



National Institute of Justice

National Symposium on Indigent Defense: Looking Back, Looking Forward, 2000-2010

February 18-19, 2010
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National Symposium on Indigent Defense: Looking Back, Looking Forward, 2000-2010

February 18-19, 2010
Washington, D.C.

In 1999, the U.S. Department of Justice convened the *National Symposium on Indigent Defense*, bringing together defense attorneys, prosecutors, judges, victim advocates, and legislators to explore ways that indigent defense system leaders could forge alliances, build and strengthen innovative partnerships, and otherwise collaborate to enhance the representation of indigent criminal defendants.

[Read the symposium report.](#)

More than a decade later, the Department of Justice furthered the dialogue about improving the state of indigent defense in America. The *National Symposium on Indigent Defense: Looking Back, Looking Forward, 2000-2010* brought together officers of the court as well as legislators and advocates.

The 2010 symposium served the dual purpose of assessing how far the country has come since the 1999 symposium and identifying critical areas for improvement moving forward. One of the primary goals of the symposium was to examine indigent defense systems by state and consider reform efforts across the country. Workshops covered vital policy issues (such as reform through litigation and legislation) and practical issues (such as managing limited resources for indigent defense in tough economic times). Attorney General Eric H. Holder, Jr., delivered the keynote address.

- [Agenda](#)
- [Program book](#)
- [Attorney General Holder's speech](#)

Plenary Sessions included:

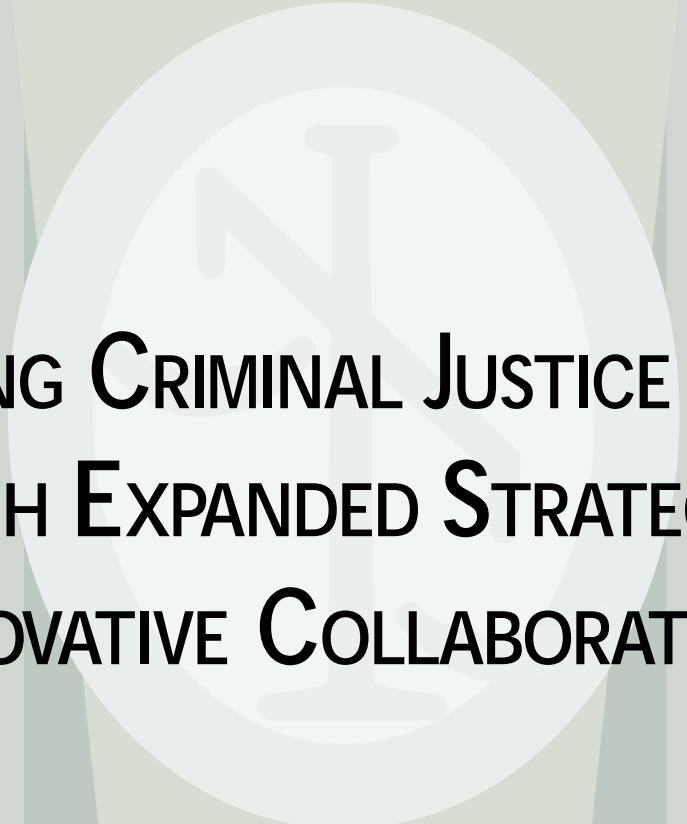
- Fulfilling the Promise of Counsel
- Innovations in Juvenile Defense Reform
- Indigent Defense Reform: The Many Modes of Collaboration
- Ensuring Quality Representation
- Strengthening Forensic Science

Papers

- [Public Defender Excessive Caseload Litigation in Miami-Dade County, Florida](#)
Parker D. Thomson and Julie E. Nevins, Hogan & Hartson LLP
- [Maine's Journey Toward an Appropriate System for the Delivery of Indigent Legal Services](#)
Ron Schneider, Chair, Maine Commission on Indigent Legal Services

Presentations

- [State Collaborations for System Reform, includes video](#)
James D. Bethke, Director, Texas Task Force on Indigent Defense
- [How Investigative Reports Can Support Defense Reform](#)
Robert C. Boruchowitz, Professor from Practice, Defender Initiative at the Korematsu Center for Law and Equality, Seattle University School of Law
- [MacArthur Foundation Juvenile Indigent Defense Action Network \(JIDAN\)](#)
Sue Burrell, Staff Attorney, Youth Law Center, Team Leader, California JIDAN Team
- [Post-Disposition Advocacy: Making a Critical Difference in Outcomes for Youth](#)
Honorable Michael Nash, Presiding Judge, Juvenile Court of the Los Angeles Superior Court; Patricia Lee, Managing Attorney Juvenile Unit, San Francisco Office of the Public Defender; Eric J. Zogry, North Carolina Juvenile Defender, State of North Carolina Office of the Juvenile Defender, Durham, NC
- [Avoiding Data Collection Pitfalls](#)
Carl Richey, Justice Works, LLC
- [State Prosecutors: A Statutory History](#)
WDAA Executive Board and ASP Executive Board; The Honorable John T. Chisolm, District Attorney, Milwaukee County District Attorney's Office, Milwaukee, WI
- [Pretrial Investigation: Using the Government Lab](#)
Betty Layne DesPortes and Benjamin DesPortes, PC, Richmond, VA
- [Interrogation Gone Bad: Juvenile False Confessions in the post-DNA Age](#)
Steven A. Drizin, Clinical Professor of Law and Assistant Director, Bluhm Legal Clinic, Northwestern University
- [Indigent Defense](#)
Paul Giannelli, Weatherhead Professor of Law, Case Western Reserve University
- [Systems Evaluation Project \(SEP\): Measuring Quality by Looking at System Outcomes](#)
Margaret A. Gressens, Research Director, North Carolina Office of Indigent Defense Services (IDS)
- [New Jersey Juvenile Indigent Defense Action Network](#)
Sandra Simkins, Clinical Professor, Children's Justice Clinic, Rutgers School of Law — Camden, Camden, NJ
- [Probability Models for Impression and Pattern Evidence](#)
Sargur Srihari, Department of Computer Science and Engineering, University of Buffalo, The State University of New York
- [Developing Post-Disposition Representation in North Carolina](#)
Eric J. Zogry, Juvenile Defender, Office of the Juvenile Defender/Office of Indigent Defense Services North Carolina



IMPROVING CRIMINAL JUSTICE SYSTEMS THROUGH EXPANDED STRATEGIES AND INNOVATIVE COLLABORATIONS

**REPORT OF THE
National Symposium on Indigent Defense**

February 1999



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IMPROVING CRIMINAL JUSTICE SYSTEMS THROUGH EXPANDED STRATEGIES AND INNOVATIVE COLLABORATIONS

REPORT OF THE
National Symposium on Indigent Defense

February 25–26, 1999
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Foreword

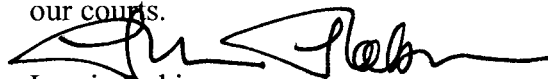
Although our Constitution guarantees defendants the right to a lawyer in criminal cases, the implementation of this constitutional right is applied unevenly across the nation. The Bureau of Justice Statistics reports that in 1992 nearly 80 percent of defendants charged with felonies in the nation's 75 largest counties relied on a public defender or assigned counsel for legal representation. But too many jurisdictions lack the financial capital—or the political will—to provide adequate funding, staffing, training, and access to technology that can establish guilt or innocence such as DNA analysis, and other resources to ensure that every defendant receives effective assistance of counsel.

The rule of law and fairness in our adversarial system demand that one side in the justice process not be fundamentally disadvantaged by a lack of resources. The scales of justice must be balanced if we are to overcome the common perception—held by about 90 percent of Americans according to an American Bar Association poll—that you get only as much justice as you can afford.

The National Symposium on Indigent Defense marked the first time in almost 40 years that the Department of Justice has assembled a conference to address the critical issue of equal justice for all those charged with a criminal offense, especially those who cannot afford to pay the cost of representation. This symposium would not have been possible without the fearless and steadfast leadership of Attorney General Janet Reno. The idea for this symposium resulted from a conversation the Attorney General had at a meeting she hosted in January 1998 with eight representatives of the criminal defense bar. The meeting focused on the lack of resources for indigent defense and the need for collaboration among the components of the adjudication process to improve indigent defense services. At that meeting, the Attorney General asked the American Bar Association (ABA) to put together a report on collaborations currently underway in various jurisdictions among public defenders, prosecutors, and other criminal justice system agencies. The ABA found that a number of local jurisdictions are making good use of limited justice system resources by implementing projects that depend on successful collaborative, interagency planning.

The National Symposium on Indigent Defense was convened to further explore ways in which the leaders of indigent defense systems can effectively forge alliances, build and strengthen innovative partnerships, and otherwise collaborate in ways that enhance the representation of indigent criminal defendants. In addition to defense attorneys, symposium participants included prosecutors, judges, and victim advocates, as well as legislators and representatives of key national organizations to ensure that all those who can have an impact on indigent defense were represented.

