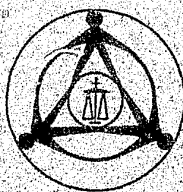


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THE AMERICAN UNIVERSITY

Criminal Courts Technical Assistance Project
Institute for Studies in Justice and Social Behavior
The American University Law School
Washington, D.C.

39709

COST OF PROVIDING
DEFENSE SERVICES FOR
INDIGENT ACCUSED IN
OHIO

December 1974

NCJRS

MAR 8 1977

ACQUISITIONS

Consultants:

The National Legal Aid and Defender Association:

Gerard F. Schaefer
Laurence A. Benner
John Darrah

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT

The American University
2139 Wisconsin Avenue N. W.
Washington, D. C. 20007
202/686-3800

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THE AMERICAN UNIVERSITY
WASHINGTON, DISTRICT OF COLUMBIA 20016

Washington College of Law
INSTITUTE FOR STUDIES IN JUSTICE AND SOCIAL BEHAVIOR

Criminal Courts Technical Assistance Project
2139 Wisconsin Avenue
Washington, D.C. 20007

NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.
Director
Criminal Courts Technical
Assistance Project

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FOREWARD

This report documents the efforts of a National Legal Aid and Defender Association (NLADA) technical assistance team commissioned by LEAA's Criminal Courts Technical Assistance Project at The American University to determine the cost of both the current system of indigent defense services in Ohio and various alternative forms which the state might consider. In October a preliminary report of this study was prepared based on the team's preliminary field analysis conducted in March 1974.

In April, representatives of NLADA testified before the Judiciary Committee of the Ohio Senate based on both the results of the team's field study and subsequent research performed at the request of Donald Robertson, the Committee's legislative liaison. Following this testimony, additional data was requested and compiled by NLADA. This final report includes both the results of the initial field research as well as the subsequent data collection and the conclusions presented reflect both phases of effort.

I. INTRODUCTION

Pursuant to a request by the Honorable Paul E. Gillmor, Chairman of the Ohio Senate Judiciary Committee, the Administration of Justice Division of the Ohio Department of Economic and Community Development, the National Legal Aid and Defender Association, under the auspices of LEAA's Criminal Courts Technical Assistance Project of American University, assigned a consultant team to undertake a cost survey of indigent defense services in the State of Ohio.

The three person technical assistance team consisted of:

Gerard F. Schaefer, team captain, and the Public Defender for the Commonwealth of Massachusetts. Mr. Schaefer recently participated in a study of defense services for the State of Maine.

Laurence A. Benner, presently with the Office of the State Appellate Defender for the State of Illinois. Mr. Benner has been a consultant on numerous projects involving indigent defense services and directed a national study of indigent defense services for the Law Enforcement Assistance Administration and is co-author of The Other Face of Justice.

John Darrah, former Public Defender of King County (Seattle), Washington and now engaged in private practice. Mr. Darrah has participated in several evaluations of public defender offices.

A. Purpose of Study

The purpose of this technical assistance study was to:

- 1) Determine the present cost of indigent defense services existing in Ohio,
- 2) Determine the cost of minimum services required by the United States Constitution under the assigned counsel system of delivering indigent defense services in Ohio,
- 3) Determine the cost of services as contemplated by Am. Sub. H.B. No. 107.

B. The Scope of the Problem

The task of providing defense services for the indigent accused has grown tremendously within the last decade. This growth is largely due to the increased number of instances in which the state is now required to provide counsel as mandated by the Federal Constitution. No longer is the right to counsel limited to only those indigent defendants charged with serious offenses. As a result of the United States Supreme Court's decision in Argersinger v. Hamlin, 407 U.S. 25 (1972), no indigent person may be imprisoned for any offense, whether classified as petty, misdemeanor, or felony, unless he was provided with counsel at his trial.

Nor is the right to counsel limited to trial representation alone. Today the state is required to provide counsel for an indigent defendant virtually from the time of arrest to release. The provision of counsel may be required during an interrogation of an indigent accused while in custody of the police,¹ at post-indictment identification line-ups,²

¹Escobedo v. Illinois, 378 U.S. 478 (1964).

²Kirby v. Illinois, 406 U.S. 682 (1972).

arraignments,³ preliminary hearings,⁴ the sentencing stage,⁵ and on appeal.⁶ Recently in Gagnon v. Scarpelli, 411 U.S. 778, 13 Cr.L 3081 (1973), the U. S. Supreme Court moved to extend the right to counsel in certain instances to proceedings involving the revocation of probation or parole. Counsel is also required in juvenile cases⁷ and in quasi-criminal commitment proceedings.⁸

In addition to the Constitutional requirements noted above, the National Advisory Commission on Criminal Justice Standards and Goals has recommended that public representation be made available to eligible defendants in all criminal cases regardless of whether or not a fine or jail term is imposed.⁹ Under the Standards promulgated by the National Advisory Commission, representation must be provided beginning at the time an indigent accused is arrested or requested to participate in an

³Hamilton v. Alabama, 368 U.S. 52 (1961).

