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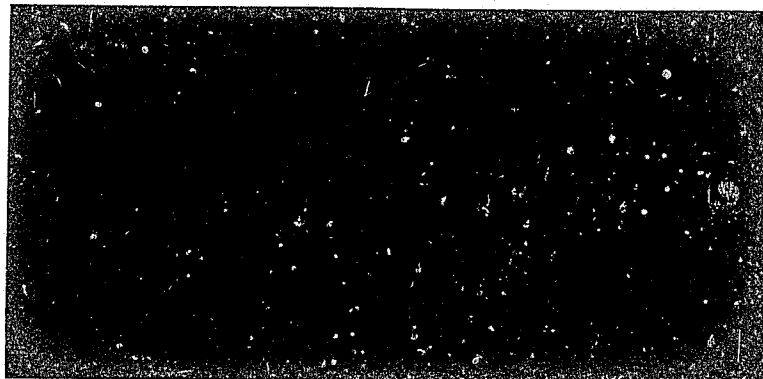
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A series of seven line drawings illustrating the growth stages of a plant. The first drawing shows a small seedling with two leaves. The second drawing shows a slightly larger seedling with two leaves. The third drawing shows a seedling with two leaves and a small stem. The fourth drawing shows a seedling with two leaves and a small stem. The fifth drawing shows a seedling with two leaves and a small stem. The sixth drawing shows a seedling with two leaves and a small stem. The seventh drawing shows a mature plant with two leaves and a small stem.

For Defense Management

National Center

A Project of the
**National Legal Aid and
Defender Association**
Washington, D.C.



SYSTEMS DEVELOPMENT STUDY
OF
INDIGENT DEFENSE SERVICES
FOR
SIX IOWA COUNTIES

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PREFACE

The National Center for Defense Management is grateful to Mr. Dennis E. Howard, Judicial Administrator of Webster County, for his invaluable assistance in facilitating so many facets of the site visits for this systems development study. Thanks are also due to Mr. Clair R. Cramer, Courts Specialist, Iowa Crime Commission, Mr. Gordon E. Plepla, Executive Director, South Iowa Area Crime Commission and Mr. Robert O. Bowen, Fiscal Officer, North Iowa Crime Commission, for their extensive efforts to assist the study team in carrying out its mandate.

We would also like to thank the many persons active in the criminal justice systems in each of the six counties visited for sharing their perceptions and ideas with the team members; a list of those interviewed appears at Appendix C. The consultants and staff are indebted to Professor John M. Thompson of the University of Iowa Law School for his assistance in developing the docket study performed by Thomas Curran, Susan Diehl, Jane Fox and James Potter, whose efforts were also appreciated.

The study team specifically extends its thanks to Staff Attorney David A. Rapoport for his dedicated work in the preparation of this report and to David A. Hoffman, who tabulated the results of the private bar and client community surveys.

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FOREWORD

The National Center for Defense Management (NCDM) was founded late in 1974 through a grant from the Law Enforcement Assistance Administration (LEAA) to the National Legal Aid and Defender Association (NLADA). NCDM was born out of the need to enhance and improve the efficiency of systems for the defense of the poor through sound planning, management assistance and management training, and to maximize the quality of such systems while maintaining their cost-effectiveness.

Under the terms of the LEAA grant awarded to NLADA, the principal goals of the National Center for Defense Management are as follows:

- To conduct management studies and analyses of the operations of existing defender offices and other defense delivery systems, with a view to making practical recommendations which will assist such offices and systems in achieving goals of improved effectiveness, and conduct evaluations of such offices and systems;
- To provide management consultation and technical assistance for defender offices and organized defense systems requesting such services, assisting these offices and systems in their efforts to design and implement improved management systems and procedures;
- To provide management training programs designed specifically for defender managers; and
- To furnish technical assistance to organizations, communities, states or other groups which desire to establish new or improved systems (including defender systems) for the provision of legal representation to eligible criminally accused or convicted persons, or persons facing juvenile court proceedings.

EXECUTIVE SUMMARY

Recent judicial opinions on the provision of legal defense services to indigent criminal defendants under the Sixth Amendment of the U.S. Constitution have had a significant impact on communities throughout the United States which are attempting to provide quality representation in a cost-effective manner. The Iowa Crime Commission has recognized the need to comply with these requirements by arranging for the technical assistance service of the National Center for Defense Management (NCDM). Clair Cramer, Courts Specialist for the Iowa Crime Commission, through a request to the Law Enforcement Assistance Administration (LEAA), communicated the need for a legal systems development study to address indigent criminal defense problems in Iowa.

In a letter of June 17, 1975 to the Executive Director of the Iowa Crime Commission, Melvin H. Wolf, President of the Black Hawk County Bar Association, indicated that he had appointed a committee to conduct a feasibility study for a public defender plan for that county, and the committee subsequently requested NCDM to undertake such a study. This study became part of a larger study, including Cerro Gordo, Des Moines, Henry, Lee, Louisa and Webster counties, at the request of the Iowa Crime Commission.

The request was transmitted through the LEAA Regional Office in Kansas City, Kansas and the Courts Division of Regional Operations, LEAA, in Washington, D.C. The request was forwarded to NCDM for necessary action.

The value to be derived from the provision of these technical assistance services was identified by the Iowa Crime Commission as follows:

- The Iowa Comprehensive Criminal Justice Plan for 1975 acknowledges the need for provision of adequate defense services (Vol. II, p. 204-5).

A high priority has been given to meeting National Advisory Commission Standard 13.7, calling for a fulltime, adequately compensated defender;

there is also recognition of the need to comply with Standard 13.5, which stresses the importance of private bar participation in the delivery of defense services.

- Historically, public defender systems in Iowa have been virtually non-existent. Such systems are being investigated as an alternative to the increasing caseloads and the costs necessary for providing court-appointed defense counsel in criminal cases.

NCDM established two major study goals:

- To assess the quality and cost-effectiveness of the present court-appointed counsel systems in these jurisdictions; and
- To identify alternative legal defense systems available to the aforementioned counties and to analyze the capability of these systems for providing quality representation to indigent criminal defendants at a reasonable cost to the taxpayers.

Black Hawk County was studied separately and the report of that study has been distributed.

Procedures

A preliminary visit to Iowa was made on November 5 and 6, 1975, by a NCDM staff member to determine the qualitative and quantitative parameters of the study. A consulting team of attorneys and a systems analyst visited the six counties during the period January 12-15, 1976. They performed the necessary interviews and gathered the requisite data. NCDM also arranged for the administration of private bar and client community surveys and contracted for the performance of a docket study in these six counties.

Report Preparation

A report was prepared which addressed these areas:

- The constitutional requirements and legal precedents for quality representation to indigent criminal defendants;
- The major legal defense systems which could be employed to provide such representation. These included:
 - A Coordinated-Assigned Counsel (CAC) System;
 - A Defender System, and
 - A Mixed Defender-CAC System.
- The qualitative and cost benefits which could be realized and accrued through the use of either of these systems;
- Staffing requirements to accommodate the caseload levels, both present and projected; this aspect of the study culminated in the development of prototype budgets for each of the systems identified; and
- The distillation of the above into recommendations to the Iowa Crime Commission as to viable options they might pursue in the six counties studied.

Summary of Recommendations

The National Center for Defense Management makes the following recommendations:

1. THAT THE STATE OF IOWA ADOPT A STATEWIDE DEFENDER SYSTEM WHICH WILL INSURE PROVISION OF COMPETENT AND EFFECTIVE COUNSEL TO INDIGENT CRIMINAL DEFENDANTS THROUGHOUT THE STATE.
2. THAT PENDING THE ESTABLISHMENT OF A STATEWIDE DEFENDER SYSTEM, THE SIX COUNTIES VISITED BE APPROACHED TO DETERMINE THEIR RECEPTIVENESS TO A SEPARATE FOLLOWUP STUDY TO EVALUATE HOW BEST TO DEVELOP A REGIONAL OR MULTI-COUNTY DEFENDER PLAN.
3. THAT DES MOINES COUNTY EXPAND ITS OFFENDER ADVOCATE OFFICE IN BURLINGTON INTO A COUNTY DEFENDER PROGRAM TO ENHANCE THE QUALITY OF REPRESENTATION PROVIDED TO INDIGENT CRIMINAL DEFENDANTS.

4. THAT WEBSTER COUNTY CONSIDER ESTABLISHING A DEFENDER SYSTEM TO PROVIDE CRIMINAL DEFENSE SERVICES TO INDIGENT ACCUSED.
5. THAT ONLY MEMBERS OF THE PRIVATE BAR WHO EXPRESS INTEREST IN ACCEPTING COURT APPOINTMENTS AND WHO TAKE PART IN SPECIALIZED CRIMINAL DEFENSE AND TRIAL ADVOCACY PROGRAMS BE PLACED ON COURT APPOINTMENT PANELS.
6. THAT THE JUDICIARY AND THE ORGANIZED BAR COORDINATE SUPPORT FOR THE ESTABLISHMENT OF A STATEWIDE APPELLATE DEFENDER UNIT TO REPRESENT INDIGENTS IN THE APPEAL PHASE OF THE CRIMINAL JUSTICE PROCESS.
7. THAT ASSIGNED COUNSEL AS WELL AS TRIAL AND APPELLATE DEFENDERS RECEIVE ADEQUATE COMPENSATION TO ASSURE QUALITY INDIGENT DEFENSE SERVICES.
8. THAT LOCAL BAR ASSOCIATIONS ESTABLISH CRIMINAL DEFENSE SECTIONS OR COMMITTEES TO MONITOR DEFENSE COUNSEL PERFORMANCE AND TO PROVIDE ADDITIONAL SPECIALIZED TRAINING OPPORTUNITIES FOR THEIR MEMBERS.

INTRODUCTION

A. Background

The Sixth Amendment to the U.S. Constitution provides that "in all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." The United States Supreme Court has made the Sixth Amendment right to appointed counsel applicable to "any person haled into court, who is too poor to hire a lawyer,"¹ and has held that this right is incorporated into the due process clause of the Fourteenth Amendment; it therefore applies to state and federal prosecutions.

The question remained whether the Sixth Amendment's "all criminal prosecutions" language included misdemeanors as well as felonies. The Supreme Court answered this question in 1972, holding that "absent a knowing and intelligent waiver, no person may be imprisoned for any offense, whether classified as petty, misdemeanor or felony, unless he was represented by counsel at his trial."² This ruling, while imposing new financial burdens upon the criminal justice system, has given additional meaning to the concept "equality before the law" for indigent defendants; legal defense services must now be provided to all indigents accused of crimes -- felonies or misdemeanors -- whenever imprisonment is a possible penalty.

In Iowa, the requirement to provide counsel to indigents in misdemeanor cases preceded the Argersinger decision. Like its federal counterpart, the Iowa Constitution provides, "In all criminal prosecutions, and in cases involving the life, or liberty of an individual the accused shall have a right . . . to have the assistance of counsel."³ Since 1843, indigents accused of indictable

¹Gideon v. Wainright, 372 US 335, 344 (1963).

²Argersinger v. Hamlin, 407 US 25, 37 (1972).

³Iowa Constitution, Art. 1, §10 (1857).

offenses in Iowa have had a statutory right to appointed counsel,⁴ Under present Iowa Law, a defendant must be represented by counsel before entering a guilty plea to a felony.⁵ The Iowa Supreme Court has ruled that "an indigent defendant charged with an indictable misdemeanor is entitled to appointment of counsel upon request under Sec. 775.4 Code of Iowa,"⁶

Courts across the nation have become more aware of the need to provide quality legal representation to indigent defendants and the client community has become more informed about their rights to effective legal defense. It is now recognized that counsel is not only of crucial importance at trial, but that lawyers must actively involve themselves with numerous facets of a client's case, from pre-trial investigation and preliminary hearings to the provision of expert witnesses and scientific testimony, through postconviction remedies, appeals and in other collateral matters.

An individual charged with the commission of a crime is confronted with the awesome power of the state manifested by its agents -- judges, prosecutors, investigators and bailiffs -- plus a legal code containing complex and technical terminology. Without assistance of counsel the accused, generally unfamiliar with legal language, institutions and processes, finds it difficult to understand the relevant law, much less know the appropriate ways in which to present an effective defense.

It is clear from the perspectives of all concerned that lawyers, particularly for indigents facing charges in our criminal justice system, are as the U.S. Supreme Court has indicated, "necessities, not luxuries."⁷

⁴Iowa Rev. Stat. Ch. 47, § 64 (Terr. of Iowa 1843).

⁵Iowa Code § 777.12 (1971).

⁶Wright v. Denato, 178 N.W. 2d 339, 342 (Iowa 1970). An indictable misdemeanor is defined as those misdemeanors punishable by incarceration for more than 30 days or a fine of more than \$100.

⁷Gideon v. Wainwright, 372 US 335, 344 (1963).

While ruling in Argersinger that counsel must be made available to any indigent facing a possible jail sentence, the Supreme Court did not specify the method by which defense services should be provided. It left to the states and/or local jurisdictions the responsibility and fiscal burden for developing and funding criminal defense systems that would meet local needs.

Four basic models for indigent defense delivery systems are currently being used in this country: (for further description of models, see p. 31 et seq.)

- Ad hoc (random appointment of counsel)
- Defender office
- Assigned counsel system
- A combination of a defender office and assigned counsel

These four models for the delivery of criminal defense services to the indigent will be discussed and analyzed in detail in this report.

Although the defender office model may appear to stand alone, in fact it rarely does:

"While there has always been a utilization of the private bar where defender offices exist as a necessary adjunct to deal with conflict of interest cases at the very least, there is growing interest in coordinating the services of the defender office and the private bar on an assigned basis."⁸

It should also be noted that defender offices can be established in a variety of ways; these are best understood in light of the method of selection of the Defender Director --

"The various states and the federal system provide for the selection of the Defender Director in a wide variety of ways. These include election; direct appointment by the governor, judiciary or legislative body; appointment by a defender commission; and the selection by a private agency which contracts to provide defense services."⁹

⁸National Study Commission of Defense Services, Draft Report and Guidelines for the Defense of Eligible Persons, National Legal Aid and Defender Association Vol. 1 p. 231 (1976).

⁹National Study Commission, p. 413.

B. Nature of the Request

On January 23, 1975, the Black Hawk County Board of Supervisors asked the County Bar Association to conduct a feasibility study for a public defender plan. On March 4, 1975 the Bar Association committee appointed to respond to this request sought assistance in connection with such a study from Marshall Hartman, National Director of Defender Services for the National Legal Aid and Defender Association (NLADA). The Black Hawk County Bar committee formally requested technical assistance from the National Center for Defense Management (NCDM), a project of NLADA, on May 21, 1975.

Upon receipt of the request, the Iowa Crime Commission expanded its scope to include six additional counties: Des Moines, Louisa, Lee, Henry, Cerro Gordo and Webster. The expanded study request was forwarded to the Law Enforcement Assistance Administration (LEAA) regional office in Kansas City, Kansas on July 8, 1975. Regional approval was obtained on August 7, 1975 and on August 12, 1975, LEAA instructed NCDM to conduct the study.

Advised of these developments, NCDM divided the technical assistance package into two components:

- A Systems Development Study for Black Hawk County, Iowa;
- Systems Development Studies of six other Iowa counties: Des Moines, Lee, Louisa, Henry, Cerro Gordo and Webster.

C. Objectives

The National Center for Defense Management set two major goals for this multi-county study:

- To assess the quality and cost-effectiveness of the present court-appointed counsel systems in these six counties; and
- To identify several alternative defense systems and analyze their capability of providing quality representation to indigent defendants at reasonable costs.

The realization of these objectives will provide important information to assist local and state officials in their criminal justice planning efforts.

D. Methodology

The scope and content of this systems development study are set forth below followed by a summary of the procedures utilized to obtain the requisite data.

1. The Planning Process

The planning process--making rational choices for the future--involves the following steps:

- Description of the current system;
- Projection of the future environment;
- Development of alternative proposals;
- Analysis of the impact of the alternatives;
- Resource allocation required for implementation;
- Evaluation of impact; and
- Institutionalization of the planning process.

This report concerns itself with the first five steps of the planning process. First, criminal court systems and defense processes in the six counties studied are described. The existing defense services are then assessed from the perspectives of the judiciary, the private bar and the client community. Influences on the future workload of these court systems are discussed next and cost projections for the present assigned counsel system are made.

Three alternative defense systems are then described and projected budgets presented. Each alternative defense system is then analyzed as to its capability of providing quality defense services in terms of its cost-effectiveness. Finally, recommendations are made which, if implemented, should result in substantial improvements in the delivery of criminal defense services to indigents in these jurisdictions.

2. Investigative Procedures

The consultant team sought to explore all facets of the assigned counsel systems in these counties. The administrative structure and cost implications of these systems were examined. The quality and effectiveness of assigned counsel working within these systems were scrutinized.

NCDM staff conducted a preliminary visit to this area on December 15, 1975; the team visit took place January 12-16, 1976. The objectives were to develop firsthand an understanding of the caliber of existing defense services and gather statistical and other relevant data on the operation of these systems.

Extensive preparations for the site visit were made by NCDM staff, including compilation of a consultant handbook, gathering of an interview list of persons actively involved with the criminal justice system,¹⁰ scheduling

¹⁰A list of persons interviewed can be found at Appendix C.

these interviews and designing appropriate questionnaires in connection with the private bar and client community surveys.¹¹ Docket studies were also formulated. Prior to the actual visit, the study team met for an orientation session where specific assignments were discussed and coordinated.

Consultants with the following special professional skills were assembled for the team:

- Defender, prosecutorial, legal aid administration, and social work to assess the quality and scope of defense services; and
- Systems analysis to identify the present costs and project future budgets for existing and alternative defense systems.

The study team¹² concluded the field visit with a comprehensive discussion of all material, notes, observations and opinions derived from their onsite experience and team recommendations were formulated. Following the field visit, NCDM staff collected and analyzed results of the surveys of the private bar and client community. Interview notes, consultant reports and other data were examined and evaluated. The recommendations were then finalized and this report was prepared from the assembled materials.

¹¹Client community survey and results are at Appendix G; private bar survey and results are at Appendix F.

¹²Study team resumes are at Appendix B.

DESCRIPTION

A. Jurisdictions Studied

The study focused on the criminal defense services provided to indigents in six rural Iowa counties, two located in the northern part of the state and the other four in the southeast. Cerro Gordo County (population 50,000) is the most populous of the counties studied and is in Subdistrict A of Iowa's Second Judicial District, with Mason City its major residential center. Webster County in north central Iowa encompasses the largest area of the six (over 700 square miles), is part of Subdistrict 2B and its principle city is Fort Dodge.

The four southeastern counties studied comprise Judicial Subdistrict 8B. In Des Moines County a defender office is located in Burlington, the county seat. Lee County has dual county seats and judicial facilities in Fort Madison (north) and Keokuk (south). The smallest of the six counties in terms of both area (403 square miles) and population (10,682) is Louisa County. A state mental health institute and Iowa Wesleyan College are located in Mt. Pleasant, the county seat of Henry County.

B. Iowa Criminal Justice System

Any effort to evaluate a segment of the criminal justice system, in this case county defense services for the indigent, must proceed from an understanding of the entire system including its structure, processes and personnel. Such an evaluation must also take into consideration the existence of an informal system of criminal justice coexisting with the formal one, and appreciate the operative interaction between the two.

The judicial system of Iowa is in transition. Eventually, it will be a three-tiered system, with a Supreme Court on top, District Courts in the middle and Magistrate Courts on the bottom.¹³ The Supreme Court will retain the appellate jurisdiction and supervisory powers common to such courts. The District Courts will continue their present broad subject matter jurisdiction, typical of general trial courts. The Magistrate Courts, presided over by fulltime magistrates, have jurisdiction over small claims, lesser civil cases and all misdemeanors; parttime magistrates, who need not be attorneys, hear minor civil claims and nonindictable misdemeanors.

A tier of judges designated "Associate District Judges" exists between the Magistrate Courts and the District Courts. These judicial officers were all magistrates under Iowa's previous court structure and as they retire, they will be replaced by fulltime magistrates. While they function with the Magistrate Courts, their jurisdiction is slightly greater in juvenile matters, and they may temporarily perform the duties of a District Judge when so assigned by the Chief Judge.

The state is divided into 13 judicial election districts for the purpose of staffing the district courts.¹⁴ The number of judges allocated to each subdivision is determined by a formula which gives equal weight to the average number of cases filed and the estimated population.

The 2nd District is staffed by 14 District judges; five preside in Subdistrict 2A (Cerro Gordo) and the other nine sit in 2B (Webster), which is also served by a Court Administrator funded by the State Crime Commission. The 8th District has 9 District judges, four of whom preside in the counties studied in Subdistrict 8B.

¹³A graphic display of the Iowa judicial system is at Appendix E.

¹⁴Map of Iowa's 8 Judicial Districts and 13 Judicial Election Districts is at Appendix D.

Criminal prosecutions in Iowa are initiated by citizen or police complaints which result in arrests and/or the issuance of search warrants. After an initial bond is set, the suspect is booked. Appearance before a magistrate occurs the next court day when the rights to counsel and to appointed counsel are explained.

If applicable, a determination of indigency is accomplished by affidavit. Counsel is either retained privately, or assigned by the court if not selected by the indigent defendant; counsel is notified prior to first appearance and bond is then reviewed and posted, if possible. The exact timing of such appointment varies from 1-3 days, on the average.

A preliminary hearing follows where probable cause must be shown by the state; the accused is then bound over to the appropriate court for arraignment. A County Attorney's Information must be filed prior to arraignment. Indictable misdemeanors are referred to Magistrate Court for trial.

At arraignment the accused, accompanied by retained or appointed counsel, is informed of the charges and enters an appropriate plea. Guilty pleas are taken in hearings which determine their factual bases and voluntariness. Felony cases are tried by a 12-person jury (6 in simple misdemeanors) presided over by a District Court judge. Jury trials are waivable on indictable misdemeanors.

A guilty verdict results in an adverse judgement rendered by the court. Probation reports precede imposition of statutorily set indeterminate sentences. Appeals of felony convictions may be taken to the State Supreme Court; lesser offense appeals go first to District Court for a trial de novo.

C. Defense Services to Indigents

In each of the six counties visited, an assigned counsel system is utilized to provide criminal defense services to indigents. In Des Moines County,

the assigned counsel system is supplemented by a defender office (referred to as the Offender Advocate) in Burlington, which handles a portion of the indigent caseload in that jurisdiction. Selection of attorneys for accused persons who indicate financial inability to retain private counsel is normally handled by the Magistrate who appoints a local practitioner. The District Judge exercises power of review over both the indigency determination and the attorney selection, in the event that a controversy should arise in connection with the appointment.

Assignments are typically made from a panel or list which includes either some or most of the relatively small number of practicing attorneys in the jurisdiction. Only a small percentage of these bar members are experienced criminal law specialists. To avoid possible conflicts of interest, firms or individuals closely associated with the County Attorney's office are excluded from the panels; elderly or infirm practitioners are frequently not considered.

Appointed counsel in these six jurisdictions receive compensation from the court at rates varying from \$18 to \$25 an hour. These figures usually correspond with the compensation guidelines for appointed counsel approved by the District Court judges and endorsed by the local bar associations. Remuneration levels for appointed counsel tend to run from slightly below to considerably short of the prevailing rates actually received by private attorneys in criminal cases. The effects of this disparity in compensation to attorneys handling assigned as opposed to more lucrative private clients will be addressed later in this report.

With few exceptions, the attorneys picked to represent indigent defendants tend to be general practitioners rather than criminal law specialists. The expertise that does develop is generally limited to those individuals who

receive a number of court appointments who over time build up some experience in handling criminal cases. More typically, it is the younger attorneys in each community who receive the majority of the assignments and literally earn their professional stripes handling cases of this variety -- a concern to be addressed further below. A regulation adopted by the Iowa Supreme Court requires all attorneys to complete 15 hours each year in currently accredited continuing legal education programs.

Indigent defendants, whenever possible, are permitted to select the attorney of their choice -- a statutory option in Iowa which helps individualize the assignment of counsel. Practitioners are often contacted directly by defendants from jail -- a relationship which may result in an appointment; most often the appointments are initiated through the judge by mail.

Following the trial court's disposition of an indigent defendant's case, the assigned attorney has completed the trial defense obligation. While some assigned counsel continue to serve indigent clients through the appeal stage, appointment of another attorney to process appellate matters is the usual procedure. Only a limited number of panel members have appellate experience and consequently, most appeal assignments also go to the younger, less experienced attorneys.