We are pleased to present this report on the proceedings of this important symposium in the hope that these discussions will contribute to advancing justice for all. As Martin Luther King once observed, "Peace is not just the absence of violence, it is the presence of justice." We look forward to continuing to work within the Department of Justice and with our colleagues at the federal, state, and local levels to ensure the presence of justice for all those who come before our courts.

A handwritten signature in black ink, appearing to read 'Laurie Robinson', with a stylized, sweeping flourish at the end.

Laurie Robinson
Assistant Attorney General
Office of Justice Programs

A handwritten signature in black ink, appearing to read 'Nancy E. Gist', with a long, horizontal flourish extending to the right.

Nancy E. Gist
Director
Bureau of Justice Assistance

Acknowledgments

The report of the National Symposium on Indigent Defense is the product of a joint effort involving the principal author, Professor Richard J. Wilson of the Washington College of Law at the American University in Washington, D.C., and technical support provided through text enhancements by Scott Wallace, director of Defender Services at the National Legal Aid and Defender Association, and Patricia Puritz, director of the American Bar Association Juvenile Justice Center.

Executive Summary

The obligation of the States to provide legal representation to people accused of crime who are too poor to retain their own counsel was established by the U.S. Supreme Court as a matter of Federal constitutional law in 1963, in the case of *Gideon v. Wainwright*. The attorneys general of 22 States joined in urging the Court to do so.

In the intervening three and a half decades, States have responded to *Gideon* in various ways. Some have shouldered the responsibility themselves, establishing and funding statewide agencies to provide indigent defense. In others, counties bear the burden. Three service-delivery models have evolved: governmental public defender agencies, bulk contracts with private lawyers, and case-by-case appointments. National standards have been promulgated and have been implemented by States and localities in different ways, covering issues such as maximum annual caseloads, staffing ratios, resource parity with prosecution and courts, training, attorney qualifications and performance, and defender independence from the political forces and judicial branches.

But the extent to which States and localities are succeeding in fulfilling the promise of *Gideon* varies widely. Overall, despite progress in many jurisdictions, indigent defense in the United States today is in a chronic state of crisis. Standards are frequently not implemented, contracts are often awarded to the lowest bidder without regard to the scope or quality of services, organizational structures are weak, workloads are high, and funding has not kept pace with other components of the criminal justice system. The effects can be severe, including legal representation of such low quality to amount to no representation at all, delays, overturned convictions, and convictions of the innocent. Ultimately, as Attorney General Janet Reno states, the lack of competent, vigorous legal representation for indigent defendants calls into question the legitimacy of criminal convictions and the integrity of the criminal justice system as a whole.

In 1997, the Attorney General and officials of the Office of Justice Programs and the Bureau of Justice Assistance convened a focus group of 35 leaders of the indigent defense community and identified 6 areas in which the U.S. Department of Justice (DOJ) could play an effective role in promoting strong and stable indigent defense systems.

- Using the DOJ's leadership role to call attention to the importance of quality indigent defense services.
- Promoting independence in indigent defense structures.
- Allocating resources equitably among indigent defense and other criminal justice system components.
- Focusing on these challenges in the juvenile justice system.
- Promoting standards for indigent defense programs.
- Building a capacity for computer technology in indigent defense.

In the DOJ's continuing dialogue with the indigent defense community and examination of potential reforms, attention was also focused on the importance of collaborations between indigent defense and other justice system agencies in planning, managing, and budgeting for the system as a whole. The National Symposium on Indigent Defense was organized around these six issues and the goal of collaboration. Themes emerging from the symposium include the following:

Forging Consensus: Indigent defense is an integral, interdependent part of the criminal justice system. Advocacy strategies for indigent defense must be addressed systemically, in coordination and balance with the rest of the system. The symposium's multidisciplinary attendance—including defenders, prosecutors, judges, police, legislators, county officials, and bar representatives—similarly was designed to foster dialogue, a recognition of symbiosis, and a collaborative search for solutions.

Independence: The ethical imperative of providing quality representation to clients should not be compromised by outside interference or political attacks. Indigent defenders should be subject to judicial supervision only to the same extent as lawyers in private practice. The primary means of ensuring defender independence is to provide for oversight by an independent board or commission, rather than directly by judicial, legislative, or executive agencies or officials.

Statewide Structure: The trend supported by national standards has been toward statewide indigent defense structures. Organizing defense services through a centrally administered program promotes quality and uniformity of defense services, as well as cost-efficiencies, cohesive planning, and accountability. Statewide organization commonly results from an imminent indigent defense funding crisis, which spurs collaborative planning, study, and action by bar associations, funding agencies, and the courts.

Equitable Allocation of Resources: Salary parity between prosecutors and defenders is a central component of all national standards and is an important means of reducing staff turnover and avoiding related recruitment/training costs and disruptions to the office and case processing. The concept of parity encompasses all resource allocations, including staffing and workloads, support staff, investigative and expert services, and technology, as well as access to Federal grant programs and student loan forgiveness options.

Juvenile Justice: Comprehensive, effective juvenile interventions can help avert future criminality and the substantial costs of future encounters with the adult courts and correctional systems. Holistic juvenile team defense includes social workers and mental health professionals, as well as attorneys, and involves the parents of juvenile clients.

Indigent Defense Standards: Standards are the most effective means of ensuring uniform quality of indigent defense services. States and localities have adopted standards in a variety of ways, including by court decision, statute, court rules, and incorporation into indigent defense services contracts; enforcement mechanisms include requiring local compliance as a condition of supplemental State funding.

Technology: Technology is increasingly critical to the fast, efficient, and cost-effective processing of cases. Technology integration and information sharing between indigent defense and other justice system agencies, as well as parity of technological resources, reduce redundancy, improve the efficiency of the entire system, and promote earlier disposition of cases and more appropriate, individualized, and effective sanctioning of convicted offenders.

Successful Collaborations: Indigent defense as a full partner in the criminal justice system already exists in a number of areas.

- *Criminal justice coordinating committees* are a forum for collaborative justice system problem-solving, planning, and innovation and can address special areas such as drug treatment, domestic violence, docket management, and indigent defense funding.
- *Juvenile justice collaborations* with community-based services for offenders in the juvenile justice system can help avert recidivism. When juveniles are subject to adult prosecution, coordination among agencies such as courts, police, probation, mental health and family services, social services, and schools can reduce delays in case processing and ensure more accurate assessments of amenability to treatment in the juvenile system.
- “*Fill the Gap*” collaborations among adjudication agencies (courts, prosecutors, defenders, and court administration) can help them obtain the funding necessary to keep up with the extra caseloads generated by major funding infusions for other components of the system, such as police and corrections.
- *Drug treatment courts* are one of the most common type of adjudication partnership. These courts replace the defender’s traditional adversarial role with a collaborative orientation toward the long-term interests of the client.
- *Joint weighted caseload studies* are collaborations among courts, prosecutors, and public defenders on a shared methodology for projecting caseloads and resource needs, which can improve planning and budgeting for the entire system.
- *Juvenile defenders and dependency cases* increase defender responsibility for noncriminal matters, such as representation of both children and parents in dependency, abuse, and neglect matters, and require new partnerships with other entities, including family courts, family law bar associations, government agencies, and planning bodies responsible for protecting juveniles.
- *Mental health courts*, like drug treatment courts, are an example of an adjudication partnership of courts, prosecutors, defenders and treatment providers, emphasizing placement in community-based residential treatment facilities as an alternative to jail.
- *Early entry team defenses*, like community policing and community courts, are community-based defender programs—storefront offices providing a broader range of representation than conventional programs—and are oriented toward early intervention and crime prevention.

The unifying themes of the symposium were 1) the necessity of maintaining core values, civility, respect, and trust, not only within indigent defense programs but in interactions with other components of the criminal justice system; 2) the challenge of reconciling adversarial defense skills with the imperative of collaboration in a complex, increasingly interconnected system; 3) the importance of increasing availability of affordable technology and interagency information sharing to make all agencies more efficient and effective; and 4) the movement toward holistic defense services focused less on isolated episodes of legal representation and more on recidivism prevention and long-term improvement of clients’ lives.

Message From the U.S. Attorney General

Never before in the history of the U.S. Department of Justice (DOJ) has there been a meeting like this historic national symposium on indigent defense. The Department of Justice has brought together representatives from all levels of government and from every part of the criminal justice system to explore how we can better collaborate to strengthen indigent defense services and, by extension, the criminal justice system as a whole. I applaud the efforts of Assistant Attorney General Laurie Robinson; Nancy Gist, Director, Bureau of Justice Assistance (BJA); and everyone in the Office of Justice Programs (OJP) and the Bureau of Justice Assistance, all of whom worked extremely hard to bring this extraordinary group together.