⁴Coleman v. Alabama, 399 U.S. 1 (1970).

⁵Mampa v. Rhay, 389 U.S. 128 (1967).

⁶Douglas v. California, 372 U.S. 353 (1963).

⁷In Re Gault, 387 U.S. 1 (1967).

⁸Sprecht v. Patterson, 386 U.S. 606 (1967)

⁹Task Force Report on the Courts, National Advisory Commission on Criminal Justice Standards and Goals, G.P.O., Washington, D. C. (1973).

investigation that has focused upon him as a likely suspect. The National Standards require representation throughout all stages of the proceedings against an indigent including the exhaustion of all avenues of relief from conviction, parole and probation revocation hearings and the representation of indigent inmates at any proceeding affecting their detention or early release.

C. Overview of Ohio's Court Organization

Each of the 88 counties in Ohio has a Court of Common Pleas, which is the trial court of original jurisdiction in criminal cases involving felony offenses. Cases involving juvenile offenders are handled in the Court of Common Pleas, as are proceedings involving the involuntary commitment of the mentally ill. With the exception of a very few counties which have defender agencies, members of the bar are appointed by the Court of Common Pleas to present indigent defendants charged with felony offenses. The county can pay the appointed attorney up to \$300 in non-homicide cases; there is no numerical limit where the charge is murder or manslaughter. This system is funded jointly by the state and county under a unique arrangement whereby the county is reimbursed by the State only if a defendant is sentenced to the State Penitentiary. If any other disposition is made of the case, such as acquittal, dismissal, or probation, the county is not reimbursed. In 1973, the total State reimbursement to the counties amounted to \$1,726,431.98. (It should be noted, however, that this figure includes

sheriff, witness and jury fees as well as transportation and other miscellaneous costs). In 1971, the State reimbursement amounted to \$792,293.56¹⁰ for attorneys' fees alone. This system of reimbursement, although free of the specific infirmities of the mayoral court system considered in Ward v. Monroeville, 409 U.S. 57 (1972), is at least arguably akin to the mayoral system in that the judge is an elected official of the county and a substantial proportion of county revenues may be derived from State reimbursement.

Below the Court of Common Pleas, municipal and county courts exercise jurisdiction in cases involving misdemeanor offenses. Preliminary hearings on felony matters are also held at this level. There are 108 municipal courts with jurisdiction over approximately 85 per cent of the population of Ohio. Additionally, there are 43 county courts with similar jurisdiction over about 15 per cent of the population.¹¹ Appointed counsel are generally unpaid for representation provided to those accused of misdemeanors in the lower courts and are only compensated for preliminary hearings, if at all, when the case is referred to the Common Pleas Court.

It has been estimated that there are perhaps 546 mayors' courts in the state.¹² These courts have jurisdiction over some misdemeanors,

¹⁰Conversation with State Auditor's Office

¹¹Survey of Court Organization in Ohio, Legislative Service Commission, 1973.

¹²Preliminary Report on Mayors' Courts, Legislative Service Commission, 1973.

usually traffic offenses. Mayors cannot try jury cases, and under Ward v. Monroeville, 409 U.S. 57 (1972), many cannot try contested cases. It seems fairly safe to assume that few cases involving indigent defendants are heard by these courts and that no provision is presently made for compensating appointed counsel.

Eleven Courts of Appeals serve as intermediate appellate courts with the Supreme Court as the court of last resort in the State. Appointed counsel are compensated by the county in these courts at a rate similar to that provided by the Courts of Common Pleas.

II. METHODOLOGY

The team members wish to acknowledge the spirit of cooperation which prevailed on the part of individuals and agencies whose assistance was requested throughout this project. At the outset the team was confronted by the lack of detailed statewide statistics concerning criminal justice activities and expenditures. This often required the gathering of individual statistics from each county. In some instances the failure to uniformly keep statistics at the county level necessitated the use of projections based upon available data. Whenever such projections are utilized the underlying basis is set forth in detail.

