p>C. Annual Probation Report - statements and statistics regarding defender representation</p> <p>D. Annual Corrections Report - statements and statistics regarding defender representation</p>	<p>A. Review appropriate Appendix in Team Member Handbook</p> <p>B.</p> <p>C. } Gather and review annual reports following interviews</p> <p>D. }</p>

GOAL I, OBJECTIVE 4: Duration

Nature of Data	Indicators	Instructions
5. Interviews	Each interview will attempt to ascertain: <div> <div>CRITERIA FOR COMPLIANCE BEING MET</div> <div> 1. Appellate recourse from adverse decisions 2. Appellate counsel independent of trial counsel 3. Relief from adverse determinations: - parole - diversion - probation - institutional disciplinary proceedings - contempt proceedings </div> </div> <div> <div>OTHER QUESTIONS</div> <div> 1. Opinion on Objective 2. Comparison with private attorney 3. Complaints/problems 4. Need for change 5. Effort toward change </div> </div>	Interviews should be obtained from: Chief Defender Defenders Defender Staff Prison Personnel Parole Personnel Probation Personnel Clients Appellate Attorneys
6. Observations	None required	None required
7. Records	<u>Defender Office</u> - a. requests for representation b. complaints, problems in institution	Review previous 3 months of mail from prisoners and other clients.
8. Management	A. By Objective, review: 1. Planning 2. Organization 3. Administration 4. Control OR B. By management operations, review: 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources	A. B. <div>Gathered during the course of the management analysis (Handbook IV)</div>

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit, by the Team Member with primary responsibility for this Objective.
Check (✓) when information is gathered on topic by any Team Member.

Goal 1, Objective 4: Representation should be available until all reasonable avenues of relief are exhausted.
(Duration)

Data Gathered and Reviewed

1. Codes

_____ Statutes
_____ Jurisdictional Rules
_____ Defender Policies and Procedures

2. Statistics

_____ Defender Case File Statistical Analysis
_____ Court Docket Statistical Analysis
_____ Other Statistics

_____ Defender
_____ # misdemeanor cases convicted at trial and %
_____ appealed
_____ # felony cases convicted at trial and % appealed
_____ # cases represented involving adverse diversion
_____ decisions
_____ # cases represented involving adverse parole
_____ decisions
_____ # cases represented involving adverse probation
_____ decisions
_____ # cases represented involving relief from
_____ disciplinary determinations
_____ # cases represented involving relief from
_____ contempt proceedings
_____ Appeals
_____ % defender cases missing filing period
_____ % cases switched from private to public counsel
_____ and vice versa
_____ # cases appealed each year, for last 3 years
_____ # writs from prisoners without representation
_____ Breakdown of grounds for appeal, and %
_____ ineffective counsel (public and private)
_____ Probation
_____ # and % of appeals from adverse decisions;
_____ defender versus private counsel
_____ Parole
_____ # and % of appeals from adverse decisions,
_____ defender versus private counsel
_____ Diversion
_____ # and % of appeals from adverse decisions,
_____ defender versus private counsel

Goal 1, Objective 4

3. Media

- _____ Local newspaper articles
- _____ TV spots, programs
- _____ Radio spots, programs
- _____ Telephone advertisements
- _____ Brochures, posters, cards, audio-visual materials
- _____ Newspaper advertisements

4. Reports

- _____ Annual Defender Report
- _____ Annual Parole Report - statements and statistics regarding defender representation
- _____ Annual Probation Report - statements and statistics regarding defender representation
- _____ Annual Corrections Report - statements and statistics regarding defender representation

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Prison Staff
_____	Parole Personnel
_____	Probation Personnel
_____	Appellate Attorneys
_____	Clients
_____	<u>Other</u>
_____	_____
_____	_____

6. Observations

None Required

7. Records

- _____ Defender Office - prison mail and other client mail

8. Management

Discuss with Management Analyst

GOAL III

OBJECTIVE 1:

Representation on behalf of clients should be competent. (Competence)

GOAL II

OBJECTIVE 1: Representation on behalf of clients should be competent. (Competence)

COMMENTARY

It is axiomatic to our adversary system of justice that skilled advocacy on both the prosecution and defense sides, coupled with the presence of a judge knowledgeable about both the criminal law and the roles of the advocates appearing before him, are essential to a fair determination of issues and facts in law. While defendants are permitted to represent themselves if they so choose, unanimous opinion among professionals in the criminal justice system militates strongly in favor of representation by counsel. This is not only because of assumed benefits to the defendant's best interest, but also as a means of promoting efficiency in the determination of cases.

The legal profession, unlike many other professions, has been remiss in providing practical training at the academic level. It becomes incumbent upon defender programs to assist new attorneys in acquiring and developing the very specialized skills necessary for criminal defense advocacy, and to promote continued study of new developments in the law.

Of equal importance in effective representation is the defender's attitude toward his/her clients. In short, the evaluation of attorney competence, if it is to be a true measure, requires consideration of many aspects of the defender's training and performance.

GOAL III

OBJECTIVE 1: Representation on behalf of clients should be competent. (Competence)

CRITERIA FOR COMPLIANCE

1. Entry-level orientation/training is provided for all staff to help them acquire/develop job skills.
2. Continued legal training is provided attorneys and support staff to keep them abreast of developments in criminal law, procedures, tactics.
3. Recruitment, selection, promotion and retention are based upon merit and performance.
4. Sufficient resources exist for good defense work.
5. Outside expert and support services are used to provide an effective defense.
6. Appropriate defender personnel assist attorneys in performing tasks not requiring attorney credentials or experience.
7. Case preparation and management reflects a competent defense.
8. Defenders are able to limit their workload if the assumption of additional cases might result in inadequate representation for some or all of that attorney's clients.
9. Each experienced defender has general responsibility and authority for services provided to his/her client.
10. Representation is comparable to that provided by a skilled and knowledgeable lawyer competent in the practice of criminal law.

GOAL II, OBJECTIVE 1: Representation on behalf of clients should be competent. (Competence)

Nature of Data	Indicators	Instructions
1. Codes	<ul style="list-style-type: none"> A. Statutes B. Jurisdictional Rules C. Defender policies and procedures 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods.
2. Statistics	<ul style="list-style-type: none"> A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics <ul style="list-style-type: none"> <u>Defender</u> <ul style="list-style-type: none"> a. charges breakdown b. pleas c. # and % of trials d. caseload/attorney e. support staff ratio f. salaries 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods. Where information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages.
3. Media	<ul style="list-style-type: none"> A. Local Newspaper Articles B. TV programs C. Radio programs 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. } Gathered during the course C. } of or following interviews or observation periods.
4. Reports	<ul style="list-style-type: none"> A. <u>Annual Defender Report</u> - statements and statistics related to competency B. Background information on criminal justice system 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook

GOAL II, OBJECTIVE 1: Competence

Nature of Data	Indicators	Instructions
5. Interviews	Each interview will attempt to ascertain: <div> <div>CRITERIA FOR COMPLIANCE BEING MET</div> <div>OTHER QUESTIONS</div> </div> <ol style="list-style-type: none"> 1. Entry-level orientation/training 2. Continued legal education 3. Personnel policies based on merit and performance 4. Sufficient resources for good defense 5. Expert & support services utilized 6. Support staff assist in casework 7. Case preparation and management reflects competent defense 8. Ability to limit workload 9. Defender responsible for services to his clients 10. Comparable to skilled private attorney 	Interviews should be obtained from: <div> Chief Defender Defenders Defender Staff Private Attorneys Judges Appellate Attorneys Prosecution Personnel Police Personnel Court Personnel </div>
	Additional Data: <u>Defenders and Private Attorneys</u> <ol style="list-style-type: none"> 1. Ask Defenders and private attorneys to describe a typical misdemeanor and felony, how they would be handled (decisions to be made, strategies to select, probable case outcomes). 2. Which are the most important recent procedural statutes in their work and how they learn of new legal developments 	

GOAL II, OBJECTIVE 1: Competence

Nature of Data	Indicators	Instructions
	3. How plea bargaining goes (procedures, outcomes, attitudes of clients and criminal justice personnel)	
6. Observations	<u>Defender</u> a. Dignity of the proceedings (e.g. noise, milling behavior, disturbances, delays) b. Defender courtroom performance (e.g., presentation of issues, apparent confidence, advocacy role, relationship to prosecutor) c. Defender appearance (e.g. dignified manner, choice of words) d. Client information imparted - type and amount of information imparted to client on case, court procedure, rights e. Defender presentation (e.g. confident, knowledgeable, unhurried) f. Discerns strengths and weaknesses of prosecutor's case g. Knowledge of mitigating factors h. "Trade-offs" with other cases.	<u>Defender</u> 1. During first court appearance 2. During preliminary hearing 3. During trial 4. During plea bargaining
7. Records	A. <u>Defender Cases</u> - Review files closely for comprehensive work in: a. general background information on client and family b. investigative reports on circumstances surrounding charge c. witness examinations d. motions, memos of law e. client interviews f. preparation for bond hearings, preliminary hearings g. pleadings h. notes on conferences with client, police, etc.	Ask Defenders to select five recently closed typical cases.

GOAL II, OBJECTIVE 1: Competence

Nature of Data	Indicators	Instructions
	<ul style="list-style-type: none"> i. trial documents, including background of jurors, notes for opening statements, etc. j. contacts related to sentencing, and sentence alternatives k. transcripts (where available) for protecting the record for appeal, closing arguments <p>After review, ask Defender to discuss his/her strategy and approach in these particular cases.</p> <ul style="list-style-type: none"> B. <u>Legal Resources</u> - Review brief bank, law motion bank interchange, memos, library, handbooks on tactics. form motions for appropriateness, recency C. <u>Training Materials</u> for attorneys, investigators - orientation, in-service, continuing education. D. <u>Personnel Criteria</u> - recruitment, selection, promotion, retention, dismissal 	<ul style="list-style-type: none"> B. Review legal resources that attorneys utilize frequently C. Gathered during the course of or following interviews or observation periods. D. Gathered during the course of the management analysis (Handbook IV)
8. Management	<ul style="list-style-type: none"> A. By Objective, review: <ul style="list-style-type: none"> 1. Planning 2. Organization 3. Administration 4. Control OR B. By management operations, review: <ul style="list-style-type: none"> 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources 	<ul style="list-style-type: none"> A. } Gathered during the course of the management analysis (Handbook IV) B. }

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit,
by the Team Member with primary responsibility
for this Objective.

Check (✓) when information is gathered on topic by
any Team Member

Goal II, Objective 1: Representation on behalf of clients should
be competent.

Data Gathered and Reviewed

1. Codes
 - _____ Statutes
 - _____ Jurisdictional Rules
 - _____ Defender Policies and Procedures
2. Statistics
 - _____ Defender Case File Statistical Analysis
 - _____ Court Docket Statistical Analysis
 - _____ Other Statistics
 - _____ Defender
 - _____ charges
 - _____ pleas
 - _____ trials
 - _____ caseload
 - _____ support
 - _____ staff ratio
 - _____ salaries
3. Media
 - _____ Local Newspaper articles
 - _____ TV programs
 - _____ Radio programs
4. Reports
 - _____ Annual Defender Report - statements and statistics related
to competency
 - _____ Background information on criminal justice system
5. Interviews
 - Total Number
 - _____ Chief Defender
 - _____ Defenders
 - _____ Defender Staff
 - _____ Private Attorneys
 - _____ Judges
 - _____ Appellate Attorneys
 - _____ Prosecution Personnel
 - _____ Police Personnel
 - _____ Court Personnel
 - _____ Other
 - _____
 - _____

Goal II, Objective 1

6. Observation

<u>Number</u>	<u>Site</u>
_____	Defender during first court appearance
_____	Defender during preliminary hearing
_____	Defender during trial
_____	Defender during plea bargaining

7. Records

_____ Defender Cases (No. Reviewed _____)

_____ Legal Resources

_____ Training Materials

_____ Personnel Criteria

8. Management

Discuss with Management Analyst

GOAL II
OBJECTIVE 2:

Representation on behalf of clients
should be zealous. (Zeal)

GOAL II
OBJECTIVE 2: Representation on behalf of clients should be zealous. (Zeal)

COMMENTARY

According to the American Bar Association Code of Professional Responsibility, zealous advocacy means "vigorous investigation of every viable line of defense or mitigation and equally vigorous presentation of those defenses or mitigating circumstances which have been chosen to be asserted." This definition implies for all lawyers, but particularly for defenders, a sensitivity to client needs which goes far beyond traditional efforts at case preparation and courtroom advocacy.

Defender clients, unlike more affluent individuals represented by retained counsel, often have significant social and personal problems which may be contributing and/or mitigating factors in the matter for which the defender has been appointed. As a result, it is incumbent upon the defender to deal not only with the specific legal case at hand, but also the repercussions of that case upon the client in his social and cultural setting. The evaluation of zealousness requires an attempt to discover whether the attorney has put forth that extra effort on behalf of the client which rises above legal competence to human involvement. Zealousness for the defender means a deep commitment to the role of counselor as well as that of advocate.

GOAL II
OBJECTIVE 2: Representation on behalf of clients should be zealous. (Zeal)

CRITERIA FOR COMPLIANCE

1. The defender/client relationship should supercede the defender's obligation to the court.
2. Defender performance should encourage client confidence.
3. Non-legal needs/problems of clients are worked with during representation.
4. Client complaints are expeditiously processed and resolved.
5. Diversion alternatives are sought when advantageous to clients.
6. Charging alternatives are sought when advantageous to clients.
7. Sentencing alternatives are sought when advantageous to clients.
8. Vigorous advocacy of legal defenses and options occurs during the trial period.
9. Adverse discretionary decisions are challenged when detrimental to clients.

GOAL II, OBJECTIVE 2: Representation on behalf of clients should be zealous. (Zeal)

Nature of Data	Indicators	Instructions
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender policies and rules	A. Review appropriate Appendix in Team Members Handbook B. Review appropriate Appendix in Team Members Handbook C. Gathered during the course of or following interviews or observation periods.
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics 1. <u>Defender</u> a. # and % diversion referrals b. # and % collateral attacks c. # and % appellate review of bond questions d. # and % civil suits e. # and % extraordinary writs f. # and % Federal court actions g. # and % interlocutory appeals h. # and % writs of habeas corpus in adverse bond decisions i. # and % pleas/trials by charge j. frequency and % time in client contact/case k. % non-English-speaking clients; # interpreters 2. <u>Bar Association</u> a. cases before Bar grievance committee and ethics committee over previous two years	A. Review appropriate Appendix in Team Members Handbook B. Review appropriate Appendix in Team Members Handbook C. 1. Gathered during the course of or following interviews or observation periods. Where information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages. 2.

GOAL II, OBJECTIVE 2: Zeal

Nature of Data	Indicators	Instructions																				
3. Media	A. Local Newspaper articles B. TV Spots, programs C. Radio spots, programs D. Telephone advertisements E. Brochures, posters, cards, audio-visual materials F. Newspaper advertisements	A. Review appropriate Appendix in Team Member Handbook B. } Gathered during the course C. } of or following interviews D. } E. } or observation periods. F. }																				
4. Reports	Annual Defender Reports - statements and statistics related to zeal.	Review appropriate Appendix in Team Member Handbook.																				
5. Interviews	<u>Each interview will attempt to ascertain:</u> <table><tr><th>CRITERIA FOR COMPLIANCE BEING MET</th><th>OTHER QUESTIONS</th></tr><tr><td>1. Client vs. court allegiance</td><td>1. Opinion on Objective</td></tr><tr><td>2. Defenders encourage client confidence</td><td>2. Inclination toward trial</td></tr><tr><td>3. Extra-legal assistance provided</td><td>3. Sensitivity to clients (contacts)</td></tr><tr><td>4. Client complaints resolved</td><td>4. Creative representation</td></tr><tr><td>5. Diversion alternatives sought</td><td>5. Need for change</td></tr><tr><td>6. Charging alternatives sought</td><td>6. Effort for change</td></tr><tr><td>7. Sentencing alternatives sought</td><td>7. Comparison with attorneys</td></tr><tr><td>8. Vigorous advocacy</td><td></td></tr><tr><td>9. Challenge adverse interlocutory decisions</td><td></td></tr></table>	CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS	1. Client vs. court allegiance	1. Opinion on Objective	2. Defenders encourage client confidence	2. Inclination toward trial	3. Extra-legal assistance provided	3. Sensitivity to clients (contacts)	4. Client complaints resolved	4. Creative representation	5. Diversion alternatives sought	5. Need for change	6. Charging alternatives sought	6. Effort for change	7. Sentencing alternatives sought	7. Comparison with attorneys	8. Vigorous advocacy		9. Challenge adverse interlocutory decisions		Interviews should be obtained from: Chief Defender Defenders Defender Staff Private Attorneys Clients Prosecution Personnel Court Personnel Jail Personnel Prison Personnel Community-oriented programs
CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS																					
1. Client vs. court allegiance	1. Opinion on Objective																					
2. Defenders encourage client confidence	2. Inclination toward trial																					
3. Extra-legal assistance provided	3. Sensitivity to clients (contacts)																					
4. Client complaints resolved	4. Creative representation																					
5. Diversion alternatives sought	5. Need for change																					
6. Charging alternatives sought	6. Effort for change																					
7. Sentencing alternatives sought	7. Comparison with attorneys																					
8. Vigorous advocacy																						
9. Challenge adverse interlocutory decisions																						

GOAL II, OBJECTIVE 2: Zeal

Nature of Data	Indicators	Instructions
6. Observations	<u>Defenders</u> a. client sensitivity (e.g. respect for client, ease with client) b. client discussions (e.g. options, non-legal concerns) c. vigorous advocacy (e.g. preparation of challenges to system over adverse discretionary decisions), special techniques for defense d. client's esteem of defender	<u>Defenders</u> 1. During first court appearance 2. During preliminary hearing 3. During trial 4. During plea bargaining
7. Records	A. <u>Defender Cases</u> a. client sensitivity b. vigorous advocacy c. exploration of alternatives B. <u>Defender Mail</u> - abstract most frequent problems and requests C. <u>Jail/Prison Visitor Log or Files</u> - frequency of client contact per month D. <u>Jail/Prison Telephone Log</u> - frequency of client contact per month E. <u>Handbook of Community Programs</u> - Use during interviews with defenders to ascertain knowledge of programs and use of programs for clients	A. Ask Defender to select five recently closed typical cases B. Review previous 3 months of mail from prisoners and other clients C. Review previous month D. Review previous month E. Contact local community agency (e.g. United Way) for any published materials on programs applicable to defender clients.
8. Management	A. By Objective, review: 1. Planning 2. Organization 3. Administration 4. Control <u>OR</u> B. By management operations, review: 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources	A. } Gathered during the course of the management analysis (Handbook IV) B. }

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit, by the Team Member with primary responsibility for this Objective.

Check (✓) when information is gathered on topic by any Team Member.

Goal II, Objective 2: Representation on behalf of clients should be zealous. (Zeal)

Data Gathered and Reviewed

1. Codes

- ___ Statutes
- ___ Jurisdictional Rules
- ___ Defender Policies and Procedures

2. Statistics

- ___ Defender Case File Statistical Analysis
- ___ Court Docket Statistical Analysis
- ___ Other Statistics
 - ___ Defender
 - ___ # and % diversion referrals
 - ___ # and % collateral attacks
 - ___ # and % appellate review of bond questions
 - ___ # and % civil suits
 - ___ # and % extraordinary writs
 - ___ # and % Federal court actions
 - ___ # and % interlocutory appeals
 - ___ # and % writs of habeas corpus in adverse bond decisions
 - ___ # and % pleas/trials by charge
 - ___ frequency and % time in client contact/case
 - ___ % non-English-speaking clients; # interpreters
 - ___ Bar Association
 - ___ cases before Bar grievance committee and ethics committee over previous two years

3. Media

- ___ Local newspaper articles
- ___ TV spots, programs
- ___ Radio spots, programs
- ___ Telephone advertisements
- ___ Brochures, posters, cards, audio-visual materials
- ___ Newspaper advertisements

4. Reports

- ___ Annual Defender Report - statements and statistics related to duration

Goal II, Objective 2

5. Interviews

Total Number

Position

Chief Defender

Defenders

Defender Staff

Private Attorneys

Clients

Prosecution Personnel

Court Personnel

Jail Personnel

Prison Personnel

Police

Community-Oriented Programs

Other

6. Observation

Number

Site

Defenders during first court appearance

Defenders during preliminary hearing

Defenders during trial

Defenders during plea bargaining

7. Records

Defender cases (No. Reviewed)

Jail visitor log or files

Jail telephone log

Handbook of Community Programs

8. Management

Discuss with Management Analyst

GOAL II

OBJECTIVE 3:

Representation on behalf of clients
should remain free from political influence.
(Political Influence)

GOAL II

OBJECTIVE 3: Representation on behalf of clients should remain free from political influence. (Political Influence)

COMMENTARY

Political influence may have a significant bearing on both the quality and quantity of defense services. When funding is inadequate and caseloads are too high, improper investigation and preparation of cases is inevitable. High staff turnover results in an office of inexperienced lawyers, while political considerations in staff selection and tenure may exclude the best lawyers from defender work altogether.

Defenders must rely on public resources for their existence and must be accountable for expenditures. This accountability, however, cannot be allowed to intrude on the attorney-client relationship or on attorney performance in representation. For purposes of evaluation, the relationship between the defender and the funding agency must be closely scrutinized with particular emphasis on funding and personnel policies. If the resources of the defender are less than roughly equivalent to those of the prosecutor, political concerns may be the reason. If defender hiring, tenure or compensation are subject to political confirmation, legal effectiveness may be sacrificed. Political considerations have no place in the attorney-client relationship. If they exist either directly or indirectly, representation is intolerably compromised.

GOAL II

OBJECTIVE 3: Representation on behalf of clients should remain free from political influence. (Political Influence)

CRITERIA FOR COMPLIANCE

1. Recruitment and selection of chief defender is based on merit (i.e. demonstrated legal and administrative ability).
2. Staff recruitment and selection is made independent of political influence/interests.
3. Staff retention and promotion are independent of political influence/interest.
4. Case assignment is not influenced by external political pressures.
5. The attorney/client relationship is terminated only for good cause.
6. Defender office operational decisions are made independent of political considerations.
7. Continuity and stability of defender services are reasonably insulated from political change in the community.