My experiences as a prosecutor and as Attorney General have taught me just how important it is for every leg of the criminal justice system to stand strong. Indigent defense is an equally essential element of the criminal justice process, one which should be appropriately structured and funded and operating with effective standards. The reality is that despite the U.S. Supreme Court's decision 36 years ago in *Gideon v. Wainwright* that every defendant, rich or poor, has the right to be represented by a lawyer when charged with a serious crime, many adult and juvenile offenders are not receiving effective assistance of counsel. But it is not just poor defendants who have a stake in our system of indigent defense. Just ask a prosecutor, an arresting officer, or even a victim of crime. Would they rather face a vigorous defense at trial or risk an overturned conviction and retrial? When the conviction of a defendant is challenged on the basis of inadequate representation, the very legitimacy of the conviction itself is called into question. Our criminal justice system is interdependent: if one leg of the system is weaker than the others, the whole system will ultimately falter.

I believe that all of us, regardless of our position in the criminal justice system, have the responsibility to work to improve the quality of criminal defense for the poor. Our system of justice will only work, and will only inspire complete confidence and trust of the people, if we have strong prosecutors, an impartial judiciary, and a strong system of indigent criminal defense.

I firmly believe that the Justice Department, as the Nation's leading Federal law enforcement agency, is uniquely positioned to call needed attention to indigent defense issues and play an important role in strengthening indigent defense. The Department of Justice has supported improvements in indigent defense and fostered collaboration among all parts of the criminal justice system by committing our resources and using our influence to promote adequate and efficient indigent defense systems. The Office of Justice Programs, the sponsor of the symposium, and the Department of Justice's Office of Policy Development have developed a comprehensive plan for the Justice Department's work on indigent defense that comprises six building blocks.

First, our strategy starts with the need for an understanding of the scope and nature of the most important problems facing indigent defense. I have been engaged in an ongoing dialogue with the leadership of national defender organizations to get their perspective on what issues and

problems should be addressed. At our meetings, we have had wide-ranging, open discussions of the issues, including the need for reasonable rates of compensation for public defenders and assigned counsel, increased access to technology for indigent defense lawyers, more opportunities for professional training, and workable standards for indigent defense.

Also, for the first time since 1983, the Justice Department's Bureau of Justice Statistics (BJS) is collecting comprehensive, national data on indigent defense systems. These data will provide current information about how different jurisdictions operate and identify indigent defense models that work.

Second, we have made a commitment to educating the public and the criminal justice community about the importance of a strong system of indigent defense. I firmly believe that, as the Nation's top law enforcement agency, we have a responsibility to explain that a strong system of indigent defense is good for prosecutors, police, victims, the public, and the pursuit of justice.

To further this goal, I have encouraged governors, chief justices, bar association presidents, and others to use their positions of leadership to play a role in improving indigent defense services. This year, for example, the Assistant Attorney General for the Criminal Division, Jim Robinson, spoke about indigent defense issues at the annual meeting of the National Association of Criminal Defense Lawyers. When Department of Justice officials speak about the importance of indigent defense, they send a message that every part of the criminal justice system should be concerned about indigent defense.

Third, the Department of Justice has supported efforts to increase funding for indigent criminal defense. Disparities in resources among different parts of the criminal justice system have had a corrosive effect on the ability of poor defendants to secure effective representation. At the Federal level, we have called on Congress to provide the funds necessary to enable Criminal Justice Act (CJA) Attorneys to earn the \$75 per hour rate that they are authorized to receive. We have also urged State Byrne Program administrators to include defenders on their policy boards and consider the needs of indigent defense in their planning and funding decisions. Wherever it is appropriate, we identify defenders as eligible applicants in grant announcements. For example, under the open solicitation issued by the Bureau of Justice Assistance in 1998, the public defender in Vermont received a \$150,000 grant so that developmentally disabled defendants could be evaluated by medical specialists to determine when necessary accommodations should be made consistent with the Americans with Disabilities Act. These types of programs ensure that everyone gets treated fairly by the criminal justice system.

While we have supported increased funding for indigent defense, we also have been working with the Administrative Office of the U.S. Courts, States, and localities to appropriately contain the costs of these services. Every part of the criminal justice system, indigent defense included, must work to deliver quality services at a reasonable cost. Even though indigent defense services are the most poorly funded part of the system, there are ways, such as sharing technology and pooling resources, to make the system operate more efficiently and effectively. By doing so, we will be better able to make the case for increased funding.

Fourth, I strongly believe that, not only can prosecutors and defenders work together to improve the system, they can also learn together through joint training. My prosecutors in Miami told me time and again that some of their best training experiences were at the University of Florida, where they trained together with public defenders. That is why the Justice Department is actively exploring possibilities for joint training programs for Federal prosecutors and defenders.

We have also made grants to provide training and technical assistance to State and local indigent defense service providers. For example, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is establishing a Juvenile Defender Center to provide resources, training, and technical assistance through the American Bar Association (ABA). And the Bureau of Justice Assistance awarded grants to the Vera Institute to train senior managers of indigent defense services, and to the National Legal Aid and Defender Association (NALDA) to provide technical assistance and training to State and local defenders.

Fifth, the Justice Department is working to ensure that we bring the tools of technology to every part of the criminal justice system. Technology creates incredible opportunities for accessing and exchanging information, managing cases, investigating crimes, and improving the efficiency and quality of our work. To that end, the Bureau of Justice Assistance announced a series of awards to support indigent defense training and case management, with an eye to emerging technological and evidentiary aids.

The sixth building block in our comprehensive plan for indigent defense is improving the quality of indigent defense by encouraging the development and dissemination of minimum standards and best practices. I believe this effort is essential if our Nation is to fulfill our obligation under *Gideon* to provide competent counsel to every criminal defendant charged with a serious crime. With a lot of input from the defense bar, we are in the process of developing links to the Office of Justice Programs Web site—which will be accessible through the Justice Department Web site at www.usdoj.gov—to enable all who are interested to download “best practices documents” and other useful materials.

Also, we are collecting information on standards for indigent defense programs and representation from around the country. An advisory board of practitioners will review these standards, and the Bureau of Justice Assistance will publish a compendium of those standards that represent the best in criminal defense practice today. We should evaluate how well best practices work by identifying a local jurisdiction in which leaders in the court system, the bar, and the local government will commit to becoming a model jurisdiction for indigent defense by adopting best practices and minimum standards.

Finally, I would like to go back to where I began and touch again on the important work taking place at this symposium to improve our indigent defense systems through collaboration. Collaboration is the motor that drives the engine of progress on indigent defense, and many powerful models of that motor are represented here today.

- The effort in Fulton County, Georgia’s to improve indigent defense by bringing together every player in the system to develop a criminal justice plan.

- Nebraska's statewide study of indigent defense by a broad-based task force including representatives from all three branches of State government, leading prosecutors, defenders, academics, and county officials.
- Florida and Arizona's efforts to "fill the gap" in funding so that the adjudicatory phase of the process is as well funded as the enforcement and corrections phases.
- Delaware's project to create a statewide computer system to link all components of the criminal justice system, including indigent defense.

These examples, and many others, should inspire us to do more.

While we at the Department of Justice have been working to improve indigent defense, those who provide indigent defense services around the country are the real heroes and heroines on this issue. I commit to building our partnership with you. Our efforts at the Justice Department depend on every other part of the criminal justice system, at every level of government, working together to provide full luster and sound to Gideon's trumpet.

Janet Reno

February 1999

I. Historical Background on Indigent Defense Services in the United States

Roots of the modern right to counsel for the indigent defendant can be found more than a century ago. Indiana Supreme Court Justice Frank Sullivan, Jr., cited *Webb v. Baird*,¹ a case decided by Indiana's high court in 1853, in his remarks at the symposium. He noted that *Webb* recognized a right to an attorney at public expense for an indigent person accused of crime, grounded in "the principles of a civilized society," not in constitutional or statutory law. He quoted *Webb*'s enduring message: "It is not to be thought of in a civilized community for a moment that any citizen put in jeopardy of life or liberty should be debarred of counsel because he is too poor to employ such aid. No court could be expected to respect itself to sit and hear such a trial. The defense of the poor in such cases is a duty which will at once be conceded as essential to the accused, to the court, and to the public."

The sixth amendment to the U.S. Constitution states, "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." The right to counsel in Federal proceedings was well established by statute early in this country's history and was reaffirmed by the U.S. Supreme Court long ago in *Johnson v. Zerbst*.² The *Webb v. Baird* decision, however, was the exception rather than the rule in the States. Well into the 20th century, most States relied only on the volunteer pro bono efforts of lawyers to provide defense for poor people accused of even the most serious crimes. Although some private programs, such as the

New York Legal Aid Society, were active as early as 1896 in providing counsel to needy immigrants and the first public defender office began operations in Los Angeles in 1914, such services were nonexistent outside the largest cities.

The Court developed the sixth amendment right to counsel in State proceedings gradually and somewhat haltingly in this century. In *Powell v. Alabama*,³ the famous "Scottsboro Case" from the Depression era, the Court held that counsel was required in all State capital proceedings. Only a decade later, however, in *Betts v. Brady*,⁴ the Court declined to extend the sixth amendment right to counsel to State felony proceedings. It was not until 1963, 21 years after *Betts*, that the Court again addressed the issue of the right to counsel in State proceedings involving serious noncapital crimes. In a dramatic series of decisions, the Court firmly established the right to counsel in virtually all aspects of State criminal proceedings.