Prior to arriving in Ohio the team was thoroughly briefed concerning the operation of Ohio's criminal justice system in a four and one-half hour session held in Chicago. Participants at this briefing session included Marshall J. Hartman, National Director of Defender Services, the National Legal Aid and Defender Association; Professor Shelvin Singer, who conducted an extensive survey of indigent defense services in Ohio in 1972; Patrick Hughes, member of the NLADA technical assistance team which assisted in setting up the New Mexico statewide defender system; Yakov Avichai, statistician with the American Bar Foundation; Robert Cambridge, Senior Attorney, Ohio, Legislative Service Commission; Anne Stevens, consultant to the National Defender Survey and the Illinois Defender Project Survey, 1973; and Nancy Goldberg, Deputy Director of Defender Services, NLADA.

The team arrived in Columbus, Ohio on March 11, 1974. The primary resource tools utilized by the team in gathering data included a county auditor questionnaire (attached as Appendix A) which was administered via telephone to 88 auditors, and telephone interviews with the directors of defender agencies, legal aid societies and HUD Model Cities Defender Offices. We are particularly grateful to Joseph A. White, Deputy Director, Administration of Justice Division, Ohio Department of Economic and Community Development; Gerald R. Black, Court's Specialist and Joan Pelletier and Shirley Pickens, staff, for their invaluable assistance in administering this phase of the project.

Other data sources include statistics gathered under the supervision of Douglas Somerlot, Administrative Assistant to the Chief Judge of the Ohio Supreme Court; and data published by the Bureau of Statistics, Division of Business Administration, Department of Mental Health and Mental Retardation. In addition, the team had access to numerous secondary sources including Professor Singer's Survey of Defense Services to the Indigent Criminally Accused in Ohio, 1972; Ohio's 1974 Comprehensive Criminal Justice Plan; data from the National Defender Survey and memoranda from the Legislative Service Commission.

A. THE COURT OF COMMON PLEAS

1. The County Auditor Questionnaire

In order to determine the cost of indigent defense representation in the Court of Common Pleas, a county auditor questionnaire was devised. Originally drafted at the Chicago briefing session, this questionnaire¹³ was refined after consultation at the Ohio State Auditor's office and a pre-test of the questionnaire in the Franklin County Auditor's office. The questionnaire was administered by telephone.¹⁴

Auditors were asked specifically to give the amount they were reporting in their 1973 Financial Report to the State Auditor under line item A2B6 entitled "Attorneys' Fees." Under the Chart of Accounts this item represents the amount paid to attorneys assigned to represent indigent defendants, in the Court of Common Pleas. In only four counties, Geauga, Hancock, Knox, and Summit was this figure unavailable. Figures from the 1972 Financial Reports of these counties, obtained from the State Auditor's office, were therefore substituted in these cases. The total amount spent by all counties for the payment of assigned counsel fees in the Court of Common Pleas was determined at \$2,398,463.44. The auditors were also asked whether the above mentioned line item entitled "Attorneys' Fees" included payment of attorneys appointed to

¹³See Appendix A for sample questionnaire.

¹⁴See Appendix B for county by county results.

represent indigent juveniles charged with crime and indigent persons involuntarily committed to mental institutions. In the vast majority of counties (approximately 73%) these payments were not included under this line item but were reported separately as part of Juvenile or Probate Division costs. In the majority of these counties the amount paid as attorneys' fees was lumped together with other costs. Given the time constraints and limits of the auditor's patience it was therefore in most instances impossible to break out of the actual amount spent on juvenile and mental commitment representation. For the 18 counties for whom these figures could be obtained, the total amount spent and reported separately for juvenile representation was \$26,993. See II - A-4. Juveniles, infra at 13.

Auditors were also requested to determine the actual number of cases in which payouts under line item A2B6 "Attorneys' Fees" were made. This was done by physically counting the numbers of vouchers paid out under this line item. Where a single voucher reflected payment on more than one case, the auditor was instructed to give the total number of cases represented by the voucher.

Only seven counties were unable to furnish this information. These included the four counties previously mentioned for which 1973 data was unavailable, and Crawford, Lake, and Ross counties. A total of 11,670 common pleas cases, requiring the appointment of counsel, were reported by auditors from the 81 remaining counties.

2. Felony Statistics

a. Cost of Representing Indigent Felony Defendants

As noted above, approximately \$2.4 million was spent in 1973 by all 88 counties for indigent defense in the Court of Common Pleas. This figure includes payment for some juvenile, mental commitment and appellate representation. In the great majority of counties, however, payments for juvenile and mental commitment representation were reported separately and thus were not included in this figure. This amount therefore provides a fair indication of the cost of felony common pleas representation provided by assigned counsel. It should be noted that the \$2.4 million figure does not include the cost of representing 1,751 indigent felony defendants who obtained defense services through various defender agencies. Neither does it reflect the cost of representation provided by both defenders and assigned counsel at felony preliminary hearings held in the lower courts.