On the prosecution, however, all appeals in Iowa are handled by the Appellate Section of the State Attorney General's Office. This centralized section is staffed by 10 attorneys who specialize in appellate practice and devote their entire professional time to appeals cases. The expertise accumulated by a unit of this type is a significant resource in the prosecutorial arsenal.

III

PERCEPTIONS OF DEFENSE SERVICES

The following section deals with views and opinions expressed by the Judiciary, the private bar and the client community in the counties visited. It does not necessarily reflect the opinion of the consultant team, whose views are clearly set out in Section IV, below.

A, The Judiciary

The study team interviewed members of the judiciary in each of the jurisdictions visited. These judges presented their views on problems involved in the delivery of defense services. The quality of representation received by indigents was deemed more than adequate but concern was expressed over the fact that appointed counsel usually are not criminal defense specialists.

The jurists indicated support for the establishment of defender offices to improve the quality of defense services. In almost every instance, however, the cost implications of this alternative precluded their endorsement of a defender program.

Potential loss of private bar involvement in the criminal justice system was frequently cited as the basis for opposition to a defender operation. The parttime status of the position of county attorney troubles some trial judges; they see it as an obstacle to creating a fulltime defender position and question the efficiency of any such parttime legal services.

The exclusion from the assignment panels of numerous attorneys associated either directly or indirectly with the incumbent prosecutor disturbs several judges, even as they acknowledge the need to avoid the appearance of conflict of interest.

The inadequacy of the fee structures for assigned counsel was generally recognized by these judicial officials and they endorsed raising the compensation

levels in most instances. Client service is inevitably affected adversely, they concede, by fee discrepancies between private and assigned clientele.

B, The Private Bar

Members of the private bar interviewed share the view expressed by judges that indigent accused in these counties receive quality representation from court-appointed counsel. The attorneys discussed several problems inherent in the existing ad hoc assigned counsel system.

The lack of expertise of appointed counsel in criminal practice was mentioned repeatedly, as was the small percentage of practitioners taking criminal cases or assignments. Lack of immediate access to counsel for defendants was also acknowledged. The frequent unavailability of resources to permit investigative and other support capabilities by appointed counsel disturbs those interviewed. The conflicts of interest exclusion rule is felt to deprive the panels of experienced trial counsel and is viewed as too severe, especially in cases of tangential association.

The establishment of a regional defender office to handle either part of the indigent caseload or perhaps civil and criminal matters is advocated to upgrade defense services. Many attorneys believe a defender's expertise could be shared with other appointed counsel. There was general agreement that a substantial and adequate salary must be offered to attract a qualified defender.

The practitioners questioned agreed on the importance of raising assigned counsel fees to lessen the disparity in remuneration and client service between appointed and privately retained cases. Some bar members contend that the imbalance created by the handling of appeals by the State Attorney's Office can best be redressed by setting up a statewide appellate defender operation.

C. Private Bar and Client Community Surveys

The NCDM team undertook an extensive survey of the private bar and client communities in these counties. Questionnaires were sent to 270 practicing attorneys and 56 responded.¹⁵ An attempt was made to sample the views of the client communities on the criminal defense system. Unfortunately, access was only permitted to inmates in Webster County and the limited responses obtained were statistically insignificant.

A partial sampling of attorney responses reveals that only two practitioners listed criminal law as their specialty and only six said they were trial specialists. Almost half indicated they were not well qualified to provide criminal defense services when they accepted their first court appointment.

Three-quarters of those responding felt that the existing assigned counsel system was fair to indigents, yet only one-fourth preferred the present system over a defender program. Over half of the attorneys surveyed believe a defender office should run a training program for appointed counsel.

While the client community survey was statistically insignificant, some response was received; in spite of such lack of validity, in terms of the total report, the results have been displayed in the appendix.¹⁶

¹⁵A copy of the questionnaire and survey results can be found at Appendix F.
¹⁶Survey results appear at Appendix G.

IV

ASSESSMENT OF PROBLEMS AND NEEDS

It was not possible to do an in-depth assessment of the delivery of defense services in the six counties visited by the consultant team. By means of extensive discussions with criminal justice system personnel and analysis of court data from the jurisdictions, the consultants determined that defense services were deficient in a number of areas discussed below.

A. Providing Counsel with Expertise in the Criminal Practice

It was stated earlier that typically it is the younger, less experienced attorneys in each community who receive the majority of the assignments. It was noted that to a large extent, the handling of criminal cases--as is more characteristic of civil practice--was accomplished informally, between the defense attorney, the prosecutor and the court. Such informality would seem to facilitate determinations of indigency and otherwise dispose of pretrial matters such as motions and discovery without "unnecessary" delays and the formality of written motions and hearings. This informality, however, can be very deceptive and may indeed work to the disadvantage of the defendant. Only the experienced criminal practitioner knows when it is appropriate to forego such formalities and when they must be insisted upon to insure competent representation and the protection of defendants' rights.

Providing indigents with counsel has often meant simply providing a lawyer, no matter how lacking in experience or competence. In today's complex legal world, a license to practice law does not qualify a person as a criminal defense specialist. Courtroom procedure is highly technical; the rules of evidence, techniques for cross-examination and the manner and strategy for selecting jurors are complex disciplines. Yet such expertise is an essential

component of effective representation in the criminal courts. The criminal lawyer needs to have very recent decisions of the U.S. Supreme Court, lower federal courts and state appellate courts readily available in order to argue persuasively.

Many attorneys handling indigent cases, both defenders and assigned counsel, received their first training in criminal law literally by "practicing" on defendants in trial situations, as the survey of the private bar indicated. Chief Justice Warren Burger is an outspoken critic of this practice.

The National Advisory Commission has proposed that intensive entry-level programs be established to ensure that defenders and assigned counsel have the basic defense skills necessary to provide effective legal assistance before representing indigent clients.¹⁷ The Commission stressed that such training be "systematic and comprehensive."

An entry-level training program should consist of a four to six week curriculum during which time trainees are not assigned to courts or cases. Instruction should include lectures, seminars and reading assignments covering statutory and case materials as well as practice and procedure. Field visits and court observation should be included. New attorneys should be involved in simulated client and witness interviews and simulated trial situations. Role-playing exercises should be videotaped and discussed. Many defender offices are too small to provide comprehensive entry-level training and must rely on programs conducted at the state and national levels.

The NAC also recommends that "in-service training and legal education programs should be established on a systematic basis. . ."¹⁸ for both defenders

¹⁷National Advisory Commission on Criminal Justice Standards and Goals, Task Force Report: The Courts, Standard 13.16.

¹⁸Ibid.

and assigned counsel. Defense attorneys need to keep informed of developments in criminal law and procedure, as well as in the forensic sciences. Defender offices or assigned counsel programs must maintain adequate law libraries including pleading and brief banks. Copies of recent opinions of the U.S. Supreme Court and the State's appellate courts, and national publications such as the Criminal Law Reporter should be readily available. Periodic lectures by senior attorneys, forensic science experts and community agency personnel should be scheduled.

The Supreme Court of Iowa has recognized the need for all attorneys to keep abreast of developments in the law. On April 9, 1975, the court ordered that commencing January 1, 1976, all attorneys licensed to practice in Iowa must complete a minimum of 15 hours of accredited legal education each year. In adopting the Order, the court stated: "Only by continuing their legal education through their period of practice of law can attorneys fulfill their obligation to competently serve their clients."¹⁹

Programs of continuing legal education for defense counsel should be developed in conjunction with the regulations of the Iowa Commission on Continuing Legal Education, thereby allowing participating attorneys to simultaneously fulfill the existing requirement.

B. Assuring Defendants Immediate Access to Counsel

As described earlier, the process by which indigent defendants obtain counsel is generally initiated at the first appearance stage. It is then that the court determines eligibility for the appointment of counsel which is followed by the notification of counsel. The actual timing involved in this process depends upon the immediate availability of the attorney. The consultant team found that

¹⁹Rule 123, the Supreme Court of Iowa Order Adopting Regulations of the Commission on Continuing Legal Education and various Commission documents are included at Appendix K.

while defense services for those in need are arranged for at the time of initial appearance, it is left to chance whether defendants, in fact, are able to contact counsel shortly after their arrest. This contrasts sharply with the situation of more affluent defendants who are in a position to get in touch with their private lawyer immediately following their arrest.

Early contact by the attorney with the accused can mean the difference between effective and ineffective legal assistance. A prompt determination of relevant facts enables the attorney to initiate investigation, attempt to secure the release of the suspect from custody and to offer legal advice to protect the accused's constitutional and legal rights.

The need for early appointment is buttressed by the fact that a high percentage of cases are disposed of without trial, often through plea negotiations or guilty pleas. At the often crucial initial stages, the presence of defense counsel can be decisive in helping the Prosecutor decide how to proceed.

The nonindigent criminally accused is able to call in private counsel for immediate consultations. They can discuss the nature of the charge and evaluate its implications, consider defense strategy and the chances for favorable disposition. All this is equally necessary in the case of indigents; immediate access to counsel should be afforded to all accused persons.

The American Bar Association's Standards for Criminal Justice take the following position on early appointment of counsel:

'Where practicable, it should be determined prior to first appearance whether the defendant is financially unable to afford counsel and whether he desires representation. Counsel should be appointed no later than the time of first appearance and, if necessary, may be appointed for the limited purpose of representing the defendant only at first appearance or arraignment and at subsequent proceedings before the lower court.'²⁰

²⁰American Bar Association Standards, Appointment of Counsel, Section 4.2.

C. Providing Counsel with Investigative and Other Support Capabilities

The consultants found that defense investigation is left almost entirely to counsel who would request additional court funds for support services only in particularly serious cases. As a result, very little pre-trial investigation is provided and often counsel relies on information made available through police reports or the prosecutor's file.

The appointment of even the most skilled trial attorney to defend an indigent accused is no more than a hollow gesture if the case hinges upon the location of a missing witness or the testimony of a ballistics expert and the necessary investigative services are not available. The importance of thorough investigation and the specialized assistance of psychiatrists, forensic pathologists and other scientific experts are now recognized as essential components of an effective defense capability.

Yet, in most instances, indigents go into court without such assistance. Rarely will they have the benefit of an independent investigation to challenge the resources of local police departments, the sheriff's office, the state police and the FBI.

Both the American Bar Association and the National Advisory Commission call for a defense system to provide adequate support services.²¹ Parity with prosecutorial resources is clearly appropriate.²² Given the caseload demands on defense attorneys, the use of support specialists is essential to providing effective assistance of counsel.²³

²¹ABA Standards for Providing Defense Services, Section 16.

²²National Advisory Commission on Criminal Justice Standards and Goals, Courts (1973), Standard 13.14, p. 280.

²³National Study Commission on Defense Services, Draft Report, p. 577.

Investigators are a fundamental staff resource because their services are required in numerous cases where there are factual disputes not subject to objective resolution. Proper trial preparation demands verification of evidence and information developed by the prosecutor and other law enforcement personnel, in addition to interviewing potential defense and prosecution witnesses. An attorney can utilize the skills of social workers to advise clients regarding available diversion programs, to develop sentencing alternatives and to obtain required social services.

The failure to provide support services for defense counsel is an inefficient allocation of resources, as it is simply uneconomical for attorneys to attempt to carry out support functions. The ABA and the NAC have recognized both the cost-savings realized by having paraprofessionals handle functions for which lawyers are not necessary and the crime-reducing potential of a defense system coordinated with community social service agencies, to expedite the rehabilitation process.

D. Monitoring Attorney Performance

In discussion with judges and attorneys, it became evident to the consultant team that very few attorneys in these counties consider themselves experts in the criminal law field. The counties visited are relatively small and have rather small criminal caseloads. Unlike their counterparts in urban centers, lawyers in these jurisdictions do not have the opportunity to get involved in criminal cases on a regular basis. When called upon for criminal appointments, counsel must quickly marshal whatever skills they can bring to bear and hope that their performance measures up to accepted standards. It is left to the court to determine on a case by case basis whether or not an attorney has sufficient background to handle criminal cases. It is on that basis that judges may

be more selective in the designation of appointed counsel, particularly in serious criminal matters.

In addition to providing lawyers who have expertise in criminal practice, an effective defense system should include a procedure for monitoring the performance of counsel. A continuous review of the work product of attorneys handling indigent cases ensures that only qualified and industrious advocates represent such defendants; those who do not maintain minimum standards of representation should be removed from handling indigents' cases. The review procedure should include a method for dealing with client complaints and grievances.

Monitoring of attorney performance requires the keeping of complete and updated case files. Court appearances must be audited and the opinions of judges and other court personnel solicited and recorded. Court files should be spot-checked to determine whether attorneys are submitting quality work in their pleadings and briefed materials. The very fact that regular, confidential evaluations are being made should serve as an incentive for attorneys to constantly upgrade the quality of representation they provide.

E. Professional Independence of Counsel

There is little evidence to suggest that the assigned counsel system as implemented in the six counties visited restricts professional independence vis-a-vis the court and counsel appointed. The system does, however, give the appearance of dependence in that the court approves the fee vouchers and thereby inevitably wields some degree of control over the nature of defense services rendered.

Standards of both the National Advisory Commission²⁴ and the American

²⁴NAC Courts, Standard 13.8, Commentary, p. 268.

Bar Association²⁵ stress the importance of insuring the professional independence of counsel from the courts, the prosecution, the funding source and local political influence.

To achieve this professional autonomy, the National Legal Aid and Defender Association concluded:

"(t)he most appropriate method of assuring independence modified with a proper mixture of supervision is to create a board of directors representing various segments of the community . . . Moreover, a strong argument can be made for the proposition that a defender office should not be a governmental agency, but a private, not for profit corporation."²⁶

F. Applying Fair Standards for Determining Indigency

There are no specific standards for judges in the Iowa counties visited to apply in determining a defendant's eligibility for appointed counsel. In fact, one judge stated that he has personal knowledge of the financial circumstances of most defendants that appear before him and that he relies on that knowledge for decisions of this nature. Eligibility determination is largely subjective in these counties and, while it may appear to function adequately in connection with local residents, it can operate to the detriment of defendants who lack close community ties. The Iowa Code notes that counsel must be appointed when the defendant cannot afford privately retained counsel.²⁷ It sets out a "substantial hardship" standard for use in determining the eligibility of defendants for defense services.²⁸ The court, under this standard, has wide discretion to determine whether a defendant is capable of retaining counsel without jeopardizing the ability "to provide economic necessities for himself and his family."²⁹

²⁵ABA Standards, Providing Defense Services, Section 1.4.

²⁶NLADA, Proposed Standards for Defender Services, Standard 3.1 and Commentary to Standard 1.3.

²⁷See Iowa Code § 775.4 (1971).

²⁸See Iowa Code § 336A.4 (1971).

²⁹See Iowa Code § 336A.4 (1971).

The Iowa Supreme Court provided guidance for the application of the above standards by pointing out that relatives of an adult defendant have no legal duty to assist the accused.³⁰ They also held that the fact that the defendant has posted bail cannot be considered as operating to bar a determination of indigency.³¹ The court identified several criteria which can be considered in determining the eligibility of defendants for appointed counsel:

"Ready availability of (1) real or personal property owned; (2) employment benefits; (3) pensions, annuities, social security and unemployment compensation; (4) inheritances; (5) number of dependents; (6) outstanding debts; (7) seriousness of charge; and (8) any other valuable resources not previously mentioned."³²

The American Bar Association recommends the "substantial hardship" standard:

"Counsel should be provided to any person who is financially unable to obtain adequate representation without substantial hardship to himself or his family."³³

Trial judges are the arbiters of a defendant's eligibility for appointed counsel. This is not a preferable procedure since the pressures of court calendars often cause judges to make hurried determinations of indigency which are rarely reviewed. Additionally, judicial neutrality and objectivity may be undermined by making the judge an interrogator to determine assets and income. The survey of the client community indicated that defendants felt trial judges treat indigents differently from defendants who retain counsel.³⁴

The National Study Commission on Defense Services recommended to The National Colloquium on the Future of Defender Services in January, 1976 that defenders and not judges be the determiners of a defendant's indigency.³⁵ The Commission cited three factors to support their proposal: (1) the need

³⁰State v. Wright, 82 N.W. 1013, 1014 (1900).

³¹State v. Van Gorder, 184 N.W. 638, 639 (1921).

³²Bolds v. Bennett, 159 NW2d 425, 428 (1968).

³³ABA Standards for Providing Defense Services, Section 6.1 (1968).

³⁴See Question 30 at Appendix F.

³⁵Draft Report and Guidelines for the Defense of Eligible Persons, 155, 160.

to establish the lawyer-client relationship at an early stage; (2) the desirability of creating that relationship in a manner which closely resembles the private model; and (3) the belief that the defender is in the best position to determine such eligibility, subject to later court review. Their argument is persuasive.

The "substantial hardship" standard presently followed in Iowa appears to be fair for defendants and makes counsel available to those who cannot afford to retain private attorneys. The application of this standard, however, should be changed to be consistent with the recommendations of the National Study Commission on Defense Services.³⁶ This would require new forms and interview techniques to allow for an initial determination of indigency at the earliest possible moment after arrest, reviewable by the Court at the time of arraignment. In order to expedite this process, defense counsel should be authorized to make such initial determinations and proceed with the rendering of legal service to those who appear to qualify.

³⁶Ibid., 160.

V

INFLUENCES ON THE FUTURE WORKLOAD OF INDIGENT DEFENSE SERVICES

In order to compare and evaluate alternative defense systems which might be utilized in the counties studied, it is necessary to project the indigent caseloads for these court systems. Factors affecting caseloads include crime rates, arrests, population changes and indigency rates.

A. General Influences on Criminal Caseload

Reported crime data provides a starting point for any analysis of criminal caseloads. While the available data on crime rates and arrests for these counties was rather limited, there appears to have been an increase of approximately 18 percent in reported crime and arrest figures between 1973 and 1975. While population increases may have been partially responsible for these increasing rates, note should be taken of the growth in the number of criminal cases filed. Displayed in Table 5.1 are the number of cases filed in these six counties during this period.

Table 5.1. Criminal Cases Filed 1973-1975				
County	Category	1973	1974	1975
Cerro Gordo	Adult	253	265	396
	Juvenile	21	44	65
Webster	Adult	239	242	396
	Juvenile	131	130	144
Des Moines	Adult	168	360	493
	Juvenile	22	50	45
Henry	Adult	60	96	101
	Juvenile	21	24	29
Lee	Adult	239	279	297
	Juvenile	173	191	192
Louisa	Adult	38	75	54
	Juvenile	23	14	13

Source: North Iowa Area Crime Commission (NIACC) Criminal Justice Plan, 1975 and South Iowa Area Crime Commission (SIACC) Annual Action Plan, FY 1976. Quarterly Report of Judicial Business (Annual Summary, 1975) Six Iowa Counties, Court Administrator of the Judicial Dept., State of Iowa.

B. Trends in Indigency Rate

While the above discussion provides useful background information, the volume of court appointments and related indigency rates must be determined as a basis for subsequent discussion of the costs of the existing assigned counsel systems. For this purpose, a docket study commissioned by NCDM was performed on a twenty-percent sample of criminal cases filed in the six counties surveyed. Indigency rates derived from the docket study are displayed below in Table 5.2.

Table 5.2 Indigency Rate* in Six Iowa Counties, 1973-1975									
County	JUVENILE			ADULT			TOTAL **		
	1973	1974	1975	1973	1974	1975	1973	1974	1975
Cerro Gordo	insuf. data	50%	43%	32%	35%	28%	32%	37%	30%
Webster	33%	46%	32%	37%	46%	35%	36%	46%	34%
Des Moines	50%	40%	50%	31%	37%	47%	35%	37%	47%
Henry	33%	20%	17%	55%	insuf. data	38%	53%	20%	32%
Lee	27%	43%	10%	47%	44%	68%	38%	44%	51%
Louisa	27%	Insuf. Data	Insuf. Data	50%	25%	14%	35%	25%	14%

* 20% sample, docket study

**weighted averages

While the indigency rates shown above reflect annual, jurisdictional and categorical variations, the 1975 indigency rate by county was used to determine projected caseload levels, providing a base upon which to make cost projections. The adult and juvenile caseloads for 1975 with the indigency rates for that year and the resulting indigent caseloads are displayed on the next page in Table 5.3.

Table 5.3 1975 Indigent Caseload for Six Iowa Counties						
COUNTY	CASELOAD		INDIGENCY RATE		INDIGENT CASELOAD	
	Adult	Juv	Adult	Juv	Adult	Juv
Cerro Gordo	396	65	28%	43%	111	28
Webster	396	144	35%	32%	139	47
Des Moines	493	45	47%	50%	232*	23
Henry	101	29	38%	17%	39	5
Lee	297	192	68%	10%	202	20
Louisa	54	13	14%	27%	8	4
TOTAL	1737	488			731	127

*Includes Offender Advocate cases

The caseload and indigency data for each jurisdiction was then combined to obtain estimated indigent caseload projections for each of the six counties, and is displayed below in Table 5.4. The projection accounts for the 1973-1975 caseload trend.

Table 5.4. Projections of Indigent Caseloads for Six Iowa Counties						
	CASELOAD		INDIGENCY RATE		INDIGENT CASELOAD	
	Adult	Juv	Adult	Juv	Adult	Juv
Cerro Gordo	424	48	28%	43%	119	21
Webster	509	29	35%	32%	179	10
Des Moines	613	30	47%	50%	289	15
Henry	156	13*	38%	17%	60	3
Lee	272	154	68%	10%	185	16
Louisa	18*	3*	14%	27%	3	1
TOTAL	1992	277			835	66

*Small sample size should be considered in evaluating impact on indigency rate (Louisa County, Adult and Juvenile; Henry County, Juvenile only).

VI

PROJECTED COSTS OF THE EXISTING DEFENSE SYSTEMS

To project the future costs of the existing assigned counsel systems, the indigent caseload projections derived from the 1973-1975 figures were applied to cost per case estimates computed from the docket study data. The total cost levels displayed below in Table 6.1 are approximations based on available statistical material and sample data.

Table 6.1 Projected Cost of Assigned Counsel for Six Iowa Counties, 1976-80					
COUNTY	INDIGENT CASELOAD		ATTORNEY FEES PER CASE		TOTAL COST
	Adult	Juv	Adult	Juv	
Cerro Gordo	119	21	\$162.44	\$35.33	\$20,073
Webster	179	10	\$256.55	\$43.13	\$46,354
Des Moines	289	15	\$215.21*	\$77.50	\$63,359
Henry	60	3	\$170.07	\$81.02 ⁺	\$10,448
Lee	185	16	\$ 87.95	\$84.69	\$17,626
Louisa	3	1	\$225.37	\$81.02 ⁺	\$ 758
TOTALS	835	66			\$158,618

*Excludes Offender Advocate cases

⁺Due to small sample size for Henry and Louisa Counties, the average cost per case for Des Moines and Lee County were used.

The cost projections in Table 6.1 do not take into account the prevailing annual inflation rate for the Iowa area. When the seven percent inflation factor³⁷ is applied to cost estimates for each county system, the following adjusted cost figures result: Cerro Gordo, \$26,312; Webster, \$60,761; Des Moines, \$83,051; Henry, \$13,696; Lee, \$23,312; and Louisa, \$994. The six-county total becomes \$207,918.³⁸

Although attorney fees constitute the largest component of total system

³⁷Office of Consumer Price Index, Bureau of Labor Statistics, Department of Labor, U.S. Government. (4 year projection).

³⁸A composite table displaying the intermediate figures from which these totals were derived is at Appendix H.

costs, other substantial costs must also be forecasted. Annual amounts for witness fees and investigative services have been formulated for each jurisdiction based on their projected indigent caseloads.

Witness fee requirements were targeted at \$10,000 and investigator service costs were estimated at \$15,000 for jurisdictions with indigent caseload levels comparable to those projected for Des Moines County. Proportional combined figures for these purposes were determined for each of the other five counties studied: Lee County, \$16,806; Webster County, \$15,803; Cerro Gordo County, \$11,705; Henry County, \$5,268 and Louisa County, \$334. Adding these amounts to the inflation adjusted totals results in a six-county projected cost figure of \$282,834.

It should be noted that hidden costs for indigency determination, attorney notification and minor equipment and supply items were excluded from the projections. It should also be noted that the aforementioned cost estimates reflect the current level of representation which, as noted in Section IV, in many respects fails to meet the minimum standards provided in NAC/ABA (see Appendix K). Nevertheless, the study team views the total cost estimates as valid base figures for system comparisons when viewed in this perspective.

