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U.S. Department of Justice  
National Institute of Justice  
Henry S. Dogin, Acting Director

**OPERATING A DEFENDER OFFICE**

**TRAINER'S HANDBOOK**

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For

**CRIMINAL JUSTICE RESEARCH UTILIZATION PROGRAM**

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April 1980

This handbook was prepared by University Research Corporation, Sheldon S. Steinberg, Project Director, pursuant to Contract No. J-LEAA-022-76 awarded by the Law Enforcement Assistance Administration, U.S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. The points of view or opinions expressed do not necessarily represent official policy or positions of the U.S. Department of Justice.

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## OPERATING A DEFENDER OFFICE

### TRAINING WORKSHOP SCHEDULE

	Registration	11:30 - 1:00 p.m.
Session 1	Workshop Opening, Orientation, and Introductions	1:00 - 1:40 p.m.
Session 2	The Defender as Manager	1:40 - 2:00 p.m.
Session 3	Defender Case Management Information System	2:00 - 3:00 p.m.
	BREAK	3:00 - 3:15 p.m.
Session 4	Master Card and Closing Form Exercise,	3:15 - 4:15 p.m.
Session 5	Quality Control Factors in Case Management	4:15 - 4:45 p.m.
Session 6	Caseload Analysis	4:45 - 5:15 p.m.
Session 7	Case Management Implementation Plan	5:15 - 5:30 p.m.
	Social	6:00 - 7:00 p.m.

### DAY II

Session 8	Budgeting Introduction - Funding Defender Offices	9:00 - 9:30 a.m.
Session 9	Workload Forecasting	9:30 -10:45 a.m.
	BREAK	10:45 -11:00 a.m.
Session 10	Cost Forecasting	11:00 -11:15 a.m.
Session 11	"Delphi" Method Introduction and Forecasting Exercise	11:15 -12:00 noon
	LUNCH	12:00 - 1:30 p.m.
Session 12	Grant Funding Checklist/Program Budgeting - Plans and Goals	1:30 - 2:30 p.m.

**DAY II - (continued)**

<b>Session 13</b>	<b>Contingency Budgeting</b>	<b>2:30 - 2:45 p.m.</b>
<b>Session 14</b>	<b>Budgeting Implementation Plan</b>	<b>2:45 - 3:00 p.m.</b>
	<b>BREAK</b>	<b>3:00 - 3:15 p.m.</b>
<b>Session 15</b>	<b>Personnel Management--Sociodramatization</b>	<b>3:15 - 5:30 p.m.</b>

**DAY III**

<b>Session 16</b>	<b>Developing Personnel Policies</b>	<b>9:00 - 10:00 a.m.</b>
<b>Session 17</b>	<b>External Office Relationships</b>	<b>10:00 - 11:00 a.m.</b>
	<b>BREAK</b>	<b>11:00 - 11:15 a.m.</b>
<b>Session 18</b>	<b>Personnel Practices for Defender Staff</b>	<b>11:15 - 12:00 noon</b>
<b>Session 19</b>	<b>Personnel Management Implementation Plan</b>	<b>12:00 - 12:15 p.m.</b>
<b>Session 20</b>	<b>Summary and Workshop Evaluation</b>	<b>12:15 - 12:30 p.m.</b>

**NATIONAL CRIMINAL JUSTICE  
EXECUTIVE TRAINING PROGRAM**

Through the Executive Training Program, new criminal justice processes and methods created and tested under the sponsorship of the National Institute of Law Enforcement and Criminal Justice have been introduced to thousands of local officials. Many of these officials have subsequently used this new knowledge to enhance the efficiency and effectiveness of criminal justice activities in their localities.

The Institute's Office of Development, Testing, and Dissemination is carrying forward another year of the Executive Training Program to give local criminal justice decisionmakers additional new techniques emerging from Institute-sponsored research. We look forward to the program's continued success, not only in improving the effectiveness of the criminal justice system, but also in helping local governments to provide services in the face of shrinking budgets.

**Harry Bratt, Acting Director  
National Institute of Law Enforcement and  
Criminal Justice**

# **NATIONAL CRIMINAL JUSTICE**

## **EXECUTIVE TRAINING PROGRAM**

### **Introduction**

The National Criminal Justice Executive Training Program is a nationwide training effort that offers officials of state and local jurisdictions the opportunity to learn about improved criminal justice practices and programs. The National Criminal Justice Executive Training Program is sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ), the research center of the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice.

The National Institute supports wide-ranging research in the many legal, sociological, psychological, and technological areas related to law enforcement and criminal justice. It also follows through with the essential steps of evaluating research and action projects and disseminating information on successful efforts to encourage early and widespread adoption.

As LEAA's research, evaluation, and training arm, the Institute works to devise improved methods to control crime and strengthen the criminal justice system and to train law enforcement and criminal justice personnel as well as legislators, mayors, and researchers to use these more promising approaches.

The National Criminal Justice Executive Training Program is a major vehicle for transferring research results to actual application in police departments, courts, correctional institutions, and related agencies across the country. In this program, senior criminal justice administrators and other decisionmaking officials of courts, corrections, and police agencies in each state are selected to participate in workshops and other training activities held across the country to learn about new procedures.

### **Goals**

The primary goal of the National Criminal Justice Executive Training Program is to enable criminal justice executives and policyshapers to bring about adoption of improved courts, corrections, and police practices. These improved practices are derived from National Institute research findings, or designed and validated by the Institute's Office of Development, Testing, and Dissemination through its Program Models publication series and Exemplary Projects program. They are the embodiment of the Institute's policy of sharing knowledge and proven practice to enable local agencies to be self-directing and self-reliant to the maximum extent possible.

To introduce the new practices through the nation, the Institute's Executive Training Program:

- Informs influential policymakers in the larger agencies about new practices and their potential for improving the criminal justice system

- Gives them the knowledge and skills needed to apply these methods in their jurisdictions.

Techniques that have been tested or that promise improved effectiveness or efficiency are presented in Regional Training Workshops, Field Test Training, Local Training, and Special National Workshops.

The training topics are selected from among the most promising concepts developed under NILECJ auspices. These include models derived from:

- Research Results--Improved criminal justice practices identified through research findings
- Exemplary Projects--Projects that show documented success in controlling specific crimes or that have demonstrated measurable improvement in criminal justice service
- Program Models--Syntheses of the most advanced techniques, including operational guidelines, that can be followed in locales throughout the country.

The National Criminal Justice Executive Training Program assembles a team of nationally recognized experts for each training subject. Extensive support services are also provided including multimedia development, editing and publication of training materials, comprehensive evaluation, training methodology, and logistical support.

#### Program Activities

Several major activities are being carried out to encourage local jurisdictions' use of improved criminal justice practices derived from research and evaluation.

#### Regional Training Workshops

Eight workshop series were presented across the country between late 1976 and early 1978, and four new topics are being presented in the third year of the program. Each three-day workshop is devoted to one topic and attended by 50 to 60 top criminal justice policymakers of the larger agencies from throughout the multistate regions of workshop presentations. In the 1976-77 cycle, participants learned how to manage successfully the change processes in:

- Managing Criminal Investigations  
Application of systemwide management techniques to increase the successful solution and prosecution of major crimes with reduced resources.
- Juror Usage and Management  
Procedures that improve the efficiency of juror selection, usage, and motivation with significant cost savings.

- **Prison Grievance Mechanisms**

Principles essential to achieving prompt and equitable resolution of problems and disputes, with benefits for both prison staff and inmates.

- **Rape and Its Victims**

Understanding of and skill in the delivery of services to rape victims through communitywide coordination of agencies and programs.

In the 1977-78 cycle of the program, workshops were presented across the nation on:

- **Managing Patrol Operations**

Improving management skills in matching police resources and workload demands, and facilitating citizen participation to increase police patrol effectiveness in the face of decreasing resources.

- **Developing Sentencing Guidelines**

The development of articulated sentencing policies to guide structured judicial discretion toward reducing sentencing disparity among similar offenders and types of crimes to increase equity in the administration of justice.

- **Health Care in Correctional Institutions**

Improving health care of inmates in prisons and jails by assessing needs and problems, developing improved methods and procedures, and identifying required resources based on legal and medical standards.

- **Victim/Witness Services**

Identification of victim/witness services requiring initiation, improvement, coordination, and/or further study; training in implementation skills and plans for improving the interaction and relationships between the criminal justice system and victims and witnesses.

In Cycle III, beginning in September 1978, workshops are being presented on:

- **Community Crime Prevention**

Representatives of police organizations, city administrations, and community-based organizations from similar communities learn about community crime prevention program models and skills needed to assess, design, and implement appropriate programs in their communities.

- **Maintaining Municipal Integrity**

This workshop series focuses on local government and the training emphasis is on prevention. Indicators of corruption, which officials can use to diagnose the extent of their problem, are applied to real and case study governments; prescriptions for prevention stress accountability through special management methods that can be used by mayors or county executives, city and county managers, and police chiefs.

- **Operating a Defender Office**

In the six years since the U.S. Supreme Court ruled in Argersinger versus Hamlin, states and local jurisdictions have established a growing number of publicly financed defender offices to ensure the provision of counsel for persons unable to pay for it. To equip managers of these offices with the needed skills, training focuses on four topics: case management, budgeting, personnel administration, and external office relationships.

- **Improved Probation Strategies**

This topic addresses improving management techniques in probation offices in a time of fiscal and program crisis. Thus, overall management areas such as planning, resource allocation, budgeting, and effective use of support services are stressed. Improved program strategies, such as special intensive probation, community resource management, and techniques of pre-sentence investigation reporting, are used in case study examples of ways to improve programming.

Participants in all the workshops receive individual program planning guides, self-instructional materials, handbooks, and manuals. Certificates acknowledging attendance are awarded at the conclusion of training.

Multimedia packages are developed and furnished to any requesting agency that is interested in implementation. Included are videotapes, training manuals, and other related resource documents.

### **Field Test Training**

Field tests examine the new procedures in a real-world setting and evaluate their effectiveness and transferability to other jurisdictions throughout the country.

Key representatives from the test sites receive Field Test Training designed to:

- Prepare test site staff to operate or implement their projects

- Identify agencywide needs for Local Training
- Determine the most effective format for training assistance to the local sites
- Assist the sites in conducting research utilization conferences to familiarize their colleagues in nearby states with their experiences.

During 1976, field test sites were selected to implement projects in Managing Criminal Investigations and Juror Usage and Management. Five police agencies were involved in the Field Test program in Managing Criminal Investigations:

- Birmingham, Alabama
- Montgomery County, Maryland
- Rochester, New York
- Santa Monica, California
- St. Paul, Minnesota.

Eighteen courts were involved in the Field Test program in Juror Usage and Management:

- Connecticut State Courts
- Middlesex County (New Brunswick), New Jersey
- Delaware County (Media), Pennsylvania
- Jefferson County (Louisville), Kentucky
- Summit County (Akron), Ohio
- Dallas County (Dallas), Texas
- St. Louis County (Clayton), Missouri
- Salt Lake City, Utah
- Maricopa County (Phoenix), Arizona
- Spokane County (Spokane), Washington
- Suffolk County (Boston), Massachusetts
- New York, New York
- Dane County (Madison), Wisconsin
- DuPage County (Wheaton), Wisconsin
- East Baton Rouge Parish (Baton Rouge), Louisiana
- Polk County (Des Moines), Iowa
- Pennington County (Rapid City), South Dakota
- Ada County (Boise), Idaho.

In 1977, the Executive Training Program provided assistance to three Neighborhood Justice Center field test sites in Atlanta, Kansas City, and Los Angeles. A Neighborhood Justice Center is a community-based project that seeks to resolve conflicts between people who have a continuing relationship and whose disputes are more appropriately resolved by mediation than by litigation. The Centers recruit and train community people to apply the techniques of mediation and arbitration to disputes. The Executive Training Program assisted the three project sites in preparing grant applications, conducting two training programs for the project staffs at the beginning of the test period, providing 30 days of local training assistance to each Center during the start-up period; and supporting an NJC Directors' conference.



During Cycle III, four topics are the focus of Field Test Training: Pre-Release Centers, Managing Patrol Operations, Multijurisdictional Sentencing Guidelines, and Improved Correctional Field Services.

Three jurisdictions are involved in Field Test Training in Pre-Release Centers: New Orleans; Philadelphia; Fresno County, California. These test sites will be implementing procedures similar to those developed by the Pre-Release Center in Montgomery County, Maryland, which NILECJ has designated as an Exemplary Project. The purpose of the testing is to determine if a structured community release program can measurably improve the post-release behavior and community adjustment of selected jail and prison inmates.

Two of the Cycle III Field Test topics--Managing Patrol Operations and Multijurisdictional Sentencing Guidelines--involve training in the implementation of strategies and techniques discussed at Cycle II Regional Training Workshops. For Managing Patrol Operations, training will be conducted in Albuquerque, Charlotte, and Sacramento. Training sites for Multijurisdictional Sentencing Guidelines are in urban, suburban, and rural sites in Florida and Maryland.

Field Test Training in Improved Correctional Field Services also will be conducted at three test sites. These sites--Kane County, Illinois; Albany, New York; and Jacksonville, Florida--are involved in an effort to test the effectiveness of probation risk screening procedures as they are used in combination with different levels of supervision.

#### Special National Workshops

Special National Workshops are the third part of the National Criminal Justice Executive Training Program. They are single events held for selected criminal justice policymakers and researchers on significant topics chosen by the National Institute. Recommendations for problem-solving are provided by criminal justice experts and practitioners who have dealt with these problems or whose theoretical and analytical contributions can be helpful in the implementation effort.

The workshops fall into three general categories:

1. Transferring research to the community of practitioners--The functions here are to address differences in perception between research and operational perspectives, to assess the validity of research findings in light of operational experience, to assess practitioners' needs for additional knowledge, and to communicate new information to the operational community.
2. Communication among researchers--The functions here are to advance the state-of-the-art in a given topic area, particularly one where "real-world" changes are affecting the criminal justice system, to share new findings, and to clarify directions for future research.
3. Special target audiences--Here the effort is to reach groups such as elected officials, planners, or evaluators and to inform them of current research and validated information on advanced practices.

The Special National Workshops presented during the first year of the Executive Training Program were:

- Argersinger versus Hamlin--This presentation focused on the problems associated with the provision of legal counsel to all indigent defendants facing incarceration, based on the 1972 Supreme Court mandate.
- Update '77--Mayors and county chairpersons from across the nation gathered in Washington, D.C., to discuss the role of local elected executives in planning and developing programs in law enforcement and criminal justice. Research findings by NILECJ and other resources were reviewed as potential solutions to major problems.
- Determinate Sentencing--This workshop provided an in-depth analysis of this sentencing trend and its effect on police, prosecutors, judicial systems, and correctional systems at the national and state levels, including current legislation and laws in California and Indiana and current bills.

During Cycle II, Special National Workshops focused on:

- Forensic Science Services and the Administration of Justice--This workshop's goal was to integrate perspectives among and between police executives, prosecutors, judges, defenders, criminal justice educators, and forensic scientists to promote an interdisciplinary exchange of views that could lead to fuller use of scientific resources in criminal justice.
- Pretrial Release--This workshop brought together judges who represented each of the 50 states as well as 10 judges from federal district courts who are involved in a demonstration project to examine the process, issues, and alternatives in the pretrial release of defendants.
- Stochastic Modeling--Among the more promising techniques of crime analysis, stochastic modeling was discussed at this workshop by executives and crime analysts seeking insights into the kinds of analysis possible with this technique.
- Update '78--Following the success of Update '77, this workshop provided an opportunity for additional mayors, county executives, and other local officials to examine their role in criminal justice decisionmaking, gain new perspectives on what is being done in other jurisdictions, explore current criminal justice research, and raise issues and concerns from the local point of view.
- Plea Bargaining--This workshop was designed to clarify the issues surrounding plea bargaining and to provide a means for reporting on the results of important research projects. A number of papers commissioned for the workshop

received widespread dissemination through subsequent publication in Law and Society Review.

- Mental Health Services in Jails--This workshop focused on effective models for mental health service delivery to jail inmates, including analyzing the existing situation within a correctional institution, coping with the stress-related problems of incarceration, diagnosing acute mental illness, treatment and diversion, and using available community mental health services for inmate populations.

Other Special National Workshop topics for Cycle III included: National Workshop on Criminal Justice Evaluation; Crime Control: State of the Art (for State Planning Agencies and Governors' Crime Commissions); Performance Measurement in Criminal Justice; Collective Disorders; and, Career Criminal.

As part of the Special National Workshops, the National Criminal Justice Executive Training Program staff also provides support to meetings of the NILECJ Advisory Committee.

### Results

An impact evaluation conducted three months after the last workshop in Cycle I indicates the effects of the Executive Training Program: Officials from more than half the agencies represented said they are implementing one or more of the specific aspects of the knowledge gained through research and information-sharing presented at the workshops:

- Three-fourths of the police officials reported making changes in some aspect of their management of criminal investigations--the initial investigation, case screening, and the continuing investigation.
- Over half the representatives from court systems reported making changes in their juror usage and management processes--summons procedures, recordkeeping, and monitoring/evaluation.
- Correctional officials reported implementing changes in their systems, although in slightly fewer numbers than either the police or court representatives. They focused on changes in their prison grievance mechanisms, encouraging such innovations as inmate/staff participation, written responses, and monitoring and evaluation.
- More than three-fourths of the participants at the Rape and Its Victims Workshops reported an increase in cooperation among community agencies to improve services to rape victims.

Similar concrete results are anticipated for Cycles II and III of the National Criminal Justice Executive Training Program. Not only is the program apparently equipping criminal justice executives and other policymakers with the knowledge and skills to improve the delivery of criminal justice services in

their communities and create a safer environment, but it also is giving participants a personal benefit--the chance to enhance their own skills and career potential.

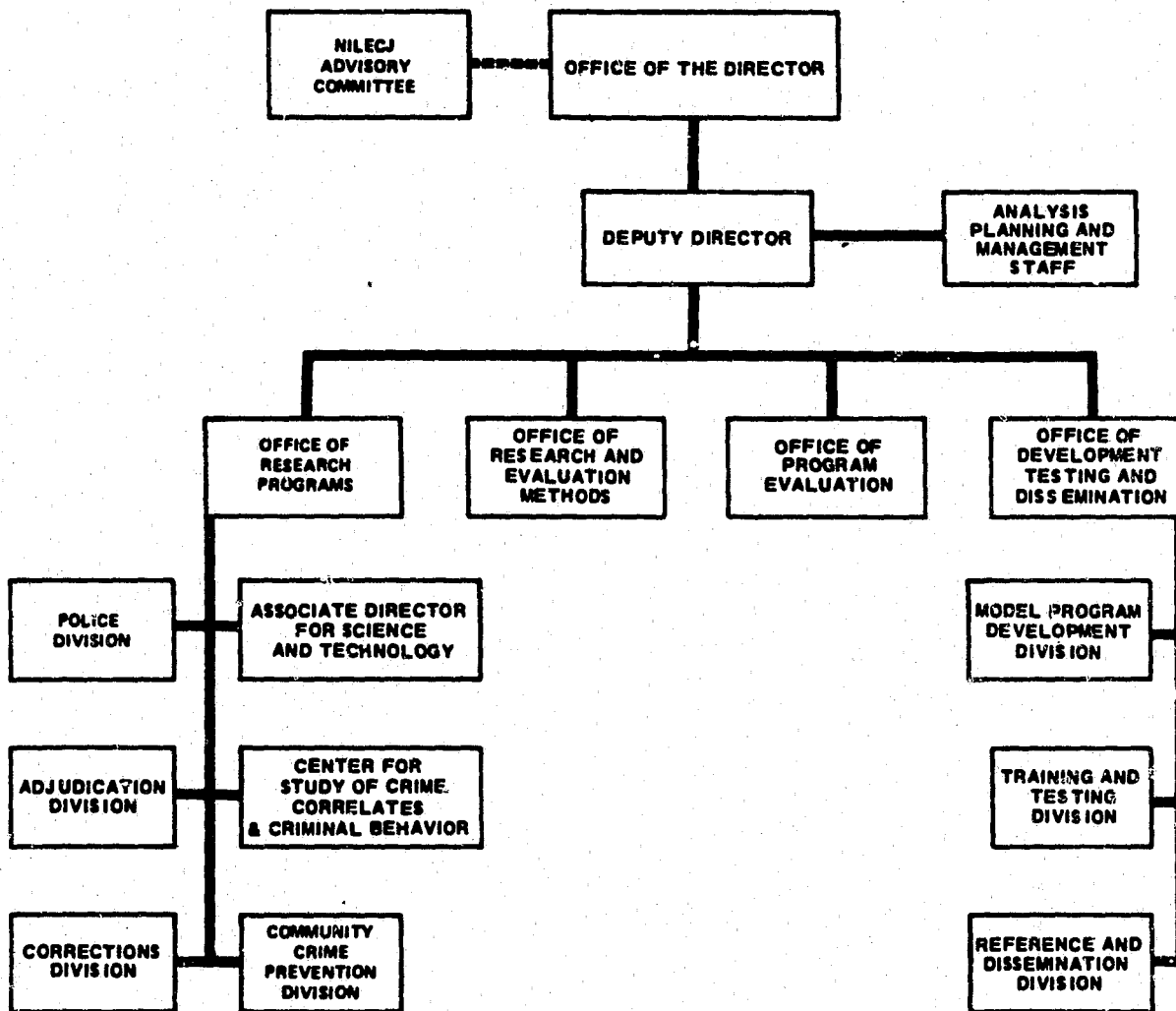
#### About the Office of Development, Testing, and Dissemination

The Office of Development, Testing, and Dissemination is responsible for distilling research, transforming the theoretical into the practical, and identifying programs with measurable records of success that deserve widespread application. As part of its programs, ODTD also provides financial and professional assistance in adaptation and tests of selected practices in several communities, and offers training for criminal justice executives nationwide. The result is that criminal justice professionals are given ready access to some of the best field test programs and experimental approaches that exhibit good potential.

ODTD has developed a structured, organized system to bridge: (1) the operational gap between theory and practice, and (2) the communication gap between researchers and criminal justice personnel scattered across the country. ODTD's comprehensive program provides:

- Practical guidelines for model criminal justice programs;
- Training workshops for criminal justice executives in selected model programs and other promising research;
- Field tests of important new approaches in different environments;
- Onsite training visits for criminal justice executives to agencies operating successful innovative programs;
- International criminal justice clearinghouse and reference services for the entire criminal justice community.

# National Institute of Law Enforcement and Criminal Justice



U.S. GOVERNMENT PRINTING OFFICE: 1978 O— 260-997/45

## STRATEGY FOR TRAINING

### Topic Determination

A multitude of topics vie for national attention in the criminal justice field. The Law Enforcement Assistance Administration (LEAA) researches and analyzes many of those topics through the Office of Research Programs, National Institute of Law Enforcement and Criminal Justice (NILECJ). Resulting studies and projects are carefully evaluated by the NILECJ Office of Evaluation. A topic reaches the level of a national training workshop only when the Office of Development, Testing, and Dissemination (ODTD) staff has been convinced that practitioners in the field can benefit from solutions developed.

The training topic, "Operating A Defender Office," competed with other possibilities advanced by the Adjudication Division. Assisted by a survey of the State Planning Agencies (SPA) in the process of determining topic needs, ODTD issued a memorandum selecting this topic based on the following rationale:

In response both to societal need and to constitutional mandate for legal representation of the indigent there has come into existence a new public agency, the Public Defender's Office. The dilemma of being state funded to defend those the state seeks to punish has compounded the basic problem: how to best organize and manage the delivery of defense services. There are several structural methods of organizing such a system, but each office is faced with the kinds of evaluation, management, and attitudinal issues that recent research has addressed.

Reports issuing from that research included:

- Self-Evaluation Manual for the Offices of the Public Defender, Dr. Roberta Rovner-Pieczenik
- Guide to Establishing a Defender System, Nancy A. Goldberg
- In-Depth Analysis of National Defender Survey, Shelvin Singer
- Criminal Courts: The Defendant's Perspective, Jonathan Casper.

The combined input of these people produced two assumptions for training.

- The research products of the last few years, when synthesized, offer techniques that will help defender administrators in the performance of their duty.
- Public provision of criminal defense will be strengthened by evaluation for the purpose of improved management.

Under a separate contract to design, coordinate, and conduct the National Criminal Justice Executive Training Program, the University Research Corporation (URC) invited national experts on defender services to a planning conference in June 1978.

### Planning Conference

To prepare for the conference, several preliminary meetings took place with NILECJ staff to review current defender office research, visits were made to defender offices, authors of research reports were interviewed, and special assistance was provided by National Legal Aid and Defender Association staff.

Representative public defenders, nationally recognized defender service researchers and authors, and NILECJ staff then convened with URC staff to determine training topics to match the NILECJ Decision Memorandum "Operating A Defender Office" and the known operational needs in the field.

Five general topics emerged from that discussion and were recommended to be addressed in a 2½-day training workshop:

- Case Management
- Budgeting
- Personnel Administration
- Internal Office Management
- External Office Relationships

### Needs Assessment

To test these recommendations further, a Training Needs Assessment questionnaire was sent to 175 defender offices representing small (1 to 6 people), medium (7-35), and large (35+) offices in each state. A nearly 50 percent response confirmed four of the topics, with Internal Office Management receiving fewer positive replies. Additional comments received showed the timeliness of the topic and provided immeasurable assistance in developing the strategy and content of the training program. (The questionnaire and responses appear on pages 18-21.)

### Design Phase

Five people known for their expertise in defender services accepted invitations to work with ODTD and URC staff to develop a training workshop responsive to the expressed needs.

The overall training goal:

How defender offices can best organize, monitor, and manage for effective delivery of services to clients.

The four general topics chosen to address this goal--Case Management, Budgeting, Personnel Administration, and External Office Relationships--express two themes in addition to their own goals:

- Self-Evaluation (Monitoring) Techniques
- Implementation (Change) Strategies

Serving as tools for defender participants to carry from the workshop are How Does Your Defender Office Rate? A Self-Evaluation Manual, and a Manual to assist in the implementation of desired techniques.



## **OPERATING A DEFENDER OFFICE**

### **Planning Conference Participants**

**Laurence A. Benner**  
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**Jack E. Farley**  
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Office of the Public Defender  
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**Nancy A. Goldberg**  
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**Kirkland Taylor**  
Seattle, Wash.

#### **National Institute of Law Enforcement and Criminal Justice**

**Fred Becker**, Program Manager  
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Programs

#### **National Criminal Justice Executive Training Program - University Research Corporation**

**Sheldon S. Steinberg**, Project Director  
**Burke E. Dorworth**, Team Leader

The following tabulations show the responses of 77  
defender offices from the 175 surveyed, July, 1978.

### TRAINING NEEDS ASSESSMENT

A training workshop to meet a defender office's operational needs might focus on five major areas: Case File System, Budgeting, Personnel, Internal Office Development, and External Office Relating. Each of these areas is addressed below in this questionnaire. For each area would you please check the appropriate response(s) which reflect your training interests and/or add any other training areas that would better fit your particular office management needs.

Name \_\_\_\_\_

Number of Attorneys  
in office: \_\_\_\_\_

Title \_\_\_\_\_

Number of all other  
staff in office: \_\_\_\_\_

State \_\_\_\_\_

#### POSSIBLE TRAINING AREAS

"My Training Interest Level Is ..."  
STRONG SOME LITTLE

A. <u>Case Management</u>	<u>35</u>	<u>22</u>	<u>7</u>
• How to improve case management.	<u>40</u>	<u>25</u>	<u>8</u>
• How to develop a tracking system.	<u>25</u>	<u>29</u>	<u>19</u>
• How to handle workload analysis and forecast future staff needs.	<u>36</u>	<u>21</u>	<u>15</u>
• How to develop and maintain data keeping instruments for case management.	<u>28</u>	<u>27</u>	<u>17</u>
• How to increase scope of services for clients (Early Entry, etc.)	<u>38</u>	<u>24</u>	<u>13</u>

Other Case File System training interests: \_\_\_\_\_

<u>POSSIBLE TRAINING AREAS</u>	<u>"My Training Interest Level Is ..."</u>		
	<u>STRONG</u>	<u>SOME</u>	<u>LITTLE</u>
B. <u>Budgeting</u>	<u>19</u>	<u>27</u>	<u>14</u>
• How to prepare a budget that clearly relates to resources and requirements.	<u>20</u>	<u>34</u>	<u>17</u>
• Innovative ways to present, justify, and market the budget.	<u>34</u>	<u>18</u>	<u>15</u>
• A process of ongoing financial analysis and determination of needs.	<u>23</u>	<u>30</u>	<u>19</u>
• How to monitor, control, and retrieve information to support budget requests.	<u>31</u>	<u>26</u>	<u>15</u>
• How to develop a program budget which relates to a line item budget.	<u>17</u>	<u>29</u>	<u>24</u>
Other Budgeting Training Interests:			

C. <u>Personnel</u>	<u>29</u>	<u>15</u>	<u>9</u>
• How to team build for effective staff.	<u>33</u>	<u>18</u>	<u>19</u>
• Policy Manual Development.	<u>23</u>	<u>28</u>	<u>19</u>
• Performance Appraisal System.	<u>31</u>	<u>27</u>	<u>14</u>
• Career building mechanisms.	<u>26</u>	<u>28</u>	<u>19</u>
• Recruiting, hiring, and Affirmative Action.	<u>20</u>	<u>27</u>	<u>25</u>
Other Personnel Training Interests:			

**POSSIBLE TRAINING AREAS****"My Training Interest Level Is ..."**  
**STRONG                      SOME                      LITTLE****D. Internal Office Development**

- Developing system for effective inventory control.
- Evaluating office procedures.
- Maintaining office security on client information.
- Recordkeeping system to permit proper reporting to government agencies, etc.
- Developing a contracting system for cost effective purchasing.

<u>7</u>	<u>33</u>	<u>17</u>
<u>8</u>	<u>36</u>	<u>27</u>
<u>19</u>	<u>32</u>	<u>21</u>
<u>13</u>	<u>28</u>	<u>26</u>
<u>12</u>	<u>31</u>	<u>26</u>
<u>4</u>	<u>23</u>	<u>44</u>

Other Internal Office Development Training Interests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**E. External Office Relationships**

- Developing working relationships with private bar.
- Promoting and insuring good relationships with other areas of criminal justice system (courts, etc.)
- Promoting and maintaining good community relationships.
- Utilizing effectively volunteer assistance.
- Developing better media relationships.
- Feedback mechanisms for clients, ex-offenders, inmates.

<u>23</u>	<u>22</u>	<u>4</u>
<u>34</u>	<u>24</u>	<u>18</u>
<u>33</u>	<u>30</u>	<u>11</u>
<u>36</u>	<u>28</u>	<u>10</u>
<u>33</u>	<u>23</u>	<u>17</u>
<u>22</u>	<u>31</u>	<u>22</u>
<u>35</u>	<u>29</u>	<u>11</u>

Other External Office Relationships Training Interests: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Summary

- Of the areas mentioned earlier, which do you think would be most important to your office?

### TOPICS

### PERSONS

A. CASE MANAGEMENT	29 MOST IMPORTANT
B. BUDGETING	12 MOST IMPORTANT
C. PERSONNEL	14 MOST IMPORTANT
D. INTERNAL OFFICE ((This topic has been dropped from the workshop. Some goals merged into Case Management or Personnel))	0 MOST IMPORTANT
E. EXTERNAL RELATIONSHIPS	4 MOST IMPORTANT
	59 Responses to this question.

- What other management areas do you feel are important and which would you like to know more about?

	<u>Important</u>	<u>Want To Know More</u>
-- Instant retrieval of information to show what's going on and what's going wrong.	_____	_____
-- Online Data Systems---computer control.	_____	_____
-- Career development techniques.	_____	_____
-- Providing best service at least cost.	_____	_____
-- Grantsmanship.	_____	_____
-- How to avoid "burn-out."	_____	_____
-- Performance appraisal system.	_____	_____
-- How to supervise and evaluate from a distance.	_____	_____
-- Litigation to force appropriate budgeting.	_____	_____
-- How to prepare file for successor in office.	_____	_____
-- Quality control of staff attorneys work.	_____	_____
-- In-house training program.	_____	_____

**Breakdown of Survey Responses (77 of 175 responding):**

**BY REGIONS**

I	3	VI	11
II	4	VII	6
III	13	VIII	6
IV	13	IX	6
V	8	X	7

**BY OFFICE SIZE**

Small (1-6) = 15

Medium (7-35) = 42

Large (36+) = 20

**Thank you for your time!**

Overview Statement  
OPERATING A DEFENDER OFFICE

**Background**

In 1972, the United States Supreme Court ruled, in Argersinger versus Hamlin,

... 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.

Since that decision, states and local jurisdictions have established a growing number of publicly financed defender offices now numbering over a thousand nationwide.

From NILECJ-sponsored research studies of these offices, areas have been identified where defender offices could benefit from improved monitoring and management techniques. These studies, the counsel of known experts in the field, and a recent training needs assessment conducted in defender offices throughout the country laid the background for this workshop.

**Training Goals**

The overall goal is how defender offices can best organize, monitor, and manage for effective delivery of services to clients. The major topics chosen to address that goal are:

- Case Management
- Budgeting
- Personnel Administration
- External Office Relationships

With proper consideration of the needs of different size defender offices, these topics will include subjects applicable to participants' own goals, such as:

- How to handle workload analysis and forecast future staff needs.
- How to develop and maintain data-keeping instruments for case management.
- Innovative ways to present, justify, and market the budget.
- Methods of monitoring, controlling, and retrieving information for budget requests.

- How to develop a performance appraisal system.
- How to "team-build" for an effective staff.
- Promoting and maintaining good community relationships.
- Effectively using volunteer assistance.

The purpose of this training is to prepare each defender participant to return home with the knowledge and tools necessary to study and implement desired changes in his/her office.

#### Learning Approach

This workshop will be conducted by people with practical experience in defender office operations and those dedicated to training techniques that will help participants visualize and develop their own monitoring and management systems. The curriculum takes a skill-building approach, using problem-solving exercises and participant interaction and focusing on an enabling presentation relevant to individual needs and solutions.



**Trainers/Designers of the  
Operating a Defender Office Training Program**

**University Research Corporation Staff:**

**Burke E. Dorworth, M.Div.**, has worked as a community organizer and consultant to community development groups for the past 17 years. Author and coordinator of a Development Guide designed to help community-based groups work with local, state, and federal agencies to solve community needs, he has assisted in developing strategies required to implement desired programs. A trainer in the field of human relations, Mr. Dorworth has recently helped design and served as team leader of two previous National Criminal Justice Executive Training Program Workshops--Juror Usage and Management and Developing Sentencing Guidelines--~~delivered~~ to judges, state legislators, and court executives across the nation. He is a graduate of the University of Pennsylvania and Pittsburgh Theological Seminary.

**Consultant Trainers:**

**Laurence A. Benner, J.D.**, has recently served as National Director of Defender Services for the National Legal Aid and Defender Association. There he directed programs that evaluated criminal defense services, provided technical assistance to defender programs, and negotiated grant applications for improved defender services across the country. Previous experience included serving as Director and Chief Trial Counsel for the Grand Rapids, Michigan, Defender Office and Director of a National Defender Survey which resulted in the publication, The Other Face of Justice, which Mr. Benner co-authored. Other publications include "Defender Benchmarks" published monthly in The NLADA Washington Memo, "Tokenism and the American Indigent: Some Perspectives on Defense Services," American Criminal Law Review, and "Law and/or Order," NLADA Study. A graduate of Michigan State University and University of Chicago Law School, Mr. Benner has since taught and been a guest lecturer on criminal justice subjects. He currently serves on the faculty of the University of Chicago Law School and the Mandel Law Clinic.

**Marshall J. Hartman, J.D.**, serves as Executive Director, Criminal Defense Consortium of Cook County, Inc., an experimental private, nonprofit defender system operating through six community-based defender offices. Prior to that Hartman served as Acting Director of Defender Services, of the National Legal Aid and Defender Association. In that capacity, he assisted in organizing and securing funding for numerous programs, evaluations, technical assistance efforts, and research studies of defender offices and assigned counsel systems throughout the United States, including the National Center for Defense Management, the National College of Criminal Defense Lawyers and Public Defenders, and the Illinois Defender Project. Author of numerous articles in the fields of juvenile law, constitutional criminal law and procedure, and the U.S. Supreme Court, Hartman is currently lecturing on criminal law for the University of Illinois Criminal Justice Department. He has also lectured at the Northwestern Short Course for Defense Lawyers, Practicing Law Institute, National College of Criminal Defense Lawyers and Public Defenders seminar on Defender Management, NLADA Regional Seminar Series, and

National College of District Attorneys. Mr. Hartman is currently associated with the National Defender Institute, a research organization.

Harold S. Jacobson, J.D., is Special Assistant to the Attorney-in-Charge for Planning and Management, Criminal Defense Division, Legal Aid Society of New York City and has primary responsibility for managing and coordinating the developing of budgetary requests and integrating financial, statistical, and narrative presentations to focus on social objectives and goals. Prior positions include Senior Associate in Harbridge House's Management Services Directorate, consultants in the area of public administration, and Management Analyst to the Office of the Assistant Commissioner (Technical), Internal Revenue Service. Mr. Jacobson has co-authored such NLADA Briefcase articles as "Defender Operated Diversion: Meeting Requirements of the Defense Function" and "Studying Vermont Defenders in the Northeast Kingdom." Recently he wrote a chapter for the Public Defender Sourcebook, "Office Reporting and Statistical Forms." A graduate of the University of Wisconsin and George Washington University Law School, he now serves as visiting faculty member for the National Center for Defense Management.

#### Consultant Staff: Designers

Nancy Albert Goldberg, J.D., serving as Director of Training, Criminal Defense Consortium of Cook County, Inc., developed professional training programs for all categories of Consortium personnel and members of the private bar. Prior to that she served as Acting Director of Defender Services, National Legal Aid and Defender Association, supervising defender services and technical assistance provided to defender and assigned counsel programs. In addition to several articles appearing in various legal publications, Goldberg has co-authored Guide To Establishing A Defender System, The Dollars and Sense of Justice, and was Project Director and editor for the final report of the National Study Commission on Defense Services, Guidelines for Legal Defense Services in the United States. The National Study Commission's work was a two-year research effort by 35 specialists culminating in a set of detailed guidelines for the operation of legal defense systems. She is a graduate of the University of Chicago and University of Chicago School of Law. Currently she is president of the National Defender Institute, a nonprofit research and technical assistance facility for defender services.

Bonnie E. McFadden, J.D., until recently served as Associate Director for Defense Services, National Center for Defense Management, where she developed technical assistance programs to assist public defenders and state, local, and private agencies in the improvement of indigent criminal defense systems to conform to national standards. Previously, she was a partner in a Detroit, Michigan, law firm specializing in criminal defense work at both the trial and appellate levels. Ms. McFadden attended Antioch College and Columbia University and is a graduate of Wayne State University and Wayne State University Law School.