Utilizing only the data from counties for which both cost and caseload figures were available (81 counties), and dividing the total amount spent in these counties by the total number of cases represented, it appears that the average cost per case for felony representation is \$186.45 (\$2,175,908., 82 divided by 11,670 = \$186.45). The cost per case ranged from a high of \$1,125 to a low of \$61.

b. Felony Indigency Rate

The rate of indigency among felony defendants who had their cases disposed of at the trial level during 1973 was 57.3%. This figure

was arrived at using the total number of all felony cases terminated during 1973, 25,833. In Ohio 11,670 indigent felony cases were reported by the 81 responding counties. To this was added 1,751 indigent felony cases known to be represented in the Court of Common Pleas by defender agencies. Fifty-six appeal cases were then subtracted from the total of these two figures, yielding a total of 13,365 known indigent felony defendants in trial courts in the 81 reporting counties.

To account for the additional seven non-reporting counties, assuming no other significant variables exist, the ratio of felony cases to population in the 81 reporting will be the same as the ratio of non-reporting counties. Thus,

felony cases (81 reporting counties)

population (81 reporting counties)

felony cases (7 non-reporting counties)

population (7 non-reporting counties)

Substituting the known figures and x for the unknown yields

$$\frac{13,365}{9,513,895} = \frac{x}{1,028,135}$$

Solving for x,

$$\frac{13,741,024}{9,513,895} = 1,444 \quad x = 1,444$$

Indigent Caseload for seven counties 1,444

Total State Indigent Caseload

1,444 (Seven Counties)

13,365 (81 Counties)
14,809

Total State Indigency Rate 57.3%

$$\frac{14,809}{25,833} = 57.3\%$$

Thus the felony indigency rate for all 88 counties is 57.3%.

It should be noted that this figure probably represents a conservative estimate. Cases may have been reported by some defender agencies and some assigned counsel may have failed to seek prompt payment for cases completed during the final months of 1973, although this might be compensated for by an overlap from 1972. The national average of indigency in felony matters is approximately 65%. [L. Benner and B. Lynch, The Other Face of Justice: Report of the National Defender Survey, 83 (NLADA 1973)].

3. Appeals

a. Ohio Supreme Court

All statistics in this section were obtained from Douglas Somerlot, Administrative Assistant to the Chief Justice of the Ohio

Supreme Court. During 1973 there were 330 appellate actions involving criminal cases. These included "merit motions" seeking discretionary review in the Supreme Court as well as actual appeals. Fifty-six of these involved indigent defendants. Thus the indigency rate among those criminal appellants seeking review in the Supreme Court is 17% (56 divided by 330 = 16.9%).

The total cost of representing these indigent appellants was \$23,959.29. Appointed counsel are paid a flat rate of \$300 plus out-of-pocket expenses for "merit motions." Counsel is paid again at the same rate if the motion is granted. The average cost per case in the Supreme Court for indigent appellate representation was \$427.68. The highest fee paid for one case was \$1,672.95. This amount was distributed between two assigned attorneys. The highest amount paid to a single attorney was \$919.94.

b. Intermediate Appellate Courts

There were 1,648 criminal appeals handled in the eleven intermediate appellate courts. No statistics were available to determine the number of indigent appellants or the cost of their representation. By applying the common pleas felony indigency rate to the appellate caseload, however, it would appear that approximately 949 appellants would be unable to afford an attorney. Thus, including appellants seeking review in the Supreme Court, a total of 1000 appellants require indigent services annually.

4. Juveniles

The juvenile statistics as to caseload are somewhat conflicting. The 1972 Ohio Courts Summary states that 156,380 cases were terminated in the Juvenile Division during that year. However, the Ohio Juvenile Court Statistics for 1972 published by the Department of Mental Health and Mental Retardation yields a total of 149,489 cases that might be considered juvenile. (That is, delinquency, traffic, dependency and neglect, special services, and hearings to determine whether the defendant should be tried as an adult or a juvenile, and cases charging that the child is unruly). If the 68,476 traffic cases are subtracted from the Department of Mental Health figures, one is left with a minimum of 81,013 more serious juvenile cases. Assuming a 57.3% rate of indigency (a most conservative estimate here), approximately 46,420 juveniles would have required the appointment of counsel in 1972. Given the frequency of an adversary relationship between parent and child in juvenile matters, and the infrequency of juveniles having their own resources, an indigency rate of two-thirds, however, would not appear to be too high.