The most significant decision on the right to counsel in U.S. Supreme Court history was *Gideon v. Wainwright*,⁵ which overruled *Betts v. Brady*. The Court held that an indigent person accused of a serious crime was entitled to the appointment of defense counsel at State expense. In an unprecedented early collaboration between defense counsel and prosecutors, 22 State attorneys general joined petitioner Clarence Earl Gideon in arguing that sixth amendment protection be extended to all defendants charged with felonies in State courts. Four years later, with its

¹ 6 Ind. 13 (1853).

² 304 U.S. 458 (1938).

³ 287 U.S. 45 (1932).

⁴ 316 U.S. 455 (1942).

⁵ 372 U.S. 335 (1963).

decision in *In re Gault*,⁶ the Court built on the *Gideon* decision to extend to children the same rights as adults by providing counsel to an indigent child charged in juvenile delinquency proceedings. The right to counsel in trial courts was significantly expanded again when the Court, in *Argersinger v. Hamlin*,⁷ extended the right to counsel to all misdemeanor State proceedings in which there is a potential loss of liberty.

The decisions in *Gideon*, *Gault*, and *Argersinger* are the best known of the right-to-counsel cases in the U.S. Supreme Court, but they were part of a broader array of decisions rendered by the Court in the past three decades, all of which protect the right to counsel for poor persons. The Court recognized the indigent defendant's right to counsel at such critical stages of criminal proceedings as postarrest interrogation,⁸ lineups and other identification procedures,⁹ preliminary hearings,¹⁰ arraignments,¹¹ and plea negotiations.¹² After conviction, the indigent defendant is constitutionally guaranteed the right to counsel in sentencing proceedings,¹³ appeals of right,¹⁴ and, in some cases, probation and parole proceedings.¹⁵ In addition, the right to counsel for indigent defendants often extends, under State or Federal law or practice, to collateral attacks on a conviction as well as a range of what might be called "quasi-criminal" proceedings involving loss of liberty, such as mental competency and commitment proceedings, extradition, prison disciplinary proceedings, status hearings for juveniles, and some family matters such as nonpayment of court-ordered support or contempt proceedings, as well as child dependency,

abuse, and neglect situations. Finally, in any criminal proceeding in which counsel appears, the defendant is entitled to counsel's *effective* assistance.¹⁶ These diverse Federal requirements under the U.S. Constitution, often supplemented by more stringent State standards, created enormous pressures on the lawyers who provided indigent defense. The mandate of the *Gideon*, *Gault*, and *Argersinger* decisions, as well as the Court's requirement to provide counsel at all critical stages of a prosecution, meant that government would have to assume vastly increased costs for providing counsel to the poor. Policy-makers began to think in earnest about more systematic ways to deliver constitutionally required defense services.

The first significant collaboration in the justice sector occurred in 1974, when then-Attorney General Richard Kleindeinst lent his own and his office's support to a project called the National Study Commission on Defense Services. The National Study Commission, with ongoing guidance from the Justice Department, published its final report, *Guidelines for Legal Defense Systems in the United States*, in 1976. Those enduring guidelines built on an equally influential set of standards developed in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals (NAC). It was NAC that proposed public defender caseload standards, which have formed the basis for all current workload standards at the Federal, State, and local levels.¹⁷ NAC proposed that a public defender office should handle the following average number of cases, per attorney, per year:¹⁸

⁶ 387 U.S. 1 (1967).

⁷ 407 U.S. 25 (1972).

⁸ *Miranda v. Arizona*, 384 U.S. 437 (1966); *Brewer v. Williams*, 430 U.S. 387 (1977).

⁹ *United States v. Wade*, 388 U.S. 218 (1967) (lineups); *Moore v. Illinois*, 434 U.S. 220 (1977) (one-person showups).

¹⁰ *Coleman v. Alabama*, 399 U.S. 1 (1970).

¹¹ *Hamilton v. Alabama*, 368 U.S. 52 (1961).

¹² *Brady v. United States*, 397 U.S. 742 (1970); *McMann v. Richardson*, 397 U.S. 759 (1970).

¹³ *Townsend v. Burke*, 334 U.S. 736 (1948); *United States v. Tucker*, 404 U.S. 443 (1972).

¹⁴ *Douglas v. California*, 372 U.S. 353 (1963).

¹⁵ *Mempa v. Rhay*, 389 U.S. 128 (1967).

¹⁶ *Strickland v. Washington*, 466 U.S. 668 (1984).

¹⁷ National Legal Aid and Defender Association, 1992, *Indigent Defense Caseloads and Common Sense: An Update*, Washington, DC.

¹⁸ National Advisory Commission on Criminal Justice Standards and Goals, 1973, Standard 1312.

Felonies—not more than 150.

Misdemeanors (excluding traffic)—not more than 400.

Juvenile Court cases—not more than 200.

Mental Health cases—not more than 200.

Appeals—not more than 25.

The NAC and National Study Commission standards, along with a subsequent generation of indigent defense standards, continue to provide clear, comprehensive guidance to defenders, legislators, policymakers, and other criminal justice system officials throughout the United States. Specific areas covered include juvenile justice (ABA and the National Advisory Committee for Juvenile Justice and Delinquency Prevention, 1980), appellate defense services (NLADA, 1980), contracting for defense services (NLADA, 1984), death penalty cases (NLADA, 1988, and ABA, 1989), assigned counsel systems (NLADA, 1989), performance guidelines for criminal defense representation (NLADA, 1995), and defender training (NLADA, 1997). A third edition of the well-recognized ABA *Standards for Criminal Justice on the Defense Function* (1993) and *Providing Defense Services* (1992) drew on many of these standards.

More developed standards in the field of juvenile representation in abuse and neglect proceedings followed in 1996. These standards have been implemented in various ways in the

States, including statutes, court rules, court decisions or settlement of law suits, endorsement or adoption by bar associations, incorporation into contracts for defense services, adoption after self-evaluation, or outside evaluation by national technical assistance providers. Standards were the subject of a panel discussion that are summarized in this report (see appendix 8).

The era of the personal computer and the Internet allows major improvements both within indigent defense systems and in their integration into comprehensive criminal justice information networks. Governments at every level are learning that parity of technological resources and shared access to essential case information are essential to reducing the costs and redundancy of criminal justice operations, improving the efficiency of the entire system, and promoting earlier disposition of cases and more appropriate, individualized, and effective sanctioning of convicted offenders. The Federal Government is leading the way in the inclusion of indigent defense in these technology integration efforts through criminal justice information integration initiatives at the national and international levels. Information networking, case management systems, and computerized case processing are three strong tools for defender program managers to use in the increasingly sophisticated provision of defense services, whether in large city or State defender offices or loosely networked local systems.

II. Indigent Defense Services Today

There are three basic models for the delivery of defense services: the *staffed public defender* model, with employees on salary; the *assigned counsel* model, in which private attorneys are appointed to provide defense services either from an ad hoc list maintained by the courts or through some more systematic organization of services; and the *contract* model, whereby individual attorneys or firms contract to provide some or all of a jurisdiction's indigent defense services. Today, the majority of indigent defense in the United States is provided through a staffed public defender model, particularly in larger urban jurisdictions. More than half of the Nation's counties still use the assigned counsel model. Most States have organized some form of statewide defender services, whether in oversight, funding, or both. Some States provide statewide services for a particular kind of representation, such as appeals or capital representation. The chief defender is often selected by a commission or independent board, but many chief defenders at the State level are chosen by governors, and a few are chosen or approved by the judiciary.

Conclusions on the current state of indigent defense are difficult to draw because the last comprehensive national survey of indigent defense services occurred in 1982. Although the data in the appendixes are helpful for State-by-State analysis, a new comprehensive national study is now under way with Justice Department funding through the Bureau of Justice Assistance. An interim report prepared for BJA by the

National Legal Aid and Defender Association in December 1997 identified the following examples of significant changes in indigent defense since the last national survey:

1. More States have adopted a State public defender system.
2. State offices have expanded in some jurisdictions that use a hybrid of State and local defense systems.
3. The use of contract defense systems has increased in many parts of the country.
4. Defender services are expanding to address the broader needs of clients, including concepts of client-centered representation and incorporation of civil and administrative matters related to a client's case.
5. Experiments have occurred in the creation of community-based defender offices, as opposed to traditional city, county, or State agencies.
6. Defender performance guidelines have emerged that describe the tasks of representation more clearly than ever before.
7. Public defenders have made increased use of technology to share information and research and to keep case data.¹⁹

Indigent defense today, in terms of funding, caseloads, and quality, is in a chronic state of crisis.²⁰ Indigent defense ranks consistently low on legislative agendas that focus on popular

¹⁹ National Legal Aid and Defender Association, *National Survey of Indigent Defense System*, (Interim Report, December 15, 1997), Washington, DC.