**ODTD Program Manager**

**Frederick Becker, Jr.  
Office of Development, Testing,  
and Dissemination  
National Institute of Justice  
U.S. Department of Justice**

## **SCHEDULE**

### **DAY I**

	<b>Registration</b>	<b>11:30 - 1:00 p.m.</b>
<b>Session 1</b>	<b>Workshop Opening, Orientation, and Introductions</b>	<b>1:00 - 1:40 p.m.</b>
<b>Session 2</b>	<b>The Defender as Manager</b>	<b>1:40 - 2:00 p.m.</b>
<b>Session 3</b>	<b>Defender Case Management Information System</b>	<b>2:00 - 3:00 p.m.</b>
	<b>BREAK</b>	<b>3:00 - 3:15 p.m.</b>
<b>Session 4</b>	<b>Master Card and Closing Form Exercise</b>	<b>3:15 - 4:15 p.m.</b>
<b>Session 5</b>	<b>Quality Control Factors in Case Management</b>	<b>4:15 - 4:45 p.m.</b>
<b>Session 6</b>	<b>Caseload Analysis</b>	<b>4:45 - 5:15 p.m.</b>
<b>Session 7</b>	<b>Case Management Implementation Plan</b>	<b>5:15 - 5:30 p.m.</b>
	<b>SOCIAL</b>	<b>6:00 - 7:00 p.m.</b>

## SESSION 1

### DAY I

1:00 - 1:40 p.m.

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#### Workshop Opening, Orientation, and Introductions

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#### Goals of the Session

By the end of this session participants will better understand:

- The Place of the "Operating a Defender Office" (ODO) training program in the third cycle of the National Institute of Law Enforcement and Criminal Justice's National Criminal Justice Executive Training Program (NCJETP)
- The strategy used in developing the ODO workshop
- The overall goal and objectives of the training program
- The ODO workshop curriculum to be covered in the workshop
- The workshop materials: Participant's Handbook, Manual, Evaluation Handbook, and sample forms.

#### Method

Lecture with visual aids.

#### Description

##### Plenary Session:

1. The lead trainer welcomes the participants and formally opens the training workshop.
2. Overview of the National Criminal Justice Executive Training Program given.
3. Outlines the strategy of how the "Operating A Defender Office" training topic evolved (see "Strategy for Training" p. 13).
4. Goals and objectives of the workshop explained (see chart of major training topics, p. 32).
5. Participants are introduced to the Operating A Defender Office Manual and the Participant's Handbook.

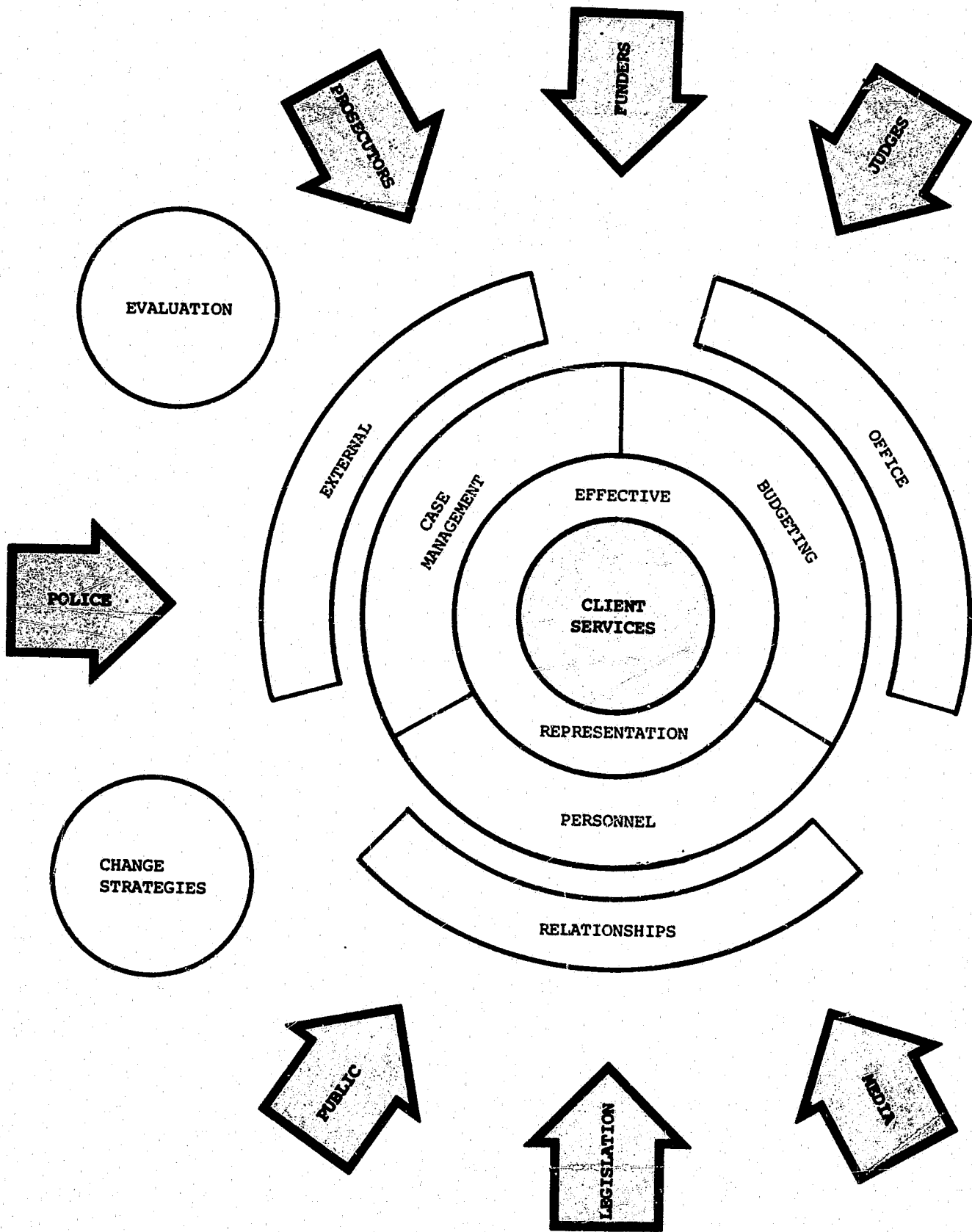
6. Trainer requests participants to introduce themselves to neighbors and allows time for brief conversations.
7. Training staff introduced.
8. Trainer provides link to the first session, "The Defender As Manager," and introduces session trainer.

**Materials/Logistics/Ambience**

1. A room large enough to accommodate all participants.
2. Work table across front.
3. Podium with lavalier microphone.
4. Flip chart with markers.
5. Participant handbook and manual for each participant.

**STRATEGY FOR TRAINING**

- **Research**
- **Survey**
- **Decision Memo**
- **Literature Review**
- **Planning Conference**
- **Needs Assessment**
- **Workshop Design**
- **Pilot**





## SESSION 2

### DAY I

1:40 - 2:00 p.m.

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#### The Defender As Manager

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#### Goals of the Session

By the end of this session participants will:

- Better understand why the ODO workshop is addressing management issues
- Have a better awareness of management responsibilities applicable to defender offices
- Have a clearer concept of the relationship of management functions to ODO training topics.

#### Method

Lecture with visual aids.

#### Description

1. Participants remain in plenary session.
2. Trainer develops management needs of a Defender Office.

#### Materials/Logistic/Amibence

Same as previous session.

## **Trainer's Notes THE DEFENDER AS MANAGER**

**"Operating a Defender Office" is a program concerned with management. Not management as an abstraction, but as applied to your defender offices. Therefore, we will not address those burning issues that defenders consider at other gatherings--continuity or stage representation, whether a defendant should have the right to select his attorney from among the defender staff. Moreover, we will not address any substantive or procedural criminal law. I have told you what we will not address. What will we address?**

**Machiavelli said that three factors shaped history. They were necessia--hard, unshakable facts; virtu--the quality of leadership; and fortuna--sheer luck, chance, the incalculable. Over the next two days, we will try to help you develop, marshal, and utilize those hard facts in a systematic fashion, and enable you to critique your leadership techniques and to add to your management repertoire. We will also provide a means to forecast the future, to limit the risks and impact of chance and the incalculable.**

**What we will address is management responsibilities, not an inclusive laundry list of defender functions and responsibilities. Two and a half days would not nearly suffice to treat the universe of defender management concerns. Rather, the subjects selected are core ones: caseload management, budget and resource development, personnel management, and external relations. As you might anticipate, within our time limits, we will not offer the last word on each of those subjects. Rather, we will highlight techniques and problem-solving within those areas.**

**A threshold question that arises is, when does a defender become a manager? When he is named defender and supervises a secretary? When he supervises at least one other attorney? When he supervises ten attorneys (the ratio recommended in the National Commission of Defense Services Guidelines)? I would suggest that you wear the management hat even if you are the complete legal and investigative staff and you have a part-time secretary working for you. Why then? Because you have the fundamental responsibilities, for determining the quality of the services you provide to clients, for communicating your resource needs to the governmental body that is charged with funding defender services, and for mobilizing community and bar support for your resource requirements.**

**When we started to develop this course, we spent a great deal of time discussing weaknesses: defender management and office deficiencies. We did not focus on the fundamental strength of the defender; the analytical mind that logically strips away the layers of a situation to the basic issues and evaluates the evidence relating to the issues. Moreover, the defender is trained as an advocate; management requires decisionmaking, positiontaking, selling those decisions to staff and those positions to funding authorities. Therefore, we are asking you to consider redirecting those advocate skills toward your management responsibilities.**

What is management? Management is the process of accomplishing work with and through others.

What are the functions of management? Four that are commonly referred to are planning, organizing, directing, and controlling. The question that must cross your mind is, are those functions applicable to defender office management? Let us examine them in more detail.

Planning is the process of deciding what and how it will be achieved. Objectives and goals must be established for the future. Strategies must be mapped out to reach those objectives and goals.

Planning is future-looking, analyzing, and attempting to limit the uncertainty of that future. Planning is a means of influencing the future or preparing for the conditions or impact of future events.

Does operating a defender office involve planning? Should a defender office set objectives and goals? Should it be developing strategies to achieve those objectives and goals? I would anticipate that many of you, if polled, would not answer affirmatively. You envision yourselves as firefighters--leaping from crises to crises, your strength is in survival techniques.

Let me direct your attention for a moment to the Self-Evaluation Manual for Public Defender Offices, and the questionnaire on "Scope of Services." That listing has been the "wish" list for many defender offices for years; it should be the starter set for the establishment of objectives and goals. At the conclusion of our three days together when I ask, does operating a defender office involve planning, we anticipate a unanimous verdict.

Planning is also the foundation of the three other management functions--organizing, directing, and controlling.

Let us examine organizing as a management process. Organizing is the decisionmaking that determines who will do what and who will report to whom. This process, therefore, involves grouping activities into jobs, assigning responsibility for activity, and delegating authority necessary to perform the activities. The result of the organizing process is the development of a structure, an organizational framework, a network of authority-activity relationships.

As I indicated earlier, our purpose here is not to go into the merits of continuity or stage representation, separate appellate organization, or a unified defender organization. Nevertheless, those concerns are clearly management's responsibility in performing the organizing function; how shall tasks and activities be grouped to achieve effective performance and what authority should extend to those groupings to perform those tasks and activities.

The function of directing is one that most defenders are familiar with; it is the process of leading and motivating subordinates to perform daily the activities and tasks for which they are responsible. Directing includes both interpersonal and impersonal means of leading and motivating. Most defender offices are relatively small, especially when compared with other organizations, public, private or private-non-for-profit. Limited staff size normally calls for a greater degree of interpersonal leadership and motivation. Thus, creating an environment that enhances the quality of performance, that invites productiveness, that generates effectiveness, is predicated on one-to-one, communication. The skills that a manager should bring to this task are also found in lawyering and in performing the advising and counseling function. Moreover, trial attorneys have developed highly effective skills of communicating in a limited feed-back situation, trying a case before a jury where only nonverbal responses can be obtained. A salient characteristic of persons who are effective in inter-personal relationships and as communicators is their ability to listen, which is essential for two-way communication.

The ability to direct is also predicated on confidence and courage. Indecisiveness, the inability to make decisions on situations and issues that have ripened, is counterproductive when attempting to motivate staff. Leadership, even in the smallest organization, is generated through risktaking, taking positions on issues that are fundamental to an organization's mission and purpose. Defenders are no strangers to position-taking, no strangers to issues that require taking the unpopular stand to counter political demagoguery, no strangers to standing for principle when the crowd pleasers and even the media herald the expedient and the popular.

Finally, we come to the function of controlling. Controlling is the process of evaluating what we have achieved, determining whether that meets our planned objectives and goals and making corrections where we have deviated from our plan. Thus, controlling requires that we decide on a measurement system; we need to know what will be measured. We need to know what error rate we will tolerate and when we determine that we are off course or when we are on target. Thus, controlling requires a comparison; actual results versus desired results with a concluding corrective course of action.

So far, it sounds like we are talking about machines or space shots. (Are we in the correct orbit?) Needless to say, controlling also applies to people-actions; people perform activities according to a plan. The control function involves locating the performance that is off course and the persons who are responsible for those tasks. It requires suggesting, recommending, even requiring changes in performance that contribute to organizationally targeted goals.

Managerial control, then, is exercised through performance evaluation, problem-solving, and counseling.

Let us review these functions in an applied fashion: there are 50 of us here and we start to develop a plan: our objective is to locate a training site in the United States where we can gamble legally in our free time. First, to set our goals, what do we need to know? Sites: Las Vegas, Atlantic City. What are our constraints and priorities? Cost, travel time,

ERA passed? Availability of gambling spots. Now let's set our goal in objective terms--gambling within one thousand miles--maximum available gambling between the hours of 7 p.m. and 6 a.m.

To develop our plan further, what do we need to know: Number of people, available flights to and from, trains, auto routes, available hotel rooms, who's going to pay for it, LEAA?

Now, we've decided on Reno, and we've decided to charter a flight to Reno and we'll all stay at Harold's Club or a comparable hotel. We also decided that we'll all present our groups' need to get home to a travel agent in Reno. Our plan has a day of departure to Reno and a day of departure from Reno. How are we doing insofar as our planning function?

Now, when we spoke of those four functions we did not intend to suggest that they are separate or distinct. In fact, there is major overlap. If you were listening closely, we were setting up many assignments; some group was busy making decisions--that's a function of organizing (where do we assign responsibility for travel arrangements, hotel rooms, for negotiating with LEAA on how many chips they're going to start us with). We also have established an authority network--persons with those assignments will have to have someone to report to (can we get the charter aircraft when we need it, can we get the necessary number of hotel rooms, etc.).

Directing is also involved: the hotel rooms are not available ("Come on, Mike, did you pull out all the stops, tell them how important it is to have this group?" How about John--he's negotiating with LEAA, he's going to need a lot of support to go back in there and mix it up, especially after the static he received when he initially opened the subject).

Finally, controlling is involved--when we land after an hour or so of flying time, are we in Reno or did our pilot decide on Las Vegas because that's where he would rather be.

Sounds like nothing more is needed to manage than common sense. But then why is it uncommonly found? Managerial effectiveness is the result of a studied practice of the art. Despite the use of scientific management techniques, the practice of management is an art form.

Management effectiveness requires three fundamental factors: technical skill, managerial skill, and communication skills. For defenders, the technical skill required lies in the practice of criminal law, for most as trial lawyers.

Management skill is the knowledge and understanding of how to perform the management processes--how to plan, organize, direct, and control the activities of an office.

The synergistic factor, communicating, brings together both the technical and management skills enabling those we work with to share our understanding of a situation: an office's strengths and weaknesses, an office's goals, its strategies for achieving those goals, and the status of our progress, individually and collectively.

Finally, let me speak about another type of responsibility of defender management. As chief defenders, you undertake several major responsibilities. First, you commit yourselves to representing a class of persons who meet two conditions: they are charged with crimes and they are unable to afford an attorney of their own choosing. I emphasize the class of persons since it is the macro responsibility that you undertake as a defender manager, rather than your individual client.

That responsibility includes projecting to the legal and criminal justice communities the standard of representation that you demand, projecting to the funding authority the resource standards that you require, and projecting to the public and client community the advocate roles that you will fulfill.

Secondly, you undertake responsibility for an organizational entity, for its continuity, its reputation, for its direction. Parkinson's observations on organizations and management offer "laws" that parallel those of Newtonian physics. What is applicable here is, "The primary mission of an organization in being is to remain in being--the priority mission is survival, maintenance of the organization." Rarely does an organization set a goal of completing a specific set of tasks and terminating, and then actually acting on that termination. The federal government and most state governments abound with "temporary commissions" that have developed a life apart from their original purpose. The purposes and the need for your organizations, however, are real, dynamic, and growing. Therefore, your responsibility to your organization can be written in the Athenian's oath to his city--to leave that office more effective and competent than you found it when it was entrusted to you.

Thirdly, you undertake responsibility for your staff since management is the process of performing tasks with and through others. Staff satisfaction and retention, staff development and motivation, avoidance of case hardening, mitigating "burnout," all those personnel problems peculiar to defender offices, are yours. Staff morale and satisfaction are a function of your success in realizing the resources your defender office requires: Do you have enough attorneys for the caseload assigned to the office or are you constantly questioning whether overload has reached any ethics situation? Do you have the necessary complement of support staff: investigators, secretaries, social workers, paralegals, or are you and your legal staff all of the above?

Do your clients, their families, and witnesses enter offices that suggest professional services or slumlord tenancy? Does your staff utilize office equipment and technology that is appropriate for this decade or do you have to contend with antique collectors?

In summary, as a chief defender, you have management responsibilities which include the setting and accomplishment of organizational continuity goals and staff development and maintenance goals.

All of the defender responsibilities we have outlined and many others which we have not yet touched upon are the reasons why we are here today, why LEAA undertook the funding and development of "Operating a Defender Office." So again, the subject is management of an organization, its mission and its staff.

A management philosopher once observed:

The summits of the various kinds of business are, like the tops of mountains, much more alike than the parts below--the bare principles are much the same; it is only the rich variegated details of the lower strata that so contrast with one another. But it needs traveling to know that the summits are the same. Those who live on one mountain believe that their mountain is wholly unlike all others.

We ask each of you to share with your colleagues the view from your summit and how you cope with the strata below. And we ask you to openly question the hows, and to ask why.

## **THE DEFENDER AS MANAGER**

- Planning
- Organizing
- Directing
- Controlling

### **PLANNING**

- Deciding what is to be achieved
- Setting objectives and goals
- Strategies to achieve goals

### **ORGANIZING**

- Who will do what
- Who will report to whom
- Grouping activities into jobs
- Assigning responsibilities
- Delegating authority

### **DIRECTING**

- Leading and motivating
- Communicating
- Listening
- Confidence and courage in:
  - Decisionmaking
  - Position-taking

### **CONTROLLING**

- Evaluation
- Comparison of planned and actual
- What will be measured and how
- Acceptable error rate
- Corrective action



## **SESSION 3**

### **DAY I**

**2:00 - 3:00 p.m.**

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## **Defender Case Management Information System**

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### **Goals of the Session**

By the end of this session participants will have a better understanding of:

- Problems of case management common to defender offices
- The objectives of an effective case management information system
- The six "building blocks" for a case management system
- The overall flow of case management information
- The various reports required for an effective system
- The requirements of effective caseload analysis.

### **Method**

Lecture with visual aids.

### **Description**

1. Participants remain in plenary session.
2. Lead trainer provides outline of sessions covering "Defender Case Management Information System."
3. Issues of case flow management presented in conjunction with charts included in handbooks.

### **Materials/Logistics/Ambience**

Same as previous session.

**Presentation Outline  
"Defender Case Management  
Information System"**

**-Laurence A. Benner-**

I suspect that most of us at some point in our career as defenders have encountered the problem of

- Lost files;
- Scheduling conflicts;
- Overloaded attorneys;
- Missed court appearances; and
- The difficulty of assembling critical information on short notice.

We will be discussing these and other problems associated with management of high volume caseloads during this session.

What I would like to talk about first is the concept of a Case Management Information System. Although every law office has a system of some kind for handling cases, the principles underlying this concept were first developed by William Highans. A few years back, the National Center for Defender Management conducted a survey of defender offices and analyzed the problem of case management (portions of the handbook produced following that study are in your manual).

In putting together this series of workshops, we at the National Institute, with the assistance of staff at the National Defender Institute and Bonnie McFadden, formerly with the National Center for Defense Management, have built upon that analysis and updated it.

A Case Management Information System is basically an informational network which provides you as chief defender with the current data you need to effectively plan, analyze, and control the operation of your office. The two primary functions of such a system are therefore: Data Gathering and Quality Control. What can an effective Case Management Information System do for you?

It can:

1. Provide for prompt location of case files and determination of case status.
2. Prevent scheduling conflicts.
3. Assure that all court appearances, and motion and notice deadlines are met.
4. Provide quality control checkpoints to assure effective representation.
5. Provide information necessary to review and evaluate the effectiveness of personnel.
6. Generate data essential to measure overall office performance and productivity.
7. Protect client confidentiality.
8. Prevent work overload.
9. Promote intraoffice cooperation, coordination, and harmony.
10. Improve the ability of your office to win cases.

In short, an effective system can do everything from projecting future staffing requirements to locating the status of a case and the defendant without having the file in front of you!

Now there is no one universal or perfect system that can be applied to all offices.

Differences in criminal procedure, court practices, prosecution policies, and the experience level of staff all affect the type of system that will work best for you.

There are however, six basic building blocks which experience has shown are useful in constructing an effective Case Management Information System.

Depending upon the size of your office, it may not be necessary to utilize all of the components and the needs of your office may not require your system to generate all the data we will be showing you here.

Our goal is simply to explore the range of possibilities--the types of data you can collect by using these various component parts and allow you to experiment with them in the breakout groups to build a case management information system which meets the needs of your office.

You might keep in mind that there is always a trade off between value of the information to you and the cost to collect it.

One can cut costs using funds from various sources--CETA, Senior Citizens; WIN. The objective should be to design the simplest, most streamlined system which gives you only the information you really need.

What we would like to do now is discuss the variety of results which can be produced concerning case management and show how the six building blocks can be used to collect the data necessary to put them together.

As the chart shows: (See p. 52)

This is the INFORMATION FLOW--in a very simplified system--for producing reports which will show:

- The STATUS of pending cases
- OFFICE PRODUCTIVITY
- DISPOSITIONAL STATISTICS, and
- ATTORNEY WORKLOAD

We will be using a trial office as a Model here, but the principles can be easily applied to an Appellate office or state-wide system.

(Describe Chart, "Information Flow".)

## DESCRIPTION OF CHART

1. ESSENTIAL INFORMATION CONCERNING the Defendant and the Charge are taken down in the INTAKE INTERVIEW FORM and
2. TRANSFERRED to a MASTER CARD
- 2a. A Defender office case number and the ATTORNEY assigned are also recorded on the MASTER CARD.
3. Under the simple system shown here, as the case progresses all COURT DATES and ACTIVITIES are RECORDED on the FILE JACKET.
4. Which is returned to clerical personnel to UPDATE the MASTER CARD
5. At the end of the month/or other time period the MASTER CARDS ARE PULLED AND TABULATED to produce the data for Management Reports

---

The MASTER CARDS can be COLOR CODED to facilitate tabulation of data:

- by ATTORNEY
- age of case
- type of case so forth

Although theoretically you could use the file jackets themselves to work from it's a good idea to still have MASTER CARDS.

They come in handy when you need to quickly determine the STATUS of a case and, in case a file does become lost they provide a permanent record which can be used to reconstruct critical information concerning the case.

In an office with any volume of cases cards are less cumbersome than files, they can be more readily tabulated and cross-tabulated for a particular factor, and, they cut down the incidence of lost files and breaches of confidentiality since there is less shuffling of files around.

---

Now there are five basic questions which a Case Management Information System should be able to answer for us.

What is the volume and type of cases we are handling?

- How many new cases each month?
- Overload situation? Contract quota met?
- What kind of offenses are involved?

What is the status of our pending caseload?

- How many trials?
- Is a backlog developing?

How productive are we?

- How many trials are conducting?
- How many motions?  
(can compare this to prior years)

How well are we doing?

- What is the outcome of our trials? motions?
- What is the result - i.e. the sentence imposed upon our clients?

What is the workload level for our staff?

- Are some or all of our attorneys overloaded?
- Is the distribution of cases fair?

For the purposes of discussion we will treat some of these areas as reflecting separate reports although they could form parts of a single report.

The first type of report we shall call the CASE STATUS REPORT - (See p. 53,45)

(DESCRIBE CHART)

1. Volume
2. Type
3. Status
4. Age

Next is the ACTIVITY REPORT (see p. 55)

- This is good for county commissioners.
- Shows how productive you have been during past month--closed cases.

Next is the DISPOSITIONAL REPORT (see p. 56)

This is based on closed cases using closing form which shows the outcome and result by type of disposition.

Using the closing form to produce the data for this report there is a multitude of information you can obtain about your closed cases.

(Go to Chart showing CLOSING FORM (see p. 57)      DESCRIBE CLOSING FORM)

Finally, we have an ATTORNEY WORKLOAD ANALYSIS REPORT (see p. 58).

Each of the reports we have mentioned can be produced for each individual attorney by cross-tabulating the MASTER CARDS by ATTORNEY NAME

---

Now, how do we design a system which will collect all of this information accurately, tell us when we have to be in court, and keep our office running smoothly?

Let's start with the steps involved in OPENING A CASE CHART (See p. 59).

We will assume that we have early entry and that attorneys pick up the cases during a regular trial check.

Beginning with INTAKE INTERVIEW FORM the first building block is:

INTAKE INTERVIEW FORM- filled out by attorney at initial client contact. In addition to eliciting information essential for effective defense representation, the intake interview form must collect data about the defendant including:

- eligibility information
- Jail/Bail status
- address and phone
- whether has co- - conflict
- prior Defender Office client
- pending case
- probation or parole status/hold?
- bond information
- special problems - mental, alcohol, drugs
- next court date

It should also be designed to elicit legal issues such as Search and Seizure, Eye Witness Identification, etc. and provide enough information for effective review and supervision.

The extent of structure and detail regarding issues depends upon experience of staff.

It can also serve as a checklist for notice deadlines - such as alibi-defense, insanity, etc.

The completed Intake Form is then immediately returned to the office for clerical intake and preparation of the file jacket.

The case is opened by recording the defendants name next to a pre-recorded Defender office case number in the MASTER LOG (See p. 61).

(DESCRIBE MASTER LOG)

1. Master Log should be a bound book which provides a permanent record of all office clients.
2. By assigning pre-recorded case numbers sequentially duplication errors are avoided.
3. The MASTER LOG is the source for the number of new cases opened figure in the CASE STATUS REPORT.
4. It is also the source for caseload aging data - filed opened date - closed date.
5. Should a question arise about whether or not you represent a defendant and you have no MASTER CARD, you can determine by checking the pages around the arrest date whether the client ever entered your system.
6. Could be used to check against jail list to insure all arrestees have counsel.

The second step clerical personnel take in opening a case is to transfer key information from the INTAKE FORM to the MASTER CARD for that case.

The third step is to CALENDAR the NEXT COURT Appearance.

For small office DAY-TIMER DESK BOOK makes a convenient calendar  
Left Side - Daily appointments and CHECKS. Right Side - Time Court Appearance.

- method to get information to (A carbon copy of the MASTER CARD can be sent to the DOCKET CLERK if these functions are handled by different personnel).

The final step is to prepare the file JACKET AND CASE FILE CONTENTS. The file jacket should be structured to record all court dates, activities, and actions taken in a case.

The front cover should have only non-confidential information to which ready access is desirable.

The inside back of the front cover can be designed to easily record:

- Court appearances
- Client visits
- Motions field
- Disposition

The contents of the case file itself should also contain:

1. Adequate information to enable the case to be taken by another attorney in an emergency and properly document what actions were taken and decisions made should the adequacy of representation later be challenged. Example:



- Record of plea negotiations offers and counter offers.
- Names, addresses and description of defense witnesses.
- Investigation requests and reports, statements, etc.
- analysis of legal issues possible defenses and evaluation of the case.
- correspondence.

The file should also contain time record to facilitate collection of this data.

(GO TO STATUS MAINTENANCE CHART) ( See p.62)

Now, once file is returned to professional staff after clerical intake, how is case status maintained?

(Describe Flow Chart, CASE STATUS MAINTENANCE) (See p.62)

The MASTER CARD is the critical component of any case management information system.

(Describe MASTER CARD) (See p.63)

Once disposition is reached the Attorney fills out a closing form and gives it to clerical personnel to close the case:

(Describe STEP IN CLOSING CASE) (See p.65)

This brings us full circle to the FIVE KEYS to successful case Management.  
(See p. 67)

**OBJECTIVES**

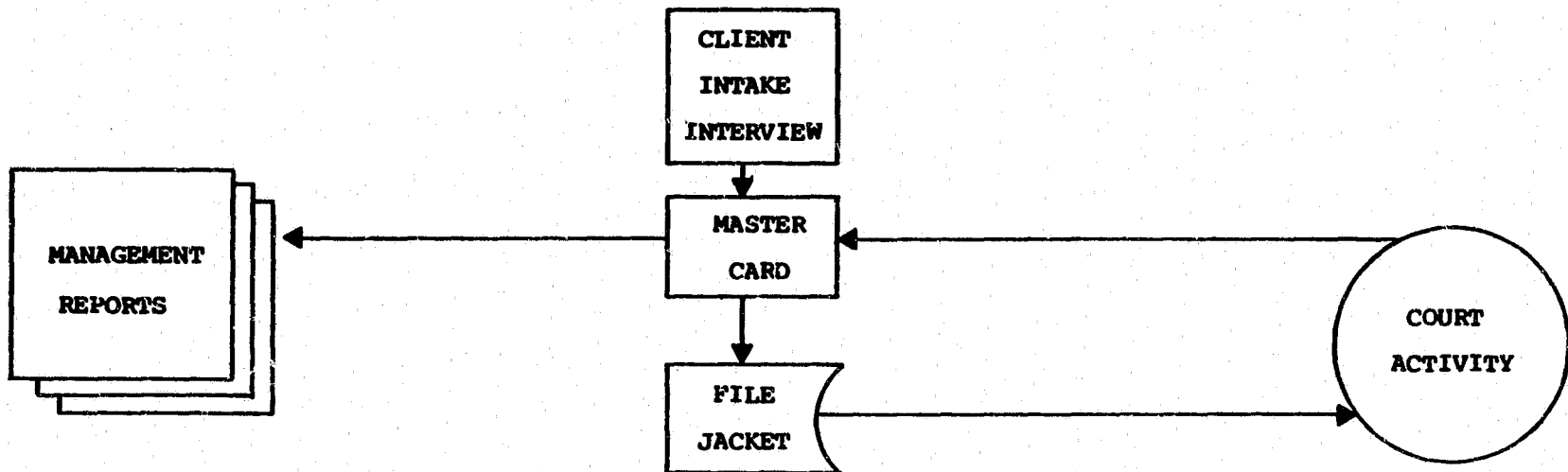
1. Provide prompt determination of case status.
2. Prevent scheduling conflicts.
3. Ensure court appearances.
4. Provide quality control.
5. Review and evaluate staff performance.
6. Measure productivity.
7. Protect client confidentiality.
8. Prevent work overload.
9. Promote office peace.
10. Win cases.

**SIX BASIC BUILDING BLOCKS**

- 1. Intake Interview Form**
- 2. Master Log**
- 3. Master Card**
- 4. File Jacket**
- 5. Calendar**
- 6. Closing Form**

(Case Management)

INFORMATION FLOW



(Case Management)

**CASE STATUS REPORT**

M.I.

M.C.

	Felony	Misd.	Juv.
New Cases	<u>50</u>	<u>100</u>	<u>25</u>
Pending (+)	<u>200</u>	<u>300</u>	<u>100</u>
Closed (-)	<u>50</u>	<u>175</u>	<u>50</u>
Net Pending	200	225	75

**OFFENSE CLASS - FELONY**

M.C.

	Murder	Rape	Arm. Rob.	Welfare Fraud
New	1	12	9	20
Total	5	18	33	23

(Case Management)

(2)

**CASE STATUS REPORT**

STATUS OF PENDING CASES			
Pending:	<u>Felony</u>	<u>Misd.</u>	<u>Juv.</u>
<u>M.C.</u> Indictment	20	-	-
Pre-Trial	75	60	30
Jury Trial	<u>25</u>	<u>35</u>	<u>15</u>
Bench Trial	<u>5</u>	<u>10</u>	<u>3</u>
Plea	65	80	20
Sentence	45	55	33

CASELOAD AGING (Days)						
	<u>30</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>180</u>	<u>Over Six Months</u>
<u>M.C.</u> Felony	40	75	125	40	5	2
Misd.	90	100	30	15	2	
Juv.	75	40	10	2		

(Case Management)

M.C.

ACTIVITY REPORT

No.	
260	Total Court Appearances
25	Arraignments
75	Preliminary Exams
5	Line-Ups
22	Motions Filed
50	Pleas
15	Trials
40	Sentencing HRGS
16	Non-Client Assistance
2	Appeals Filed
1	Other: Extradition HRG

(Case Management)

C.  
L.

DISPOSITIONAL REPORT

<u>Type</u> ➡		<u>All Cases</u>	<u>Plea</u>	<u>Jury</u>	<u>Bench</u>
O U T C O M E	Conviction				
	● As Charged				
	● Reduced Charge				
	Acquittal				
	Dismissed				
	● At Pre-Lim ● On Motion ● Plea Agreement ● Other				
R E S U L T	Prison				
	County Jail				
	Probation				
	Fine				
	Diversion				
	Other				



**CLOSING FORM**

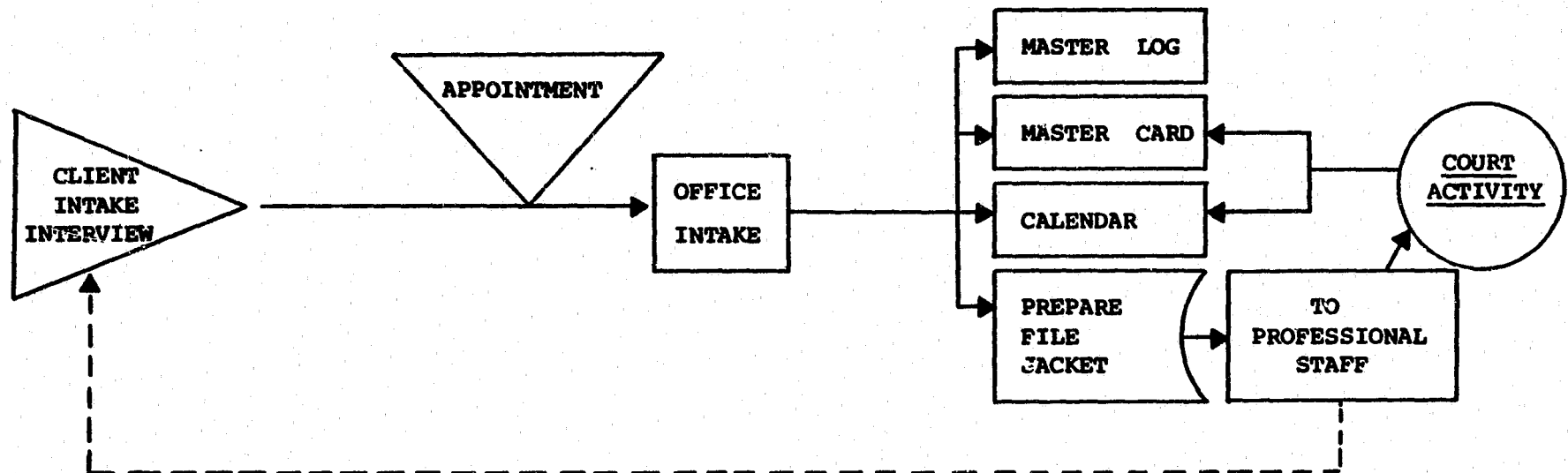
1. Defendant's Name and Location
2. Defender Office Case Number
3. Date:    Arrest  
             File Opened  
             Disposition (Sentence)  
             File Closed
4. Charge(s):    Disposition Method  
                         Outcome
5. Sentencing Alternatives:    Plan  
   Result
6. Attorney - Investigator - Social Worker
7. Hours Spent on Case
8. Fact Summary and Theory of Defense
9. Motions/Issues Raised
10. Experts Used
11. Defendant Demographics:    Age  
   Race  
   Prior Record  
   Bail Status
12. Misc:    Judge  
              Confession - I.D. - S+S  
              Prosecutor  
              Police Agency

**ATTORNEY WORKLOAD ANALYSIS**

- 1. CASELOAD VOLUME**
  - A. Number of Defendants**
  - B. Number of Charges**
  - C. Seriousness of Charges**
- 2. STATUS OF PENDING CASELOAD**
- 3. CLOSED CASES**
  - A. Type of Disposition**
  - B. Outcome**
  - C. Result**
  - D. Average Time to Disposition**
  - E. Average Hours Spent**
    - 1. By Offense**
    - 2. By Disposition Type**
    - 3. By Court**
- 4. ACTIVITIES DURING MONTH**
  - Number of Trials, Pre-lims, Motions, Etc.**

(Case Management)

STEPS IN OPENING A CASE



# Attorney Caseload Analysis

Attorney \_\_\_\_\_ Date \_\_\_\_\_

Team \_\_\_\_\_ T/A \_\_\_\_\_

<u>Case Stage</u>	<u>No. of Felonies</u>	<u>No. of Misdemeanors</u>
Initial Appearance to Pre-Trial	_____	_____
Pending Trial	_____	_____
Pending Plea	_____	_____
Pending (Disposition Uncertain)	_____	_____
Pending Sentencing	_____	_____
<b>SUBTOTAL</b>	_____	_____
Misc. (P/V, P/R, EXP, etc.)	_____	_____
<b>TOTAL</b>	_____	_____

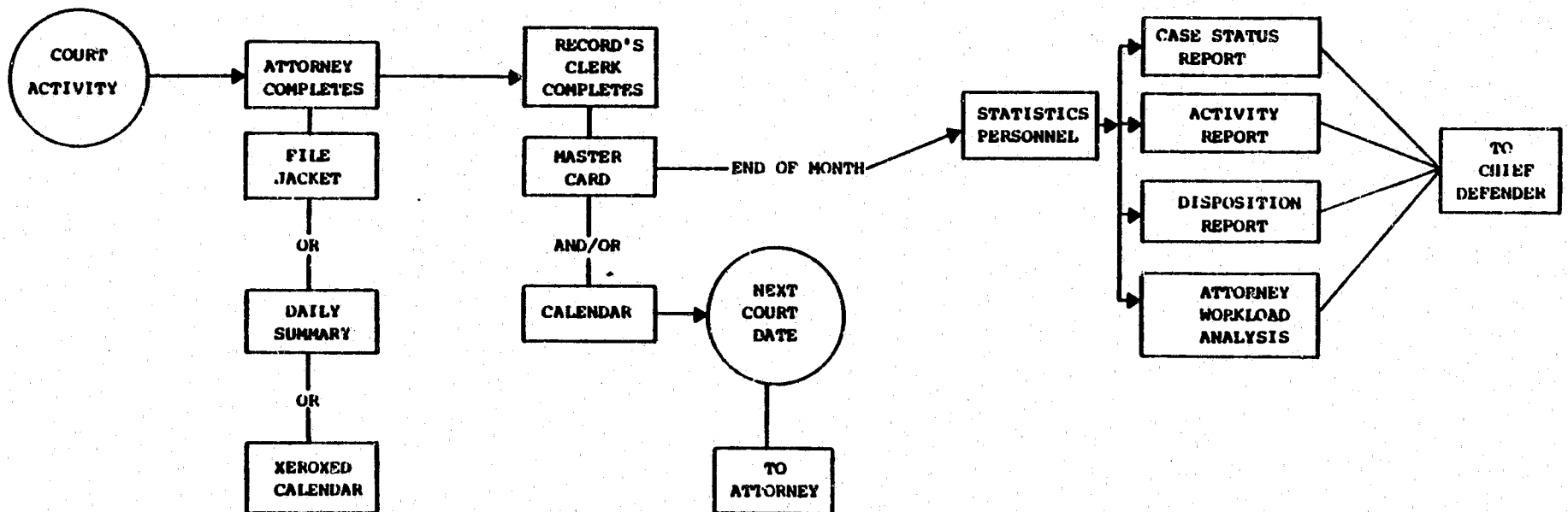
This form is due every Friday at 10:00 a.m. It should be given to \_\_\_\_\_  
 \_\_\_\_\_ for evaluation and future redistribution of cases.