5. Mental Health and Retardation Commitments

As in the case of juvenile statistics, no solid data were available for mental health cases. However, there were apparently only 4,743 involuntary court commitments of all types in the year ending June, 1973 (Data from Department of Mental Health and Mental Retardation). Many of these cases would be duplicative, that is, a series of commitments in one "case".

Others would fall within the ambit of a given criminal prosecution and the costs included therein. From the Department of Mental Health's report, however, it would appear that approximately five hundred (500) commitments which were both indefinite and involuntary and which would require the assistance of counsel.

6. Parole

The team was informed that there were 432 parole revocation hearings for which counsel would be required. A rate of 90% indigence would comport with the national average. Thus, 389 indigent defendants would be eligible for public representation at parole revocation proceedings.

7. Probation

As there is no central reporting agency, it was impossible to gather meaningful probation revocation statistics. Each probation authority would have to be contacted separately to determine even the gross number of hearings held.

8. Misdemeanors

a. Number of Cases

The number of non-traffic misdemeanors terminated during 1972 was obtained from jurisdictions representing 63% of the total population. These jurisdictions, which reflected a representative portion of urban and rural jurisdictions, terminated a total of 179,000 non-traffic cases.

b. Indigency Rate

A misdemeanor indigency rate of 41.4% was obtained. This rate was found by comparing the known indigency felony rate (57.3%) with the national indigency felony rate (65%) and applying the same ratio to the national indigency rate for misdemeanants (47%). Thus,

$$\frac{57.3\%}{65\%} = \frac{x}{47\%} \quad x = 41.4\%$$

An independent check was made of public defender agencies that represent misdemeanants. These agencies gave an average estimate of 42%. It should be emphasized that this estimate does not include drunk driving cases which, under present Ohio law, would require the appointment of counsel.

c. Number of Indigent Misdemeanor Defendants

Since misdemeanor caseload statistics were available for only 63% of the population the projected total number of indigent non-traffic misdemeanor defendants was obtained as follows:

$$(179,000 \div 63\%) \times 41.4\% = 117,629 \text{ indigent cases.}$$

III. COST OF PRESENT SYSTEM

PRESENT COST OF ASSIGNED COUNSEL AND PUBLIC DEFENDERS

\$5,214,613

\$2,398,468.44

(Felony representation only)

Payments as reported by 81 county auditors for 1973, and by 7 county auditor's 1972 reports.

+\$399,827.57

Projected amount spent in juvenile cases. Based on actual reports from some counties, and extrapolated to others.

\$2,798,296.01

Total Assigned Counsel Cost

\$2,416,317.00

Amounts reported by 21 defender agencies, Legal Aid Societies, Model Cities Projects and Law School Projects for 1973. These agencies and projects were primarily funded by the federal government. (Includes felony, misdemeanor, juvenile and mental health representation).

\$5,214,613.00

TOTAL COST OF PRESENT SYSTEM

As the chart above illustrates the total cost of the present indigent defense system in Ohio including assigned counsel costs and federally funded defender agencies, legal aid societies and projects is \$5,214,613.00. It should be noted that since counsel generally is either not provided or not compensated in misdemeanor cases, this figure does not represent the true cost of providing constitutionally mandated defense services.

As explained in detail, supra, the data for 1973 defense of felony indigents represented by assigned counsel, was compiled by telephone responses from auditors of 81 counties concerning their 1973 payments; and from the 1972 audits of seven other counties. They reflect the actual amounts paid to assigned counsel.

Accurate figures on the cost of juvenile representation by assigned counsel were only available from 18 counties. The team used statistical methods to project costs in the counties which had not reported any juvenile figures. The amount spent by federally funded defender agencies, legal aid societies and projects, etc. was obtained by telephone interviews. It should be noted that the scope of representation provided by this group of 21 agencies and projects varied considerably from agency to agency.

IV. FUTURE COST OF ASSIGNED COUNSEL

Because the figures given in Section III include the figures for several federally funded OEO, Model Cities, and similar projects and programs, which provided defender services in whole or in part, and which being federally funded, therefore are intended to continue only for certain specified periods of time, the figures given below are projections of the cost of supplying all indigent defense needs through assigned counsel systems.

In order to determine the cost of providing constitutionally mandated defense service by assigned counsel only, the applicable rate of indigency was applied to the total number of cases handled by the courts in 1973 in each category. The number of indigent cases in each category was then multiplied by a minimum attorney fee to arrive at the estimated cost of providing assigned counsel in the future.