VII

ALTERNATIVE OPTIONS

The study team considered three alternative systems for improving the delivery of legal defense services to indigent criminally accused. The three options--Coordinated Assigned Counsel System, Defender System and Mixed System--are variations of the basic defense systems employed throughout this country.

A. Description

1. Coordinated Assigned Counsel (CAC) System

The term "assigned counsel system" is used to describe the current practice in these six counties where attorneys are appointed by the court to represent indigent defendants on a case-by-case basis. The innovation proposed under the Coordinated Assigned Counsel (CAC) system is the addition of an administrator, whose primary function would be to coordinate such appointments.

Specifically, the Administrator would be responsible for (1) compiling a comprehensive list of all attorneys available for appointment; (2) adopting a rating system based on attorneys' trial experience and familiarity with criminal practice; (3) implementing a rotation system to ensure equitable distribution of cases; and (4) designing and administering a fee distribution plan which fairly compensates appointed counsel.

The CAC Administrator should establish certification standards and co-counsel arrangements for new attorneys desiring appointments, and should arrange for appropriate training programs. Ongoing training for all participating attorneys should be encouraged and perhaps made mandatory to upgrade the quality of representation.

A system for monitoring the performance of appointed counsel should be developed and implemented through the Administrator's office. Effective machinery for hearing and ruling on complaints against appointed counsel should also be established. Counsel who consistently fail to measure up to prescribed standards should be removed from the appointment list.

The CAC administrator, in cooperation with the courts, probation office, law enforcement officials and other criminal justice agencies, should develop a uniform indigency determination procedure to facilitate the immediate appointment of counsel.

The CAC program should have sufficient staff and resources to provide the necessary support to assigned counsel; the staff should include a full-time investigator and have available expert witnesses and social services personnel, as needed.

The Administrator should be appointed by an independent board or commission to insulate appointed counsel from unwarranted judicial or political influence. It is suggested that this body include representatives of local government, the judiciary, the bar and the community served, especially low income and minority groups.

2. Defender System

The term "Defender System" describes a method of providing indigent defense services where an attorney or a group of attorneys, under a contractual arrangement or as public employees, provide legal representation for indigent criminal defendants on a regular basis.

Under this plan, qualified defense lawyers are available to represent all indigent criminally accused who request legal counsel.

Services should include the handling of felonies, misdemeanors, juvenile cases, postconviction remedies, appeals, extraordinary appearances and related legal advice. When conflicts of interest arise, particularly in connection with co-defendants, the private bar would be called upon to accept appointments.

Staff attorneys would be assigned to different courts on a rotating basis, in order to equalize their experience and to help prevent development of accommodation relationships which often occur when an attorney routinely appears before the same judge. Support facilities, including adequate office space, equipment, investigative capability and funds for expert witnesses are all necessary to adequately provide effective assistance of counsel.

It would be the responsibility of the defender office to (1) arrange procedures that assure immediate representation; (2) develop a mechanism for initial indigency determination by the defender staff or other nonjudicial personnel; and (3) develop an inservice training program for staff attorneys, dealing with tactics, techniques and new decisions which affect day-to-day criminal practice.

A defender office budget for support personnel and facilities should include such items as rent, copying equipment, telephones, postage, tape recording, photographic and other investigative equipment as well as funds to employ expert witnesses, allow travel and provide a law library.

The Chief Defender should be appointed by a broadly representative and Independent supervisory board or commission, organized as a nonprofit corporation. Defenders should not be elected to office, due to the strong need to insulate them from political influence. Independence from control and supervision by the judiciary is essential in order to avoid the appearance of unwarranted judicial interference in the defense of criminal cases.

3. Mixed System

A Mixed Criminal Defense System would include the establishment of a Coordinated Assigned Counsel program and a separate Defender office. Each component of this system would be responsible for handling a fixed percentage of the indigent criminal caseload. The division of that caseload into the functional categories of felonies, misdemeanors, juvenile and appeal cases should be left to the respective administrators. For example, it may be more practical to utilize the Defender office exclusively for juvenile matters and appeals while the private bar could handle most adult felony and misdemeanor trials.

Under the Mixed System, many of the functions outlined in the CAC program can be performed by the Defender office. Accordingly, the CAC unit requires only a parttime Administrator and parttime secretarial services, as reflected in the sample budget below. The defender component's responsibilities would remain unchanged.

B. Projected Budgets

In this section, the study team's estimates of the cost for operating each of three alternative defense systems is presented. Each budget is divided into two categories: Startup Costs and Operating Budget. All of the cost estimates presented are for one office for one county. Most of the equipment requirements were determined by the study team's judgement and law office management standards. The cost per item of various equipment is given in Table 7.1.

Table 7.1. Cost of Office Equipment	
Item	Per Unit Cost
Desk	\$200
Executive chair	125
Desk chair	75
Secretarial chair	55
Side chair	75
File cabinets	130
Bookcases	50
Dictaphones	500
Projector	130
Screen	55
Typewriter	700

The budget for each alternative system is designed to handle 128 adult and 12 juvenile cases, approximating the average projected indigent caseloads for these jurisdictions. In each instance one-attorney offices are contemplated (the parttime manager in the CAC system model is an administrative position).

The first sample budget is for the Coordinated Assigned Counsel System. This budget provides for a limited law library and minimal training equipment in addition to routine office equipment. The CAC System operates with an attorney manager³⁹ and an executive secretary. It requires \$1,500 for

³⁹ While professional legal competence is the principal skill an attorney brings to a law office, when the functioning of the office requires managerial skills, the attorney should be capable of bringing such skills to the position. The requisite managerial skills include the following:

- a. Planning--Ability to identify goals the office must accomplish over a given period of time and plan what resources are needed and how the office might best use them to accomplish the identified goals;
- b. Organizing--For implementing such plans, the ability to organize the office functionally, in ways best suited to accomplish identified goals;
- c. Directing--Ability to add a dimension of dynamics to the structure by assigning responsibilities for the accomplishment of identified goals;
- d. Coordinating--Assure that the office is cross trained through structured written and oral communications, to maximize utilization of all available resources.
- e. Controlling--Constructing a design for measuring contributions to identified goals and ability to periodically assess progress toward each goal.

training conferences and seminars. The CAC System budget provides for medical and expert testimony as well as for investigatory services on contractual bases. Thus, the Professional Services category contains only the projected costs of attorneys' fees.

A Defender Office would also require one attorney and an executive secretary. They would make use of approximately \$11,000 worth of office equipment, including an \$8,000 law library. The Defender Office would also require investigatory services included in the line item for Contract Services.

The budgeted defender salary of \$30,000 is what the study team believes necessary to attract an experienced criminal defense specialist, based on information supplied by the bench and bar in these counties. Since the defender must be relied upon by most indigent accused for competent representation, it would be false economy to fill this position with a recent law school graduate lacking the requisite experience.

The final budget is for a Mixed System with approximately 75 percent of the cases handled by the defender component and 25 percent handled by assigned counsel. The fulltime staff would duplicate the defender model and the CAC component would consist of parttime personnel.

BUDGET DETAIL

Sample Budget #1--The Coordinated Assigned Counsel System

A. START-UP COSTS

Equipment \$5,425

2 desks	400
1 executive chair	125
1 secretary chair	55
1 typewriter	700
2 side chairs	150
2 file cabinets	260
1 bookcase	50
2 dictaphones	1000
law library*	2500
1 slide projector	130
1 screen	55

Recruitment \$1,000

TOTAL \$6,425

B. OPERATING BUDGET

Personnel \$39,675

Attorney-Manager	25,000
Executive Secretary	9,500
Fringe Benefits (15%)	5,175

Travel, Transportation & Subsistence \$1,500

Training conferences, seminars	1,500
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Supplies & Other Operating Expenses \$9,600

General office supplies	1,500
Office space	2,100
Postage	1,500
Telephone	2,500
Duplicating	2,000

*Austere; library facilities of bar association assumed adequate.

CONTINUED

1 OF 4

Sample Budget #1 -- The Coordinated Assigned Counsel System, cont.

<u>Contract Services</u> (expert witnesses, medical examinations, investigation)	\$ 25,000*
<u>Professional Services</u> (attorneys' fees)	\$ 83,051**
<u>TOTAL</u>	\$165,251

*Total displayed is for Des Moines County; figures for the other five counties are on page 30.

**Includes inflation adjustment, 1976-80. Total displayed is for Des Moines County; figures for the five other counties appear on page 29.

BUDGET DETAIL

Sample Budget #2--Defender Office

A. START-UP COSTS

Equipment \$10,975

2 desks	400
1 executive chair	125
1 secretary chair	55
1 typewriter	700
2 side chairs	150
2 file cabinets	260
2 bookcases	100
2 dictaphones	1000
law library	8000
1 slide projector	130
1 screen	55

Recruitment \$1,000

TOTAL \$11,975

B. OPERATING BUDGET

Personnel \$45,425

1 Defender	30,000
1 Executive secretary	9,500
Fringe benefits (15%)	5,925

Travel, Transportation & Subsistence \$2,000

Training conferences, seminars	2,000
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Supplies & Other Operating Expenses \$13,600

General office supplies	2,500
Office space	2,100
Postage	2,500
Telephone	3,000
Duplicating	3,500

Contract Services (expert witnesses, medical examinations, investigation) \$25,000

TOTAL \$98,000

BUDGET DETAIL

Sample Budget #3--A Mixed Defender-Assigned Counsel System

A. START-UP COSTS

Equipment* \$13,915

4 desks	800
2 executive chairs	250
2 secretary chairs	110
2 typewriters	1400
4 side chairs	300
4 file cabinets	520
3 bookcases	150
law library	8000
1 slide projector	130
1 screen	55
training equipment	200
4 dictaphones	2000

Recruitment \$1,500

TOTAL \$15,415

B. OPERATING BUDGET

Personnel \$65,175

Defender Component:

1 Defender	30,000
1 Executive secretary	9,500
Fringe benefits (15%)	5,925
Total	45,425

Assigned Counsel Component:

1 Attorney-Manager (part-time)	15,000
1 Secretary (part-time)	4,750
Total	19,750

Travel, Transportation & Subsistence \$6,000

Training conferences, seminars 6,000

Supplies & Other Operating Expenses \$13,800

General office supplies	2,100
Office space	4,200
Postage	2,000
Telephone	2,500
Duplicating	3,000

*Includes equipment for CAC program.

Sample Budget #3 -- A Mixed Defender-Assigned Counsel System, cont.

<u>Contract Services</u> (expert witnesses, medical examinations, investigation)	\$ 25,000*
<u>Professional Services</u> (attorneys' fees)	\$ 20,763**
<u>TOTAL</u>	\$146,152

*Total displayed is for Des Moines County; figures for the other five counties are at page 30.

**Includes inflation adjustment 1976-80. Total displayed is for Assigned Counsel component for Des Moines County; figures for the other five counties are as follows: Webster \$15,190; Cerro Gordo \$6,578; Lee \$5,828; Henry \$3,424; and Louisa \$249. These figures represent one-quarter of the projected assigned counsel costs in each jurisdiction.

C. Cost-Effectiveness

A cost-effectiveness analysis is essentially an investment criterion which indicates whether the work product of a system is worth its costs. The study team focused this analysis on the effectiveness of each system evaluated in meeting certain criteria and considered only those costs (salaries, professional services, equipment) which could be readily converted into dollar amounts.

Exhibit 2 (page 44) compares the projected cost of the present Assigned Counsel Systems with projected operating budgets for each alternative system. The startup costs for each option were omitted to permit realistic comparisons with the existing systems.

The composite exhibit reveals that a Coordinated Assigned Counsel (CAC) System in Des Moines County would cost \$50,776 more than its existing assigned counsel system. Despite the CAC System's greater capability of providing competent defense services, the cost differentials make the CAC option a great deal less cost-effective for each of these jurisdictions than their present systems.

A Defender System in Des Moines County would be the least expensive alternative option, costing \$72,801 less than a CAC System and \$44,713 less than a Mixed System; the Defender option, however, would cost Des Moines County \$22,025 less than its existing system. In Webster County this option would cost only \$264 more than the existing assigned counsel system.

Accordingly, it would appear appropriate from the standpoint of costs to implement a defender system in those two counties; while the Webster County system falls short of the dollar threshold, the shortfall is minimal. In Des Moines County, the Offender Advocate office could be expanded to service the entire county.

The next most costly existing system, in Lee County, falls below the defender option cost by \$37,921; the result is that none of the remaining four county systems studied (Lee, Cerro Gordo, Henry and Louisa) show a defender system to be a cost-effective alternative for those jurisdictions.

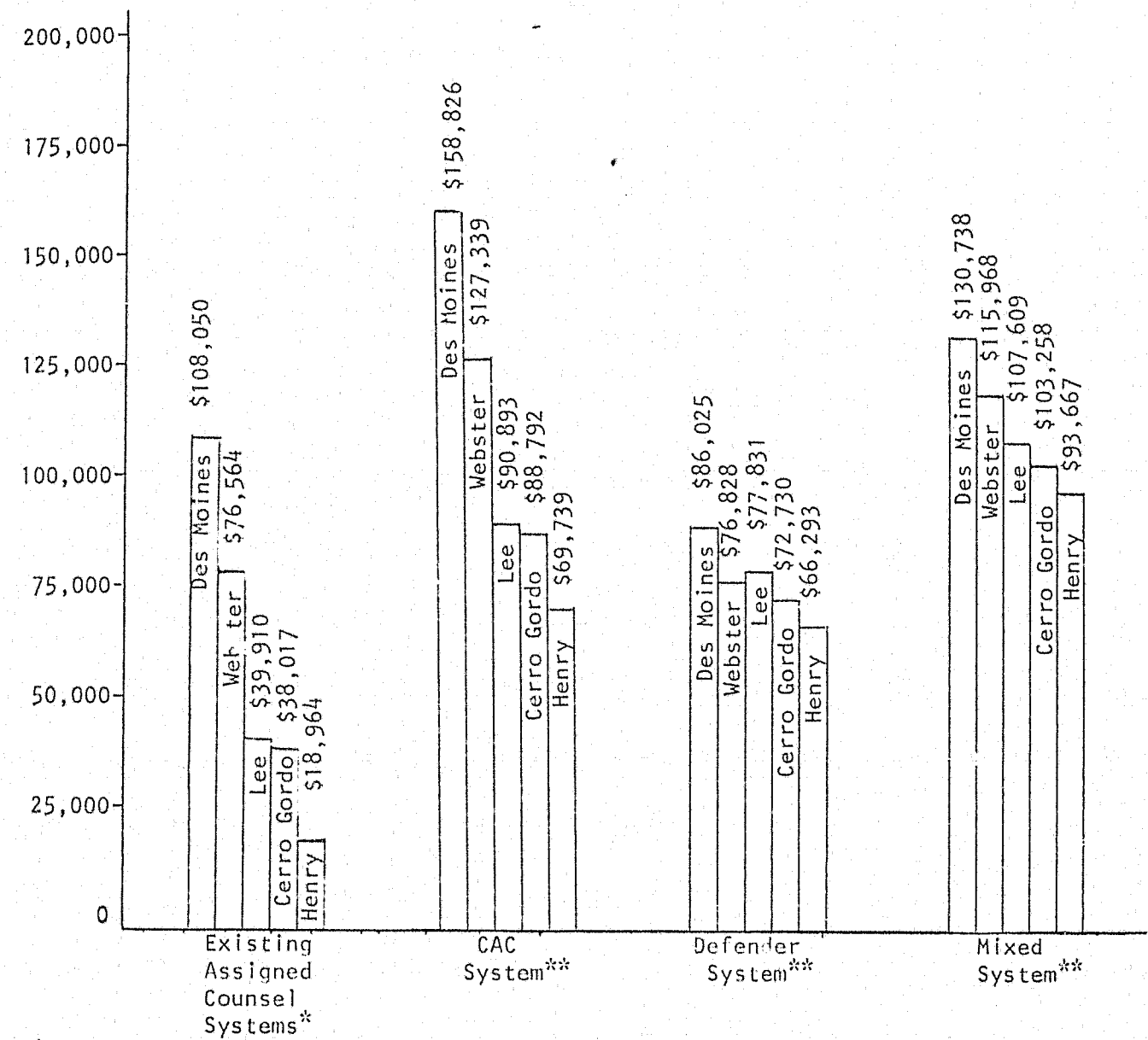
The Mixed System is the alternative with the greatest capability of providing competent defense services. For jurisdictions of this size, the Defender component should process 75 percent of the indigent caseload; Assigned Counsel would process the remaining 25 percent.

A Mixed System of this description in Des Moines County would cost \$22,688 more than its existing system and \$28,088 less than the CAC option. Despite its superior capability in terms of service delivery, the Mixed System requires such additional expenditures as to make it, at best, only a marginal alternative for Des Moines County and an even less attractive option in terms of cost for the other five counties.

The study team concluded that while the merits of the alternative defense systems considered are numerous, the establishment of any of the alternative defense delivery models in four of the counties would not be cost-effective. However, in Des Moines and Webster Counties, instituting a Defender system in each of these two counties is appropriate given the projected caseloads and associated costs discussed above.

It seems evident that the existing indigent defense systems in three of the counties in Judicial Sub-district 8B and in Cerro Gordo County, properly upgraded and refined (consistent with the discussion of the Coordinated Assigned Counsel System, at page 31) are viable interim options for meeting the immediate criminal defense needs of the indigent in these jurisdictions. Should significant increases occur in actual caseloads or other resource-consuming variables, reconsideration would be in order. The comparative costs for each county for each option are displayed at Exhibit 2, below,

Comparison of Projected System Costs
Indigent Criminal Defense Services
for Six Iowa Counties



* Louisa County (\$1328) is not large enough for display.

** Adjusted from model system budget totals to reflect only operating costs; contract and professional services differentials for the six counties are also included.

IMPACT ANALYSIS

Prior sections in this report have dealt with a number of key problem areas relevant to current defense delivery systems in the six counties studied. Alternative defense delivery plans have been described and costed out to provide a perspective necessary for the decision making process.

In this section, we will share the thought process leading up to the final recommendations proposed by the consultant team.

Early on, during the pre-site and site visits, it was learned that the counties were not well disposed toward the concept of regionalization. Discussions on the feasibility of a multi-county defender office plan revealed it to be viewed as unworkable due to great distances between county seats and other political considerations. For that reason, and due to limitations of time and manpower, the study excluded consideration of a multi-county or regional approach.

The team proceeded with the task of determining how best to modify existing defense delivery systems on a county by county basis in accordance with the original objectives. The deficiencies discovered and discussed dictated the need for a more co-ordinated defense system that would take into account the needs spelled out in Section IV. At the same time, the mandate also required a cost analysis with a view to recommending a system that would meet the needs of the individual counties in a cost-effective manner.

From the standpoint of quality of services and taking into account the discussions relating to the need for expertise, immediate access to counsel, eligibility standards, monitoring attorney performance and assuring independence of counsel, the clear and compelling recommendation considered was to urge the establishment of a defender office in each county, consistent with the budget outlined on page 39. Yet, in light of the sparse indigent criminal caseloads in all the jurisdictions visited except Des Moines and Webster Counties,

it appeared inappropriate to suggest, for example, that Louisa County establish and fund such an office.

In light of these circumstances, the consultants had initially recommended that only Des Moines County--because of its larger caseload--should establish a defender office; the remaining counties would maintain their existing assigned counsel structure with certain modifications. These modifications would primarily involve the development of a training program for attorneys accepting appointments and a closed panel concept requiring that only those attorneys who have been certified as criminal experts would be appointed to handle indigents' criminal cases. Additionally, there is an immediate need to assure all indigent or potentially indigent defendants immediate access to counsel.

A final review of these recommendations, however, brought about the realization that it would ultimately be a disservice to the counties to bypass more realistic solutions. There is a clear need to pool financial resources in several of these counties in order to establish a multi-county or regional defender office. The obligation to provide competent defense services to indigent persons transcends county lines and should be considered from the standpoint of how best to provide and finance those services. If that can be done most effectively by merging financial and human resources between counties, it would seem logical to consider such an approach.

The National Advisory Commission on Criminal Justice Standards and Goals, in discussing methods for delivering defense services and the financing of such services, stated:

"On balance, the Commission has concluded that each jurisdiction should have access to a public defender's office. If the caseload is not sufficient to support an office, consolidation of localities to create a unit with sufficient caseload to justify such an office is recommended by Standard 13.7. But the Commission also is concerned that the role of the private bar in providing defense services be retained, or, where it is presently inadequate, that it be developed.

Therefore, the standard recommends that each jurisdiction also establish a system for providing defense services by appointed private practitioners."⁴⁰ (Emphasis applied)

"Financial support is a critical element in providing effective defender services. - Local governments are less able than the state to finance such services, and it is often politically impossible to provide adequate funding for defense services on the local level. Further aggravating the situation is that counties with a low tax base often have a higher incidence of crime." [It is clear, therefore, that] "the only way to balance the resources so that counsel can be provided uniformly to all indigent criminally accused without imposing an unreasonable burden on some communities is through a state-financed system. This need not preclude local autonomy in organizing and administering defender services."⁴¹

Where a state program does not exist, the Commission recommends the establishment of regional public defenders:

"The office of public defender should be a fulltime 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 fulltime 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."⁴²

Directly applicable to the situations in these six Iowa counties, the following NAC standard warrants consideration.

"In endorsing a plan to allow each jurisdiction to choose the defender system best suited to its own needs and resources, however, the American Bar Association has warned against allowing local tradition to serve 'as an excuse for failure to establish an adequate system for providing counsel', "⁴³

As stated earlier, it was beyond the scope of this study to determine and recommend a specific regional or multi-county plan and the recommendations in this regard are general in nature. Des Moines, Lee, Louisa and Henry are contiguous and would lend themselves to some form of consolidation. The extent to which such a joint defense service effort can succeed depends largely upon the desire of the county officials and the respective county bar associations

⁴⁰NAC Standard 13.5 Commentary.

⁴¹NAC Standard 13.6 Commentary.

⁴²NAC Standard 13.7.

⁴³NAC Standard 13.6 Commentary.

to cooperate. It is recommended that the six counties be approached as a group to determine their receptiveness to a follow-up study to evaluate how best to develop such a regional plan, including its cost implications. The data and other material provided in this report could be a good starting point for such an undertaking.

IX

RECOMMENDATIONS

The National Center for Defense Management recommends the following:

1. THAT THE STATE OF IOWA ADOPT A STATEWIDE DEFENDER SYSTEM WHICH WILL INSURE PROVISION OF COMPETENT AND EFFECTIVE COUNSEL TO INDIGENT CRIMINAL DEFENDANTS THROUGHOUT THE STATE.

The present study, while limited to six counties, clearly demonstrates the need to address indigent defense services on a statewide basis. A small and/or rural county cannot be expected to deal comprehensively with the many cost and quality considerations necessary for an adequate indigent defense program as delineated in national and state standards.⁴⁴

There are a number of operational and structural options that can be considered in a statewide program. It is suggested that a followup study be commissioned, concentrating exclusively on a statewide approach and culminating in a proposal for specific defender legislation in Iowa. This study should, in part, consist of the following tasks:

- Review of other relevant Iowa studies to date;
- Description and analysis of other state defender plans currently in operation; and
- Cost analysis of the proposed state defender system.

The remaining recommendations assume a temporary function, addressing the immediate needs of the existing criminal defense systems in these jurisdictions.

2. THAT PENDING THE ESTABLISHMENT OF A STATEWIDE DEFENDER SYSTEM, THE SIX COUNTIES VISITED BE APPROACHED TO DETERMINE THEIR RECEPTIVENESS TO A SEPARATE FOLLOWUP STUDY TO EVALUATE HOW BEST TO DEVELOP A REGIONAL OR MULTI-COUNTY DEFENDER PLAN.

⁴⁴ See NAC Courts, Standards 13.1-13.16, pp. 253-286; ABA Standards for Providing Defense Services, Parts I-VII; Standards for a Defender System, Handbook of Standards for Legal Aid and Defender Offices, National Legal Aid and Defender Association, 1965, and Standards and Goals Program, Iowa Comprehensive Criminal Justice Plan, Iowa Crime Commission, Vol. 2, p. 153, 1975.

The contiguous locations of the four counties in Judicial Subdistrict 8B and the general proximity of the two counties studied in District 2 might lead these entities to consider some form of consolidation for the delivery of defense services. Such joint efforts would require the cooperation of county officials and the respective county bar associations. A followup study on the feasibility of either a regional or multi-county defender plan is recommended to provide interim guidance to criminal justice system planners.