(Case Management)

MASTER LOG

DATE FILE OPENED	DATE OF DISPOSITION	DEFENDER OFFICE CASE NO.	DEFENDANT'S NAME	CHARGE	COURT	COURT CASE NO.
6-21-78	6-30-78	78-100-F	Jones, T.	B + E	Circuit	78-1000A
6-21-78		78-101-F	Brown, S.	Arson	Circuit	78-1000B
6-21-78		78-102-M	Smith, J.	Assault	Rockford	M-200
6-22-78		78-103-J	Kidd, B.	Delinquency	J. Ct.	J-501
6-22-78	7-25-78	78-104-F	Green, R.	C.S.C.	Circuit	78-1000C

# INFORMATION FLOW FOR CASE STATUS MAINTENANCE



**(Case Management)**

**MASTER CARD**

- 1. Defender Office Case Number**
- 2. Date File Opened/Closed**
- 3. Defendant's:**   **Name**  
                          **Location**  
                          **Phone (Alternate)**
- 4. Name of:**       **Attorney**  
                          **Investigator**  
                          **Social Worker**
- 5. Charge(s)**
- 6. Court and Court Case No.**
- 7. Current Status**
- 8. Court Activity Record**
- 9. Disposition:**   **Date**  
                          **Type/Outcome**  
                          **Result**

(Case Management)

PENDING		DATE
Indictment	<input type="checkbox"/>	
Pre-Lim	<input checked="" type="checkbox"/>	5-21-78
Motion	<input checked="" type="checkbox"/>	5-30-78
Pre-Trial Confr.	<input checked="" type="checkbox"/>	7-25-78
Jury Trial	<input checked="" type="checkbox"/>	8-15-78
Bench Trial	<input type="checkbox"/>	
Plea	<input type="checkbox"/>	
Sentence	<input type="checkbox"/>	
Mental Exam	<input type="checkbox"/>	
Bench Warrant	<input type="checkbox"/>	
Interlocutory Appeal	<input type="checkbox"/>	
Other	<input type="checkbox"/>	



# Master Card

**File#** \_\_\_\_\_

**Defendant** \_\_\_\_\_ **Police Dept.** \_\_\_\_\_

**AKA** \_\_\_\_\_ **Incident #** \_\_\_\_\_ **File Opened** \_\_\_\_\_

Charge	CR #	M/F	Date	Bond	Disp. Code
--------	------	-----	------	------	------------

(1)					
(2)					
(3)					
(4)					
(5)					
(6)					

**Bond** ☐ **Jail** ☐ **City** ☐ **County** ☐ **WH** ☐ **(MC** ☐ **)**

Step	Status	Date Lapse	Atty.	Date Lapse	Atty.
------	--------	------------	-------	------------	-------

## Arrest

Initial App.

**A—Pend. Pre T.**

**B—Pend. Bench T.**

**C-Pend. Jury T.**

**D—Pend. Prelim.**

**E-B.O./Wvd. P.H.**

## F-Indictment

### **G—Pend. Arraign**

**H-Pend. Bench T.**

**1—Pend. Jury T.**

**K - Pend. Sent.**

**L—Pend. Appeal**

**M—Pend. Rev. H.**

**N-B.F. Capias**

### O-Disposition

Sentence	Term
----------	------

**Term**

**Probation** ☐ \_\_\_\_\_

**Incarceration** ☐ \_\_\_\_\_

**Place of Incarceration** ☐ \_\_\_\_\_

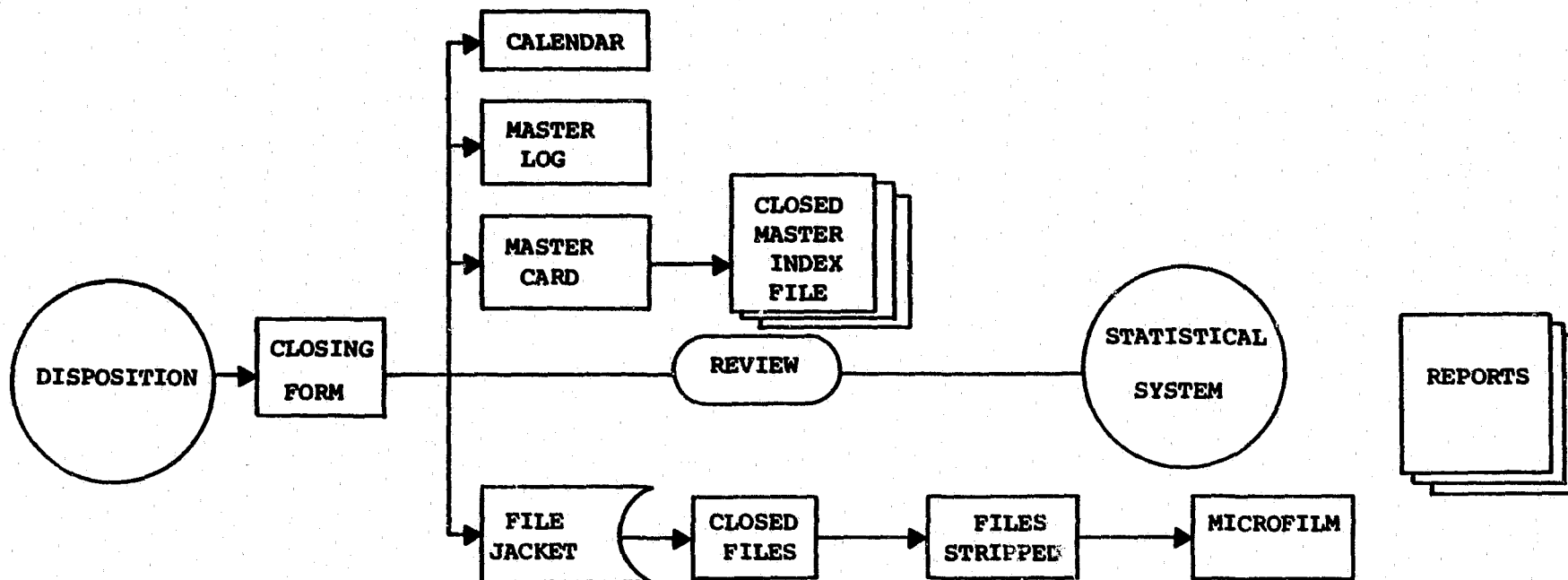
**Judge** \_\_\_\_\_ **Date of Disposition** \_\_\_\_\_

## Co-Defendants

## Attorneys

**Other Ref.**


STEPS IN CLOSING A CASE



**FIVE KEYS TO SUCCESSFUL  
CASE MANAGEMENT**

- 1. Pinpoint responsibility.**
- 2. Delegate authority.**
- 3. Provide written procedures.**
- 4. Require discipline.**
- 5. Support administrative personnel.**

## SESSION 4

### DAY I

---

#### Master Card and Closing Form Exercise

---

#### Goals of the Session

By the end of this session participants will:

- Be better acquainted with other participants in their workshop group
- Have identified information items they would want on a master card and a closing form in their offices
- Better understand how a master card and closing form can help develop a more effective case management system.

#### Methods

1. In the plenary session the lead trainer outlines the goals of the breakout group exercise.
2. Participants will be divided into groups of 10 to 15 people. If possible, the groups should be determined by size of the defender office: small (up to seven employees), medium (to employees), and large (over 20 employees). This approach insures that group participants will have similar problems to address.
3. A group trainer will be designated for each breakout group to lead discussion and set forth the exercise.

#### Description

1. Following the introduction to the exercise in the plenary session, participants go to separate breakout rooms as assigned.
2. The trainer assigned to each group will facilitate the instructions for the exercise.
3. When each participant has completed the individual work, the trainer will record the pertinent information on newsprint and conduct a discussion.

### Materials/Logistics/Ambience

1. Rooms should be large enough to accommodate each breakout group in conference style.
2. Participant's Handbook should be available for each participant.
3. Flip chart and marker should be in each breakout room.

## **WORKSHOP TRAINER'S INSTRUCTIONS**

### **Master Card and Closing Form Exercise**

#### **PARTICIPANT INTRODUCTIONS**

Since this is the first workshop exercise, take time for each participant to introduce himself/herself to the group.

You may wish to use a brief introductory exercise or to provide each a few moments of "air time" to lay successes and problems of his/her defender office on the table.

A variation might be to ask each to give the most successful area of management in his/her office and the greatest problem yet to be solved. Such issues could be listed on a flip chart for discussion later.

Another variation could be to list each participant's "primary" expectation from the training program.

#### **EXERCISE INSTRUCTIONS**

1. Request each participant to take a few minutes to develop a list of items which he/she feels should be included on a master card.
2. When individuals indicate they have developed their lists, start around the room eliciting one item at a time from each participant.
  - a. List the items on newsprint.
  - b. Ask participants to indicate why what item should be included on the master card.
  - c. Ask where the information will come from for each item.
3. When all different items have been listed, ask the group to reduce list to the "irreducible minimum."
4. After completing the master card list, follow the same format for developing the closing form.
5. Or request participants to look at the closing form items on page 57 and ask if there are additions/deletions they would make.
6. However the closing form list is generated, follow through by asking participants to justify each item's inclusion and where information will come from.

**Close workshop session with a summary statement appropriate to discussion and findings. Request participants to return to plenary session for "Quality Control Factors in Case Management."**

## SESSION 5

### DAY I

4:15 - 4:45 p.m.

---

#### Quality Control Factors in Case Management

---

#### Goals of the Session

By the end of this session participants will have a better understanding of:

- How to design forms so that they communicate desired information
- Quality control checkpoints for more effective client service
- What to do to ensure the confidentiality of client information.

#### Method

Lecture.

#### Description

1. Participants return to the plenary session.
2. The lead trainer discusses three areas of quality control: forms design, quality control checkpoints, and confidentiality.

#### Materials/Logistics/Ambience

Plenary session room as previously set.



## **PRESENTATION OUTLINE**

### **"Quality Control Factors in Case Management"**

#### **I. Form Design**

##### **A. Busyness**

Busyness concerns the art or design principles relating to how the eye moves and gathers information. A crowded, disorganized form distracts one's concentration and will make forms difficult for staff to use.

##### **B. Ways of Avoiding Busyness**

1. Do not attempt to create all-purpose forms.
2. Group common elements together in sequential or alphabetical order.
3. Avoid horizontal lines, excessive punctuation, bizarre abbreviations, and unnecessary words or details.

##### **C. Color Coding**

1. Color coding is a valuable tool in facilitating easy separation of data forms.
2. Example: Color coding for master card:
  - a. Color code for attorney, types of case, or month of the year.
  - b. Color tags can serve same purpose as color cards.

##### **D. Form Content**

1. Problems often encountered include:
  - a. Blanks routinely not filled out.
  - b. Questions not answered.
2. Problems occur because:
  - a. Information is not available.
  - b. Information is redundant.
  - c. Information is not thought to be important.

3. Solution:

- a. Revise form.
- b. Revise procedure.
- c. Re-educate staff.
- d. Periodically review and revise forms.

E. Form Organization

- 1. Separate areas of interest.
- 2. Create "boxes" of different sizes on each page with space between edges to set apart.

F. Methods of Recording Data

- 1. Multiple Choice Advantages:
  - a. Speed.
  - b. Accuracy.
  - c. Easy tabulation.
  - d. Consistency of information.
- 2. "Fill-in" Form Advantages:
  - a. Completeness.
  - b. Explanatory.
  - c. Matter can be included.

II. Quality Control Checkpoints (see chart, p. 80)

A. Why have quality control checks?

With the heavy volume of cases, you have a duty not only to your clients to assure effective representation but also to your lawyers to protect them from grievances and charges of incompetence. The fastest changing field of law is the area of incompetent counsel.

B. Go through the control checkpoint chart.

III. Client Confidentiality

A. Go through "Ensuring Confidentiality" checklist (p. 81)

B. Example: The office was involved in a highly publicized case in which \_\_\_\_\_, a radical leader, was being defended. When it became obvious that the prosecution was obtaining leads concerning the defense witnesses, the defenders hired a security firm to check for "bugs," but found, instead, that the office had gross violations of office security.

1. The intercom could be used to eavesdrop.
2. Client visitors were left alone in rooms with other clients' files open or in plain view.
3. First drafts of documents, telephone messages, etc., went into waste baskets and sometimes were found blowing around in the parking lot.

C. Example: Witnesses' names written on outside of file jacket which was laid next to prosecutor in court room.

Most confidential information is not worth anyone's effort to find out but one disaster can have consequences to the client, the attorney, and the office.

## PRESENTATION OUTLINE

### "Caseload Analysis"

#### Eliminating Excessive Caseloads

##### A. National Standards

1. All of the national standards condemn excessive caseloads.
2. ABA, Providing Defense Services.
  - a. The objective in providing counsel is to assure quality legal representation:
  - b. Defenders should not accept additional cases or continue representation which in their professional judgment will lead to representation lacking in quality.
  - c. ABA Defense Function Standards (1.2d) states:

"A lawyer should not accept more employment than he can discharge within the spirit of the mandate for speedy trial and the limits of his capacity to give each client effective representation."
3. The National Study Commission on Defense Services recommended that defenders should establish workload standards and decline additional cases if their taking on the work might result in inadequate representation for some or all of the office's clients.

##### B. National Advisory Commission 13.12 Sets Maximum Caseload Standards

1. Per full-time attorney, one hundred fifty felony cases per year.
2. Misdemeanors, four hundred.
3. Juvenile, two hundred.
4. Appeals, twenty-five.
5. There are several problems with this approach, however.
  - a. What are you counting as a case?
  - b. What types of cases are they?
  - c. Also, there are a number of factors which will vary in each jurisdiction which affect the ability to handle cases.

- (1) Rate of disposition.
- (2) Percentage of cases tried.
- (3) Adequacy of support staff.
- (4) Court practices and procedures.
- (5) Prosecution policies (particularly regarding discovery).
- (6) Travel time.
- (7) Experience of staff.
- (8) Your definition of quality representations.

C. Another alternative is to use pending caseload as a measuring stick.

1. Wallace v. Kern reduced the legal aid society attorneys' caseload to 40 pending felony indictment (strained to the limit).
2. D.C. Public Defender Services permit 30 pending cases; of these, 20 are pending trial, motion, and 10 are pending plea, sentence.

D. How can we document excessive caseload?

1. One way is:

a. When you no longer have enough attorneys to cover all the court appearances.

b. Another is to undertake time studies--

- (1) To determine statistical average for each type of offense (number of hours).

Example: 15 hours to handle average breaking and entering including investigation, down time, client visits, etc.

- (2) Multiply that figure times the projected number of breaking and entering's for each offense.

- (3) The result is the total number of hours needed to represent caseload under present conditions.

- (4) Compare that figure with the total number of attorney hours available during the year (1,200 to 1,500 usable hours per year).

c. The problem with time studies is that they only measure the time it takes to provide the level of services you are presently providing. Needed is an outside evaluation to measure quality of present representation.

**E. How can you document and determine whether an individual attorney's caseload is excessive?**

**1. New York Case Cutoff Mechanism:**

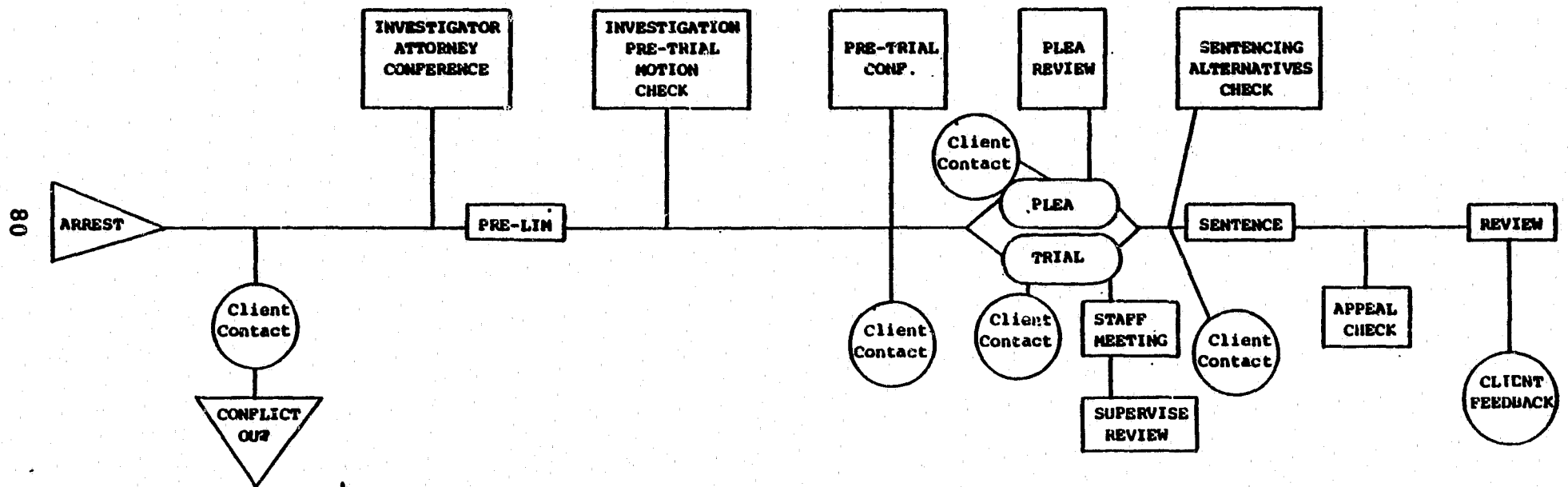
- a. Attorney asks for relief from additional assignments.
- b. Factors:
  - (1) Experience level
  - (2) Difficulty of cases--simple or complex
  - (3) Stage of proceedings
  - (4) Age of cases
  - (5) Degree of preparation necessary
  - (6) Number of trials in past 60 days.
- c. Form is filled out by both the staff attorney and his/her supervisor.

**F. How to Eliminate Excessive Caseloads**

- 1. Invite judges and bar leaders, county commission or state legislators to a meeting and show documentation.
- 2. Use excess cases (Project Advocate).
- 3. Petition your Supreme Court to exercise its supervisory powers to issue a court rule restricting caseload.
- 4. Get someone to file a federal class action in behalf of your clients alleging denial of right to counsel and equal protection.
- 5. Bottom line: Simply refuse to take more cases on the grounds that it would violate the Canons of Professional Ethics.

The Code of Professional Responsibility forbids an attorney to accept a case in which he or she is unable to render competent service.

# POSSIBLE QUALITY CONTROL CHECKPOINTS



**ENSURING CONFIDENTIALITY--A CHECKLIST**

1. Establish written policies and procedures.
2. Educate staff regarding security need.
3. Secure case files.
4. Secure unfiled documents and papers.
5. Establish checkout procedure for closed files.
6. Soundproof offices.
7. Establish telephone system.
8. Discourage writing on outside of file jackets.
9. Implement "need to know" rule.
10. Shred waste paper.



**CONTINUED**

**1 OF 4**

## SESSION 6

### DAY I

4:45 - 5:15 p.m.

---

### Caseload Analysis

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#### Goals of the Session

By the end of this session participants will have a better understanding of:

- The factors affecting the determination of acceptable caseload levels
- A system for monitoring workload levels
- How to develop a time requirement and time availability analysis of cases in the system
- How to use the national standards to develop an effective caseload level.

#### Method

Lecture with visual aids.

#### Description

1. Plenary session.
2. Lead trainer discusses the major areas of assistance to combat excessive caseloads:
  - a. National standards.
  - b. National Advisory Commission.
  - c. Pending caseload measuring stick.
  - d. Documenting the excessive caseload.
  - e. Eliminating excessive caseload.

#### Materials/Logistics/Ambience

Plenary session room as previously set.

(Case Management)

**TIME REQUIREMENTS ANALYSIS**

<b>Type Offense</b>	<b>Average Hours Expended</b>	<b>Projected Caseload</b>	<b>Total Attorney Hours Required</b>
Burglary	20	100	2,000
Armed Robbery	25	100	2,500
Murder	100	20	2,000
Rape	50	60	3,000
Assault	10	200	2,000
<b>Total attorney hours needed to handle projected caseload</b>			<b>= 11,000</b>

(Case Management)

TIME AVAILABILITY ANALYSIS

Number Working Days	-	Lost Days: Holiday Vacation Sick Training	=	Number Effective Days	X	Number Productive Hours Per Day (Time Study)	=	Number Available Hours Per Attorney
260	-	23	=	237	X	6	=	1,422 Hours
<hr/>		<hr/>		<hr/>		<hr/>		<hr/>

(Case Management)

**ATTORNEYS REQUIRED**

**7.7 (Attorneys)**

**1,422  
(Available  
Hours)**

**11,000 (Required Hours)**

**LEGAL AID SOCIETY  
CRIMINAL DEFENSE DIVISION  
CASE EVALUATION--CUTOFF REQUEST**

**DATE OF ATTORNEY REQUEST \_\_\_\_\_**

1. Attorney Name: \_\_\_\_\_
2. Criminal Court Starting Date: \_\_\_\_\_
3. Supreme Court Starting Date (if applicable): \_\_\_\_\_
4. a. Total Caseload: \_\_\_\_\_ Office Average: \_\_\_\_\_  
b. Sentencing Only: \_\_\_\_\_ Office Median: \_\_\_\_\_

**Criminal Court Only: \_\_\_\_\_**

5. Number of Felonies: \_\_\_\_\_ Misdemeanors: \_\_\_\_\_

**Teams (Vertical) Only: \_\_\_\_\_**

6. Number of Felonies: \_\_\_\_\_ Misdemeanors: \_\_\_\_\_

7. Number of Jail Cases: \_\_\_\_\_

8. Total Dispositions in Past 60 Days: \_\_\_\_\_

9. Number of Trials \_\_\_\_\_ and Trial Days \_\_\_\_\_ in Past 60 Days.

**TO BE COMPLETED BY ATTORNEY AND SUPERVISOR**

[illegible]

## **STANDARDS**

**Tentative Draft Revision, 1978**

**American Bar Association Standards Relating to Providing Defense Services**

### **5-4.3 Workload**

The objective in providing counsel should be to assure that quality legal representation is afforded. Neither defender organizations nor assigned counsel should accept workloads which, by reason of their excessive size, interfere with the rendering of such representation or lead to the breach of professional obligations. Whenever defender organizations or assigned counsel determine, in the exercise of their best professional judgment, that the acceptance of additional cases or continued representation in previously accepted cases will lead to the furnishing of representation lacking in quality or to the breach of professional obligations, the defender organizations or assigned counsel should take such steps as may be appropriate to reduce their pending or projected workloads.



## **STANDARDS**

**National Advisory Commission on Criminal Justice Standards and Goals, 1977**

### **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.

National Study Commission on Defense Services  
Guidelines for Legal Defense Systems in the U.S.

**RECOMMENDATIONS AND COMMENTARY ON WORKLOAD AND CASELOAD LEVELS**

**1. Establishing Maximum Pending Workload Levels for Individual Attorneys**

(a) In order to achieve the prime objective of effective assistance of counsel to all defender clients, which cannot be accomplished by even the ablest, most industrious attorneys in the face of excessive workloads, every defender system should establish maximum caseloads for individual attorneys in the system.

(b) Caseloads should reflect national standards and guidelines. The determination by the defender office as to whether or not the workloads of the defenders in the office are excessive should take into consideration the following factors:

(1) Objective statistical data;

(2) Factors related to local practice; and

(3) An evaluation and comparison of the workload of experienced, competent private defense practitioners.

**2. Statistics and Record-Keeping**

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

(b) Every defender director should receive, on a weekly or monthly basis, detailed caseload and dispositional data, broken down by type of case, type of function, disposition, and by individual attorney workload.

**3. Elimination of Excessive Caseloads**

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

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

(c) When faced with an excessive caseload, the defender system should diligently pursue all reasonable means of alleviating the problem, including:

(1) Declining additional cases, as appropriate, seeking leave of Court to withdraw from cases already assigned;

(2) Actively seeking the support of the Judiciary, the Defender Commission, the Private Bar and the community in the resolution of the caseload problem;

(3) Seeking evaluative measures from the appropriate national organization as a means of independent documentation of the problem;

(4) Hiring assigned counsel to handle the additional cases; and

(5) Initiating legal causes of action.

(d) An individual staff attorney has the duty not to accept more clients than he can effectively handle and should keep the defender director advised of his workload in order to prevent an excessive workload situation. If such a situation arises, the staff attorney should inform the Court and his client of his resulting inability to render effective assistance of counsel.

## SESSION 7

### DAY 1

5:15 - 5:30 p.m.

---

#### Case Management Implementation Plan

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#### Goals of the session

By the end of this session participants will:

- Be able to indicate which case management information system components will be implemented in their offices
- Better understand the items required for a case management information system.

#### Method

Individual work by participants.

#### Description

1. Each participant will review the case management implementation checklist and check the appropriate column. (Form on p. 94)
2. For those items scheduled for implementation, participants will indicate the obstacles to implementation and possible way of removing them.
3. The checklist will be handed in for review and will be returned to participants at a later date by mail.

#### Materials/Logistics/Ambience

Plenary session with room as previously set.

# CASE MANAGEMENT IMPLEMENTATION

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Office: \_\_\_\_\_ Address: \_\_\_\_\_

Using the information presented on case management, explain your plan to implement the following:

ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
1. Intake Interview Form					
2. Master Log					
3. Master Card					
4. File Jacket					
5. Closing Form					
6. Daily Summary Sheet					

# CASE MANAGEMENT IMPLEMENTATION

ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
7. Quality Control System					
8. Improved Confidentiality Security					
9. Effective Case-load Levels					
10. Time Study Analysis					
11. Litigation Review					
12. Meet with Judges and Bar Leaders					
13. Seek Ethics Advisory Opinion					

## **SCHEDULE**

### **DAY II**

<b>Session 8</b>	<b>Budgeting Introduction--Funding Defender Offices</b>	<b>9:00 - 9:30 a.m.</b>
<b>Session 9</b>	<b>Workload Forecasting</b>	<b>9:30 - 10:45 a.m.</b>
	<b>BREAK</b>	<b>10:45 - 11:00 a.m.</b>
<b>Session 10</b>	<b>Cost Forecasting</b>	<b>11:00 - 11:15 a.m.</b>
<b>Session 11</b>	<b>"Delphi" Method Introduction and Forecasting Exercise</b>	<b>11:15 - 12:00 noon</b>
	<b>LUNCH</b>	<b>12:00 - 1:30 p.m.</b>
<b>Session 12</b>	<b>Grant Funding Checklist/Program Budgeting-- Plans and Goals</b>	<b>1:30 - 2:30 p.m.</b>
<b>Session 13</b>	<b>Contingency Budgeting</b>	<b>2:30 - 2:45 p.m.</b>
<b>Session 14</b>	<b>Budgeting Implementation Plan</b>	<b>2:45 - 3:00 p.m.</b>
	<b>BREAK</b>	<b>3:00 - 3:15 p.m.</b>
<b>Session 15</b>	<b>Personnel Management--Sociodramatization of Issues</b>	<b>3:15 - 5:30 p.m.</b>

## SESSION 8

### DAY II

9:00 - 9:30 a.m.

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#### Budgeting Introduction ~ Funding Defender Offices

---

#### Goals of the Session

By the end of this session participants will have:

- Greater awareness of defender offices' share of dollars available for criminal justice agencies
- Greater awareness of defender offices' number of full-time employees as compared to other criminal justice agencies
- Increased understanding of need for defender offices to develop both short-term and long-term funding goals to obtain required resources.

#### Method

Lecture with visual aids.

#### Description

1. Plenary session with room as previously set.
2. Lead trainer introduces budgeting materials.
3. Discussion of defender portion of federal, state, and local budgets.

#### Materials/Logistics/Ambience

Plenary session room as previously set.



## PRESENTATION NOTES

### Budgeting

Earlier in this text, we referred to a primary management function, that of planning. Planning is paramount in developing resources defender offices require. As an initial step, we should examine the potential sources of funding. Presently, funding comes from three levels of government: federal, state, and local, which can be county, city, or town. Different defenders access these sources to varying extent. Let us review the aggregate picture (see pp. 100-108).

The overall picture still points primarily at local funding, although state funding is increasingly becoming a more important factor, the states having a more flexible tax base, whereas local government is dependent on property taxes. However, proposition 13-type legislation has redirected states toward tax reduction and "hold the line" budgetary attitudes.

Early indications from the plan to revise LEAA were that greater funds would be forthcoming at the federal level. However, austerity measures at the federal level do not augur well for the initiation of a federal corporation, to parallel the legal services corporation, to support defender funding.

Why do defender have continuing funding problems?

Factors affecting defender funding:

#### External:

- Limited public resources aggravated by proposition 13.
- Public attitudes toward clients.
- Low standards set by courts for competence of counsel.
- Competition with the private bar, including the advent of legal clinics whose motto is "We can do it cheaper," also "no fault to defendant's fault"--shift of negligence to bar.
- Political attitudes toward quality of service--choosing the low-cost option; origin of organized defenders.

#### Internal Factors:

- Lack of planning--goal setting.
- Lack of system to document needs.
- Inability to communicate requirements; adherence to line-item budgeting.
- Lack of overhead staffing or funding to invest in budget preparation; "it takes money to make money."

- Apathy; too many prior rejections.
- Finite-funding arrangements' incompatibility with open-ended case intake system.

How to break the cycle? Or, in the alternative, how to hold on to what we already have? Program budgeting is one approach to educating funding sources regarding what they are paying for.

Let's look at the line item budget: it is simple and uninformative.

It does not allow defenders to segregate inflationary, uncontrollable costs; it forces uneconomic choices; lease instead of purchase to minimize year-to-year percentage increases.

Where line item budgets are mandatory, defenders should develop individual program budgets, with cross references to line items to show suballocations within each line item.

Programs can be:

Jurisdictional--

- Superior Court
- Municipal court
- Juvenile court.

Geographical.

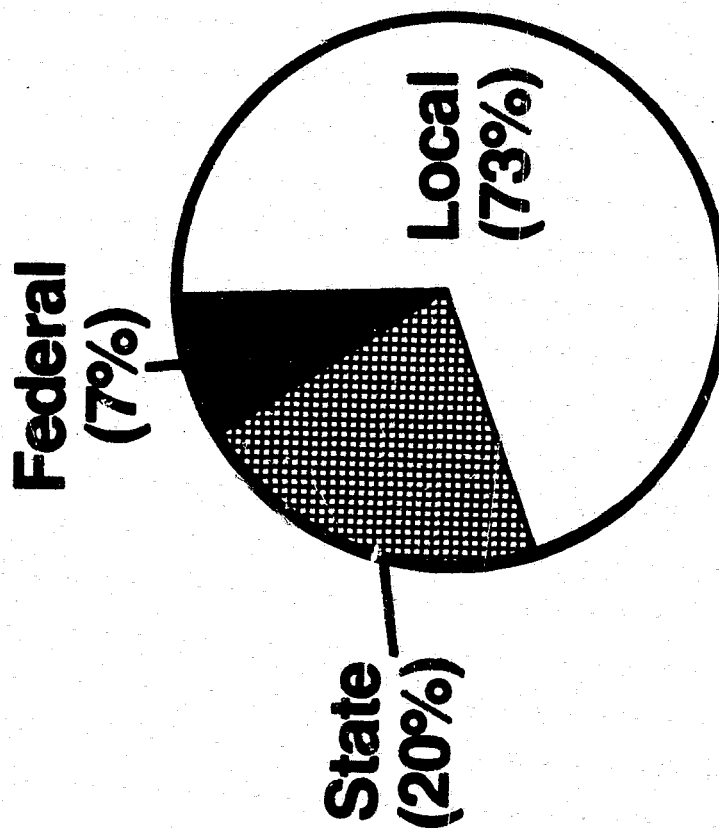
Functional--

- Trial
- Appellate
- Parole or probation revocation
- Prisoners' rights.

We will study more fully program budgeting later. However, you should keep three points in mind when developing your budget:

1. Does it specify actual resources for actual functions and tasks?
2. Does it provide a plan, objectives, goals, and strategies?
3. Does it provide supporting documentation to justify resources allocated for each function and task?

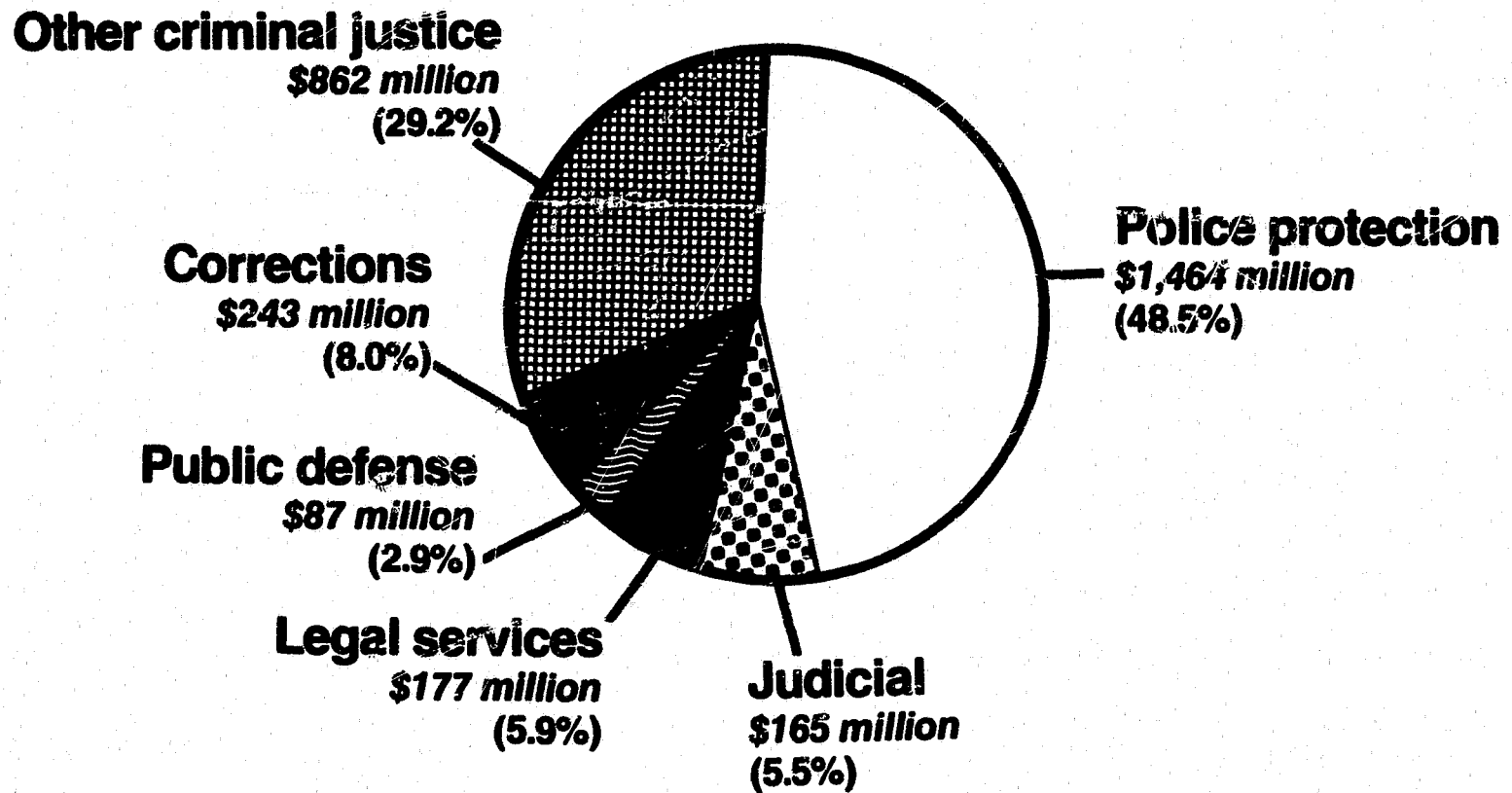
# **Federal, State, and Local Government Shares of Spending for Defense of Indigents in State Courts**



Source: U.S. Department of Justice, Law Enforcement Assistance Administration and U.S. Bureau of the Census, Expenditure and Employment Data for the Criminal Justice System 1975 (Washington, D.C.: U.S. Government Printing Office, 1977).