GOAL II, OBJECTIVE 3: Representation on behalf of clients should remain free from political influence. (Political Influence)

Nature of Data	Indicators	Instructions
1. Codes	<ul style="list-style-type: none"> A. Statutes B. Jurisdictional Rules C. Defender policies and procedures 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods.
2. Statistics	<ul style="list-style-type: none"> A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics <ul style="list-style-type: none"> Defender <ul style="list-style-type: none"> a. political affiliation of present and previous Chief Defenders and staff b. # and % of attorneys from out-of-state c. # and % of attorneys registered in Democratic and Republican parties d. # and % of staff removed in previous 3 years, with reasons e. # and % of case shifts between attorneys within office, and reasons f. # of defenders having run for election (of non-Defender positions) g. # Chief Defenders since beginning of office h. Yearly turnover of staff defenders, over 3 year period i. present positions of defenders leaving j. previous positions of defenders hired within previous 3 years k. relevant political positions of relatives of defenders l. subsequent positions of defenders 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. The information requested should be gathered during the course of or following interviews or observation periods. Where precise information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages.
3. Media	<ul style="list-style-type: none"> A. Local Newspaper Articles 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook

GOAL II, OBJECTIVE 3: Political Influence

Nature of Data	Indicators	Instructions																		
	B. TV spots, programs C. Radio spots, programs	B. } Gathered during the course C. } of or following interviews or observation periods																		
4. Reports	A. <u>Annual Defender Reports</u> - statements and statistics relating to political influence B. Review background information on political climate C. Review background information on Advisory Board	A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Review appropriate Appendix in Team Member Handbook																		
5. Interviews	Each interview will attempt to ascertain: <table><tr><th>CRITERIA FOR COMPLIANCE BEING MET</th><th>OTHER QUESTIONS</th></tr><tr><td>1. Personnel policies indepen- dent of politics (recruit- ment, selection, tenure)</td><td>1. Opinion on Objective</td></tr><tr><td>2. Case assignment independent of politics</td><td>2. Political climate of community</td></tr><tr><td>3. Representation terminated for good cause only</td><td>3. Involvement in politics</td></tr><tr><td>4. Office operations indepen- dent of politics</td><td>4. Buffers against political influence</td></tr><tr><td>5. Defender services unaffected by political change</td><td>5. Role of advi- sory board</td></tr><tr><td></td><td>6. Need for change</td></tr><tr><td></td><td>7. Efforts toward change</td></tr><tr><td></td><td>8. Comparison with private attorneys</td></tr></table>	CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS	1. Personnel policies indepen- dent of politics (recruit- ment, selection, tenure)	1. Opinion on Objective	2. Case assignment independent of politics	2. Political climate of community	3. Representation terminated for good cause only	3. Involvement in politics	4. Office operations indepen- dent of politics	4. Buffers against political influence	5. Defender services unaffected by political change	5. Role of advi- sory board		6. Need for change		7. Efforts toward change		8. Comparison with private attorneys	Interviews should be obtained from: Chief Defender Defenders Defender Staff Former Defenders Defender Board Judges Bar Leadership Prosecution Personnel Community Organizations/Agencies Criminal Justice Planners Funding Agency
CRITERIA FOR COMPLIANCE BEING MET	OTHER QUESTIONS																			
1. Personnel policies indepen- dent of politics (recruit- ment, selection, tenure)	1. Opinion on Objective																			
2. Case assignment independent of politics	2. Political climate of community																			
3. Representation terminated for good cause only	3. Involvement in politics																			
4. Office operations indepen- dent of politics	4. Buffers against political influence																			
5. Defender services unaffected by political change	5. Role of advi- sory board																			
	6. Need for change																			
	7. Efforts toward change																			
	8. Comparison with private attorneys																			

GOAL II, OBJECTIVE 3: Political Influence

<u>Nature of Data</u>	<u>Indicators</u>	<u>Instructions</u>
6. Observations	None required	None required.
7. Records	A. <u>Chief Defender's Daily Calendar</u> - frequency of meetings with or addresses to political figures/groups B. <u>Defender's Daily Calendar</u> - frequency of meetings with or addresses to political figures/groups	A. } B. } Gathered following inter- views or observation periods
8. Management	A. By Objective, review: 1. Planning 2. Organization 3. Administration 4. Control OR B. By management operations, review: 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources	A. } B. } Gathered during the course of the management analysis (Handbook IV)

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout the on-site visit, by the Team Member with primary responsibility for this Objective
Check (✓) when information is gathered on topic by any Team Member.

Goal II, Objective 3: Representation on behalf of clients should remain free from political influence.
(Political Influence)

Data Gathered and Reviewed

1. Codes

- _____ Statutes
- _____ Jurisdictional Rules
- _____ Defender Policies and Procedures

2. Statistics

- _____ Defender Case File Statistical Analysis
- _____ Court Docket Statistical Analysis
- _____ Other Statistics
 - _____ Defender
 - _____ political affiliation of present and previous Chief Defenders and Staff
 - _____ # and % of attorneys registered in Democratic and Republican parties
 - _____ # and % of staff removed in previous 3 years, with reasons
 - _____ # and % of case shifts between attorneys within office, and reasons
 - _____ # of defenders having run for election (of non-Defender positions)
 - _____ # Chief Defenders since beginning of office
 - _____ yearly turnover of staff defenders, over 3 year period
 - _____ present positions of defenders leaving
 - _____ previous positions of defenders hired within previous 3 years
 - _____ relevant political positions of relatives of defenders
 - _____ subsequent positions of defenders

3. Media

- _____ Local newspaper articles
- _____ TV spots, programs
- _____ Radio spots, programs

4. Reports

- _____ Annual Defender Reports - statements and statistics relating to political influence
- _____ Review background information on political climate
- _____ Review background information on Advisory Board

Goal II, Objective 3

5. Interviews

Total Number

Position

Chief Defender
Defenders
Defender Staff
Former Defenders
Defender Board
Judges
Bar Leadership
Prosecution Personnel
Community Organizations/Agencies
Criminal Justice Planners
Funding Agency
Other

6. Observation

None Required

7. Records

____ Chief Defender's Daily Calendar
____ Meetings with or addresses to political figures/groups
____ Defender's Daily Calendar
____ Meetings with or addresses to political figures/groups

8. Management

Discuss with Management Analyst

GOAL II
OBJECTIVE 4:

Representation on behalf of clients should
remain free from improper judicial control
(Judicial Control)

GOAL II
OBJECTIVE 4: Representation on behalf of clients should remain free from improper judicial control (Judicial Control)

COMMENTARY

Judicial control over defense services is most likely to occur in three areas: a) defender funding; b) selection and tenure of defender personnel; and most importantly, c) case handling in the courts. Earlier commentary with regard to political influence over defenders dealt with funding and personnel policies. In those areas the distinction between political and judicial control may be more semantic than real.

In the courtroom, however, the reality becomes apparent to all concerned, particularly the defender client. National standards on defense services are unanimous in recommending that defender counsel be subject to no greater judicial control than private attorneys in criminal cases. Criminal defense lawyers are, in many ways, the "policemen" of the criminal justice system, since it is their responsibility to call into question the professional activities of all the other components of the system including the judge. An inherent and often apparent conflict of interest exists when judges exercises any more control over defenders than over the private bar. To quote Judge Bazelon, "Prosecutors are independent. Privately retained defense are independent. Is there any valid argument for diminishing the independence of counsel for indigent accused? The appointment of counsel by judges tends to dilute the independence of the defender and to produce an invidious double standard of justice which demeans our system."

GOAL II
OBJECTIVE 4: Representation on behalf of clients should remain free from improper judicial control (Judicial Control)

CRITERIA FOR COMPLIANCE

1. Recruitment and selection of the chief defender is based on merit (i.e. demonstrated legal and administrative ability).
2. Staff recruitment and selection is made independent of judicial influence/interests.
3. Staff retention and promotion are independent of judicial influence/interests.
4. Case assignment is not subject to judicial control.
5. The attorney/client relationship is terminated only for good cause.
6. Defender office operational decisions are made independent of judicial control.
7. Continuity and stability of defender services are reasonably insulated from judicial change in the community.

GOAL II, OBJECTIVE 4: Representation on behalf of clients should remain free from improper judicial control. (Judicial Control)

Nature of Data	Indicators	Instructions
1. Codes	<ul style="list-style-type: none"> A. Statutes B. Jurisdictional Rules C. Defender policies and procedures 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods
2. Statistics	<ul style="list-style-type: none"> A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics <ul style="list-style-type: none"> <u>Defender</u> <ul style="list-style-type: none"> a. # times over previous year held in contempt of court, and reasons; # times threatened with contempt b. # and % of staff removed in previous 3 years, with reasons c. # and % of case shifts between attorneys within office, and reasons d. present positions of defenders leaving office within previous 3 years e. relevant positions of relatives and former associates of defenders 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. The information requested should be gathered during the course of or following interviews or observation periods. Where precise information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages.
3. Media	<ul style="list-style-type: none"> A. Local Newspaper Articles B. TV spots, programs C. Radio spots, programs 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. } Gathered during the course of C. } or following observation periods
4. Reports	<ul style="list-style-type: none"> A. <u>Annual Defender Reports</u> statements and statistics relating to judicial control 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook

GOAL II, OBJECTIVE 4: Judicial Control

Nature of Data	Indicators	Instructions
	B. Background information on judicial climate	B. Review appropriate Appendix in Team Member Handbook
	C. Background information on Advisory Board	C. Review appropriate Appendix in Team Member Handbook
5. Interviews	Each interview will attempt to ascertain: <div> <div>CRITERIA FOR COMPLIANCE BEING MET</div> <div>OTHER QUESTIONS</div> </div> <div> 1. Personnel policies independent of judicial influence 2. Case assignment not subject to judicial control 3. Representation terminated for good cause only 4. Office operations independent of judicial control 5. Defender services unaffected by judicial change </div> <div> 1. Opinion on Objective 2. Criminal justice climate of community 3. Involvement in judicial arena 4. Buffers against judicial influence 5. Role of advisory board 6. Need for change 7. Efforts toward change 8. Comparison with private attorneys </div>	Interviews should be obtained from: Chief Defender Defenders Defender Staff Defender Board Judges Bar Leadership Appellate Attorneys Prosecution Personnel Probation Personnel Criminal Justice Planners
6. Observations	None required.	None required.
7. Records	A. <u>Chief Defender's Daily Calendar</u> - meetings with or addresses to judicial groups B. <u>Defender's Daily Calendars</u> - meetings with or addresses to judicial groups	A. } B. } Gathered following interviews or observation periods

GOAL II, OBJECTIVE 4: Judicial Control

Nature of Data	Indicators	Instructions
8. Management	<p>A. By Objective, review:</p> <ol style="list-style-type: none">1. Planning2. Organization3. Administration4. Control <p>OR</p> <p>B. By management operations, review:</p> <ol style="list-style-type: none">1. Case Flow Management2. Public Relations3. Personnel4. Training5. Resources	<p>A. } B. }</p> <p>Gathered during the course of the management analysis (Handbook IV)</p>

CONTINUED

4 OF 6

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout the on-site visit, by the Team Member with primary responsibility for the Objective.
Check (✓) when information is gathered on topic by any Team Member.

Goal II, Objective 4: Representation on behalf of clients should remain free from improper judicial control.
(Judicial Control.)

Data Gathered and Reviewed

1. Codes

- ☐ Statutes
- ☐ Jurisdictional Rules
- ☐ Defender Policies and Procedures

2. Statistics

- ☐ Defender Case File Statistical Analysis
- ☐ Court Docket Statistical Analysis
- ☐ Other Statistics
 - ☐ Defender
 - ☐ # times over previous year held in contempt of court, and reasons; # times threatened with contempt
 - ☐ # and % of staff removed in previous 3 years, with reasons
 - ☐ # and % of case shifts between attorneys within office, and reasons
 - ☐ present positions of defenders leaving office within previous 3 years
 - ☐ relevant positions of relatives and former associates of defenders

3. Media

- ☐ Local newspaper articles
- ☐ TV spots, programs
- ☐ Radio spots, programs

4. Reports

- ☐ Annual Defender Reports - statements and statistics relating to judicial control
- ☐ Background information on judicial climate
- ☐ Background information on Advisory Board

Goal II, Objective 4:

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Defender Board
_____	Judges
_____	Bar Leadership
_____	Appellate Attorneys
_____	Prosecution Personnel
_____	Criminal Justice Planners
_____	<u>Other</u>
_____	_____
_____	_____

6. Observation

None Required

7. Records

_____ Chief Defender's Daily Calendar
_____ Meetings with or addresses to judicial groups
_____ Defender's Daily Calendar
_____ Meetings with or addresses to judicial groups

8. Management

Discuss with Management Analyst

GOAL II
OBJECTIVE 5:

Representation should not be affected by
racial, cultural, religious or sexual
characteristics of clients. (Discrimination)

GOAL II

OBJECTIVE 5: Representation should not be affected by racial, cultural, religious or sexual characteristics of clients. (Discrimination)

COMMENTARY

One of the most fundamental precepts under which all lawyers are required to function, according to the American Bar Association Code of Professional Responsibility, is that the lawyer is an advocate for his client's interests. Even though the client himself, the crime with which he is charged, and the law applicable to the case may be personally distasteful, the lawyer must maintain professional detachment from such considerations and advance the client's interests without regard to the lawyer's personal feelings.

Because of the sensitive nature of the areas with which this Objective is concerned, measurement of discrimination within the defender office is most difficult. The overall climate of the local jurisdiction is crucial. Prevailing attitudes in the community, particularly in the criminal justice system, may militate in favor of the defender's retaining a low profile on issues of discrimination where the interests of a particular client are at stake. But careful selection and close supervision of defender personnel can minimize prejudicial defender performance and set an example for the community as a whole. The defender is often expected to be the "conscience of the community." This Objective legitimizes that assumption.

GOAL II

OBJECTIVE 5: Representation should not be affected by racial, cultural, religious or sexual characteristics of clients. (Discrimination)

CRITERIA FOR COMPLIANCE

1. Representation is not affected by racial characteristics of clients.
2. Representation is not affected by cultural characteristics of clients.
3. Representation is not affected by religious characteristics of clients.
4. Representation is not affected by sexual characteristics of clients.

Goal II, OBJECTIVE 5: Representation should not be affected by racial, cultural, religious, or sexual characteristics of clients. (Discrimination)

Nature of Data	Indicators	Instructions												
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender Policies and procedures	A. Review appropriate Appendix B. in Team Member Handbook C. Gathered during the course of or following interviews or observation periods												
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis	A. Review appropriate Appendix B. in Team Member Handbook												
3. Media	A. Local Newspaper Articles B. TV spots, programs -- editorials or programs concerning racism, sexism, cultural bias, religious discrimination or class differences in the CJ system C. Radio spots, programs -- editorials or programs concerning racism, sexism, cultural bias, religious discrimination or class differences in the CJ system	A. Review appropriate Appendix in Team Member Handbook B. Consult local TV station about programs over past year C. Consult local radio station about programs over past year												
4. Reports	<u>Annual Defender Reports</u> - statements and statistics related to discrimination	Review appropriate Appendix in Team Member Handbook												
5. Interviews	Each interview will attempt to ascertain: <table><tr><th>CRITERIA FOR COMPLIANCE</th><th>OTHER QUESTIONS</th></tr><tr><td>Representation is not affected by:</td><td>1. Discrimination in community</td></tr><tr><td>-racial characteristics of clients</td><td>2. Discrimination in CJ system</td></tr><tr><td>-cultural characteristics of clients</td><td>3. Effort needed for change</td></tr><tr><td>-religious characteristics of clients</td><td>4. Effort toward change</td></tr><tr><td>-sexual characteristics of clients</td><td>5. Explanation of statistical studies</td></tr></table>	CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	Representation is not affected by:	1. Discrimination in community	-racial characteristics of clients	2. Discrimination in CJ system	-cultural characteristics of clients	3. Effort needed for change	-religious characteristics of clients	4. Effort toward change	-sexual characteristics of clients	5. Explanation of statistical studies	Interviews should be obtained from: Chief Defender Defenders Defender Staff Former Defenders Clients Community Organizations/Agencies Community Oriented Programs Bar Leadership
CRITERIA FOR COMPLIANCE	OTHER QUESTIONS													
Representation is not affected by:	1. Discrimination in community													
-racial characteristics of clients	2. Discrimination in CJ system													
-cultural characteristics of clients	3. Effort needed for change													
-religious characteristics of clients	4. Effort toward change													
-sexual characteristics of clients	5. Explanation of statistical studies													

Goal II, Objective 5: Discrimination

Nature of Data	Indicators	Instructions
6. Observations	1. Defender 2. Court 3. Police 4. Private Attorneys 5. Corrections 6. Probation 7. Parole	Observations made in the course of evaluating other Objectives will ascertain racism, sexism, ethnocentrism, religious and class discrimination
7. Records	None required	None required
8. Management	A. By Objective, review: 1. Planning 2. Organization 3. Administration 4. Control <u>OR</u> B. By management operations, review: 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources	A. } B. } Gathered during the course of the management analysis (Handbook IV)

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout on-site visit,
by the Team Member with primary responsibility
for this Objective.
Check (✓) when information is gathered on topic
by any Team Member.

Goal II, Objective 5: Representation should not be affected by
racial, cultural, religious, or sexual
characteristics of clients. (Discrimination)

Data Gathered and Reviewed

1. Codes

____ Statutes
____ Jurisdictional Rules
____ Defender Policies and Procedures

2. Statistics

____ Defender Case File Statistical Analysis
____ Court Docket Statistical Analysis

3. Media

____ Local newspaper articles
____ TV spots, programs
____ Radio spots, programs

4. Reports

____ Annual Defender Report - statements and statistics
related to availability

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Former Defenders
_____	Clients
_____	Community Organizations/Agencies
_____	Community Oriented Programs
_____	Bar Leadership

6. Observations

<u>Number</u>	<u>Site</u>
_____	Defender
_____	Court
_____	Police
_____	Private Attorneys
_____	Corrections
_____	Probation
_____	Parole

Goal II, Objective 5:

7. Records

None Required

8. Management

Discuss with Management Analyst

GOAL III
OBJECTIVE 1:

Defenders should contribute to the
knowledge of the community about the
adversary process and the role of counsel.
(Community Education)

GOAL III

OBJECTIVE 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel. (Community Education)

COMMENTARY

The role of the defender in the community is often misunderstood. As the National Advisory Commission has commented: "The public defender's dilemma is that the more he fulfills his duty to represent the indigent - usually unpopular - accused with the maximum possible zeal, vigor and professional skill, the more public irritation (and even wrath) he may engender, and the greater the danger that pressure may mount to curb his effectiveness." While recognizing that the effective representation of clients is the paramount goal, the defender must establish a reputation for integrity and concern for the community as a whole, not just that segment with which s/he is regularly associated by virtue of duty to clients. The NLADA standards state that if the defender will approach the community, not as an apologist for his/her performance of an unpopular function, but as an interpreter and re-interpreter of a free society's own mandate concerning its constitutional guarantees s/he will not only "give strength to the foundations and structure of his own office, but will do much to enhance that of the judicial process as a whole."

GOAL III

OBJECTIVE 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel. (Community Education)

CRITERIA FOR COMPLIANCE

1. Defender staff participate in activities which contribute to community awareness of the workings of the legal system.
2. Information which increases community awareness is disseminated by the defender office.
3. Defender information intended for community use is in the appropriate language and style.
4. Defender office is responsive to requests from community groups.
5. Defender office maintains relations with social service organizations to promote mutual understanding.

GOAL III, OBJECTIVE 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel. (Community Relations)

Nature of Data	Indicators	Instructions												
1. Codes	A. Statutes B. Jurisdictional Rules C. Defender policies and procedures	A. Review appropriate Appendix B. in Team Member Handbook C. Gathered during the course of or following interviews or observations												
2. Statistics	A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics - Defender # defenders giving talks to community groups	A. Review appropriate Appendix B. in Team Member Handbook C. Review Management Analyst Data												
3. Media	A. Local Newspaper Articles B. TV spots, programs C. Radio spots, programs D. Telephone advertisements E. Brochures, posters, cards, audio-visual materials F. Newspaper advertisements	A. Review appropriate Appendix in Team Member Handbook B. } C. } D. } Gathered during the course E. } of or following interviews F. } or observations												
4. Reports	Annual Defender Reports - statements and statistics relating to defender participation in community education	Review appropriate Appendix in Team Member Handbook												
5. Interviews	Each interview will attempt to ascertain: <table><tr><th>CRITERIA FOR COMPLIANCE</th><th>OTHER QUESTIONS</th></tr><tr><td>1. Defenders contribute to community awareness</td><td>1. Opinion on Objective</td></tr><tr><td>2. Disseminate information to community</td><td>2. Visibility of Defender</td></tr><tr><td>3. Information in appropriate language/style</td><td>3. Impact</td></tr><tr><td>4. Responsive to community requests</td><td>4. Need for change</td></tr><tr><td>5. Liaison with social service organizations</td><td>5. Effort toward change</td></tr></table>	CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	1. Defenders contribute to community awareness	1. Opinion on Objective	2. Disseminate information to community	2. Visibility of Defender	3. Information in appropriate language/style	3. Impact	4. Responsive to community requests	4. Need for change	5. Liaison with social service organizations	5. Effort toward change	Interviews should be obtained from: Chief Defender Defenders Defender Staff Defender Board Community Organizations/Agencies Community-Oriented Programs
CRITERIA FOR COMPLIANCE	OTHER QUESTIONS													
1. Defenders contribute to community awareness	1. Opinion on Objective													
2. Disseminate information to community	2. Visibility of Defender													
3. Information in appropriate language/style	3. Impact													
4. Responsive to community requests	4. Need for change													
5. Liaison with social service organizations	5. Effort toward change													

GOAL III, OBJECTIVE 1: Community Relations

Nature of Data	Indicators	Instructions
6. Observations	None required	None required
7. Records	<p>A. <u>Defender's Daily Calendar</u></p> <ul style="list-style-type: none"> - Number of speaking engagements for community groups - % speaking engagements for different groups 	A. Review calendar for one year period
8. Management	<p>A. By Objective, review:</p> <ol style="list-style-type: none"> 1. Planning 2. Organization 3. Administration 4. Control <p>OR</p> <p>B. By management operations, review:</p> <ol style="list-style-type: none"> 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources 	<p>A. } B. }</p> <p>Gathered during the course of the management analysis (Handbook IV)</p>

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout the on-site visit by the Team Member with primary responsibility for this Objective. Check (✓) when information is gathered on topic by any Team Member.

Goal III, Objective 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel. (Community Education)

Data Gathered and Reviewed

1. Codes

- _____ Statutes
- _____ Jurisdictional Rules
- _____ Defender Policies and Procedures

2. Statistics

- _____ Defender Case File Statistical Analysis
- _____ Court Docket Statistical Analysis
- _____ Other Statistics
- _____ Defender
- _____ # defenders giving talks to community groups

3. Media

- _____ Local newspaper articles
- _____ TV spots, programs
- _____ Radio spots, programs
- _____ Telephone advertisements
- _____ Brochures, posters, cards, audio-visual materials
- _____ Newspaper advertisements

4. Reports

- _____ Annual Defender Reports - statements and statistics relating to defender participation in community education

5. Interviews

<u>Total Number</u>	<u>Position</u>
_____	Chief Defender
_____	Defenders
_____	Defender Staff
_____	Defender Board
_____	Community Organizations/Agencies
_____	Community-Oriented Programs
_____	<u>Other</u>
_____	_____
_____	_____

6. Observation

None Required

Goal III, Objective 1

7. Records

_____ Defender's Daily Calendar

8. Management

Discuss with Management Analyst

GOAL III
OBJECTIVE 2:

Defenders should seek to improve the criminal
justice system and other components therein.
(System Improvement)

GOAL III

OBJECTIVE 2: Defenders should seek to improve the criminal justice system and other components therein.
(System Improvement)

COMMENTARY

The basic foundation of our society in general, and the criminal justice system in particular, rests upon the rule of law. The underlying assumption is that if each of the components of the criminal justice system understands and acts according to its well-defined role, this "due process" will result in fairness and justice. In a few states this assumption is embodied in statute: that the public defender "shall consult and cooperate with professional bodies and groups with respect to the causes of criminal conduct, the development of effective means of reducing and discouraging the commission of crime, the rehabilitation and correction of persons charged and convicted of crime, and the administration of criminal justice and the conduct of the office of the public defender." [Maryland Annotated Code, Article 27A, Section 5 (g) (Supp. 1975)]

The defender has an obligation in both the courtroom and the community to see that each role in the criminal justice system is appropriately performed. Mutual participation by all components of the criminal justice system in training programs and community criminal justice efforts can make a significant contribution to the improvement of the quality of justice in the community as a whole.