3. THAT DES MOINES COUNTY EXPAND ITS OFFENDER ADVOCATE OFFICE IN BURLINGTON INTO A COUNTY DEFENDER PROGRAM TO ENHANCE THE QUALITY OF REPRESENTATION PROVIDED TO INDIGENT CRIMINAL DEFENDANTS.

The cost-effectiveness analysis presented in this report demonstrates that a county defender program for Des Moines County would cost that jurisdiction significantly less than the amount required to maintain their existing criminal defense system. By expanding the existing Offender Advocate office in Burlington into a county defender operation, the caliber of criminal defense services for indigents could be markedly improved. In terms of both effective allocation of resources and enhancing the quality of representation, a county defender system should be implemented.

4. THAT WEBSTER COUNTY CONSIDER ESTABLISHING A DEFENDER SYSTEM TO PROVIDE CRIMINAL DEFENSE SERVICES TO INDIGENT ACCUSED.

The study indicates that a Defender system could service the projected indigent caseload demands of Webster County with resource allocations comparable to the levels required to maintain the existing assigned counsel system. Establishment of a Defender system in this jurisdiction would enhance the caliber of defense services available to indigent defendants without placing significantly higher financial obligations on the community. The study team believes that a Defender operation in Webster County would not only improve the

effectiveness of the representation provided but could also serve as a model program for jurisdictions with similar criminal justice requirements and resources.

5. THAT ONLY MEMBERS OF THE PRIVATE BAR WHO EXPRESS INTEREST IN ACCEPTING COURT APPOINTMENTS AND WHO TAKE PART IN SPECIALIZED CRIMINAL DEFENSE AND TRIAL ADVOCACY PROGRAMS BE PLACED ON COURT APPOINTMENT PANELS.

The Iowa Supreme Court requires all attorneys to complete a minimum of 15 hours a year of professional instruction in accredited continuing legal education programs. It is urged that all panel members comply with this edict by participating in programs which offer to enhance their trial skills and/or knowledge of the criminal law. To this end, it would be helpful if the list of accredited programs were expanded to include the excellent offerings of the National College for Criminal Defense Lawyers and Public Defenders.

6. THAT THE JUDICIARY AND THE ORGANIZED BAR COORDINATE SUPPORT FOR THE ESTABLISHMENT OF A STATEWIDE APPELLATE DEFENDER UNIT TO REPRESENT INDIGENTS IN THE APPEAL PHASE OF THE CRIMINAL JUSTICE PROCESS.

A unified appellate defender office is best suited to develop and deliver the specialized legal defense skills necessary to counterbalance the centralized prosecutorial resources available through the appeals section of the State Attorney General's Office. Such a unit will enable appointed counsel who presently handle appeals to add their trial defense skills to the assignment panels.

7. THAT ASSIGNED COUNSEL AS WELL AS TRIAL AND APPELLATE DEFENDERS RECEIVE ADEQUATE COMPENSATION TO ASSURE QUALITY INDIGENT DEFENSE SERVICES.

Fee schedules for assigned counsel should be adjusted upward, in order to lessen disparities between the relatively low appointed counsel fees set by the judiciary and substantially higher fees obtained from privately-retained clients. Defender and appellate defender salaries should be set at figures comparable to those received by their prosecutorial counterparts.

This additional compensation also would have the natural effect of attracting the more qualified attorneys to the panel list.

"The financial rewards of private law practice can be large. In order to attract qualified people, public office should hold reasonable financial rewards as well. . . The public defender is an important component of the criminal justice system, comparable to the prosecutor and the chief judge of the highest trial court of the jurisdiction. For purposes of salary, therefore, he should be treated in a similar manner."⁴⁵

8. THAT LOCAL BAR ASSOCIATIONS ESTABLISH CRIMINAL DEFENSE SECTIONS OR COMMITTEES TO MONITOR DEFENSE COUNSEL PERFORMANCE AND TO PROVIDE ADDITIONAL SPECIALIZED TRAINING OPPORTUNITIES FOR THEIR MEMBERS.

In order to facilitate local bar oversight of defense services for indigents and also to supplement existing continuing legal education activities, it is suggested that specialized criminal defense units be set up by the respective county bar organizations. The functions of these units should include:

- Coordination of efforts to establish regional or multi-county defense services plans;
- Monitoring of appointed counsel performance; and
- Participation in the planning and presentation of specialized training programs for appointed counsel.

⁴⁵NAC Standard 13.7 Commentary

APPENDIX A

Correspondence Relating To The
Request For Technical Assistance

JACOBSEN, PRICE & CORRELL

LAWYERS

116 WEST 4TH STREET

POST OFFICE BOX 666

CEDAR FALLS, IOWA 50613

AREA CODE 319 PHONE 266-2625

S. C. JACOBSEN (1892-1969)

J. E. JACOBSEN

DAVID J. PRICE

DAVID H. CORRELL

R. James Sheerer

March 4, 1975

MAR 7 1975

Mr. Marshall Hartman
National Legal Aid and Defender Association
1155 East Sixtieth Street
Chicago, Illinois 60637

Dear Mr. Hartman:

Re: Public Defender Program

I have received your message indicating your response to my recent inquiry directed to the American Bar Association in regard to the captioned matter. I have been unable to get back in touch with you by phone, so am writing to inquire as to what information or assistance might be available to us locally in our investigation of the possibility of setting up a Public Defender Program.

We presently have a system of Court appointed attorneys which has worked quite well, but our committee is nonetheless interested in studying an alternative program to determine what advantages might flow from a different system of handling the representation of indigent criminal defendants. In order to do this we would need to know something about the manner of instituting a Defender Program, funding possibilities, the different forms which such a program might take, and perhaps also determine the length of time required to establish a viable Defender System.

Additionally, if you have had any contact with other areas which have set up similar offices, perhaps we could correspond with other programs in order to obtain suggestions from those already working in this area.

We may eventually be interested in having a public forum during which the possibility of a Defender Office could be discussed, and during which public as well as bar input could be solicited. If there would be any possibility of a representative

Mr. Marshall Hartman
March 4, 1975
Page Two

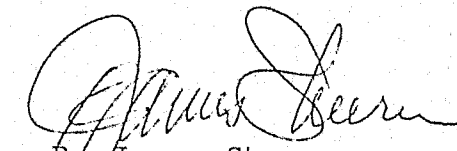
from your office attending a meeting of this nature, would you please so advise.

I realize this inquiry is very general, but we have only begun to function as a committee. However, we hope to quickly obtain initial information so that we will have a broader base upon which to perform an extensive, in depth study.

Thank you for whatever information or assistance you can provide.

Very truly,

JACOBSEN, PRICE & CORRELL


R. James Sheerer

RJS/ln

S.C. JACOBSEN (1892-1969)
J.E. JACOBSEN
DAVID J. PRICE
DAVID H. CORRELL
R. JAMES SHEERER

JACOBSEN, PRICE & CORRELL
LAWYERS
116 WEST 4TH STREET
POST OFFICE BOX 686
CEDAR FALLS, IOWA 50613
AREA CODE 319 PHONE 266-2625
May 21, 1975

NATIONAL CENTER FOR DEFENSE MANAGEMENT	
MAY 22 1975	
ROUTE TO: <i>8</i>	FOR:
THEN TO:	FOR:
COPIES TO:	FOR:

Gustav Goldberger
Associate Director
National Center for Defense Management
Suite 601
2100 M Street N. W.
Washington, D. C. 20037

Dear Mr. Goldberger:

RE: Public Defender Program

This is to advise you that I have received your most recent letter of May 2, 1975, and a copy of the same has been provided to all members of our local committee. After being apprised of the information contained in this letter concerning the possibility of a feasibility study for a defender program in our area, the consensus seems to be that such a study should be undertaken. I am writing to request your assistance in this regard on behalf of our local committee.

If a member from the National Center for Defense Management could arrange to come here for an orientation visit, it would be appreciated. I am advised that we would be able to provide up to \$200.00 of the ten percent hard-match cash contribution toward the total cost of such a study, which I understand would not exceed \$2,000.00. We would be able to pay this contribution either through local bar or County funds.

If you would advise as to when this study could be commenced, I will in turn pass this information on to the committee so that we might undertake any preparation necessary at this end.

Thank you very much for your assistance in this regard.

Very truly,

JACOBSEN, PRICE & CORRELL

R. James Sheerer
R. James Sheerer

RJS/ln

Law Offices of
Wolf, Schwieger & Parrish

Melvin H. Wolf
Barton L. Schwieger
Wallace D. Parrish

405 Marsh-Place Building
East Fifth & Lyncamore
Waterloo, Iowa 50703

June 17, 1975

Mr. George W. Orr
Executive Director
Iowa Crime Commission
3125 Douglas Avenue
Des Moines, Iowa 50310

Re: Approval for LEAA funded study -
National Center for Defense Management

Dear Mr. Orr:

The Black Hawk County Board of Supervisors requested that the Black Hawk County Bar Association conduct a feasibility study for a public defender plan for Black Hawk County, Iowa. The Bar Association appointed a committee and the committee has recently requested that the National Center for Defense Management do a feasibility study to determine the need for a public defender in this county.

It is our understanding that in this connection it is necessary to obtain the approval of your office with respect to the use of LEAA funds by the National Center. Enclosed please find a copy of the initial letter dated January 23, 1975, to the Bar Association from the Black Hawk County Board of Supervisors; a copy of a letter written by the President of the Bar Association to the committee dated February 26, 1975; a copy of a letter dated May 2, 1975, from the National Center for Defense Management and a copy of our reply dated May 21, 1975.

In order to effectuate and expedite this matter, we would appreciate your consideration and approval of this study at your earliest convenience.

Sincerely,

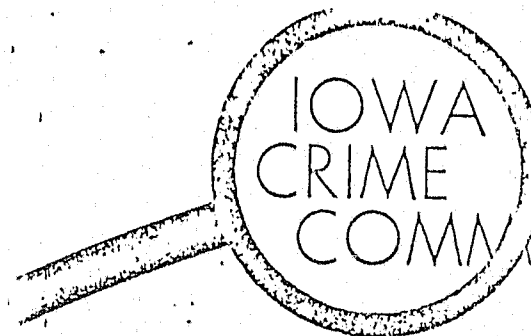
Melvin H. Wolf

MHW:JT

enc.

NATIONAL CENTER FOR DEFENSE MANAGEMENT	
JUN 19 1975	
ROUTE TO:	FOR:
THEN TO:	FOR:
COPIES TO:	FOR:

Robert D. Ray
Governor



MISSION

3125 Douglas Avenue • Des Moines, Iowa 50310 • Phone 515/281-3241

July 8, 1975

Mr. Bernard Brannon
Law Enforcement Assistance Administration
U. S. Department of Justice
436 State Avenue
Kansas City, Kansas 66101

Re: Technical Assistance for Feasibility Study of Public Defenders in Iowa.

Dear Mr. Brannon:

Enclosed please find form for a request for technical assistance for Public Defender Feasibility Study.

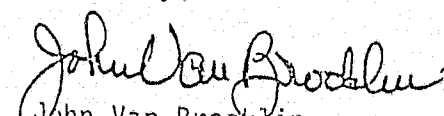
The potential expansion of the current public defense systems in the state will be consistent with our 1975 plan (page 205). Such programs will also help us meet Standard 13.7 which has been adopted in Iowa and has been given a high priority ranking. They will also be consistent with Standard 13.5 which has also been adopted and given a medium priority ranking.

Historically, public defender systems in Iowa have been almost non-existent. Such systems are being investigated as an alternative to the increased caseloads and costs for court-appointed counsel.

We would prefer that the technical assistance be done by the National Legal Aid and Defender Association if possible.

Any assistance you can offer us will be appreciated.

Sincerely,


John Van Brocklin
Deputy Director

JVB:crc:kk

Enclosure



REQUEST R TECHNICAL ASSISTANCE

Date of Request

KCRO Iowa 1975
RO STATE FY

7 8 75
MO. DAY YEAR

REQUESTING STATE PLANNING AGENCY

Name: IOWA CRIME COMMISSION

Full Address: 3125 Douglas Avenue

Des Moines, Iowa

ZIP: 50310

Individual to Contact -- Name: Mr. Clair Cramer

Office Phone: 515-281-3241

REQUESTING AGENCY

Name: IOWA CRIME COMMISSION

Full Address: 3125 Douglas Avenue

Des Moines, Iowa

ZIP: 50310

Individual to Contact -- Name: Clair R. Cramer

Office Phone: 515-281-3241

TYPE OF REQUEST: POLICE: COURTS: X CORRECTIONS:

NEW REQUEST: OTHER:

NATURE OF NEED

(Describe nature of problem and specific type of technical assistance necessary. Include estimated number of days for technical assistance effort.)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Memorandum

TO : Mr. James C. Swain
Office of Regional Operations - Courts

DATE: August 7, 1975

FROM : Bernard C. Brannon *BeB*
FRC/Courts Specialist, KCRO

SUBJECT: SPA Requested Public Defender Feasibility Study for Iowa

The attached request by the Iowa Crime Commission for Technical Assistance in the form of a Feasibility Study of Public Defenders in Iowa is forwarded with approval from the Kansas City Regional Office.

Our Regional Office Courts Program Specialist, Iowa Regional Office Representative, and the Iowa SPA Courts Specialist are in agreement with the SPA Deputy Director that the requested study would materially benefit Iowa toward establishing a viable Public Defender System for the state.

Both state and local interest has been expressed in moving forward in this here-to-for largely neglected facet of the Iowa Criminal Justice System.

The establishment and expansion of a state-wide Public Defender System is consistent with Iowa's 1975 state plan, and will further the accomplishment of state adopted standards numbered 13.5 and 13.7 respectively of the National Advisory Commission on Standards and Goals.

Local expertise and experience of the quality desired in the Public Defender area is not available to Iowa, nor are state or local funds with which to contract for the desired study.

The SPA suggests the study be done by the National Legal Aid and Defender Association which has the confidence and respect of SPA and local officials. Early favorable consideration of this TA request will be appreciated.

NATIONAL CENTER FOR DEFENSE MANAGEMENT	
AUG 11 1975	
ROUTE TO	100
THRU TO	100
COPIES TO	100

8/12/75

Approved
Gregory C. Brund
Project Monitor

APPENDIX B

Study Team Resumes

GUSTAV GOLDBERGER
1401 Highland Drive
Silver Spring, Md. 20910
(301) 585-7177

2/8/76

EDUCATIONAL DATA

Elementary Schools: Public Schools

Copenhagen, Denmark 1940-43
Gothenburg, Sweden 1943-45
Montreal, Canada 1946-47

Secondary Schools: Matriculated High School
McGill University - Montreal, Canada

Attended Private School - Montreal, Canada

Colleges: McGill University
Montreal, Canada 1951-53

Sir George Williams University
Montreal, Canada
B.A. 1957

Post Graduate: Rutgers - The State University
School of Law
New Jersey 1957-61
J.D. Degree

Northwestern University
School of Law
Short Course for Prosecutors 1965

PROFESSIONAL EXPERIENCE

City of Akron: Assistant Law Director 1963-64

City of Akron: Chief Prosecutor 1964-66

Summit County Ohio: Assistant County Prosecutor 1966-67

Private Practice: Erickson, Sheppard, Goldberger & Wheeler
Akron, Ohio 1966-67

Goldberger, Thomasson, Lane & Rosenblithe
Akron, Ohio 1970-75

Project Director: O.E.O. Legal Services
Summit County, Ohio
September 1967-70

Deputy Director: Summit County Public Defender Office
Akron, Ohio 1974-75

Director: National Center for Defense Management
National Legal Aid and Defender
Association
Washington, D.C. 1975 to present

MEMBERSHIP

American Bar Association
Ohio Bar Association
Akron Bar Association
A.T.L.A.
Judicature Society
District of Columbia Bar Association

ADMITTED TO PRACTICE

Ohio Bar 1963
U.S. District Court
(Northern District of Ohio) 1964
U.S. Supreme Court 1968
D.C. Court of Appeals October 8, 1975

AWARD

Public Service Award: Summit County Prosecutor 1968

PUBLICATIONS

Legal Aid Divorces - A Practical Approach
American University Law Review
Volume 20, Number 1; August 1970

Book Review
Insanity Defense, by Richard Arens
University of Akron Law Review
Volume 7, Number 3; Spring 1974

ASSIGNMENTS

Reactor: National Colloquium on the Future of Defender
Services, January 1976

Study Team
Captain: • El Paso, Texas Defense Development Study
• Iowa Defense Development Study
• Evaluation of Omaha Alternative to Incar-
ceration Project
• State of Oklahoma Indigent Defense Feasibility
Study
• Evaluation, Public Defender Office,
New Hampshire

PERSONAL RESUME

PRESCOTT ARON

6/18/75

Personal Biography

Born January 29, 1930, in Seattle Washington. Lived in Seattle, Washington to age 23. Entered U.S. Army October 2, 1953 and served until voluntary retirement June 1, 1975 as a Lieutenant Colonel. Served in positions of responsibility at military installations throughout the United States, in Greenland, Europe, Vietnam and Laos.

Education

High School: Shawnigan Lake, British Columbia (graduated 1949)

College: Washington State College (1949-1951)
University of Washington (1951-1953)
Bachelor of Arts in Anthropology
Eastern Washington State College (1965-1967)
Master of Science in Psychology

Relevant Positions Held

Associate Director, Management Programs, National Center for Defense Management, 2100 M Street, N.W., Washington, D.C. (4/21/75 to present)

Assistant Comptroller, Military District of Washington, Washington, D.C. (June 7, 1974 to April 20, 1975)

Executive Officer, Support Element, Defense Attache Office, Vientiane, Laos (January 16, 1974 to June 6, 1974)

Executive Assistant (Secretary of the General Staff), Commander, U.S. Army Criminal Investigation Command (April 15, 1973 to December 15, 1973)

Graduate Faculty Member, U.S. Army Command and General Staff College, Fort Leavenworth, Kansas (June 6, 1970 to May 15, 1972)

Professional Training

Automatic Data Processing Theory/Applications (Jan-June, 1970/October, 1970)

Operations Research/Systems Analysis Executive Course (November - December, 1973)

Personal Resume
Prescott Eaton
6/18/75
page two

Professional Training cont'd.

Application of Behavioral Science Models for Management, U.S. Department
of Agriculture Graduate School (October, 1974)

Organizational Memberships

American Psychological Association (APA)
Division of Industrial - Organizational Psychology (Division 14), APA
American Society of Military Comptrollers
Association of Legal Administrators
Psi Chi (Psychology Honorary)
American Society of Association Executives
Association for Systems Management

Awards

Legion of Merit, Bronze Star
Meritorious Service Medal, Air
Medal, Army Commendation Medal (three awards)

VERONICA M. DEVER
1809 Cedar Point Roadway
243 East Market Street
Sandusky, Ohio 44870
(419) 626-9343

PERSONAL BIOGRAPHY

Born May 27, 1940 in Cleveland, Ohio. Lived in the Cleveland area until 1973. Resided in Columbus, Ohio until 1975 and then moved to Sandusky, Ohio to accept a position as the first Public Defender in Erie County. Served as a psychiatric consultant to the Criminal Court in Cuyahoga County. Served as a police prosecutor in Cleveland. Was the Attorney Inspector for the Ohio Division of Securities and an Administrative Law Judge for the Ohio Department of Commerce.

EDUCATION

HIGH SCHOOL	St. Augustine Academy, Lakewood, Ohio
UNDER GRADUATE	Ursuline College for Women Pepper Pike, Ohio (1958-1962) Bachelor of Arts in Sociology and History
POST GRADUATE	St. Louis University School of Social Service 1966 Master of Social Work in psychiatric social work
LAW SCHOOL	Cleveland-Marshall School of Law Cleveland State University Juris Doctorate 1970 Exeter University Devonshire, England 1969 National College of Criminal Defense Houston, Texas 1975

PROFESSIONAL EXPERIENCE

Director, Erie County Legal Aid and Public Defender
Association, 243 East Market Street,
Sandusky, Ohio. (January 20, 1975)

Administrative Law Judge, Ohio Department of Commerce,
180 East Broad Street, Columbus, Ohio 43215
(July, 1974 -January, 1975)

PROFESSIONAL EXPERIENCE cont.

ATTORNEY INSPECTOR, (Chief of Enforcement), Ohio
Division of Securities, 330 East Broad Street
Columbus, -Ohio 43215. (January 1973 -June 1974)

Cleveland Police Prosecutor, Cleveland Law Department,
2001 Payne Avenue, Cleveland, Ohio 44115
October, 1971- December, 1972

Psychiatric consultant, Criminal Court of Cuyahoga
County, Cleveland, Ohio 44115. (November, 1967-
October, 1971)

Social Worker, Child Welfare Division of Cuyahoga
County Welfare Department, Cleveland, Ohio
(October 1963- October 1967)

Social Worker, Children Services of Saint Louis,
Saint Louis Missouri. (September, 1962-
October, 1963)

Instructor, Behavioral sciences, Cuyahoga Community
College, Cleveland, Ohio. (1970-present)

BAR ADMISSION AND CERTIFICATION

Ohio Supreme Court (1970)

United States District Court, Northern District of
Ohio.

A.C.S.W. certification from National of Social
Workers, 1966

ORGANIZATIONAL MEMBERSHIPS

American Bar Association

Ohio Bar Association
Criminal Justice Committee

Erie County Bar Association
Secretary, 1975
Treasurer, 1976

Cuyahoga County Bar Association

(Page three)

ORGANIZATIONAL MEMBERSHIPS cont.

Cuyahoga County Criminal Bar

Cleveland Bar Association

National Association of Criminal Defense Attorneys

Kappa Beta Pi Legal Association
President, 1972-1975

Ohio Public Defenders' Association
Board of Directors, 1975-76

Cleveland Council on Corrections
President, 1972

Heart Association
Trustee

RESUME

JUDITH A. STEWART
4950 S. East End Avenue
Chicago, Illinois 60615
(312) 241-5874

Born: March 17, 1945
Galesburg, Illinois
Husband: James Hawking
4950 S. East End Avenue
Chicago, Illinois 60615

Education:

College of Law - University of Illinois, Degree: J.D. June, 1970
Undergraduate School - University of Illinois, Degree: B.A. June, 1967
Major: English Minors: Latin and Education

Galesburg Senior High School

Honors and Activities:

Law School - Public Defender Program; Law and Psychiatry Seminar
(S.C. Rule 711 practice); Graduate Student Association Steering
Committee; Faculty Senate: Statutes and Procedures Committee

Undergraduate - graduated with "Honors"; James Scholar Program;
Daily Illini Wire Editor; Alpha Phi social sorority; Girl Scout
adult leader.

Employment

Cook County Public Defender's Office - September 1973 to present
position: Assistant Public Defender

Land of Lincoln Legal Assistance Foundation (formerly St. Clair
County Legal Aid Society) - East St. Louis, Illinois - September
1970 to July 1973.
position: staff attorney (1970 to May, 1971); acting executive
director (May, 1971 to February, 1973); senior staff attorney
and supervisor of law students and welfare unit (February to July
1973)

University of Illinois - 1967 to 1970
Housing Division - 1968 to 1970 (graduate dorm counselor)
Library - 1967 to 1969 (Library Science and Law)

Summers: Chalk Hills Girl Scout Camp - 1964 through 1968

Types of work handled in Legal employment:

Cook County Public Defender's Office: Appellate work (writing and
oral presentation of appeals - felony, misdemeanor, mental
health and juvenile); trial work (felony, misdemeanor and

mental health; jury and non-jury); supervision of law students and co-ordination of misdemeanor/juvenile/mental health appeals; prepared manual for appeals for Law Students.

Land of Lincoln Legal Assistance Foundation

Types of cases: Administrative law cases at local and review levels (Social Security and Illinois Department of Public Aid); incorporation of local not-for-profit groups and securing tax-exempt status); negligence (defense of personal injury and property damage suits); consumer complaints; drafting of contracts and commercial agreements; domestic relations (divorce, adoptions, custody, juvenile and dependency cases); landlord and tenant disputes; and civil rights. Also advisor to various E.O.C. groups and neighborhood centers; advisor to East St. Louis Women's Rights group; preparation of pamphlets and newsletters on special areas of the law.

Administrative responsibility at Land of Lincoln: Over-all responsibility for twelve-person office; preparation of annual budget; interviewing, hiring, and termination of personnel; supervision of law students under 711 practice; formulation of office personnel manual; intra-office relations; liaison between office and community and local groups and organizations.