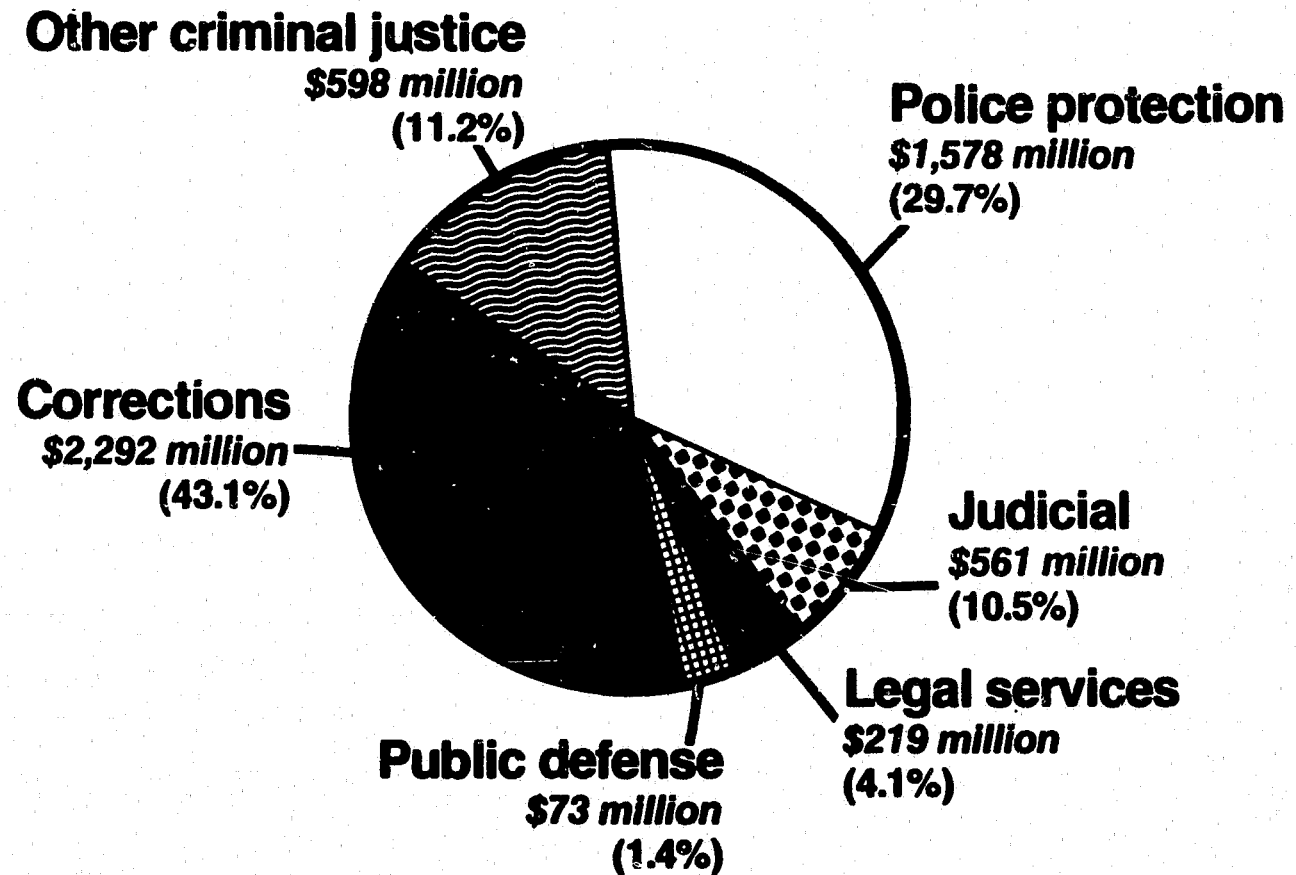
# **Federal Government**

## **\$3,019 million**



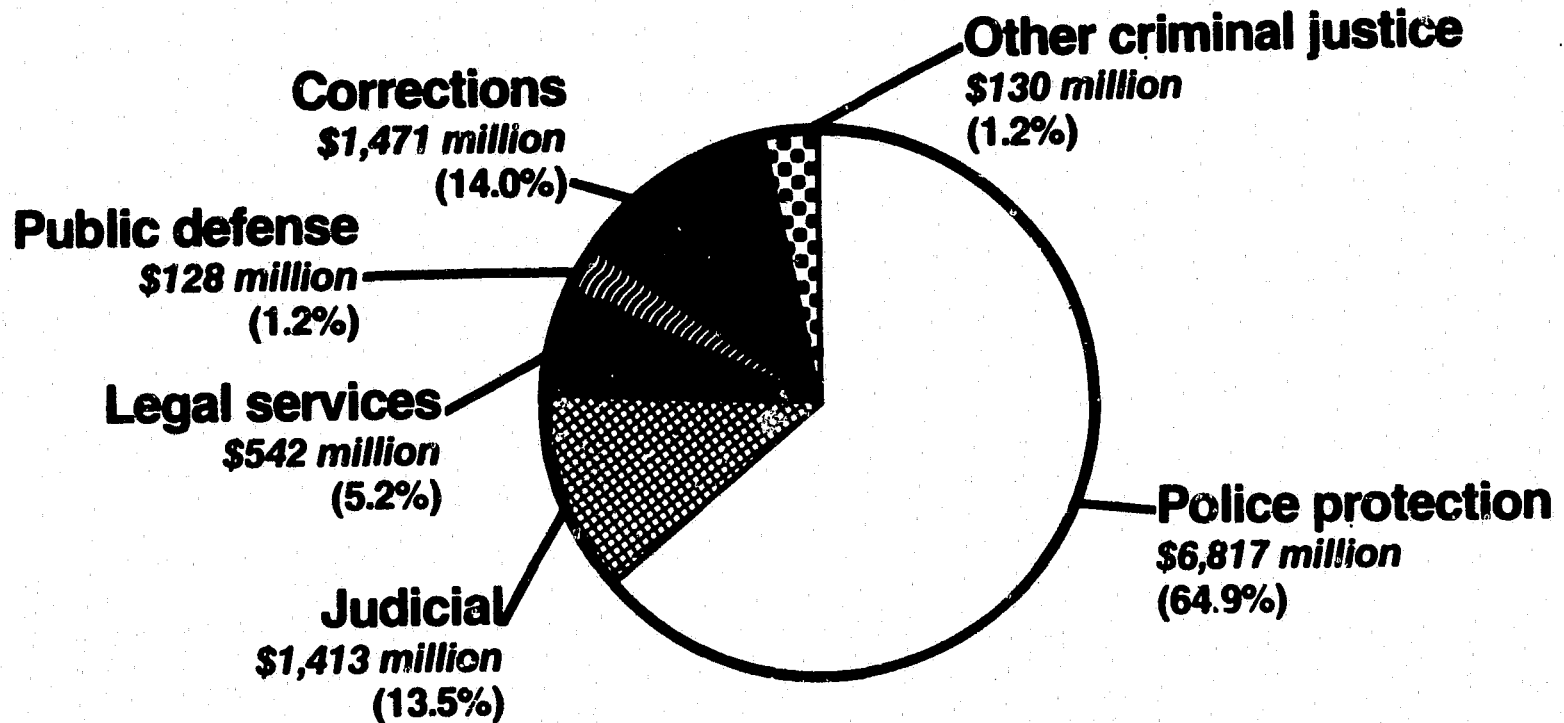
# State Government

**\$5,321 million**



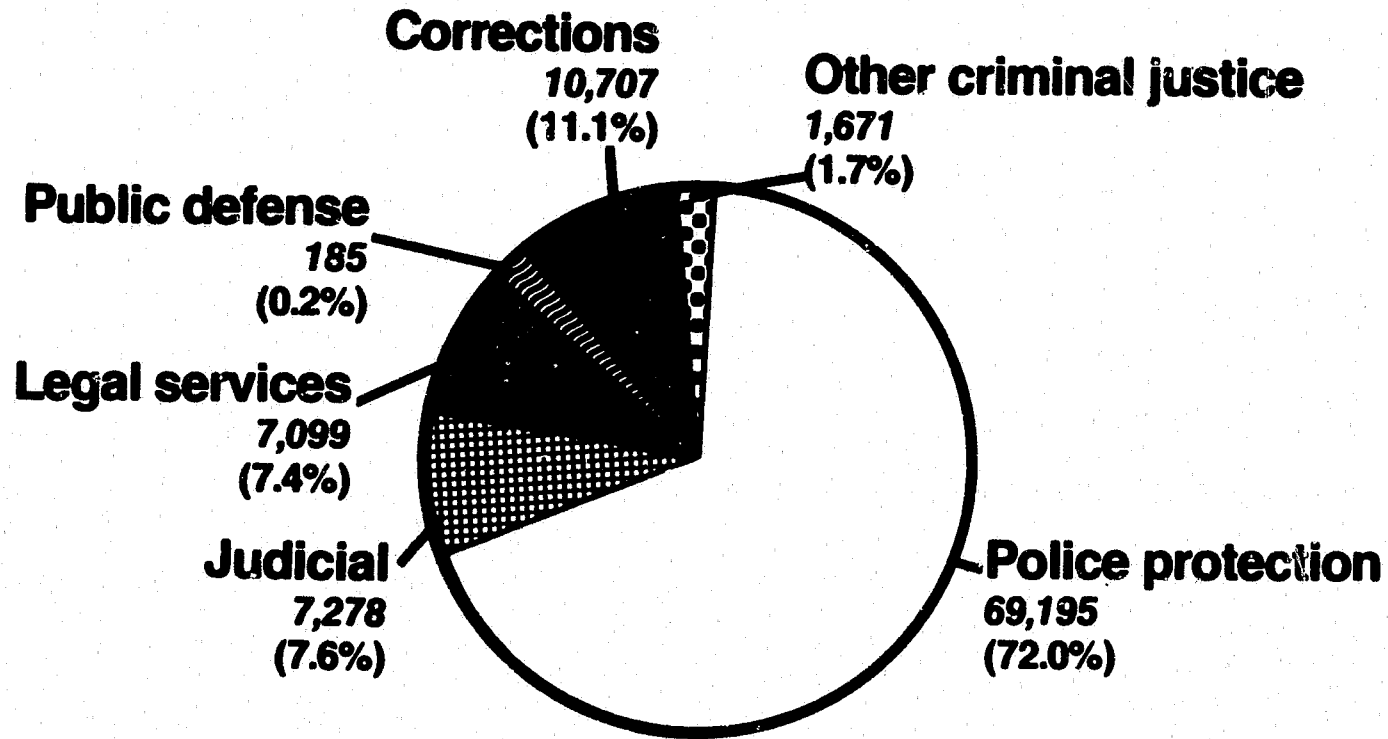
# Local Government

**\$10,502 million**



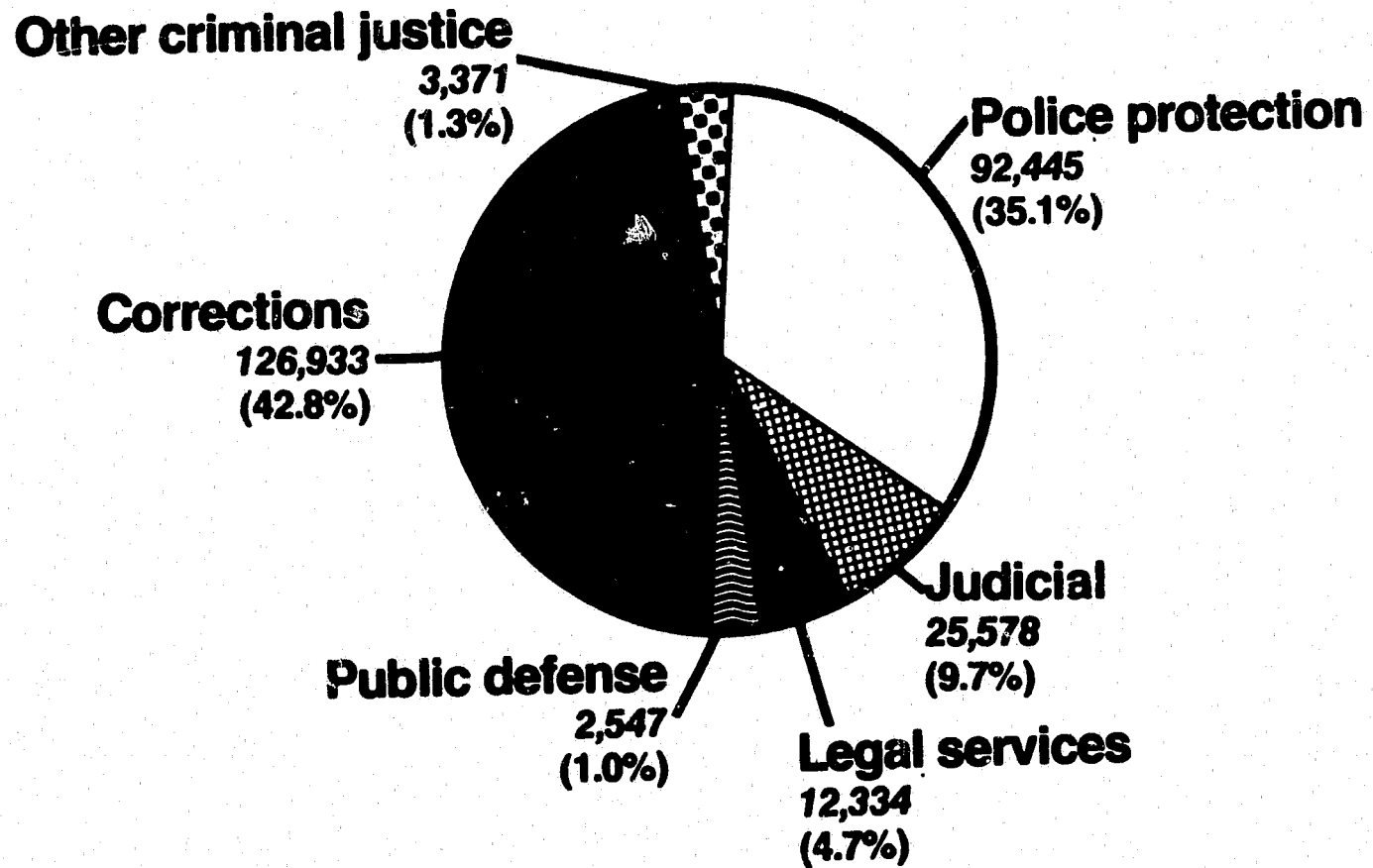
## **Federal government**

**96,136**



# State government

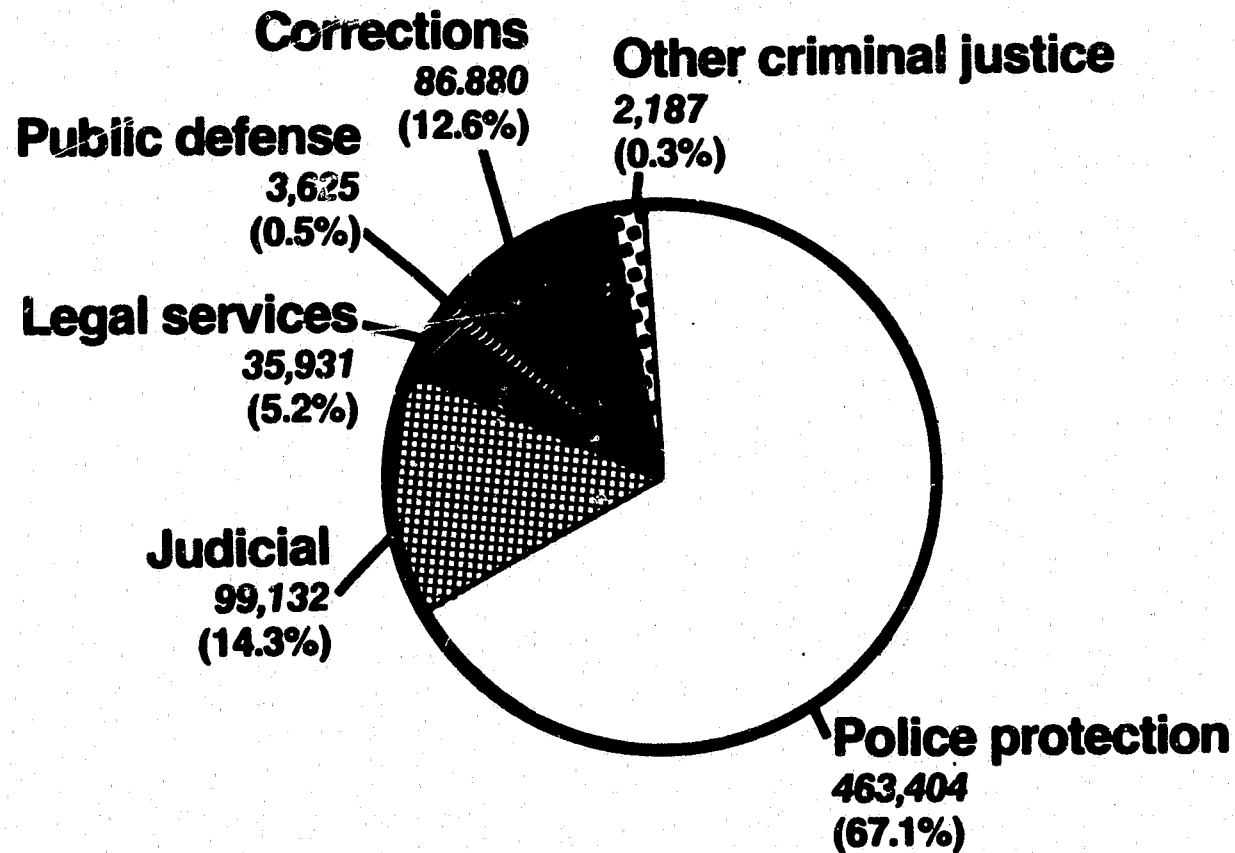
263,208



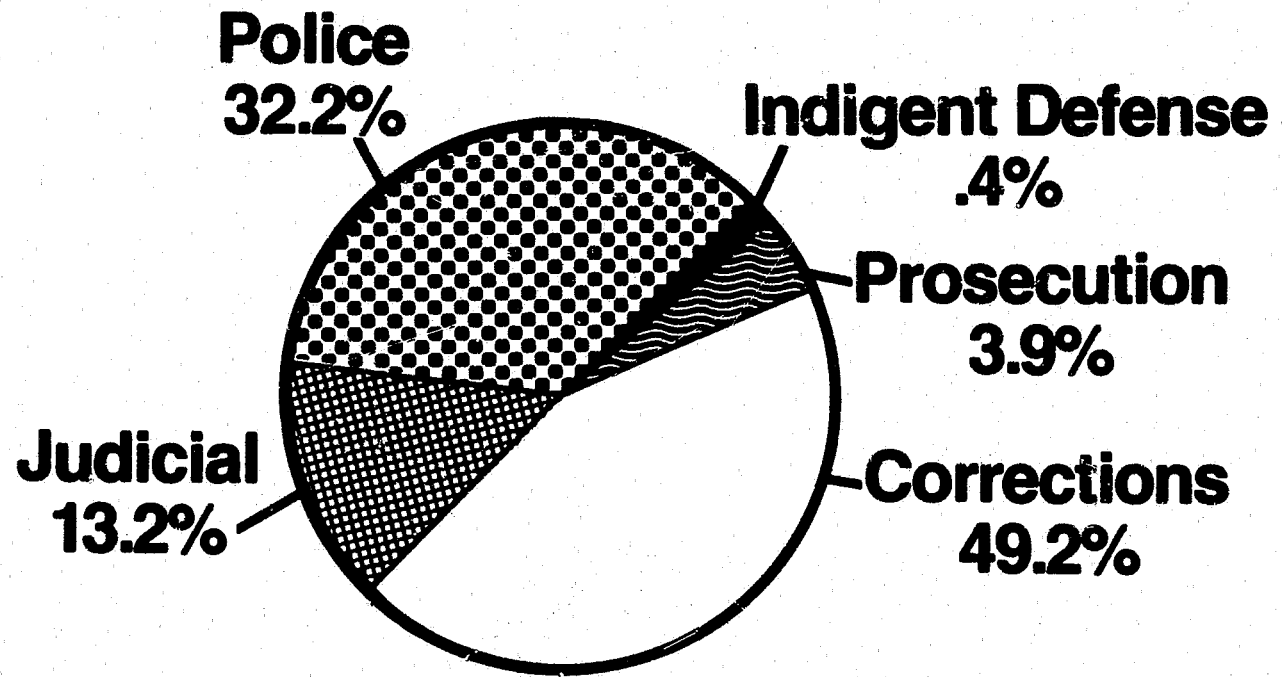


# Local government

691,159



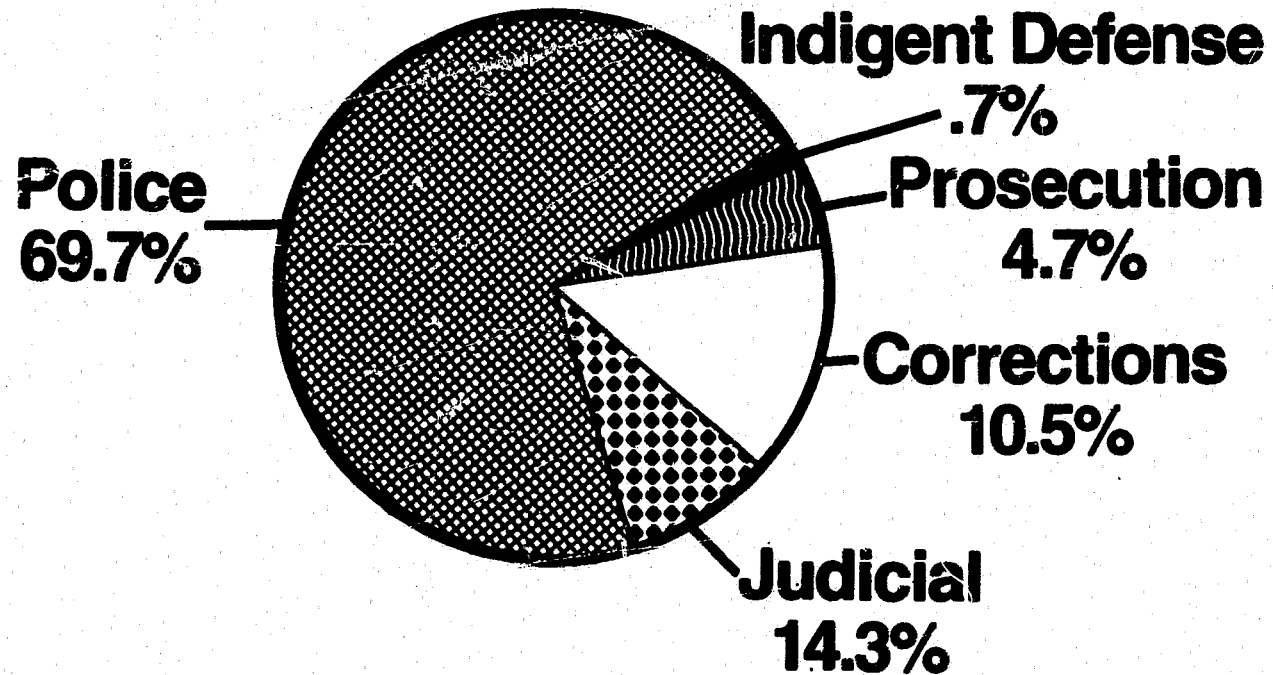
## **Allocation of State Government Criminal Justice Expenditures**



**Total Criminal Justice Expenditure  
= 2,267,549,000**

**Indigent Defense Expenditure  
= 10 215,000**

## Allocation of Local Government Criminal Justice Expenditures



**Total Criminal Justice Expenditure  
= \$5,505,472,000**

**Indigent Defense Expenditure  
= 37,132,000**

# BUDGETING SURVEY

Characterize your office: Rural      Urban      Suburban     

Funding: State      City      County      Other     

Is your funding adequate for Yes No Uncertain

- Felony representation
- Misdemeanor representation
- Juvenile representation
- Appellate representation
- Other services (mental health, prisoner rights, parole revocation)

Is funding adequate for

- Legal staff salaries
- Support staff salaries
- Space, library and equipment
- Operating expenses

Do you receive an appropriate share of grant funding?                                                               

Characterize your immediate (next fiscal year) funding prospects:

Unfavorable                      Fair                      Favorable                     

Characterize your long-range funding (three to five years) prospects:

Unfavorable                      Fair                      Favorable

## **Adequacy of Defender Funding**

<b><u>Area Representation</u></b>	<b><u>Adequately Funded</u></b>	<b><u>Not Adequately Funded</u></b>
<b>Felony (N = 155)</b>	<b>28%</b>	<b>72%</b>
<b>Misdemeanor (N = 143)</b>	<b>32%</b>	<b>68%</b>
<b>Juvenile (N = 12)</b>	<b>36%</b>	<b>64%</b>
<b>Mental Illness (N = 101)</b>	<b>58%</b>	<b>42%</b>
<b>Appeals (N = 122)</b>	<b>39%</b>	<b>61%</b>

## **Average increase in present budget required in each area of representation**

<b><u>Area of Representation</u></b>	<b><u>Share of Present Budget</u></b>
<b>Felony (<math>N = 87</math>)</b>	<b>26%</b>
<b>Misdemeanor (<math>N = 77</math>)</b>	<b>25%</b>
<b>Juvenile (<math>N = 57</math>)</b>	<b>20%</b>
<b>Mental Illness (<math>N = 27</math>)</b>	<b>20%</b>
<b>Appeals (<math>N = 55</math>)</b>	<b>21%</b>

**EMPLOYMENT AND PAYROLL FOR CRIMINAL JUSTICE ACTIVITIES, BY LEVEL OF GOVERNMENT AND TYPE OF ACTIVITY,  
UNITED STATES, OCTOBER 1971 - OCTOBER 1975**  
(Source: U.S. Bureau of Census and LEAA)

State Governments

Percent increase or decrease (-):

Activity	October 1971	October 1972	October 1973	October 1974	October 1975	October 1971 to October 1972	October 1972 to October 1973	October 1973 to October 1974	October 1974 to October 1975	October 1971 to October 1975
<u>Legal Services and Prosecution:</u>										
Total Employees	8,765	\$9,714	\$11,082	\$12,381	\$13,122	10.8	14.1	11.7	6.0	49.7
Full-Time Employees	7,766	8,695	9,905	11,408	11,950	12.0	13.9	15.2	4.8	53.9
Full-Time Equivalent Employees	8,133	9,035	10,490	11,766	12,334	11.1	16.1	12.3	4.7	51.7
October Payroll (in millions)	\$8,037	\$9,461	\$11,468	\$13,579	\$15,615	17.7	23.1	16.6	15.0	94.3
<u>Public Defense:</u>										
Total Employees	1,030	1,432	2,161	2,710	2,602	39.0	50.9	25.4	-4.0	152.6
Full-Time Employees	961	1,382	2,071	2,575	2,518	43.8	49.9	24.3	-2.2	162.0
Full-Time Equivalent Employees	985	1,406	2,102	2,625	2,547	42.7	49.5	24.9	-3.0	158.6
October Payroll (in millions)	\$878	\$1,410	\$2,244	\$2,950	\$3,057	60.6	59.1	31.5	3.6	248.2

continued

Local Governments

Percent increase or decrease (-):

Activity	October 1971	October 1972	October 1973	October 1974	October 1975	October 1971 to October 1972	October 1972 to October 1973	October 1973 to October 1974	October 1974 to October 1975	October 1971 to October 1975
<u>Legal Services and Prosecution:</u>										
Total Employees	30,211	34,607	37,050	39,110	40,958	14.6	7.1	5.6	4.7	35.6
Full-Time Employees	23,487	25,794	26,829	29,217	31,381	9.8	4.0	8.9	7.4	33.6
Full-Time Equivalent Employees	25,954	28,739	30,419	33,598	35,931	10.7	5.8	10.4	6.9	38.4
October Payroll	\$23,043	\$26,849	\$30,308	\$35,584	\$40,810	16.5	12.9	17.4	14.7	77.1
(in millions)										
<u>Public Defense:</u>										
Total Employees	2,936	3,431	3,717	3,823	3,860	16.9	8.3	2.9	1.0	31.5
Full-Time Employees	2,141	2,334	2,585	2,926	3,318	9.0	10.8	13.2	13.4	55.0
Full-Time Equivalent Employees	2,473	2,662	2,967	3,340	3,625	7.6	11.5	12.6	8.5	46.6
October Payroll	\$2,474	\$2,857	\$3,331	\$4,029	\$4,841	15.5	16.6	21.0	20.2	95.7



**CRIMINAL JUSTICE EXPENDITURE, BY LEVEL OF GOVERNMENT AND TYPE OF ACTIVITY AND EXPENDITURE,  
UNITED STATES, FISCAL YEAR 1971-75**

State Governments

Activity	1971	1972	Amount (in millions) 1973	1974	1975	Percent increase or decrease (-):				
						1971 to 1972	1972 to 1973	1973 to 1974	1974 to 1975	1971 to 1975
<u>Legal Services and Prosecution</u>	109,494	127,878	145,805	181,537	219,247	16.8	14.0	24.5	20.8	100.2
-Direct Expenditure	107,799	124,959	143,417	178,355	215,997	15.9	14.8	24.4	21.1	100.4
-Intergovern- mental Expenditure	1,695	2,920	2,388	3,182	3,250	72.3	-18.2	33.2	2.1	91.7
<u>Public Defense</u>	17,266	25,571	41,830	58,055	73,127	48.1	63.6	38.8	26.0	323.5
-Direct Expenditure	16,491	23,963	37,029	51,683	65,481	45.3	54.5	39.6	26.7	297.1
-Intergovern- mental Expenditure	775	1,608	4,801	6,372	7,646	107.5	198.6	32.7	20.0	886.6

Local Governments

<u>Legal Services and Prosecution</u>	295,415	350,150	398,783	476,793	542,440	18.5	13.9	19.6	13.8	83.6
-Direct Expenditure	294,779	348,351	396,899	474,609	539,854	18.2	13.9	19.6	13.7	83.1
-Intergovern- mental Expenditure	787	1,799	2,553	2,627	2,967	128.6	41.9	2.9	12.9	277.0
<u>Public Defense</u>	50,969	63,573	79,283	101,445	127,938	24.7	24.7	28.0	26.1	151.0
-Direct Expenditure	50,961	63,430	79,240	101,281	127,772	24.5	24.9	27.8	26.2	150.7
-Intergovern- mental Expenditure	123	143	257	522	545	16.3	79.7	103.1	4.4	343.1

## SESSION 9

### DAY II

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#### Workload Forecasting

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#### Goals of the Session

By the end of this session participants will understand better:

- The importance of translating caseload into workload for budgeting purposes
- The need for the methods of data keeping that make information accessible for budget preparations
- How to use a weighted caseload method and unweighted average to provide a "planning range" for budget projections.

#### Method

Lecture with visual aids.

#### Description

1. Plenary Session.
2. Explanation of methods to educate funding authorities on defender offices needs.
3. Demonstration of how caseload can be translated into workload.
4. Showing how to maintain an information system to retrieve pertinent data.
5. Utilizing the method of Factor Weighting.

#### Materials/Logistics/Ambience

Plenary room as previously set.

## PRESENTATION NOTES

### Workload Forecasting as an Explanatory, Educational Tool and as Documentation to Support Budgetary Requests

The case has been the core element in evaluating defender staffing and resource requirements. As such, it has undergone definition and redefinition to assure all parties that we are in fact talking about an identical matter, equal parameters, translatable and comparable, office to office, jurisdiction to jurisdiction. The case has been used in standards that have been issued by the American Bar Association and the National Advisory Commission. However, the National Study Commission, of which I was a member, rejected case numbers because there was a lack of objective research to support the promulgation of those numbers and a case in Los Angeles County was not comparable to a case in the Northeast Kingdom of Vermont, despite the fact that the charge was identical.

In the next few hours, we will offer two approaches, as well as a hybrid of the two, as an alternative to the case to explain and to educate funding authorities regarding defender staffing and resource requirements. These approaches will also provide you with a means of analyzing your caseload and a method to document your budget requests.

The concept we will be dealing with is workload forecasting, rather than caseload forecasting. The translation of caseload to workload involves techniques of weighting. You are familiar with weighting, perhaps even from your youth. When I was a kid growing up in New York, the concept of weighting was used in trading baseball cards: a Mickey Mantle might trade for three Duke Sniders or one to one for Willie Mays. Assigning weights is also in use when scheduling hospital operating theatres: open heart surgery will be accorded eight hours and a hernia one hour. In fact, a single case, the hernia operation, may have complications and run considerably longer. Nevertheless, experience tells us that, on a macro level, those are effective planning numbers for scheduling purposes. That's true until new techniques or significant changes in the system or practice require us to analyze and revise our weighting system. Therefore, if the hospital stay for cataract surgery was weighted at 10 days and changes in practice have reduced that stay to 3 days, we must update our weighting if it is to be effective in planning our need for hospital beds.

Now, my original example was the trading of baseball cards or that of subjective weighting. Nevertheless, subjective weighting has wide application, for example, in the various trading markets. Prices on the commodity markets for wheat and coffee, or for gold and silver, are the combined subjective judgments of investors and traders regarding the impact of national and international events on the value of those items and the attitudes of business and consumers, both short- and long-term.

The first technique that we will deal with in workload forecasting requires defenders to maintain an information system that records significant factors about the cases that we are assigned, that we dispose of, and that we invest time and activity upon. The data that you maintain for caseload management, for operating management purposes, if complete both historically and descriptively, can provide all the necessary data that you require for workload forecasting.

We need to know the major charge categories that make up your caseload, the assignments and dispositions for at least five years. We need to know how those cases were disposed of--plea, trial, or dismissal. Other useful measures are system time--how long do differing charges remain in the system. Further, we need to know appearance data--how many appearances are required from assignment to disposition by charge category and type of disposition.

There are other indicators which can be important in calculating workload, for example, the incidence of pretrial detention; does it fall more heavily in rape cases than in burglary cases? I could give you a laundry list of factors. However, I would suggest that you and your colleagues in your particular defender office are in a much better position to determine those factors that are most sensitive toward generating workload requirements.

Another point that I ask that you take notice of: the translation of caseload to workload is not limited to useful productive activities. Therefore, appearance date may be important because your cases are generally called after cases involving private counsel and you therefore lose productive time awaiting calendar calls even where the appearance is used solely for the setting of a new, future adjourned date. Or, time in the system may be important if it generates client hand-holding in detention centers, family hand-holding in your office and regular contacts with your witnesses to assure yourself that they are still available--and certainly to document your due diligence when they are unavailable because of the prosecution's failure to provide a speedy trial.

The limiting factor for your office is generally staff time and dollar allocation that can be invested in recording, compiling, and analyzing data. The size and cost of your information system should conform to the size of your office and the volume of your practice. A basic problem for many offices will be startup costs because of a failure to collect data historically, which can now be turned to effective use in your system for workload forecasting. One alternative is to collect sample historical data; one month's data in each quarter of a year for the past five years. Such sampling could provide the necessary historical data for forecasting although we may wish to qualify our predictions more strongly in the initial years of forecasting.

We can also use a basic telescoping or networking approach for year-to-year implementation of our system. For example, rather than segregate cases initially by charge category (robbery, rape, burglary, etc.), we start with felonies, misdemeanors, and juvenile cases. Moreover, in our early stage, we consider overall disposition characteristics of time in the system, appearance data, etc., rather than using subcategories of trial, plea, and dismissal.

Therefore, our data development efforts to recreate historical data can be stretched out over a longer period, with each pass over the data providing greater refinements for subsequent implementation and utilization. In some cases, defender files may in fact be bereft of data that are fundamental in making the translation from caseload to workload. An alternative to defender historical data, if available, are court-recorded data, especially if the defender represents a substantial proportion of the court's defendants. However, the defender should analyze the court's data on a sample base, comparing private counsel cases with like public defender cases to determine if there are substantial differences in practice which could distort defender workload weighting. For example, do cases involving private counsel provide a similar mix of charges, comparable numbers of appearances, similar length of time in the Criminal Justice System, like types of disposition and incidence of pretrial detention?

Assume we can provide a minimum of five years' historical data regarding dispositions by charge category and type of disposition within each major charge category. The initial step in the process is to develop caseload trends to project anticipated caseload for the next budget year. The steps we will undertake next will provide us initially with a predicted range of cases. I stress range because our planning process does not require an exact figure, but a range of cases which indicates staffing requirements. First, we will develop our trend line from the arithmetic mean or average over the five-year period by disposition charge category. For example:

	'74	'75	'76	'77	'78	5-year Total
Robbery	67	89	86	101	108	451
Change		+22	-3	+15	+7	= +41
				$\frac{41}{4} = 10.25$		
				1978 + Aver. Increase 1979		
				108 + 10.25	118.25	

We total the year-to-year differences and divide by the change period; our caseload differences totaled 41 cases and we divided by the four changes from the base year for an average change of 10.25 cases per year over the period. We add the average change to our last year's data, or 108 robberies in 1978 for a projected total of 118.25 cases. That unweighted average provides us with one end of our range.

Our second step is to develop our caseload trend by weighting the year-to-year changes by charge category. Our basis for weighting the changes uses our normal expectations regarding most events; those events that have occurred most recently are more likely to predict the immediate future than those events occurring longer ago. Secondly, our system for weighting must be both consistent and nonarbitrary. We thus use a weighting by counting years from the period that we started calculating the year-to-year changes by category. Therefore, our calculations to develop a weighted trend for caseload would look like this:

	'74	'75	'76	'77	'78	5-year Total
Robbery	67	89	86	101	108	451
Change		+22	-3	+15	+7	= 41

(74)	'75	'76	'77	'78
Years from Base Year	1	2	3	4
	(+22) (1)	+ (-3) (2)	+ (+15) (3)	+ (+7) (4)
	(22)	+ (-6)	+ (+45)	+ (+28) = 89
$\Sigma$	$(D_1 + D_2 + D_3 + D_4)$	= 89		
				89/10 = 8.9
$\Sigma$	$\frac{WT_1 + WT_2 + WT_3 + WT_4}{1 + 2 + 3 + 4}$	= 10		

We multiply the year-to-year changes by the number of years from the base year. Therefore, the change between 1974 and 1975 is given one-fourth the weight the change occurring between 1977 and 1978 in predicting the change between 1978 and 1979. The change occurring between 1975 and 1976 is given one-half the weight of the 1977-78 change and 1976-1977 is accorded three-fourths of the 1977-78 change in predicting the 1978-79 change. Thus, we combine a historical trend with an acknowledgment that the most recent data are most indicative of the immediate future. Our weighting is nonarbitrary, reflecting consistently the number of years of change we are evaluating from the base year that we started our historical trend.

For simplicity, we can continue using, for example, a five-year period, adding one new year and deleting our oldest year of data. Or we can extend our historical data to ten years before closing the data cycle we will use for predictive purposes.

Again, our weighted increase that we project for the 1978-79 period is added to our 1978 or most current year of data to give us the other end of our range of robberies predicted for the 1979 period. We add 8.90 cases to 108 for a total of 116.90. Therefore, our projected range for robbery cases in 1979 is 116.90 to 118.25.

#### Factor Weighting

Once we have developed our projected caseload range for 1979 and we already know what our caseload was for 1978, we will apply factor weighting to translate those caseload numbers into workload units. Again, depending on how well defined our information system and how readily we can describe our caseload by a series of objective measures (for example, can we access historical rates of plea, trial, and dismissal within the major charge categories), we will have parameters for establishing categories and determining factors. For example, if we decide to factor weight robbery by system time, can we initially determine our actual disposition types for 1978 and our anticipated disposition mix for 1979 using historical trends? If we can, we would start our process as follow:

Robbery--1978 Volume--108

Dismissal	19
Plea	73
Trial	16

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Volume X System Time (Days)

Dismissal	19	145
Plea	73	94
Trial	16	176

---

Dismissal	2,755
Plea	6,862
Trial	<u>2,816</u>
	12,433 factor weight

A similar series of steps would be taken for each factor to be included in the system by the defender; each factor that provides an objective measure of workload that is not universally true for all charges provides a workload transition factor to show where defender efforts are being allocated.

The total of all factors provides the factor rating for the offense. However, we require one more refinement if our translation from caseload to workload through rating is to be credible; that is factor ranking or the relative weight to be accorded each factor used. For example, should we equate system time with number of appearances or preparation time or should we develop a ranking system to scale these factors according to their relative importance? For example, time in the system may generate certain additional client, client family, and witness contacts requiring several hours per month. However, appearances, although not requiring as much direct productive contact each time, may require substantial nonproductive time waiting for a case to be called. Moreover, the former requirement may be met within the staff attorney's schedule and convenience; the latter time will be spent according to the court's convenience without the flexibility of the former.

The scaling ratios between the categories could be easily developed if time were recorded and allocated by category that generated the requirement. Or the scaling ratio can be developed by subjective survey, asking participants to rate factors by order of importance on a numerical scale. That process produces a factor ranking or the relative importance of the factor with other factors that are considered.

Multiplying each factor's rating (eg. Robbery, Dismissals 145 days of system time) by the factor's ranking (eg. System time, rated 5.5 on a 10-point scale) produces a factor weight for robberies. The total of the factor weights multiplied by the volume of cases produces a workload weight for the offense.

Robbery--1978 Volume--108

		Volume X System Time X Factor Rating	
(1)	Dismissal	19	145 5.5
(2)	Plea	73	94 5.5
(3)	Trial	16	176 5.5

Robbery Workload Weight

$$(1) 15,152.5 + (2) 37,741 + (3) 15,488 = \underline{68,381.5}$$

The identical weighting system would be applied to our projected caseload for 1979, to both low and high ends of the range. Finally, we would divide our 1978 total workload by our legal staff or how many workload units per attorney were completed in 1978. That figure, per attorney units of workload completed, would then be divided into our low and high ranges of projected workload for 1979 to produce a range of legal staff that we anticipate we will require.