GOAL III

OBJECTIVE 2: Defenders should seek to improve the criminal justice system and other components therein.
(System Improvement)

CRITERIA FOR COMPLIANCE

1. Defenders are aware of the performance of criminal justice system components in discharging their duties properly.
2. Defenders undertake activities which promote the proper performance of their own role in the criminal justice system.
3. Defenders undertake activities which promote the proper performance of other participants in the criminal justice system.
4. Defenders undertake activities which promote proper institutional performance.
5. Defenders participate in professional programs/associations/committees with other representatives of the criminal justice system.

GOAL III, OBJECTIVE 2: Defenders should seek to improve the criminal justice system and other components therein. (System Improvement)

Nature of Data	Indicators	Instructions
1. Codes	<ul style="list-style-type: none"> A. Statutes B. Jurisdictional Rules C. Defender policies and procedures 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gathered during the course of or following interviews or observation periods
2. Statistics	<ul style="list-style-type: none"> A. Defender Case File Statistical Analysis B. Court Docket Statistical Analysis C. Other Statistics - Defender <ul style="list-style-type: none"> a. # and type of grants applied for b. # and nature of suits filed against court, police, corrections, etc. c. # participants in state and local Bar committees; nature of committees; other members d. # teaching or having taught or participated in criminal justice or law reform programs; nature of program and material; length of service e. # teaching or having taught in educational programs for students or criminal justice professionals; nature of program and material; length of service f. # participants in training programs, seminars to improve defender skills, role g. # bills supported through testimony; nature of bill h. # members of legislative committees; professional committees, advisory boards, trustees; other memberships 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. The information requested should be gathered during the course of or following interviews or observation periods. Where precise information is inaccessible, unavailable, or absent, ask interviewees for their estimation of numbers and percentages.

GOAL III, OBJECTIVE 2: System Improvement

<u>Nature of Data</u>	<u>Indicators</u>	<u>Instructions</u>
	<ul style="list-style-type: none"> i. # articles for professional journals in previous year j. # law students, volunteers, paraprofessionals receiving training presently and over previous year k. # defenders giving testimony in legislative hearings 	
3. Media	Local Newspaper Articles	Review appropriate Appendix in Team Member Handbook
4. Reports	<ul style="list-style-type: none"> A. <u>Annual Defender Reports</u> - statements and statistics indicating formal or informal defender office liaison with other members of criminal justice system B. Background information on Criminal Justice Community C. <u>Annual Bar Report</u> - <ul style="list-style-type: none"> 1. Statements of member and office activities indicating formal or informal liaison with other members of criminal justice system 2. Note standing committees and membership lists which include defenders D. <u>Annual Court Report</u> - <ul style="list-style-type: none"> 1. Statements of member and office activities indicating formal and informal liaison with other members of criminal justice system 2. Major issues and problems 3. Recent changes E. <u>Annual Corrections Reports</u> - <ul style="list-style-type: none"> 1. Statements of member and office activities indicating formal and informal liaison with other members of criminal justice system 2. Major issues and problems 3. Recent changes 	<ul style="list-style-type: none"> A. Review appropriate Appendix in Team Member Handbook B. Review appropriate Appendix in Team Member Handbook C. Gather and review recent Annual Report following Interview. D. Gather and review recent Annual Report following Interview. E. Gather and review recent Annual Report following Interview.

GOAL III, OBJECTIVE 2: System Improvement

Nature of Data	Indicators	Instructions												
	<p>F. <u>Annual Police Report</u></p> <ol style="list-style-type: none">1. Statements of member and office activities indicating formal and informal liaison with other members of criminal justice system2. Major issues and problems3. Recent changes	<p>F. Gather and review recent Annual Report following Interview</p>												
5. Interviews	<p>Each interview will attempt to ascertain:</p> <table><thead><tr><th><u>CRITERIA FOR COMPLIANCE</u></th><th><u>OTHER QUESTIONS</u></th></tr></thead><tbody><tr><td>1. Awareness of proper criminal justice system personnel</td><td>1. Opinion on Objective</td></tr><tr><td>2. Activities to promote proper defender role</td><td>2. Cooperation with other agencies</td></tr><tr><td>3. Activities to promote proper CJ roles</td><td>3. Liaison with other agencies</td></tr><tr><td>4. Activities to promote proper institutional performance</td><td>4. Need for change</td></tr><tr><td>5. Participation in pre-professional programs/associations with other components</td><td>5. Efforts toward change</td></tr></tbody></table>	<u>CRITERIA FOR COMPLIANCE</u>	<u>OTHER QUESTIONS</u>	1. Awareness of proper criminal justice system personnel	1. Opinion on Objective	2. Activities to promote proper defender role	2. Cooperation with other agencies	3. Activities to promote proper CJ roles	3. Liaison with other agencies	4. Activities to promote proper institutional performance	4. Need for change	5. Participation in pre-professional programs/associations with other components	5. Efforts toward change	<p>Interviews should be obtained from:</p> <p>Chief Defender Defenders Defender Staff Bar Leadership Criminal Justice Planners Jail Personnel Probation Personnel Police Personnel Funding Agency</p>
<u>CRITERIA FOR COMPLIANCE</u>	<u>OTHER QUESTIONS</u>													
1. Awareness of proper criminal justice system personnel	1. Opinion on Objective													
2. Activities to promote proper defender role	2. Cooperation with other agencies													
3. Activities to promote proper CJ roles	3. Liaison with other agencies													
4. Activities to promote proper institutional performance	4. Need for change													
5. Participation in pre-professional programs/associations with other components	5. Efforts toward change													
6. Observations	None required	None required												
7. Records	<p>Review materials on:</p> <p>A. Clinical law school programs B. Voluntary Community Programs C. Paraprofessional Program</p> <p>Review for nature of program, and relevance of program for individual and office</p>	<p>A. } Gathered during the B. } course of or following C. } interviews or observations</p>												

GOAL III, OBJECTIVE 2: System Improvement

Nature of Data	Indicators	Instructions
8. Management	<p>A. By Objective, review:</p> <ol style="list-style-type: none"> 1. Planning 2. Organization 3. Administration 4. Control <p style="text-align: center;">OR</p> <p>B. By management operations, review:</p> <ol style="list-style-type: none"> 1. Case Flow Management 2. Public Relations 3. Personnel 4. Training 5. Resources 	<p>A. } B. }</p> <p>Gathered during the course of the manage- ment analysis (Handbook IV)</p>

OBJECTIVE CHECKLIST

Instructions: To be used cumulatively, throughout the on-site visit, by the Team Member with primary responsibility for this Objective
Check (✓) when information is gathered on topic by any Team Member

Goal III, Objective 2: Defenders should seek to improve the criminal justice system and other components therein.
(System Improvement)

Data Gathered and Reviewed

1. Codes

- _____ Statutes
- _____ Jurisdictional Rules
- _____ Defender Policies and Procedures

2. Statistics

- _____ Defender Case File Statistical Analysis
- _____ Court Docket Statistical Analysis
- _____ Other Statistics
 - _____ Defender
 - _____ # and type of grants applied for
 - _____ # and nature of suits filed against court, police, corrections, etc.
 - _____ # participants in state and local Bar committees; nature of committees; other members
 - _____ # teaching or having taught or participated in criminal justice or law reform programs; nature of program and material; length of service
 - _____ # teaching or having taught in educational programs for students or criminal justice professionals; nature of program and material; length of service
 - _____ # participants in training programs, seminars to improve defender skills, role
 - _____ # bills supported through testimony; nature of bill
 - _____ # members of legislative committees; professional committees, advisory boards, trustees; other memberships
 - _____ # articles for professional journals in previous year
 - _____ # law students, volunteers, paraprofessionals receiving training presently and over previous year
 - _____ # defenders giving testimony in legislative hearings

3. Media

- _____ Local newspaper articles

Goal III, Objective 2

4. Reports

- _____ Annual Defender Reports
- _____ Background information on Criminal Justice Community
- _____ Annual Bar Report
- _____ Annual Court Report
- _____ Annual Corrections Report
- _____ Annual Police Report

5. Interviews

- | Number | Primary |
|--------|---------------------------|
| _____ | Chief Defender |
| _____ | Defenders |
| _____ | Defender Staff |
| _____ | Bar Leadership |
| _____ | Criminal Justice Planners |
| _____ | Jail Personnel |
| _____ | Probation Personnel |
| _____ | Police Personnel |
| _____ | Funding Agency |
| _____ | Other |
| _____ | _____ |
| _____ | _____ |

6. Observation

None Required

7. Records

- _____ Clinical law school programs
- _____ Voluntary community programs
- _____ Paraprofessional program

8. Management

Discuss with Management Analyst

WRITING THE FINAL REPORT

Logistics

Following the closing interview with the Defender, each Team Member is expected to remain on-site for an additional day. It is at this time that the team:

1. Rates the Defender Office on its compliance with Criteria and Objectives;
2. Reaches consensus on team conclusions;
3. Decides on the supporting documentation to substantiate conclusions; and,
4. Establishes recommendations and priorities for Office improvement.

Each Team Member will be responsible for leading a final discussion which focuses on his/her area of responsibility and which weaves together all materials gathered during the course of the week. This session should take one-half day. During the second part of the day, each Team Member should outline a draft of his/her Final Report and leave one copy with the Team Captain (for security reasons) before departing the site.

The Management Analyst will take primary responsibility for writing one section of the draft Final Report which will be coordinated with the reports to be written by other Team Members. It is important that the Team Captain not dismiss the group until s/he feels that the outlines submitted are in a format which each Team Member can easily work with once s/he leaves the site.

A preliminary draft of each Team Member's Final Report should be sent to the Team Captain for editing purposes within two weeks of the on-site visit. A final draft will then be mailed to each Team Member for concurrence, and to check for accuracy of content and intent. Team Members will be allowed one week to forward comments to the Team Captain for synthesis and correction of the draft report. If disagreements occur and cannot be resolved to the satisfaction of a Team Member, s/he will be given five (double-spaced) pages in an Appendix to the Final Report in which to cite his/her concerns and position. The Team Captain then mails a draft Final Report to the Defender, for comment on the accuracy of information in the report. If the Defender disagrees with conclusions and recommendations reached by the evaluation team, s/he will be given five (double-spaced) pages in an Appendix to the Final Report in which to cite his/her concerns and position.

The Final Report will be sent to the Defender Office and to the Requesting Agency, if two separate parties exist, or any other group authorized by the Requesting Agency to receive it. It cannot be overemphasized that the Final Report is confidential. Distribution and public dissemination is left solely to the discretion of the Defender and/or Requesting Agency.

Pointers for Writing the Final Report

The format for the Final Report of the evaluation of any Defender Office has been structured so that the conclusions reached by the evaluation team, and the supporting documentation required, are presented in a concise manner.

The purpose of the suggested outline is to assure complete coverage of the site in the Final Report, while allowing the evaluation team the flexibility needed to present its findings in a manner appropriate to the particular situation.

The following points should be understood prior to writing the Final Report:

1. All areas outlined in the report format should be discussed. If an item is not applicable to the particular site being evaluated, that fact should be noted and a brief explanation given.
2. Before writing his/her section of the Final Report, each Team Member should review all of the data (e.g. interview, observation, statistical, management, background) which bear upon the topic.
3. Each Objective should be discussed fully in the report and, if extricated from the body of the report, be able to stand by itself.
4. Sections III, IV and V of the Final Report are the "heart" of the Report. The perspective should be evaluative, not merely descriptive with primary emphasis on evaluating performance on Criteria for Compliance and Objectives.
5. The Criteria for Compliance need not be addressed one-by-one, but can be interwoven in descriptive fashion when discussing an Objective.
6. Before writing the Final Report, Team Members may want to review ABA, NAC, and NLADA proposed standards for Defender Offices for national directions and trends (Handbook I). Although all of the sets of standards have been considered in the preparation of this evaluation design, it may be instructive for the evaluation to review these for him/herself.

7. All conclusions reached should be preceded or followed by supporting documentation. Recommendations should be based upon the supporting documentation presented.
8. Recommendations for change should not be made for their own sake or because Team Members want to impose their own "system" on the office being evaluated. Offices which are in compliance with the proposed Criteria for Compliance Objectives and Goals should not be criticized unnecessarily.
9. An evaluation is an assessment of strengths and weaknesses. A well-rounded picture of the Defender Office should emerge in the Final Report.
10. The processes of interpretation and evaluation always involve delicate judgments of varying and often conflicting information and viewpoints. A situation which is not clearcut should be presented with its many facets.
11. When an opinion is used for illustrative purposes, it should be obvious whether it is an opinion of one or more individuals. For example, the reader should be able to distinguish by writing style whether "the Defender Office has excellent community relations" is the opinion of one interviewee or the consensus of the entire evaluation team after several interviews.
12. The reader of the final report should be able to distinguish fact, interviewee opinion, and team conclusions by the report's writing style.
13. Try to present facts that speak for themselves.
14. Statistics, charts and figures presented in the body of the report should be fully explained and used only when they can make a point, not merely as filler.
15. Appendices should be used for dissenting Team Member opinions and any critique of the evaluation and its conclusions which the Defender Office may choose to submit.

The Report is being written for the Defender. This means that it should take a positive approach to problems and should be responsive to the unique aspects of the jurisdiction and office. It should assist the Defender in upgrading and improving services offered to clients. It should be tightly written and to-the-point.

The use of appendices for presenting information should be discouraged. All relevant data should be incorporated in the body of the report.

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Final Report Outline

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Section I - Setting of the Defender Office

A. Office Description

B. Community Profile

C. Criminal Justice Profile

Section II - Study Focus and Method of Evaluation

Section III - Evaluation of Findings: Quality Representation/Management

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B. Goal I, Objective 2: Eligibility

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Section V - Recommendations and Priorities

Appendices

A. Resumes of Evaluators

B. Dissenting Viewpoints

Final Report Outline - Suggestions

Preface

Without going into the substance of the Report itself, the preface presents vital facts about the work of the Defender Office. The following format is suggested:

This report presents the results of an evaluation of the Defender Office located in _____ (place). The evaluation was conducted by a team consisting of:

_____ (name, position)

_____ (name, position)

The evaluation spanned a period of _____ (number months, proceeding according to the following format: a formal request for an evaluation by _____; the completion of preliminary evaluation data by _____)

_____ ; the selection of an evaluation team; a one-day pre-evaluation site visit to the defender office by the Team Captain (and Staff); a mailing of material on the Defender Office, community and criminal justice system to the Team Members; and an evaluation period which included the entire team being on-site for a _____ day period. A more complete description of the evaluation methodology can be obtained by sending for the Defender Office Evaluation Design, available from the Law Enforcement Assistance Administration of the U.S. Department of Justice.

Executive Summary

The Executive Summary provides a brief overview of the Objectives which were the focus of the evaluation, a summary of team findings and conclusions, and recommendations suggested and prioritized. The Executive Summary should be no longer than five pages, single-spaced. It should be written as if it were detachable from the final report; that is, so that if a reader reviewed only the Executive Summary, s/he would understand the basic elements and findings of the evaluation.

Section I. Setting of the Defender Office

This section provides a brief overview of the Defender Office, criminal justice system in which it operates, and the general community. It should contain the following information:

1. Office Description

Contains the vital statistics of any office, including the number and composition of staff, geographical location of its office, physical facilities, budget, number and types of cases served, organizational structure, salary levels, etc. This section should present factual information which can be taken from the completed Preliminary Evaluation Profile materials, and supplemented with materials gathered on-site.

2. Community Profile

Contains the vital statistics of the community being served by the Defender Office. The description should include an overview of the geography of the region, its major population centers, population figures including total population, target population, and ethnic composition. A summary of the social, economic, and political tenor of the area should be included, particularly where it will be relevant as background to conclusions and recommendations offered in later sections of the Report. This section should present factual information which can be taken from the completed Preliminary Evaluation Profile materials and supplemented with materials gathered on-site.

3. Criminal Justice Profile

Contains vital statistics relevant to the criminal justice system within which the Defender Office operates: the organization of the courts before which defenders appear, the number and types of cases handled, salary levels (in comparison with defender salaries), and method of appointment of personnel. This section should present factual information which can be taken from the completed Preliminary Evaluation Profile materials and supplemented with materials gathered on-site.

In each of the above sections, special features of the defender office, criminal justice system and community which are pertinent to the evaluation should be highlighted.

Section II. Study Focus and Method of Evaluation

This section should describe the evaluation methodology from start to finish. It should include such topics as: focus of the evaluation, phases of the evaluation, names/position/area of expertise of team members, roles played by each team member. It should highlight any problems which occurred in the process of carrying out the evaluation and any circumstances of which the reader should be aware which might have biased or limited the evaluation findings. The reader should be made aware of the strengths and limitations of the evaluation methodology, the scope of the evaluation rendered, and the possible effect these have had on the conclusions reached and recommendations made. The approximate number of individuals interviewed, cases reviewed, and time spent in observation should be noted.

Section III. Evaluation Findings - Quality Representation

This section should present the evaluation team's comments on each Objective and its related Criteria for Compliance. Discussions of each Objective should include: team consensus in the form of conclusion reached) on the extent to which the office is in compliance with the CFC's associated with an Objective; a description of present policies and procedures (where applicable); a discussion which synthesizes the opinions of interviewees; observations of Team Members; and, references to management issues and statistical information which provide the necessary supporting documentation for team conclusions. The nature, extent and cause of any positive or negative assessments should be discussed in the light of Defender Office operations and the influence of community and criminal justice variables. Attempts made by the office and/or others to alter undesirable situations should be specified. The discussion of each Objective should conclude with the team's consensus on whether Criteria for Compliance were being met and appropriate

recommendations or directions in which efforts to change need to be made.

Section IV. Evaluation Findings - Management Issues

This section should present an analysis of the Defender Office from the management perspective. If Alternative A was followed by the management analyst, the discussion should move by Objective and focus on the operational areas of management (planning, organization, administration and control). If Alternative B was followed by the management analyst, discussion should focus on the five functional areas studied (case flow, personnel, training, public relations and resources).

Section V. Recommendations and Priorities

This section should present the evaluation team's recommendations for changes needed to bring the Defender Office on substantial compliance with the Criteria listed for each Objective, and any discussion needed on implementing these recommendations. Each Objective should be considered. Recommendations included in this section should be presented in order of priority.

APPENDICES

APPENDIX A

Team Training Outline-Suggested Items

I. Introduction of Team Members (5 minutes)

II. The Evaluation Design (10 minutes)

- Designed to be reliable and valid: (a) specifically selected and trained team members; (b) specified Goals and Objectives; (c) process of consensus to reach conclusions; (d) standardized reporting format; (e) variety of techniques to gather information, including background, interviews, observations, statistics, records; (f) systematic data gathering; (g) several team members overlap data gathered on each topic.
- Goals, Objectives, Criteria for Compliance and Indicators are synthesized from standards drawn up by the American Bar Association, National Advisory Commission on Law Enforcement and Administration of Justice, and the National Legal Aid and Defender Association. Advice from defenders and criminal justice personnel around the country adds to credibility of final report, as does performance of the evaluation team.
- Consumer perspective, i.e. services rendered are in clients' best interests.
- Evaluation stresses both strengths and limitations of defender office.
- Office operations viewed in context of local community and criminal justice system.
- Focus on totality of office performance, not specific individuals within office.
- Focus on trial level operations, adult representation.

III. Goals, Objectives, Criteria for Compliance, Indicators: General Review (5 minutes)

- Goals for defender office services cover three broad areas:

Goal I - delivery of services
Goal II - quality of representation
Goal III - community and criminal justice relations

- Each Goal subdivided into Objectives toward which effort should be directed
- Each Objective subdivided into Criteria for Compliance which are the specifics which define an Objective and are an operational level; statements of performance against which an office is rated.
- Indicators of performance: items which may indicate that Criteria for Compliance are being met (e.g. 24 hour answering service is one indicator of availability). Vary from office to office. Variety of indicators, i.e. qualitative and quantitative. No one-to-one correspondence with Criteria or Objectives. Those suggested in design are starting points, others can be added.
- All Goals and Objectives equal in terms of consideration given in the final report.

IV. Review of Objectives and Criteria for Compliance: Detailed Review (5-10 minutes per Objective)

Use Team Member Handbooks. Note that each Objective is preceded by a Commentary which explains the meaning and intent of the Objective. Commentaries may be incorporated into final report. The following are points to be made:

- Goal I, Objective 1 - Availability/Immediacy
 - Indigent client should have same access to attorney as a more affluent client
 - Defender must make certain that he/she is available to potential clients: telephone; walk-in; 24 hour answering service
 - Defender must endeavor to contact clients in the first crucial hours after arrest
- Goal I, Objective 2 - Eligibility
 - Ascertain whether or not there are reasonable eligibility criteria and a determination which is applied fairly (whether made by defender or courts)
 - Counsel is usually supplied in felony cases but some judges interpret Argersinger to mean that counsel is only necessary in misdemeanors which have possible confinement
 - Defender is obligated to be aware of those desiring but being refused free representation and to take action where warranted
- Goal I, Objective 3 - Scope
 - Covers all clients faced with possible deprivation of liberty

- or continued detention, including those with potential to be confined, i.e. mental health or parole revocation cases
- Rules and statutes may limit representation, but if statutes go further than Criteria for Compliance, use highest expectations
- Defender should be a leader in criminal justice system; should handle these cases or be sure that provision is made for private or assigned counsel

● Goal I, Objective 4 - Duration

- Covers avenues of relief when adverse decisions are made
- Defender may be precluded from handling appeals, but not of the responsibility to assure that appellate relief is available to his/her clients

● Goal II, Objective 1 - Competence

- Training: is there a standard training program? Are defenders equipped to provide competent representation in court?
- Continuing Education: are defenders encouraged to attend meetings, training sessions, outside seminars? Is pertinent information disseminated in office?
- Management: do fair and reasonable personnel policies exist? Is selection and promotion based on merit and non-discrimination policies?
- Support Services: are expert witnesses, paralegals and investigators available to enable defenders to provide competent representation? Are needed resources available?
- Workload: in context of local situation, is workload at a level that allows quality preparation for each client?
- Client Responsibility: is responsibility for each case placed with attorney who handles it?
- Work Quality: do case files and courtroom observation reflect thorough preparation and a good defense?