²⁰ American Bar Association, May 1982, *Criminal Defense Services for the Poor: Methods and Programs for Providing Legal Representation and the Need for Adequate Financing*, Chicago, IL; Special Committee on Criminal Justice in a Free Society, American Bar Association, 1988, *Criminal Justice in Crisis*, pp. 35–43, Chicago, IL; *Report of the Federal Courts Study Committee*, pp. 157–160; Timothy R. Murphy, 1991, "Indigent Defense and the U.S. War on Drugs: The Public Defender's Losing Battle," *Criminal Justice* 14(Fall); American Bar Association, 1993, *The Indigent Defense Crisis*, Chicago, IL; Stephen B. Bright, 1994, "Counsel for the Poor: The Death Sentence not for the Worst Crime but for the Worst Lawyer," 103 *Yale Law Journal* 1835; Robert L. Spangenberg and Tessa J. Schwartz, 1994, "The Indigent Defense Crisis Is Chronic," *Criminal Justice* 13(Summer); "Crisis in the Legal Profession: Rationing Legal Services for the Poor," *Survey of American Law* 837; National Association of Criminal Defense Lawyers, October 1997, *Low-Bid Criminal Defense Contracting: Justice in Retreat*, Washington, DC.

anticrime measures such as more police and prisons, longer sentences, mandatory minimums, death penalties, and other initiatives that significantly increase the number and complexity of indigent defense cases but commonly fail to accommodate for the impact on already-stressed public defender programs. The increasing adjudication of children as adults puts new stress on indigent defense resources and creates new challenges for defenders and their criminal justice system partners to provide broader, holistic representation and services in a child's earliest encounters with the justice system.

Indigent defense services suffer widely from the combined forces of weak organizational structures, heavy caseloads, underfunding relative to other components of the criminal justice system, and general political hostility to poor people facing criminal charges. The effects can be severe.

- Capital defendant George McFarland's lawyer, John Benn, slept through much of his 1992 trial. "His mouth kept falling open and his head lolled back on his shoulders . . . again. And again. And again," wrote a newspaper reporter. "It's boring," the lawyer told the judge.²¹ But the constitutional right to counsel was not violated, according to the trial judge, because "[t]he Constitution doesn't say the lawyer has to be awake." The Texas Court of Criminal Appeals upheld McFarland's death sentence, and the U.S. Supreme Court denied review.
- In one California county last year, a three-attorney firm provided representation in more than 5,000 cases in 1 year under a fixed-fee contract. A single attorney was responsible for handling all misdemeanors—more than 3,500 per year, compared with the cap of 400 recommended under

national standards. The firm filed no discovery motions, took only 12 cases to trial, and retained one part-time investigator 10 hours per week. The contracting lawyer acknowledged that there is an "inherent conflict" that every dollar spent on an investigator or an expert means one less dollar in compensation for him, but regards this as a "political reality."²²

- In 1998, detainees in Fulton County, Georgia, waited up to a year to be indicted for simple crimes such as burglary. Defendants awaiting trial often languished for more than a year in a county jail so crowded that inmates slept shoulder to shoulder on the floor. A Federal class action suit to improve indigent defense services was settled this year.
- In juvenile courts across the country, children are often left literally defenseless, because overburdened juvenile defenders do not have the time or the resources to attend to the particulars of their cases. As a result, far too many children languish in the Nation's overcrowded juvenile detention and correctional facilities.

In her Law Day remarks this year, Attorney General Reno stated that "if we do not adequately support criminal defense for poor Americans, people will think that you only get justice if you can afford to pay a lawyer. This perception would undermine confidence in our system. Skimping on adequate representation also hurts effective law enforcement by creating delays and leading to the reversal of convictions on appeal."

The Justice Department began a dialogue with the indigent defense community in September 1997, when the Attorney General and officials from OJP and BJA convened a focus group of 35

²¹ "Asleep on the Job? Slaying Trial Boring, Lawyer Says," *Houston Chronicle*, August 14, 1992.

²² Deposition of defendant Jack Suter in *Fitzmaurice-Kendrick v. Suter*, Civ. S-98-0925 (E.D. Cal.).

prominent representatives of the indigent defense community. The focus group identified six general themes in the field of indigent defense that must be addressed.

- Advocating for indigent defense services.
- Building an independent indigent defense structure.
- Allocating resources equitably.
- Meeting these challenges in the juvenile justice system.
- Developing standards for indigent defense programs.
- Building the capacity for using technology.

These themes have continued to guide the Justice Department's efforts to promote strong and stable indigent defense systems, including the National Symposium (see appendixes 1 and 2).

When the Attorney General and OJP/BJA officials met with eight prominent indigent defense representatives in January 1998, one goal was to identify successful indigent defense programs involving collaborations of public defenders with other representatives from the criminal justice community. The group also identified major challenges to improving representation for indigent criminal defendants.

- Ensuring that State and local indigent defense systems have access to Edward Byrne Memorial State and Local Law Enforcement Assistance Program grants (Byrne grants), Violence Against Women Act (VAWA) funds, and other Federal funds available to the various components of the criminal justice system.
- Managing increasing caseloads of public defenders.
- Providing indigent defenders with the same advanced technology available to prosecutors.

- Promoting the development of indigent defense institutions in jurisdictions where indigent defense is unstructured and reliant on ad hoc assigned counsel.

Attorney General Reno asked the Bar Information Program of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (SCLAID) to prepare a report on collaborations between indigent defenders and other criminal justice system actors. That report was published as a BJA Indigent Defense Series monograph entitled *Improving State and Local Criminal Justice Systems: A Report on How Public Defenders, Prosecutors, and Other Criminal Justice System Practitioners Are Collaborating Across the Country* (October 1998). The monograph identified seven examples of collaboration in local jurisdictions: criminal justice planning commissions; cooperation in programs receiving Federal funds; task forces; Fill the Gap coalitions (i.e., the funding gap created when resources are directed to law enforcement at the start of the criminal justice process and corrections at the end, without attention to the concomitant effect on the adjudication components in the middle, such as indigent defense); joint prosecutor/public defender unions; cooperation in case tracking and criminal history systems; and fiscal impact statements. Each example was explored at the National Symposium (see appendixes 3, 4, and 5 for additional resources).

In July 1998, at the request of the Attorney General's staff, The Spangenberg Group, a leading private consulting firm in the field of indigent defense, developed comprehensive, current, State-by-State data on the structure and operation of indigent defense systems in the United States (see appendixes 6 and 7).

Other efforts to improve indigent defense services are already under way. Since 1993, OJJDP has funded the American Bar Association Juvenile Justice Center to conduct activities

aimed at improving the access to counsel and quality of representation that children receive in delinquency proceedings. In 1998, OJJDP provided funds to ABA to create the National Juvenile Defender Training, Technical Assistance, and Resource Center to provide ongoing support to juvenile defenders. BJA funded the Vera Institute to conduct the National Defender Leadership Project to train defender managers on leadership skills both within the criminal justice system and in the community. The Harvard University John F. Kennedy School of Government received an ABA grant to convene an Executive Session on Indigent Defense Systems to discuss the future direction of defense services.

Against this backdrop, OJP collaboratively planned this first National Symposium on Indigent Defense. The symposium was an unprecedented gathering of participants from all components of Federal, State, and local criminal justice systems and beyond, including defenders,

prosecutors, judges, private practitioners, police, academics, legislators, court personnel, victim representatives, policy analysts, technology experts, social workers, mental health professionals, and child and family protection officials. Teams of criminal justice personnel from the same jurisdiction all spoke of the advantages of collaboration with indigent defense. This collaborative context created a unique opportunity to exchange views and showcase innovative defender programs that are taking big first steps toward bringing indigent defense into full partnership in the criminal justice system.

The remainder of this report is divided into three sections. Section III uses the six priorities identified by the Office of Justice Programs focus group as the lens through which to review the sessions of the National Symposium. Section IV lists examples of successful collaborations that were presented at the symposium, and Section V provides a summary and conclusion.

III. Expanded Strategies for Collaboration by and With Indigent Defense Systems

A. A Diversity of Voices Moving Toward Consensus on Indigent Defense

Knowledge about the problems facing indigent defense is not necessarily shared throughout the criminal justice and policymaking systems, but those most familiar with the problems encountered in indigent defense recognize that the issues must be addressed systemically. Dialogue can breed commonality of interest, and a recognition of symbiosis can lead to solutions.

The symposium's opening plenary on "Systemic Problem Solving" was typical of the breadth of perspective on the problems facing indigent defense. The panel, made up of 10 participants from diverse components of the criminal justice system, responded to hypothetical questions posed by Professor Charles Ogletree from Harvard University's Law School:

The panelists' answers to this problem were creative and diverse. Some, like Detroit Mayor Dennis Archer and Cook County Commissioner

"We have to make sure we don't put 100,000 police officers on the street and not increase funding for the public defenders to make sure that cases are heard and indigents are fairly represented."