## Dispositions by Charge Origin

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>5-Year Total</u>
<b>Murder and Manslaughter</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>10</b>
<b>Rape</b>	<b>5</b>	<b>3</b>	<b>5</b>	<b>8</b>	<b>8</b>	<b>29</b>
<b>Robbery</b>	<b>67</b>	<b>89</b>	<b>86</b>	<b>101</b>	<b>108</b>	<b>451</b>
<b>Felonious Assault</b>	<b>36</b>	<b>36</b>	<b>17</b>	<b>19</b>	<b>40</b>	<b>148</b>
<b>Burglary</b>	<b>266</b>	<b>473</b>	<b>598</b>	<b>450</b>	<b>519</b>	<b>2,306</b>

## Dispositions by Charge Origin (cont.)

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>5-Year Total</u>
<b>Grand Larceny— Motor Vehicle</b>	<b>301</b>	<b>258</b>	<b>344</b>	<b>316</b>	<b>358</b>	<b>1,577</b>
<b>Grand Larceny</b>	<b>86</b>	<b>121</b>	<b>189</b>	<b>209</b>	<b>241</b>	<b>846</b>
<b>Narcotics</b>	<b>27</b>	<b>10</b>	<b>24</b>	<b>12</b>	<b>18</b>	<b>91</b>
<b>Other Felony</b>	<b>39</b>	<b>46</b>	<b>36</b>	<b>37</b>	<b>50</b>	<b>208</b>

# DISPOSITIONS BY CHARGE ORIGIN

	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>Five-Year Total</u>
MURDER AND MANSLAUGHTER	1	2	1	4	2	10
RAPE	5	3	5	8	8	29
ROBBERY	67	89	86	101	108	451
FELONIOUS ASSAULT	36	36	17	19	40	148
BURGLARY	266	473	598	450	519	2,306
GRAND LARCENY- MOTOR VEHICLE	301	258	344	316	358	1,577
GRAND LARCENY	86	121	189	209	241	846
NARCOTICS	27	10	24	12	18	91
OTHER FELONY	39	46	36	37	50	208
TOTAL	828	1,038	1,300	1,156	1,344	5,666

## 5-Year Average Percentage

<b>Charge</b>	<b>Dismissal</b>	<b>Plea</b>	<b>Trial: Acquitted</b>	<b>Trial: Convicted</b>	<b>Other</b>
<b>Murder and Manslaughter</b>	<b>10</b>	<b>50</b>	<b>10</b>	<b>20</b>	<b>10</b>
<b>Rape</b>	<b>17.2</b>	<b>55.2</b>	<b>6.9</b>	<b>13.8</b>	<b>6.9</b>
<b>Robbery</b>	<b>11.3</b>	<b>68.3</b>	<b>4.0</b>	<b>9.8</b>	<b>6.7</b>
<b>Felonious Assault</b>	<b>15.5</b>	<b>71.6</b>	<b>5.4</b>	<b>6.1</b>	<b>1.4</b>
<b>Burglary</b>	<b>12.6</b>	<b>80.0</b>	<b>3.0</b>	<b>3.9</b>	<b>0.5</b>

## 5-Year Average Percentage (cont.)

	<u>Dismissal</u>	<u>Plea</u>	<u>Trial: Acquitted</u>	<u>Trial: Convicted</u>	<u>Other</u>
<b>Grand Larceny— Motor Vehicle</b>	<b>9.7</b>	<b>69.8</b>	<b>4.3</b>	<b>6.8</b>	<b>9.3</b>
<b>Grand Larceny</b>	<b>16.4</b>	<b>52.2</b>	<b>9.6</b>	<b>11.2</b>	<b>10.5</b>
<b>Narcotics</b>	<b>19.7</b>	<b>53.8</b>	<b>8.8</b>	<b>13.2</b>	<b>4.4</b>
<b>Other Felony</b>	<b>10.1</b>	<b>63.5</b>	<b>7.2</b>	<b>10.1</b>	<b>9.1</b>

# FIVE YEAR-AVERAGE PERCENTAGE

( Key: Top number is percentage; number in parentheses is quantity.)

<u>CHARGE</u>	<u>DISMISSAL</u>	<u>PLEA</u>	<u>TRIAL ACQUITTED</u>	<u>TRIAL CONVICTED</u>	<u>OTHER</u>
MURDER AND MANSLAUGHTER	10 (1)	50 (5)	10 (1)	20 (2)	10 (1)
RAPE	17.2 (5)	55.2 (16)	6.9 (2)	13.8 (4)	6.9 (2)
ROBBERY	11.3 (51)	68.3 (308)	4.0 (18)	9.8 (44)	6.7 (30)
FELONIOUS ASSAULT	15.5 (23)	71.6 (106)	5.4 (8)	6.1 ( )	1.4 (2)
BURGLARY	12.6 (290)	80.0 (1,844)	3.0 (69)	3.9 (91)	0.5 (12)
GRAND LARCENY- MOTOR VEHICLE	9.7 (153)	69.8 (1,101)	4.3 (68)	6.8 (108)	9.3 (147)
GRAND LARCENY	10.4 (139)	52.2 (442)	9.6 (81)	11.2 (95)	10.5 (89)
NARCOTICS	19.7 (18)	53.8 (49)	8.8 (8)	13.2 (12)	4.4 (4)
OTHER FELONY	10.1 (21)	63.5 (132)	7.2 (15)	10.1 (21)	9.1 (19)
TOTAL	12.4 (701)	70.6 (4,003)	4.8 (240)	6.8 (386)	5.4 (306)

# WORKLOAD FORECASTING

## Summary-Caseload Weighting

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>4-Yr.</u> <u>Totals/Divisor</u>	<u>Unweighted</u> <u>Average</u>	<u>Weighted</u> <u>Average</u>	<u>1979 is</u> <u>1978 +</u> <u>Projection</u>
MURDER, MANSLAUGHTER	+1 1(1)	-1 -1(2)	+3 3(3)	-2 -2(4)	+1 4 0 10	0.25	0	2.25=Unweighted 2 =Weighted
RAPE	-2 -2(1)	+2 2(2)	+3 3(3)	0 0(4)	3 4 11 10	0.75	1.10	8.75 9.10
ROBBERY	+22 22(1)	-3 -3(2)	+15 15(3)	+7 7(4)	41 4 89 10	10.25	8.90	118.25 116.90
FELONIOUS ASSAULT	0 0(1)	-19 -19(2)	+2 2(3)	+21 21(4)	4 4 52 10	1	5.2	41 45.20
BURGLARY	+207 207(1)	+125 125(2)	-148 -148(3)	+69 69(4)	253 4 289 10	62.25	28.9	581.25 547.9
GRAND LARCENY- MOTOR VEHICLE	-43 -43(1)	+86 86(2)	-28 -28(3)	+42 42(4)	57 4 213 10	14.25	21.3	372.25 379.30
GRAND LARCENY	+35 35(1)	+68 68(2)	+20 20(3)	+32 32(4)	155 4 359 10	38.75	35.9	279.75 276.90
NARCOTICS	-17 -17(1)	+14 14(2)	-12 -12(3)	+6 6(4)	-9 4 -1 10	-2.25	-0.10	15.75 17.90
FELONY	+7 7(1)	-10 -10(2)	+1 1(3)	+13 13(4)	11 4 42 10	2.75	4.20	52.75 54.20
TOTAL	210 210(1)	+262 262(2)	-144 -144(3)	+188 188(4)	516 4 1054 10	129	105.4	1473 1449.40

(Budgeting)

WORKLOAD FORECASTING  
Caseload Weighting I

	'75	'76	'77	'78	Unweighted Average	'79
Robbery	+22	-3	+15	+7	$\frac{41}{4} = 10.25$	118.25
Burglary	+207	+125	-148	+69	$\frac{253}{4} = 62.25$	581.25

EXAMPLE

$$\begin{array}{l} \text{Robbery} \\ \text{(Years)} \end{array} \quad \frac{+22 + -3 +15 +7}{1 + 1 +1 +1} = \frac{41}{4} = 10.25$$

$$1978 \text{ Disposition} = \underline{+108.00}$$

$$1979 \text{ Unweighted Projection} = 118.25$$



(Budgeting)

WORKLOAD FORECASTING  
Caseload Weighting II

	'75	'76	'77	'78	Weighted Average	'79
Robbery	+22 (1)	-3 (2)	+15 (3)	+7 (4)	$\frac{89}{10} = 8.90$	116.90
Burglary	+207	+125	-148	+69	$\frac{289}{10} = 28.9$	547.90

EXAMPLE

<u>Robbery</u>	+22	-3	+15	+7	
(Years Weighted)	<u>x(1)</u>	<u>x(2)</u>	<u>x(3)</u>	<u>x(4)</u>	
(Years Weighted)	22	-6	45	28	$= \frac{89}{10} = 8.90$
	(1)	(2)	(3)	(4)	

1978 Disposition = +108.00  
1979 Weighted Projection = 116.90

(Budgeting)

**WORKLOAD FORECASTING**  
**Caseload Weighting III**

	<b>Unweighted Average</b>	<b>Weighted Average</b>	<b>'79 Range</b>
<b>Robbery</b>	10.25	8.90	116.90 - 118.25
<b>Burglary</b>	62.25	28.90	547.90 - 581.25

(Budgeting)

## WORKLOAD FORECASTING

### Caseload Weighting - Staff Projections

1. 1978 weighted caseload divided by 1978 legal staff
2. Equals 1978 weighted caseload per legal staff member
3. 1979 projected caseload weighted and divided by #2
4. Equals projected legal staff required for 1979.

**WORKLOAD FORECASTING**  
**Initial Data Collection**

	<u>System Time</u> (In Days)		<u>Appearances</u> (In Days)	
	Mean	Median	Mean	Median
<b>Robbery:</b>				
Dismissal	178	145	16	14
Plea	120	94	12	8
Trial	201	176	23	20
Sentence				
Guilty Plea	170	156	14	11
Trial	267	227	26	22
<b>Burglary:</b>				
Dismissal	149	140	15	14
Plea	111	101	11	10
Trial	188	165	21	19
Sentence				
Guilty Plea	151	139	13	12
Trial	238	202	23	21

# WORKLOAD FORECASTING

CHARGE	TYPE OF DISPOSITION	CHARGE VOLUME (By Cases)	X	SYSTEM TIME (Median) (By Days)	X	NUMBER OF APPEARANCES (Median)	=	WORKLOAD WEIGHT
Robbery		118						
	Dismissal	13		145		14		26,390
	Plea	81		94		8		60,912
	Trial	16		176		20		56,320
	Sentence							
	Plea	81		62		3		15,066
	Trial	12		51		2		1,224
	TOTAL							159,912
Burglary		548						
	Dismissal	69		140		14		135,240
	Plea	438		101		10		442,380
	Trial	38		165		19		119,130
	Sentence							
	Plea	438		38		2		33,288
	Trial	21		37		2		1,554
	TOTAL							731,592
<u>Caseload Ratio</u> (1:4.64)		<u>Workload Ratio</u> (1:4.57)						
(1 Robbery to every 4.64 Burglaries)		(1 Robbery to every 4.57 Burglaries)						

# WEIGHTED WORKLOAD FORECASTING

<u>CHARGE</u>	<u>TYPE OF DISPOSITION</u>	<u>CHARGE VOLUME Projection</u>	<u>SYSTEM TIME (Median)</u>	<u>NUMBER OF APPEARANCES (Median)</u>	<u>WORKLOAD WEIGHT</u>
<b>Robbery</b>					
		118			
	Dismissal	13	145	14	3,298.75
	Plea	81	94	8	7,614.00
	Trial	16	176	20	7,040.00
	Sentence				
	Plea	81	62	3	1,883.25
	Trial	12	51	2	153.00
	TOTAL				19,989.00
<b>Burglary</b>					
		548			
	Dismissal	69	140	14	8,452.50
	Plea	438	101	10	55,297.50
	Trial	38	165	19	14,891.25
	Sentence				
	Plea	438	38	2	4,161.00
	Trial	21	37	2	194.25
	TOTAL				82,996.50
<u>Caseload Ratio</u>		(1:4.64)	<u>Workload Ratio</u>		(1:4.15)

## \*EXAMPLE

Robbery  
 \*Dismissal       $13 \times 145 \times .25 \times 14 \times .50 = 3,298.7$

## **SESSION 10**

### **DAY II**

**11:00 - 11:15 a.m.**

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#### **Cost Forecasting**

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#### **Goals of the Session**

At the end of this session participants will have a better understanding of:

- A method of preparing cost forecasts by earmarking operating costs as major charge categories
- The need to address operating costs such as space, telephone, utilities, etc., as charge per staff member
- The need to determine all operating cost per staff person to insure sufficient budget requests to cover a new staff member.

#### **Method**

1. Lecture with visual aids.
2. Problem development and solving with participants in the plenary session.

#### **Description**

1. Participants remain in plenary session.
2. Demonstrate the ease of preparing cost forecasts.
3. Making participants aware of budget items to include.

#### **Materials/Logistics/Ambience**

Plenary room as previously set.

## PRESENTATION NOTES

### Cost Forecasting

The cost forecasting example is for illustration purposes; group participants are not required to perform any computations. The purpose of the example is to demonstrate to participants the ease of preparing cost forecasts if they earmark their operating costs by major charge categories. For each charge category, incidence and cost are recorded; at year's end, the total number of incidents are related to the total charge volume for a frequency rate. Costs are totaled and averaged and a median is drawn to determine the relative cost per incident. The incident cost can be updated if court reporters indicate that per page charges will be increasing or if psychiatrists are raising their rates for examinations and court appearances.

Operating costs which are not case related--space, telephone and utilities, office supplies--should be separately addressed and related as charges per staff member. Therefore, the defender, when requesting additional staff, should also request additional operating costs at the same rates projected for staff on board. The defender, in preparing his budget, should be aware of cost increases that he will be experiencing: rate increases granted to utility and telephone companies, etc.



## COST FORECASTING EXAMPLE

The defender has been maintaining cost records by charge category for several major operating costs. He has noted the following:

### 1. Use of Expert Witnesses:

<u>Charge</u>	<u>Frequency</u>	<u>Average Cost</u>
Robbery	.05	\$150
Felonious Assault	.03	\$200
Narcotics	.10	\$180

### 2. Purchase of Transcripts

Robbery	.10	\$200
Felonious Assault	.20	\$150
Narcotics	.15	\$190

Using his projections of caseload for 1973, by charge type, he can generate forecasts of his operating costs:

### 1. Expert Witnesses

Charge Volume

<u>1978</u>	X		<u>Frequency X</u>	<u>Average Cost</u>	<u>Totals</u>
Robbery		116.90	(.05)	150	\$876.75
Felonious Assault		45.20	(.03)	200	\$271.20
Narcotics		17.90	(.10)	180	\$322.20

### 2. Purchase of Transcripts

Charge Volume

<u>1978</u>	X		<u>Frequency X</u>	<u>Average Cost</u>	<u>Totals</u>
Robbery		116.90	(.10)	200	\$2,338.00
Felonious Assault		45.20	(.20)	150	\$1,356.00
Narcotics		17.90	(.15)	190	\$ 510.00

## SESSION 11

### DAY II

11:15 - 12:00 noon

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#### "Delphi" Method Introduction and Forecasting Exercise

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##### Goals of the Session

By the end of this session participants will understand:

- The "Delphi" method of collecting data as an alternative method of workload forecasting.
- How the "Delphi" method provides reliable information without a data tracking system.

##### Method

1. In plenary session, the lead trainer outlines the goals of the breakout group exercise.
2. Participants return to breakout groups previously assigned.
3. Group trainer leads the participants through the exercise.

##### Description

1. In plenary session, the lead trainer explains how a survey of one's peers can be taken to determine the importance, or time required of any case handled. When a consensus is reached, the "Delphi" survey method has been achieved.
2. In the breakout group, the trainer will conduct the exercise to give participants experience in both the "Delphi" survey method and factor weighting.

##### Materials/Logistice/Ambience

1. Breakout rooms as previously set.
2. Participant's Handbook.

## WORKLOAD FORECASTING

### WORKSHOP EXERCISE

Request participants to complete following calculations working by group process.

1. Using Delphi Method, determine the factor RANKING for the factor preparation time.

Least  
Importance

Most  
Importance

2. Using Delphi Method, determine for the offense of armed robbery the factor RATING for preparation time.

Least  
Time

Most  
Time

---

Preparation Time: Armed Robbery

- 2a. Determine "preparation time's" FACTOR WEIGHT for armed robbery.
3. If the sum of all other factor weights equals 100, what is the workload weight for armed robbery?
4. If you had 100 armed robbery cases last year, and if the total number of workload units without armed robbery included equals 100,000, what was the number of workload units per attorney if you had 10 attorneys?
5. Using the figures below, project the number of armed robbery cases you anticipate handling next year by calculating the weighted average for the past five years.

YEAR	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>
NUMBER OF CASES	75	100	90	120	100

6. Calculate the projected number of workload units for next year assuming the sum of all projected offense workloads (except armed robbery) equals 200,000.
7. If an attorney handles the same number of workload units as last year, what is the number of attorneys needed to handle the projected number of workload units for next year?

**ANSWER SHEET  
WORKLOAD FORECASTING EXERCISE**

1. **Factor RANKING:** "Preparation Time" (See Participant's Handbook, p. 94)

LEAST  
IMPORTANT

1    2    3    4    5    6    7    8    9    10

MOST  
IMPORTANT

Factor RANKING = \_\_\_\_\_

2. **Factor RATING:** "Armed Robbery" (See Participant's Handbook, p. 90)

LEAST  
TIME

1    2    3    4    5    6    7    8    9    10

MOST  
TIME

Factor RATING = \_\_\_\_\_

- 2a. **Preparation Time Factor WEIGHT:** "Armed Robbery"

Factor RANKING \_\_\_\_\_ X Factor RATING \_\_\_\_\_ = \_\_\_\_\_  
Factor WEIGHT

3. **WORKLOAD WEIGHT:** "Armed Robbery"

<u>100</u> (Total Other Factor Weight)	+	_____ (Armed Robbery Preparation Time Factor Weight: -See Answer 2a.)	=	_____ <b>WORKLOAD WEIGHT</b>
--	---	---	---	---------------------------------

**Answer Sheet**  
**Workload Forecasting**

**4. WORKLOAD UNITS per Attorney:**

Offense	WORKLOAD WEIGHT	# Cases Last Year	OFFENSE WORKLOAD
Armed Rob.	(See Answer # 3)	X 100	= _____
Murd--			
R--			
-----			
-----			+ 100,000 (Total Other Workload Units)

TOTAL WORKLOAD UNITS = \_\_\_\_\_

Total Workload Units \_\_\_\_\_  
./ By 10 (Attorneys) = \_\_\_\_\_

WORKLOAD UNITS  
PER ATTORNEY

**5. Projected "Armed Robbery" CASE LOAD for Next Year:**

Years:	1974	1975	1976	1977	1978
Cases:	75	100	90	120	100
Increase/ Decrease:	--	(+25)	(-10)	(+30)	(-20)

**CONTINUED**

**2 OF 4**

**FORMULA:**

Increase/ Decrease X # Years From START Year (Weighting) =	(+25) <u>x 1 yr.</u> +25	(-10) <u>x 2 yrs.</u> -20	(+30) <u>x 3 yrs.</u> +90	(-20) <u>x 4 yrs.</u> -80	
TAKE AVERAGE:	$\frac{(+25)}{1}$	$+$	$\frac{(-20)}{2}$	$+$	$\frac{(+90)}{3}$
		$+$		$+$	$\frac{(-80)}{4}$
					$= \frac{15}{10} = \underline{\underline{1.5}}$

(Sum of Years)

**ADD PROJECTED INCREASE/DECREASE:**

$$\begin{array}{r} 100.0 \\ + \underline{1.5} \end{array}$$

**PROJECTED "ARMED ROBBERY" CASELOAD**

**=**

$$\underline{\underline{101.5}}$$

**Answer Sheet  
Workload Forecasting**

**6. PROJECTED WORKLOAD UNITS:**

Offenses	WORKLOAD WEIGHT	PROJECTED CASELOAD	PROJECTED OFFENSE WORKLOAD
Armed Rob.	X	=	
	(See Answer # 3.	(See Answer # 5.	
Murd--			
R---			
-----			
-----			+ 200,000 (Total Other Workload Units)
<hr/>			
<b><u>TOTAL PROJECTED WORKLOAD UNITS</u></b>			=
			<hr/>

**7. NUMBER ATTORNEYS NEEDED:**

(Projected Workload Units See Answer # 6. )	./.	(Workload Units Per Attorney - See Answer # 4. )	=	ATTORNEYS NEEDED
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Table 1

**LENGTH OF TIME IN CRIMINAL JUSTICE SYSTEM**  
**(Arrest to Disposition Including Sentencing Where Applicable)**  
**(Uniform 10-Point Scale)**

	LEAST TIME	MOST TIME
(A) Murder	_____	_____
(B) Rape	_____	_____
(C) Robbery	_____	_____
(D) Assault	_____	_____
(E) Burglary	_____	_____
(F) Drugs	_____	_____

**KEY:** A - Murder, Manslaughter  
B - Rape  
C - Robbery  
D - Assault with a Deadly Weapon  
E - Burglary  
F - Drug Sales, Possession for Sale

Table 2

**NUMBER OF APPEARANCES  
(Arraignment To Disposition)  
(Uniform 10-Point Scale)**

	<b>LEAST APPEARANCES</b>	<b>MOST APPEARANCES</b>
(A) Murder	1	10
(B) Rape	1	10
(C) Robbery	1	10
(D) Assault	1	10
(E) Burglary	1	10
(F) Drugs	1	10

**Key:** A - Murder, Manslaughter  
B - Rape  
C - Robbery  
D - Assault with a Deadly Weapon  
E - Burglary  
F - Drug Sales, Possession for Sale

Table 3

**DEFENDER PREPARATION TIME REQUIRED**  
**(Uniform 10-Point Scale)**

	<b>LEAST PREP TIME</b>	<b>MOST PREP TIME</b>
(A) Murder	1 2 3 4 5 6 7 8 9 10	
(B) Rape	1 2 3 4 5 6 7 8 9 10	
(C) Robbery	1 2 3 4 5 6 7 8 9 10	
(D) Assault	1 2 3 4 5 6 7 8 9 10	
(E) Burglary	1 2 3 4 5 6 7 8 9 10	
(F) Drugs	1 2 3 4 5 6 7 8 9 10	

**KEY:** A - Murder, Manslaughter  
B - Rape  
C - Robbery  
D - Assault with a Deadly Weapon  
E - Burglary  
F - Drug Sales, Possession for Sale

Table 4

**DEFENDER WORK PRODUCT DEVELOPED  
(Uniform 10-Point Scale)**

	<b>LEAST WORK PRODUCT</b>	<b>MOST WORK PRODUCT</b>
(A) Murder	_____	_____
(B) Rape	_____	_____
(C) Robbery	_____	_____
(D) Assault	_____	_____
(E) Burglary	_____	_____
(F) Drugs	_____	_____

**KEY:** A - Murder, Manslaughter  
B - Rape  
C - Robbery  
D - Assault with a Deadly Weapon  
E - Burglary  
F - Drug Sales, Possession for Sale

Table 5







**CASE COMPLEXITIES**  
**(Multiple Defendants, Defendant on**  
**Probation/Parole, Defendant an Alien)**  
**(Uniform 10-Point Scale)**

	LEAST COMPLEX	MOST COMPLEX
(A) Murder	1	10
(B) Rape	1	10
(C) Robbery	1	10
(D) Assault	1	10
(E) Burglary	1	10
(F) Drugs	1	10

**KEY:** A - Murder, Manslaughter  
B - Rape  
C - Robbery  
D - Assault with a Deadly Weapon  
E - Burglary  
F - Drug Sales, Possession for Sale

**Table 6**

**SYSTEM DIFFICULTY**  
**(Prosecutor Plea Negotiation Policies, Court's Sentencing**  
**Practices, Legislated Requirements: Mandatory Time)**  
**(Uniform 10-Point Scale)**

	<b>LEAST SYSTEM DIFFICULTY</b>	<b>MOST SYSTEM DIFFICULTY</b>
(A) Murder		
(B) Rape		
(C) Robbery		
(D) Assault		
(E) Burglary		
(F) Drugs		

**KEY: A - Murder, Manslaughter**  
**B - Rape**  
**C - Robbery**  
**D - Assault with a Deadly Weapon**  
**E - Burglary**  
**F - Drug Sales, Possession for Sale**

**LEAST  
IMPORTANT**

**MOST  
IMPORTANT**

**Length of Time**

1. 

**Appearance**

2. 

**Preparation**

3. 

**Work Product**

4. 

**Complexity**

5. 

**System**

6. 

## **SESSION 12**

### **DAY II**

**1:30 - 2:30 p.m.**

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#### **Grant Funding Checklist/ Program Budgeting: Developing Plans and Goals**

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#### **Goals of the Session**

**By the end of this session participants will:**

- **Understand why the traditional line-item budget format does not effectively illustrate a defender office's changing and increasing resource requirements**
- **Become familiar with the rationale and concepts of program budgeting**
- **Be able to develop goal statement into a program package that can be marketed to funding authorities**
- **Be able to set goal priorities for short- and long-range requirements as a means of educating funding authorities on immediate and future needs of defender offices**
- **Become more familiar with using national standards to support funding requests.**

#### **Method**

- 1. Lead trainer outlines the plans and goal-setting exercise in plenary session.**
- 2. Participants return to breakout rooms previously assigned.**
- 3. Group trainer conducts exercise according to "Instructors's Notes."**

#### **Description**

- 1. Following introduction to the exercise in plenary session, participants work in breakout groups.**
- 2. Group trainer helps participants understand how they can develop goal statements appropriate to needs.**



**Materials/Logistics/Ambience**

1. Breakout rooms arranged in conference style.
2. Flip charts with markers for each room.
3. Participant's Handbooks.

## **TRAINER'S NOTES**

### **Plans and Goal-Setting Exercise**

Grant funding represents an additional source of funding for defender services, as well as an opportunity to open new channels for regular funding by demonstrating the value of programs and services.

This session will provide defenders with a checklist approach toward evaluating services and programs as grant prospects. The checklist, when completed, also provides the defender with key points to stress in his grant application, either in the Problem Identification section or in the Objectives and Tasks sections.

The trainers, in the small group sessions, will ask participants to raise ideas they have for grant funding, grant applications they have submitted that have been rejected, and grant applications that they have submitted which have been funded. Several will be evaluated using the checklist.

## INSTRUCTOR'S NOTES

### Plans and Goal-Setting Exercise

There are currently 527 prisoners in Ulima River Center, which is classified as an intermediary security institution. The Corrections Annual Report shows a median time served of 44 months for prisoners serving state time. The cost per prisoner day is \$35.

The distance between the defender's office and the Center is 55 miles. The current government mileage reimbursement rate is \$0.15 per mile.

The court's records indicate that the defender is being assigned to 7 writ cases each week.

The group should be directed to add a definite date to the statement as an initial step.

The process of data gathering necessary to plan resource requirements for goals implementation should then be drawn from participants, asking them to determine where useful data might be available.

Copies of applicable standards are available and should be handed out when the group discussion is turned to gathering documented support for the program from standards, court decisions, and similar material.

The goal should be developed into a program budget, outlining anticipated workload and associated resource requirements.

The instructor should elicit the piloting concept to develop anticipated workload where objective data and experience are not readily available.

The final step will be to lead the group into developing a plan to implement the goal, assuming that funding authorities will provide the necessary resources. In this case, the group should consider the protocol with the Correction officials, informing the inmates of the existence of the program, informing the court to whom assignments should be made for those not initially undertaken at the correctional institution. You should also develop how the new function will relate internally in the public defender's office.

**Participant's Instructions**  
**PLANS AND GOAL-SETTING EXERCISE**

You are the public defender in Norfolk County. A state correctional facility institution, the Ulima River Center, is located in Norfolk County. Over the past year, the courts have been increasingly assigning your staff to represent prisoners who have filed habeas corpus writs pro se. These prisoners have lost "good time" because of a disciplinary infraction adjudged by correctional officials.

Although you are interested and concerned regarding the protection of prisoners' rights, the increased workload creates a problem, especially the loss of at least a half day each time a staff attorney goes out to Ulima River Center to interview a prisoner.

You presently have a staff of six attorneys, two investigators, and two secretaries, all of whom are working to capacity.

You have discussed the situation with your staff and have decided to set some goals for inclusion in your next budget submission.

**Tasks**

1. What information do you require to develop your goals as part of your budget presentation?
2. Draft one or more goal statements.
3. What benefits or justification can you project for funding authorities?
4. What preparatory steps would you take to develop a plan of action?

The public defender of Norfolk County answered a question on the evaluation form in the following manner.

**QUESTION:** Are you providing representation throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty?

**SELF-EVALUATION CHECKLIST**

	Yes	No	Uncertain
1. Is representation provided when an individual is charged with a misdemeanor offense and faces the possible deprivation of liberty?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is representation provided when an individual is charged with a felony offense?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Is representation provided to individuals facing juvenile proceedings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is representation provided to individuals facing mental commitment proceedings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Is representation provided to individuals facing administrative proceedings involving parole?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is representation provided to individuals facing probation revocation proceedings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is representation provided to individuals facing formal proceedings involving diversion?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Is representation provided to individuals facing civil and criminal contempt proceedings?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Is representation provided to individuals facing extradition proceedings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Is representation in disciplinary proceedings provided to your incarcerated clients?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Are you aware of the institutional grievances of incarcerated clients?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12. Do written office policies/procedures exist on the scope of representation provided to clients?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13. Are office policies/procedures on the scope of representation provided to clients followed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AGENCY: NORFOLK COUNTY PUBLIC DEFENDER  
 YEAR: 1979 BUDGET REQUEST

<u>PERSONAL SERVICES</u>	<u>CODE</u>	<u>NO.</u>	<u>1978 REQUEST</u>	<u>1978 RECOMMENDED</u>	<u>1978 APPROVED</u>	<u>1979 REQUEST</u>	<u>1979 RECOMMENDED</u>	<u>1979 APPROVED</u>
PUBLIC DEFENDER	A170.10	1	28,000	27,000	27,000	29,000		
ASSISTANT PUBLIC DEFENDER	A170.110	5	100,000	88,000	87,000	100,000		
ASSISTANT PUBLIC DEFENDER	A170.110	2				30,000		
DEFENDER INVESTIGATOR	A170.140	2	22,000	20,000	20,000	23,000		
SECRETARY	A170.170	2	19,000	17,000	16,000	19,000		
BENEFITS	A170.200	11	32,800	30,400	30,000	35,700		
<hr/>								
<u>OTIS</u>								
CONTRACTUAL EXPENSE	A170.400		9,500	8,000	7,000	10,000		
TELEPHONE	A170.410		1,200	1,200	1,200	1,500		
TRAVEL	A170.440		4,800	4,000	2,800	4,800		
POSTAGE	A170.450.		500	400	400	600		

NORFOLK COUNTY PUBLIC DEFENDER

<u>OTPS</u>	<u>CODE</u>	<u>NO.</u>	<u>1978 REQUEST</u>	<u>1978 RECOMMENDED</u>	<u>1978 APPROVED</u>	<u>1979 REQUEST</u>	<u>1979 RECOMMENDED</u>	<u>APPROVED</u>
EQUIPMENT	A170.800		850	850	850	950		
MISCELLANEOUS	A170.900		350	200	150	350		
-----								
RECAPITULATION:								
PERSONAL SERVICES			201,800	182,400	180,000	235,700		
OTPS			17,200	14,650	12,400	18,700		
TOTAL			219,000	197,050	192,400	258,900		

## STANDARDS

### ABA Standard Relating to Providing Defense Services, 1978 (draft)

#### 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, postconviction, and other proceedings which are adversary in nature, regardless of the designation of the court in which they occur or classification of the proceedings as civil in nature.

##### Standard 2.1

##### Access to Courts

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of persons under correctional supervision to have access to courts to present any issue cognizable therein, including: (1) challenging the legality of their conviction or confinement; (2) seeking redress for illegal conditions or treatment while incarcerated or under correctional control; (3) pursuing remedies in connection with civil legal problems; and (4) asserting against correctional or other governmental authority any other rights protected by constitutional or statutory provision or common law.

1. The State should make available to persons under correctional authority for each of the purposes enumerated herein adequate remedies that permit, and are administered to provide, prompt resolution of suits, claims, and petitions. Where adequate remedies already exist, they should be available to offenders, including pretrial detainees, on the same basis as to citizens generally.

2. There should be no necessity for an inmate to wait until termination of confinement for access to the courts.

3. Where complaints are filed against conditions of correctional control or against the administrative actions or treatment by correctional or other governmental authorities, offenders may be required first to seek recourse under established administrative procedures and appeals and to exhaust their administrative remedies. Administrative remedies should be operative within 30 days and not in a way that would unduly delay or hamper their use by aggrieved offenders. Where no reasonable administrative means is available for presenting and resolving disputes or where past practice demonstrates the futility of such means, the doctrine of exhaustion should not apply.

4. Offenders should not be prevented by correctional authority or administrative policies or actions from filing timely appeals of convictions or other judgments; from transmitting pleadings and engaging in correspondence with judges, other court officials, and attorneys; or from instituting suits and actions. Nor should they be penalized for so doing.

5. Transportation to and attendance at court proceedings may be subject to reasonable requirements of correctional security and scheduling. Courts dealing



with offender matters and suits should cooperate in formulating arrangements to accommodate both offenders and correctional management.

6. Access to legal services and materials appropriate to the kind of action or remedy being pursued should be provided as an integral element of the offender's right to access to the courts. The right of offenders to have access to legal materials was affirmed in Younger versus Gilmore, 404 U.S. 15 (1971), which is discussed in Standard 2.3.

## Standard 2.2

### Access to Legal Services

Each correctional agency should immediately develop and implement policies and procedures to fulfill the right of offenders to have access to legal assistance, through counsel or counsel substitute, with problems or proceedings relating to their custody, control, management, or legal affairs while under correctional authority. Correctional authorities should facilitate access to such assistance and assist offenders affirmatively in pursuing their legal rights. Governmental authority should furnish adequate attorney representation, and where appropriate, lay representation to meet the needs of offenders without the financial resources to retain such assistance privately.

The proceedings or matters to which this standard applies include the following:

1. Postconviction proceedings testing the legality of conviction or confinement.
2. Proceedings challenging conditions or treatment under confinement or other correctional supervision.
3. Probation revocation and parole grant and revocation proceedings.
4. Disciplinary proceedings in a correctional facility that impose major penalties and deprivations.
5. Proceedings or consultation in connection with civil legal problems relating to debts, marital status, property, or other personal affairs of the offender.

In the exercise of the foregoing rights:

1. Attorney representation should be required for all proceedings or matters related to the foregoing items 1 to 3, except that law students, if approved by rule of court or other proper authority, may provide consultation, advice, and initial representation to offenders in presentation of pro se postconviction petitions.
2. In all proceedings or matters described herein counsel substitutes (law students, correctional staff, inmate paraprofessionals, or other trained paralegal persons) may be used to provide assistance to attorneys of record or supervisory attorneys.

3. Counsel substitutes may provide representation in proceedings or matters described in foregoing items 4 and 5, provided the counsel substitute has been oriented and trained by qualified attorneys or educational institutions and receives continuing supervision from qualified attorneys.

4. Major deprivations or penalties should include loss of "good time," assignment to isolation status, transfer to another institution, transfer to higher security or custody status, and fine or forfeiture of inmate earnings. Such proceedings should be deemed to include administrative classification or reclassification actions essentially disciplinary in nature; that is, in response to specific acts of misconduct by the offender.

5. Assistance from other inmates should be prohibited only if legal counsel is reasonably available in the institution.

6. The access to legal services provided for herein should apply to all juveniles under correctional control.

7. Correctional authorities should assist inmates in making confidential contact with attorneys and lay counsel. This assistance includes visits during normal institutional hours, uncensored correspondence, telephone communication, and special consideration for after-hour visits where requested on the basis of special circumstances.

#### Standard 2.11

##### Rules of Conduct

Each correctional agency should immediately promulgate rules of conduct for offenders under its jurisdiction. Such rules should:

1. Be designed to effectuate or protect an important interest of the facility or program for which they are promulgated.

2. Be the least drastic means of achieving that interest.

3. Be specific enough to give offenders adequate notice of what is expected of them.

4. Be accompanied by a statement of the range of sanctions that can be imposed for violations. Such sanctions should be proportionate to the gravity of the rule and the severity of the violation.

5. Be promulgated after appropriate consultation with offenders and other interested parties consistent with procedures recommended in Standard 16.2, Administrative Justice.

Correctional agencies should provide offenders under their jurisdiction with an up-to-date written statement of rules of conduct applicable to them.

Correctional agencies, in promulgating rules of conduct, should not attempt generally to duplicate the criminal law. Where an act is covered by administrative rules and statutory law, the following standards should govern:

1. Acts of violence or other serious misconduct should be prosecuted criminally and not be the subject of administrative sanction.

2. Where the State intends to prosecute, disciplinary action should be deferred.

3. Where the State prosecutes and the offender is found not guilty, the correctional authority should not take further punitive action.

#### Standard 2.12

#### Disciplinary Procedures

Each correctional agency immediately should adopt, consistent with Standard 16.2, disciplinary procedures for each type of residential facility it operates and for the persons residing therein.

Minor violations of rules of conduct are those punishable by no more than a reprimand, or loss of commissary, entertainment, or recreation privileges for not more than 24 hours. Rules governing minor violations should provide that:

1. Staff may impose the prescribed sanctions after informing the offender of the nature of his misconduct and giving him the chance to explain or deny it.

2. If a report of the violation is placed in the offender's file, the offender should be so notified.

3. The offender should be provided with the opportunity to request a review by an impartial officer or board of the appropriateness of the staff action.

4. Where the review indicates that the offender did not commit the violation or the staff's action was not appropriate, all reference to the incident should be removed from the offender's file.

Major violations of rules of conduct are those punishable by sanctions more stringent than those for minor violations, including but not limited to, loss of good time, transfer to segregation or solitary confinement, transfer to a higher level of institutional custody, or any other change in status which may tend to affect adversely an offender's time of release or discharge.

Rules governing major violations should provide for the following prehearing procedures:

1. Someone other than the reporting officer should conduct a complete investigation into the facts of the alleged misconduct to determine if there is probable cause to believe the offender committed a violation. If probable cause exists, a hearing date should be set.

2. The offender should receive a copy of any disciplinary report or charges of the alleged violation and notice of the time and place of the hearing.

3. The offender, if he desires, should receive assistance in preparing for the hearing from a member of the correctional staff, another inmate, or other authorized person (including legal counsel if available).

4. No sanction for the alleged violation should be imposed until after the hearing except that the offender may be segregated from the rest of the population if the head of the institution finds that he constitutes a threat to other inmates, staff members, or himself.

Rules governing major violations should provide for a hearing on the alleged violation which should be conducted as follows:

1. The hearing should be held as quickly as possible, generally not more than 72 hours after the charges are made.
2. The hearing should be before an impartial officer or board.
3. The offender should be allowed to present evidence or witnesses on his behalf.
4. The offender may be allowed to confront and cross-examine the witnesses against him.
5. The offender should be allowed to select someone, including legal counsel, to assist him at the hearing.
6. The hearing officer or board should be required to find substantial evidence of guilt before imposing a sanction.
7. The hearing officer or board should be required to render its decision in writing setting forth its findings as to controverted facts, its conclusion, and the sanction imposed. If the decision finds that the offender did not commit the violation, all reference to the charge should be removed from the offender's file.

Rules governing major violations should provide for internal review of the hearing officer's or board's decision. Such review should be automatic. The reviewing authority should be authorized to accept the decision, order further proceedings, or reduce the sanction imposed.

## SESSION 13

### DAY II

2:30 - 2:45 p.m.

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#### Contingency Budgeting

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#### Goals of the Session

At the end of this session participants will have a better understanding of:

- The need to develop a contingency budget
- The method for developing a contingency budget through the calculation of "surprise events"
- The process for developing a statement of requirements for contingencies
- The continued use of the "Delphi" process to determine and evaluate criminal justice trends from the accumulated staff experience used to forecast those trends
- How to determine and plan for cost impact of new legislation affecting defender office operations.

#### Method

Plenary session exercise.