● Goal II, Objective 2 - Zeal

- Defined as imaginative and vigorous defense e.g. if defender feels that client would be better off at sentencing if he was employed, he actively tries to find him/her a job
- Defined as sensitivity to needs of clients e.g. frequent contact with client, well-informed client

● Goal II, Objective 3 - Discrimination

- Refers to discrimination within Defender Office and among clients
- Hard to identify. Some objective information from statistics but those related to discrimination by entire system
- Subjective information from interviews with clients, community groups, probation officers and community agencies

● Goal II, Objective 4 - Political Influence

- Evaluators primarily interested in the effect of improper political influence on representation, i.e., are attorneys switched from one case to another?

- Personal relationships with politicians should raise a question, not answer it
- It is the defenders' reaction to attempt at political influence that is significant

● Goal II, Objective 5 - Judicial Control

- All lawyers are subject to some proper judicial control; becomes improper when it affects representation
- Do judges put pressure on defenders to enter pleas which are not in clients' best interest? Do they decide which defender handles which case? Is a defender assigned to a particular judge or prosecutor all the time, resulting in a personal relationship which affects representation?
- It is the defenders' reaction to attempts at judicial control that is significant
- Evaluators should determine if and in what areas the Defender Office is affected by these pressures: caseload, funding, hiring, firing

● Goal III, Objective 1 - Community Education

- ABA Canons of Professional Responsibility place vague responsibility on defender for Community Education and System Improvement; the design makes it more definitive
- Defenders, as recipients of public funds and a functioning part of the criminal justice system, should feel an obligation to educate the community to their role, i.e. what their responsibilities are; what they represent "unpopular" clients
- Defenders can allay many fears by communicating with the community, i.e. talking to community groups, schools, disseminating brochures, using media.

● Goal III, Objective 2 - System Improvement

- Concerns the defender's relationship with other components of the system and his efforts to improve the system as a whole, i.e. cooperation with policy in increasing availability joint training sessions to sensitize policy to clients' problems; law reform attempts
- Liaisons which benefit defender clients
- Areas of mutual interest are exploited

V. Data Gathering - Variety of Types (30 minutes)

● Background

- If local statutes and rules are more demanding than those in design, always use highest standards for evaluation
- Determine what limitations are placed on defender services by review of defender contract, criminal justice rules and statutes
- Review PEP materials for community and criminal justice system information

● Statistical Study

- Review methodology of the statistical studies. Highlight interesting findings.
- Help to identify patterns of case management and outcome

- Should be used as background material for asking questions and interpreting information; not answers themselves

● Interviews

- Each interviewee will be asked about Objectives relevant to his/her activities and sphere of knowledge
- If the scheduled interviewee does not have the desired information, shorten the interview and try to find out who does have the information and schedule an interview with that person
- Interviews are conducted to gather information, not to disseminate it; do not press your opinions; respect the confidentiality of information obtained
- Review information on "How to Interview" in Team Member Handbook
- Explain use of interview formats in Team Member Handbook (including observations and record reviews)

● Observations

- Determine if activities observed are typical behavior
- Take advantage of time between scheduled interviews for observation periods

● Records

- Information may not be collected or available; take advantage of what exists, e.g. police logbook
- Use information gleaned from records to back up interview findings; do not use information independently

(10 minute break)

VI. Review of Indicators/Instruction Approach

- Select two or three Indicators/Instruction pages in Team Member Handbook and discuss the type of data to be gathered and the instructions for gathering it
- Discuss how to use the Objective Checklist in Team Member Handbook

VII. Management

- Two approaches to gathering same information to suit different management analyst styles. Review in Management Handbook
- Components approach
 - Planning: formulating policies and procedures
 - Organization: structuring the office to carry out these policies and procedures most effectively
 - Administration: selecting, guiding and motivating staff: delegating responsibilities; holding individuals accountable
 - Control: evaluating progress toward achieving objectives gathering statistics, observing, suggestions for feedback

- Functions Approach
 - Caseflow Management
 - Personnel
 - Training
 - Resources
 - Public relations
- Management functions will be related to goals and objectives but will also include other areas, e.g. training, budgets
- Management analyst will prepare a separate report on management issues and provide relevant information for others' reports on goals and objectives
- Will devote portion of on-site period to examine written materials, e.g. will physically pull case files and "walk through" process of case file opening, updating, closing
- Management objectives will be considered when making recommendations for final report

VIII. Overview of the Week (45 minutes)

- Role of team members: interdependent; follow design; reach consensus; take responsibility for specific aspects of the design; write own section of final report
- Evaluation begins with 2-hour session with Chief Defender and entire team
 - Obtain a general picture of the local criminal justice system and review Goals and Objectives of the evaluation
 - Obtain general information on where to find courts, what schedule has been arranged for internal interviews
 - Discuss questions raised in preliminary evaluation profile materials
- Focal areas of interviews
 - During the course of the evaluation each team member will interview Chief Defender on his/her area of evaluative responsibility
 - Team members will interview defender staff only on the objective to which each member is assigned
 - Each interview outside the defender office is limited to approximately 4 objectives
 - Information gathered will be shared with team members during daily debriefing sessions
- Daily debriefing sessions: Time needed (1/2 hour) to review and organize notes, e.g. marginal notations on objectives covered
 - Each team member will lead discussion on his/her assigned objectives
 - First night's debriefing should begin early, as it will be lengthy
 - Do not review everything every night; cover new information only and good illustrations
 - Management discussions will begin during the second debriefing;

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- time needed to gain familiarity with office policies and procedures
- Interviewees who are added to the schedule should be made known to the other Team Members
- Assign following day's interviews at end of each debriefing session

- Final Report
 - Organized by objectives, with separate management section on issues outlined in Management Handbook
 - In using illustrations do not identify source, rather, "one judge said..."
 - Check opinions and impressions against statistics, PEP forms
 - Conclusions should be based on wide range of evidence, not one person's opinion or on one case; look for trends
 - Team consensus must be reached during final debriefing
 - Data will be destroyed after report is written
 - The competence of the office is being evaluated, not that of individual attorneys
 - Look for strengths as well as weaknesses in the defender office
 - Use statistics to back up findings where appropriate
 - Review Final Report Format in Team Member Handbook

IX. Assignment of Focal Concerns

- Assign goals by area of team member expertise
 - Goal I: attorney team member
 - Goal II, minus Objective 5: attorney team member
 - Goal III, plus Objective 5, Goal II: community team member
 - Management: management team member
- All team members will cover most objectives in the course of interviews
- Interview defender office attorneys and staff when team not scheduled for other interviews; initial a master list of staff interviewed so there will not be duplication
- Make an effort to interview defender clients
- Do not hesitate to pick up interviews which are not on the schedule; initial list may not be complete
- All team members should develop a picture of most objectives by interviewing different categories of people (e.g. different evaluators may interview 3 appellate attorneys)
- Management analyst will have a light interview schedule as she/he will be spending most time in defender office investigating policies and procedures; will talk to administrative persons outside of office
- Team Captain will make interview assignments, taking travel logistics into consideration; Staff will assist and resolve scheduling problems

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X. Interview Formats

- Distribute interview schedules on daily basis
- Distribute master sheet outlining focal points per interviewee
 - Clip interview format package to left side of noteback and take notes on right side legal pad
 - Review interview format (including observation and record review) in Team Member Handbook

XI. Summary of Jurisdiction

- Discussion by Team Captain of the following, based upon PEP materials and pre-site visit:
 - history of office
 - method of funding and office organization
 - principal personalities involved
 - general information about criminal justice system, court organization
 - "sense" of office gained during pre-evaluation site visit, e.g., tension in office
 - kinds of cases handled - most common types, method of counting cases
 - condition of record-keeping system
 - community and their attitudes toward defender office
 - areas which have aroused "suspicion", and might warrant a closer look

XII Miscellaneous

- Team is in office to conduct an evaluation, not to offer technical assistance; the evaluation will pinpoint problem areas in which office may want to request assistance
- The design cannot satisfy everyone to the same extent or handle all unique situations
- The design is limited to the office's performance at the trial level in criminal matters
- Quality of representation is the primary concern
- The design necessitates cooperation from the office to be evaluated
- The design does not make the assumption that any one way of providing representation is better than another (e.g. horizontal vs vertical representation).

APPENDIX B

MASTER LIST OF INTERVIEWEES BY OBJECTIVES COVERED

Defender Office*

*Each team member will cover his/her own areas of responsibility when interviewing defender attorneys and staff. The management specialist will pay particular attention to office administration, supervision and support personee.

Private Attorney

Availability
Eligibility
Competence
Zeal

Former Defender

Eligibility
Discrimination
Political Influence
Judicial Control

Police Personnel

Availability
Eligibility
Competence
System Improvement

Jail Personnel

Availability
Scope
Zeal
System Improvement

Court Personnel

Availability
Eligibility
Competence
Zeal

Clients

Availability
Duration
Zeal
Discrimination

Appellate Attorney

Duration
Competence
Judicial Control

Criminal Justice Planners

Eligibility
Political Influence
Judicial Control
System Improvement

Bar Leadership

Discrimination
Political Influence
Judicial Control
System Improvement

Community Organizations

Availability
Discrimination
Political Influence
Community Education

Judges

Eligibility
Competence
Political Influence
Judicial Control

Prison Personnel (Corrections)

Availability
Scope
Duration
Zeal

Parole Personnel

Availability
Scope
Duration

Probation Personnel

Duration
Scope
Judicial Control
System Improvement

Defender Board

Eligibility
Political Influence
Judicial Control
Community Education

Community-Oriented Programs

Scope
Zeal
Discrimination
Community Education

Funding Agency

Availability
Eligibility
Political Influence
System Improvement

APPENDIX C

Interview Formats

INTERVIEW FORMAT FOR DEFENDER GOAL I

Goal I, Objective 1 AVAILABILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: -at time of arrest -when subject of investigation -at request of another party -at interrogation -at line-up	1. Opinion of objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change	-Estimated defender statistics: c/o client contact prior to arrest, time of arrest, after arrest, court appearance -Estimated defender statistics: availability for line-ups, confessions, polygraph tests -Lawsuits against police -Waivers of counsel -Publicity (brochures, TV) [See next page, Observation]

Goal I, Objective 2 ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client 2. Ability to post bond is irrelevant 3. Fair application of indigency criteria 4. Preliminary assessment at 1st contact 5. Routine procedures-partial eligibility 6. Referrals to private counsel if ineligible 7. Redress for persons denied representation 8. Procedures for change of eligibility status	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	-Estimated defender statistics: % not eligible; % partial eligibility -Estimated court statistics: % indigent; % plea w/o attorney; % to defender -Estimated police statistics: # in jail; w/o representation -Estimated private attorney statistics: fee felony; fee misdemeanor -Publicity (brochures, TV) [See next page, Observation]

Goal I, Objective 3 SCOPE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available at: -misdemeanor -felony -juvenile -mental health -disciplinary -institutional grievances -parole hearings -extradition -diversion -probation hearings -civil & criminal contempt hearings	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	-Change in attorney -Estimated statistics (for the Criteria for Compliance)

Goal I, Objective 4 DURATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Appellate recourse from adverse decisions	1. Opinion on objective	-Estimated statistics:
2. Appellate counsel independent of trial counsel	2. Comparison with private attorney	number of appeals pled;
3. Relief from adverse determinations:	3. Complaints/problems	% of cases counsel appeared at adversary hearings
-parole	4. Need for change	-Timeliness of appeal
-diversion	5. Effort toward change	-Changes in counsel
-probation		-Prisoner writs
-institutional disciplinary proceedings		-Grounds for appeal
-contempt proceedings		-Publicity (brochures, TV)

OBSERVATIONS

Spend time with defenders assigned a new case, and during first contact with client. Station self in appropriate place (e.g., with defender, in court, police precinct). Look into:

AVAILABILITY

ELIGIBILITY

DISCRIMINATION

1. the nature of information imparted to defendant (e.g., rights, attorney/client privilege);
2. the nature of information gathered from the client (e.g., arrest date, charge(s), bail status);
3. how and when referral decisions are made and/or defender availability is ascertained;
4. concerns about eligibility;
5. steps toward determining eligibility;
6. indication of discrimination: racial, sexual, religious, cultural, or social class.

RECORDS

Review previous three months of mail from prisoners and other clients. Look into:

DURATION

1. requests for representation;
2. complaints, problems in institutions.

INTERVIEW FORMAT FOR DEFENDER GOAL II

Goal II, Objective 1 COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Entry-level orientation/training	1. Opinion on objective	-Estimated statistics
2. Continued legal education	2. Reputation in community	caseload, salary adequacy, pleas and trials
3. Personnel policies based on merit	3. Comparison with private attorneys in casework	-Appropriate appeals
4. Sufficient resources for good defense	4. Problems unique to defenders	-Review: briefbank, formbooks, motion banks, library
5. Expert & support services utilized	5. Discrimination - sex, race, economic	[See Observation and Records]
6. Support staff assist in casework	6. Need for change	
7. Casework reflects competent defense	7. Effort toward change	
8. Ability to limit workload	8. Explanation of statistical studies	
9. Defender responsible for services to his clients		
10. Comparable to skilled private attorney		

Goal II, Objective 2 ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance	1. Opinion on objective	-Diversion referrals
2. Defenders encourage client confidence	2. Inclination toward trial	-Extraordinary writs
3. Extra-legal assistance provided	3. Sensitivity to clients (contacts)	-Federal court interlocutory appeals
4. Client complaints resolved	4. Creative representation	-Use of interpreters
5. Diversion alternatives sought	5. Need for change	-Grievances against prosecutors
6. Charging alternatives sought	6. Effort for change	-Grievances against judges
7. Sentencing alternatives sought	7. Comparison with private attorneys	-Civil suits against police
8. Vigorous advocacy		-Civil suits against institutions
9. Challenge adverse interlocutory decisions		[See Observation and Records]

Goal II, Objective 3 POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1-3. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	-Political appointments
4. Case assignment independent of politics	2. Political climate of community	-Complaints by politicians
5. Representation terminated for good cause only	3. Present involvement in politics	-Party affiliation
6. Office operations independent of politics	4. Buffers against political influence in office	-Campaign involvement
7. Defender services unaffected by political change	5. Role of advisory board	-Media reports
	6. Need for change	-Positions of former defenders
	7. Efforts toward change	-Party affiliation of parents and relatives
	8. Comparison with private attorneys	

Goal II, Objective 4 JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1-3. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	-Judicial appointments
4. Case assignment not subject to judicial control	2. Criminal justice climate of community	-Complaints by judge
5. Representation terminated for good cause only	3. Involvement in judicial arena	-Media reports
6. Office operations independent of judicial control	4. Buffers against judicial influence	-Contempt of court proceedings
7. Defender services unaffected by judicial change	5. Role of advisory board	-Positions of former defenders
	6. Need for change	-Judicial position of parents and relatives
	7. Efforts toward change	
	8. Comparison with private attorneys	

OBSERVATIONS

COMPETENCE	During first court appearance, preliminary hearing, trial and plea bargaining, look into:
ZEAL	1. dignity of the proceeding (e.g., noise, milling behavior, disturbances, delays);
	2. defender courtroom performance (e.g., presentation of issues, apparent confidence, advocacy role, relationship to prosecutor);
DISCRIMIN.	3. defender appearance (e.g., dignified manner, choice of words);
	4. client information imparted (e.g., one case, court procedure, rights);
	5. defender presentation (e.g., confidence, knowledge, unhurried);
	6. discerns strengths and weaknesses of prosecutor's case;
	7. knowledge of mitigating factors;
	8. "trade-offs" with other cases;
	9. client sensitivity (e.g., respect shown client, ease with client);
	10. client discussions (e.g., options, non-legal concerns);
	11. vigorous advocacy (e.g., preparation and challenges to system over adverse discretionary decisions), special techniques for defense;
	12. clients esteem of defender; and
	13. indicators of discrimination: racial, sexual, religious, cultural and social class.

RECORDS

1. Ask defenders to select five recently closed typical cases. Review files for comprehensive work in:
 - a. general background information on client and family;
 - b. investigative reports on circumstances surrounding charge;
 - c. witness examinations;
 - d. motions, memos of law;
 - e. client interviews;
 - f. preparation for bond hearings, preliminary hearings;
 - g. pleadings
 - h. notes on conferences with client, police, etc.
 - i. trial documents, including background of jurors, notes on opening statements, etc.;
 - j. contacts related to sentencing and sentence alternatives;
 - k. transcripts (where available) for protecting the record for appeal, doing arguments.
2. Ask defenders to describe a typical misdemeanor and felony, and how they would be handled (decisions to be made, strategies to select, probable case outcomes).
3. Ask which are the most important procedural statutes in their work and how they learn of legal developments.
4. Ask how plea bargaining goes (procedures, outcomes, attitudes of clients and criminal justice personnel.
5. Review legal resources that attorneys use frequently (e.g., brief bank, law motion bank interchange, memos, library, handbooks on tactics, form motions) for appropriateness and recency).
6. Review training materials for attorneys and investigators for relevance, comprehensiveness, timeliness, use.
7. Ask defenders to select five recently closed cases. Look for:
 - a. client sensitivity;
 - b. vigorous advocacy; and
 - c. exploration of alternatives.
8. Review previous three months of mail from prisoners and other clients. Abstract most frequent problems and requests.
9. Contact local community agency (e.g., United Way) for published materials on programs applicable to defender clients. Ask defenders about the quality of some of these programs and which they use.
10. Review defender's and Chief Defender's daily calendar over past six months for frequency of meetings with political figures or addresses to political groups, and for frequency of meetings with judicial personnel or address to judicial groups.

INTERVIEW FORMAT FOR DEFENDER GOAL III

Goal II, Objective 5 DISCRIMINATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Representation is not affected by: -racial characteristics of clients -cultural characteristics of clients -religious characteristics of clients -sexual characteristics of clients	1. Discrimination in community 2. Discrimination in criminal justice system 3. Effort needed for change 4. Effort toward change 5. Explanation of statistical studies	Statistics from Defender office: -Outcome of cases by race, sex and age of clients Media reports on topic

Goal III, Objective 1 COMMUNITY EDUCATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Defenders contribute to community awareness 2. Disseminate information to community 3. Information in appropriate language/style 4. Responsive to community requests 5. Liaison with social service organizations	1. Opinion on objective 2. Visibility of defender 3. Impact 4. Need for change 5. Effort toward change	-Type of contact -Legislative testimony -Community talks -Publications -Liaison with media [See Records section]

Goal III, Objective 2 SYSTEM IMPROVEMENT

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Awareness of proper criminal justice 2. Activities to promote proper defender role 3. Activities to promote proper criminal justice system roles 4. Activities to promote proper institutional performance 5. Participation in professional programs/associations with other criminal justice components	1. Opinion on objective 2. Cooperation with other agencies 3. Liaison with other agencies 4. Need for change 5. Efforts toward change	-Grants -Suits against other components -Participation in criminal justice system training programs -Legislative testimony -Articles in journals -In-office training [See Records Section]

OBSERVATIONS

NONE

RECORDS

- COMMUNITY EDUCATION: Review Defender's calendar for one-year period for frequency of speaking engagements before differing community groups.
- SYSTEM IMPROVEMENT: Review materials on clinical law school programs in the office, voluntary community programs and paraprofessional programs for nature of program, relevance of program to individual and office.

INTERVIEW FORMAT FOR PRIVATE ATTORNEY

Goal I, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: - at time of arrest - when subject of investigation - at request of another party - at interrogation - at line-up	1. Opinion on objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change	- Estimated private attorney statistics: %client contact prior to arrest, time of arrest, after arrest, court appearance

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client 2. Ability to post bond is irrelevant 3. Fair application of indigency criteria 4. Preliminary assessment at 1st contact 5. Routine procedures-partial eligibility 6. Referrals to private counsel if ineligible 7. Redress for persons denied representation 8. Procedures for change of eligibility status	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	- Estimated court statistics: % indigent, % plea w/o attorney, % to defender, appointed. - Estimated police statistics: no. in jail, no. rep. - Estimated private atty. statistics: fee felony, fee misdemeanor

Goal II, Objective 1: COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Entry-level orientation/training 2. Continued legal education 3. Sufficient resources for good defense 4. Expert and support services utilized 5. Support staff assist in casework 6. Casework reflects competent defense preparation 7. Comparable to skilled private attorney	1. Opinion on objective 2. Reputation in community 3. Problems unique to defenders 4. Need for change 5. Effort toward change	- Estimated statistics: caseload, pleas and trials - Appropriate appeals

Goal II, Objective 2: ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance 2. Defenders encourage client confidence 3. Extra-legal assistance provided 4. Clients complaints resolved 5. Diversion alternatives sought 6. Charging alternatives sought 7. Sentencing alternatives sought 8. Vigorous advocacy 9. Challenge adverse interlocutory decisions	1. Opinion on objective 2. Inclination toward trial 3. Sensitivity to clients (contacts) 4. Creative representation 5. Need for change 6. Effort for change 7. Comparison with private attorneys	- Grievances against defenders

INTERVIEW FORMAT FOR FORMER DEFENDER

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client	1. Opinion on objective	- Estimated defender statistics: % eligible, % recoupment
2. Ability to post bond is irrelevant	2. Complaints/problems	
3. Fair application of indigency criteria	3. Need for change	- Estimated court statistics: % indigent, % plea without attorney, % to defender
4. Preliminary assessment at 1st contact	4. Effort toward change	- Estimated police statistics: number in jail, number represented
5. Routine procedures-partial eligibility		- Estimated private attorney statistics: fee felony, fee misdemeanor
6. Referrals to private counsel if ineligible		- Publicity (brochures, TV)
7. Redress for persons denied representation		
8. Procedures for change of eligibility status		

Goal II, Objective 5: DISCRIMINATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Representation is not affected by: <ul style="list-style-type: none">- racial characteristics of clients- cultural characteristics of clients- religious characteristics of clients- sexual characteristics of clients	1. Discrimination in community	Media reports on topic
	2. Discrimination in criminal justice system	
	3. Effort needed for change	
	4. Effort toward change	
	5. Explanation of statistical studies	

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	- Political appointments
2. Case assignment independent of politics	2. Political climate of community	- Complaints by politicians
3. Representation terminated for good cause only	3. Involvement in politics	- Party affiliation
4. Office operations independent of politics	4. Buffers against political influence	- Campaign involvement
5. Defender services unaffected by political change	5. Role of advisory board	- Media reports
	6. Need for change	- Positions of former defenders
	7. Efforts toward change	- Positions of parents and relatives
	8. Comparison with private attorneys	

Goal II, Objective 4: JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	- Judicial appointments
2. Case assignment not subject to judicial control	2. Criminal justice climate of community	- Complaints by judge
3. Representation terminated for good cause only	3. Involvement in judicial arena	- Media reports
4. Office operations independent of judicial control	4. Buffers against judicial influence	- Contempt of court
5. Defender services unaffected by judicial change	5. Role of advisory board	- Positions of former defenders
	6. Need for change	- Position of parents and relatives
	7. Efforts toward change	
	8. Comparison with private attorneys	

INTERVIEW FORMAT FOR POLICE PERSONNEL

Goal 1, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available:	1. Opinion on objective	- Estimated defender statistics at time of arrest
- at time of arrest	2. Comparison with private attorneys	- Estimated police statistics: % time defender available during line-ups, confessions, poly-graph tests
- when subject of investigation	3. Complaints/problems	- Lawsuits against police
- at request of another party	4. Effort toward change	[See next page, Observations and Records]
- at interrogation		
- at lineup		

Goal 1, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client	1. Opinion on objective	- Estimated police statistics: # in jail, no rep.
2. Ability to post bond irrelevant	2. Complaints/problems	
3. Fair application of indigency criteria	3. Need for change	
4. Preliminary assessment at 1st contact	4. Effort toward change	
5. Routine procedures-partial eligibility		
6. Referrals to private counsel if ineligible		
7. Redress for persons denied representation		
8. Procedures for change of eligibility status		

Goal II, Objective 1: COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Entry-level orientation/training	1. Opinion on objective	- Estimated statistics: caseload, pleas and trials
2. Continued legal education	2. Reputation in community	- Appropriate appeals
3. Expert & support services utilized	3. Problems unique to defenders	
4. Support staff assist in casework	4. Discrimination - sex, race, economic	
5. Casework reflects competent defense preparation	5. Need for change	
6. Defender responsible for services to his clients	6. Effort toward change	
7. Comparable to skilled private atty.	7. Explanation of statistical studies	

POLICE PERSONNEL (cont.)