Figures developed under each category were:

	<u>Total Ohio 1973 Cases</u>	<u>Rate of Indigency</u>	<u>Indigent Cases</u>	<u>Attorney¹⁵ Fee</u>	<u>Total</u>
FELONY	25,833	57.3%	14,809	\$300.00	\$4,442,700.00
JUVENILE	81,013 (non-traffic)	57.3%	46,420	100.00	4,642,000.00
MISDEMEANOR	284,126 (non-traffic)	41.4%	117,639	100.00	11,763,900.00
APPEALS ¹⁶	1,648	57.3%	944	425.00	399,925.00
MENTAL HEALTH	500	-	500	100.00	50,000.00
PAROLE	432	90.0%	388	100.00	<u>38,800.00</u>
TOTAL NLADA ESTIMATE OF COST OF ASSIGNED COUNSEL					\$21,337,325.00

¹⁵ Assuming maximum allowable under statute is actually spent in every case.

¹⁶ Does not include appeals by indigents to the Supreme Court of Ohio. Given Ross v. Moffit, 94 S.Ct. 2437 (1974), counsel apparently need not be provided indigents on appeals from the Appellate Court.

A figure of \$100 was used in determining the cost of assigned counsel in each juvenile, misdemeanor, mental health, and parole case. The amended substitute bill raises the amount which may be paid to assigned counsel to a maximum of \$300.00 in all cases. Obviously, the maximum payable amount would be tripled if the full amount were allowed in each such case.

V. ESTIMATED COST OF FUTURE OPERATION OF AN ORGANIZED DEFENDER SYSTEM

The projected cost of providing constitutionally mandated defense services through implementation of H.B. 107 is \$13,993,012.00.

The chart below calculates the cost of implementing H.B. 107 by estimating the number and types of employees a public defender office must have to handle a criminal caseload equal to the number of criminal cases reported by the Ohio courts in 1973, excluding misdemeanor traffic cases and juvenile traffic cases. Appropriate pay range schedules, taken from the Revised Code, were then used to determine the total amount of salaries which would have to be paid to these employees. Twenty-five per cent of the amount of the salaries was then added to the total to reflect an estimated 15% which would have to be paid out for fringe benefits, and an estimated 10% which would have to be paid out for overhead.

It is estimated that the system would require one director, one deputy director, five heads of departments (one each as head of felony, misdemeanor, juvenile and appellate sections; and one to direct training), approximately 11 regional supervisors, and 550 staff attorneys. The system would also require one investigator for every three attorneys; and one secretary for every two attorneys. These estimates come from standards established by the National Advisory Commission Criminal Justice Standards and Goals and NLADA as a result of their study of existing systems.

The recommended yearly workload for attorneys is 150 felony cases per attorney, 400 misdemeanor cases per attorney, 400 juveniles cases per attorney (the national standards is only 200, but this study believes 400 could be handled in the Ohio juvenile court system), and 25 appellate cases per attorney. These figures were obtained from Standard 13.12 of the Courts' Task Force Report of the National Advisory Commission on Criminal Justice Standards and Goals.

1	Director of Defense Services	\$ 26,437.00
1	Deputy Director	23,546.00
5	Heads of Department (Felony, Juvenile, Misdemeanor, Appellate and Training) \$20,654 each; Assistant 4, No. 38	103,270.00
11	Regional Supervisors, \$16,578 each	182,358.00
181	Investigators (1 for every 3 attorneys) \$8,382 each; Rate 16	1,517,142.00
272	Secretaries (1 for every 2 attorneys) \$7,321 each; Rate 12	1,971,312.00

544 Trial and Appellate Attorneys as follows:

Type of Criminal Case	No. in Ohio in 1973	Rate of Indigency	No. of Indigent Cases	Recommended Workload 1 Attorney	No. of Attorneys Required	Pay Range	Salary	Total Salaries
Felony	25,833	57.3	14,809	150	98	Ass't 2 No. 30	\$14,414	\$1,411,419
Misdemeanors, excluding traffic	284,126	41.4	117,639	400	290	Ass't 1 No. 27	12,938	3,752,020
Juvenile, excluding traffic	81,013	57.3	46,420	400	116	Ass't 1 No. 27	12,938	1,500,808
7 Court of Appeals	1,648	57.3	944	25	38	Ass't 3 No. 33	16,578	629,964
Mental Health	500		500	500	1	Ass't 3 No. 33	16,578	16,578
Parole Hearings	432	90%	388	400	1	Ass't 3 No. 33	16,578	16,578
Total Salaries								11,287,787
Add 25% (15% fringe, and 10% overhead)								2,821,946.50
Add for travel, per diem, and expenses of Ohio Public Defender Commission								8,000.00
								13,993,012.00