Professional Organizations and Activities:

Illinois State Bar Association

Public Services Committee; Long Range Planning Conference 1972

American Bar Association

National Legal Aid and Defender Association

Civil Legal Services Advisory Committee - 1973-1974

Illinois Public Defender Association

Secretary 1975-1976 term

Bar Memberships

State of Illinois - November 1970

United States Federal District Court - Eastern District of Illinois - July 1972.

Eligible for admission to United States Supreme Court since over five years of practice.

References

Marshall Hartman, NLADA, 1166 East 60th Street, Chicago, Illinois
James J. Doherty, Cook County Public Defender, 407 Civic Center,
Chicago, Illinois 60602

John T. Moran, Assistant Public Defender, 407 Civic Center, Chicago,
Illinois 60602

APPENDIX C

List of Interviewees

PERSONS INTERVIEWED BY STAFF AND CONSULTANTS
January 12-16, 1976

Raymond Allen
Sheriff

Louis F. Beisser
Attorney

Herbert R. Bennett
Attorney

Robert Cahill
County Supervisor

Hon. William S. Cahill
Acting Chief Judge District 8D

C. Joseph Coleman, Jr.
Assistant Attorney General

Hon. John R. Dillon
Magistrate

Myranell Dockendorff
County Auditor

Richard Fleming
County Supervisor

T.K. Ford
Attorney

Hon. J.W. Frye
District Judge

Donald E. Gartin
Attorney

Hon. Albert L. Habhab
District Court Judge

Leonard Hansch
County Supervisor

Hon. David B. Hendrickson
District Judge

Jim Hoffman
Attorney

Dennis Howard
Judicial Administrator
Sub-District 2B

Joel J. Kamp
Assistant County Attorney

James L. Kramer
Attorney

William D. Lamb
Police Chief

Ray McCoy
Sheriff

Mrs. McMurry
Clerk of Court

Robert Moore
County Attorney

Larry G. Nixon
S. Iowa Area Crime Commission

Ruth R. Ogg
County Auditor

Gordon Plepla
S. Iowa Area Crime Commission

Virginia Polgameir
Assistant Court Clerk

Emmett Russell
County Supervisor

Hon. John F. Stone
District Judge

Ray Sullins
Attorney Generals Office

William Thatcher
County Attorney

Tito W. Trevino
Attorney

Hon. Thomas E. Tucker
District Judge

Hon. F. Turney
Magistrate

Robert L. Ulstad
Bar Association President

Thomas J. Vilsack
Attorney

Gary L. Wiegel
County Attorney

Hon. C.H. Wild
Chief Judge, 2nd District

Clayton L. Wornson
County Attorney

Thomas C. Younggren
Attorney

Lawrence W. Zeringue
Defender Advocate

APPENDIX D

Iowa Judicial Districts

The map shows the following counties and their corresponding districts:

- District 1:** Winnebago, Allamakee, Clayton, Fayette, Buchanan, Delaware, Dubuque, Jones, Clinton, Jackson, Scott, Cedar, Muscatine, Louisa, Des Moines.
- District 2:** Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 3:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 4:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 5:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 6:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 7:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 8A:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.
- District 8B:** Lyon, Osceola, Dickinson, Emmet, Russell, Winnebago, North, Mitchell, Howard, Winneshiek, Allamakee, O'Brien, Clay, Palo Alto, Hancock, Cerro, Floyd, Chickasaw, Bremer, Butler, Franklin, Wright, Humboldt, Pocahontas, Buena Vista, Cherokee, Plymouth, Webster, Hamilton, Hardin, Grundy, Marshall, Story, Boone, Greene, Carroll, Crawford, Monona, Harrison, Shelby, Audubon, Guthrie, Dallas, Folk, Jasper, Poweshiek, Iowa, Johnson, Warren, Madison, Adair, Pottawattamie, Cass, Adams, Union, Clarke, Lucas, Monroe, Wapello, Jefferson, Henry, Van Buren, Lee, Wayne, Appanoose, Davis, Fremont, Page, Taylor, Ringgold, Decatur.

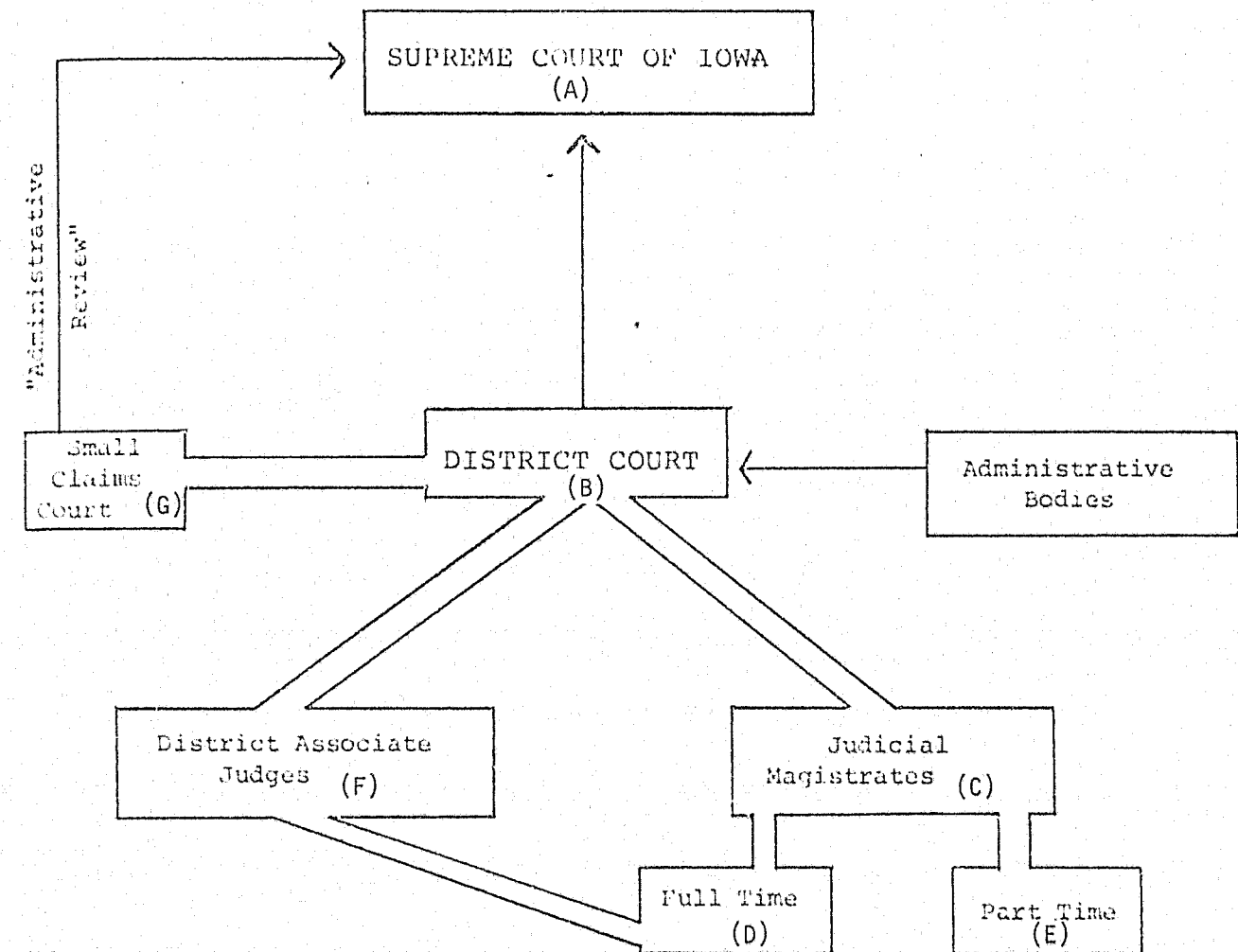
■■■■ Divides Judicial Districts into Subdistricts

APPENDIX E

Iowa Courts Under

Unified Trial Court System

IOWA COURTS UNDER UNIFIED TRIAL COURT SYSTEM



- (A) Appellate jurisdiction and supervisory powers
- (B) Civil suits seeking injunctive relief or damages over \$3,000; probate and domestic relations cases, including all juvenile matters; appeals from administrative boards and the Magistrate Courts; and criminal cases where maximum penalty exceeds 1 year imprisonment.
- (C) All magistrates hear nonindictable misdemeanors, preliminary hearings, issuance of search and arrest warrants, traffic and ordinance violation cases, forcible entry and detainer, small claims court cases.
- (D) Small claims; civil cases with damage claims under \$3,000; and criminal cases involving maximum 1 year imprisonment. Can be designated by the Chief Judge to hear juvenile cases.
- (E) Civil claims of up to \$1,000 and criminal cases with maximum penalties under 1 year imprisonment.
- (F) Exercise jurisdiction of full-time magistrates and
 - (1) count towards allotment of full-time magistrates and
 - (2) upon order of Chief Judge can act as District Judge.
 - (3) Upon order of Chief Judge can hear juvenile matters.
- (G) Cases \$1,000 or less (heard by Associate District Court Judges and Judicial Magistrates)

APPENDIX F

Private Bar Survey

And Results

NATIONAL CENTER FOR DEFENSE MANAGEMENT

DATA/OPINION SURVEY

PRIVATE BAR COMPONENT

(Re: Iowa)

In support of on-site technical assistance for the above captioned project, the National Center for Defense Management will need a firm data base, both objective and subjective; accordingly, we would be pleased if you would answer all the following questions. Should you be unsure of the exact response required, please offer your best estimate. Where insufficient space is provided, please attach a continuation sheet keyed to the lettered/numbered response.

1. You have been practicing law (insert dates in each blank, below):
 - a. Since _____.
 - b. In this jurisdiction, since _____.
2. Your law specialty (if any) is _____.
3. The jurisdiction in which you practice includes (insert geographic description) _____.
4. Criminal defense (including juvenile cases) is (complete all blanks):
 - a. _____% of the total time you spend in your practice.
 - b. Comprised of
 - (1) _____% private clients.
 - (2) _____% court-appointed - compensated clients and
 - (3) _____% free public service for clients (pro bono).
5. You defended your first indigent client _____ months after being licensed to practice in this jurisdiction.
6. You were ready and reasonably well qualified to render competent legal services when you accepted your first court-appointment.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

(Circle number which reflects your opinion)

7. Indigent clients are represented in all non-federal criminal cases (circle all appropriate responses):

- a. By court-appointed-compensated private counsel.
- b. By private counsel offering free public service (pro bono).
- c. By no one.

8. The current system of court-appointed-compensated legal representation for indigent clients in criminal cases is fair.

a. To the defendant

1	2	3	4	5
Highly agree	Agree	No Opinion	Disagree	Highly disagree

b. To the private bar

1	2	3	4	5
Highly agree	Agree	No Opinion	Disagree	Highly disagree

9. Separate lists are maintained by the court in order to select only highly competent and experienced attorneys for special cases such as (circle appropriate letters):

- a. Homicide
- b. Serious felony cases
- c. Serious juvenile cases
- d. Other (explain):

10. The court appointment list used by the court is compiled (circle appropriate letter):

- a. By soliciting participation from the private bar
- b. By random unsolicited requests for listing, from attorneys.
- c. Other (explain)

11. (Please answer this question only if you accept court appointments).

The court became aware of your willingness to accept appointments through which procedure alluded to in the previous question (circle one letter).

- a.
- b.
- c.

12. As court-appointed-compensated counsel (fill in blanks):

a. How many clients have you represented over the past three years?

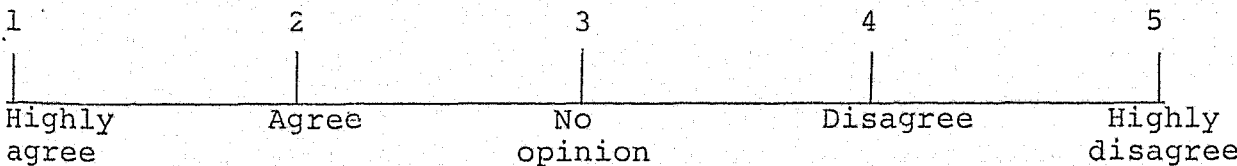
b. How many of these cases are now pending?

13. As private counsel providing voluntary public service (pro bono) (fill in blanks).

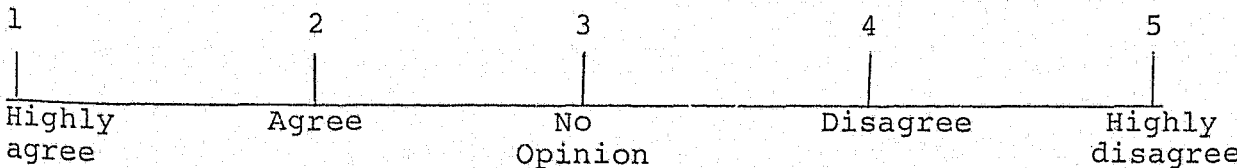
a. How many criminal defendants have you represented over the past three years?

b. How many of those cases are now pending?

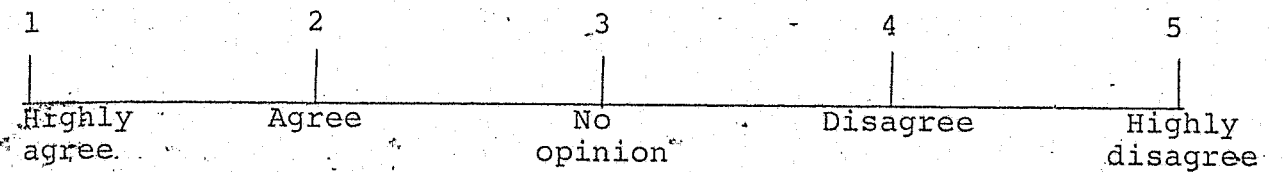
14. The present system for determining a defendant's financial eligibility for representation by a court-appointed attorney insures that only those who truly qualify receive this service.



15. The present system for determining a defendant's financial eligibility for representation by a court-appointed attorney insures that no defendants who desire counsel, and are unable to afford counsel, are denied this right.



The distribution of court appointments to the private membership is equitable.



17. During the last year you received the following court-awarded fees for criminal legal defense services (fill in the blanks).

a. Fees received per client in felony cases:

- (1) Highest fee \$ _____
- (2) Lowest fee \$ _____
- (3) Average fee \$ _____
- (4) Total felony fees \$ _____.

b. Fees received per client in misdemeanor cases:

- (1) Highest fee \$ _____
- (2) Lowest fee \$ _____
- (3) Average fee \$ _____
- (4) Total felony fees \$ _____.

c. Fee received per client in juvenile cases:

- (1) Highest fee \$ _____
- (2) Lowest fee \$ _____
- (3) Average fee \$ _____
- (4) Total felony fees \$ _____.

d. Total fees for all clients \$ _____.

18. The fees described in the previous question are (circle one letter, fill in blank if appropriate).

a. Adequate

b. Inadequate, the average client fee should be raised _____%.

19. A substantial decrease in the number of court appointments would have the following effect on the gross income of private attorneys practicing in this jurisdiction. (Please give us your best estimate. Insert appropriate percentage figures after each category, percentages should total to 100%).

- a. No effect on gross receipts _____% of private bar.
- b. 0 - 10% drop in gross receipts _____% of private bar.
- c. 10 - 20% drop in gross receipts _____% of private bar.
- d. 20 - 30% drop in gross receipts _____% of private bar.
- e. 30 - 40% drop in gross receipts _____% of private bar.
- f. 40 - 50% drop in gross receipts _____% of private bar.
- g. Over 50% drop in gross receipts _____% of private bar.

20. Counsel is available to indigent criminal clients at an appropriately early stage of the criminal justice system.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

21. The average court-appointed counsel is fully competent to provide high quality representation to indigent criminal clients.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

22. The average court appointed counsel provides representation for indigent criminal clients which is of a quality at least as high as that provided for his/her private clients.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

23. Clients plead guilty more frequently when defended by privately retained counsel than when defended by court-appointed-compensated attorneys.

1 2 3 4 5
| | | | |
Highly Agree No Disagree Highly
agree opinion disagree

24. List the principal reasons, in order of priority, for your response to the previous question.

- a. _____
- b. _____
- c. _____
- d. _____

25. The present system of court appointments is preferable to a public defender system employing full-time salaried attorneys.

1 2 3 4 5
| | | | |
Highly Agree No Disagree Highly
agree opinion disagree

26. The present system of court appointments is preferable to a public defender system employing full-time salaried attorneys combined with a court appointment system.

1 2 3 4 5
| | | | |
Highly Agree No Disagree Highly
agree opinion disagree

27. If a public defender system were to be established, indigent criminal cases should be represented _____% by public defenders and _____% by court appointed attorneys (fill in blanks).

28. List the qualifications a chief public defender should possess.

- a.
- b.

CONTINUED

2 OF 4

c.

d.

29. How should a chief public defender be chosen?

30. List in order of priority who you feel should be directly involved in selecting the chief public defender.

a.

b.

c.

d.

31. If a public defender system were established in the jurisdiction in which you practice, it should be staffed by (circle one letter, fill in blank if e circled).

a. Full time salaried attorneys, equal to the number currently employed by the district attorney and county attorney, combined.

b. Full time salaried attorneys - 1/3 as many as are currently employed by the district attorney and county attorney, combined.

c. Full time salaried attorneys - 1/2 as many as are currently employed by the district attorney and county attorney, combined.

d. Full time salaried attorneys - 2/3 as many as are currently employed by the district attorney and county attorney, combined.

e. A mix of full time and part time salaried attorneys _____ % as many as are currently employed by the district attorney and county attorney, combined (fill in blank; consider part time as fractions in arriving at %).

32. If a public defender system were to be established in the jurisdiction in which I practice, it should be staffed with full or part time attorneys whose salary scale is equivalent to those provided to attorneys in the district attorney's and county attorney's office.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

33. The public defender office should supervise a training program for all defense attorneys who handle indigent criminal defense work.

1	2	3	4	5
Highly agree	Agree	No opinion	Disagree	Highly disagree

34. If a public defender office was established in the jurisdiction in which you practice and was guided by an appointed supervisory board, what person or positions would best comprise this supervisory board?

- a.
- b.
- c.
- d.

35. List special interest groups which have expressed an opinion on the desirability of a public defender system and the comments they have made concerning such a system.

- a.
- b.
- c.
- d.

COMPILATION OF RESULTS
PRIVATE BAR COMPONENT
DATA OPINION SURVEY

LEE COUNTY, IOWA

Responses of 13 attorneys:

1. a. You have been practicing law since -

1974 - 1975	13%
1970 - 1973	13%
1965 - 1969	46%
1960 - 1964	0
1955 - 1959	8%
before 1955	13%
left blank	0

b. In this jurisdiction since -

1974 - 1975	13%
1970 - 1973	13%
1965 - 1969	54%
1960 - 1964	0
1955 - 1959	0
before 1955	13%
left blank	0

2. Your law specialty is:

General practice	30%
Left blank	8%
No specialty	23%
Litigation	8%
Combination	13%
Tax	8%

3. The jurisdiction in which you practice includes:

Lee County	30%
Tri-state area	8%
S.E. Iowa	30%
Iowa	8%
Tri-county area	8%
Des Moines Co.	8%

4. Criminal defense is ___% of total time you spend in your practice:

0--23%
1---8%
2---8%
5--23%
10---8%
13---0
15---0
20---8%
25---8%
33--13%

Comprised of:

Left blank	13%
Zero for all 3	0

- of the remaining respondents:

- 100% private clients	8%
- 100% court-appointed	0
- Various combinations of private, court-appointed and free public service	78%

5. You defended your first indigent client ____ months after being licensed to practice in this jurisdiction:

Left blank	8%
0	0
1 - 4 months	69%
5 - 8	13%
9 - 12	0
12 - 18	8%
19 - 24	0
Over 24	0

6. You were well qualified to render competent legal services when you accepted your first court-appointment:

Highly agree	0
Agree	54%
No opinion	13%
Disagree	30%
Highly disagree	0
Left blank	0

7. Indigent clients are best represented in all non-federal criminal cases by:

a. Court-appointed-compensated counsel	100%
b. Private counsel	0

8. The current system of court-appointed-compensated legal representation for indigent clients in criminal cases is fair:

a. To the indigent client:

Highly agree	30%
Agree	62%
No opinion	0
Disagree	8%
Highly disagree	0
Left blank	0

b. To the private bar:

Highly agree	0
Agree	46%
No opinion	8%
Disagree	30%
Highly disagree	13%
Left blank	0

9. Separate lists are used to select highly competent attorneys for special cases such as:

- | | |
|---------------------|-----|
| a. Homicide | 0 |
| b. Serious felonies | 8% |
| c. Juvenile cases | 0 |
| a and b, above | 0 |
| a and c | 0 |
| a and d | 0 |
| a, b, and c | 23% |
| d. None exists | 38% |
| e. Left blank | 13% |

10. The list used by the court is compiled by:

- | | |
|---|-----|
| a. Soliciting participation from private bar | 23% |
| b. Random requests for listings from attorneys (unsolicited) | 8% |
| c. Other | 30% |
| d. Left blank | 0 |
| e. By court order from list of all attorneys (rotating basis) | 38% |

11. Court became aware of your willingness to accept appointments through which procedure:

- | | |
|---------------|-----|
| a. From above | 23% |
| b. From above | 8% |
| c. (other) | 54% |
| d. Left blank | 13% |

12. a. As court-appointed-compensated counsel, how many clients have you represented over past three years?

- | | |
|------------|-----|
| None | 30% |
| Left blank | 0 |
| 1 - 5 | 8% |
| 6 - 10 | 8% |
| 11 - 30 | 46% |
| 31 or more | 13% |

b. How many of these cases are now pending?

- | | |
|------------|-----|
| None | 23% |
| Left blank | 13% |
| 1 - 3 | 46% |
| 4 - 6 | 13% |
| 7 or more | 0 |

13. As a private counsel providing voluntary public services (pro bono) how many criminal defendants have you represented?

- | | |
|------------|-----|
| a. None | 54% |
| 1 - 5 | 13% |
| 6 - 10 | 8% |
| 11 - 20 | 8% |
| Over 20 | 8% |
| Left blank | 8% |

13. b. How many of those cases are now pending?