#### Description

1. Lead trainer introduces need for planning for events that might occur in a defender office that would require additional revenue.
2. Participants together develop a contingency budget by calculating "surprise events."
3. Trainer shows how to use the "Delphi" method in this calculation by utilizing accumulated staff experience to forecast the probability of changes and their impact on the defender's operation.

#### Materials/Logistics/Ambience

Plenary room as previously set.

## **Trainer's Notes**

### **CONTINGENCY BUDGETING**

Defenders experience a variety of "events" during a fiscal year which have an impact on their workload for which the funding authority has not provided resources. The funding authorities should be made aware in advance of the occurrence of these events regarding their probable impact on defender workload and their cost ramifications. This is especially relevant when the funding authority has control or influence over the occurrence of these "events."

This is a session in which participants will be shown a method for developing a contingency budget through the calculation of "surprise events." These calculations can be applied to the defender's regular request to provide a definite statement of requirements for the contingencies noted.

Participants will act as their own panel in assessing the surprise events.

## **CONTINGENCY BUDGETING**

### **Calculating "Surprise Events"**

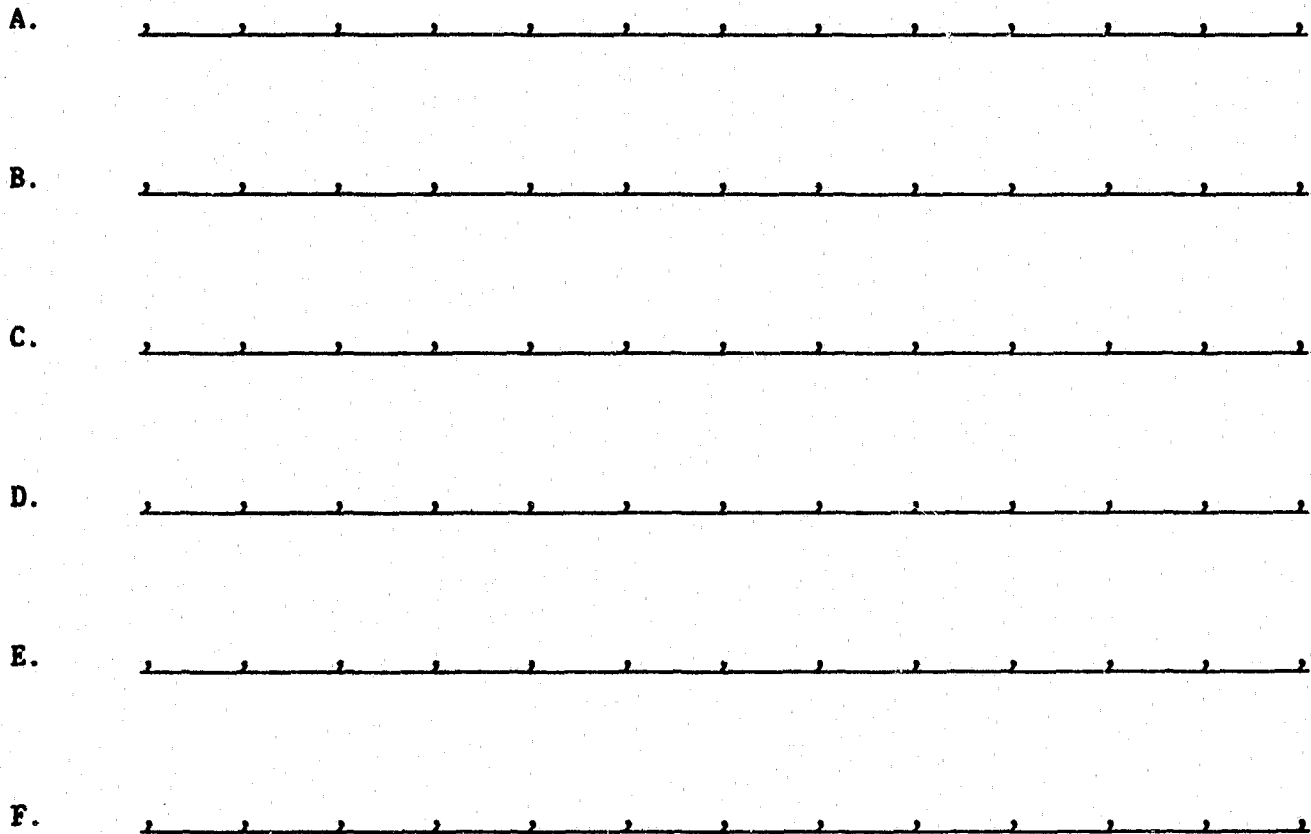
- I. List three "surprise events" relevant to your jurisdiction.**
- II. Using the chart provided to you, rate the likelihood of these events occurring in your jurisdiction within the next fiscal year:**
  - A. Lowering the age of criminal responsibility, extending the range of criminal charges applicable to the youngest age group with criminal responsibility, or reducing juvenile court jurisdiction of "criminal" charges.**
  - B. Enacting a death penalty statute or judicially affirming an existing death penalty statute.**
  - C. Providing the prosecutor with funding under the Career Criminal Program or a similar selective and expedited prosecution grant.**
  - D.**
  - E.**
  - F.**

CHART I

PROBABILITY OF OCCURRENCE

VERY  
UNLIKELY

VERY  
LIKELY





III. Assess the impact on your workload for the "events" described in II according to the following:

For "event A," the impact on your felony workload and your juvenile workload if you are also required to provide representation to the latter group.

For "event B," the impact on your murder case workload.

For "event C," the impact on your felony workload.

For "event D," the impact on your workload.

For "event E," the impact on your workload.

For "event F," the impact on your workload.

CHART II

IMPACT

NO IMPACT

MAJOR IMPACT

A. Felony:

\_\_\_\_\_

A. Juvenile:

\_\_\_\_\_

B. Murder:

\_\_\_\_\_

C. Felony:

\_\_\_\_\_

D.

\_\_\_\_\_

E.

\_\_\_\_\_

F.

\_\_\_\_\_

**IV. Note the approximate composition of your caseload:**

_____	<b>Murder:</b>	_____	<b>%</b>
_____	<b>Felony:</b> <b>(Including Murder)</b>	_____	<b>%</b>
_____	<b>Misdemeanor:</b>	_____	<b>%</b>
_____	<b>Juvenile:</b>	_____	<b>%</b>
_____	<b>Other:</b> <b>(Mental Health, prisoner rights, etc.,)</b>	_____	<b>%</b>

**V.**

**A. Combine your calculations in II and III:**

**Likelihood      X      Impact**

**B. Apply to the categories in IV.**

**VI. The additions calculated can be transmitted into staff requirements and operating costs in an identical fashion to the way you prepared your regular budget.**

**FOUR-STEP PROCESS FOR DETERMINATION OF TOTAL IMPACT  
OF LEGISLATIVE PROPOSALS ON THE COURTS**  
Judicial Council of California, 1975

**Step One**

**READ THE BILL AND OBTAIN CERTAIN INFORMATION**

- Is the latest version of the bill being analyzed?
- What does the bill provide?
- Does the bill make technical or substantive changes?
- What court(s) would be affected?
- When would the bill become operative?

**Step Two**

**DETERMINE HOW THE BILL WILL AFFECT THE COURTS**

• **COURT PROCEDURE**

- Will the bill add new or modify established procedures for bringing a person to trial?
- Will the bill add new or modify established procedures for conducting a trial?
- Will the bill add new or modify established procedures for post-trial sentencing and appeal?
- Will the jurisdiction of a particular level of court (e.g., municipal, superior) be changed?
- Will the jurisdiction of courts in general be changed (e.g., as a result of adding or removing matters from the court process)?
- Will the bill establish new or modify existing authority of judges?

• **COURT ADMINISTRATION**

- Will the bill affect the duties and/or responsibilities of court personnel?
- Will the bill authorize or require the hiring of additional court personnel?
- Will the bill require that certain court-related facilities shall be provided?
- Will the bill require certain records to be kept and/or furnished to others?
- Will the bill specify operating hours for the courts?
- Will the bill revise the organization of the courts?

• **COURT FINANCING**

- Will new sources of revenue be provided?
- Will existing sources of revenue be increased, decreased or eliminated?
- Will the allocation of existing revenue sources be changed?
- Will the present financing responsibility of the state or counties be changed?

**Step Three**

**DETERMINE THE IMPACT OF THE BILL ON THE COURTS**

• **CASELOAD IMPACT**

- Will the bill make access to the court easier or more difficult?
- Will the bill shift a matter from one court to another?
- Will the bill increase or restrict appeal possibilities?
- Will the bill expand or restrict matters presently subject to the court process?

• **CASE DISPOSITION IMPACT**

- Will the bill affect an element of the pre-trial process?
- Will the bill affect an element of the trial process?
- Will the bill affect an element of the post-trial process?
- Will the bill change the responsibility of the court, the judge, or non-judicial personnel?
- Will the bill increase or decrease court personnel and/or facilities?

• **FISCAL IMPACT**

- Will the bill require more or less personnel?
- Will the bill necessitate an increase or permit a decrease in services and supplies?
- Will the bill necessitate additional capital outlay?
- Will the bill change the amount of revenue available to operate the court, or the manner in which it is allocated?

**Step Four**

**PREPARE A WRITTEN ANALYSIS**

- **JUDICIAL IMPACT REPORT—ANALYSIS**
- Bill type, number and author
- Date introduced
- Date last amended
- General description of provisions
- Affect on the courts
- Analysis of total impact

APPLICATION OF STANDARD COST MEASUREMENTS  
TO THE ANALYSIS OF COURT-RELATED LEGISLATION \*

All that a court does and all that it spends pertains to the adjudication of cases. In this regard, it is possible to summarize standard costs in one of several ways, depending on the legislative proposal.

**Cost Categories**

- . Personnel Costs
- . Services and Supplies
- . Indirect Costs

**Average Costs of A Judicial Position:**

- . Gives the average cost of each judicial position per year, per day, per hour and per minute.
- . These costs are used when analyzing a legislative proposal that would have a minor impact on judicial case-related time or the equivalent of less than one judicial position in most courts.

**Average Costs of A Nonjudicial Position:**

- . Gives the average cost of each nonjudicial position per year, per day, per hour and per minute.
- . These costs are used when analyzing a legislative proposal that would increase or decrease nonjudicial case-related time.

**Average Costs Related to Courtroom Operations:**

- . Summarizes the average cost of operating a courtroom on a yearly, daily, hourly and per minute basis.
- . These costs are used when analyzing a legislative proposal that would have a major impact on judicial case-related time, or the equivalent of one or more judicial positions in most courts.

**Total Court Costs Apportioned Among Judicial Positions Only:**

- . Divides the total costs of courts among all judicial positions on a yearly, daily, hourly and per minute basis.
- . These costs are used when analyzing a legislative proposal that would require the creation or elimination of judicial positions in sufficient numbers to affect a fully staffed court.

**Total Court Costs Apportioned Among Nonjudicial Positions Only:**

- . Divides the total costs of courts among all nonjudicial positions on a yearly, daily, hourly and per minute basis.
- . These costs are used when analyzing a legislative proposal that would require the creation or elimination of nonjudicial positions in sufficient numbers to affect a fully staffed court.

\*Judicial Council of California, 1975

## SESSION 14

### DAY II

2:45 - 3:00 p.m.

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#### Budgeting Implementation Plan

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#### Goals of the Session

At the end of this session participants will have a better understanding of:

- The budget changes that should be implemented in their offices
- The method of collecting budget information best suited to their offices
- The time frame required for implementing desired budget changes
- The obstacles likely to occur in making budget approach changes
- The possible solutions to overcome potential obstacles.

#### Method

Individual work by participants.

#### Description

1. Each participant will review the budgeting implementation checklist and check the appropriate column.
2. For those items checked for implementation, participants will indicate the obstacles to implementation and possible solutions.
3. Checklists are to be handed in for review and will be returned to participants at a later date by mail.

#### Materials/Logistics/Ambience

Plenary session with room as previously set.

## PRESENTATION NOTES

### Personnel Management

Recently, a company had a problem. Company leaders found that in several departments, turnover was tremendous. So they hired a consultant to find out why. The consultant reported back, after surveying several departments and the employees who left, that the problem was not pay, but that their supervisors were not teaching them anything, and were stifling. So the company leaders called in the supervisors and told them to work with the people they were supervising--engage in joint decisionmaking, help them, etc. --in line with participatory management. However, the supervisors were not used to this style of management. Many of them had become supervisors in a different era. They had clawed their way to the top and were not used to helping anyone or being helped.

Top management instituted a training program to train the supervisors in dealing with their employees in a more constructive and democratic manner. The method they employed was the use of role playing and sociodrama to teach their executives how to be sensitive to the problems of their employees and to convert crisis confrontations between management and staff to constructive problem-solving sessions.

For use of these sociodramas in a defender office, the top staff of the agency demonstrate how they would handle typical personnel problems in recruitment, promotion, retention (burnout), discipline, training, morale, motivation, compensation, and deployment of personnel.

Middle management could then emulate top management in handling these problems and could practice reacting to these situations before they really had to face them in the office.

A series of sociodramas relating to common occurrences in defender offices follows.

## WORKSHOP TRAINERS' INSTRUCTIONS

### Personnel Management - Sociodramatization of Issues

#### EXERCISE INSTRUCTIONS

1. Review sociodrama topics:
  - I. A Hiring Interview
  - II. A Firing or Disciplinary Situation
  - III. Problem of Retention of Personnel
  - IV. Secretarial Confrontation
  - V. Promotion Problem

Review the structure of the sociodramas:

- o Setting described
  - o Profile of person involved with the problem
  - o Starter script
  - o Group discussion issues
2. Assign four pairs to study and develop sociodrama per pair. Give 15 minutes preparation time for all pairs at beginning of session. Request one of each pair to be the chief defender of an office and other to be the "problem" person. Assign others to study particular dramas for issues to raise.
3. Request each pair to present assigned sociodrama in turn. Give 5 to 8 minutes for the dialogue and bring to a close. Give 8 to 10 minutes for group discussion on each sociodrama issue in turn.
4. Close each discussion with a review of solutions advanced and problems surfaced.
5. At the end of workshop, remind participants that issues raised will be addressed in the later personnel management sessions.



## DISCUSSION GUIDE FOR SOCIODRAMAS

### PERSONNEL MANAGEMENT

#### SOCIODRAMA I (Minority hiring)

1. How did Chief Defender handle the interview?
  - a) Did he find out what he needed to know in order to make an informed hiring decision?
  - b) Did he convince applicant to want the job if offered?
  - c) Did he convey his management style to applicant so that applicant knows what to expect if he gets the job?
  - d) Did the Chief Defender establish a rapport with the prospective employee?

#### SOCIODRAMA II (Review of attorney with poor performance)

2. Would you have handled situation as Chief Defender did?
  - a) How many would have fired the lawyer?
  - b) How many would have placed lawyer on probation?
  - c) How many would have utilized some other approach?
3. What other problems in the office does this point up?
  - a) Lack of entry level orientation program?
  - b) What supportive help has supervisor offered?
  - c) Caseload management and monitoring problems?
4. How did defender handle personal dynamics of the situation?

### SOCIODRAMA III

(Burnout)

5. What should Chief Defender do in this situation?
  - a) Should he talk him out of the leave of absence?
  - b) Should he make him head of a division?
  - c) Should the defender convince the lawyer to go back to the courtroom?
  - d) Should he accept resignation of burned-out defender?

6. Is there something wrong with the structure of the office?  
How would you set office up, given the tasks outlined in the setting?

### SOCIODRAMA IV

(Secretarial problem, poor management structure)

7. Should an effective manager have spotted some of these problems prior to their being brought to his attention in a crisis situation?
8. How would you restructure secretarial situation?
  - a) By a pool arrangement with all work passing through a chief secretary?
  - b) By allocating secretaries, one to every two or three lawyers?
  - c) By restructuring staff by division, etc?
  - d) Other?
9. Should the Chief Defender modify duties, job title, job description, salary, or any combination of these? Should he do nothing?
10. What other office problems does this point up, e.g.,
  - a) Attorneys engaged in private practice even though it is not allowed.
  - b) Attorneys giving office secretary private work.

c) Failure of secretary to understand enough of criminal law procedure to know that jury instructions must be completed under emergency conditions sometimes, and that when a lawyer is into a trial, the unexpected often pops up.

d) Lack of training program for administrative and clerical staff.

e) Lack of office meetings so that these issues can be brought out routinely instead of in a crisis situation.

11. How did Chief Defender handle situation interpersonally?

**SOCIODRAMA V**

(Promotion problem)

12. Who should Chief Defender pick for the job?

13. Why and what would determining factors be in your mind?

14. Does it make a difference whether the Chief Defender is laissez-faire or autocratic in his management style as to who ought to get hired?

15. What impact would hiring an outsider have on office morale?

16. Should Chief Defender have embarked on an executive training program at the outset for his top staff and those personnel who wanted to learn management skills so that when new divisions were created, he could hire from within?

BUDGETING IMPLEMENTATION

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Office: \_\_\_\_\_ Address: \_\_\_\_\_

Using the information presented on budgeting, explain your plan to implement or (if not chief defender) plan to encourage implementation of the following:

ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
1. An evaluation of scope of services now provided					
2. A plan to provide short- and long-term funding goals					
3. Program budget					
4. A plan to educate funding authority on office needs					
5. Workload forecasting system using real data					

**BUDGETING IMPLEMENTATION**  
(Continued)

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ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
6. Workload forecasting system using "Delphi" survey					
7. A study to determine operating costs for each staff member					
8. Contingency budget					
9. Other budgeting change:  _____  _____					

## SESSION 15

### DAY II

3:15 - 5:30 p.m.

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#### Personnel Management--Sociodramatization of Issues

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##### Goals of the Session

At the end of this session participants will:

- Have a better understanding of the personnel approaches and experiences of other participants in handling staff matters
- Understand methods and techniques for dealing with defender office staff more effectively
- Understand how management can turn potential confrontations with staff into constructive problem-solving sessions.

##### Method

1. In plenary session, the lead trainer outlines various personnel management styles.
2. To demonstrate the technique of sociodramas as a learning tool, the lead trainer conducts one of the sociodramas outlined in the handbook.
3. Participants are then divided into breakout groups as previously designated and instructed to complete the remaining dramas in small groups.

##### Description

1. Following the plenary session, the group trainer assigned to each breakout group conducts the sociodramas starting on p. 196.
2. After each sociodrama presentation, the group trainer conducts a discussion from issues raised.

##### Materials/Logistics/Ambience

1. Plenary session room as previously set.
2. Breakout rooms as previously set.

## **PERSONNEL MANAGEMENT**

**Personnel management is directed toward providing an adequate number of qualified employees to meet the agency needs, allocated and supervised in such a way as to carry out required functions as effectively and efficiently as possible.**

TOPIC: PERSONNEL

QUESTION: Does your office have formal personnel policies?

SELF-EVALUATION CHECKLIST

	Yes	No	Uncertain
1. Does your office recruit personnel on an affirmative action basis?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Are personnel selection standards related to criteria for job performance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Are personnel selection procedures based on equal employment opportunity criteria?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Are personnel tenure and promotion procedures based on merit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Are personnel terminated only for good cause?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Are your salaries and benefits on par with those of competing organizations (e.g. prosecutors' offices)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Do your personnel policies specify job descriptions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do your personnel policies specify reasonable workload standards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Do case assignment policies take into consideration the experience and competence of staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Are your personnel evaluation procedures equitable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Is your personnel manual comprehensive?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Are there formal procedures to ensure that the personnel policies are implemented?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Are policies/procedures reviewed regularly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Are personnel policies/procedures known to staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



## THE MANAGER'S JOB:

### MYTHS

- Managers are reflective, systematic planners.
- Managers organize, coordinate, and orchestrate the activities of their agencies and have few defined or regular duties.
- Managers depend on documented, aggregated information reports which they read, digest, and use in rational decisionmaking.

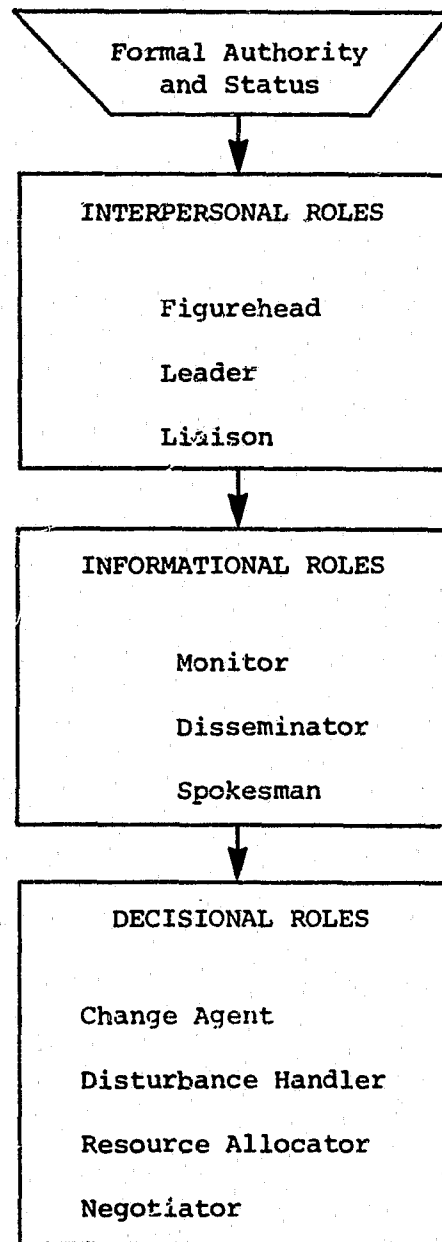
## THE MANAGER'S JOB:

### REALITIES\*

- Managers work at an unrelenting pace.
- Daily activities are characterized by brevity, variety, and fragmentation.
- Managers prefer live action and face-to-face communication.
- Managers are attracted to and use the verbal media extensively.
- Much activity is divided between the office and organization on the one hand, and an external network of outside contacts, on the other.
- The open-ended nature of the job suggests that managers in general are unable to control the majority of their daily activities.

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\*Mintzberg, Henry, The Nature of Managerial Work. New York: Harper and Row, 1973, Chapter 2.



THE TEN MANAGERIAL ROLES\*

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\*The material here and on following pages related to the ten managerial roles, is summarized or adapted from Mintzberg, The Nature of Managerial Work, chapter 4.

**THE WORK OF MANAGERS:**  
**GENERAL INTERPERSONAL ROLES**

<b>IDENTIFIABLE ACTIVITIES FROM STUDY OF CHIEF EXECUTIVES</b>	<b>DESCRIPTION</b>	<b>ROLES</b>
Ceremonial duties, status requests, solicitations	Symbolic head; obliged to perform a number of routine duties of a legal or social nature.	FIGUREHEAD
Virtually all managerial activities involving subordinates	Responsible for the motivation and activation of subordinates; responsible for staffing and associated duties.	LEADER
Acknowledgements--mail and phone; external work involving outsiders	Maintains self-developed network of outside contacts who provide information.	LIAISON

## THE WORK OF MANAGERS:

### GENERAL INFORMATION ROLES

IDENTIFIABLE ACTIVITIES FROM STUDY OF CHIEF EXECUTIVES	DESCRIPTION	ROLES
Handles all mail and contacts categorized as concerned primarily with receiving information.	Seeks and receives wide variety of special information (much of it current) to develop thorough understanding of organization and environment; emerges as nerve center of internal and external information about the organization.	MONITOR
Forwards mail into organization for information purposes; makes verbal contacts involving information flow to subordinates; holds review sessions; uses instant communication flows to subordinates.	Transmits information received from outsiders or from other subordinates to members of the organization--some information is factual, some involves interpretation and integration diverse value positions.	DISSEMINATOR
Attends outside meetings; handles mail and contacts involving transmission of information to outsiders.	Transmits information to outsiders on organization's plans, policies, actions, results, etc.; serves as expert on organization's work.	SPOKESPERSON

**THE WORK OF MANAGERS:**  
**GENERAL DECISIONAL ROLES**

IDENTIFIABLE ACTIVITIES FROM STUDY OF CHIEF EXECUTIVES	DESCRIPTION	ROLES
Conducts strategy and review sessions involving initiation or design of improvement projects.	Searches organization and its environment for opportunities to initiate "improvement projects" that can bring about change; supervises design of certain projects as well.	CHANGE AGENT
Conducts strategy and review sessions involving disturbances and crises.	Responsible for corrective action when organization faces important, unexpected disturbances.	DISTURBANCE HANDLER
Scheduling; requests for authorization; any activity involving budgeting and the programming of subordinates' work.	Responsible for the allocation of organizational resources of all kinds--in effect, makes or approves all significant organizational decisions.	RESOURCE ALLOCATOR
Negotiates.	Responsible for representing the organization at major negotiations.	NEGOTIATOR

## **SOME CHARACTERISTICS OF THREE DECISIONMAKING STYLES\***

### **CHARISMATIC/ENTREPRENEURIAL:**

Strategy making rests with one powerful individual in an environment that is usually malleable or capable of being manipulated. Generally, the organization's activities are directed toward growth and strategy and can be shifted boldly at the "whim" of the leader. Or, the organization is in trouble and activities are directed toward survival rather than growth. To satisfy the condition of centralized power, the organization must have a powerful leader with a strong mandate who acts aggressively.

### **ADAPTIVE:**

The organization faces a complex, rapidly changing environment and opposing internal forces. Goals cannot be agreed upon unless they are couched in "motherhood" terms. The organization is subjected to many controlling groups (formal and informal) which hold each other in check. Strategy making is tied to divisions of power among members of a complex whole of which the organization is but a part. The organization strategy making is in the form of reactive solutions to existing problems and decisions are incremental, serial steps.

### **SYSTEMATIC:**

The organization faces an environment that is reasonably predictable and relatively stable, and is able to afford the costs of formal analysis. Organization does not face severe and unpredictable competition and its funding is generally assured. The power system is not diffuse but hierarchical; the environment can be controlled somewhat; and goals can be analyzed in order to design more stable and active strategies for the future.

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\*Mintzberg, Henry. "Strategy Making in Three Modes," California Management Review. Winter 1973, pp. 44ff.

## SOCIODRAMA I

### Setting: A Hiring Interview

The applicant is black, Latino, or a woman whom the defender wishes first to recruit so that he can then have the option of accepting or rejecting him or her. The interviewee is somewhat reluctant to accept a position due to low pay, long hours, and the insecurity of the job. At the same time, the defender wishes to determine in his own mind whether this is the kind of person that would make a topflight trial lawyer or appellate lawyer, according to his needs.

Also, the defender should be testing to see whether this applicant will "fit in" with the way his office is operated, whether his style of management is laissez-faire, democratic, or autocratic.

### Applicant's Profile

The applicant is a minority person who has been sought after since graduation. He (or she) is bright, did well in school, and received a lot of money for the first job out of law school, higher than the defender pay scale being offered. The applicant has been a prosecutor and is pretty rigid about notions of right or wrong. He does not believe that defense lawyers should ever do anything shady or "kinky" (a prosecutorial term). He is not sure whether he could defend a criminal who told him he was guilty. (He views guilty defendants as "criminals".) He likes the prestige of a prosecutor and the emoluments that go along with it--private office, respect of the court, deference (at least publicly) of defense counsel, private secretary, adequate library and other facilities, unrestricted budget in the prosecution of a criminal case, etc. He is not sure he can give that up for less pay, less job security, fewer perks, etc.

The applicant is also used to adequate support staff, e.g., the state police and the state crime lab. He cannot imagine trying a case without investigators, use of experts, etc. He is also used to a very small caseload with the expectation of winning every case he tries. He is an excellent lawyer and will prepare every case thoroughly. He is also used to working nine to five, although he will work on weekends, if necessary.

### Starter Script

Applicant: Good morning, Mr. Defender, I came here responding to your ad in our neighborhood paper, "The Latin Times." I note that it says here, you are an "equal opportunity" employer.

Chief Defender or Director of Personnel: We are. Could I see your resume? I note here that you have been out of law school approximately two years. What have you done during this period?

Applicant: I have been in the Attorney General's office as a prosecutor, in their criminal division.

Chief Defender: Well, you know we don't have the same emoluments on the defense side that you do on the state side. You might not have a private office here at first, you won't have a private secretary, you'll share one with others, our library is skimpy, and I usually only pay \$20,000 to a person with your experience. Even that's high for this agency.

At this point the sociodrama proceeds with the chief defender trying to accomplish three things:

- Persuade the applicant to take the job if it is offered,
- Ask the kinds of questions which would help him decide if the applicant is the kind of person he wants in his office, e.g., is he a good speaker, quick thinking, or is he too prosecutorialminded to make the change to the defense side.
- Try to see if the applicant will fit into the way he manages his office--will the applicant fill out forms, accept advice on cases if there is a supervisory system, do legal research and field preparation, get along with others, etc.

#### Group Discussion

The group will critique and discuss the questions the chief defender asks to see if they elicit the information he needs to make a decision, and also his approach. The group should discuss whether he meets his objectives in convincing the applicant to accept the job if offered. The group should note if the defender discusses, as he should, some of the tremendous personal rewards in defender work to counterbalance the insecurity, low pay, and pressures of the job.

Finally, the group will discuss whether the chief defender has effectively conveyed to the applicant his style of leadership and management expectations. If it's going to be a "laissez-faire" office where there is very little direction at the top, and the assistants are supposed to sink or swim on their own, is the applicant the kind of person, as determined by the interview, who can do that?

If the office is to be run in an "autocratic" style, in which every decision, for example, is made by the manager or chief defender, is this applicant the kind of person who will accept that authority and be comfortable with it?

If the office is to be run in a "democratic" style, is this applicant the kind of person who will accept supervision when it is offered and live up to his or her responsibilities vis-a-vis the office, and does he or she know what is expected after the interview is over?

In short, the group should discuss the goals of the initial hiring interview, that is, the first confrontation with a prospective employee, the method used by the chief defender to gain the information he needs to make a decision, and the technique by which he exercises this method.



## SOCIODRAMA II

### Setting: A Firing or Disciplinary Situation

The confrontation is required because the employee, a lawyer, is not working up to par. Cases are not documented sufficiently so that if the employee is sick, someone else can step into the case; requisite forms are not filled out; legal research is inadequate; attendance at training sessions and staff meetings is spotty; the employee's attitude is bad; he or she does not get along well with the supervisor; relations with the judges are poor; and cases are not prepared for court in a timely way.

The defender has been asked to deal with the problem by the lawyer's supervisor, and it is in the context of a review of the first three months of the employee's performance by the defender.

### Profile of Ms. Jones:

For purposes of this problem, Ms. Jones will be a 26-year-old woman, a recent graduate of a good law school in which she did extremely well, and was order of the Coif. She was Phi Beta Kappa in college, also a good school. This is her first professional job, although she has been a camp counselor, given music lessons, and had a brief stint as a legal secretary one summer at a big law firm--an experience that made her decide to go to law school. Her father is a prominent lawyer in town.

She has worked hard in this job, since she had so much to learn. Although there are ongoing training sessions, they are too advanced for her; there was no orientation course when she first came to work in the defender office, or if there was one, she had no time for it, since she was thrown right into court with a heavy caseload, replacing a very experienced lawyer who left for Timbuctoo. Her excuse is that the work is simply too much for her to handle at this point. She feels she should have been given a small caseload to start and gradually built up her caseload as she gained experience. She also suffered from lack of any orientation procedure in which she was told exactly what was expected of her.

Her defense is that she feels she is not at fault, but the office which threw her into court without sufficient preparation is at fault. She feels if she is fired, the next person hired right out of law school for low wages will face the same problems, and rather than fire her, the defender should try to get at the root of the problem.

She is willing to fill out all the requisite forms, improve her legal research, provide proper documentation in each file, attend staff meetings, etc., if she can be given a lighter caseload, a basic orientation course reviewing all of the procedures she is supposed to be following, and also some basic training in criminal procedure and trial technique. She will try harder, but not with the present caseload.

### Starter Script

**Chief Defender:** Good morning, Ms. Jones, I understand you're here to see me about your three-month review. Please sit down.

**Attorney Jones:** Thank you. I'm a little anxious. This is my first job, you know, and I hope that I'm doing as well as can be expected for a person who's been on the job only three months. It's been a difficult job of adjustment---meeting clients for the first time, being responsible for cases. It's a lot different from law school which was all theoretical. Real people's lives were not hanging in the balance.

**Chief Defender:** Well, the report from your supervisor does not augur well. It indicates that you have failed to fill out all of our forms, your preparation leaves a lot to be desired, research spotty, ....

### Group Discussion

The group will critique the method by which the chief defender handles the situation. Members of the group may offer suggestions as to how they have handled similar situations, or how they would handle this one. The defender has several options. He may fire the person, in which case he must be aware of relevant state and federal laws, and should be sure that the person has had an opportunity to fairly state her case. Or he may choose to place the person on probation, giving her "another chance" for three months more. The defender may assume that his office has a personnel policy similar to the policies of his office in real life for purposes of this problem.

Again the subgroups should test the goals of such a confrontation against the method and technique employed by the role-playing "chief defender."

This confrontation could cause a crisis in the office and provide a very traumatic experience for the employee and employer alike, or it could result in a learning experience for both if the defender can get at the root of the problem and work out a mutually acceptable solution to the problem with Ms. Jones.

## SOCIODRAMA III

### Setting: A Problem of Retention of Personnel

Your top trial lawyer comes in to see you and announces that he has had it, he wants to quit and never see another courtroom again. He is sick of the daily grind, his stomach is in knots from the pressure, and he is going into private practice or teaching, or he doesn't know what as long as it's away from the courtroom. What do you do as chief defender? How does a defender manager handle the problem so as not to let the employee resign?

The chief defender should not be afraid to be resourceful here. He can assume that he has a 25-person office with support and clerical staff. He has no supervisory staff present. Lawyers are assigned by courtroom in this court system and handle all cases arising in their courtroom or their county if they are assigned regionally.

There are also no specialists in this defender office, although it handles felony and misdemeanor cases. The defender has also been asked by prison officials to be available for a limited number of prison disciplinary cases, and parole and probation revocations. There is no organized bar system for the handling and representation of conflict of interest or multiple defendant cases.

### Profile of Mr. Smith, Trial Lawyer:

Mr. Smith is 30 years old, a top trial lawyer who has been in the trial courts ever since he joined the office five years ago. He has handled murders, rapes, robberies, sex offenses, misdemeanors, juveniles, etc., and has even done a few appeals, which he rather enjoyed. He is simply sick and tired of the courtroom. He feels he has tried every kind of case and sees no need to prove himself any more. In addition, the daily grind of getting to the courtroom by 9:30 a.m. and sitting around all day just to do a plea bargain he considers beneath him at this time. He also feels he is not getting enough salary now, consistent with his experience and the pay scale in private practice. It should be noted for purposes of this problem that Smith is an excellent lawyer and has leadership potential. He would probably be designated as the next chief defender if the present defender should become a judge or decide to leave.

He would stay with the office if he got a raise, plus the responsibility to supervise others or specialize in certain kinds of cases such as murder or sale of narcotics cases. He also likes appeals, and would consider becoming head of a new appellate division in the defender office. First, however, he needs a leave of absence, not less than 30 days nor more than three months. He does not have to get paid for the leave of absence.

### Starter Script

Chief Defender: Good morning, Tom. What can I do for you?

Tom Smith: Good morning, boss, I'm quitting. I've had it with the courtroom, this office, and with you. Goodbye!!!

Chief Defender: Tom, what's the matter, is it anything I've done? If so, let me know, I'll correct it.

At this point the participants role playing this situation should continue on their own.

### Group Discussion

Following resolution of the problem, the group should critique and discuss the chief defender's handling of the situation.

Group discussion should focus on the technique used by the defender-manager in dealing with the problem. One topic ought to be whether in these situations members of the group feel the lawyer should be allowed to resign since his usefulness to the office is at an end. Another question might relate to whether organization of the office along the lines of one general--all the rest privates--might not contribute to the problem. Another topic might be comment on the solution offered by the chief defender.

## SOCIODRAMA IV

### Setting: A Secretarial Confrontation

Your secretary comes to you with a number of complaints. First of all, she or he would like his or her title upgraded. Second, the lawyers are giving her too much typing without enough notice. Third, the other secretaries in the office are underused. The defender-manager must attempt to deal with the problems she raises and sort out those in which she's right, those which present problems he must take up with the lawyers, and those in which he must explain to her why she has to accommodate herself to certain emergency situations. Finally, he has to deal with her emerging status problems or try to get at the root of the problem.

### Profile of Ms. Thompson:

Ms. Thompson is 26 years old, a college graduate with excellent secretarial skills, and some managerial ability. She would prefer a system where she would be chief administrative secretary and all assignments would be given to her for distribution to the other secretaries. She would like to stay with the office and grow with it in an administrative capacity with a modest salary raise and a pay scale with normal incremental increases commensurate with responsibility and longevity. She is not a complainer, but since she is so efficient, it is true that at least 10 lawyers, including the boss, give all their work to her. She would like respect, less drudgery, and responsibility at this point in her career.

### Starter Script

Chief Defender: Good morning, Ms. Thompson. You wanted to see me.

Ms. Thompson: Yes sir, Mr. Rodgers. I have a few complaints to make, and I had better get them off my chest. I have been putting up with this situation too long. There are five secretaries in this 20-lawyer office, and we are all overworked and exploited by the lawyers. First of all, none of the staff lawyers fills out forms after court the way they're supposed to. They all hand their files to the secretaries with a few illegible notes on the side of the file and expect us to fill out the calendar book, daily court summary sheet, etc.

Secondly, some of them have private practices, and they expect us to do their private typing during office hours or sometimes after hours with no extra remuneration, or sometimes even a thank you. And you give me all your committee work for NLADA and the American Bar Association, which I consider extra. Moreover, although there are four other secretaries in this office, about ten of the lawyers consider me their exclusive property, including you, and some of the other women have nothing to do while I slave away.

Chief Defender: I was totally unaware of this situation. I'm sorry I ...

Ms. Thompson: Let me finish, there's more. Whenever your lawyers have a jury trial, they will walk in at 5:00 p.m. and demand that some motion be typed so that it will be ready for court at 9:00 a.m. the next morning. Or they'll rush in here during the day and demand that jury instructions be typed right away. Finally, they ask us to go on personal errands and ask us to buy presents for their wives or girlfriends, or book their airline reservations, get theater tickets, and cover for them when they're at the ball game. One of them even asks us to make his phone calls for him--he's too lazy to dial. Plus, we'd like to go out to lunch together just as you do every day, and not have to go out on a staggered schedule, two women at a time every hour. I'd like some of those two-hour lunches.

The last thing I will tell you is this, then you can fire me if you want. I'd like some respect from the lawyers. Without me to implement it, your entire office system would break down. I have to constantly remind the lawyers of office procedures which they ignore. I think I would have more respect and could do a more efficient job if I had the title of office administrator, and a little boost in salary, too. I've been here five years now, and that's veteran for this office.

Things to look for in the discussion are whether: (1) the chief defender should inform the secretaries that they are not to do private typing on office time for private practices, but point out the distinction to Ms. Thompson between that and pro bono committee work for bar associations, etc; (2) the director explains to Ms. Thompson the necessity for emergency procedures when the lawyers are on trial, and that sometimes they are simply not able to plan an instruction or a trial motion in advance; (3) he rearranges the office system into a pool with Ms. Thompson as administrator so that all work passes through her desk for assignment, or whether he allocates the secretaries, four to a lawyer, or does nothing even in the face of her complaints; and (4) he tries a modest raise and change in title and responsibility or whether he simply tries to mollify her with more money instead of trying to get at the root causes of her problem.

There are numerous other topics for the group to discuss, including why an effective manager would not have spotted some of these problems or have been made aware of them before.