Goal III, Objective 2: **SYSTEM IMPROVEMENT**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Awareness of proper criminal justice system performance	1. Opinion on objective	-Suits against other components
2. Activities to promote proper defender role	2. Cooperation with other agencies	-Participation in criminal justice system training programs
3. Activities to promote proper criminal justice system roles	3. Liaison with other agencies	
4. Activities to promote proper institutional performance	4. Need for change	
5. Participation in professional programs/associations with other components	5. Efforts toward change	

OBSERVATIONS

In police precincts, observe the situation under which the defendant is booked. Look for:

- AVAILABILITY:
- nature of information imparted to defendant;
 - role played by defender; and
 - literature available to client indicating defender availability. Determine its accessibility and usefulness. Determine if police notify the Defender Office of individuals requesting counsel.

RECORDS

Review police logbook and/or other records for preceding month.

- AVAILABILITY:
- Determine number and percentage of defender clients and clients without an attorney
 - Maintain notes on:
 - time of arrest
 - whether an attorney was contacted
 - whether line-up had taken place
 - whether polygraph had taken place
 - whether confession given
 - timelag between arrest and defender contact

INTERVIEW FORMAT FOR JAIL PERSONNEL

Goal I, Objective 1 **AVAILABILITY**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: -at time of arrest -when subject of investigation -at request of another party -at interrogation -at line-up	1. Opinion of objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change	-Lawsuits against jail -Publicity (brochures, TV [See next page, Records]

Goal I, Objective 3 **SCOPE**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available at: -misdemeanor -felony -juvenile -mental health -disciplinary -institutional grievances -parole hearings -extradition -diversion -probation hearings -civil & criminal contempt hearings	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	-Change in attorney -Estimated statistics (for the Criteria for Compliance)

Goal II, Objective 2 **ZEAL**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance 2. Defenders encourage client confidence 3. Extra-legal assistance provided 4. Client complaints resolved 5. Diversion alternatives sought 6. Charging alternatives sought 7. Sentencing alternatives sought 8. Vigorous advocacy 9. Challenge adverse interlocutory decisions	1. Opinion on objective 2. Inclination toward trial 3. Sensitivity to clients (contacts) 4. Creative representation 5. Need for change 6. Effort for change 7. Comparison with private attorneys	-Diversion referrals -Use of interpreters -Grievances against defenders -Grievances against prosecutors -Grievances against judges -Civil suits against jail [See next page, Records]

Goal III, Objective 2 **SYSTEM IMPROVEMENT**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Awareness of proper criminal justice 2. Activities to promote proper defender role 3. Activities to promote proper criminal justice system roles 4. Activities to promote proper institutional performance 5. Participation in professional programs/associations with other criminal justice components	1. Opinion on objective 2. Cooperation with other agencies 3. Liaison with other agencies 4. Need for change 5. Efforts toward change	-Suits against other components -Participation in criminal justice system training programs -Legislative testimony

OBSERVATIONS

NONE REQUIRED

RECORDS

AVAILABILITY/IMMEDIACY Review the jail logbook and/or other records for the preceeding month:

- a. to determine the number and percentage of Defender clients and clients without an attorney;
- b. time of detention;
- c. whether the client had representation;
- d. timelag between detention and defender contact.

ZEAL

Review the jail visitor log for the previous month for the frequency of client contact per month.

Review the jail telephone log for the previous month for the frequency of client contact per month.

INTERVIEW FORMAT FOR COURT PERSONNEL

Goal I, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: <ul style="list-style-type: none">- at time of arrest- when subject of investigation- at request of another party- at interrogation- at line-up	1. Opinion on objective 2. Comparison with private attorneys 3. Complaints/problems 4. Effort toward change	- Estimated defender statistics: % client contact at first appearance in court - Estimated private attorney statistics: % client contact at first appearance in court - Estimated statistics: % waivers of counsel, stage of waiver

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client 2. Ability to post bond is irrelevant 3. Fair application of indigency criteria 4. Preliminary assessment at 1st contact 5. Routine procedures-partial eligibility 6. Referrals to private counsel if ineligible 7. Redress for persons denied representation 8. Procedures for change of eligibility status	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	- Estimated court statistics: % indigent, % plea w/o attorney, % to defender - Estimated private attorney statistics: fee felony, fee misdemeanor

Goal II, Objective 1: COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Sufficient resources for good defense 2. Expert and support services utilized 3. Support staff assist in case-work 4. Casework reflects competent defense 5. Defender responsible for services to his clients 6. Comparable to skilled private attorney	1. Opinion on objective 2. Reputation in community 3. Problems unique to defenders 4. Need for change 5. Effort toward change 6. Explanation of statistical studies	- Estimated statistics: caseload, pleas and trials - Appropriate appeals - Types of motions filed

COURT PERSONNEL (cont.)

Goal II, Objective 2: ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Client vs. court allegiance	1. Opinion on objective	- Diversion referrals
2. Defenders encourage client confidence	2. Inclination toward trial	- Extraordinary writs
3. Extra-legal assistance provided	3. Sensitivity to clients (contact)	- Federal court inter-locutory appeals
4. Client complaints resolved	4. Creative representation	- Use of interpreters
5. Diversion alternatives sought	5. Need for change	- Grievances against defenders
6. Charging alternatives sought	6. Effort for change	
7. Sentencing alternatives sought	7. Comparison with private attorneys	
8. Vigorous advocacy		
9. Challenge adverse interlocutory decisions		

INTERVIEW FORMAT FOR CLIENTS

Goal I, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: <ul style="list-style-type: none">- at time of arrest- when subject of investigation- at request of another party- at interrogation- at line-up	1. Comparison with private attorneys 2. Complaints/problems 3. Effort toward change	

Goal I, Objective 4: DURATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Appellate recourse from adverse decisions	1. Comparison with private attorney	- Timeliness of appeal
2. Appellate counsel independent of trial counsel	2. Complaints/problems	- Changes in counsel
3. Relief from adverse determinations: <ul style="list-style-type: none">- parole- diversion- probation- institutional disciplinary proceedings	3. Need for change 4. Effort toward change	- Prisoner writs - Grounds for appeal

Goal II, Objective 2: ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance	1. Inclination toward trial	- Diversion referrals
2. Defenders encourage client confidence	2. Sensitivity to clients (contacts)	- Extraordinary writs
3. Extra-legal assistance provided	3. Creative representation	- Federal court inter-locutory appeals
4. Client complaints resolved	4. Need for change	- Use of interpreters
5. Diversion alternatives sought	5. Effort for change	- Grievances against defenders
6. Charging alternatives sought	6. Comparison with private attorneys	- Grievances against prosecutors
7. Sentencing alternatives sought		- Grievances against judges
8. Vigorous advocacy		
9. Challenge adverse interlocutory decisions		

Goal II, Objective 5: DISCRIMINATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Representation is not affected by: <ul style="list-style-type: none">- racial characteristics of clients- cultural characteristics of clients- religious characteristics of clients- sexual characteristics of clients	1. Discrimination in community 2. Discrimination in criminal justice 3. Effort needed for change 4. Effort toward change	

INTERVIEW FORMAT FOR CRIMINAL JUSTICE PLANNERS

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client	1. Opinion on objective	- Estimated defender statistics: % eligible, % recoupment
2. Ability to post bond is irrelevant	2. Complaints/problems	- Estimated court statistics: % indigent, % plea without attorney, % to defender
3. Fair application of indigency criteria	3. Need for change	- Estimated police statistics: number in jail, number represented
4. Preliminary assessment at 1st contact	4. Effort toward change	- Estimated private attorney statistics: fee felony, fee misdemeanor
5. Routine procedures- partial eligibility		- Publicity (brochures, TV)
6. Referrals to private counsel if ineligible		
7. Redress for persons denied representation		
8. Procedures for change of eligibility status		

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	- Political appointments
2. Office operations independent of politics	2. Political climate of community	- Complaints by politicians
3. Defender services unaffected by political change	3. Involvement in politics	- Party affiliation
	4. Buffers against political influence	- Campaign involvement
	5. Role of advisory board	- Positions of former defenders
	6. Need for change	
	7. Efforts toward change	
	8. Comparison with private attorneys	

Goal II, Objective 4: JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	- Judicial appointments
2. Office operations independent of judicial control	2. Criminal justice climate of community	- Complaints by judge
3. Defender services unaffected by judicial change	3. Involvement in judicial arena	- Media reports
	4. Buffers against judicial influence	- Contempt of court
	5. Role of advisory board	- Positions of former defenders
	6. Need for change	
	7. Efforts toward change	
	8. Comparison with private attorneys	

Goal III, Objective 2: **SYSTEM IMPROVEMENT**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1.Awareness of proper criminal justice	1.Opinion on objective	-Grants
2.Activities to promote proper defender role	2.Cooperation with other agencies	-Suits against other components
3.Activities to promote proper criminal justice system roles	3.Liaison with other agencies	-Participation in criminal justice system training programs
4.Activities to promote proper institutional performance	4.Need for change	-Legislative testimony
5.Participation in professional programs/associations with other criminal justice components	5.Efforts toward change	

INTERVIEW FORMAT FOR BAR LEADERSHIP

Goal II, Objective 5: **DISCRIMINATION**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Representation is not affected by: - racial characteristics of clients - cultural characteristics of clients - religious characteristics of clients - sexual characteristics of clients	1. Discrimination in community 2. Discrimination in criminal justice system 3. Effort needed for change 4. Effort toward change 5. Explanation of statistical studies	Media reports on topic

Goal II, Objective 3: **POLITICAL INFLUENCE**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure) 2. Case assignment independent of politics 3. Representation terminated for good cause only 4. Office operations independent of politics 5. Defender services unaffected by political change	1. Opinion on objective 2. Political climate of community 3. Involvement in politics 4. Buffers against political influence 5. Role of advisory board 6. Need for change 7. Efforts toward change 8. Comparison with private attorneys	- Political appointments - Complaints by politicians - Party affiliation - Campaign involvement - Media reports - Positions of former defenders

Goal II, Objective 4: **JUDICIAL CONTROL**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal) 2. Case assignment not subject to judicial control 3. Representation terminated for good cause only 4. Office operations independent of judicial control 5. Defender services unaffected by judicial change	1. Opinion on objective 2. Criminal justice climate of community 3. Involvement in judicial arena 4. Buffers against judicial influence 5. Role of advisory board 6. Need for change 7. Efforts toward change 8. Comparison with private attorneys	- Judicial appointments - Complaints by judge - Media reports - Contempt of court - Positions of former defenders

Goal III, Objective 2: **SYSTEM IMPROVEMENT**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Awareness of proper criminal justice system performance 2. Activities to promote proper defender role 3. Activities to promote proper criminal justice system roles 4. Activities to promote proper institutional performance 5. Participation in professional programs/associations with other components	1. Opinion on objective 2. Cooperation with other agencies 3. Liaison with other agencies 4. Need for change 5. Efforts toward change	- Grants - Suits against other components - Participation in criminal justice system training programs - Legislative testimony - In office training

INTERVIEW FORMAT FOR COMMUNITY ORGANIZATIONS

Goal 1, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available:	1.Opinion on objective	
-at time of arrest	2.Comparison with private attorneys	
-when subject of investigation	3.Complaints/problems	
-at request of another party	4.Effort toward change	
-at interrogation		
-at line-up		

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1.Personnel policies independent of politics (recruitment, selection, tenure)	1.Opinion on objective	-Political appointments
2.Office operations independent of politics	2.Political climate of community	-Complaints by politicians
3. Defender services unaffected by change	3.Involvement in politics	-Party affiliation
	4 Buffers against political influence	-Campaign involvement
	5.Need for change	-Media reports
	6.Effort toward change	
	7.Comparison with private attorneys	-Positions of former defenders
		-Positions of parents and relatives

Goal II, Objective 5: DISCRIMINATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
Representation is not affected by:	1.Discrimination in community	Media reports on topic
-racial characteristics of clients	2.Discrimination in criminal justice system	
-cultural characteristics of clients	3.Effort needed for change	
-religious characteristics of clients	4.Effort toward change	
-sexual characteristics of clients		

Goal III, Objective 1: COMMUNITY EDUCATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1.Defenders contribute to community awareness	1.Opinion on objective	-Type of contact
2.Disseminate information to community	2.Visibility of defender	-Legislative testimony
	3.Impact	-Publications
	4.Need for change	
	5.Effort toward change	

OBSERVATIONS

NONE

RECORDS

ZEAL: Ask local community agency (e.g., United Way) for any published materials on programs applicable to defender clients.

INTERVIEW FORMAT FOR JUDGES

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client	1. Opinion on objective	- Estimated court statistics: % indigent, % plea without attorney, % to defender
2. Ability to post bond is irrelevant	2. Complaints/problems	- Estimated private attorney statistics: fee felony, fee misdemeanor
3. Fair application of indigency criteria	3. Need for change	- Publicity
4. Preliminary assessment at 1st contact	4. Effort toward change	
5. Routine procedures-partial eligibility		
6. Referrals to private counsel if ineligible		
7. Redress for persons denied representation		
8. Procedures for change of eligibility		

Goal II, Objective 1: COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Entry-level orientation/training	1. Opinion on objective	- Estimated statistics: caseload, salary adequacy, pleas and trials
2. Continued legal education	2. Reputation in community	- Appropriate appeals
3. Sufficient resources for good defense	3. Problems unique to defenders	- Types of motions filed, appropriateness of motions
4. Expert and support services utilized	4. Discrimination: sex, race, economic	
5. Support staff assist in casework	5. Need for change	
6. Casework reflects competent defense	6. Effort toward change	
7. Defender responsible for services to his clients	7. Explanation of statistical studies	
8. Comparable to skilled private attorney		

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	- Political appointments
2. Case assignment independent of politics	2. Political climate of community	- Complaints by politicians
3. Representation terminated for good cause only	3. Involvement in politics	- Party affiliation
4. Office operations independent of politics	4. Buffers against political influence	- Campaign involvement
5. Defender services unaffected by political change	5. Role of advisory board	- Media reports
	6. Need for change	- Positions of former defenders
	7. Efforts toward change	
	8. Comparison with private attorneys	

INTERVIEW FORMAT FOR PRISON PERSONNEL

Goal I, Objective 1 AVAILABILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available:	1. Opinion on objective	
-at time of arrest	2. Comparison with private attorneys	
-when subject of investigation	3. Complaints/problems	
-at request of another party	4. Effort toward change	
-at interrogation		
-at line-up		

Goal I, Objective 2 SCOPE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available at:	1. Opinion on objective	-change in attorney
-misdemeanor	2. Complaints/problems	-Estimated statistics:
-felony	3. Need for change	% disciplinary hearings without counsel
-juvenile	4. Effort toward change	(see next page. Records)
-mental health		
-disciplinary		
-institutional grievances		
-parole hearings		
-extradition		
-diversion		
-probation hearings		
-civil & criminal contempt hearings		

Goal I, Objective 3 DURATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Appellate recourse from adverse decisions	1. Opinion on objective	-Timeliness of appeal
2. Appellate counsel independent of trial counsel	2. Comparison with private attorney	-Changes in counsel
3. Relief from adverse determinations	3. Complaints/problems	-Prisoner writes
-parole	4. Need for change	-Estimated statistics:
-diversion	5. Effort toward change	% proceedings without counsel
-probation		
-institutional disciplinary proceedings		

Goal I, Objective 4 ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance	1. Opinion on objective	-Diversion referrals
2. Defenders encourage client confidence	2. Inclination toward trial	-Federal court interlocutory appeals
3. Extra-legal assistance provided	3. Sensitivity to clients (contacts)	-use of interpreters
4. Client complaints resolved	4. Need for change	-civil suits against institutions
5. Diversion alternatives sought	5. Effort for change	
6. Charging alternatives sought	6. Comparison with private attorneys	
7. Sentencing alternatives sought		
8. Vigorous advocacy		
9. Challenge adverse interlocutory decisions		

OBSERVATIONS

NONE REQUIRED

RECORDS

- SCOPE 1. Review telephone log or files for calls placed by inmates during a one-month period, for:
- a. frequency of calls to defenders and non-defender attorneys;
 - b. ask for an explanation of the "typicality" of the situation, and the problems in reaching the defender.
2. Review visitor's log for visits to clients during a one-month period, for:
- a. frequency of visits to defenders and non-defender attorneys;
 - b. ask for an explanation of the "typicality" of the situation, and problems in reaching the defender.

INTERVIEW FORMAT FOR PAROLE PERSONNEL

Goal I, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available:	1. Opinion on objective	
- at time of arrest	2. Comparison with private attorneys	
- when subject of investigation	3. Complaints/problems	
- at request of another party	4. Effort toward change	
- at interrogation		
- at line-up		

Goal I, Objective 3: SCOPE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
Is representation available at:	1. Opinion on objective	- Estimated statistics:
- misdemeanor	2. Complaints/problems	% hearings w/o counsel,
- felony	3. Need for change	with defenders and
- juvenile	4. Effort toward change	others; % revocations
- mental health		w/o counsel, with de-
- disciplinary		fenders and others
- institutional grievances		- Change in attorney
- parole hearings		between trial and
- diversion		hearings [see next
- probation hearings		page, Observations]

Goal I, Objective 4: DURATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Appellate recourse from adverse decisions	1. Opinion on objective	- Estimated statistics:
2. Appellate counsel independent of trial counsel	2. Comparison with private attorney	% proceedings w/o
3. Relief from adverse determinations:	3. Complaints/problems	counsel, with defen-
- parole	4. Need for change	der and others
- diversion	5. Effort toward change	
- probation		
- institutional disciplinary		
- proceedings		

INTERVIEW FORMAT FOR PROBATION PERSONNEL

Goal I, Objective 3: SCOPE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available at: <ul style="list-style-type: none">- misdemeanor- felony- juvenile- mental health- disciplinary- institutional grievances- parole hearings- diversion- probation hearings	<ol style="list-style-type: none">1. Opinion on objective2. Complaints/problems3. Need for change4. Effort toward change	<ul style="list-style-type: none">- Change in attorney- Estimated statistics: % revocation hearings w/o counsel, with defender and others [see next page, Observation]

Goal I, Objective 4: DURATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
<ol style="list-style-type: none">1. Appellate recourse from adverse decisions2. Appellate counsel independent of trial counsel3. Relief from adverse determinations:<ul style="list-style-type: none">- parole- diversion- probation- institutional disciplinary proceedings- contempt proceedings	<ol style="list-style-type: none">1. Opinion on objective2. Comparison with private attorney3. Complaints/problems4. Need for change5. Effort toward change	<ul style="list-style-type: none">- Estimated statistics: % of proceedings w/o counsel- Grounds for appeal- Timeliness of appeal- Changes in counsel- Prisoner writes

Goal II, Objective 4: JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
<ol style="list-style-type: none">1. Representation terminated for good cause only2. Office operations independent of judicial control3. Defender services unaffected by judicial change	<ol style="list-style-type: none">1. Opinion on objective2. Criminal justice climate of community3. Defender involvement in judicial arena4. Buffers against judicial influence5. Need for change6. Efforts toward change7. Comparison with private attorneys	<ul style="list-style-type: none">- Judicial appointments- Complaints by judge- Media reports- Positions of former defenders

Goal III, Objective 2: SYSTEM IMPROVEMENT

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
<ol style="list-style-type: none">1. Awareness of proper criminal justice system performance2. Activities to promote proper defender role3. Activities to promote proper justice system roles4. Activities to promote proper institutional performance5. Participation in professional programs/association with other components	<ol style="list-style-type: none">1. Opinion on objective2. Cooperation with other agencies3. Liaison with other agencies4. Need for change5. Efforts toward change	<ul style="list-style-type: none">- Suits against other components- Participation in criminal justice system- Legislative testimony

OBSERVATIONS

- SCOPE During revocation hearings, look at:
- 1. the process of the hearing; and
 - 2. the role played by the defender.