Two respondents replied	8%
Left blank or said none	92%

14. The present system for determining a defendant's financial eligibility for representation by appointed attorney ensures that only those who truly qualify receive this service:

Highly agree	0
Agree	23%
No opinion	23%
Disagree	46%
Highly disagree	8%
Left blank	0

15. This system ensures that no indigent defendants are denied this right:

Highly agree	13%
Agree	62%
No opinion	13%
Disagree	8%
Highly disagree	0
Left blank	0

16. The distribution of court appointments to the private bar membership is equitable:

Highly agree	23%
Agree	30%
No opinion	30%
Disagree	13%
Highly disagree	0
Left blank	0

17. Last year upon received the following court-awarded fees for criminal legal defense services:

a. Felony cases

- (1) Highest fee - average fee: \$2,741
- (2) Lowest fee - average fee: \$71.00
- (3) Average fee - average fee reported: \$188.00
- (4) Total felony fees - average fee: \$5090.

b. Fees received per client in misdemeanor cases

- (1) Highest fee - average: \$125.00
- (2) Lowest fee - average: \$50.00
- (3) Average fee - average fee reported: \$67.00
- (4) Total - average: \$750.00

17. c. Fees received per juvenile cases

- (1) Highest fee - average: \$384.00
- (2) Lowest fee - average: \$50.00
- (3) Average - average: \$117.00
- (4) Total - average: \$966.00

d. Total fees for all clients: Average: \$5965.00

18. The fees described in the previous question are:

- a. Adequate 23%
- b. If inadequate, the average client fee should be raised by what percentage?

by 25%	13%
30%	8%
40%	8%
50%	8%
100%	13%

c. Item left blank 13%

19. A decrease in the number of court appointments would effect the gross income of private attorneys in the following ways:

- a. No effect on gross receipts of private bar: 22%
- b. 0 - 10% drop in 42% of private bar
- c. 10-20% drop in 25% of private bar
- d. 20-30% drop in 11% of private bar
- e. 30-40% drop in 10% of private bar
- f. 40-50% drop in 10% of private bar
- g. Over 50% drop in 45% of private bar

(these percentages represent the averages of percentages indicated by those who responded)

20. Counsel is available to indigent criminal clients in an appropriately early stage in the criminal justice system:

Highly agree	46%
Agree	46%
No opinion	0
Disagree	8%
Highly disagree	0
Left blank	0

21. The average appointed counsel is fully competent to provide high quality representation to indigent criminal clients:

Highly agree	23%
Agree	38%
No opinion	13%
Disagree	23%
Highly disagree	0
Left blank	0

22. A court appointed attorney provides representation for indigent clients which is of quality equal to his/her private clients:

Highly agree	13%
Agree	78%
No opinion	0
Disagree	8%
Highly disagree	0
Left blank	0

23. Clients plead guilty more frequently when defended by private counsel than when defended by appointed attorneys:

Highly agree	8%
Agree	8%
No opinion	30%
Disagree	54%
Highly disagree	0
Left blank	0

24. List the principal reasons, in order of priority, for your response to the previous question:

--Left blank--23%
--Fees paid attorney are irrelevant--23%
--My experience and observations tell me so--8%
--Client has greater reliance on paid lawyer--8%
--No evidence that #23 is true--8%
--Equal defense is provided--13%
--Free lawyer means client more likely to proceed to trial--8%

25. The present system of court-appointments is preferable to a public defender system employing full-time salaried attorneys:

Highly agree	13%
Agree	13%
No opinion	23%
Disagree	30%
Highly disagree	8%
Left blank	0

26. The present system of court-appointments is preferable to a public defender system employing full-time salaried attorneys combined with a court appointment system:

Highly agree	0
Agree	13%
No opinion	23%
Disagree	38%
Highly disagree	13%
Left blank	0

27. If a public defender system were to be established, indigent criminal cases should be represented _____% by public defenders and _____% by court appointed attorneys:

100% PD and 0% CAA's	30%
90% PD and 10% CAA's	38%
80% PD and 20% CAA's	8%
75% PD and 25% CAA's	8%
60% PD and 40% CAA's	8%
50% PD and 50% CAA's	8%

28. List the qualifications a Chief Public Defender should possess:

Trial ability and trial experience: 46%
Knowledge and interest in criminal justice and defense: 8%
Competence: 13%
Blank, "don't know" or "no opinion": 30%
A sense of justice and honesty: 23%
Integrity: 8%
A good administrator: 8%
Intelligence and/or common sense: 8%
Patience: 8%

29. How should a Chief Public Defender be chosen?

Item left blank: 30%
Advisory board, panel, or commission: 8%
Appointed by judges: 30%
Board of supervisors: 23%
Interview: 8%

30. List in order of priority who you feel should be directly involved in selecting the Chief Public Defender:

a. Bar Association - most frequently listed first: 30%
b. Judges - most frequently listed second: 26%
c. Lay People/Public - most frequently listed third: 15%
d. Board of Supervisors - listed fourth: 22%

Other responses include:

Clergy: 4%

31. If a PD system were established in your jurisdiction it should be staffed by:

a. Full time salaried attorneys, equal to number employed by DA and County Attorney combined 8%
b. Full time salaried attorneys - 1/3 as many as are employed by DA and CA 13%
c. Full time salaried attorneys - 1/2 as many as are employed by DA and CA 30%
d. Full time salaried attorneys - 2/3 as many as are employed by DA and CA 30%
e. A mix of full time and part time attorneys, _____% as many as employed by DA and CA

As below:

100%	3 of those answering "E"
50%	4 of those answering "E"
75%	1 of those answering "E"
150%	1 of those answering "E"
40%	1 of those answering "E"
5%	1 of those answering "E"

32. If a PD system were established where I practice, it should be staffed by attorneys whose salary scale is equivalent to those provided to attorneys in the district attorney's and county attorney's office:

Highly agree	8%
Agree	62%
No opinion	8%
Disagree	13%
Highly disagree	0
Left blank	8%

33. The public defender office should supervise a training program for all defense attorneys who handle indigent criminal defense work:

Highly agree	8%
Agree	23%
No opinion	30%
Disagree	38%
Highly disagree	0
Left blank	0

34. If a public defender office was established by a supervisory board, what persons would best comprise it?

Local bar association	31%
Judges	23%
The public	20%
Board of supervisors	12%
Government	4%
Independent committee	4%
Blank	12%

COMPILATION OF RESULTS
PRIVATE BAR COMPONENT
DATA/OPINION SURVEY

Webster County, Iowa

1. Responses of 15 attorneys:

a.* You have been practicing law since:

1970-75	33%
1964-69	20%
1958-63	13%
1952-57	6%
1946-51	14%
before 1946	14%

b. In this jurisdiction since:

1970-75	33%
1964-69	27%
1958-63	6%
1952-57	6%
1946-51	14%
before 1946	14%

2. Your law speciality is:

None/Left Blank	20%
General Practice	40%
Miscellaneous	14%
Corporate	6%

* Questionnaire statements are summarized or shortened.

Trial	6%
Estate	14%

3. The jurisdiction in which you practice is:

NW Iowa	46%
Judicial Dis- trict 2B	20%
Iowa--Webster County	6%
Miscellaneous	6%
Iowa	20%

4. a. Criminal defense is _____% of total time you spend in your practice:

0 or blank	6%
1 - 25%	80%
26 - 50%	6%
51 - 75%	6%
76 - 100%	0

b. Comprised of:

(1) 0 - 50%	80%	private clients
51 - 100%	14%	
(2) 0 - 50%	66%	court-appointed
51 - 100%	14%	
(3) 0 - 50%	80%	free public (pro bono)
51 - 100%	0	
Blank or None	0	

5. You defended your first indigent client _____ months after being licensed:

1 - 3 months	46%
4 - 6 "	27%
7 - 12 "	6%
12 - 24 "	0
2 yrs. or more	6%
Blank/N.A.	14%

6. You were reasonably well-qualified to serve when you accepted your first court appointments:

Highly agree	6%
Agree	27%
No opinion	27%
Disagree	33%
Highly disagree	0
Left blank	6%

7. Indigent clients are represented in all non-federal criminal cases:

(a) By court-appointed private counsel	93%
(b) By private counsel offering free services	6%
(c) By no one	0
a and b above	0
a and c above	0
a, b, and c above	0
Left blank	0

8. The current system of appointed counsel for indigent clients is fair:

(a) To the defendant -

Highly agree	6%
Agree	46%
No opinion	27%
Disagree	20%
Highly disagree	0
Left blank	0

(b) To the private bar -

Highly agree	6%
Agree	46%
No opinion	14%
Disagree	27%
Highly disagree	6%
Left blank	0

9. Separate lists are maintained by the court to select more competent attorneys for special cases such as:

(a) Homicide	14%
(b) Serious felonies	20%
(c) Serious juvenile	14%
(d) Other	60%
(e) Unknown	0
a and b above	0
a, b and c above	0
Left blank	33%

Comments include:

- No such list exists
- No knowledge of such a list
- Request of accused

10. Appointment list is compiled by:

- | | |
|--|-----|
| (a) Soliciting participation from private bar | 40% |
| (b) Random requests for listing from attorneys | 27% |
| (c) Other | 20% |
| Left blank | 13% |

Comments include:

- Alphabetical order
- Telephone directory
- List includes all lawyers
- No list exists
- Request of accused

11. Court became aware of your willingness to accept appointments through which procedure alluded to in previous question:

- | | |
|-----|-----|
| (a) | 33% |
| (b) | 14% |
| (c) | 6% |

Blank 46%

a and b 0

12(a) As court-appointed counsel, how many clients have you represented over the past three years?:

- | | |
|--------------------|-----|
| None or left blank | 14% |
| 1 - 10 | 33% |
| 11 - 20 | 20% |
| 21 - 30 | 6% |
| 30 or more | 20% |

12(b) How many of these are now pending?:

Zero or left blank	66%
1 - 10	33%

13(a) How many criminal defendants have you represented over the past three years on a voluntary public service basis?:

None or left blank	60%
1 - 10	33%
11 - 20	0
21 - 30	6%
30 or more	0

13(b) How many of these are now pending?:

None or left blank	86%
1 - 10	14%

14. The present system of determining indigency insures that only those who qualify receive this service;

Highly agree	0
Agree	46%
No opinion	27%
Disagree	14%
Highly disagree	6%
Left blank	6%

15. Present system ensures that no defendant who desires counsel is denied this right:

Highly agree	14%
Agree	53%
No opinion	6%
Disagree	20%
Highly disagree	0
Left blank	6%

16. The distribution of appointments to the private bar membership is equitable:

Highly agree	6%
Agree	27%
No opinion	27%
Disagree	27%
Highly disagree	6%
Left blank	6%

17. During the last year you received the following court-awarded fees for criminal legal defense services:

a. Fees received per client in felony cases:

(1) highest fee (averages)	\$814.12
(2) lowest fee	\$ 93.56
(3) average fee	\$186.34
(4) total	\$468.53

b. Fees received per misdemeanor case:

(1) highest fee (averages)	\$112.86
(2) lowest fee	\$ 33.33
(3) average fee	\$ 58.33
(4) total	\$390.00

c. Fees received per client in juvenile cases:

(1) highest fee (averages)	\$ 55.56
(2) lowest fee	\$ 28.75
(3) average fee	\$ 40.63
(4) total felony (sic)	\$386.77

TOTAL ALL CLIENTS

INSUFFICIENT RESPONSE

*This mean reported total includes wide range of total amounts (0 - 6000).

18. Fees described above are:

(a) Adequate	14%
(b) Inadequate	--
(c) Left blank	40%
(d) Inadequate and should be increased by:	
0 - 50%	20%
51 - 100%	20%
101 - 150%	0
151 - 200%	6%
Over 200%	0

19. A decrease in the number of appointments would have following effect on gross income of private attorneys in your area:

a. No effect on gross receipts 0 - 50% of bar	6%
" " " " " 51 - 100% " "	33%
b. 0 - 10% drop in gross receipts 0 - 50% of bar	14%
" " " " " 51 - 100% of bar	13%
c. 10 - 20% drop in gross receipts 0 - 50% of bar	60%
" " " " " 51 - 100% of bar	6%
d. 20 - 30% " " " " 0 - 50% of bar	6%
" " " " " 51 - 100% of bar	0
e. 30 - 40% drop in gross receipts 0 - 50% of bar	6%
" " " " " 51 - 100% of bar	0
f. 40 - 50% " " " " 0 - 50% of bar	6%
" " " " " 51 - 100% of bar	0
g. Over 50% drop in gross receipts 0 - 50% of bar	6%
" " " " " 51 - 100% of bar	0
Left blank	13%

20. Counsel is available to indigent clients at an early stage in the criminal justice system:

Highly agree	20%
Agree	66%
No opinion	6%
Disagree	0
Highly disagree	0
Left blank	6%

21. The average appointed counsel is fully competent to provide high-quality representation to indigent criminal clients:

Highly agree	13%
Agree	53%
No opinion	13%
Disagree	13%
Highly disagree	0
Left blank	6%

22. Appointed counsel provides representation for indigent clients which is of quality at least as high as that provided for by his/her private clients:

Highly agree	6%
Agree	46%
No opinion	13%
Disagree	27%
Highly disagree	0
Left blank	6%

23. Clients plead guilty more frequently when represented by private counsel:

Highly agree	0
Agree	6%
No opinion	27%
Disagree	53%
Highly disagree	0
Left blank	13%

24. List principal reasons for above answers. Representative answers include:

- Each case must stand on its own merits.
- All lawyers give 100% to effort.
- No difference between the two.
- Appointed attorneys do not produce equal quality since they are not paid as well.
- Most defendants plead guilty anyway.

25. The present system of appointments is preferable to a PD system employing full-time salaried attorneys:

Highly agree	20%
Agree	27%
No opinion	20%
Disagree	20%
Highly disagree	0
Left blank	13%

26. The present system is preferable to a PD system employing full-time salaried attorneys combined with court-appointed system:

Highly agree	20%
Agree	5%
No opinion	40%
Disagree	20%
Highly disagree	0
Left blank	13%

27. If a PD system were to be established, indigent criminal cases should be represented ____% by PD's and ____% by court-appointed attorneys:

100 and 0%	6%
90 and 10%	0
85 and 15%	0
75 and 25%	13%
60 and 40%	0
50 and 50%	20%
20 and 80%	0
Left blank	53%
Miscellaneous	6%

28. List the qualifications of a chief PD:

Most frequently mentioned:

- prior trial experience
- dedicated
- competency
- prior experience with defender/criminal law

- should be independent
- good administrator
- industrious
- training

29-30. Who should be involved in selection of PD?

Most frequent order of priority

1. the public
2. District Court judges
3. all practicing attorneys

Also

law schools

prosecutor's office

Court Administrator

criminal bar

legal services

County Commission Court

the Governor

criminal judges

Board of Supervisors

31. If a PD system were established, it should be staffed by:

a. full-time salaried attorneys, equal to numbers currently employed by DA and County Attorney combined: 6%

b. above, 1/3 as many 20%

c. above, 1/2 as many 0

- d. above, 2/3 as many 13%
- e. a mix 20%

13%	4 respondents
0	2 respondents
6%	1 respondent
0	2 respondents
6%	1 respondent
0	2 respondents
Left blank	33%

32. If a PD system were established, its attorneys should be paid on equal basis with DA:

Highly agree	13%
Agree	60%
No opinion	13%
Disagree	0
Left blank	13%

33. The PD office should supervise a training program for all defense attorneys who handle criminal defense work:

Highly agree	6%
Agree	13%
No opinion	33%
Disagree	13%
Highly disagree	13%
Left blank	20%

34. What persons would best comprise a supervisory board designed to establish a PD office?

Most frequent responses

attorneys and private citizens

bar associations

judiciary

Board of Supervisors

lay people

35. List special interest groups who have expressed opinions concerning PD selection:

civil liberties groups

legal aid attorneys

some attorneys

minority groups

Board of Supervisors

Chamber of Commerce

COMPILATION OF RESULTS
PRIVATE BAR COMPONENT
DATA OPINION SURVEY

CERRO GORDO COUNTY, IOWA

1. Responses of 28 attorneys:

a.* You have been practicing law since:

1970-75	32%
1964-69	14%
1958-63	21%
1952-57	11%
1946-51	11%
before 1946	11%

b. In this jurisdiction since:

1970-75	36%
1964-69	14%
1958-63	20%
1952-57	11%
1946-51	11%
before 1946	11%

2. Your law speciality is:

None/Left Blank	32%
General Practice	29%
Miscellaneous	7%
Corporate	14%

* Questionnaire statements are summarized or shortened.

Criminal	7%
Trial	20%
Estate	4%

3. The jurisdiction in which you practice is:

NW Iowa	61%
2A	32%
Cerro Gordo County	7%

4. a. Criminal defense is _____ % of total time you spend in
your practice:

0 or blank	20%
1 - 25%	57%
26 - 50%	11%
51 - 75%	0
76 - 100%	7%

b. Comprised of:

(1) 0 - 50%	28%)	private clients
51 - 100%	11%)	
(2) 0 - 50%	26%)	court-appointed
51 - 100%	9%)	
(3) 0 - 50%	15%)	free public (pro bono)
51 - 100%	2%)	
Blank or None	8%	

5. You defended your first indigent client _____ months after being licensed:

1 - 3 months	57%
4 - 6 "	11%
7 - 12 "	14%
12 - 24 "	4%
2 yrs. or more	7%
Blank/N.A.	7%

6. You were reasonably well-qualified to serve when you accepted your first court appointments:

Highly agree	7%
Agree	39%
No opinion	14%
Disagree	39%
Highly disagree	4%
Left blank	4%

7. Indigent clients are represented in all non-federal criminal cases:

(a) By court-appointed private counsel	82%
(b) By private counsel offering free services	7%
(c) By no one	0
a and b above	7%

Left blank	11%
------------	-----

8. The current system of appointed counsel for indigent clients is fair:

(a) To the defendant -

Highly agree	11%
Agree	65%
No opinion	4%
Disagree	21%
Highly disagree	11%
Left blank	4%

(b) To the private bar -

Highly agree	0
Agree	11%
No opinion	7%
Disagree	61%
Highly disagree	29%
Left blank	4%

9. Separate lists are maintained by the court to select more competent attorneys for special cases such as:

(a) Homicide	57%
(b) Serious felonies	14%
(c) Serious juvenile	0
(d) Other	4%
(e) Unknown	7%
a and b above	11%
a, b and c above	14%
Left blank	14%

Comments include:

- No such list exists
- No knowledge of such a list
- Request of accused

- 6 -
10. Appointment list is compiled by:
- | | |
|--|-----|
| (a) Soliciting participation from private bar | 39% |
| (b) Random requests for listing from attorneys | 4% |
| (c) Other | 39% |
| Left blank | 7% |

Comments include:

- Alphabetical order
- Telephone directory
- List includes all lawyers
- No list exists
- Request of accused

11. Court became aware of your willingness to accept appointments through which procedure alluded to in previous question:

- | | |
|-------|-----|
| (a) | 32% |
| (b) | 0 |
| (c) | 32% |
| Blank | 32% |

- 12(a) As court-appointed counsel, how many clients have you represented over the past three years?:

- | | |
|--------------------|-----|
| None or left blank | 20% |
| 1 - 10 | 20% |
| 11 - 20 | 36% |
| 21 - 30 | 7% |
| 30 or more | 20% |

12(b) How many of these are now pending?

Zero or left blank 43%

1 - 10 59%

13(a) How many criminal defendants have you represented over the past three years on a voluntary public service basis?:

None or left blank 59%

1 - 10 28%

11 - 20 7%

21 - 30 7%

30 or more 0

13(b) How many of these are now pending?:

None or left blank 92%

1 - 10 8%

14. The present system of determining indigency insures that only those who qualify receive this service:

Highly agree 4%

Agree 10%

No opinion 20%

Disagree 43%

Highly disagree 25%

Left blank 0

15. Present system ensures that no defendant who desires counsel is denied this right:

Highly agree 25%

Agree 61%

No opinion 8%

Disagree 7%

Highly disagree 2%

16. The distribution of appointments to the private bar membership is equitable:

Highly agree	4%
Agree	20%
No opinion	.7%
Disagree	60%
Highly disagree	10%
Left blank	0

17. During the last year you received the following court-awarded fees for criminal legal defense services:

a. Fees received per client in felony cases:

(1) highest fee (averages)	\$473.00
(2) lowest fee	\$ 47.00
(3) average fee	\$104.00
(4) total	\$947.00

b. Fees received per misdemeanor cases:

(1) highest fee (averages)	\$116.00
(2) lowest fee	\$ 28.00
(3) average fee	\$ 46.00
(4) total	\$179.00

c. Fees received per client in juvenile cases:

(1) highest fee (averages)	\$ 70.00
(2) lowest fee	\$ 27.00
(3) average fee	\$ 39.00
(4) total	\$178.00

AVERAGE OF TOTALS RECEIVED
FOR ALL CLIENTS \$1552.00

18. Fees described above are:
- | | |
|--|-----|
| (a) Adequate | 0% |
| (b) Inadequate | 20% |
| (c) Left blank | 19% |
| (d) Inadequate and should be increased by: | |
| 0 - 50% | 40% |
| 51 - 100% | 11% |
| 101 - 150% | 0% |
| 151 - 200% | 8% |
| Over 200% | 3% |

19. A decrease in the number of appointments would have following effect on gross income of private attorneys in your area:
- | | |
|---|-----|
| a. No effect on gross receipts 0 - 50% of bar | 14% |
| " " " " " 51 - 100% " " | 20% |
| b. 0 - 10% drop in gross receipts 0 - 50% of bar | 22% |
| " " " " " 51 - 100% of bar | 2% |
| c. 10 - 20% drop in gross receipts 0 - 50% of bar | 16% |
| " " " " " 51 - 100% of bar | 0% |
| d. 20 - 30% " " " " 0 - 50% of bar | 4% |
| " " " " " 51 - 100% of bar | 0% |
| e. 30 - 40% drop in gross receipts 0 - 50% of bar | 4% |
| " " " " " 51 - 100% of bar | 0% |
| f. 40 - 50% " " " " 0 - 50% of bar | 2% |
| " " " " " 51 - 100% of bar | 0% |
| g. Over 50% drop in gross receipts 0 - 50% of bar | 2% |
| " " " " " 51 - 100% of bar | 0% |
| Left blank | 14% |

20. Counsel is available to indigent clients at an early stage in the criminal justice system:

Highly agree	32%
Agree	57%
No opinion	11%
Disagree	0
Highly disagree	0
Left blank	0

21. The average appointed counsel is fully competent to provide high-quality representation to indigent criminal clients:

Highly agree	7%
Agree	39%
No opinion	25%
Disagree	29%
Highly disagree	0
Left blank	0

22. Appointed counsel provides representation for indigent clients which is of quality at least as high as that provided for by his/her private clients:

Highly agree	14%
Agree	68%
No opinion	11%
Disagree	11%
Highly disagree	0
Left blank	0

23. Clients plead guilty more frequently when represented by private counsel:

Highly agree	.14%
Agree	25%
No opinion	29%
Disagree	25%
Highly disagree	4%
Left blank	0

24. List principal reasons for above answers. Representative answers include:

- Better counsel-client relationships
- Reduced sentences
- Caution exercised by appointed counsel
- Indigents won't follow advice; easily dissatisfied
- Better plea bargaining for privately retained clients
- Client has nothing to lose
- Most who demand a private attorney believe they're not guilty
- Court appointed counsel wish to avoid incompetency charges: a plea inducement

25. The present system of appointments is preferable to a PD system employing full-time salaried attorneys:

Highly agree	7%
Agree	4%
No opinion	14%
Disagree	32%
Highly disagree	43%
Left blank	0

26. The present system is preferable to a PD system employing full-time salaried attorneys combined with court-appointed system:

Highly agree	- 2%
Agree	5%
No opinion	5%
Disagree	31%
Highly disagree	60%
Left blank	0

27. If a PD system were to be established, indigent criminal cases should be represented ____% by PD's and ____% by court-appointed attorneys:

100 and 0%	43%
90 and 10%	14%
85 and 15%	4%
75 and 25%	11%
60 and 40%	0%
50 and 50%	4%
20 and 80%	7%
Left blank	14%
Miscellaneous	0%

28. List the qualifications of a chief PD:

Most frequently mentioned:

- prior experience with defender/criminal law--38%
- industrious--15%
- competency--13%
- good administrator--13%
- prior trial experience--10%
- should be independent--5%

--dedicated--3%

--must be an advocate first--3%

--educational background--3%

--desire to improve system--3%

29-30 Who should be involved in selection of PD?

Most frequent order of priority

1. County bar association--32%
2. District court judges--25%
3. Criminal judges--12%
4. All practicing attorneys--6%
5. State bar association--2%
6. Board of supervisors--8%

Also

local government--3%

prosecutor's office

criminal bar--2%

the public--9%

the Governor--2%

31. If a PD system were established, it should be staffed by:

- a. full-time salaried attorneys, equal to numbers currently employed
by DA and County Attorney combined: 12%
- b. above, 1/3 as many: 9%
- c. above, 1/2 as many: 24%
- d. above, 2/3 as many: 9%
- e. a mix: 18%

100% 6 respondents

75% 3 respondents

67% 3 respondents

50% 6 respondents
33% 3 respondents
Left blank 6 respondents

32. If a PD system were established, its attorneys should be paid on equal basis with DA:

Highly agree	21%
Agree	65%
No opinion	7%
Disagree	11%
Left blank	4%

33. The PD office should supervise a training program for all defense attorneys who handle criminal defense work:

Highly agree	20%
Agree	57%
No opinion	4%
Disagree	7%
Highly disagree	4%
Left blank	4%

34. What persons would best comprise a supervisory board designed to establish a PD office?

Most frequent responses

Bar associations--17

Judiciary--11

Criminal judges--4

Attorneys and private citizens--4

Board of Supervisors--4

Lay people--2

Criminal lawyers--1

35. List special interest groups who have expressed opinions concerning

PD selection:

Legal aid attorneys, 1

Charitable agencies, 1

Local ministry, 7

Local bar, 1

Board of Supervisors, 1

Department of Social Services, 1

KGLO-TV, 1

APPENDIX G
Client Community Survey
And Results

NATIONAL CENTER FOR DEFENSE MANAGEMENT (NCDM)

DATA/OPINION SURVEY

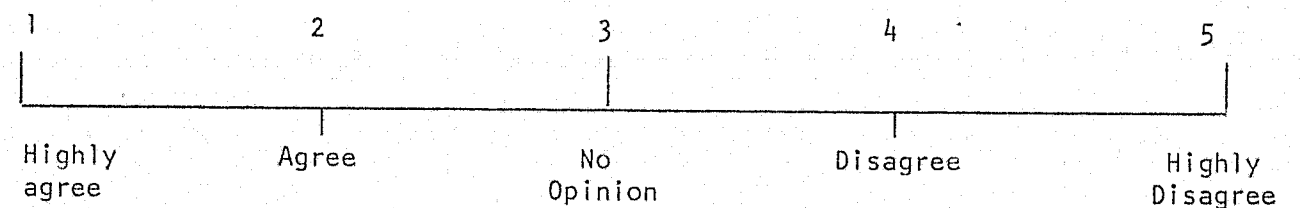
CLIENT COMMUNITY COMPONENT (Re: Iowa)

In support of on-site technical assistance for the above captioned project, the National Center for Defense Management will need a firm data base, both objective and subjective; accordingly, we would be pleased if you would answer all the following questions. Should you be unsure of the exact response required, please offer your best estimate. Where insufficient space is provided, please attach a continuation sheet keyed to the lettered/numbered response. All information which you provide in this questionnaire will be treated in the strictest confidence.