The above 14 million dollar cost figure assumes that public defenders will represent all indigent defendants in all proceedings where constitutionally required. As can be seen from the chart a salaried staff lawyer specializing in criminal matters can handle a much greater caseload at a fixed cost than can private attorneys appointed and compensated on a case by case basis. Hence the comparative reduction in cost between the two systems. It should be noted that in some cases involving multiple defendants it will still be necessary to utilize appointed counsel to handle conflict of interest situations. To the extent assigned counsel are used, however, the need for staff attorneys is proportionally offset. Therefore the cost figure should remain substantially unchanged. It should also be noted that H.B. 107 contemplates establishing a state public defender commission. The cost for travel, per diem expenses and secretarial services for commission members is estimated to be \$8,000. This cost is included in the total cost to implement H.B. 107.

17 Does not include appeals by indigents to the Supreme Court of Ohio. See n. 16 supra at 17.

VI. SUMMARY AND CONCLUSIONS

The purpose of this Technical Legal Assistance Study was to:

- 1) Determine the present cost of indigent services existing in Ohio;
- 2) Determine the cost of minimum services required by the United States Constitution under the assigned counsel system of delivering indigent defense services in Ohio;
- 3) Determine the cost of services as contemplated by Am. Sub. H.B. No. 107.

With respect to (1), the NLADA Technical Assistance Team estimated the present cost of indigent defense services as \$5,214,613.00. With respect to (2), the Team found that the cost of supplying the minimum indigent defense services to be an estimated \$21,337,325.00. As to (3), the Team determined that the cost of such services under H.B. No. 107 would be approximately \$13,992,012.00.

APPENDICES

- A. SAMPLE COUNTY AUDITOR QUESTIONNAIRE
- B. SUMMARY OF COUNTY AUDITOR QUESTIONNAIRE RESULTS.
- C. SUMMARY OF DEFENDER OFFICE DATA.

APPENDIX A - SAMPLE COUNTY AUDITOR QUESTIONNAIRE

/ / Refused

Call Back Time: _____

/ / Information Not Available

/ / Other _____

COUNTY AUDITOR QUESTIONNAIRE

1. Name of County _____

2. Auditor's Phone Number _____

3. Name and Title of Person Interviewed _____
(Name)

(Title)

4. What is the amount you reported in your 1973 Financial Report under "Attorney Fees", page 18, line item A2B6?

5. Do you include payment of attorney fees for representing juveniles and persons facing mental health commitments under this line item? (A2B6)

/ / Yes

/ / No

(1) Juvenile Fees \$ _____ (2) Mental Health \$ _____

6. Would you please count up the actual number of cases which payouts under this line item (A2B6) were made.

(Number of Cases)

7. Do you know if attorney fees are being paid for representation provided in lower courts other than Court of Common Pleas for indigent misdemeanor defendants?

/ / Yes

/ / No

/ / Don't Know

If Yes: / / County pays

/ / Amount included in A2B6 Figure

/ / Reported separately \$ _____

/ / Municipality pays

Who can we contact to find out amount?

Name _____

Title _____

Phone _____

Appendix B

(All figures are for 1973 unless (*) asterisked.)

SUMMARY OF COUNTY AUDITOR QUESTIONNAIRE RESULTS

<u>COUNTY</u>	<u>AMOUNT of ATTORNEYS' FEES</u>	<u>NO. CASES</u>	<u>COST PER CASE</u>
*Summit	\$ 162,496.20	777	\$ 209.00
*Hancock	11,213.00		
*Knox	4,635.00		
*Geauga	2,525.00		
*Lake	23,252.62		
*Crawford	2,980.00		
*Ross	15,453.40		
Butler	52,467.35	285	184.00
Jackson	12,000.00	8	150.00
Belmont	6,400.00	48	133.00
Mahoning	31,856.00	282	113.00
Sandusky	7,213.75	42	172.00
Trumbull	61,217.91	164	373.00
Wyandot	605.00	10	61.00
Miami	13,305.36	33	403.00
Meigs	3,800.00	3	122.00
Seneca	7,121.76	36	198.00
Portage	25,549.61	88	290.00
Pike	2,400.00	12	200.00
Monroe	1,295.46	7	186.00
Union	9,400.00	16	588.00
Wayne	800.00	3	263.00
(Canton) Stark	56,275.50	159	354.00
Paulding	2,450.00	18	136.00
Preble	3,730.00	13	287.00
Noble	900.00	6	150.00
Delaware	9,670.00	23	420.00
Adams	1,950.00	15	130.00
Athens	2,773.75	27	75.64
Holmes	1,020.97	2	510.49
Coshocton	4,233.28	16	267.71
Putnam	3,525.00	24	160.00
Greene	12,675.00	57	222.00
Hardin	12,826.00	22	583.00
Fayette	1,272.73	8	159.09
Tuscarawas	4,326.30	24	180.00
Medina	6,681.40	35	191.00
Scioto	9,611.00	60	160.00
Wood	3,375.00	3	1,125.00
Washington	3,745.00	19	197.00
Hocking	975.00	11	89.00
Guernsey	5,972.87	51	117.12
Fairfield	5,450.00	86	63.00
Laurence	18,335.40	40	458.39
Hamilton	242,948.50	1,235	196.72
Harrison	920.00	11	84.00
Clark	14,735.00	73	331.00
Fulton	2,450.00	18	136.00
Montgomery	80,328.52	425	189.00
Williams	1,846.00	12	154.00
Lucas	103,467.24	452	228.00
Franklin	134,530.81	779	172.70