RECORDS

NONE REQUIRED

INTERVIEW FORMAT FOR DEFENDER BOARD

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client	1. Opinion on objective	- Estimated defender statistics: % eligible, % recoupment
2. Ability to post bond is irrelevant	2. Complaints/problems	- Estimated court statistics: % indigent, % plea without attorney, % to defender
3. Fair application of indigency criteria	3. Need for change	- Estimated private attorney statistics: fee felony, fee misdemeanor
4. Preliminary assessment at 1st contact	4. Effort toward change	- Publicity (brochures, TV)
5. Routine procedures-partial eligibility		
6. Referrals to private counsel if ineligible		
7. Redress for persons denied representation		
8. Procedures for change of eligibility status		

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	- Political appointments
2. Case assignment independent of politics	2. Political climate of community	- Complaints by politicians
3. Representation terminated for good cause only	3. Involvement in politics	- Party affiliation
4. Office operations independent of politics	4. Buffers against political influence	- Campaign involvement
5. Defender services unaffected by political change	5. Role of advisory board	- Media reports
	6. Need for change	- Positions of former defenders
	7. Efforts toward change	
	8. Comparison with private attorneys	

Goal II, Objective 4: JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	- Judicial appointments
2. Case assignment not subject to judicial control	2. Criminal justice climate of community	- Complaints by judge
3. Representation terminated for good cause only	3. Involvement in judicial arena	- Media reports
4. Office operations independent of judicial control	4. Buffers against judicial influence	- Contempt of court
5. Defender services unaffected by judicial change	5. Role of advisory board	- Positions of former defenders
	6. Need for change	
	7. Efforts toward change	
	8. Comparison with private attorneys	

Goal III, Objective 1: **COMMUNITY EDUCATION**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Defenders contribute to community awareness	1. Opinion on objective	- Type of contact
2. Disseminate information to community	2. Visibility of defender	- Legislative testimony
3. Information in appropriate language/style	3. Impact	- Community talks
4. Responsive to community requests	4. Need for change	- Publications
5. Liaison with social service organizations	5. Effort toward change	- Liaison with media

INTERVIEW FORMAT FOR APPELLATE ATTORNEY

Goal I, Objective 4: **DURATION**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Appellate recourse from adverse decisions	1. Opinion on objective	- Estimated statistics: number of appeals filed; % of individuals appearing without counsel
2. Appellate counsel independent of trial counsel	2. Comparison with private attorney	- Timeliness of appeal
3. Relief from adverse determinations:	3. Complaints/problems	- Changes in counsel
- parole	4. Need for change	- Prisoner writes
- diversion	5. Effort toward change	- Grounds for appeal
- probation		- Publicity (brochures, TV)
- institutional disciplinary proceedings		
- contempt proceedings		

Goal II, Objective 1: **COMPETENCE**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Entry-level orientation/training	1. Opinion on objective	- Estimated statistics: caseload, salary adequacy, pleas and trials
2. Continued legal education	2. Reputation in community	- Appropriate appeals
3. Personnel policies based on merit and performance	3. Problems unique to defenders	- Review: briefbank, formbooks, motion banks, library
4. Sufficient resources for good defense	4. Need for change	
5. Expert and support services utilized	5. Effort toward change	
6. Support staff assist in casework	6. Explanation of statistical studies	
7. Casework reflects competent defense		
8. Defender responsible for services to his clients		
9. Comparable to skilled private attorney		

Goal II, Objective 4: **JUDICIAL CONTROL**

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	- Judicial appointments
2. Case assignment not subject to judicial control	2. Criminal justice climate of community	- Complaints by judge
3. Representation terminated for good cause only	3. Involvement in judicial arena	- Media reports
4. Office operations independent of judicial control	4. Buffers against judicial influence	- Contempt of court
5. Defender services unaffected by judicial change	5. Role of advisory board	- Positions of former defenders
	6. Need for change	
	7. Efforts toward change	
	8. Comparison with private attorneys	

INTERVIEW FORMAT FOR PROSECUTION PERSONNEL

Goal II, Objective 1: COMPETENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Entry-level orientation/training	1. Opinion on objective	- Estimated statistics:
2. Continued legal education	2. Reputation in community	- caseload, pleas and trials
3. Personnel policies based on merit and performance	3. Problems unique to defenders	- Appropriate appeals
4. Sufficient resources for good defense	4. Discrimination - sex, race, economic	
5. Expert and support services utilized	5. Need for change	
6. Support staff assist in casework	6. Effort toward change	
7. Casework reflects competent defense preparation	7. Explanation of statistical studies	
8. Defender responsible for services to his clients		
9. Comparable to skilled private attorney		

Goal II, Objective 2: ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance	1. Opinion on objective	- Diversion referrals
2. Defenders encourage client confidence	2. Inclination toward trial	- Extraordinary writs
3. Extra-legal assistance provided	3. Sensitivity to clients (contact)	- Federal court interlocutory appeals
4. Client complaints resolved	4. Creative representation	- Use of interpreters
5. Diversion alternatives sought	5. Need for change	- Grievances against defenders
6. Charging alternatives sought	6. Effort for change	- Grievances against prosecutors
7. Sentencing alternatives sought	7. Comparison with private attorneys	- Grievances against judges
8. Vigorous advocacy		- Civil suits against police
9. Challenge adverse interlocutory decisions		- Civil suits against institutions

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure)	1. Opinion on objective	- Political appointments
2. Case assignment independent of politics	2. Political climate of community	- Complaints by politicians
3. Representation terminated for good cause only	3. Involvement in politics	- Party affiliation
4. Office operations independent of politics	4. Buffers against political influence	- Campaign involvement
5. Defender services unaffected by political change	5. Role of advisory board	- Media reports
	6. Need for change	- Positions of former defenders
	7. Efforts toward change	
	8. Comparison with private attorneys	

PROSECUTION PERSONNEL (cont.)

Goal II, Objective 4: JUDICIAL CONTROL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Personnel policies independent of judicial influence (recruitment, selection, tenure, promotion, removal)	1. Opinion on objective	- Judicial appointments
2. Case assignment not subject to judicial control	2. Criminal justice climate of community	- Complaints by judge
3. Representation terminated for good cause only	3. Involvement in judicial arena	- Media reports
4. Office operations independent of judicial control	4. Buffers against judicial influence	- Contempt of court
5. Defender services unaffected by judicial change	5. Role of advisory board	- Positions of former defenders
	6. Need for change	
	7. Efforts toward change	
	8. Comparison with private attorneys	

INTERVIEW FORMAT FOR COMMUNITY-ORIENTED PROGRAMS

Goal I, Objective 3: SCOPE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available at:	1. Opinion on objective	- Publicity on type of service available
- misdemeanor	2. Complaints/problems	
- felony	3. Need for change	
- juvenile	4. Effort toward change	
- mental health		
- disciplinary		
- institutional grievances		
- parole hearings		
- extradition		

Goal II, Objective 2: ZEAL

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Client vs. court allegiance	1. Opinion on objective	- Diversion referrals
2. Defenders encourage client confidence	2. Inclination toward trial	- Use of interpreters
3. Extra-legal assistance provided	3. Sensitivity to clients (contacts)	
4. Client complaints resolved	4. Creative representation	
5. Diversion alternatives sought	5. Need for change	
6. Charging alternatives sought	6. Effort for change	
7. Sentencing alternatives sought	7. Comparison with private attorney	
8. Vigorous advocacy		
9. Challenge adverse interlocutory decisions		

Goal II, Objective 5: DISCRIMINATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Representation is not affected by:	1. Discrimination in community	Media reports on topic
- racial characteristics of clients	2. Discrimination in criminal justice system	
- cultural characteristics of clients		
- religious characteristics of clients		
- sexual characteristics of clients		

Goal III, Objective 1: COMMUNITY EDUCATION

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Defenders contribute to community awareness	1. Opinion on objective	- Type of contact
2. Disseminate information to community	2. Visibility of defender	- Legislative testimony
3. Information in appropriate language/style	3. Impact	- Community talks
4. Responsive to community requests	4. Need for change	- Publications
5. Liaison with social service organizations	5. Effort toward change	

INTERVIEW FORMAT FOR FUNDING AGENCY

Goal I, Objective 1: AVAILABILITY, IMMEDIACY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
Is representation available: <ul style="list-style-type: none">- at time of arrest- when subject of investigation- at request of another party- at interrogation- at line-up	1. Opinion on objective 2. Comparison with private attorneys 3. Complaints/problems	

Goal I, Objective 2: ELIGIBILITY

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Eligibility based on hardship to client 2. Ability to post bond is irrelevant 3. Fair application of indigency criteria 4. Preliminary assessment at 1st contact 5. Routine procedures-partial eligibility 6. Referrals to private counsel if ineligible 7. Redress for persons denied representation 8. Procedures for change of eligibility status	1. Opinion on objective 2. Complaints/problems 3. Need for change 4. Effort toward change	- Estimated defender statistics: % eligible, % recoupment - Estimated court statistics: % indigent, % plea without attorney, % to defender - Estimated private attorney statistics: fee felony, fee misdemeanor - Publicity (brochures, TV)

Goal II, Objective 3: POLITICAL INFLUENCE

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	SUGGESTED INDICATORS
1. Personnel policies independent of politics (recruitment, selection, tenure) 2. Case assignment independent of politics 3. Representation terminated for good cause only 4. Office operations independent of politics 5. Defender services unaffected by political change	1. Opinion on objective 2. Political climate of community 3. Involvement in politics 4. Buffers against political influence 5. Role of advisory board 6. Need for change 7. Effort toward change 8. Comparison with private attorneys	- Political appointments - Complaints by politicians - Party affiliation - Campaign involvement - Media reports - Positions of former defenders

Goal III, Objective 2: SYSTEM IMPROVEMENT

CRITERIA FOR COMPLIANCE	OTHER QUESTIONS	POTENTIAL INDICATORS
1. Awareness of proper criminal justice system performance 2. Activities to promote proper defender role 3. Activities to promote proper criminal justice system roles 4. Activities to promote proper institutional performance 5. Participation in professional programs/associations with other components	1. Opinion on objective 2. Cooperation with other agencies 3. Liaison with other agencies 4. Need for change 5. Efforts toward change	- Grants - Suits against other components - Participation in criminal justice system training programs - Legislative testimony

HANDBOOK IV

MANAGEMENT ANALYSIS

The section which follows constitutes a complete Management Analysis Handbook which outlines two different methods by which a management analyst can assess the management capabilities of the defender office being evaluated. Its use is intended primarily for the Management Analyst during the on-site evaluation period.

Team Members will be made aware of the role to be played by the Analyst during team training. Each Team Member Handbook will contain a section on "The Functions of Management", which appears in the following Handbook, in addition to a sample of the two potential methodologies available to the Management Analyst.

CONTINUED

5 OF 6

H A N D B O O K I V

Management Analysis

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Preface

Defense for the indigent began in this country over a century ago. It is only within the last few years, however, that the advantages of providing such services through organized defender offices have been recognized. The Gideon and Argersinger decisions, which greatly expanded the responsibilities of defenders, have frequently brought with them unanticipated problems of sound management in the defender office. Most defenders, trained to be trial attorneys, are used to reacting to each situation as it arises. Preparation for an administrative role in a defender office is absent from law school curricula. Once on the job, most defenders lack the time to methodically develop, institute, and monitor policies and procedures which are based upon professional management principles. Large caseloads and continual staffing deficiencies add further obstacles.

The purposes of this Handbook are to (a) define management, (b) identify its functions, and (c) provide a systematic method for assessing the management capability in a public defender office. The Handbook will enable its users, through the use of both qualitative and quantitative information, to determine whether a Defender Office is meeting specified criteria of good management and to pinpoint existing problem areas and strengths.

The Handbook is divided into two sections:

1. A definition and discussion of management and its functional parts; and
2. Two methodologies for evaluating defender office performance from a management perspective.

This Handbook has been developed to be used in conjunction with Handbook III (On-Site Evaluation-Quality Representation). It focuses on management issues which relate to the Objectives specified in Handbook I in addition to other topics specifically related to management increases.

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SECTION I

THE FUNCTIONS OF MANAGEMENT

Management is defined as the process of achieving desired results through organizing the efforts and tasks of people. Starting with goals which are based upon a careful appraisal of current circumstances and future needs, sound management defines the steps which need to be taken to achieve these goals, identifies the role that each person in an organization is to play, motivates individuals to work to achieve these goals, and establishes a means for checking progress on an on-going basis. Sound management, whether it be in a defender office, a hospital, or a corporation, is based upon well-delineated concepts and principles.

Management Functions

1. Planning - the process of establishing goals, and specifying the steps needed for their accomplishment.
2. Organization - the development of an organizational structure through which to accomplish the goals;
3. Administration - the activities associated with integrating the efforts of individuals so that assigned tasks are performed and goals met;
4. Control - the process of checking whether progress is being made toward the established goals, within the established time frame.

Together, these functions represent the full complement of activities essential to sound management.

Planning

Planning is the process of establishing goals for the office and its staff and determining the steps needed to accomplish them. The planning process sets priorities and specifies time frames for tasks; it provides an operational blueprint which enables individuals, both within and without the organization, to anticipate office performance; and, it provides for the integration and coordination of the office's activities. Early attention to planning needs fosters

long-range economy of managerial effort.

In order for planning to take place, a defender office must first establish for itself one or more reasons for its existence. A reason could be as general as: To provide competent legal representation to the indigent. Based on this, the office should then establish more specific goals and objectives directed toward the accomplishment of its general goals.

The planning process can be broken down into the following stages:

1. Assessing the situation - (i.e., preplanning or forecasting).

Analyzing the past performance of a defender program, and the reasons for success and/or failure, is an essential part of the planning process. For example, planning a budget necessitates that the office administrator (or chief defender) review several previous years' budgets for trends which can assist in determining the office's future financial needs. Personnel planning necessitates that the administrator delve into crime patterns in the community, patterns of case assignment to the office, to understand developing crime trends. Both of the above will have implications for the need for new attorneys in the office and/or for the specialization of present ones.

There are many factors to consider when forecasting future needs: external factors are those which lie outside the defender office, but which influence defender operations. These include such variables as technological change (e.g. development in office equipment), changes in laws which affect defender operations, funding changes, and political changes; internal factors which lie within the defender office include such variables as caseloads, staff turnover, and the success of the current "game plan".

2. Defining and setting goals.

After assessing the office's progress and pinpointing those external and internal variables which are likely to be of future consequence, the office should realistically determine its goals. Examples might include: establishing a defender training program; hiring 4 new attorneys to handle an increased caseload; or maintaining records of all client complaints on jail conditions for possible legal action. The goals established should be clear, precise, and specific, and stated in a form which will enable the office to

evaluate its progress toward achievement of its goals.

3. Developing strategies to accomplish goals.

A strategy involves a careful plan for achieving a goal. This plan typically consists of a series of steps, the accomplishment of which can be measured. These should be written so that no misunderstandings occur. For example, an office which establishes as its goal the development of a defender training program might: (a) assign an individual to head the program; (b) investigate training programs existing in other offices; (c) develop an in-house training course outline for new attorneys on specific topics (such as trial procedure and plea bargaining); and (d) require that the training course for new attorneys be given prior to their assignment to trial responsibilities.

4. Setting a time table.

Determining the success of the strategy necessitates the setting of time limitations. In the training program example above, the individual heading the program should be selected within a specified period; the time spent investigating other training programs should be clearly delineated; development of the course outline should be put in a time frame. In short, the office should be capable of training new attorneys within the time period specified.

5. Budgeting resources.

To ensure the implementation of the goals, a suitable amount of money should be allocated to each area, and regulated to assure proper disbursement. Realization of the training program goal, for example, might require an additional appropriation in the next fiscal year, or a redeployment of existing personnel time and effort.

6. Repeating the process.

The entire planning process should be repeated on a regular basis. The process of checking whether progress is being made involves the control function of management which will be discussed in a later section.

Organization

Organization is the arrangement of parts to form a structure

through which to accomplish the goals. In a defender office this arrangement can be displayed by an organizational chart of divisions and duties. Each worker in a defender office should be aware of his/her duties and responsibilities, range of authority, and working relationships with others in the office. A good organizational structure assures that different tasks will knit together into integrated, purposeful action to accomplish goals and strategies established during the planning stage.

The following are components of good organization:

1. Scope of authority and responsibility.

In defining a job position, an individual should be responsible to only one other individual (e.g. supervisor), and this individual should be responsible for only the number of individuals s/he can adequately supervise. Such clarification of each individual's reporting responsibility and authority avoids intra-office conflicts. At the same time, relationships to other divisions and individuals should be identified and clarified.

2. Position and definition.

Each position in an office should be accompanied by a definition which clearly states the purpose and scope of the job. This definition should delineate the responsibilities and authority of the job and define its relationship to other positions. The description should be updated by the individual holding the position on an as-needed basis.

Figure I (page 6) presents the organizational structure of a hypothetical small office consisting of two to six attorneys. Because of its limited personnel, the defender in this size office will likely retain all supervisory functions and responsibilities. Staff attorneys will probably be called upon to handle all types of cases, rather than becoming functionally specialized. The defender, however, may take into account, when assigning duties and cases to staff attorneys, factors such as legal experience, and personal strengths and weaknesses. Law students and paralegal personnel, in this example, are used to assisting attorneys in interviewing and counselling clients, as well as investigators in exploring pre-trial release and presentence possibilities.

Figure II (page 7) presents an organizational chart for a hypothetical medium-size defender office of 8 to 16 attorneys. The purpose in presenting a model of a medium-size office is to suggest that at some point

in the growth of a small office the defender must delegate responsibility to administrative and supervisory personnel in order to preserve operational efficiency. Although the model office contains 14 attorneys, an office with as few as 7 attorneys requires additional administrative positions. The position of first assistant may involve supervisory and training responsibilities over staff. The administrative assistant may aid in preparing the budget, maintaining financial records for the office, overseeing record-keeping and statistical compilation, preparing the payroll, supervising secretaries and clerical help, and handling matters such as purchasing and contracts for non-professional services.

A major characteristic of the medium-size office is attorney specialization. An office charged with felony, misdemeanor, juvenile and appellate responsibilities may promote operational efficiency by assigning each staff attorney to one kind of representation. There are, however, alternative reasons for assigning attorneys to different positions. One defender might assign the most experienced attorneys to felony representation, with promotion from the misdemeanor or juvenile division serving as a work incentive. Another defender might provide a rotational format among divisions for purposes of staff diversity and high morale. Every defender should approach organizational issues with an attitude of flexibility, bearing in mind that the "best" organizational structure for any office involves a consideration of the interplay among individuals with differing experiences, abilities and personalities. What may work in one office might not be appropriate in another.

3. Specialization.

A group should be composed of individuals performing activities relating to a single function or speciality. In a small office, specialization may not be appropriate, but as the office becomes larger, specialized groupings of personnel by function (e.g. juvenile court) enables offices to become more efficient in their tasks. These groupings will depend upon several variables, including number and types of functions performed, caseload, types of cases and number of courts served.

Administration

Administration involves selecting, guiding and motivating individuals to carry out office plans. Good administration calls for: delegating responsibility, and holding responsible individuals

FIGURE I

SMALL DEFENDER OFFICE -- HYPOTHETICAL ORGANIZATIONAL STRUCTURE

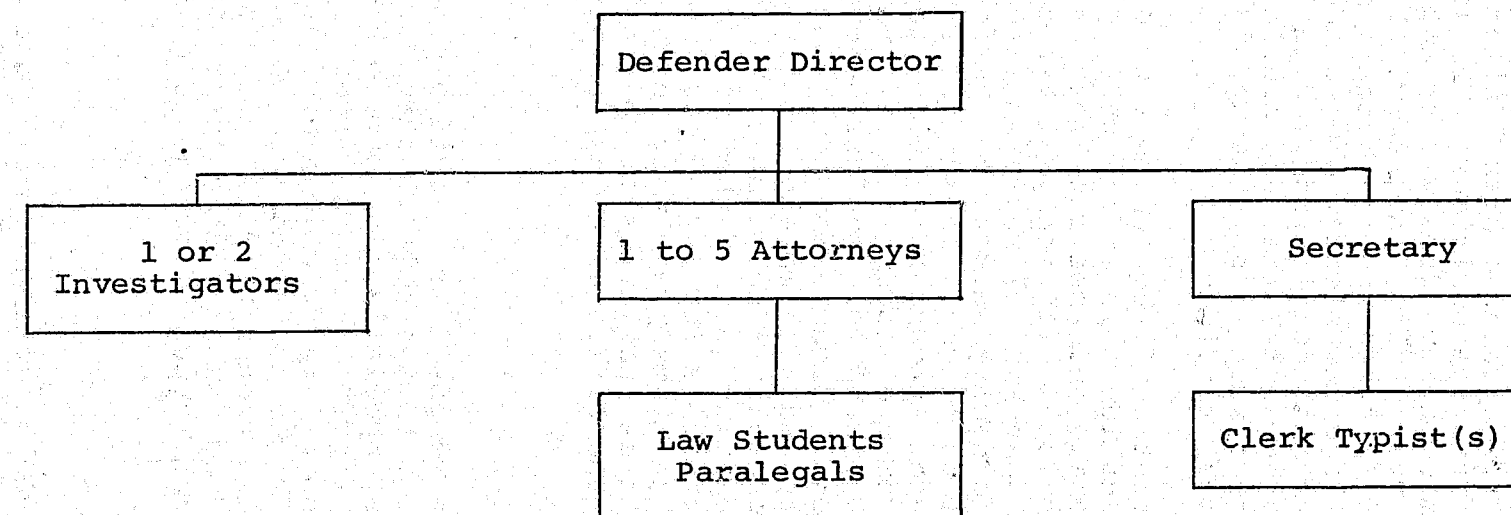
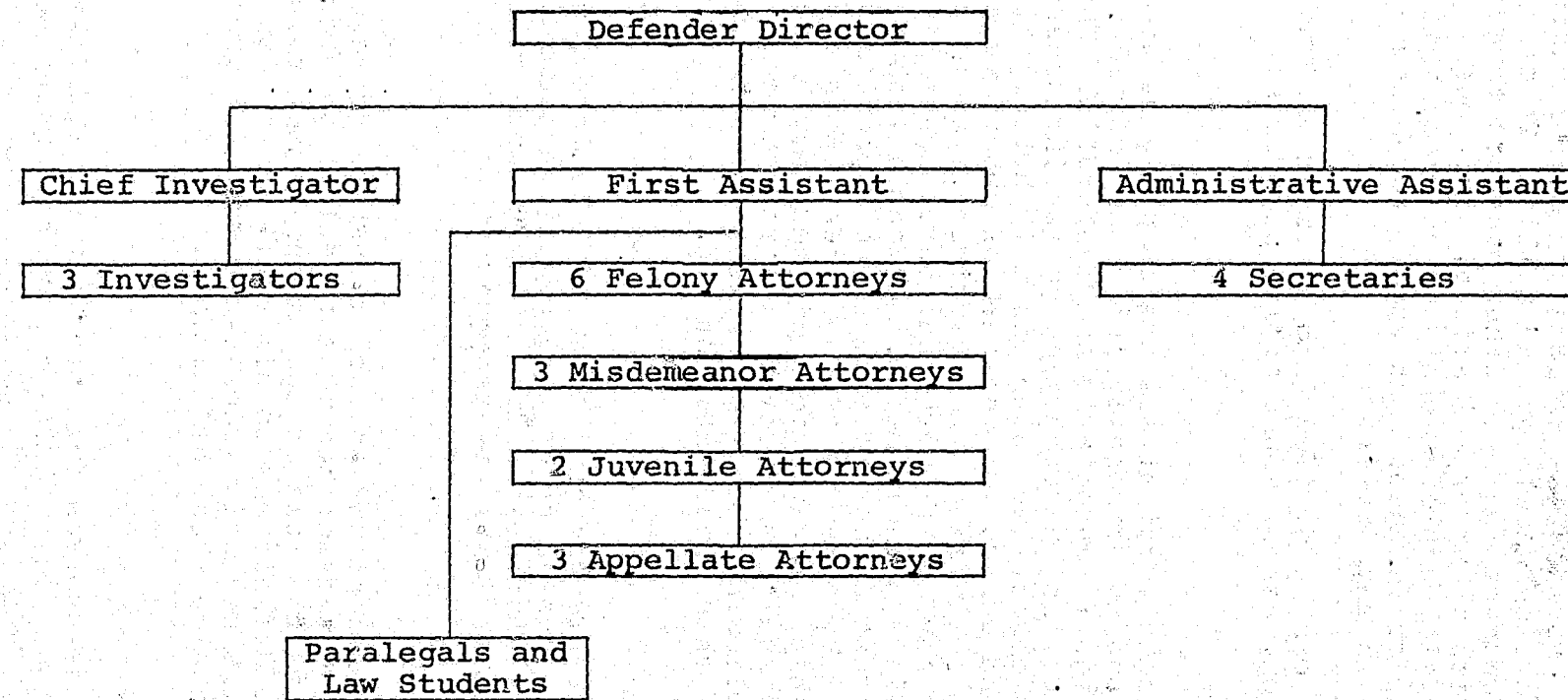


FIGURE II.