**—Bobbie Steele, Commissioner,
Cook County, Illinois**

Bobbie Steele, saw the problem as one that could only be addressed by direct action through support for quality indigent defense services. Others, such as Milwaukee District Attorney Mike

Trouble in the State of Bliss

There is some consternation in the land. A few years ago there was a hue and cry to protect the interests of all citizens in the State of Bliss, because there was so much rampant crime. The legislature has gotten tough, passing many anticrime measures. More financial support has been given by the government to law enforcement, judges, prosecutors, and corrections. As a result of that support, the number of serious crimes has gone down and there's comfort in the land that the criminal justice system is working. However, we start to see some cracks because one part of the criminal justice system, the representation of indigent defendants, is exploding and about to fall apart—not enough lawyers, not enough resources, not enough training—and clients, who may or may not be guilty of the charges, are not able to raise their claims and present all of their legal issues. So, there is a crisis. Is there a way that all of these disparate parts of the criminal justice system can respond to what we see as a problem in the indigent defense system in our land? What can be done?

McCann, saw the opportunity for political compromise through support by prosecutors for indigent defense and vice versa. Others noted the broader implications of failure to support the defense component of the justice system.

“In our jurisdiction there’s a very civil relationship between the defense and the prosecution. . . . It is so tempting in a political campaign to rip a public defender . . . but I want to support the public defender’s funding. I hope the public defender will support our funding. . . . I think there’s nothing unethical in quid pro quo.”

**—E. Michael McCann,
District Attorney,
Milwaukee Wisconsin**

Eleventh Circuit U.S. Court of Appeals Judge Rosemary Barkett noted that constitutional protections were “put in place not by a lobby of criminals, but by people who recognize that if we ignore some of these constitutional precepts, the things that democracy holds dear are going to be eroded.” Systemic approaches that ignore the provision of constitutionally adequate defense services are also shortsighted. A leading victims advocate from Washington, D.C., Anne Seymour, noted that intimate relationships exist between victims and offenders, however dysfunctional some of them may be. Systemic approaches find both victim and defense representatives concerned about justice. District of Columbia Police Chief Charles Ramsey noted that “no one is served when a system breaks down. . . . There is a tendency to try to jail our way out of our problems, . . . [and] it becomes even more dysfunctional as you start to throw massive numbers of people into the system.”

Others noted that the failure to provide adequate defense services has an impact outside the criminal justice system as well. Cook County Commissioner Steele found links between the failure to address issues in the criminal justice system and the schools, whereas another victim advocate noted the strong generational link between drug abuse and criminal justice history, which affects families’ health, housing, and education. Other influences can exacerbate the crisis. A member of the Maryland House of Delegates, Peter Franchot, candidly noted that public defense is “at the bottom of the barrel” in legislative priority lists but concluded his remarks by stating that he would return to the legislature that afternoon to propose additional funding for indigent defense. A law professor saw indigent defense as a means of redressing disparities between the rich and poor in criminal case processing.

A crisis like the one in the State of Bliss “would cause mayors to begin a dialogue with everyone, including our bar associations and others, to rally around our lawyers who are giving good quality work, defending those who have every right to be defended.”

**—Dennis Archer, Mayor,
Detroit, Michigan**

Subsequent panels expanded upon the advantages of including indigent defense representatives in systemic discussions on criminal justice, as well as the consequences of failure to include them. Among the representatives of indigent defense were those who come from successful defender programs, often well established in local communities and State or Federal governments. Officials from throughout the criminal justice system spoke of their collaborations with indigent defense services to produce efficient and effective institutions and fairer and more just outcomes.

B. Building an Independent Indigent Defense Structure

The primary objective of a defender program is “to assure that quality legal representation is afforded to all persons eligible for counsel” (ABA *Standards for Criminal Justice on Providing Defense Services*, Standard 5–1.1). This requires that the defender function be independent—that is, able to make the appropriate decisions about the most effective means by which to defend a particular client, insulated from outside interference or political attacks motivated by public hostility to a particular client or class of clients (NAC Standard 13.9). “The legal representation plan for a jurisdiction should be designed to guarantee the integrity of the relationship between lawyer and client,” directs the ABA *Standards on Providing Defense Services*, Standard 5–1.3. “The plan and the lawyers serving under it should be free from political influence and should be subject to judicial supervision only in the same manner and to the same extent as are lawyers in private practice.”

The core mission of defense services programs is “high quality, effective, and zealous advocacy for the indigent.”

—**Michael Judge,**
Chief Public Defender,
Los Angeles County, California

The primary means of ensuring defender independence is to provide for oversight by an independent board or commission, rather than direct oversight by judicial, legislative, or executive agencies or officials. The National Study Commission on Defense Services recommended that a special defender commission “should be established for every defender system,” that the “primary consideration” in constituting the commission “should be the independence of the Defender Director,” and that its membership

should include a diversity of interests and branches of government—mostly attorneys, but under no circumstances judges, prosecutors, or law enforcement (Guideline 2.10). A particularly important aspect of defender independence is budgetary: national standards require defender systems to prepare their own budgets and submit them directly to the appropriating authority, rather than allow the judicial or executive branch to cut or change them before submission (Guideline 2.8).

Independence is a hallmark in the structure and operation of the Indiana Public Defender Commission, an 11-member committee that oversees some aspects of indigent defense in that State. There are two significant aspects to the commission’s independence. First, its members are appointed from a sufficiently diverse community to guarantee its independence. Three are appointed by the chief justice, three by the governor, two by the speaker of the house, two by the head of the senate, and one by the Indiana Criminal Justice Institute. The political appointees must be from different political parties. Second, and more important, in a State such as Indiana, where county control is strong, the commission holds the power to reimburse, with State funds, the costs of indigent defense at the local level, at 50 percent of the costs in capital cases and 40 percent of the cost in noncapital cases. For the counties to qualify for the funding reimbursement, they must establish an independent county indigent defense board to preserve the independence of the defense function. Of the 92 counties in Indiana, 20 have chosen the funding reimbursement option, and the trend is becoming increasingly popular each year.

C. Advocating for Statewide Indigent Defense Structures

Some of the most effective defender collaborations have occurred in the development of new statewide systems for the delivery of defense services. The trend over time has been toward

statewide structures, whether in integrated, staffed offices or through statewide reorganization of discrete components of defense services such as central budgetary control, administrative oversight, training and other support, or specific types of representation such as appeals or death penalty cases.

Statewide organization is a consistent theme of national standards. In 1967, in the wake of *Gideon v. Wainwright*, the President's Commission on Law Enforcement and the Administration of Justice recommended that "each State should finance assigned counsel and defender systems on a regular and statewide basis." In 1970, the National Conference of Commissioners on Uniform State Laws, whose members are appointed by the governors of every State, promulgated the Model Defender Act, which recommended that every State establish a statewide defender system under the direction of a Defender General, "to assure better coordination and consistency of approach throughout the State, [provide] better consultation with several branches of State government, . . . reduce the administrative burden on court personnel, and provide more efficient and more experienced defense counsel services to needy persons accused of crime." The 1976 guidelines of the National Study Commission on Defense Services call for a statewide organization with a centralized administration to "ensure uniformity and equality of legal representation and supporting services and to guarantee professional independence for individual defenders" (Guideline 2.4). They provide that "primary responsibility for funding of defense services should be borne at the state level" (Guideline 2.17). ABA *Standards on Providing Defense Services*, Standard 5-1.2(c) suggests simply that "[c]onditions may make it preferable to create a statewide system of defense." The commentary to that section notes the trend toward statewide organization and lauds "the flexibility of the model" in its more recent iterations. There is substantial value in organizing defense services through some form of efficient

and consistently administered central program that provides cost-effective services that meet constitutional requisites for quality representation.

At the National Symposium, representatives from three States spoke of diverse sources of collaboration to develop statewide defense services. In Minnesota, Nebraska, and Mississippi the processes of statewide organization were quite distinct, yet the three programs shared issues. Each dealt with different local histories and attitudes, and each approached the challenge of evolution differently. All achieved their goals.

Minneapolis trial court Judge Kevin Burke and Minnesota's Chief Administrator of Indigent Defense Services Richard Scherman described the transition to State structures. In the mid-1980s, only 2 of the State's 10 judicial districts and 2 of the largest urban areas had separate public defender agencies. The main reason for considering a switch to a statewide system was the risk of a long, serious criminal trial in a small county, because all counties financed their operations with local property taxes, which produced a relatively small budgetary base.

In addition to financial considerations, those who promoted statewide organization argued for longevity and stability in the program, as well as an identifiable mission. They promoted State financing as the first step toward funding of a State-integrated justice system. For a legislative champion, they approached a legislator with a teaching background, who had no knowledge of defender systems but was concerned about equal treatment and understood the financial aspects of State services.