## SOCIODRAMA V

### Setting: A Promotion Problem

There is an opening for head of the new Appellate Division. It will be located in a branch office near the appellate court, instead of in the main office near the trial court. It will mean an increase in salary, commensurate with responsibility. The person chosen will head a 15-attorney office with support staff. You have several applicants to choose from. One has been in your trial division and has been a competent trial lawyer, but has had no administrative experience. The other applicant is from a smaller office elsewhere in the state where he or she has been the deputy director and has had some appellate and supervisory experience. You have to choose one person to head the division. Who do you choose, and how do you decide?

### Profile of Mr. Maxwell:

Mr. Maxwell, age 35, is a topnotch trial lawyer. He has been with the office five years. He has never had administrative responsibility in the office, although he had some management courses in school. He generally thinks offices can run themselves (laissez-faire approach) and believes that if he were to be placed in charge of the appellate office, he would be like an independent operator. His approach toward the chief defender would be that since the chief defender had enough confidence to put him in a branch office, he will run that office without interference. If the chief defender does not like the results, he can fire him, but if the results are favorable, he will run that office as he sees fit. He also doesn't think much of paperwork or forms and would like to minimize them as much as possible.

Mr. Maxwell is pleasant enough, but very direct and outspoken. He says what is on his mind whether or not it is tactful to do so.

### Profile of Ms. Hopkins:

Ms. Hopkins is 30, has had administrative experience in a downstate county defender office, where as deputy director, she served as administrator. She is not heavy in trial skills, but she has done a few appeals, several of which were successful.

Her notions of management are autocratic. She will make every policy decision in the office, check every brief to make sure that it is of sufficiently high quality to be filed. She is very careful in her management and will review the budget for her office, fill out every form, be intensely loyal to whoever is the boss, and follow every regulation promulgated by the central office.

She likes everything organized well in advance, doesn't mind working late, weekends, or holidays. She is also very rigid and will not tolerate sloppy work from her subordinates. She was rated competent but rigid by her last boss who depended on her to do his job for him in a sense.

She is considered competent by all who know her.

### Starter Script

Chief Defender: Come in, Mr. Maxwell. I understand you would like to apply for the new position as head of our branch office.

Mr. Maxwell: Yes sir, I would. I've been a trial lawyer now for five years in your office and have put up with all that administrative gobbledegook and forms. I'd like to determine policy now and head my own division.

Chief Defender: Well, do you feel competent to supervise others? What administrative experience have you had, if any? I know you're a good trial lawyer, but I don't know much about you beyond that.

Mr. Maxwell: I don't need a lot of administrative experience. I've been a courtroom lawyer, I've had to administer a caseload. If an office is set up right, it can pretty much run itself.

Moreover, I understand my competition is a lawyer from downstate. I hope you'll give first preference to someone from your own office. It's a question of morale, not just for me but for everyone in the office. The first time you get an opening, if you fill it from outside, it looks as if we're a bunch of dummies. I don't care if I get it or not, but I think the promotion should go to someone who's in the office, not an outsider.

At this point, the role players continue. The defender-manager should attempt to ask the kind of questions that would help him decide whether or not Mr. Maxwell is the right person or not. If he decides not to choose Mr. Maxwell, he has the additional problem of trying to assuage his feelings and prepare him for the possibility that he may not get it, without losing him as a staff lawyer.

After the interview with Mr. Maxwell, the defender interviews Ms. Hopkins, a downstate lawyer who has been deputy defender in a small town.

### Starter Script

Chief Defender: Ms. Hopkins, good morning. I understand you have applied for a position with our office as head of appeals. What administrative experience have you had, and what appellate experience?

Ms. Hopkins: I have been deputy director of a three-person office. However, most of the administration fell upon me. I did a few appeals and some trial work, but the defender-director did most of the heavy trial work with the third lawyer in the office who was also an excellent trial lawyer.

At this point, the role players should continue and the participant playing the role of the defender-manager should elicit the kinds of information from the applicant that he needs to come to a decision. He ought to check on her views of the office management for one thing, and whether she could work with him in an arrangement where she's head of a branch office, located physically away from his office.



### Group Discussion

The group should now discuss what the manager's decision ought to be, whether the best trial lawyers necessarily make the best managers, and what kinds of things to look for in making the decisions. For example, what kinds of relationship does Mr. Maxwell envision between himself, as head of the branch office, and the chief defender? What are each applicant's theories of management? Do they square with the chief defender's own style, etc.?

## **SCHEDULE**

### **DAY III**

<b>Session 16</b>	<b>Developing Personnel Policies</b>	<b>9:00 - 10:00 a.m.</b>
<b>Session 17</b>	<b>External Office Relationships</b>	<b>10:00 - 11:00 a.m.</b>
	<b>BREAK</b>	<b>11:00 - 11:15 a.m.</b>
<b>Session 18</b>	<b>Personnel Practices for Defender Staff</b>	<b>11:15 - 12:00 noon</b>
<b>Session 19</b>	<b>Personnel Management Implementation Plan</b>	<b>12:00 - 12:15 p.m.</b>
<b>Session 20</b>	<b>Summary and Workshop Evaluation</b>	<b>12:15 - 12:30 p.m.</b>

## SESSION 16

### DAY III

9:00 - 10:00 a.m.

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#### Developing Personnel Policies

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#### Goals of the Session

By the end of this session participants will have a better understanding of:

- Basic functions of personnel management in defender offices
- The requisites for performance of defender managers
- The basic personnel policies required to deal with staff effectively.

#### Method

1. Lecture with visual aids in plenary session.
2. Participants will be encouraged to discuss issues raised in sociodramas.

#### Description

1. Lead trainer introduces the various personnel tasks as listed on the chart, "Personnel Functions" (p.212).
2. Basic personnel policies are addressed using the chart on p. 213).
3. How to apply the ten management roles to defenders are discussed using the materials on pp. 214-217).

#### Materials/Logistics/Ambience

Plenary session room as previously set.

## **Trainer's Notes**

### **DEVELOPING PERSONNEL POLICIES**

#### **PERSONNEL TASKS**

Let us look at the nine tasks normally associated with personnel management, the tools used to fulfill these functions, and some of the modern problems associated with personnel management especially due to governmental regulations.

#### **PROMOTION**

One of the most difficult problems many defender offices face is who to promote and what mechanisms to use. The sociodramas illustrate some of the problems, but principles to follow which will alleviate the situation for the manager are:

- a) Have regular review procedures to evaluate staff performance;
- b) Have written evaluations of personnel on a regular basis;
- c) Ensure that staff be given opportunities to grow in varied assignments and administrative responsibility.

An example of an evaluation form originally designed for students follows. This may be modified slightly for lawyers but is task oriented and allows a range for the evaluator. Also a form for investigations is enclosed.

Such evaluations should be reviewed by the person being evaluated and commented on and then placed in the employee's personnel file.

**REQUISITES FOR PERFORMANCE**

1. Determine employee skills needed to accomplish goals.
2. Know current labor market.
3. Develop recruitment program.
4. Develop orientation, on-the-job, and advanced supervisory training.
5. Understand budget needs.
6. Forecast personnel needs.
7. Determine work space need and equipment adequacy.
8. Understand career ladder and promotion.
9. Develop fringe programs to attract and maintain personnel.

**(Personnel)**

**PERSONNEL FUNCTIONS**

- Recruitment
- Compensation
- Morale
- Motivation
- Orientation
- Training
- Retention
- Promotion
- Discipline

## BASIC PERSONNEL POLICIES

- Position Classification System
  - Salary Ranges
  - Job Descriptions
  - Employee Qualifications
- Performance Evaluation and Review Procedure
- Sick Leave and Vacation Policies
- Affirmative Action Plans
- Appointment, Promotion, and Termination Policies
- Personnel Manual

## APPLICATIONS OF THE TEN MANAGEMENT ROLES TO DEFENDERS

### Interpersonal Roles

### Observable Activities of Defenders as Managers

#### FIGUREHEAD

Meets with individuals, civic groups, or government officials; attends career events, e.g., swearings-in, graduations, promotions, presentations of awards; visits injured; attends weddings, etc.

#### LEADER

Works with subordinates on ethics and goals of organization; stimulates, motivates, and coordinates staff and line efforts; acts as a community leader; takes leadership role with city governing bodies regarding policies and plans; persuades others; related to formal and informal groups; exercises formal and earned leadership authority.

#### LIAISON

Interacts with individuals and organizations outside direct chain of command--other city departments, elements of the criminal justice system, juvenile justice, mental health organizations, community resource groups, other law enforcement agencies, professional associations; attends outside conferences and meetings related to law enforcement.



## APPLICATIONS OF THE TEN MANAGEMENT ROLES TO DEFENDERS

### Informational Roles

### Observable Activities of Defenders as Managers

#### MONITORING WITHIN OFFICE

Seeks information by scanning the internal organization; seeks data about status of current or anticipated problems; seeks information on innovations in other organizations, e.g., interview tactics, new reporting systems; looks for adaptable procedures; searches for ways to prevent or lessen friction between individuals or units in organization; receives both formal written data as well as soft, oral information (access to individuals and units may not be by way of chain of command).

#### DISSEMINATING INFORMATION WITHIN OFFICE

Provides personnel with information in a timely, often oral, fashion to assist in stimulating of corrective actions, new plans, adaptable procedures, etc., since such information usually is not immediately and readily accessible to staff; alerts planning or budget units to possible changes in next budget with information to individuals and units who, by reason of time, area assignments, or staff relationships, may not have easy access to one another.

#### SPOKESPERSON ON BEHALF OF OFFICE

Public speaking engagements to promote value or ideas about role of defenders; lobbies on behalf of policies, procedures, and budget with governing bodies by acting as an expert spokesperson for the department; makes presentations, both formal and informal, to "outside" influencers of the office; uses leadership roles and informational roles to engage actively as a spokesperson in order to compete with other agencies for limited funding (it should be noted that other managers do the same).

## APPLICATIONS OF THE TEN MANAGEMENT ROLES TO DEFENDERS

### Decisional Roles

### Observable Activities of Defenders as Managers

#### CHANGE AGENT

As consequence of previous roles, has possibly obtained adequate information to initiate steps to improve the internal functioning of office; searches for opportunities in office to exercise leadership roles in order to plan for changes; mulls over possible adaptable procedures tried out in other agencies; considers pitfalls and problems of change; constantly searches within the organization for possible change agents who can assist the manager in planning, implementing, and maintaining changes; considers a whole host of "mental" plans; faces the problem or dilemma of delegation--how to explain to subordinates exactly what is intended.

#### DISTURBANCE HANDLER

Responds directly to resolve disruptive crises--some crises are routine, e.g., office runs out of forms, increases in caseload may create frictions, etc., while other crises are exceptional, e.g., a mass resignation, a major corruption scandal, etc.; uses formal authority to resolve conflicts, crises, and exceptional problems--in these instances most frequently, the buck stops at the manager's desk.

#### RESOURCE ALLOCATOR

Determines how much of the office's limited resources, including the time and schedule of the manager, should be allocated to each organizational unit or to individuals; uses resource allocation techniques and judgments in order to plan and coordinate the activities of the office; through resource allocation process, communicates the operational priorities of the office. Possibly, in most routine matters of the life of the manager, this role is the most crucial for the organization since it affects individuals, program plans for change, all organizational units, and, above all, the future of the organization.

## APPLICATION OF THE TEN MANAGEMENT ROLES TO DEFENDERS

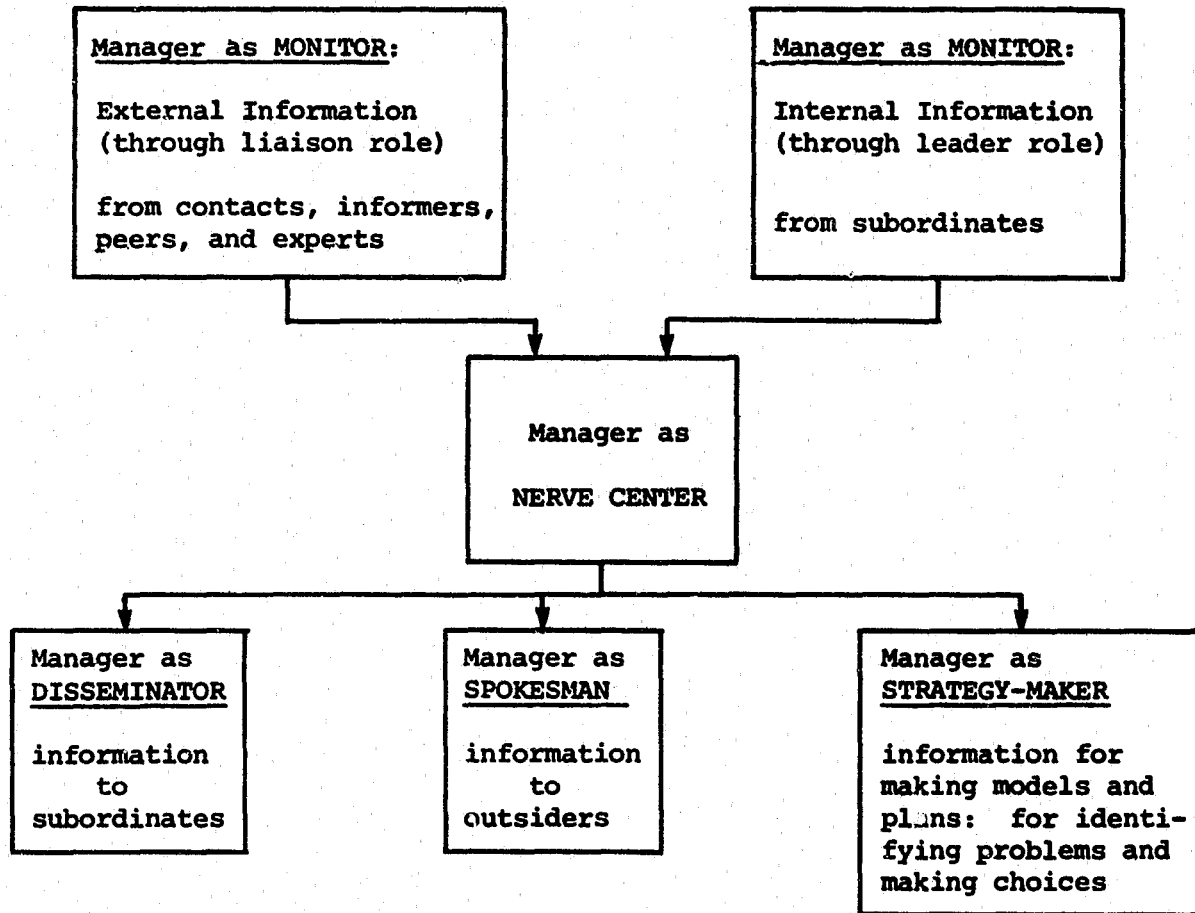
### Decisional Roles

#### NEGOTIATOR

### Observable Activities of Defenders as Managers

Acts to resolve grievances either directly or by delegation; assumes active role, if possible, in labor contract negotiations; negotiates with other law enforcement officials, criminal justice system actors, or community resource agents in order to effect more coordination and cooperation; negotiates internal conflicts between units; seeks to strike an effective balance, since negotiation is basically a trading-off of alternatives in real time.

**THE MANAGER AS AN INFORMATION  
PROCESSING "SYSTEM"**



## MOST CRUCIAL DECISIONAL ROLES

- The manager alone takes full charge of the organization's decisionmaking.
- This role justifies his/her authority and his/her powerful access to information.
- As formal authority he/she is the only one allowed to commit the organization to new and important courses of action.
- As nerve center he/she can best ensure that significant decisions reflect current knowledge and organizational values.
- Strategic decisions can most easily be integrated into the organization by having one person control them all.
- ISSUE: How, and how much, is organized information and intelligence used in the manager's decisional roles? What accounts for the patterns of use (or neglect) of such information and intelligence in the manager's decisional roles?

## DECISIONMAKING AND STRATEGY-MAKING ISSUES AND STYLES

- ISSUES:

There is little systematic evidence available that tells us how organizations make important decisions and how organizations link them together to form strategies.

Decisionmaking and the formulation of strategies is more complex and more difficult in the public sector than in the private sector.

- STYLES:\*

Management and public administration literature describe general views on the subject of organizational decisionmaking and suggest three distinct groupings or styles:

- CHARISMATIC OR ENTREPRENEURIAL  
One strong leader takes bold, risky actions on behalf of the organization.
- ADAPTIVE  
The organization adapts in small, disjointed steps to a difficult environment.
- SYSTEMATIC  
Formal analysis is used to plan explicit, integrated strategies for the future.

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\*Mintzberg, Henry, "Strategy Making in Three Modes."

## SYSTEMS ANALYSIS: OBSERVATIONS

- GENERAL:

Systems analysis is seen as many things, for example:

- A research strategy
- An application of quantitative and scientific methods to problems
- A practical philosophy to aid a decisionmaker who has complex problems to decide under uncertain conditions.

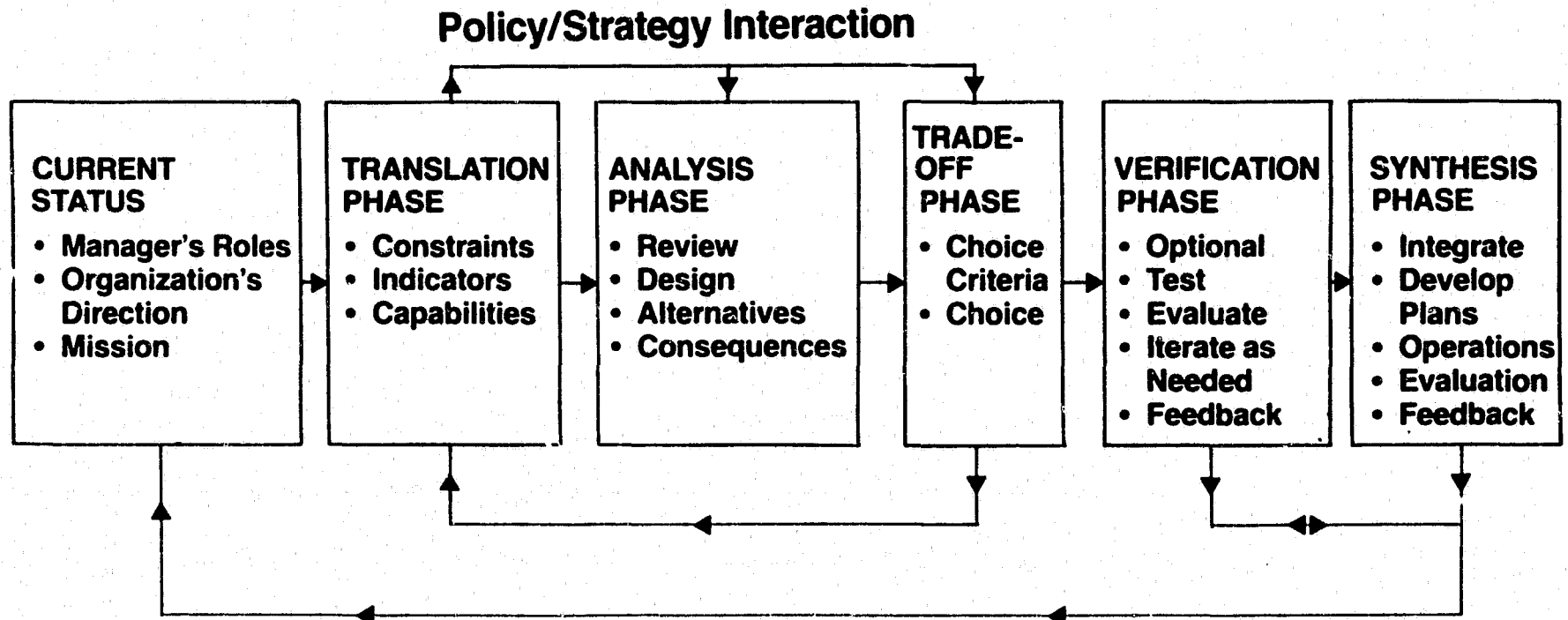
- OPERATIONAL DEFINITION FOR THE WORKSHOP:

A systematic approach to help a decisionmaker choose a course of action by investigating the full problem for the decisionmaker, searching out objectives and alternatives, and comparing them in the light of their consequences, using an appropriate framework--insofar as possible, analytic--to bring expert judgment and intuition to bear on the problem.

Systems Analysis and  
Policy Planning

E.S. Quade and  
W.I. Boucher  
1968  
RAND Corporation

# SYSTEMS APPROACH





## NOTES ON SYSTEMS APPROACH CHART

### PHASE I: CURRENT STATUS

- The entire approach begins with a self-conscious assessment of at least two parts of the defender office:
  - The manager and the roles performed by the manager
  - The direction in which the office seems to be headed.
- Essentially, this assessment should be able to answer the following types of questions:
  - Where are we now? What direction do we seem to be heading? What information, documented and undocumented, is available that will answer these questions?
  - How do I perform the varied roles of a manager? What are my weaknesses and strengths? How do these weaknesses and strengths relate to the previous question? Is the relationship positive or negative?

## PHASE II: TRANSLATION STAGE

- The answers derived from the first phase form the basis or input into a second logical phase of this approach.
- In this second phase, an attempt is made to gather as much documented data as possible that will be used later to compare or analyze current status.
- Essentially, in this phase, you begin to translate both your perceptions about the organization and the job and the realities of the organization and the job.
- Three generic categories of data are collected for further analysis:
  - What are the constraints that affect the organization and its direction? Examples:
    - Statutory
    - Ordinances
    - Finances
    - Timing of Policies
    - Physical/Capital
    - Current Policies
    - Current Procedures
    - Personnel: Quality/Quantity
  - What are the current indicators that tell the organization about demands for the services of the organization? Examples:
    - Service demands
    - Crime rates, trial rates, temporal and geographic trends in services, etc.
    - Order maintenance demands
  - What are any new capabilities that can assist the organization in developing approaches to deal with the problems associated with constraints and demand indicators? Examples:
    - Available resources: time, personnel, money, other
    - Experiments and demonstrations: external to the agency
    - Administrative discretion: role of the manager

### PHASE III: ANALYSIS

- The data about constraints, indicators, and capabilities are used as the input into the most difficult part of this approach, namely, analyzing and comparing this data with the current status of the organization and a future desirable state.
- Policy, program, and organizational analysis, which are specific terms for this general phase of analysis, are not easy and simple management activities.
- Analysis techniques may vary and may involve the use of mathematical models, such as the use of computer programs for resource allocation studies, or a simple review and adaptation of the results of evaluation done in another agency of a new tactical approach.
- In analysis, one essentially strives to look at the entire problem, as a whole and in context, and to compare alternative choices in light of their possible outcomes.
- The elements of analysis are:
  1. The objective or objectives: What objectives is the decisionmaker trying to attain through the options or alternative choices open to him or her?
  2. The alternatives: What are the means by which it is hoped that objectives can be achieved?
  3. The costs: The choice of a particular alternative for accomplishing the objective implies that certain specific resources can no longer be used for other purposes. These are the costs. Most costs can be measured in money, but, most often, their measurement must be made in terms of the opportunities that they preclude.
  4. A model or models: A model is a representation of reality that abstracts the features of the situation relevant to the set of questions being studied. It can be expressed mathematically or verbally; it can be based on hard data, soft judgment, or even intuition. It is used to estimate the consequences of choosing one of several options or alternatives.
  5. A criterion: This is a standard or a rule for ranking the alternatives in order of desirability and indicating the most promising of various alternatives.

#### PHASE IV: TRADE-OFF CHOICES

- Analysis presents options for achieving objectives; it does not make the choice.
- Choices are made by managers. They have the formal authority, power, information, and responsibility for committing the organization to certain courses of action.
- Through the use of analytic inputs, the manager chooses alternatives or options. The analysis may have weighted alternatives in terms of costs and criteria. Some of these costs and criteria may be expressed as mathematical formulas or soft judgments made by the analyst or the manager. Examples are:
  - Performance/Cost
  - Effectiveness/Cost
  - Timing/Cost
  - Risk/Cost
  - Policy/Cost
  - Procedures/Cost
  - Administrative Discretion/Cost
- What, how, and when the manager will choose one alternative over another is, to a large extent, dependent on the manager's perception of his or her roles, the manager's understanding of his or her verbal information-data bank, as well as the manager's trust of the analysis. In essence, choice involves both the selecting-in of an alternative, as well as the selecting-out of other alternatives; thus, the choice is always, in reality, a trade-off between alternatives.

#### PHASE V: VERIFICATION

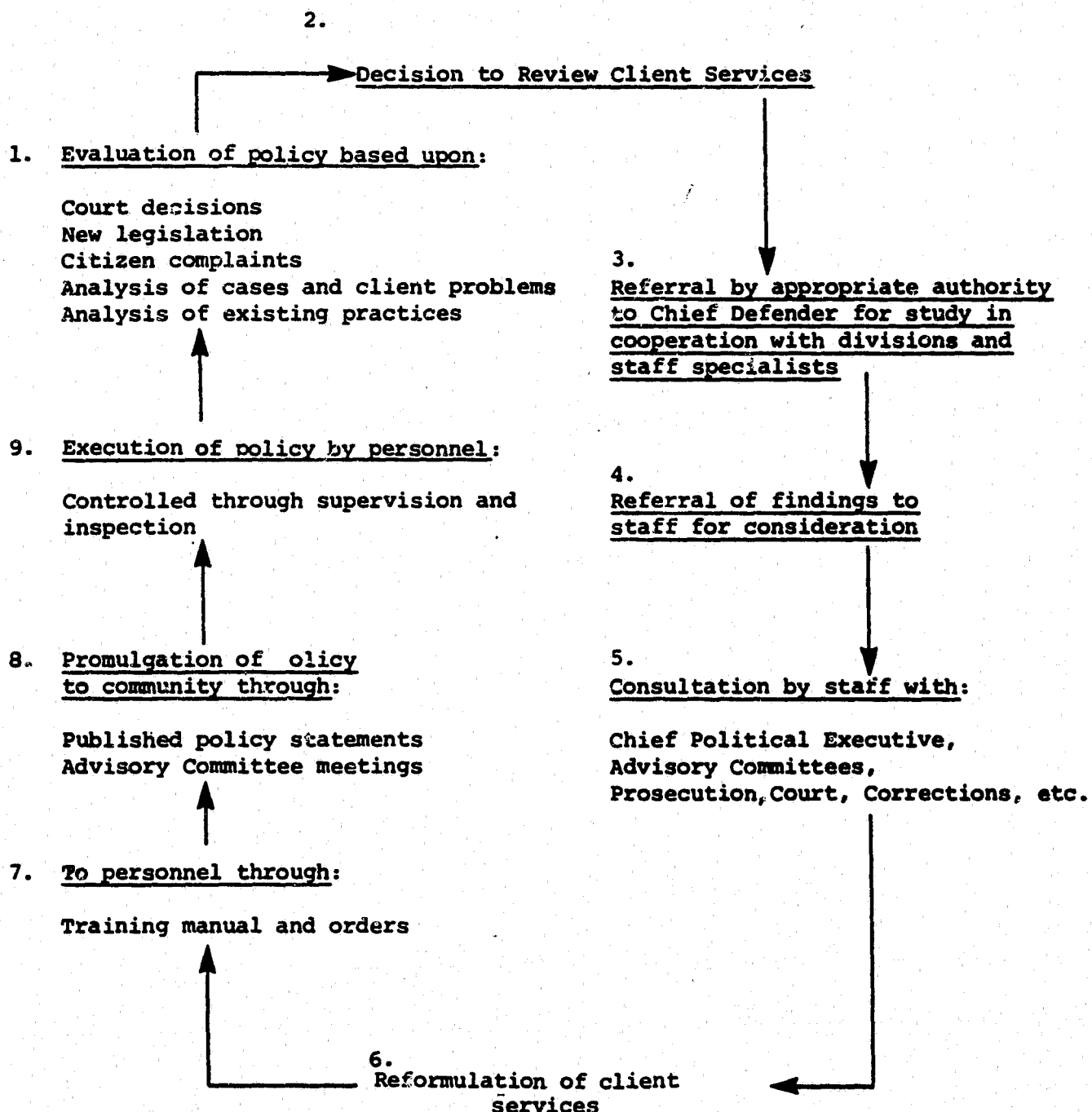
- Some choices may affect the agency in a critical way. Thus, this phase may involve the manager in choosing to experiment with a choice in order to verify the correctness of the choice.
- This testing and evaluating of a particular choice may, if planned and programmed adequately, provide significant feedback to the manager (about choices), as well as information for the analysis (about alternatives, costs, and the quality of the analysis).
- In some instances, the experiment may have to be repeated, once or several times, in order to improve the chosen alternative before final integration of the choice throughout the agency.

## **PHASE VI: SYNTHESIS**

- Up until this stage, systems analysis has been generally a staff function.
- Integrating a chosen alternative to accomplish an objective into the organization is as important a task for the manager and staff as the activities of the previous three phases.
- Usually, in the analysis and trade-off phase, the manager has acquired important analytic inputs which tell him or her much about the problem, objectives, alternatives, costs, experimental models, and choices. It may happen that little attention was given in these phases to the very soft issues of organizational climate for change and changes in employee roles that might occur as a consequence of choices made by the manager, as well as the human aspect of work within an organization.
- Assuming that the manager has had information and analysis, which takes into account the human side of the organization, then the last phase of the systems approach becomes operational.
- The major elements in this phase are:
  1. Development and distribution of a program plan, which translates the choice into program objectives, program activities, and program tasks.
  2. Design and implementation of a training program in order to facilitate agencywide understanding and agreement, particularly with supervisors and line personnel, about the chosen program.
  3. Design and assignment of authority statements, responsibility statements, and relationship statements, which are required to maintain the program, and distribution of these throughout the agency.
  4. Design and distribution of an evaluation process by which the program is monitored and, if needed, altered as a consequence of information received during this process.
- After implementation and maintenance, the manager can then begin to review again the new status of the organization and duplicate the systems approach.

DEFENDER OFFICE  
FORMULATION AND EXECUTION

Example of Systems  
Approach



## SESSION 17

### DAY II

10:00 - 11:00 a.m.

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#### External Office Relationships

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#### Goals of the Session

At the end of this session participants will better understand:

- The need to set priorities on potential actions to take to provide a balanced approach to external office situations
- The more positive ways defender offices can interact with the various significant persons and groups with which they are in contact outside their offices
- The proactive impact defender offices can have on the public image of their offices
- The need to promote effective relationships to outside groups to enhance the efficiency and reputation of defender offices.

#### Method

1. In plenary session, the lead trainer outlines the goals of the breakout group exercise.
2. Participants are instructed to return to the breakout rooms previously assigned.
3. The group trainer will review the exercise instructions and conduct the session.

#### Description

1. Following a review of the exercise each participant develops own solution.
2. Various solutions are presented to the group for discussion.
3. Participants should be encouraged to explore all possible relations and connections outside the defender office with a view to improving the defender's ability to establish the defender office as an integral part of the criminal justice system.

**Materials/Logistics/Ambience**

1. Breakout rooms as previously set.
2. **Participant Handbooks.**



**CONTINUED**

**3 OF 4**

## **WORKSHOP TRAINER'S INSTRUCTIONS**

### **External Office Relationships**

#### **EXERCISE INSTRUCTIONS:**

1. Request the participants to read the "In-Basket" Background Information, the four letters, and the Per Curium Opinion found on pages through
2. Review the tasks found on bottom of page
  - (1) Rank the items in order of priority of response.
  - (2) Note for discussion purposes the issues one should raise in each of the responses.
  - (3) As time permits, discuss additional proactive steps defender offices should take in the judicial community and community at large.
3. Use newsprint to list the ranking of responses and the issues participants would raise in those responses.
4. Bring the workshop session to closure by reviewing issues raised and solutions suggested.
5. Request participants to return to plenary session for session on personnel practices.

## **"IN-BASKET" BACKGROUND INFORMATION**

You are the Chief Defender for the public defender office for Grand County (population 500,000). Your office is located near the county courthouse in Pleasant Valley, the largest town in the county with a population of approximately 200,000 persons.

Until four years ago, counsel for indigent defendants in criminal cases was appointed on an "ad hoc" basis by the individual circuit court judges, of whom there are five. These judges were elected to three-year terms, and it was tacitly understood that attorneys who wanted to receive assignments would conspicuously contribute to various election campaign funds. This system naturally gave the judges a great deal of control over the criminal bar in Grand County, and, in one instance, a very competent attorney had been refused any further assignments by one judge because he insisted on taking a case to jury trial rather than accepting a plea bargain.

As a result of this incident and others, the Young Lawyers Committee of the Grand County Bar Association conducted a feasibility study on the advisability of creating a public defender system and assigned counsel panel which would be independent of the judiciary. Their study indicated that thousands of dollars could be saved by the implementation of such a mixed defender/assigned counsel system.

Over the vehement opposition of the judiciary and certain segments of the bar, the County Commissioners voted to create a public defender office in the county to be monitored by an advisory board. They likewise voted to create an organized assigned counsel panel, to be administered by a committee of the bar association.

The first public defender was a well-liked local attorney, who after three and a half years, had left to go into private practice. You have had the office for six months, coming to the position from a large city public defender office. When you assumed the position, the local police beat reporter did a feature story on your arrival, but since that time you have had little occasion for contact with the press.

Your office has a sympathetic advisory board which approves your budget and informally monitors and assists the office. It is composed of the following people:

- The president of the local bar association
- The president of the local minority bar association
- A member of the city council
- The local high school principal (Pleasant Valley H.S.)
- An ex-offender
- An accountant
- A local philanthropist
- The president of the local "umbrella" charity and volunteer organization
- The dean of the local law school
- A white attorney in private practice
- A Hispanic attorney in private practice.

You have a deputy defender and five staff attorneys, two investigators (one of whom is an ex-offender), law student clerks, and volunteer help. Your budget only allows for two secretaries, which you feel to be insufficient. You likewise feel that a social worker should be added to the staff, but you have no funds.

Through your efforts, the entire staff, including volunteers, have undergone a rigorous in-house training program, with special emphasis in the area of professional ethics and responsibility. You lack funds, however, to send staff to national training programs or to purchase videotape equipment to improve your training program.

Since its inception, the office has been handling approximately 60 percent of the county's criminal felony caseload. (The office does not handle juvenile cases or misdemeanors.) The average caseload per attorney has averaged 130 to 150. Neither you nor your deputy maintains a full caseload, but step in to handle overloads when they occur. This has been necessary more and more frequently. The caseload is rising, and the backlog of cases has reached fairly serious proportions. (You have heard rumors that the court administrators and judges have held a series of meetings about this problem, but you have not been invited or notified as to the results.)

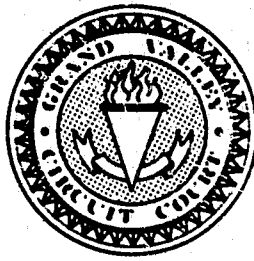
Since assuming the position, you have maintained a policy of refusing to accept all cases involving multiple defendants. It is likewise your policy that a single attorney maintain a continuing relation with each client, handling a case from initial interview through final disposition.

### THE SETTING

You arrive at your office early on Monday morning, having been out of town the previous week to attend a Defender Office Management Training Seminar. Reviewing the items in your "in-box," you find the following matters for your attention. You proceed to rank them in importance and deal with them.

### TASKS

1. Rank the items to be handled.
2. List your suggestions of appropriate responses or actions to take.
3. Determine additional proactive steps defender officers should take in the judicial community and community at large.



**Office of the  
Court Administrator  
Grand Valley Circuit Court**

**Mr./Ms. S. Justice  
Public Defender for Grand County  
100 Smith Street  
Pleasant Valley, Eureka 10000**

**Dear Mr./Ms. Justice:**

As you may have heard, our office has recently received sizable federal assistance in the attempt to deal with our serious backlog of criminal cases, some of which are over a year old. The technical assistance consultant team which reviewed our docket has recommended the addition of three new judges, as well as additional court and probation support staff. LEAA has agreed to provide seed money for this purpose.

The team made a number of other excellent suggestions, with which all the judges are in full support. Implementation of those recommendations will affect procedures throughout the criminal justice system, including the defense function. The judges have voted to implement the following changes:

1. Due to the increased caseload, 80 percent of all criminal cases will be assigned to your office.
2. All cases involving multiple defendants will be assigned to you (the judges were particularly supportive of this as it will help eliminate attorney scheduling conflicts and assist in moving the dockets).
3. It will no longer be necessary for your office to represent clients who are being considered for the prosecutor's diversion program; this will be handled completely by our court social worker.
4. It was determined that it would be most cost-effective to permanently assign one prosecutor and one defense counsel to each courtroom; they would handle all matters arising before each individual judge on a given day. (This will likewise avoid scheduling conflicts associated with so-called vertical representation.)
5. In line with our desire to effect speedy trials, no adjournments of trial dates will be granted due to attorney illness or absence. Your office will be expected to provide substitute counsel on the date set for trial.
6. All courtrooms shall begin proceedings at 8:00 a.m., and continue to 6:00 p.m., with one hour for lunch.
7. Prisoners will not be brought over from the jail for routine pretrial hearings in the courtrooms.

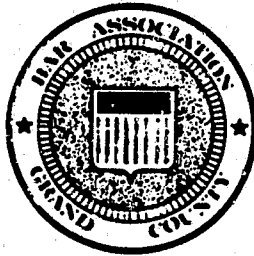
Page 2

I thank you for your cooperation in this matter. It is anticipated that these changes will go into effect one month from this date.

Yours truly,

Howard Smith  
Court Administrator

# Grand County Bar Association



## Office of the Assigned Counsel Administrator Committee on Assigned Counsel

Mr./Ms. S. Justice  
Public Defender for Grand County  
100 Smith Street  
Pleasant Valley, Eureka 10000

Dear S,

The Assigned Counsel Panel of the bar is in an absolute uproar! The Court Administrator announced yesterday that the judges have voted to cut the assigned counsel panel caseload by 20 percent (and giving those cases to your office) and they are cutting our fees--both for pretrial motions and for jail visits.

Our committee voted unanimously last night to request that your office refuse to accept the added caseload (and we would appreciate any help you might give us on the fee issue).

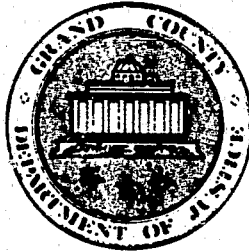
As you know, we have consistently supported your office and want to continue to do so, but this situation is causing a severe backlash among a number of private practitioners. Please let me hear from you as soon as possible.

Yours truly,

Linda/  
Linda Practioner

P.S. I understand that the prosecutor's office has received a \$500,000 grant to assist them in coping with this "crash program." Have you received an equivalent?

Office of the Honorable George Kronk  
Circuit Court Judge for Grand County



Mr./Ms. S. Justice  
Public Defender for Grand County  
100 Smith Street  
Pleasant Valley, Eureka 10000

CONFIDENTIAL

Dear Mr./Ms. Justice:

I have received information from a reliable source in the prosecutor's office, whose name I cannot reveal, that one of your attorneys (June Adams) and your ex-offender investigator (William Dunne) questioned several jurors about occurrences in the jury room during their deliberations in the Jackson murder case, now on appeal from conviction. This is unethical.

I might add that, in the course of that trial, Ms. Adams verged on contempt on more than one occasion from her barrage of pretrial motions, to her endless voir dire, and continuous objections on trivial evidentiary matters. She made the case a nightmare for me. I believe that she should be terminated immediately from employ by your office. If this is not done, please do not expect me to permit anyone else from your office to appear before me again. I might add that should you fail to take appropriate steps, I will be obliged to reveal the character of your staff to the news media. I hope I will not have to take that action.