MEDIUM SIZED DEFENDER OFFICE -- HYPOTHETICAL ORGANIZATIONAL STRUCTURE



accountable; issuing day-to-day instructions, being available to guide staff; selecting, orienting and training all personnel. Good administration provides the climate and encouragement needed by individuals to develop knowledge and skills. It assures coordination and communication with other managers to avoid redundancy and clashes with other organizational divisions. It necessitates the development of techniques as prescribed monthly reports, or periodic conferences with staff, for being kept aware of what is going on in any division.

Administration can be divided into a number of functions which, in combination, assure sound office practices:

1. Leadership.

Two major behavioral styles are commonly utilized in organizations to personally influence individual and group behavior: autocratic and democratic. The autocratic leader is characterized by issuing orders to accomplish objectives, with minimal participation in planning and control on the part of subordinates. Democratic leadership (i.e. participative) is characterized by having all personnel participate in determining goals and their methods of accomplishment. This latter style has recently become popular with "management by objectives" advocates. Both styles of leadership, or variations of them, may be appropriate, depending on individual circumstances. Figure III following this page depicts the behavior and outcome of these leadership styles.

2. Delegation.

Once duties are assigned to an administrator, s/he, in turn, delegates tasks to appropriate subordinates. The process continues until all work, both administrative and operational, is assigned.

3. Communication.

Position descriptions and relationships between positions were described in the section on Organization. It is the role of the administrator to communicate these definitions to all staff and to assist in the establishment of office policies which are compatible with these definitions.

4. Staffing.

This process assures full staffing throughout the organization. It includes manpower planning, authorization for staffing, development of sources of applicants, applicant evaluation, orientation, training, assimilation, transfer, demotion, promotion, and separation.

FIGURE III

LEADERSHIP STYLES

AUTOCRATIC	DEMOCRATIC
SUPPORTIVE BEHAVIOR	
<ul style="list-style-type: none">● Goals set at difficult levels● Measures are tamper proof.● Rewards directly tied to performance as indicated by the measures	<ul style="list-style-type: none">● Goals set participatively.● Measures used for problem identification and problem-solving.● Rewards tied to general performance.● Total accountability rather than reward for attainment of measures.
PROBABLE OUTCOMES	
<u>Positive</u> <ul style="list-style-type: none">● High energy directed toward performance area.● High control of actual behavior.	<u>Positive</u> <ul style="list-style-type: none">● High commitment to goals.● High motivation/performance.● High satisfaction.● Little game-playing.● High flow of valid information.
<u>Negative</u> <ul style="list-style-type: none">● Game-playing.● Misdirected effort.● Reduced validity of information.● Energy diverted to caution/justification of actions.	<u>Negative</u> <ul style="list-style-type: none">● Little control over actual behavior● Goals set at low levels.● Poor motivation response from some individuals.

5. Evaluation.

This process involves the continuing assessment of the performance of individuals within the organization, based upon reasonable and known policies. Employees should be aware of all matters relevant to personnel evaluation, including office policies on disciplinary actions, layoffs, transfers, promotions, benefits, work schedules, and wages.

6. Compensation.

The administrator is responsible for determining the level of financial rewards and fringe benefits to be received by each member of the organization. This determination involves the development and use of mechanisms for assessing competitive wages in the labor market, and the establishment of wage rates and salary ranges for different job categories.

Control

The control function of management involves a method of evaluating performance and determining the defender office's progress toward achieving its planned objectives. It entails a regular and systematic review of information to detect trends and problems as they emerge so that corrective action can be taken. Its aim is to assure that performance results conform as closely as possible to established goals.

When goals are initially determined during the planning stage, methods of measuring progress should be developed to assure a successful program. For example, a defender might set up a procedure to determine whether the goal of establishing a training program is being met by monitoring its time-table and budgetary allowances.

This same defender might use feedback from clients and the community to determine whether defenders are perceived as sensitive to the needs of their clients. The process of control entails three activities:

1. Determination.

The control process depends on the other functions of management for its effectiveness. Planning determines the policies, procedures, and goals the organization deems appropriate; controls must be established to monitor planning. Organization divides labor and defines jobs; "control" must appraise them according to office performance. Administration delegates authority to individuals, decides the level of achievement to be expected; "control" monitors individual performance as well as the achievement of organizational goals.

Two methods for determining appropriate controls for an organization and its personnel are:

- a) Output -- What services or functions are expected to be performed? Can they be defined in terms of quantity, quality, and time? For example, how many cases can be handled without lowering the quality of representation?
- b) Expense -- How much money is available to secure a desired output? What should normal indirect expenses be in terms of supervision, staff and staff assistants? What should be the cost per case?

2. Measurement.

Since performance criteria have been established in the Organization and Administration functions, a method of measuring or evaluating must be developed. Qualitative measurement of results must be coordinated with qualitative ones in the service of assessing performance.

Measurements of performance include:

a) Quantitative Measures

1. Physical units -- number of cases handled per month by each attorney; number of pages typed per day by each secretary; number of investigators needed per attorney;
2. Dollars -- cost per case by case type;
3. Time -- hours of attorney time per case by case type.

b) Qualitative Measures

1. Attitude of community toward defenders: complaints, compliments, transfers to private attorneys;
2. Trends in the community's relationship with the defender.

3. Action.

The final step in the control process involves taking corrective action. The evaluative information gathered should lead to the investigation of problems, prompt decisions on how to overcome difficulties, and the

appropriate adjustment of operations. A follow-up to corrective action taken should indicate that current performance is closer to the desired objectives. For example, a quarterly report can initiate the need for an entirely new management cycle, entailing planning, reorganization and new sets of measurements and reports.

Concluding Note

The discussion of management and its functions should serve as an overview for the user of this Handbook. The management analysis of the defender office should be based upon these general management principles.

SECTION II EVALUATING DEFENDER OFFICE MANAGEMENT

Analysts have developed a variety of styles and techniques for conducting management studies of organizations. This section of the Handbook presents two, mutually exclusive, methods of conducting an analysis of a defender office. Both methods cover the same information and an analyst using either approach should reach the same conclusions.

The first approach, Alternative A, focuses primarily upon the three goals and eleven objectives being evaluated by the other team members (i.e. non-management) with a series of "pure management" objectives as additions. This approach will be most useful to the defender/manager who is familiar with the concerns of defenders. This approach subdivides each objective according to management functions previously outlined: planning, organization, administration, and control.

The second approach, Alternative B, was designed for use by the professional management consultant. Here the format is divided into areas most familiar to this individual: case flow, public relations, personnel, training, and resources.

The management analyst is encouraged to review both approaches and decide which best fits his/her work style. Aspects of each approach can be used, or a third approach attempted, as long as all issues are thoroughly covered.

The management analyst is expected to perform the following activities:

1. Review pre-evaluation profile materials;
2. Interview the planning agency, funding agencies, chief defender, office administrator, support personnel and others deemed necessary to obtain the data specified for each criteria and/or management issue;
3. Observe staff in the defender office, jails, and courts performing daily activities;
4. Collect and review all written or "known" policies, procedures and statistics which relate to the criteria;
5. Work with other team members, explaining how

management effectiveness relates to the quality of representation provided by the office;

6. Receive supplementary data from other team members on management issues; offer information to other team members on their areas of responsibility; and
7. Partake in daily debriefings and prepare management section of the Final Report.

Alternative A

Alternative A closely follows the approach used by the other team members. The management analyst using this approach is asked to review the goals and objectives one-by-one, looking for indications that appropriate planning, organization, administration and control activities exist. The Indicators listed on the following pages are merely a selection of possible ones which may exist in an office; the management analyst will find others. Some indicators will not be appropriate to every office.

Following the goals and objectives are specific management issues not covered elsewhere in the evaluation design: personnel, training, budgeting and accounting. These are also divided into the four functions of management.

To determine whether, from a management perspective, the defender office is running well, the analyst may want to:

1. Review written policies and procedures in detail. If they are not written, ascertain whether individuals in the office are aware of their existence;
2. Have individuals involved with specific activities (e.g. case filing) "walk through" their typical procedures;
3. Observe individuals performing their daily activities;
4. Compare information obtained with that gathered by other team members to see if formal policies and procedures match the ones used in day-to-day operations;
5. Gather additional supporting information from other team members.

When the analysis is concluded, the Final Report (Handbook III, p.110) should contain comments on whether, from a management perspective, goals and objectives are being met, and if not, those aspects of management which need improvement. Anything which is outstanding and innovative in an office should be identified. A general statement about office administration (e.g. leadership) and organization might also be useful.

GOAL I, OBJECTIVE 1: Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused on him or her as a likely suspect, or feels him/herself to be the subject of an investigation, or at the request of someone acting in his or her behalf.

Function	Management Issue: AVAILABILITY/IMMEDIACY
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °The defender office seeks to improve time of entry through law reform, litigation and/or change in scope of contract (if availability is formally restricted). °Written policies exist concerning representation at: <ul style="list-style-type: none"> -arrest -walk-ins -line-ups -information dissemination -interrogations -continuity of represen- -preliminary hearings tation °Written and/or known procedures exist for implementing the policies
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the office organizational structure to ensure defender availability
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone has been delegated responsibility to ensure representation at: <ul style="list-style-type: none"> -arrest -preliminary hearings -line-ups -walk-ins -interrogations information dissemination °Activities of attorneys and support staff are observed and reviewed as they pertain to availability °Authority is delegated to individual attorneys to represent potential clients

Function	Management Issue: AVAILABILITY/IMMEDIACY
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Staff is aware of procedures which make defenders available °Feedback is requested from all clients as to when they were initially represented °Statistics are maintained and periodically reviewed as to time of entry of defender office °Policies and procedures are periodically reviewed, updated and circulated to staff °Feedback is periodically requested from clients as to the accessibility of the defender office °Jail checks are taken to ascertain if any individual desiring representation is overlooked °Local private attorneys are polled to determine when they are contacted by their client °Information regarding public transportation services is available at the defender office °Attorneys are available 24 hours a day °Answering service routes calls to appropriate attorney after normal working hours °Working hours of attorneys make it convenient for working people to visit the office (i.e., evening hours once a week)

GOAL I, OBJECTIVE 2: Representation should be provided to any individual who is eligible and desires representation.

Function	Management Issue: ELIGIBILITY
PLANNING	<u>Indicators:</u> <ul style="list-style-type: none">°Written policies exist concerning eligibility and partial eligibility°Written and/or informal procedures exist:<ul style="list-style-type: none">-for a fair and equitable assessment of eligibility-to recommend private counsel to ineligible individuals-for redress for individuals declared ineligible-for implementing policies of partial eligibility (recoupment)-to provide representation until private counsel assumes responsibility for ineligible individuals
ORGANIZATION	<u>Indicators:</u> <ul style="list-style-type: none">°Positions are defined and designated within the office's organizational structure to ensure that eligibility criteria are met and procedures are followed
ADMINISTRATION	<u>Indicators:</u> <ul style="list-style-type: none">°Activities of attorneys and support staff are observed and reviewed as they pertain to eligibility°Authority is delegated to individual staff members to ensure:<ul style="list-style-type: none">-eligibility criteria are followed-clients are provided redress from adverse decision-ineligible clients are assisted in finding counsel

Function	Management Issue: ELIGIBILITY
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none">°Feedback is requested from individuals as to fairness or eligibility requirements°Office staff is questioned for its awareness of eligibility criteria°Policy statements are reviewed periodically for comprehensiveness, clarity, and precision°Statistics are maintained for:<ul style="list-style-type: none">-individuals found to be ineligible-individuals who switch from private attorney to defender; from defender to private attorney°Some "ineligible" cases are reviewed and discussed with the relevant staff member to ascertain the equity of the procedures°Recoupment collections are periodically reviewed

GOAL I, OBJECTIVE 3: Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.

Function	Management Issue: SCOPE
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none">°If the office is restricted from representing clients at all trial level proceedings there are efforts toward law reform, or changes in scope of contract°Written and/or known policies exist concerning representation at:<ul style="list-style-type: none">-felony level-disciplinary proceedings-misdemeanor level-institutional grievances-juvenile proceedings-parole proceedings-mental health proceedings-extradition proceedings-diversion proceedings°Written or informal procedures exist for implementing these policies
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none">°Positions are defined and designated within the office's organizational structure to provide free scope of representation
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none">°Someone has been delegated responsibility of ensuring that scope procedures are followed°Activities of attorneys and support staff are observed and reviewed as they pertain to scope°Authority is further delegated to individual attorneys to represent clients throughout the trial level proceedings

Function	Management Issue: SCOPE
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none">°Policies are reviewed on a periodic basis to ensure that they comply with the latest Supreme Court decisions°Policies and procedures are reviewed for comprehensiveness, clarity, and precision°Office personnel are aware of the policies°Individuals who appear in court without counsel are interviewed to make sure they do not desire counsel°Implementation of procedures is observed and reviewed on a periodic basis°Defender office responds to client complaints

GOAL I, OBJECTIVE 4: Representation should be available until all reasonable avenues of relief are exhausted.

Function	Management Issue: DURATION
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °The defender office is making efforts in law reform, litigation, and/or change in scope of contract to ensure proper post-trial representation if it is restricted °Written and/or known policies exist concerning: <ul style="list-style-type: none"> -appeal -parole proceedings -probation hearings °Written and/or known procedures exist for implementing these policies
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the office's organizational structure to ensure continuity of representation and relief.
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone has been delegated responsibility to oversee post-trial representation °Activities of attorneys and support staff are observed and reviewed as they pertain to duration °Authority is delegated to individual attorneys to represent their clients in post-trial proceedings
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Defenders are aware of duration policies and procedures °Policies and procedures are reviewed and updated on a periodic basis °Client mail is reviewed to ascertain what post-trial representation is requested °Statistics are maintained and reviewed as to types of numbers of post-trial proceedings with and without representation; also, number of appeals filed on convictions °Familiarity of defenders with parole and probation staff and procedures is reviewed °Cases not appealed are reviewed for potential reconsideration

GOAL II, OBJECTIVE 1A: Representation of behalf of clients should be competent.

Function	Management Issue: CASE FLOW MANAGEMENT
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Policies exist for case flow management °Policies exist concerning: <ul style="list-style-type: none"> -caseload limitations -plea bargaining °Written or known procedures exist for: <ul style="list-style-type: none"> -case assignment -case scheduling -establishment of case file -establishment of filing and indexing system -materials to be maintained in case file -maintenance of a correspondence file -updating case file information -documentation of case preparation -establishment of tickler file -maintenance of appointments via calendaring -closing of case files -retention of closed cases -filing of motions -limitation of number of open cases per attorney
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the office's organizational structure to manage the flow management of casework
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone has been delegated the responsibility to ensure that case work is handled competently °Activities of attorneys and support staff are observed and reviewed as they relate to case flow management °Authority is delegated to individuals to follow case management procedures

GOAL II, OBJECTIVE 1B: Representation of behalf of clients should be competent.

Function	Management Issue: CASE FLOW MANAGEMENT
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Case status reports are maintained so that case load of staff can be reviewed for disparities among staff and excessiveness of caseload °Closed cases are reviewed by an individual to ensure filing procedures are followed °Staff meetings are held to discuss new developments in criminal law and current problem cases °Case results are compared to those of private attorneys as to: <ul style="list-style-type: none"> -dispositions -sentences -duration -bail °Office staff is questioned as to knowledge of case flow policies and procedures °Policies and procedures are periodically reviewed and updated °Feedback from office personnel is encouraged concerning improvements in case flow process

Function	Management Issue: USE OF RESOURCES IN CASE PREPARATION
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Policies exist for use of resources in case preparation °Written and/or known procedures exist for: <ul style="list-style-type: none"> -library acquisition and use -information retrieval -investigation of cases -calling expert witnesses -interviewing clients and witnesses -space allocation -equipment usage -attorney time records -caseload limitations
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the office's organizational structure to ensure competent case preparation
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone has been delegated the responsibility to ensure that cases are prepared competently and caseload is limited when necessary °Activities of attorneys and support staff are observed and reviewed as they relate to case preparation °Authority is delegated to individuals to follow case preparation procedures
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Private rooms are used to interview clients and witnesses °Interviewing techniques are reviewed and improved °Investigative techniques are reviewed and improved °The office is professional in appearance and well-maintained °Xeroxing, microfilm, typewriters, and other office equipment are modern

Function	Management Issue: USE OF RESOURCES IN CASE PREPARATION
CONTROL (continued)	<ul style="list-style-type: none"> °A file of expert witnesses is maintained and kept current °Time records are maintained and used to determine caseload limitations °The office policies and procedures are periodically reviewed and updated °Feedback from office personnel is encouraged concerning improvements in use of office resources

GOAL II, OBJECTIVE 2: Representation on behalf of clients should be zealous.

Function	Management Issue: COMMUNITY RESOURCES
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Written policies exist on defender office obligation to clients °Written and/or known procedures exist concerning: <ul style="list-style-type: none"> -dealing with clients' non-legal needs -seeking diversion programs for client -seeking alternative sentences for clients -maintaining information on community resources -processing and resolving client complaints
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °The organization is structured to provide alternatives to clients
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone is delegated responsibility to ensure that alternatives are sought °Activities of attorneys and support staff are observed and reviewed as they pertain to zealousness
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Client complaints are investigated and resolved °Policies and procedures are periodically reviewed and updated °Procedures are familiar to the staff members °Attorneys are periodically surveyed as to their use of diversion and alternative sentencing. Their input is used to improve the process °Community resources are sought and utilized °Community resources are surveyed as to their feelings of utilization to the defender office °Statistics are maintained and reviewed in such areas as: <ul style="list-style-type: none"> -diversion referrals -civil suits -extraordinary writs -Federal Court appearances -interlocutory appeals All of the above should contain original number sought and favorable/unfavorable outcomes

GOAL II, OBJECTIVES 3 and 4: Representation on behalf of clients should remain free from political influence.

Representation on behalf of clients should remain free from improper judicial control.

Function	Management Issues: POLITICAL INFLUENCE and JUDICIAL CONTROL
PLANNING	<u>Indicators:</u> <ul style="list-style-type: none"> °Office makes efforts toward eliminating improper controls through law or legislative reform, altering scope of contract and/or discussing problem areas with appropriate people °Written policies exist within the office concerning: <ul style="list-style-type: none"> -efforts to deal with improper judicial or political controls -political affiliation and activities of staff °Written and/or known procedures exist concerning <ul style="list-style-type: none"> -reporting attempts of control -existence of any political materials within the office -official backing of any political candidates by staff -case preparation and decisions as they relate to possible influence
ORGANIZATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Positions are defined and designated within an organizational structure to handle improper judicial or political control °Structure of the office keeps it insulated from political and judicial pressure
ADMINISTRATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Someone is delegated the responsibility to ensure freedom from improper judicial or political control °Activities of attorneys and support staff are observed and reviewed as they pertain to control

Function	Management Issues: POLITICAL INFLUENCE and JUDICIAL CONTROL
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none"> °Memos are distributed to staff members, encouraging them to report any pressures applied to their case preparation °Meetings are arranged with both legislative and judicial people to discuss the proper role of the defender within the criminal justice system °Policies on control are circulated within the office periodically and updated as needed °Advisory Board is used to buffer attempted pressure on office °Statistics are maintained on: <ul style="list-style-type: none"> -contempt of court charges and reasons -staff removal and reasons -case shifts between attorneys and reasons -attempts at control °Annual report addresses issue of control, when appropriate

GOAL II, OBJECTIVE 5: Representation should not be affected by racial, cultural, religious, or sexual characteristics of clients

Function	Management Issue: NON-DISCRIMINATION
PLANNING	<u>Indicators:</u> <ul style="list-style-type: none"> °Written policies exist concerning non-discrimination °Written and/or known procedures exist concerning representation being provided without regard to racial, religious, or ethnic background and without regard to sex of client
ORGANIZATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Positions are defined and designated within the organizational structure to handle considerations of discrimination
ADMINISTRATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Someone is delegated the responsibility to ensure that representation is provided without discrimination °Activities of attorneys and support staff are observed and reviewed as they pertain to discrimination
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none"> °Office staff is periodically surveyed to ascertain knowledge of policies dealing with discrimination °Statistics are maintained and reviewed by race and sex: <ul style="list-style-type: none"> -time interval between arraignment and case closing -bail status -final disposition -final sentence -number and type of motions filed -prior conviction record -original charge -final charge °Client complaints are investigated and responded to °Communication regularly transpires between the defender and community groups with an interest in discrimination

GOAL III, OBJECTIVE 1: Defenders should contribute to the knowledge of the community about the adversary process and the role of counsel.

Functions	Management Issue: COMMUNITY EDUCATION
PLANNING	<u>Indicators:</u> <ul style="list-style-type: none"> °Written policies exist on contributing to community awareness of the defender office and its role in the criminal justice system °Written and/or known procedures exist concerning: <ul style="list-style-type: none"> -responding to information requests from the community -providing informational pamphlets to the community -membership in community groups -acquainting the defender office with key leaders within the community -maintaining on-going relations with community groups, both friends and enemies -creating and maintaining a correspondence file for community contacts
ORGANIZATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Positions are defined and designated within the office's organizational structure in relation to contributing to community awareness
ADMINISTRATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Someone has been delegated the primary responsibility for coordinating community education activities °Activities of attorneys and support staff are observed and reviewed as they participated in community awareness activities
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none"> °Feedback from community groups requesting information or a speaker is sought and reviewed °Chief defender is known by key members of the community and criminal justice system °Statistics are maintained on:

Function	Management Issue: COMMUNITY EDUCATION
CONTROL (continued)	<ul style="list-style-type: none"> -groups sent information -groups office appeared before -media coverage of defender office events -number of office members actively involved in community groups -requests for materials °Information distributed to public is reviewed, updated, and reprinted as needed °Community groups, both friends and enemies, are routinely contacted to see how interaction can be improved °A list of all community groups is maintained in the office °Policies and procedures on ensuring community awareness are reviewed and updated periodically

GOAL III, OBJECTIVE 2: Defenders should seek to improve the criminal justice system and other components therein.