Years of effort resulted in legislation establishing the Minnesota Board of Public Defense, with three nonattorney members appointed by the governor and four members appointed by the State supreme court. The board is an independent agency under the judicial branch's budget. The program now has 5 "public defense corporations" with 720 employees, a \$48 million annual budget

from the State legislature, and 200,000 cases annually. About 65 percent of employees are part time, but all are paid full State benefits. A notable collaboration within the program is between attorney and nonattorney staff. The State public defender, a lawyer, oversees operations and deals with legislation. A nonlawyer administrator deals with personnel and budgets. Key collaborations contributing to the Minnesota program's success include building a broad political base of support with local commissioners in the counties, working with local county organizations, working with unions (the State's staff defenders are unionized), tying technology to other statewide systems such as the courts, and working in collaboration with prosecutors and the media.

In Nebraska, the coalition for creation of a State public defender office involved a nationally known senior partner in a large law firm, Harold Rock of the Omaha firm Kutak Rock, and Federal funding through the Byrne formula grant program to study the development of a statewide defender system. The impetus for reform was provided by several lengthy trials in unexpected major cases in a small rural county.

A task force to study the possibility of starting a State-funded public defender program began with Mr. Rock as chair. The task force had representation from the State bar association, the county commissioners, the State legislature, and judges from all levels of the courts. The task force engaged a consulting firm in the field of indigent defense services, The Spangenberg Group, to design a study of indigent defense in the State. The study, which included a survey of various justice system actors, totaled 150 pages and was submitted with legislative recommendations to the Nebraska Supreme Court.

James Mowbray, director of the Nebraska Commission on Public Advocacy, the statewide body that eventually resulted from the Spangenberg report, told National Symposium attendees that the report had found "some good

offices" but, "generally, a very dysfunctional system." The advantage of using an outside consulting firm was that it presented a report with "credibility and data" to Nebraska judges and legislators. In approaching the legislature, the task force decided that the "right to effective assistance of counsel" argument, although constitutionally compelling, would carry little weight in convincing legislators of the wisdom of statewide financing and organization. Instead of taking its bill to the Judiciary Committee, the task force took it to the Revenue Committee, where it was called the "County Revenue Assistance Act." The bill passed the legislature handily because it provided property tax relief to the counties.

The Nebraska Commission on Public Advocacy was proposed to defend only first-degree capital murder charges, which are still its only charge. However, with additional Byrne grant funds, the commission was able to fund additional attorney positions to help the counties with other serious violent felony and drug offenses. The program's budget is under the executive branch of the State government.

In Mississippi, where the battle for State funding began almost 10 years ago, two key actors were former Mississippi Supreme Court Justice James L. Robertson and the public defender in Jackson County, Mississippi, Beth Davis, who now serves as the executive director of the new State system for indigent defense. Work on a statewide system began in earnest in the wake of a 1991 decision by the Mississippi Supreme Court in *State v. Wilson*, 574 So.2d 1338 (Miss. S.C. 1991). That decision found both the structure and funding of indigent defense in Mississippi to be inadequate. By statute, the maximum fee for any court-appointed criminal case was \$1,000 plus out-of-pocket expenses, and there were "plenty of circuit judges," Justice Robertson told symposium attendees, "who prided themselves on never approving the full \$1,000." When the court effectively struck down the fee maximum, he said, "many counties were

hit with five-figure bills from court-appointed lawyers.”

In 1993, the Mississippi Judicial Advisory Study Committee, working under the mandate of the State legislature, named a subcommittee to explore alternatives to the structure and funding of indigent defense services in the State. At the same time, the Mississippi Criminal Defense Lawyers Association used State bar IOLTA money to fund a statewide study by The Spangenberg Group, similar to the study done for Nebraska. A major issue for the committee was who would be in charge of any proposed State agency. Thus, the composition of the board that would select and oversee the State’s public defender was crucial. Ultimately, the State ended up with a nine-member board with “each person appointed by a separate public official or constituency,” including the Mississippi Bar Association, the Magnolia Bar Association (an African-American lawyers association), and the Public Defenders Association. The State Defender Office was organized on July 1, 1998.

According to Ms. Davis, executive director of the Office of the Mississippi State Defender, much of the early success of the defender’s office can be attributed to participation in the Vera Institute’s National Defender Leadership Project. There she met and collaborated with public defenders with similar programs and problems. The importance of pay parity for public defender, to “attract the brightest and youngest people to come into this system and lend us their talent, their intelligence, and their enthusiasm” was stressed at the Leadership Project.

Each of these three successful collaborations in the creation of statewide systems was developed through different processes, and the resultant organizations differ in structure and scope of services. However, these States’ experiences share four aspects in common. First, each moved to a statewide structure under the guidance of a diverse planning body. Second, each State began

its mission out of a local funding crisis, whether that crisis was a criminal trial that could or did bankrupt smaller counties or a severe funding shortage requiring judicial intervention. Third, each State conducted a systematic study of defense services, using outside consultants, before moving into the legislative arena. Finally, when legislative action was called for, each State knew which arguments would most likely persuade its legislators to adequately fund defense services.

D. Allocating Resources Equitably

Salaries in public defender offices have historically suffered by comparison with those of prosecutors, other State employees or contractors performing similar legal work, and the private bar. Salary parity between prosecutors and defenders at all experience levels is an important means of reducing staff turnover and avoiding related recruitment/training costs and disruptions to the office and case processing. Concomitant with salary parity is the need to maintain comparable staffing and workloads—the notion of equal pay for equal work. The concept of parity includes all related resource allocations, including support, investigative and expert services, physical facilities such as a law library, computers, and proximity to the courthouse, as well as institutional

“In the National District Attorney’s Association (NDAA), we are looking to get some rolling back of student loans for public service, and we have included public defenders in our proposal.”

—William Murphy, Prosecutor and Immediate Past President, NDAA

issues such as access to Federal grant programs and student loan forgiveness options. National standards affirm these principles. ABA *Standards on Providing Defense Services*, Standard 5–4.1

states: “The chief defender and staff should be compensated at the rate commensurate with their experience and skill sufficient to attract career personnel and comparable to that provided for their counterparts in prosecutorial offices.” This standard recognizes that all employees in the office are entitled to parity, that skill and experience should be compensated adequately, that short-term employment is a drain on any office, and that prosecutorial salaries are the best measures against which to compare the pay rates and scale in the public defender program. ABA Standard 5–1.4 makes clear that, in addition to attorney salaries, adequate resources should be provided for investigatory, expert, and other services necessary to quality legal representation, not only at trial but “in every phase of the [criminal] process.” Both ABA Standard 5–4.3 and the National Study Commission Guideline 3.4 call for adequate facilities and other material, including technology, to permit quality representation.

“Indigent defense services could be funded as a percentage of the total amount we spend for some other component of the criminal justice system, such as prosecution or prisons.”

**—Ron Goldstock, Former Prosecutor
and Immediate Past Chair,
ABA Criminal Justice Section**

Symposium panelists recognized that defining the scope of and limits on parity can be difficult. Parity can apply to attorney and nonattorney staff, to entry-level salaries and salaries for experienced staff, and to assigned counsel and contract rates of pay. It may apply to staffing, staffing ratios (attorneys to support staff or attorneys to investigators), or caseloads. It may be affected by such procedural questions as the source of payment (State or county funding, for example), the capping of payments at a certain maximum, or

the timing of payment. Panelists observed that no comprehensive formula yet exists for calculating true comparability of resources for both sides in a criminal case.

Federal public defenders generally have salary parity with Federal prosecutors. By statute, they are to be paid at a rate not to exceed prosecutors’ salaries; salaries of assistant Federal defenders are set by the Defender Services Division of the Administrative Office of the U.S. Courts at levels “consistent with” comparable positions in U.S. Attorney’s Offices. The Defender Services Division, a 30-person office with an annual appropriation of about \$400 million, coordinates all Federal indigent defense programs. It administers a budget and grant process for about 100 Federal public defender programs across the country. In recent years, the division began a project called the Defender Organization Classification System, which set pay levels for qualifications and standards for all types of positions in Federal defender offices. The Federal public defender program authorizes staffing on a caseload-per-attorney basis, and caseloads are based on the number of cases closed by each attorney in a given year. Caseloads of the staff attorneys in the program vary widely, from as few as 35 closed cases per year to as many as 300. A proposed weighted caseload system for Federal defenders seeks an average of from 65 to 90 case closings per attorney, per year.

Payment levels for private attorneys appointed to represent indigent Federal defendants in Federal cases, however, whether measured against attorneys in private practice or against rates that the Federal Government pays for work other than indigent defense, are significantly low. The rate for private attorneys appointed to criminal cases in the Federal system is generally \$45 an hour for out-of-court time and \$65 for the 1 out of 6 hours on an average case that are spent in court. Average law office overhead in the Nation, however, is about \$57 per hour. Attorney General

Reno recently urged Congress to provide funding for an across-the-board \$75 hourly rate, as Congress itself authorized 15 years ago but never fully funded. In addition to the issue of hourly fees, compensation for Federally appointed counsel is further limited by a \$3,500 presumptive case maximum, or cap, in felony cases and by similar caps on investigative expenses and appeals (see appendix 9).