1. How many times have you needed an attorney to represent you in criminal cases?

2. How many times have you actually been represented by an attorney who you retained and paid a fee for his/her services?

3. The relationship that you had with the attorney that represented you in any and all criminal cases was a satisfactory one as far as you are concerned.



(Please follow the above scheme for identifying your opinion on the question, wherever it appears. Subsequently, the narrative explanation of each one of the numbers will not appear; only the numbers will appear and you are requested, in each case, to circle the number that reflects your opinion on this scale).

4. If the response in question 3, above, related to more than one case, indicate the percentage of satisfaction or dissatisfaction as shown below.

a. _____ % satisfied

b. _____ % dissatisfied

5. If you were represented by an attorney who was appointed for you by a court please furnish the following details (if more than one case is involved, respond according to the details in most of the cases).

a. When was the attorney appointed for you (for example: at time of arrest, initial hearing, etc.)?

b. How did you learn about the availability of an attorney through court-appointment?

c. How soon after your arrest did you receive the services of this attorney (hours, days, etc.)?

d. Did your case go to trial? (Circle one number).

(1) Yes

(2) No

e. If your case did not go to trial, was it because of your plea? (Circle one number).

(1) Yes

(2) No

6. What is wrong with the way attorneys are being appointed to represent indigent defendants (clients who can't afford to retain an attorney)?

7. List the problems you identified in the previous question, in the order of their importance to you.

a.

b.

c.

d.

8. List improvements you would recommend to make the appointment system work better for the client (try to key these to your list in the previous question).

a.

b.

c.

d.

9. The attorneys that have represented you in the past, regardless of whether they were retained (paid) by you or court-appointed, have given you sufficient/insufficient service (strike out the wrong word) because:

10. List the problems you identified in the previous question in order of their importance to you.

a.

b.

c.

d.

11. List your recommendations as to how the problems you identified in the previous question could be solved.

a.

b.

c.

d.

12. Explain what you understand to be the meaning of the term "public defender".

13. There should/should not (strike out inappropriate word) be a public defender office in this community because:

14. Based on your response to the previous question you believe you can receive better representation from (circle one letter).

a. A public defender

b. A court-appointed attorney

15. If you selected "a." (public defender), in the previous question, please list the ways you think he/she could improve the way an indigent defendant is represented in criminal cases.

a.

b.

c.

d.

16. If you think the court has not been fair with you in connection with your case(s) list the reasons for your feeling this way.

a.

b.

c.

d.

17. Describe in your own words what you think is wrong with the criminal justice system as you know it.

18. You were put in jail for _____ (fill in the number of hours, days, etc.) prior to your initial appearance in court. The reason given for the delay was:

This reason was given to you by

(Identify position of person conveying this information to you).

19 To the best of your knowledge what difference can you describe in the approach taken by the court when dealing with less serious (misdemeanors as opposed to felonies) cases?

20. Describe what you understand by "the plea bargaining process".

21. I always get a better "bargain" when I am represented by a privately retained attorney rather than by a court appointed attorney.

1	2	3	4	5
Highly agree	Agree	No Opinion	Disagree	Highly Disagree

(Please circle the number which corresponds to your opinion; in subsequent questions only the number will appear).

22. List your reasons, in order of their importance to you, as to why you responded the way you did in the previous question.

a.

b.

c.

d.

23. What information was given to you by the police concerning your right to an attorney and how and where you could get one at no cost to you?

24. Of the _____ (enter the appropriate number) criminal cases in which you have been charged, you have waived your right to an attorney (that is, you have told the court you don't need one) in _____ of those cases.

25. If you have ever waived counsel please explain why.

26. In your conversations with other accused or convicted persons, the subject of attorneys has/has not (strike out inappropriate word) been discussed; if it has, these discussions can generally be summarized as follows:

27. Attorneys provide good representation for most of their clients, regardless of whether they are privately retained or court-appointed. (See question 21 for meaning of numbers).

1 2 3 4 5

28. List the ways you feel any attorney could best assist you when you are arrested and charged with a crime.

a.

b.

c.

d.

29. The outcome of your case(s) would have been much better for you if your attorney had used professional investigators.

1 2 3 4 5

30. Judges treat indigent clients differently than clients who retain private counsel.

1 2 3 4 5

DATA OPINION SURVEY
WEBSTER COUNTY, IOWA
CLIENT COMMUNITY COMPONENT SURVEY RESULTS
(150 questionnaires sent, 10 responses received)

1. How many times have you needed an attorney to represent you in criminal cases?

<u>Number of Times</u>	<u>Percent</u>
1	20%
2	40%
3	20%
4	10%
5	10%

2. How many times have you actually been represented by an attorney who you retained and paid a fee for his/her services?

<u>Number of Times</u>	<u>Percent</u>
0	50%
1	40%
3	10%

3. The relationship that you had with the attorney that represented you in any and all criminal cases was a satisfactory one as far as you are concerned.

Highly agree	30%
Agree	65%
No opinion	0
Disagree	5%
Highly disagree	0

4. If the response in question 3, above, related to more than one case, indicate the percentage of satisfaction or dissatisfaction as shown below.

- a. 87% satisfied
- b. 13% dissatisfied

5. If you were represented by an attorney who was appointed for you by a court please furnish the following details (if more than one case is involved, respond according to the details in most of the cases).

a. When was the attorney appointed for you (for example: at time of arrest, initial hearing, etc.)?

20%	at arrest
70%	at arraignment
10%	later

b. How did you learn about the availability of an attorney through court-appointment?

70%	at arrest
20%	in court

c. How soon after your arrest did you receive the services of this attorney (hours, days, etc.)?

20% within hour
30% within few hours
40% 1-2 days
10% over 2 days

d. Did your case go to trial?

Yes 60%
No 40%

e. If your case did not go to trial, was it because of your plea?

Yes 40%
No 40%

6. What is wrong with the way attorneys are being appointed to represent indigent defendants (clients who can't afford to retain an attorney)?

Nothing 70%
Other 30%

7. List the problems you identified in the previous question, in the order of their importance to you.

- None listed -

8. List improvements you would recommend to make the appointment system work better for the client.

Choice of attorney 20%

9. The attorneys that have represented you in the past, regardless of whether they were retained (paid) by you or court-appointed, have given you sufficient/insufficient service.

Sufficient 75%
Insufficient 25%

10. List the problems you identified in the previous question in order of their importance to you.

- Insufficient data -

11. List your recommendations as to how the problems you identified in the previous question could be solved.

- Insufficient data -

12. Do you understand the meaning of the term "public defender"?

80% Understand
20% Do not understand

CONTINUED

3 OF 4

13. There should/should not be a public defender office in this community
70% Should

14. Based on your response to the previous question, you believe you can receive better representation from:

- a. Public Defender 20%
- b. Court-appointed attorney 80%

15. If you selected "a" (public defender) in the previous question, please list the ways you think he/she could improve the way an indigent defendant is represented in criminal cases.

- Insufficient data -

16. If you think the court has not been fair with you in connection with your case(s) list the reasons for your feeling this way.

- Insufficient data -

17. Describe in your own words what you think is wrong with the criminal justice system as you know it.

- Limited data -

Nothing wrong 20%

18. You were put in jail for ____ (hours, days, etc.) prior to your initial appearance in court.

- Few hours 10%
- 1/2 to 1 day 30%
- 2-3 days 20%
- Over 3 days 30%

19. To the best of your knowledge what difference can you describe in the approach taken by the court when dealing with less serious (misdemeanors as opposed to felonies) cases?

- Insufficient data -

20. Do you understand the plea bargaining process?

Understand 75%

21. I always get a better "bargain" when I am represented by a privately retained attorney than by a court-appointed attorney.

Highly agree	10%
Agree	20%
No opinion	30%
Disagree	30%
Highly disagree	10%

22. List your reasons, in order of their importance to you, as to why you responded the way you did in the previous question.

- Insufficient data -

23. What information was given to you by the police concerning your right to an attorney and how and where you could get one at no cost to you?

Rights explained 70%

24. Of the _____ (enter the appropriate number) criminal cases in which you have been charged, you have waived your right to an attorney (that is, you have told the court you don't need one) in _____ of those cases.

- Insufficient data -

25. If you have ever waived counsel, please explain why.

- Insufficient data -

26. In your conversation with other accused or convicted persons, the subject of attorneys has/has not (strike out inappropriate word) been discussed; if it has, these discussions can generally be summarized as follows:

- Insufficient data -

27. Attorneys provide good representation for most of their clients, regardless of whether they are privately retained or court-appointed.

Agree	67%
No opinion	23%

28. List the ways you feel any attorney could best assist you when you are arrested and charged with a crime.

- Insufficient data -

29. The outcome of your case(s) would have been much better for you if your attorney had used professional investigators.

Agree	25%
No opinion	50%
Disagree	5%
Highly disagree	5%

30. Judges treat indigent clients differently than clients who retain private counsel.

Highly agree	10%
No opinion	20%
Disagree	20%
Highly disagree	40%

APPENDIX H

Projected Cost of Assigned Counsel

For Six Iowa Counties, 1976-1980

Projected Cost of Assigned Counsel
for Six Iowa Counties, 1976 - 1980

County	Indigent Caseload		Attorney Fees /case without inflation		Cost without Inflation		Attorney Fees per case with inflation (7%)		Cost with Inflation (7%)		Total Cost without/with inflation (7%)
	Adult	Juv	Adult	Juv	Adult	Juv	Adult	Juv	Adult	Juv	
Cerro Gordo	119	21	162.44	35.33	19,331	742	212.93	46.31	25,335	973	20,073/26,312
Webster	179	10	256.55	43.13	45,293	432	336.29	56.54	60,196	565	46,354/60,761
Des Moines	289	15	215.21*	77.50	62,196	1163	282.89	101.60	81,755	1524	63,359/83,051
Henry	60	3	170.07	81.02 ⁺	10,205	244	222.92	106.20	13,375	319	10,448/13,696
Lee	185	16	87.95	84.69	16,271	1356	115.32	111.01	21,334	1776	17,626/23,104
Louisa	3	1	225.37	81.02 ⁺	677	244	295.42	106.20	886	106	758/994
TOTALS	835	66	1,117.58	481.15	153,973	4181	1,464.97	527.86	202,885	5263	158618/207918

(I N D O L L A R S)

*Excludes offender advocate cases

⁺Due to small N, mean of Des Moines and Louisa used.

APPENDIX I

Fee Schedules for Assigned Counsel

Webster County, Iowa

and

San Mateo County, California

OFFICIAL GUIDELINES
FOR FIXING COMPENSATION IN
CRIMINAL CASES FOR APPOINTED COUNSEL.

Second Judicial District, Iowa

PROCEDURAL MATTERS

MAGISTRATE COURT

FEE

- 1. Trials of misdemeanors or evidentiary preliminary hearings in magistrate's court \$ 35.00
- 2. Other appearances in magistrate's court; e.g. bond hearings or waiver of preliminary hearings..... 20.00

DISTRICT COURT

- 1. Arraignment and plea..... 35.00
- 2. Judgment and sentence..... 35.00
- 3. Motion to suppress, including evidentiary hearing. 50.00

TRIALS AND HEARINGS

- 1. Actual trial in district court for all offenses except indictable misdemeanors and those punishable by a maximum imprisonment of life - per diem. 150.00
- 2. Actual trial for indictable misdemeanors-per diem. 100.00
- 3. Actual time spent in court hearings on juvenile matters and parole revocation hearings - per hour. 20.00

OTHER FEE CONSIDERATIONS

- 1. The above unitary schedule will ordinarily govern, but the Court may allow counsel additional compensation for out of court time. Such compensation shall not exceed \$20 per hour for such time as the Court determines was reasonably and necessarily expended in view of the nature of the charge, the complexity and intricacy of the particular case, and the experience of counsel.
- 2. The maximum limit for court-appointed counsel in a felony case shall be \$1,000.00.
- 3. The maximum limit for court-appointed counsel in an indictable misdemeanor case shall be \$500.00.
- 4. The maximum limit for court-appointed counsel for handling an appeal to the Iowa Supreme Court shall be \$1,000.00.
- 5. In cases where the maximum punishment is life imprisonment, defense counsel shall make arrangements in advance of performing services as to his compensation with the District Court Judge who makes the appointment.
- 6. The maximum limit for court-appointed counsel in a post-conviction remedy case shall be \$250.00.

EXPENSES.

- 1. Counsel shall be separately reimbursed for expenses actually incurred for long-distance calls, serving subpoenas and mileage for use of his automobile in the preparation for and trial of the case.
- 2. Any other item of expense will not be reimbursed, unless prior approval for the expenditure is first obtained from a District Court Judge.

MEMORANDUM

These guidelines were approved by the Judges of the Second Judicial District on December 5, 1974, for the limited purpose of providing a sense of direction in the matter of fixing compensation for counsel in criminal cases. They do not represent a general order or a fixed policy applicable to every case without regard for the circumstances thereof. Judicial discretion and the exercise thereof is unfettered by the guidelines.

See also 18 USCA, Section 3006(a) and Lindh vs. O'Hara (Del.) 15 Cr. L. 2495.

C. H. Wild,
Chief Judge.

FEE SCHEDULE

San Mateo County, California

MUNICIPAL COURT

1. APPEARANCE AS ASSIGNED COUNSEL ON ARRAIGNMENT CALENDAR

A. Arraignment calendar (two hours or less) \$40.00

Should a case be assigned and closed on the same day, the assigned attorney is entitled to bill \$40.00 per closed case in addition to the arraignment calendar fee up to a maximum of two closed cases per arraignment calendar. Please submit bills for cases closed at arraignment calendars even if the number of closed cases is in excess of two.

Bills for closed cases are to be submitted separate from the bill for the arraignment calendar.

B. Appearance on arraignment calendars in all municipal courts may be billed at \$65.00 if the assigned attorney is required to spend more than two hours on said calendars and if said attorney is unable to bill for closing an assigned case on the same day as the arraignment calendar.

65.00

2. NON-TRIAL, NON-PRELIMINARY HEARING FEES

In the event a case is disposed of without trial, preliminary hearing or motions.

40.00

NOTE

Only those attorneys specifically assigned to arraignment calendars are entitled to receive arraignment calendar fees.

NO ADDITIONAL FEES WILL BE ALLOWED WHERE FELONIES ARE REDUCED TO MISDEMEANORS.

All attorneys are again advised that fees on closed cases should be billed promptly.

"NO PAYMENT WILL BE MADE FOR ATTORNEY'S BILLS SUBMITTED AFTER SIXTY DAYS AFTER PROFESSIONAL SERVICES ARE CONCLUDED UNDER THE ASSIGNED COUNSEL PROGRAM." (Board of Directors Resolution - August 8, 1969)

3. 1538.5 P.C. MOTION

Separate hearings on 1538.5 motions (i.e. not combined with a preliminary hearing) during which a witness is sworn and testifies can be billed as follows:

- | | |
|--|--------|
| A. Hearing requiring two hours or less | 60.00 |
| B. Hearing requiring more than two hours | |
| Half Day | 75.00 |
| Full Day | 110.00 |
| C. 1538.5 motion, written points and authorities only | 50.00 |
| D. 1538.5 motion, with points and authorities, combined with Preliminary Hearing, plus preliminary hearing fee | 25.00 |

4. PRELIMINARY HEARING

- | | |
|---|--------|
| A. Hearings requiring two hours or less | 60.00 |
| B. Hearings requiring more than two hours | |
| Half Day | 75.00 |
| Full Day | 110.00 |

5. PRE-TRIALS

Appearance at a pre-trial or setting conference may be compensated at the rate of \$25.00 under the following circumstances:

- | | |
|---|-------|
| A. The appearance consumes in excess of an hour, <u>AND</u> | |
| B. A further appearance or appearances are required subsequent to the day of the conference to conclude the case (e.g. sentence, dismissal) | 25.00 |

6. TRIAL FEES

- | | |
|--|--------|
| A. One-half day of court trial | 75.00 |
| B. One day of court trial (not to exceed total of \$330.00 per case without prior approval by the Private Defender Office) | 110.00 |

- | | |
|---|--------|
| C. One-half day of jury trial | 75.00 |
| D. Jury trials are payable at the rate of \$130.00 per day for trial for the first five full days. (Not to exceed a total of \$600.00 per case without the prior approval by the Private Defender Office) | 130.00 |
| E. Separate appearance for sentence following trial | 25.00 |

When a case originating in the municipal court is certified to the superior court (e.g. mental competency, MDSO, juvenile) for further proceedings, it is not in a condition to be billed as a muni matter until one of the following occurs:

- A. It is finally disposed of in the superior court;
- B. It is remanded to the municipal court, and thereafter finally disposed of in said court;
- C. It remains under superior court jurisdiction for in excess of 30 days after a commitment is effected.

7. MISCELLANEOUS

- | | |
|---|-------|
| A. Return for alleged violation of probation or diversion conditions: | |
| Within 91 days | 25.00 |
| After 91 days | 40.00 |
| B. Miscellaneous motions supported by written points and authorities | 25.00 |
| Extended hearings will be at the same rate as provided for 1538.5 motions in lieu of above fee. | |

NUMBER OF APPEARANCES

In those instances in which an attorney must make more than three appearances in addition to the arraignment appearance, to dispose of a case, he may bill the additional total sum of \$25.00 for the subsequent appearances in excess of three, providing the appearances in excess of three are not in themselves billable under other provisions of this schedule. The application of this section relates to cases in which the attorney could not reasonably avoid the repeated appearances.

Fee Schedule

-4-

The recommended maximum fee to be billable for any one case, in the event a case is closed without trial (court or jury) including all motions and appearances

125.00

The administrator is authorized to approve fees exceeding the maximum up to \$50.00 where circumstances warrant; fee beyond the maximum allowed by this schedule must be approved by the Special Fee Committee.

A further suggestion is that assigned counsel remember that their fellow assigned attorneys are appearing in all courts in the county and would be able to make special appearances on behalf of their fellow assigned attorneys if the client, district attorney, and the court have been properly advised, and if the matter entails nothing more than a routine continuance.

SUPERIOR COURT

1. NON-TRIAL APPEARANCE FEES

A. All arraignments will be handled by the office of the Administrator. Routine continuances will also be covered by this office provided ample notice is given to this office and the defendant. All first appearances for PC 1367-68 (appointment of doctors) and WI 3050-51 will be covered by this office, as will PC 859a only when the P.O. advises his report is not available and must request a continuance. In all instances a Superior Court Memo must be provided to this office with instructions. All attorneys are expected in Superior Court at the time a plea of guilty is entered and at the time of sentence.

B. 995 P.C. MOTION

Separate appearances on 995 motions supported by written points and authorities

50.00

C. 1538.5 P.C. MOTION

Separate hearings on 1538.5 motions during which a witness is sworn and testifies may be billed as follows:

- | | |
|--|--------|
| 1. Hearing requiring two hours or less | 60.00 |
| 2. Hearing requiring more than two hours | |
| Half Day | 75.00 |
| Full Day | 110.00 |
| 3. 1538.5 motion, written points and
authorities only | 50.00 |

2. PRE-TRIALS

A fee of \$25.00 is allowable to attorneys who must attend pre-trial conferences in superior court. The \$25.00 fee is the maximum allowed for pre-trial conferences regardless if the attorney has to attend one or more pre-trial conferences. (If combined with another proceeding, e.g. 1538.5 P.C., 995 P.C. motions, which itself is compensated, the pre-trial fee is not payable unless additional separate pre-trial appearance or appearances are necessary. 25.00

3. TRIAL FEES

- | | |
|---|--------|
| A. One-half day of court trial | 75.00 |
| B. One day of court trial. (Not to exceed total of \$330.00 per case without prior approval of the Private Defender Office) | 110.00 |
| C. One-half day of jury trial | 75.00 |
| D. Jury trials are payable at the rate of \$130.00 per day for trial for the first five full days. (Not to exceed a total of \$650.00 per case without the prior approval of the Private Defender Office) | 130.00 |
| E. Separate appearances for sentence following trial. | 25.00 |
| F. <u>Only</u> in those instances when a case goes to trial, a fee of \$25.00 is payable to an attorney if through <u>no fault</u> of his own, he is forced to trail and must appear on a date, or dates, other than the date originally set for trial. | 25.00 |

Fee Schedule

-6-

4. MISCELLANEOUS

- A. Return of defendant to court following suspension of proceedings under 1203.03, 1357-68, 3050-51 and 1168 PC, 6300 et. seq W&I Code, revocation of probation, revocation of diversion:

If more than 91 days after commitment requiring new appointment

40.00

If less than 91 days after commitment, not requiring new appointment

25.00

- B. Miscellaneous motions supported by written points and authorities

25.00

Extended hearings will be at the same rate as provided for 1538.5 motions in lieu of above fee.

NUMBER OF APPEARANCES

In those instances in which an attorney must make more than three appearances in addition to the arraignment appearances to dispose of a case, he may bill the additional total sum of \$25.00 for the subsequent appearances in excess of three, providing the appearances in excess of three are not in themselves billable under other provisions of this schedule. The application of this section relates to cases in which the attorney could not reasonably avoid the repeated appearances.

25.00

The recommended maximum fee to be billable for any one case, in the event a case is closed without trial (court or jury) including all motions and appearances is:

150.00

The administrator is authorized to approve fees exceeding the maximum up to \$50.00 when circumstances warrant; fees beyond the maximum allowed by this schedule must be approved by the Special Fee Committee.

5. MISCELLANEOUS SPECIAL APPEARANCES

Special appearance for line-up or interrogation (when not an assigned case)

40.00

Fee Schedule

-7-

Special appearance, counseling and appearance for testimony for a witness	40.00
---	-------

Special assignments by direct designation from Private Defender Office (when not assigned case) including consultation with prisoners and prospective clients, investigation hold, etc.:

A. Less than one hour	20.00
B. One hour or more	40.00

MENTAL-INEBRIACY PROCEEDINGS

1. Attorneys scheduled to appear on the Mental Calendar may bill as follows:

A. Two hours	50.00
B. More than two hours	75.00
C. Return appearance on one or more specific cases	25.00
D. Trials: Same rate as in criminal matters.	

JUVENILE

CASES CANNOT BE BILLED UNTIL CASE IS CLOSED

1. JURISDICTIONAL HEARINGS

A. Two hours or less	50.00
B. More than two hours	
Half Day	75.00
Full Day	110.00
C. Return for dispositional hearing on one or more specific cases	25.00
D. Return for review after dependency hearing, if necessary	25.00

2. DETENTION CALENDAR

A. Detention calendar only, regardless of number of cases. (May be billed in addition to jurisdictional and dispositional hearings on same day):

1. Two hours or less	50.00
2. More than two hours	75.00

3. FITNESS HEARINGS

- A. Fitness hearings may be handled by the Assistant Administrator at Hillcrest unless the assigned attorney feels his presence is necessary due to complicated facts, etc. Fitness hearings should be reported to this office. Assistant Administrator can be reached at 573-2127. 25.00

MAXIMUM allowance on any one juvenile case regardless of number of companion cases or appearances (without multiple day hearing) 125.00

EXTRAORDINARY SERVICES

- A. WRITS (\$15.00 per hour, up to maximum of \$125.00)
- B. APPEALS from muni. court to appellate department
\$15.00 per hour to maximum of \$150.00
- C. EXPUNGEMENT and sealing of record 40.00
- D. CIVIL CONTEMPTS and petitions to declare minor free from parental custody and control:
1. Basic Fee 50.00
 2. More than two appearances required 75.00
 3. Motion supported by declaration, points and authorities, add 25.00
 4. Extended hearing (In excess of two hours)
 - Half Day 75.00
 - Full Day 110.00
 5. Maximum Fee 200.00

APPENDIX J

Rule 123

Supreme Court of Iowa Order

Adopting Regulations of the Commission

On Continuing Legal Education

NOV 25 1975

CLERK SUPREME COURT

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF THE
ADOPTION OF REGULATIONS
OF THE COMMISSION ON
CONTINUING LEGAL EDUCATION

ORDER ADOPTING REGULATIONS

It is ORDERED that the Regulations of the Commission on
Continuing Legal Education, in the form hereto attached and
made a part of this order are hereby adopted.