Function	Management Issue: SYSTEM IMPROVEMENT
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °The defender office is actively seeking ways of improving the criminal justice system through legal reform, litigation, and/or changing the scope of their contract, where appropriate °Written policies exist on the duty of the defender office to promote and work for system improvement °Written and/or known procedures exist for: <ul style="list-style-type: none"> -reporting any maltreatment of clients by police or institutions -promoting understanding of defender activities throughout the criminal justice system -each defender staff's role while acting in defender capacity -working with prosecutors and judges to ensure that clients' cases are heard and decided in a just manner -promoting reform in the criminal justice system when needed
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the organizational structure to monitor system improvement
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone has been delegated responsibility to ensure that system improvement policies and procedures are followed °Activities of attorneys and support staff are observed and reviewed as they pertain to system improvement

Function	Management Issue: SYSTEM IMPROVEMENT
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none"> °Statistics are maintained on: <ul style="list-style-type: none"> -testimony given at legislative hearings -grants applied for and received or not, with accompanying reasons -number and nature of suits filed against institutions (jails, courts, corrections) and individuals (police, judges, prosecutors, correctional staff) -participation on state and local bar committees -number and type of teaching activities of defender office -number and type of committee memberships and activities -articles published in professional journals °System activities are observed and improper conduct noted and acted upon °Surveys are conducted to determine if defender office has similar bail and disposition of same case type as private counsel °Clients are periodically polled to ascertain if any maltreatment has occurred to them or others in the criminal justice system °Non-compliance with the law by others is noted and reported to proper authorities °Membership in professional organizations is encouraged °Teaching in educational settings is encouraged °Staff is questioned periodically on the areas in need of system improvement °Memos are sent to private attorneys concerning new court decisions of interest

Function	Management Issue: PERSONNEL
PLANNING	<u>Indicators:</u> <ul style="list-style-type: none"> °Written personnel policies and procedures exist for: <ul style="list-style-type: none"> -affirmative action programs -recruitment and selection -qualifications for each position -retention and promotion -termination -salaries and fringe benefits -parity with competing organizations -workload requirements -evaluation criteria -vacation -recoupment procedures -time records
ORGANIZATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Each position is described, relationships with other positions described and responsibilities designated within an organizational structure
ADMINISTRATION	<u>Indicators:</u> <ul style="list-style-type: none"> °Someone is delegated the responsibility of handling personnel matters °Activities of attorneys and support staff are observed and reviewed according to the evaluation criteria established by the office
CONTROL	<u>Indicators:</u> <ul style="list-style-type: none"> °Policies and procedures are reviewed with staff to ascertain equity and non-discrimination °Personnel criteria are periodically reviewed to avoid discrimination:

Function	Management Issue: PERSONNEL
CONTROL (continued)	<ul style="list-style-type: none"> -from what sources does defender office seek new staff members -recruitment of experienced staff is attempted -percentage of minority attorneys in area is determined. Does this compare to percentage in defender office? -resumes are reviewed to ensure that they weren't rejected due to race or sex -promotions are reviewed. What jobs opened up in office? Who was eligible for the position? Who actually received promotion? -terminations are periodically reviewed with adequate documentation of good cause °Personnel criteria are reviewed to ensure freedom from improper judicial and political control -chief defender recruitment and selection based on non-partisan committee decision -staff is recruited and selected based on merit -retention and promotion are based on merit °Personnel are evaluated on a continual basis °Personnel manual is reviewed and updated as needed °Parity of salary with prosecutor office and private criminal counsel is sought

Function	Management Issue: TRAINING
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Written policies exist concerning the training of attorney and support staff °Written and/or known procedures exist on: <ul style="list-style-type: none"> -orientation of all personnel -entry-level training of all personnel -on-going training of all personnel -including private criminal justice training efforts -involving other criminal justice to both providing and receiving training -attorney and staff training in office and other interests -distribute summaries of training which pertain to office
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within an organizational structure to handle training
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone is delegated the responsibility to ensure training is provided °Activities of attorneys and support staff both providing and participating in training courses are observed and reviewed °Authority is further delegated to other individuals to prepare, provide, and review training courses
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °New employees are introduced to staff members and appropriate criminal justice personnel °New employees are given an office manual and have their responsibilities explained °Training is provided and procedures "walked through" °New employees are observed closely by an experienced person until they are capable of assuming full responsibility °New attorneys assist in trial proceedings until competent to take full responsibility

Function	Management Issue: TRAINING
CONTROL (continued)	<ul style="list-style-type: none"> °Attorneys are observed in court to determine any areas of weakness. Training is planned around these areas. °Staff meetings encourage discussion of difficult pending current cases. Closed cases are examined to see if next effort could be better °Support staff are observed in their roles to determine weak areas. Training is planned around these areas °Attorneys are required to prepare a topic of interest and a chair discussion on it °External seminars are sought which would be of interest and personnel are sent °Possibilities for scholarships to seminars are investigated °Personnel records are reviewed to ensure all staff members are being provided training °Private criminal attorneys are invited to participate in defender training sessions °Members of criminal justice system are invited to appear before defender training sessions °Defenders participate in training of other members of criminal justice system °Training materials are reviewed and updated °Feedback from training sessions is requested as to relevance, length of class, and presentation °Training is at least comparable to that provided by prosecutor's office

Function	Management Issue: BUDGETING
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °The defender office is making efforts to improve budgetary allotments through law reform, litigation, changing scope of contract and/or seeking approval of governing board °Written policies exist concerning budget °Written budgetary procedures exist for: <ul style="list-style-type: none"> -project caseload -projecting of base unit cost -establishing priorities for requested increases -describing expected results if requests are approved -describing services provided, both present and future -fiscal data for each office/location -analyzing data to explain: <ul style="list-style-type: none"> °°trend changes °°improvements in services °°changes in criminal justice system °°costs per case °°actual cost to estimated cost -accepting or rejecting local politically-based contributions -review of budget by governing board before submission to funding agency
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within an organizational structure to handle preparation of budget
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone is delegated responsibility of ensuring budget is properly prepared °Activities of budget staff are observed and reviewed to ensure accuracy °Input is received from all concerned parties as to budget requirements and priorities °Authority is delegated to staff members to prepare

Function	Management Issue: BUDGETING
ADMINISTRATION (continued)	budget and to ensure there is backup knowledge in case of illness
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Defender office is expanding its services commensurate with budget appropriations °Defender office is providing all requested information for good budget preparation °Budget is presented in a clear and interesting manner °Federal grants are requested for some "special" programs so that funding agency can see results before approving additional funding °An outside accounting agency is asked to review budget for clarity and accuracy °Office decisions are made with financial information collected for budget into consideration °Budgetary policies and procedures are reviewed and updated on a periodic basis °"Backup" budgets are prepared in case initial funding is denied °Budget allotments are sufficient to carry out responsibilities of the office °Salaries are on a parity with the prosecutor's office and other private criminal attorneys' offices

Function	Management Issue: ACCOUNTING
PLANNING	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Governing board input is requested on reports produced °Written policies exist concerning accounting °Written procedures exist concerning: <ul style="list-style-type: none"> -financial statements -cash flow reports -budgeting -attorney time report -case information report -workload report -collection of this information <ul style="list-style-type: none"> °°manual system °°pegboard °°automated data-processing -maintenance and preparation of <ul style="list-style-type: none"> °°cash receipts °°cash disbursements °°general journal °°payroll °°general ledger °°client trust account
ORGANIZATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Positions are defined and designated within the organizational structure to handle accounting
ADMINISTRATION	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Someone is delegated the responsibility to ensure accounting procedures are followed °Activities of accounting staff are observed and reviewed to ensure accuracy °Authority is delegated to other individuals to ensure that each section of accounting is properly prepared and that there is backup knowledge in case of illness

Function	Management Issue: ACCOUNTING
CONTROL	<p><u>Indicators:</u></p> <ul style="list-style-type: none"> °Outside agency audits office records °Time records and workload reports are reviewed by attorneys periodically to ensure accuracy °Allocated figures are reviewed monthly to ensure that office is not over-spending in certain areas °Reports are periodically reviewed for accuracy and usefulness °Decisions are made based on information reports °Requests for accounting information can be provided quickly °New reports are designed and circulated to appropriate people to ascertain usefulness °Accounting procedures have been reviewed by an automated data-processing systems person to determine if replacement is appropriate °Repair contracts are investigated and decided if a money savings based on "normal repair costs" °Office is on manufacturers' mailing lists for their full line of equipment

Alternative B

Alternative B, while covering all of the information found in Alternative A, focuses on those management operations which are most familiar to the professional management analyst. The following areas are outlined:

- case flow management
- public relations
- personnel
- training
- resources (including budgeting and accounting)

The management analyst is directed, in each area, to:

1. Review policies and procedures;
2. Review the organizational structure and administrative procedures;
3. Observe office operations and staff activities to note whether responsibilities are carried out;
4. Question administrative and other staff about their activities; and
5. Determine whether methods exist for assuring that office policies and procedures are formulated.

When the analysis is concluded, the Final Report (Handbook III, p. 110) should contain comments on those aspects of management which are deficient and need improvement. Anything which is outstanding and innovative in an office should be identified. A general statement about office administration (e.g. leadership) and organization might also be useful.

Caseflow Management

Caseflow management is the handling of the case from the time an individual initially seeks assistance at a defender office until the person has completed his/her interaction with the system. To assess this area, the management analyst should:

A. Review all policies and procedures that deal with:

- how and when the defender makes him/herself available to perspective clients
- a preliminary assessment of the eligibility of clients
- the scope of services provided by the office
- the duration of services provided by the office
- case management
- case preparation

B. Observe office procedures that pertain to these policies by "walking" a sample of open and closed cases through the office. Check the following areas in particular:

- availability
 - time of arrest
 - line-ups in police station
 - police interrogation
 - eligibility
 - fair and equitable assessment of eligibility
 - recommending private counsel to ineligible individuals
 - redress for individuals declared ineligible
 - partial eligibility and recoupment
 - substantial hardship to client as overriding criterion
 - scope of services offered
 - misdemeanor level
 - felony level
- at preliminary hearings
 - for walk-ins
 - for information calls
 - institutional grievances
 - parole proceedings

- juvenile proceedings
- mental health proceedings
- disciplinary proceedings
- extradition proceedings
- diversion proceedings
- probation/revocation proceedings

• duration

- appeals

- diversion termination

- relief from adverse parole decisions

- relief from probation revocations

C. Review the office's case management system for the following:

- type of scheduling (e.g., vertical/horizontal)
- case assignment procedures (e.g., equity, matching by competence)
- time allocation for different cases
- establishment of a case file (e.g., client intake form, labels, index file, case number)
- establishment of a filing and indexing system (e.g., cross referenced through indexes)
- materials maintained in case file
- procedures for updating case file information
- establishment of tickler file
- closing of case files
- retention of closed cases
- limitation of number of open cases per attorney or support staff

D. Does the office also have procedures for:

- maintenance of correspondence file
- documentation of case preparation in each file
- investigation of cases
- maintenance of appointments via calendaring

- calling expert witnesses
 - library acquisition and use
 - equipment usage
 - space allocation
 - information retrieval
- E. Review the organizational and administrative structure of the office to determine whether:
- the structure supports the necessary activities
 - authority and responsibility has been delegated to appropriate individuals
 - individuals are aware of their authority and responsibility
- F. Observing staff to determine whether individuals actually carry out their respective responsibilities
- G. Questioning administrative staff about the manner in which they carry out their responsibilities, to determine style and quality of performance
- H. Determine what methods are used by the office to monitor and ensure that procedures are being followed. Methods may include:
- Requesting feedback, individually or during group meetings, from staff on the relevance, equity, and effectiveness of policies and procedures
 - periodic staff questioning on their awareness of office policies and procedures
 - a review of policies and procedures for comprehensiveness, clarity, and precision
 - Maintaining pertinent statistics on:
 - individuals found to be ineligible
 - individuals who switch attorneys
 - types and numbers of post-trial proceedings
 - number of individuals without counsel
 - requesting feedback from clients on their treatment by the defender office
 - investigating client complaints received

- reviewing case preparation periodically
- administrators observing staff while carrying out their responsibilities

Public Relations

The public relations function involves educating the consumer about products or services available from the producer. In the case of the defender office, it entails communicating and distributing information in order to better serve the community. To determine whether this function is carried out, the management analyst should:

A. Review all policies and procedures dealing with:

- making the community aware of defender services. This might include:
 - responding to information requests from the community
 - participating in community groups
 - providing informational pamphlets to the community
 - acquainting the defender office with key leaders within the community
 - maintaining on-going relations with community groups, both friends and "enemies"
- attempts to improve the criminal justice system. These might include:
 - handling complaints of any maltreatment of clients by police or institutions
 - promoting understanding of defender activities throughout the criminal justice system
 - working with prosecutors and judges to ensure that clients' cases are heard and decided in a just manner
 - promoting reform in the criminal justice system when needed

B. Determine whether one or more individuals have been delegated responsibility for these areas. Observe and question the designated individuals to see:

- if they are aware of their authorities and responsibilities
- how they carry out their respective responsibilities
- whether they observe, review, and evaluate the activities of persons responsible to them

C. Determine what methods are used by the office to monitor and

ensure that procedures are being followed. Indicators of this might be:

- office staff is questioned periodically as to their awareness of office policies and procedures
- policies and procedures are reviewed for comprehensiveness, clarity, and precision
- statistics are maintained on:
 - groups sent information
 - groups before which office staff appeared
 - articles published
 - media coverage on defender office events
 - requests for materials
 - legislative testimony
 - grants for which office applied
 - number and type of suits filed by office against police, courts, corrections
 - number and type of teaching activities
- all appropriate community groups are contacted periodically
- informal surveys are taken within the criminal justice system to ascertain:
 - whether the defender is providing comparable representation to that given by the private attorney
 - that other agencies are providing adequate services to clients
 - that the defender office is aware of services available in the criminal justice system
- defender office is known by community served
- information is periodically updated and distributed
- office responds to complaints and investigates them
- staff participates in local professional organizations
- non-compliance to the law is noted and reported to the proper authorities

- membership in professional committees is encouraged
- teaching in educational settings is encouraged

Personnel

Personnel includes the recruitment, selection, development, utilization of, and accomodation to human resources by the defender office. To determine whether an adequate personnel system exists, the management analyst should:

- A. Review whether policies and procedures exist which cover basic personnel issues:
 - affirmative action
 - recruitment and selection
 - qualifications for each position
 - retention and promotion
 - termination
 - salaries and fringe benefits
 - parity with competing organizations
 - workload requirements
 - evaluation criteria
 - vacations
 - recoupment procedures
 - time records
- B. Review the organizational and administrative structure of the office to determine whether:
 - the structure supports the necessary activities
 - authority and responsibility has been delegated to appropriate individuals
 - individuals are aware of their authority and responsibility
- C. Observe staff to determine whether individuals actually carry out their respective responsibilities
- D. Question administrative staff about the manner in which they carry out their responsibilities to determine style and quality of performance
- E. Determine what methods are used by the office to monitor and

ensure that procedures are being followed. Some indicators of adherence are:

- personnel criteria are periodically reviewed to avoid discrimination:
 - from what sources does the defender office seek new staff?
 - how is the recruitment of experienced staff accomplished?
 - what is the percentage of minority attorneys in the area? Does this compare to the percentage in the defender office?
 - are resumes reviewed to ensure that individuals were not rejected due to race or sex?
 - are promotions reviewed? What jobs opened up in the office? Who was eligible for the position? Who actually received the promotion?
 - are terminations reviewed for adequate documentation of good cause?
- personnel criteria are periodically reviewed to ensure freedom from improper judicial influence or political control
 - how was the chief defender recruited and selected?
 - how is staff recruited, selected, retained and promoted?
- personnel are evaluated on a continual basis
- personnel files are updated as needed
- personnel manual is reviewed and updated as needed
- salary parity with prosecutor office and private criminal counsel is sought

Training

Training involves the knowledge and skill development of each individual in an office so as to qualify him/her for the position and continually develop proficiency. To determine the scope and adequacy of the training in a defender office, the management analyst should:

- A. Review all policies and procedures dealing with training for:
 - orientation of personnel
 - entry-level training of personnel
 - on-going training of personnel
 - encouragement of other members of the criminal justice system to both provide and participate in training, including private criminal attorneys
 - defenders providing training internally and to other interested parties in the criminal justice system
- B. Review all materials used in training for clarity, precision, comprehensiveness, relevance, and up-to-dateness.
- C. Review the organizational and administrative structure of the office to determine whether:
 - the structure supports the necessary activities
 - authority and responsibility has been delegated to appropriate individuals
 - individuals are aware of their authority and responsibility
- D. Observe staff to determine whether individuals carry out their respective responsibilities
- E. Question administrative staff about the manner in which they carry out their responsibilities to determine style and quality of performance
- F. Ask staff opinion about the type of training received, and its relevance, comprehensiveness, up-to-dateness, and gaps. Determine what methods are used by the office to monitor and ensure that procedures are being followed. Some indicators of adherence include:
 - new employees are introduced to staff members and appropriate criminal justice personnel

- new employees are given an office manual and have their responsibilities explained
- training is provided and procedures "walked through"
- new employees are observed closely by an experienced person until they are capable of assuming full responsibility
- new attorneys observe more experienced attorneys in trial proceedings
- attorneys are observed in court to determine any areas of weakness; training is planned around these areas
- staff meetings encourage review of difficult current cases; closed cases are examined to see if next effort could be better
- support staff are observed in their roles to determine weak areas; training is planned around these areas
- attorneys are required to prepare a topic of interest and chair a discussion of it
- external seminars are sought which would be of interest and personnel are sent
- possibilities of scholarships to seminars are investigated
- personnel records are reviewed to ensure all staff members are being provided training
- training materials are periodically reviewed and updated
- feedback from trainees is requested as to appropriateness, length of class, and presentation

Resources

Resources management is the handling and allocation of materials, support services, and funds. To determine if this area is being handled effectively, the management analyst should:

- A. Review all policies and procedures dealing with accounting and budgeting, materials and support services:
- accounting
 - financial statements
 - cashflow reports
 - budgets
 - collection of information:
 - °°manual system
 - °°pegboard
 - °°automated data processing
 - attorneys time reports
 - case information reports
 - workload reports
 - maintenance and preparation of:
 - °°cash disbursement
 - °°general journal
 - °°payroll
 - °°general ledger
 - budgeting
 - projection of caseload
 - projection of base unit cost
 - establishment of priorities on requested increases
 - description of expected results if requests are approved
 - fiscal data for each office/location
 - analysis of data to explain:
 - °°trend changes
 - °°improvements in services
 - °°changes in criminal justice system
 - °°cost per case
 - °°actual cost to estimated cost
 - materials (and/or support services):

- library acquisition and use
- information retrieval
- case investigators
- calling expert witnesses
- interviewing clients and witnesses
- space allocation
- equipment usage
- caseload limitation

B. Determine if one or more individuals have been given administrative responsibility to handle these areas. Observe and question the designated individuals to see:

- whether they are aware of their authorities and responsibilities
- how they carry out their respective responsibilities
- whether they observe, review, and evaluate persons responsible to them

C. Determine what methods are used by the office to monitor and ensure that procedures are being followed. Indicators of this for accounting and budgeting are:

- office staff is questioned periodically as to their awareness of office policies and procedures
- policies and procedures are periodically reviewed for comprehensiveness, clarity, and precision
- outside agency audits office records
- allocated figures are reviewed monthly to ensure that office is not over-spending in certain areas
- reports are periodically reviewed for accuracy and usefulness
- decisions are made based on information reports

Additional indicators of good accounting procedures are:

- time records and workload reports are reviewed by attorneys periodically to ensure accuracy
- requests for accounting information can be provided quickly

- new reports are designed and circulated to appropriate people to ascertain usefulness
- accounting procedures have been reviewed by an automated data processing systems person to determine compatibility with computer
- repair costs for equipment are reviewed to determine if replacement is appropriate
- repair contracts are investigated
- office is on equipment manufacturers' mailing lists

Additional indicators of good budgeting procedures are:

- defender office is providing all requested information for budget
- budget is presented in a clear and interesting manner
- federal grants are requested for some "special" programs so that funding agency can see results before approving additional funding
- "backup" budgets are prepared in case initial funding is denied
- budget allotments are sufficient to carry out responsibilities of the office
- salaries are on a parity with the prosecutor office and other private criminal attorneys

Indicators of materials and/or support services are:

- private rooms are used to interview clients and witnesses
- interviewing techniques are reviewed and improved
- investigative techniques are reviewed and improved
- office is professional in appearance and well maintained
- xeroxing, microfilm, typewriters and other office equipment is modern
- a file of expert witnesses is maintained and kept current
- time records are maintained and used to limit case load

HANDBOOKS V, VI, VII

ON-SITE TEAM CAPTAIN AND TEAM MEMBER

To prepare Team Members assisting in the evaluation of a defender office for their respective roles and responsibilities, it is strongly suggested that three additional Handbooks be compiled from the four existing ones. These are the:

1. Team Captain's Handbook;
2. Team Member's Handbook;
3. Management Analyst Handbook.

Each Handbook should consist of two sections: a section which discusses the design of the evaluation, and a section which contains information describing the defender office being evaluated, drawn from preliminary evaluation profile material.

Team Captain's Handbook

The role to be performed by the Team Captain will change, depending upon whether a Staff person is available to take charge of administrative matters. If a Staff person is not available, the Team Captain will have to familiarize him/herself with the details of each of the preceding Handbooks. If a Staff person is available, materials for the Team Captain's Handbook need only include the following sections from the preceding Handbooks:

- Handbook I
 - a. The Evaluation Approach
 - b. Processing the Evaluation Request
 - c. Selecting an Evaluation Team (omitting Evaluator Pool section)
 - d. Undertaking the Pre-Evaluation Site Visit
 - e. Planning for the On-Site Visit
 - f. Team Captain Training

- Handbook II: a short summary of the entire Handbook, including the data gathering code and data analysis questions
- Handbook III: the entire Handbook
- Handbook IV: the entire Handbook

The Team Captain must be familiar enough with all aspects of the evaluation design to be able to assume any of the responsibilities if the situation warrants it (e.g. sick Team Member).

Team Member Handbook

The Team Member's Handbook should contain the following information from the Handbooks:

- Handbook I:
 - a. The Evaluation Approach
 - b. Selecting an Evaluation Team (omitting Evaluator Pool section)
- Handbook II: a short summary of the entire Handbook, including the data gathering code and data analysis questions
- Handbook III: the entire Handbook
- Handbook IV:
 - a. The Functions of Management
 - b. Explanation of Alternative A and "availability" section as an example of one approach of the management analyst
 - c. Explanation of Alternative B and "caseflow management" section as an example of the second approach of the management analyst

Management Analyst Handbook

The Management Analyst's Handbook should contain the following information from the Handbooks:

- Handbook I:
 - a. The Evaluation Approach
 - b. Selecting an Evaluation Team (omitting Evaluator Pool section)

- Handbook II: a short summary of the entire Handbook including the data gathering code and data analysis questions
- Handbook III:
 - a. Team Training
 - b. On-Site Evaluation Logistics
 - c. Focus of the Evaluation
 - d. Writing the Final Report
 - e. The section on "availability" (i.e goals, objectives criteria for compliance, objective checklist) as an example of the approach of other Team Members
- Handbook IV: the entire Handbook

Materials which should be added to the second section of all Team Member Handbooks include:

1. Pre-evaluation profile materials on the Defender Office, the criminal justice system and community;
2. A copy of contracts, statutes and jurisdictional rules under which the Defender Office operates;
3. A summary and analysis of the statistical studies of defender case files and the court docket;
4. The most recent Defender Office annual report; and,
5. An analysis of articles recently appearing in the local newspaper which focused on the Defender Office and criminal justice system.

It can not be overemphasized that the real value of the evaluation design lies in the ability of each Team Member to fully understand his/her role in addition to that of others on the team, and to use the materials provided. For this to occur, the Handbooks should be received and reviewed prior to a Team Member's site visit, and followed closely during the site evaluation.

END