APPENDIX B

<u>COUNTY</u>	<u>AMOUNT of ATTORNEYS' FEES</u>	<u>NO. CASES</u>	<u>COST PER CASE</u>
Defiance	\$ 2,295.00	19	\$ 121.00
Lorain	35,335.64	153	230.00
Marion	14,960.00	63	237.00
Van Wert	1,975.00	15	132.00
Muskingum	3,892.00	33	118.00
Highland	1,751.41	15	116.76
Gallia	2,496.62	16	156.04
Carroll	7,000.00	15	467.00
Champaign	1,465.00	23	64.00
Logan	6,525.84	32	203.93
Licking	17,485.00	80	219.00
Clinton	4,250.00	19	65.00
Ashtabula	11,225.50	55	204.10
Huron	6,865.00	16	429.00
Jefferson	28,375.00	62	458.00
Ashland	10,492.63	40	262.32
Warren	11,350.00	48	236.00
Pickaway	5,550.00	32	173.00
Morgan	945.20	13	73.00
Cuyahoga	935,365.38	5,670	164.97
Henry	2,797.50	14	254.31
Columbiana	20,020.40	71	281.98
Drake	2,528.35	19	133.01
Brown	5,150.00	29	178.00
Auglaize	5,394.14	38	141.95
Clermont	5,125.00	30	171.00
Erie	17,591.00	76	231.00
Allen	21,204.49	110	192.77
Madison	2,805.00	29	97.00
Mercer	1,900.00	12	158.00
Perry	1,525.00	18	85.00
Shelby	3,751.25	24	156.00
Morrow	1,235.00	14	88.00

Appendix C :

SUMMARY OF DEFENDER OFFICE DATA
CASES HANDLED

Date of Budget	Agency	Budget	Felony (Trial)	Felony (Pretrial)	Misde- meanor	Juvenile	Mental Health
1973	Allen County Legal Service	\$19,295 (40% of total crim. alloca- tion)	-	108	-	25	3
Dec. 1973- June 1974	Public Defender of Lima	\$30,700	-	-	209		
1973-74	Springfield Public Defender	\$46,040		73	53	13	-
1973	Mahoning County Public Defender	\$32,593	-	-	187	12	3
1973	Toledo Legal Aid Society	\$99,083	35	704	710	-	-
1973	Greene County Legal Aid	\$47,333	-	250	340	150	-
1973	Summit County Public Defender	\$232,000			388		
1973	Dayton Public Defender Proj.	\$310,000	966	included	11,034		
1973	Dayton Model Cities	\$117,885 (adjusted 75% of total budget)		579 criminal	- no breakdown		
1973	Cincinnati Model Cities	\$215,000		628	23,010 (793 traffic)		
1973	Cincinnati Legal Aid Society	\$97,000	-	1,390	5,399 (2,498 traffic)		
1973	Stark County Legal Aid	64,059	-	241	179	202	
1973	Franklin County Legal Aid	202,000	(county pays)	1,000 est.	5,000 est.	1,300 est.	

APPENDIX C - Cont.

Start Aug. 1973	Columbia County Public Defender	\$ 40,000	54	124	
1973	Cleveland Legal Aid Society	665,625	750	-	900 1,150
					Note: excludes county contribution of \$40,000
Start Oct. 1973	Ashtabola County Public Defender	22,000			
March	Claremont Public Defender	20,625			211 cases - no breakdown
Nov. 1973	Miami Public Defender Project	31,129			est. 200 cases per year
Sept. 1973	Portage County Public Defender	40,000			6 mos = 171 cases handled misc. + juvenile
1973	Tuscarawas (includes Harrison, Carrol County	54,000			represents all fel., juv., misd.
1973	Capitol Law School Prison Project	30,000			6 mos. = 80 cases

END