Yours truly,

The Honorable George Kronk  
Circuit Judge



Court of Appeals

State of Eureka

People of the State of Eureka,  
Plaintiff.

vs.

Case No. 78-10037

James Jackson,

Defendant

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PER CURIUM OPINION

BY: Judges: Williams, Jones, Bradshaw; Judge Bradshaw writing the unanimous opinion of the bench.

Appeal was taken by the defendant Jackson from his murder conviction on August 8, 1978, trial being had before the Honorable George Kronk, Circuit Judge for the County of Grand.

Numerous issues were raised by counsel on appeal. This Court, however, need decide only on the issue of whether or not the trial judge abused his discretion in failing to declare a mistrial on motion of the defense when it was brought to his attention by both a juror and a bailiff that several jurors had read newspaper articles concerning the trial during the course of their deliberations.

Proofs added to the record on appeal indicated that, not only were such stories read by several jurors, but their contents were discussed by these jurors with the rest of the jury panel. The trial judge improperly refused to voir dire the jurors on this issue after the trial was completed.

For all the foregoing, the trial court having found to have abused its discretion in failing to declare a mistrial, the case is reversed and the defendant released.

---

Judge J. Bradshaw, for the Court

Dated:

Jonathan Stern  
264 Hudson Avenue  
Pleasant Valley, Eureka 10000

September 9, 1978

Mr./Ms. S. Justice  
Public Defender for Grand County  
100 Smith Street  
Pleasant Valley, Eureka 10000

Dear Mr./Ms. Justice:

I am a senior at Pleasant Valley High School. A number of students, both juniors and seniors, are interested in becoming lawyers, especially public defenders. We would like to know if it would be possible to have someone from your office come speak with us about public defense and criminal law. (We would like to set up a club for future lawyers.) Also, we would really like to see what your office is like. Would a tour be possible? Several persons asked me to inquire as well as to whether you have part-time jobs available (some of us are eligible for federal subsidies), or perhaps you would take volunteers?

Thank you so much for taking the time for this if you can.

Yours truly,

Jonathan Stern

P.S. We would also like to know what our rights are as students. The high school principal recently impounded an issue of our student newspaper because he said it contained a poem with a dirty word. It was a really good poem, and we were very upset about it. Again, thanks for your help.

## SESSION 18

### DAY III

11:15 - 12:00 noon

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#### Personnel Practices for Defender Staff

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#### Goals of the Session

By the end of this session participants will have a better understanding of:

A. Personnel Manual

The need for a personnel manual that is clear and comprehensive

The language of personnel policies to cover the issues required to have an effective personnel manual.

B. Support Personnel

The range of possible support staff available to defender offices

The appropriate ratios of attorney and support staff and what those ratios represent in terms of functions

The required goals for effective use of support staff.

C. Training Program Development

The requirements for establishing training in a defender office

The means of using staff as trainers

The process of training that is sensitive to needs, timing, and workload of staff.

#### Method

Lecture with visual aids and discussion.

#### Description

1. In plenary session, the lead trainer discusses the need and arrangement of the personnel manual with special emphasis on recruitment, retention, discipline, morale-motivation, and compensation.

2. Addressing the effective use of support personnel, the lead trainer emphasizes the use of social workers, investigators, paralegals, and students.
3. The training segment suggests methods of training on a minimum budget and emphasizes the effective use of video in the program.

Materials/Logistics/Ambience

Plenary session room as previously set.

## Trainer's Notes

### THE PERSONNEL MANUAL

You will note that reference is made in question 11 of the checklist to a personnel manual. Such a manual is the major tool of the personnel manager (or in a smaller office, the chief defender himself who may have to keep the function of personnel director among his or her duties) to convey knowledge of what the personnel policies are to the rest of the staff. Examples of personnel manuals are found in the ODO manual and Dr. Pieczenik's handbook (See Appendix A, Selected Bibliography). The personnel manual prepared by the State Appellate Defender of Michigan is prepared by the staff of the office and is kept in a central place in the office so that all staff members are aware of the policies and procedures of the office. At a minimum, the manual must address:

- a) Vacation and leave policies
- b) Sick pay benefits
- c) Affirmative action plans
- d) Performance evaluation and review procedures
- e) Appointment, promotion, and termination policies
- f) Job descriptions
- g) Reporting procedures (information system).

There are some caveats in drafting such a personnel manual. In one Mid-western defender office, the manual provided that if employees worked more than 40 hours a week, they would not be paid for overtime. Unfortunately state law required time and half pay for any work over 40 hours per week, unless the work was performed by professional staff. A secretary who worked at that office who had been paid according to the manual thereafter successfully sued for her back pay.

Secondly, apart from insuring that a manual conform to state law, one must be careful in the drafting. On page 254 is an example of a typical provision in a defender office manual.

In reviewing that loosely drafted provision, the following problems leap to mind:

- 1) Can you accumulate vacation or sick leave?
- 2) Can you take vacation right away or must earn the leave a day per month over several months?
- 3) Can you convert unused sick days to vacation days?

4) May you borrow in advance on sick pay?

These questions should be anticipated in the drafting and the provision should be clarified to answer these questions. Therefore, some time should be taken to review existing manuals to check the clarity or accuracy of each provision.

### RECRUITMENT

Written affirmative action plans are a must for any recruitment policy. A typical plan might include the following steps in filling vacancies in professional or administrative staff positions.

- a) Notify existing staff of the vacancy.
- b) Notify professional associations, including minority associations such as National Bar Association or National Association of Black Social Workers.
- c) Notify daily newspapers, including neighborhood and ethnic press.
- d) Place ads in legal periodicals and journals such as NLADA newsletter, etc.
- e) Notify placement departments of professional schools.

In addition, the personnel director (or chief defender if he has no one he can assign the responsibility of personnel to) should be aware of the current labor market, starting salaries, etc.

He or she might also explore use of formal examinations as well as the informal interview, during recruitment.

One important point to note in recruitment is the importance of the hiring interview to accomplish three objectives:

- a) Convey to the applicant the management style of the office (laissez-faire, autocratic, democratic).
- b) Determine whether the applicant would be comfortable in that management style.
- c) Try to find out what you need to know about the applicant so that you can make a hiring decision and sell the applicant on the office at the same time.

## RETENTION

Burnout is a common problem in defender offices. Paul Ligda in Solano County attempts to combat it by hiring 13 defenders for 12 jobs. That way each defender gets six weeks off every year. In an Eastern state where there is a statewide system one office downstate has three lawyers in it with only two slots. That allows each lawyer four months off every year. In other offices, supervisory slots are utilized to reduce burnout as are specialty assignments.

In the Cook County public defender office, one lawyer who had been there five years was ready to quit because he was bored. He had been in both trials and appeals. He was made a supervisor in the appellate division and allowed to try a few special cases; he remained a great asset to the office.

A situation where there is a chief defender and all the rest of the staff are Indians is not good organization and is conducive to burnout.

## DISCIPLINE

Discipline is difficult in any office, but especially in a defender office where relationships are often very close and where most of the staff are lawyers. Nevertheless, where it is necessary to discipline a lawyer, it must be done in a professional manner so that office discipline may be maintained and the public's rights protected. Disciplinary procedures ought to be spelled out in an office manual, and regular review procedures must be imposed.

In sociodrama, a review procedure is illustrated. Such a regular review procedure is helpful in spotting problems while they can still be corrected. As noted earlier written evaluations ought to be prepared by supervisory personnel, shown to the person evaluated for comment, and placed in a personnel file.

Some office manuals provide that firings or suspensions be made only by the Chief Defender upon recommendation of supervisory personnel. In any event, that procedure should be spelled out before the problem arises and employees try to appeal firings or disciplinary action to county boards, advisory boards, or the court. Discipline must be the province of the Chief Defender, who must be ultimate authority in such matters.

## MORALE MOTIVATION

Sociodrama touches on a morale problem when one of the applicants for a position tells the Chief Defender that there will be a morale problem in the office if an outsider gets the job. Morale and motivation are responsibilities of the Chief Defender, who must constantly try to keep office morale high and motivate his or her staff to peak performance.

Good interpersonal relations and concern for the staff by the Chief Defender will go a long way toward keeping staff morale high. Adequate compensation, equal distribution of work, proper caseloads, and adequate support staff, supervisory structure, or specialized positions so that staff can move up in the office and get varied and satisfying work experience will also insure high morale and motivation in the office.

## COMPENSATION

A proper compensation scheme for an office encompasses three factors:

- 1) Salary schedule
- 2) Job descriptions
- 3) Qualifications for each position

In a state or county system, a salary schedule may be set for a period of years by step and by grade. If such a schedule exists and it is high enough to give adequate compensation for defenders and defender staff, it is well to try to get the defender salary scale into that budget. For example, a typical county scale system may look like this:

	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
G1	10,000	10,500	11,000	11,500	12,000
G2	12,000	12,500	13,000	13,500	14,000
G3	14,000	14,500	15,000	15,500	16,000
G4	16,000	16,500	17,000	17,500	18,000
G5	18,000	18,500	19,000	19,500	20,000
G6	20,000	21,000	22,000	23,000	24,000

etc.

In such a system, each job is described completely and assigned a level (G1, G2, etc.). Once assigned that grade, that position carries an annual salary increase according to that step; this increase occurs apart from cost-of-living increases. The scale recognizes experience and builds in an annual raise. The advantages of such a system include minimizing arguing with the funding authority each year and allowing staff members to see what salary he/she could get if they stay in the system instead of jumping to private practice or the prosecutors office. In Los Angeles county, for example, over 80 attorneys earn from \$38-42,000 per year as public defenders after 10 years, which may be a career inducement for an attorney just starting at \$13,500.



If there is no such system in your county, it might be well to set up such a schedule and try to sell it to the county board or funding authority. If it succeeds, fine; if not, at least the board may get some notion of the idea that competence and experience ought to be rewarded by compensation. It might be necessary to point out to the board the fact that when an inexperienced attorney or investigator starts with the office, he or she is less efficient and less effective than a veteran attorney, investigator, or social worker.

To further that notion, it is often well to set varying grade levels for defender staff based on education and experience, e.g. Public Defender I--graduate law school, no experience, level G7; Public Defender II--graduate law school, two years experience, level G9, etc.

By setting such levels the Chief Defender can set starting salaries on an equitable basis; the Defender thus can attract more qualified staff and can advance the notion to the funding authority that you have to pay more for experience.

Having discussed the traditional functions of personnel management, we note that each of us has probably engaged in one or another of these functions at any given time, but it is valuable to see the full range of tasks to see how a personnel system works and how it interacts with other functions in the office and how its tasks interrelate with each other.

To compare your office personnel policies with what is needed, do a quick selfanalysis, using Dr. Roberta Pieczenik's "Self Evaluation Guide for Defender Offices," on page 189. If you are deficient in one or more areas, study some of the suggestions for improvement in the pages following the selfevaluation checklist. (Let us review that checklist now together.) (See p.189).

## CONCLUSION

When one accepts the responsibility of Chief Defender, he or she must prepare for that position just as he or she would prepare for a trial or appeal. In the personnel area, concern for one's employees, fair procedures which have been thought out and promulgated, and an attempt to train, pay, and motivate one's staff go a long way toward ensuring effectiveness of service to one's clients.

## EFFECTIVE UTILIZATION OF SUPPORT STAFF

One of the duties of a full or parttime personnel director or head of the office (if no one else has been designated) is to insure the effective utilization of support staff. Such staff, according to standards of the National Study Commission on Defense Services, ABA, and NLADA, include investigators, social workers, and clerical staff at a minimum. In addition, the use of paralegals for a variety of functions is becoming more common in Defender offices.

## USE OF SOCIAL WORKERS

The Criminal Defense Consortium of Cook County made extensive use of social workers in its 6 community defender offices. The roles of the social workers included:

- 1) Assist attorney in finding an alternative to incarceration (drug abuse programs, vocational rehabilitation, alcohol detox, school placement, etc.)
- 2) Assist family of client in locating welfare and other services while defendant is incarcerated.
- 3) Refer clients who may need longterm counseling to appropriate agencies.
- 4) Short-term therapy to clients while in the criminal justice process.

In addition, the social workers, all of whom held masters, helped organize community advisory councils for each office.

## USE OF INVESTIGATORS

The National Standards suggest a ratio of one investigator to every three fulltime lawyers. An excellent discussion of investigator duties and a checklist for investigators is found in the ODO manual by James Ford, a Federal Investigator in the New Jersey system.

## USE OF PARALEGALS

For an interesting discussion of the possible use of paralegals in the defender office, see "Paralegals: A Resource for Public Defenders," by John Stein. This handbook is available through the National Criminal Justice Reference Service. The Portland, Oregon, defender's office uses paralegals as trial assistants, and in a variety of other functions so that support staff in that office outnumber attorney staff.

## USE OF STUDENTS

Criminal justice students, as well as law students, are now available as a resource for public defender offices. The criminal justice student may assist the social worker, the investigator, and the statistical analyst, and may be available to help research grant applications and program budget proposals.

## TRAINING-ORIENTATION

The training function is perhaps the most important of all personnel functions. There are five basic suggestions in this area that we would like to make.

### I. Differentiate Orientation from Training

Separate the training function from orientation. At the orientation program, which should be given to all new employees, three tasks are performed:

- a) Give written or oral examination to determine level of applicant's ability and to pinpoint his or her orientation specific needs. (See the example of such an examination developed by Nancy Goldberg, Training Director for the Criminal Defense Consortium of Cook County.) See p. 273).
- b) Inform new employees of the philosophy and goals of office. Inculcate pride in and respect for responsibility of position; e.g., if the primary focus of your office is to serve clients as opposed to facilitating the court system, then the staff ought to be grounded in that at the outset.
- c) Review with all new employees the jobs of each of the employees, the procedures to be followed, and the forms and other information that must be filled out. If there is a policy and procedures manual, please point it out to the staff at this time or give each employee a copy.

### II. Formalize Training

Set up a regular inservice, formal training program on a regular basis (quarterly, monthly, biweekly etc.) Examples of several different types of programs are found in the ODO Manual pp.147-161. In Cook County, the Consortium ran programs twice a month. During the first year of the program, they covered all the steps of a criminal case from client interview through closing arguments in a jury trial. Trial transcripts for this "course" were secured from the National College of Criminal Defense Lawyers and Public Defenders.

The second year, the training director devised a "Training Needs Survey" for the lawyers to fill out, asking them to suggest topics, speakers, and formats (e.g. lecture, exercise, moot trial, video tapes etc.) This survey gave the staff a chance to suggest changes relating to the process, as well as attempting to meet the attorneys' specific needs. Also, senior staff were instructors as the group was divided in small exercise groups. No one should be exempt from the formal training sessions.

### III. Train the Entire Staff

Often training is for lawyers only. Investigators, paralegals, and social workers, however, are entitled to training as well. In one office, the secretaries demanded training in criminal justice and legal terms, the stages of the criminal process, and even how to shepardize. After the training session, one of the secretaries remarked, "I never knew how much work the lawyers really have to do."

With respect to social workers and investigators, in addition to their own sessions, it has been found useful to have joint sessions with the lawyers to iron out problems and learn how to use support services most effectively. For an excellent discussion on the effective utilization of investigator personnel, see Jim Ford's article in the new ODO Manual, p. 133.

### IV. Involve the Private Bar

Especially in small counties, where the defender office is small, it is essential to involve the private bar and invite them to monthly lunches or evening training seminars or weekend retreats. They may be used as speakers or as participants. Particularly in light of Holloway v. Arkansas, members of the private bar may be interested in staying abreast of criminal law since they may be appointed as counsel in conflicts cases.

### V. Utilize Video-Tapes and Other Audiovisual Methods in the Training Program

Videotape machines are now available in every law school, most community colleges, some police departments, etc., and may be readily borrowed. Video-tapes run approximately \$25 to \$40 for an hour's worth of tape, and they may be erased over and over again.

The D.C. Defender Office uses the video cassette machine to record mock motions to suppress, for example. A trainer will play the role of the police officer witness and other students or more experienced lawyers take the role of judges, prosecutor, etc. The student is not interrupted by the trainer during the motion, which is taped. The videotape is played back and a critique is made of the student's performance at each step of the proceeding, covering how objectives were handled, the nature of direct and cross, etc.

The Consortium used video-tapes to record closing arguments. Some lawyers who then viewed themselves could not believe the body language they "spoke" or nervous habits they had. From the director's point of view, observing the office staff during training sessions is an excellent way to get some ideas about the attorneys' capabilities. In viewing the tapes of the closing arguments, the Chief Defender in one office found the calibre of one attorney's closing argument so poor that the attorney was ultimately terminated. (The rest of his work was reviewed and found not to be of sufficient calibre to protect and represent his clients properly.)

In one federal defender office, they show a videotape of a mock trial and stop the tape at various points for discussion by the lawyers. For example, a defense witness is on the stand on direct examination, the State's attorney objects, and the tape is stopped for a discussion of whether the objection should be sustained or denied. Then the tape resumes for the answer.

**(Personnel)**

**PERSONNEL MANUAL**

**Personnel Manual**

- I. Introduction**
- II. Office Organization**
- III. General Personnel Policies**
- IV. Employee Benefits**
- V. Compensation Program**
- VI. Personal Conduct**

**Personnel Manual (2)**

- VII. Duplicating Services**
- VIII. Financial Management**
- IX. Communication Systems**
- X. Support Personnel Responsibilities**
- XI. Information Systems**
- XII. Office Security**
- XIII. Miscellaneous Guidelines**

**(Personnel)**

**DEFENDER LEAVE POLICY**

**Each employee shall have 12  
days of sick leave annually  
and 12 days of vacation.**



## **SUPPORT PERSONNEL**

### **Justification For Support Staff**

**Cost Effectiveness**

**Specialization**

**Defender Burn-Out**

**Effective Representation**

## DEFENDER SUPPORT STAFF AVAILABILITY

1. How many offices have no full-time investigators (or full-time equivalent) on staff?  
\_\_\_\_\_
2. How many have no more than one full-time (or full-time equivalent) investigator on staff?  
\_\_\_\_\_
3. How many have more than one full-time investigator?  
\_\_\_\_\_
4. How many have more than five full-time (or full-time equivalent) investigators?  
\_\_\_\_\_
5. How many have a chief investigator in a supervisory capacity?  
\_\_\_\_\_

**DEFENDER SUPPORT STAFF AVAILABILITY (cont.)**

6. How many offices present have other support personnel in addition to secretarial staff?

a. Social workers

b. Job development workers

c. Ex-offenders

d. Paralegals (who do quasi-legal work)

e. Law students

f. Social work students

g. Supervisory personnel for secretaries

h. Supervisory personnel for social service staff

i. Fiscal or accounting staff

j. Lay business manager other than accountant

## DEFENDER INVESTIGATOR BACKGROUNDS

- |  | Yes   | No    |
|--|-------|-------|
| 1. Do any of your investigators have at least a B.A. degree?                                       | _____ | _____ |
| 2. Do any of your investigators have a master's in criminal justice or other degree beyond a B.A.? | _____ | _____ |
| 3. Do any of your investigators have a particular expertise--photography, polygraph, etc.?         | _____ | _____ |

**DEFENDER INVESTIGATOR BACKGROUNDS (cont.)**

- |  | <b>Yes</b> | <b>No</b> |
|--|------------|-----------|
| 4. Have any of your investigators taken outside instruction--fire investigators' school, Eastman Kodak school, etc.? | _____      | _____     |
| 5. Are some or all of your investigators law students?   | _____      | _____     |
| 6. Do some or all of your investigators work less than 35 hours a week?  | _____      | _____     |

**DEFENDER INVESTIGATOR BACKGROUNDS (cont.)**

- |  | <b>Yes</b> | <b>No</b> |
|--|------------|-----------|
| 7. Are any of your investigators members of state defender associations or of the National Defender Investigators Association? | _____      | _____     |
| 8. Have any of your investigators previously worked in police or sheriff's departments?  | _____      | _____     |

## INVESTIGATOR EVALUATION

NAME: \_\_\_\_\_ OFFICE: \_\_\_\_\_

On a scale from 1 to 5, 1 is the best possible grade.

- A. INTERVIEWING: (obtaining relevant facts; interviewing skills; interrogation skills; rapport with clients; flexibility)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

- B. INVESTIGATION: (street sense, witness preparation, thoroughness, following through on locating witnesses, reliability, dedication)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

- C. RESEARCH: (searching civic files, community resources, etc.)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

- D. RELATIONSHIP: (to students, lawyers, and social workers)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

INVESTIGATOR EVALUATION (cont.)

E. KNOWLEDGE OF CRIMINAL LAW: (is it sufficient to operate?)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

F. FILES: (organization, comprehensive diary sheets; prompt recording of activities; good case files--adequate for someone else to work from)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

G. TESTIFYING IN COURT: (e.g. well-prepared notes)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

H. REPORTS - WRITTEN: (clear, concise, each case diary complete)

Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:



**INVESTIGATOR EVALUATION (cont.)**

I. **TRAINING:** (ability to comprehend and utilize information from sessions and seminars)

**Grade:** 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

**Comments:**

**Signature of Evaluator:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature of Investigator:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# SOCIAL WORK CLOSING FORM

CLIENT'S NAME \_\_\_\_\_ OFFICE \_\_\_\_\_

AGE \_\_\_\_\_ DATE \_\_\_\_\_ FILE NO. \_\_\_\_\_

CHARGE(S) \_\_\_\_\_

VERDICT/SENTENCE \_\_\_\_\_

DATE OF FIRST SOCIAL WORK INTERVIEW \_\_\_\_\_

SOCIAL WORKER'S NAME \_\_\_\_\_ ATTORNEY'S NAME \_\_\_\_\_

REASON FOR REFERRAL \_\_\_\_\_

\_\_\_\_\_

PRESENTING PROBLEM \_\_\_\_\_

\_\_\_\_\_

SOCIAL WORK CONTRACT \_\_\_\_\_

\_\_\_\_\_

	<u>Number of Times</u>	<u>Number of Hours</u>
<b>I. <u>Interviewing</u></b>		
<b>A. Initial Intake/Diagnostic Assessment</b>	_____	_____
<b>B. Short-Term Therapy</b>		
1. At County Jail, House of Corrections, Hospital, Other Residential Setting, Other _____	_____	_____
2. In Office	_____	_____
3. Home Visits	_____	_____
<b>C. Family Members</b>		
1. In Office	_____	_____
2. At Home	_____	_____
3. At Court	_____	_____

## SOCIAL WORK CLOSING FORM (cont.)

	<u>Number of Times</u>	<u>Number of Hours</u>
<b>II. <u>Advocacy</u></b>		
<b>A. Courtroom Appearances</b>		
1. Testifying for Client/Plea Bargaining	_____	_____
2. In-Chambers Conference with Judge	_____	_____
3. Bond Reduction	_____	_____
4. Emotional Support for Client and Family	_____	_____
<b>B. Probation Officers</b>		
1. Telephone Conversations	_____	_____
2. Meetings	_____	_____
<b>C. Parole Officers</b>		
1. Telephone Conversations	_____	_____
2. Meetings	_____	_____
<b>D. Jail Administrators/Personnel</b>		
1. Telephone Conversations	_____	_____
2. Meetings	_____	_____
<b>E. Social Agency Personnel</b>		
1. Interdisciplinary Staffings	_____	_____
2. Telephone Conversations		
a. Social Workers, Psychologists, Psychiatrists	_____	_____
b. Caseworkers, i.e., Public Aid, DCFS, Mental Health, DVR, other _____	_____	_____
<b>F. Written Psycho/Social Assessments and Recommendations</b>		
1. For Court Personnel, Judges, P.O.'s, etc.	_____	_____
2. For Social Agency Referrals	_____	_____
<b>III. <u>Referrals of Clients for:</u></b> (Indicate name of agency, address, phone number, contact person, date of referral, in "Comments" below)		
<b>A. Educational and/or Vocational Counseling</b>		
1. Diagnostic Evaluation	_____	_____
2. Job Training	_____	_____
3. Job Referral	_____	_____
4. Educational Program	_____	_____

## SOCIAL WORK CLOSING FORM (cont.)

	<u>Number of Times</u>	<u>Number of Hours</u>
B. Medical Care		
1. In-Patient	_____	_____
2. Out-Patient	_____	_____
C. Individual Psychiatric Care (long term)		
1. Evaluation and Testing	_____	_____
2. In-Patient	_____	_____
3. Out-Patient Clinic	_____	_____
D. Marital and/or Family Treatment	_____	_____
E. Drug Program		
1. Residential	_____	_____
2. Out-Patient Clinic	_____	_____
F. Alcoholism Treatment		
1. Residential	_____	_____
2. Out-Patient Clinic	_____	_____
G. Public Aid	_____	_____
H. Unemployment Compensation/Social Security	_____	_____
I. Housing	_____	_____
J. Half-Way House	_____	_____
K. Legal Aid	_____	_____
 IV. <u>Followup</u>		
A. Phone Calls		
1. To Client and/or Family	_____	_____
2. To Agency Staff Personnel	_____	_____
B. Meetings with CDC Staff Personnel	_____	_____
C. Letters and Written Reports		
1. To Client	_____	_____
2. To Agency Staff Personnel	_____	_____
 V. <u>Consultations with Lawyer</u>		

OUTCOME OF SOCIAL WORK INTERVENTION \_\_\_\_\_

**SOCIAL WORK CLOSING FORM (cont.)**

**COMMENTS (See Item III, above)** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADDITIONAL COMMENTS** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

## TRAINING PROGRAM DEVELOPMENT

---

### TRAINERS

Does your office:

YES

NO

1. Have a training director?
  - Part time?
  - Full time?
2. Use senior attorneys to train?
3. Use junior attorneys to prepare topics?
4. Use support staff in some training functions?
5. Use volunteer speakers?

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

NATIONAL STUDY COMMISSION DEFENDER SERVICES  
GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE U.S.

RECOMMENDATION:

Training Staff Attorneys in a Defender System

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

(b) In-service training programs for defender attorneys should be provided at the state and local level so that all attorneys are kept abreast of developments in criminal law, criminal procedure, and the forensic sciences. As a part of in-service training, defender attorneys should be required to read appellate slip opinions, looseleaf services, and legal periodicals.

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

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

Training Assigned Counsel

(a) A single person or organization should assume the responsibility for training of assigned counsel panel members. Where there is an administrator, that individual should bear the responsibility.

(b) Training programs should take into consideration the prior experience and skills of the attorneys. Special programs should be established for those less experienced attorneys who wish to qualify for the assigned counsel panel.

(c) Formal training programs stressing lectures, demonstrations, and supervised participant involvement should be regularly scheduled. Joint sponsorship of such programs by defender organizations, local bar groups, and/or national organizations should be encouraged.

(d) Reasonable attendance at training programs should be required of attorneys in order to remain on the panel.

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

(f) Assigned counsel should be encouraged to attend periodically other criminal law-related seminars in addition to the regular formal training programs.

(g) Facilities for training programs should include audio and videotapes. Further, a national organization should consider providing, as a service, such tapes to defender offices and bar associations concerned with training attorneys who regularly accept appointments in criminal cases.

(h) In addition to formal training programs, those responsible for the adequacy of assigned counsel performance should make the following resources available: an apprenticeship program, an initial hand-out or package of materials, an evaluation procedure, a motion and brief bank, a complete law library, information on experts, a newsletter, access to other attorneys for consultation, and law student assistance.



PRIVATE BAR PARTICIPANTS  
IN DEFENDER TRAINING PROGRAM

Phone: \_\_\_\_\_

REGISTRATION FORM

Defense Training Program Series

NAME \_\_\_\_\_  
Last First Middle Initial

FIRM \_\_\_\_\_

BUS. ADDRESS \_\_\_\_\_

BUS. PHONE \_\_\_\_\_

Year Graduated from Law School 19 \_\_\_\_

Predominant Type of Current Practice of Law \_\_\_\_\_  
(e.g., criminal, personal injury, corporate, tax)

Previous Experience in Criminal Representation:

1. Number of Felony Juries \_\_\_\_\_
2. Number of Misdemeanor Juries \_\_\_\_\_
3. Number of Felony Bench Trials \_\_\_\_\_
4. Number of Misdemeanor Bench Trials \_\_\_\_\_
5. Approximate Number of Criminal Cases Handled \_\_\_\_\_
6. Approximate Number of Indigent Criminal Cases Handled \_\_\_\_\_

AGREEMENT TO REPRESENT INDIGENTS:

I, \_\_\_\_\_, certify that I  
signature

intend to represent indigents in future criminal cases.

STUDENT'S REPORT ON DEFENDER OFFICE

EVALUATION REPORT ON \_\_\_\_\_ NEIGHBORHOOD OFFICE

Student's Name \_\_\_\_\_ Date \_\_\_\_\_

Length of Time You Participated in Program \_\_\_\_\_ weeks

Number of Cases and Type of Cases on Which You Worked \_\_\_\_\_

Type of Work Done (e.g., interviews, research, investigation, supervised practice in court) \_\_\_\_\_

Number of Attorneys and Names of Attorneys with Whom You Worked \_\_\_\_\_

Evaluation of Office in Which You Worked \_\_\_\_\_

Reactions to the Neighborhood Office Program \_\_\_\_\_

Additional Comments \_\_\_\_\_

ATTORNEY'S REPORT ON STUDENT

NAME OF STUDENT \_\_\_\_\_ Consortium Office \_\_\_\_\_

- A. Interviewing (e.g., establishing an attorney-client relationship and obtaining relevant facts from the client)

Name of case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: \_\_\_\_\_ 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5

Comments:

- B. Counseling (e.g., meaningful explanation of applicable law, explanation of alternatives and expectations, keeping client advised--orally and in writing--sound referrals)

Name of case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

\_\_\_\_\_  
\*On a scale of 1 to 5, 1 is the best possible grade.

C. Fact Investigation (e.g., witness preparation, thoroughness, obtaining and preserving documents)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

D. Research (e.g., thoroughness, creativity, use of research tools, reliability)

Name of case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

\*On a scale of 1 to 5, 1 is the best possible grade.

- E. Negotiation (e.g., preparation of facts and legal argument, development of strategy, handling actual negotiation)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

- F. Writing (e.g., initial fact memos, opinion letters, correspondence, memos for office use, pleadings, motions, legal memos, trial briefs, appeal briefs. In discussing any of these consider, for example, clarity, legal sufficiency, application of facts to law, strategic judgment)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

\*On a scale of 1 to 5, 1 is the best possible grade.

- G. File Keeping (e.g., organization, comprehensive fact sheet, summary of strategy, prompt recording of activity, adequate for someone else to work from)

Name of Case(s) \_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

H. Trial and Administrative Practice

NOTE: This subheading is broken down into 4 parts. In completing this subheading, include administrative hearings as well as court experiences.

1. Trial Plans (e.g., legal preparation, witness preparation, anticipating objections, proposed cross-examination, preparation of demonstrative evidence, preparation of argument)

Name of Case(s) \_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

\*On a scale of 1 to 5, 1 is the best possible grade.

2. Discovery (e.g., interrogatories, dispositions, production of documents, admissions. In discussing any of these consider, for example, strategic judgment, comprehensiveness, developing impeachment, handling objectives)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

3. Arguing Motions (e.g., persuasiveness, handling questions, controlling argument, making a record)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

\*On a scale of 1 to 5, 1 is the best possible grade.

4. Trials and Hearings (e.g., jury selection, opening statement, direct examination, cross-examination, objections, jury instructions, closing argument, ability to handle the unexpected)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

- I. Appellate Practice (e.g., strategy, familiarity with record, oral argument)

Name of Case(s) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Grade: 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

Comments:

Signature of Evaluator \_\_\_\_\_

Date \_\_\_\_\_

\*On a scale of 1 to 5, 1 is the best possible grade.



## SESSION 19

### DAY III

12:00 - 12:15 p.m.

---

#### Personnel Management Implementation Plan

---

#### Goals of the Session

At the end of this session participants will understand better:

- The relationship of the training session on personnel management to their own office needs
- Areas of personnel management they will seek to improve
- The areas of personnel management that are already effectively handled in their offices
- The obstacles that will provide resistance to any planned changes in the personnel management system
- Possible solutions to overcoming obstacles in the implementation of personnel management changes.

#### Method

Individual work by participants.

#### Description

1. Each participant will review the personnel implementation checklist and check the appropriate column.
2. For those items checked for implementation, participants will indicate the obstacles to implementation and possible solutions.
3. Checklists are to be handed in for review and will be mailed to participants later.

#### Materials/Logistics/Ambience

Plenary session with room as previously set.

# PERSONNEL MANAGEMENT IMPLEMENTATION

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Office: \_\_\_\_\_ Address: \_\_\_\_\_

Using the information presented on personnel management, explain your plan to implement or (if not a chief defender) plan to encourage implementation of following:

ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
1. Appoint Personnel Director					
2. Review Personnel Policies					
3. Assess Personnel Management Procedures Against Standards and Evaluation Book					
4. Establish Performance Review System for Staff					
5. Review Existing Personnel Manual					
6. Design Personnel Manual					

PERSONNEL MANAGEMENT IMPLEMENTATION

ITEM	HAVE NOW	WILL HAVE IN 3 MOS.	WILL HAVE IN 12 MOS.	NOT NEEDED	OBSTACLES/SOLUTIONS
7. Design Compensation Schedule to Include Job Descriptions					
8. Establish Orientation Program					
9. Perform Training Needs Assessment					
10. Designate Training Director					
11. Employ New Training Techniques					
12. Hire Additional Categories of Support Staff					

## SESSION 20

### DAY III

12:15 - 12:30 p.m.

---

#### Summary and Workshop Evaluation

---

#### Goals of the Session

At the end of this session participants and trainers will have a better understanding of:

- The training and materials most relevant to defender offices present
- The training areas requiring additional information.

#### Method

Lecture with discussion.

#### Description

1. In plenary session, the lead trainer asks the participants to evaluate the "Operating A Defender Office" training program.
2. Following discussion on salient issues, lead trainer draws participants' attention to the Participant Handbook appendix to indicate the bibliography and list of State Planning Agencies as sources for additional information and assistance.
3. Lead trainer concludes the workshop.

#### Materials/Logistics/Ambience

Plenary session room as previously set.

## **A P P E N D I C E S**

**Appendix A. Selected Bibliography**

**Appendix B. Addresses of State Planning Agencies**

## Appendix A

### SELECTED BIBLIOGRAPHY

- Benner, Laurence A., and Beth Lynch Neary. The Othe Face of Justice. Washington, D.C.: National Legal Aid and Defender Association, 1973.
- Casper, Jonathan D. Criminal Courts: The Defendant's Perspective. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1978.
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- Herman, Robert, Eric Single, and John Boston. Counsel for the Poor, Criminal Defense in Urban America. Lexington, Mass.: D.C. Heath and Co., 1977.
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- Lawson, Harry O., H.R. Ackerman, Jr., and Donald E. Fuller. Personnel Administration in the Courts, Courts Technical Assistance Monograph No. Two. Washington, D.C.: The American University Law Institute, 1978.
- Rovner-Pieczenik, Roberta, Alan Rapoport, and Martha Lane. How Does Your Defender Office Rate? Self-Evaluation Manual for Public Defender Offices. Washington, D.C.: National Legal Aid and Defender Association, 1977.
- Singer, Shelvin, ed. Public Defender Sourcebook. New York: Practicing Law Institute, 1976.
- Stein, John Hollister. Paralegals: A Resource for Public Defenders and Correctional Services. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1976.
- The D.C. Public Defender Service. Training Materials, Vol. II. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1974.

Appendix A (cont'd)

The D.C. Public Defender Service. Policies and Procedures, Vol. 1. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1974.

University Research Corporation, Argersinger v. Hamlin, Summary Report of a Special Conference, 1977.

## Appendix B

### ADDRESSES OF STATE PLANNING AGENCIES

#### ALABAMA

Robert G. Davis, Director  
Alabama Law Enforcement Planning Agency  
2863 Fairlane Drive  
Building F, Suite 49  
Executive Park  
Montgomery, AL 36116  
205/277-5440 FTS 534-7700

#### ALASKA

Charles G. Adams, Executive Director  
Office of Criminal Justice Planning  
Pouch AJ  
Juneau, AK 99801  
907/465-3535 FTS 399-0150  
Thru Seattle FTS 206/442-0150

#### AMERICAN SAMOA

Judith A. O'Connor, Director  
Territorial Criminal Justice Planning  
Agency  
Office of the Attorney General  
Government of American Samoa  
Box 7  
Pago Pago, American Samoa 96799  
633-5222 (Overseas Operator)

#### ARIZONA

Ernesto G. Munoz, Executive Director  
Arizona State Justice Planning Agency  
Continental Plaza Building, Suite M  
5119 North 19th Avenue  
Phoenix, AZ 85015  
602/271-5466 FTS 765-5466

#### ARKANSAS

Gerald W. Johnson, Executive Director  
Arkansas Crime Commission  
1515 Building  
Suite 700  
Little Rock, AR 72202  
501/371-1305 FTS 740-5011

#### CALIFORNIA

Douglas R. Cunningham, Executive  
Director  
Office of Criminal Justice Planning  
7171 Bowling Drive  
Sacramento, CA 95823  
916/445-9156 FTS 465-9156

#### COLORADO

Paul G. Quinn, Executive Director  
Division of Criminal Justice  
Department of Local Affairs  
1313 Sherman Street, Room 419  
Denver, CO 80203  
303/839-3331 FTS 327-0111

#### CONNECTICUT

William H. Carbone, Executive  
Director  
Connecticut Justice Commission  
75 Elm Street  
Hartford, CT 06115  
203/566-3020

#### DELAWARE

Christine Harker, Executive Director  
Governor's Commission on Criminal  
Justice  
1228 North Scott Street  
Wilmington, DE 19806  
302/571-3431

#### DISTRICT OF COLUMBIA

Arthur Jefferson, Executive Director  
Office of Criminal Justice Plans  
and Analysis  
Munsey Building, Room 200  
1329 E Street, NW  
Washington, D.C. 20004  
202/629-5063



Appendix B (cont'd)

FLORIDA

Charles R. Davoli, Bureau Chief  
Bureau of Criminal Justice Planning  
and Assistance  
620 S. Meridian Street  
Tallahassee, FL 32304  
904/488-6001 FTS 946-2011  
(Auto. Tel. 487-1725)

GEORGIA

Jim Higdon, Administrator  
Office of the State Crime Commission  
3400 Peachtree Road, NE, Suite 625  
Atlanta, GA 30326  
404/894-4410 FTS 285-0111

GUAM

Alfred F. Sablan, Director  
Territorial Crime Commission  
Office of the Governor  
Soledad Drive  
Amistad Bldg., Room 4, 2nd Floor  
Agana, GU 96910  
472-8781 (Overseas Operator)

HAWAII

Irwin Tanaka, Director  
State Law Enforcement and Juvenile  
Delinquency Planning Agency  
1010 Richards Street  
Kamamalu Building, Room 412  
Honolulu, HI 96813  
808/548-3800 FTS 556-0220

IDAHO

Kenneth N. Green, Bureau Chief  
Law Enforcement Planning Commission  
700 West State Street  
Boise, ID 83720  
208/384-2364 FTS 554-2364

ILLINOIS

James B. Zagel, Executive Director  
Illinois Law Enforcement Commission  
120 South Riverside Plaza, 10th Floor  
Chicago, IL 60606  
312/454-1560

INDIANA

Frank A. Jessup, Executive Director  
Indiana Criminal Justice Planning  
Agency  
215 North Senate  
Indianapolis, IN 46202  
317/633-4773 FTS 336-4773

IOWA

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Iowa Crime Commission  
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Appendix B (cont'd)

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## Appendix B (cont'd)

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**END**