Done this 25th day of November, 1975.

SUPREME COURT OF IOWA

By C. Edwin Moore
C. Edwin Moore, Chief Justice

REGULATIONS OF THE COMMISSION ON
CONTINUING LEGAL EDUCATION

Section 1. Definitions. For the purpose of these regulations, the following definitions shall apply:

- (a) An "attorney" shall mean any person licensed to practice law in the State of Iowa.
- (b) An "hour" of continuing legal education shall mean a clock hour spent after December 31, 1975 by an attorney in actual attendance at or completion of an accredited legal education activity.
- (c) An "accredited sponsor" shall mean an organization or person sponsoring continuing legal education activities which has been accredited by the Commission as a sponsor pursuant to Section 4(a) hereof. During the time an organization or person is an accredited sponsor all continuing legal education activities of such organization or person shall be deemed automatically accredited.
- (d) An "accredited program or activity" shall mean a continuing legal education activity meeting the standards set forth in Section 3 hereof which has received advanced accreditation by the Commission pursuant to Section 4 hereof.
- (e) The "Commission" shall mean the Commission on Continuing Legal Education or any division thereof.
- (f) A quorum of the entire Commission shall mean six or more members of the Commission.

Section 2. Continuing Legal Education Requirement. A minimum of 15 hours of continuing legal education must be completed by each attorney for each calendar year in the manner stated in Court Rule 124.3.

Hours of continuing legal education credit may be obtained by attending or participating in a continuing legal education activity, either previously accredited by the Commission or which otherwise meets the requirements herein and is retroactively accredited by the Commission pursuant to Section 4(c) of these regulations.

An attorney desiring to obtain credit for one or more succeeding calendar years, not exceeding 3 such years, for completing more than 15 hours of accredited legal education during any one calendar year shall report such "carry-over" credit at the time of filing the annual report to the Commission on or before March 1 of the year following the calendar year during which the claimed additional legal education hours were completed.

Section 3. Standards for Accreditation. A continuing legal education activity qualifies for accreditation if the Commission determines that:

(a) It constitutes an organized program of learning (including a workshop or symposium) which contributes directly to the professional competency of an attorney; and

(b) It pertains to common legal subjects or other subject matters which integrally relate to the practice of law; and

(c) It is conducted by attorneys or individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and preferably is accompanied by a paper, manual or written outline which substantively pertains to the subject matter of the program.

- No activity will be accredited which involves solely self-study, including TV viewing, video or sound recorded programs, or correspondence work, except as may be allowed pursuant to Section 5 hereof.

Section 4. Accreditation of Sponsors, Programs and Activities.

(a) Accreditation of Sponsors. An organization or person not previously accredited by the Commission, which desires accreditation as a sponsor of courses, programs, or other legal education activities satisfying Court Rule 123.2, shall apply for accreditation to the Commission stating its legal education history for the preceding 2 years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of speakers. By January 31 of each year, commencing January 31, 1977, all accredited sponsors shall report to the Commission in writing the legal education programs conducted during the preceding calendar year on a form approved by the Commission.

The Commission may at any time reevaluate an accredited sponsor. If after such reevaluation, the Commission finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the Commission shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to said hearing. The decision of the Commission after such hearing shall be final.

(b) Prior Accreditation of Activities. An organization or person or, if an accredited sponsor, which desires prior accreditation of a course, program or other legal education activity satisfying Court Rule 123.2, or an attorney who desires to establish accreditation of such activity prior to attendance thereat, shall apply for accreditation to the Commission at least 60 days in advance of the commencement of the activity on a form provided by the Commission. The Commission shall approve or deny such application in writing within 30 days of

receipt of such application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

(c) Post Accreditation of Activities. An attorney seeking credit for attendance at or participation in an educational activity which was not conducted by an accredited sponsor nor otherwise accredited shall submit to the Commission, within 30 days after completion of such activity, a request for credit, including a brief resume of the activity, its dates, subjects, instructors and their qualifications and the number of credit hours requested therefor. Within 30 days after receipt of such application the Commission shall advise the attorney in writing by ordinary mail whether the activity is accredited and the number of hours allowed therefor. An attorney not complying with the requirements of this subparagraph may be denied credit for such activity.

Section 2. Hardship or Extenuating Circumstances. The Commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor shall be made on forms prescribed by the Commission.

Waivers of the minimum educational requirements may be granted by the Commission for any period of time not to exceed one year. In the event that the hardship or extenuating circumstances from which a waiver has been granted continue beyond the period of the waiver, the attorney must reapply for an extension of the waiver. The Commission may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such a time as may be prescribed by the Commission.

Extensions of time within which to fulfill the minimum educational requirements may, in individual cases involving hardship or extenuating circumstances, be granted by the Commission for a period not to exceed six months immediately following expiration of the year in which the requirements were not met. Hours of minimum educational requirement completed within such an extension period shall be applied first to the minimum educational requirement for the preceding year and shall be applied to the current or following year only to the extent that such hours are not required to fulfill the minimum educational requirement for the preceding year.

Section 6. Exemptions for Inactive Practitioners. A member of the bar and is not engaged in the practice of law in the State of Iowa as defined in Court Rule 121.3(1)(4) residing within or without the State of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the Commission. The application shall contain a statement that the applicant will not engage in the practice of law in Iowa, as defined in Court Rule 121.3(1)(4), without first complying with all rules governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form prescribed by the Commission.

Section 7. Reinstatement of inactive Practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of law in the State of Iowa as defined in Court Rule 121.3(1)(4), satisfy the following requirements for reinstatement:

- (a) Submit written application for reinstatement to the Commission upon forms prescribed by the Commission together with a reinstatement fee of Twenty-Five Dollars (\$25.00), and

(b) Furnish in the application evidence of one of the following:

1. The full time practice of law, as defined in Court Rule 121.3(1)(4), in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the Commission to that required under Court Rule 123.
2. Successful completion of an Iowa State Bar examination conducted within one year immediately prior to the submission of such application for reinstatement.
3. Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant.

Section 8. Staff. The Commission may, subject to the approval of the Court, employ a Director and such other employees as the Commission deems necessary to carry out its duties under Court Rule 123, who shall perform such duties as the Commission may from time to time direct.

Section 9. Divisions. The Commission may organize itself into divisions of not fewer than three members for the purpose of considering and deciding matters assigned to them.

Section 10. Hearings. In the event of denial, in whole or in part, of any application, the applicant shall have the right,

within 20 days after the sending of the notification of the denial by ordinary mail, to request in writing a hearing before the Commission which shall be held within 90 days after receipt of the request for hearing. The decision of the Commission after such hearing shall be final. Any hearing on a revocation of the accreditation of an accredited sponsor, the denial of a hardship application, or a recommendation for disciplinary action under Court Rule 123.5(b) shall be before a quorum of the entire Commission.

Section 11. Notice of Failure to Comply. In the event an attorney fails to comply with the provisions of Court Rule 123.4 or files a report showing on its face failure to complete the required number of accredited hours of continuing legal education, the Commission shall notify said attorney in writing of such apparent noncompliance and said attorney shall have 15 days from the mailing of said notice to cure said failure to comply or make an appropriate application under Section 5 of these regulations. If the failure to comply is not cured or such application not approved, the Commission shall report promptly to the Court the failure of the attorney to comply with Court Rule 123.

FILED
APR - 9 1975
CLERK OF THE COURT

IN THE SUPREME COURT OF IOWA

IN RE: PETITION OF
ADDITION OF RULES
PERTAINING TO
CONTINUING LEGAL
EDUCATION FOR MEMBERS
OF THE IOWA BAR

ORDER

It is ORDERED that Rule 123, in the form hereto attached
and made a part of this order is hereby adopted.
Done this 2nd day of April, 1975.

THE SUPREME COURT OF IOWA

By C. Edwin Moore
C. Edwin Moore, Chief Justice

RULE 123
CONTINUING LEGAL EDUCATION OF THE MEMBERS OF THE BAR OF IOWA

123.1 Purpose.

Only by continuing their legal education throughout their period of the practice of law can attorneys fulfill their obligation competently to serve their clients. Failure to do so shall be grounds for disciplinary action by this Court. This rule establishes minimum requirements for such continuing legal education and the means by which the requirements shall be enforced.

123.2 Continuing Legal Education Commission.

There is hereby established a Commission on Continuing Legal Education consisting of twelve members. This Court shall appoint to the Commission 10 resident members of this state who are currently licensed to practice law in the State of Iowa, and 2 residents of this state who are not lawyers. This Court shall designate five among the members of the Commission a chairman who shall serve as such at the pleasure of the Court. Of the members first appointed to the Commission 4 shall serve a term of 3 years, 4 shall serve a term of 4 years and 4 shall serve a term of 5 years. Members thereafter appointed, except for those appointed to fill unexpired terms, shall be appointed for a term of 3 years. No member shall serve more than 2 consecutive complete terms as a member of the Commission. This Court shall adopt rules and regulations governing the operations and activities of the Commission.

The Commission shall have the following duties:

- (a) To exercise general supervisory authority over the administration of this rule.
- (b) To accredit sponsors of courses, programs and other educational activities which will satisfy the educational requirements of this rule or in the event that the sponsor is not accredited the Commission shall accredit courses, programs and other educational activities which will satisfy the educational requirements of this rule; all being subject to continuous review by the Commission.
- (c) To foster and encourage the offering of such courses, programs and educational activities.
- (d) To submit to the Court proposed rules and regulations not inconsistent with this rule to govern the operations and activities of the Commission.
- (e) Subject to the approval of this Court, to employ such persons as it deems necessary for the proper administration of this rule.

- (f) To report at least annually to the Court concerning its activities and, from time to time, to make recommendations to the Court concerning this rule and the enforcement thereof; to present an annual budget and a recommended annual fee for costs of administering this rule.
- (g) To report promptly to the Court concerning any violation of this rule by any member of the Bar of this State.

Members of the Commission shall not be compensated but shall be reimbursed for expenses incurred by them in the performance of their duties upon vouchers approved by this Court.

123.3. Continuing Legal Education Requirement.

Commencing January 1, 1976, each attorney admitted to practice in this state shall complete a minimum of 15 hours of legal education accredited by the Commission, during each calendar year. The Commission is authorized, pursuant to guidelines established by the Court, to determine the number of hours for which credit will be given for particular courses, programs or other legal education activities. Under rules to be promulgated by the Court, an attorney may be given credit in one or more succeeding calendar years, not exceeding 3 such years, for completing more than 15 hours of accredited education during any one calendar year.

123.4. Annual Report by Attorneys to Commission.

On or before March 1 of each year, commencing March 1, 1977, each attorney admitted to practice in this state shall make a written report to the Commission, in such form as the Commission shall prescribe, concerning his or her completion of accredited legal education during the preceding calendar year; provided, however, that an attorney shall not be required to comply with this rule for the year during which he or she was admitted to practice nor shall he or she be required to make a report to the Commission for such year. Each annual report shall be accompanied by:

- (a) The prescribed fee, and
- (b) Proof satisfactory to the Commission that he or she has met the requirements for continuing legal education for the calendar year for which such report is made.

123.5. Penalties for Failure to Comply with Continuing Legal Education Requirements.

- (a) Any attorney who fails to comply with the provisions of Rule 123.4 or who files a report showing on its face that he or she has failed to complete the required number of hours of continuing legal education may have his or her right to practice law suspended by this Court, provided that at least 30 days prior to such suspension, notice of such delinquency has been served upon him or her in the manner provided for the service of original notices.

In Rule 66, Iowa Rules of Civil Procedure, or has been forwarded to him or her by registered certified mail, return receipt requested, addressed to him or her at his or her last known address. Such person shall be given the opportunity during said 30 days to file in duplicate in the office of the Clerk of this Court an affidavit disclosing facts demonstrating his or her noncompliance was not willful and tendering such documents and fees which, if accepted, would cure the delinquency, or to file in duplicate in the office of Clerk of this Court a request for hearing to show cause why his or her license to practice law should not be suspended. A hearing shall be granted if requested. If, after hearing, or failure to cure the delinquency by satisfactory affidavit and compliance, such person is suspended, he or she shall be notified thereof by either of the two methods above provided for notice of delinquency.

(b) In addition, any attorney who willfully fails to comply with this rule 123 may be subject to disciplinary action as provided in Court Rule 118, upon report filed by the Commission with the Committee on Professional Ethics and Conduct.

(c) For good cause shown, the Commission may, in individual cases involving hardship or extenuating circumstances, grant waivers of the minimum educational requirements or extensions of time within which to fulfill the same or make the required reports.

123.6 Confidentiality.

Unless otherwise directed by this Court, the files, records and proceedings of the Commission, as they relate to or arise out of, any failure of any attorney to satisfy the requirements of this rule, shall be deemed confidential and shall not be disclosed, except in furtherance of its duties or upon the request of the attorney affected, or as they may be introduced in evidence or otherwise produced in proceedings taken in accordance with this rule.

123.7 Inactive Practitioners.

A member of the Bar who is not engaged in the practice of law in the State of Iowa as defined in Rule 121.3(1)(4), upon application to the Commission, may be granted a waiver of compliance with this rule and obtain a certificate of exemption. No person holding such certificate of exemption shall practice law in this state until reinstated. This Court will make rules and regulations governing the continuing legal education requirements for reinstatement of attorneys who, for any reason, have been suspended from or failed to practice law in this state for any period of time subsequent to their admission to the Bar.

123.8 Application of this Rule.

This rule shall apply to every person licensed to practice law in the State of Iowa.

IOWA SUPREME COURT
COMMISSION ON CONTINUING LEGAL EDUCATION

List of Accredited Sponsors (1/1/76)

The following have been accredited by the Iowa Supreme Court Commission on Continuing Legal Education. All continuing legal education activities of such sponsors are accredited without further action of the Commission. This list, as amended, will be published from time to time and is available upon request from the Commission.

1. Iowa State Bar Association and Committees thereof
2. American Bar Association and Committees and Sections thereof
3. American Law Institute
4. A.L.I. - A.B.A.
5. Federal Bar Association
6. The Association of Trial Lawyers of America
7. Association of Trial Lawyers of Iowa
8. Iowa Academy of Trial Lawyers
9. Defense Research Institute
10. Iowa Association of Defense Counsel
11. Practicing Law Institute
12. University of Iowa College of Law
13. Drake University Law School
14. Creighton Law School
15. University of South Dakota School of Law
16. National District Attorneys Association
17. Iowa County Attorneys Association
18. National College of the State Judiciary
19. American Academy of Judicial Education
20. Iowa District Court Judges Association
21. Appellate Judges Seminars sponsored by New York University School of Law
22. American College of Probate Counsel

The Commission is interested in granting "accredited sponsor" status to all qualified sponsors of continuing legal education activities. Obviously the above list is incomplete. Therefore, the Commission solicits suggestions re those sponsors the Commission should contact, including sponsors of programs outside the state.

SUPREME COURT OF IOWA
COMMISSION ON CONTINUING LEGAL EDUCATION

IMPORTANT NOTICE RE MANDATORY CONTINUING LEGAL EDUCATION

As you are probably aware, Iowa Supreme Court Rule 123 which requires all persons admitted to practice law in Iowa to complete 15 hours of continuing legal education each year becomes effective on January 1, 1976. Copies of Court Rule 123 and the Commission's regulations relating thereto will be forwarded to you as soon as they are printed. In the meantime Court Rule 123 and the Commission's regulations are summarized below:

The rule applies to every person licensed to practice law in Iowa and requires that each such person complete 15 "clock" hours of accredited continuing legal education each year. Failure to comply may result in suspension of the right to practice law.

Only continuing legal education activities accredited by the Commission will count in fulfilling the requirement. The activity may take place anywhere, not just within the State of Iowa. Accreditation may be sought by the sponsor of an activity or by an attorney before or after attending the activity. Application forms for accreditation are available from the Commission.

Each attorney must annually self-certify his compliance with the rule, itemizing the CLE activities attended during the preceding year. The first such report is due March 1, 1977, however, the initial fee in the amount of \$10.00 for administering the rule is due on or before March 1, 1976.

The rule provides for an exemption from the requirement for persons not currently engaged in the "practice of law" in the State of Iowa. Before applying for such exemption one should be aware of the requirements for reinstatement (which are set forth in the accompanying application for Certificate of Exemption). The rule further provides for waivers and extensions of time to comply for hardship or extenuating circumstances.

By March 1, 1976 each person licensed to practice law in Iowa must either pay the initial fee of \$10.00 for 1976 or obtain a Certificate of Exemption. The enclosed form should accompany the fee or be used in applying for a Certificate of Exemption. This also applies to those holding a current Certificate of Exemption from the Client Security Fund. The Client Security Fund and Continuing Legal Education Rules are administered separately and one must seek separate exemptions from each rule in order to be exempt from complying therewith.

NOTE: FAILURE TO COMPLY WITH COURT RULE 123 CAN LEAD TO SUSPENSION OF YOUR LICENSE TO PRACTICE LAW IN IOWA

All applications, reports and inquiries should be directed to the Commission on Continuing Legal Education, State Capitol, Des Moines, Iowa 50319.

A list of currently accredited sponsors is provided on the back of this page.

IOWA SUPREME COURT
COMMISSION ON CONTINUING
LEGAL EDUCATION

-----APPLICATION FOR A CERTIFICATE OF EXEMPTION-----

I, _____, hereby make application, pursuant to section 6 of the regulations of the Commission, for a Certificate of Exemption from the requirements of Court Rule 123 pertaining to mandatory continuing legal education. I do not practice law in the State of Iowa.

I understand that once granted a Certificate of Exemption I will be in violation of Court Rule 123 and engaged in unauthorized practice of law (thereby subjecting myself to being held in contempt of Court or being disciplined as provided in Court Rule 118) if I engage in the practice of law within the State of Iowa as defined in Court Rule 121.3(i)(4), without first having been reinstated pursuant to section 7 of the regulations of the Commission. I certify that I will not engage in the practice of law within the State of Iowa as defined in Court Rule 121.3(i)(4) without first having been so reinstated.

I certify that I understand the term "practice of law" includes the representation of others in any Iowa courts, the right to represent others in any Iowa courts, or to regularly prepare legal instruments, secure legal rights, advise others as to their legal rights or the effect of contemplated actions upon their legal rights, or to hold oneself out to so do; or to be one who instructs others in legal rights; or to be a judge or one who rules upon the legal rights of others unless neither the state nor federal law requires the person so judging or ruling to hold a license to practice law.

I further certify I understand the requirements as set forth in section 7 of the regulations of the Commission which is set forth below:

Section 7. Reinstatement of Inactive Practitioners. Inactive practitioners who have been granted a waiver of compliance with these Rules and obtained a certificate of exemption shall, prior to engaging in the practice of law in the State of Iowa as defined in Court Rule 121.3(i)(4), satisfy the following requirements for reinstatement:

- (a) Submit written application for reinstatement to the Commission upon forms prescribed by the Commission together with a reinstatement fee of Twenty-five Dollars (\$25.00), and
- (b) Furnish in the application evidence of one of the following:
 - 1. The full time practice of law, as defined in Court Rule 121.3(i)(4), in another state of the United States or the District of Columbia and completion of continuing legal education for each year of inactive status substantially equivalent in the opinion of the Commission to that required under Court Rule 123.
 - 2. Successful completion of an Iowa State Bar examination conducted within one year immediately prior to the submission of such application for reinstatement.
 - 3. Completion of a total number of hours of accredited continuing legal education computed by multiplying 15 by the number of years a certificate of exemption shall have been in effect for such applicant.

Date _____

Signature _____

IN THE SUPREME COURT OF IOWA

In Re Matter of _____) 1976
Commission on _____) Report or Application for
Continuing Legal Education) Certificate of Exemption

THIS DOCUMENT MUST BE FILED ON OR BEFORE MARCH 1, 1976.

OFFICE ADDRESS			
Name	(First)	(Middle)	(Last)
Address _____			
City	State	Zip	

FOR COMMISSION USE ONLY	
Fee Received	_____
Date	_____
Posted	_____
Address: OK	NEW

1. Social Security Number: _____
2. Office Telephone Number: () _____
Home Telephone Number: () _____
3. Home Address: Street Address _____
City _____ State _____ Zip _____
4. Year of Admission to Iowa Bar: _____
5. (Check One)

_____ I have enclosed \$10.00 fee for 1976 payable to "Commission on Continuing Legal Education"

OR

_____ Filed herewith application for Certificate of Exemption (on back of this page).

IMPORTANT:

THIS FORM MUST BE FILED ON OR BEFORE MARCH 1, 1976.
BY THAT DATE YOU MUST EITHER (1) FILE THIS FORM AND
PAY THE \$10.00 FEE OR (2) FILE THE APPLICATION FOR
CERTIFICATE OF EXEMPTION ON THE REVERSE SIDE HEREOF.

Return to: Iowa Supreme Court
Commission on Continuing Legal Education
State Capitol
Des Moines, Iowa 50319
Telephone: (515) 281-3718

APPENDIX K

Extracts

National Advisory Commission,

American Bar Association and

National Legal Aid and Defender Association Standards

Task Force Report on the Courts
National Advisory Commission on
Criminal Justice Standards and Goals 1973

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 at 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 these rights, and of the method for exercising them. 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 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 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 educa-

tional process he should assist in resolving possible areas of misunderstanding.

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 that 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 enforce-

ment 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 recordings, 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, Federal courts of appeal and district 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 levels for public defenders, their staff attorneys, and lawyers on assigned counsel panels as well as for other interested lawyers.

Standards Relating to Providing Defense Services

American Bar Association Project on Minimum Standards for Criminal Justice (Approved Draft, 1968)

Part I. 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 subdivisions 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. 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 unlikely 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 proceeding 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 for 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 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 of 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.

Handbook of Standards for Legal Aid
and Defender Offices
National Legal Aid and Defender Association, 1965

Standards for a Defender System

Each jurisdiction should have an adequate defender system to provide legal representation for persons who are financially unable to employ competent counsel in criminal proceedings. Each defender system should be selected locally in accordance with the needs and traditions of the jurisdiction to be served. Except in rare instances, experience indicates that an uncoordinated assigned-counsel system will provide competent representation only where the number of indigent-accused is not great. Where an assigned-counsel system is in effect, it should be administered to insure uniform rotation of counsel whose experience is commensurate with the seriousness of the charge. In urban areas the community should consider the institution of a public defender or other centrally-administered service.

Every defender system should:

1. Provide legal representation for every person who is without financial means to secure competent counsel when charged with a felony, misdemeanor or other charge where there is a possibility of a jail sentence.
2. Provide standards of eligibility that do not extend assistance to one having sufficient funds or resources to secure competent private counsel but, at the same time, are not so stringent as to create a class of unrepresented accused.
3. Provide representation immediately after taking into custody or arrest, at the first and every subsequent court appearance and at every stage in the proceeding, including appeal or other post-conviction proceedings to remedy error or injustice. The representation should

extend to parole-and probation violation proceedings, extradition proceedings, and proceedings involving possible detention or commitment of minors or alleged mentally ill persons.

4. Provide experienced, competent, and zealous counsel, independent and free from political or economic influence. Such counsel owes his client his undivided loyalty consistent with the highest standards of professional ethics and integrity.

5. Provide counsel compensation that is adequate and in keeping with his experience and ability. In the case of a public defender, compensation should not be disproportionate to that of the prosecution, lest there be a disparity in professional ability between the prosecution and defense.

6. Provide sufficient funds for the uniform availability of investigation, psychiatric examinations, and other necessary expert assistance.

7. Provide a place in the court and jail building to provide interviews, consultations, and necessary examination between the accused and his counsel, investigators, and other experts.

8. Provide effectual notice of the available legal services to all persons who may be in need thereof.

9. Provide assistance in having reasonable bail set and, in appropriate cases, a release without bail.

10. Maintain adequate records on each and every case for the proper administration of justice.

11. Encourage the interest of law students and law schools in the administration of justice in criminal cases.

12. Enlist the support of the community, the bar associations, and agencies oriented to rehabilitation.

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