Other programs have struggled successfully with parity issues. The Office of the Public Defender of the State of Connecticut has dollar-for-dollar parity with prosecutors' salaries, as described by the State's Chief Public Defender Gerard Smyth. The State legislative debate on this issue reflected the concern that paying public defenders less than prosecutors may pose a constitutional problem. Parity is based on a rough staffing formula by which the public defender is allocated two-thirds the number of staff positions that prosecutors' offices have. Prosecutor salaries are determined by union negotiations, then endorsed by the Public Defender Commission.

In New Mexico, the State Public Defender Department was suffering significant attrition when its attorneys took prosecution and other government jobs because the office could not maintain parity. The attrition rate in the Albuquerque felony unit exceeded 50 percent of the 30 felony attorneys in a single year. State Public Defender Phyllis Subin began meeting regularly with the governor's chief of staff and working with the State personnel office and personnel board to develop a market-pricing study of pay scales for all other State lawyers. She hired an Assistant Public Defender with a Master's degree in public administration and a human resources officer who had just left the State personnel office. Together they developed additional market-pricing studies vis-a-vis the private bar in New Mexico and public defenders in neighboring States. The legislature took note of the program's cost-effectiveness as well as the destabilizing

effect and case backlogs across the whole criminal justice system caused by public defender turnover. The legislature ultimately enacted the Balanced Justice Act, providing that, whenever a new judgeship is created, staffing must be comparably increased in the public defender and district attorney offices.

E. Meeting Systemic Challenges in the Juvenile Justice System

Any successful criminal justice system must include a firm commitment to a comprehensive program of juvenile justice, with sufficient resources allocated for performance of the defense function. Effective intervention with troubled young people can yield lasting benefits in their lives and save the system from the enormous costs and time of dealing with those same people in the adult courts and correctional systems. Panels on

"Client-centered lawyering works for the client, who sees himself as somebody worth fighting for; it works for the criminal justice system when the public has confidence that our young people are being adequately represented and fairly treated; and it works for public safety because it translates into less crime."

**—Jo-Ann Wallace, Director,
Public Defender Service
Washington, D.C.**

juvenile justice noted the dramatic shifts in the issue of indigent defense in the juvenile justice system in recent years. John J. Wilson, the deputy administrator of the Justice Department's Office of Juvenile Justice and Delinquency Prevention, noted that the stakes are higher now for juvenile offenders than ever before, with some 17,000 juveniles transferred to adult criminal courts every year. He drew on findings of an OJJDP study

conducted by the ABA and published in 1995, *A Call for Justice*, which concluded that “significant numbers of juveniles were being incarcerated without benefit of counsel . . . [and] that many juveniles were not receiving the quality of representation to which they were entitled.” The resource issues for juvenile defenders are most dramatically posed in the study’s conclusion which stated that the most pervasive problem in juvenile defense is “exceedingly high caseloads, with some attorneys carrying 500 cases a year, 300 of which are juvenile cases.” Fees for assigned counsel in juvenile cases, too, are a feature of inadequate resources. Maximum fees of \$100 for appointed counsel to handle any juvenile case in Virginia, for example, are lower than the adult misdemeanor fee cap of \$132 per case.

Defender programs for young people also suffer from difficulty in the recruitment and retention of staff attorneys who can provide their juvenile clients with capable, compassionate representation. The New York Legal Aid Society recently reformed its entire organization to more effectively serve its clients. Under the leadership of Columbia Law School Professor Jane Spinak, and with advice from an outside consulting firm, each Juvenile Rights Division (JRD) office in the five boroughs of New York reorganized itself into what were called “delinquency teams.” Teams were composed of the attorneys, social workers, support staff, and parents of JRD clients. “What that meant,” said Professor Spinak, “was that there was greater joint staff decisionmaking; there was clearer identification of client needs; and there was greater openness to a team model of representation to identifying what the lawyers do, what the social workers do, what parents can do, what support staff does.” The lawyer team members sought more training, and the appeals unit of the office provided backup, especially on delinquency issues, thereby permitting the office to bring back greater use of impact litigation. Perhaps the strongest sign of its success was that

the new JRD design was later emulated by family court judges as a model for court restructuring.

JRD also presented another aspect of resource collaboration in juvenile defense. Working with the law schools at New York and Columbia Universities, JRD is collaborating on employing law students from clinical programs in innovative ways. Whereas students normally work on a single case or small numbers of cases in a typical clinical program, the focal point of this experimental collaboration, said Monica Drinane, Professor Spinak’s successor at JRD, “is to learn what a public interest law practice is and also to be doing things that help the public interest lawyers manage their large caseloads more effectively and comprehensively.”

A new collaboration with juvenile defenders is being forged by the Department of Justice’s Special Litigation Section of the Civil Rights Division. The Special Litigation Section works under two mandates regarding juveniles: the 20-year-old Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. §1997 and the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14141 (see appendix 12). There are more than 1,000 juvenile detention and correctional facilities nationwide, according to Section Deputy Director Robinson Frohboese, with more than 0.5 million juveniles detained in the past year. Two-thirds of these juveniles are minority children, a proportion vastly in excess of their representation in the Nation’s population. Some 60 to 70 percent have mental health needs of some sort, and the vast majority come from low-income families. With 21 attorneys, the Special Litigation Section is stretched thin with current investigations of juvenile facilities in 8 jurisdictions and active monitoring of settlement agreements in 66 facilities.

In Louisiana, the section is actively involved in conditions litigation in four secure confinement juvenile facilities, including the Tallulah

Correctional Center for Youth in Madison. The director of the Juvenile Justice Project of Louisiana, who is working with the section on the Tallulah litigation, noted that “Louisiana now has the distinction of being the only State in the country where Justice had to actually file a lawsuit under CRIPA.”

The section is also in the preliminary stages of exploring the use of Federal law to identify the inadequacy of defense representation for juveniles. Although exploratory at the time of the National Symposium, such litigation, were it to occur, would be part of an increasing number of litigative challenges to the systemic inadequacy of indigent defense services, but the first such systemic litigation to be pursued by Federal prosecutors.

Another effective collaboration for juvenile defense is the use of mental health experts with special expertise in working with children. A clinical psychologist who often collaborates with defenders in juvenile cases, Marty Beyer, told symposium attendees that juvenile competency is not the same as that of adults, which is only based on mental illness or low IQ. Instead, juvenile incompetency may be based on immaturity, including children’s “lack of long-range perspective; their difficulty in seeing more than one choice at a time; their problems in trusting adults; their moral code that says the absolute wrong thing to do is to snitch, which is just an adolescent loyalty form of morality; their serious misunderstandings of defense counsel’s role; their not seeing legal rights as entitlements because of childhood experiences; and their learning disabilities.”

Dr. Beyer urged a “reframing” of arguments by child advocates. When children return again and again to juvenile court, she suggested, attention should be given not only to the child but to the lack of services that followed previous arrests. Steve Harper, creator of the Sentencing Advocacy Project for juveniles in Miami, Florida, urged

deeper collaborations of defenders with psychologists. Defenders need to use mental health experts before trial, not only to help them evaluate their juvenile clients, but to advocate. The clinical expert can go with the defender to the prosecutor’s office to explain the full psychological framework of the accused juvenile to the prosecutor.

Additional innovative approaches to enhancing resources and building collaborations in the juvenile justice area are discussed in Section IV, Collaborations: Indigent Defense as a Full Partner in the Criminal Justice System, including coordinated transfer of juveniles to adult criminal courts in the Baltimore Youthful Defender Unit; holistic sentencing advocacy for children in Miami; early entry of social workers in the Maryland Detention Response Unit; and postadjudication advocacy for children in Kentucky.

F. Developing Standards for Indigent Defense Programs

National standards for indigent defense are comprehensive, dealing with virtually every aspect of representation, as well as the recommended structures for defense services. State and local jurisdictions increasingly have adopted their own versions of standards for defense representation and defense systems, much as local ethical and disciplinary rules are adopted from national models (see appendix 8). However, many State and local indigent defense systems either have

“You’ve got to have enough confidence in yourself and in your office to say that we are as good as you all. And we are going to be a part of this, and you’ve got to treat us as equals, and they eventually will.”

**—Karl Dean, Public Defender,
Nashville, Tennessee**

not adopted local standards or have not taken full advantage of those standards that do exist.

The first national standards for indigent defense were developed almost 30 years ago by the National Advisory Committee on Criminal Justice Standards and Goals, appointed by Attorney General Richard Kleindeinst. Those standards were followed by the publication of the *Institute for Judicial Administration/American Bar Association Standards Relating to Juvenile Justice*. Dennis Keefe, Lancaster County public defender in Lincoln, Nebraska, and chair of the Bar Information Project of the American Bar Association, noted that although national standards are not binding on any State or local programs, national and local standards have served widely as both “minimums” and “models” in court decisions, statutes, court rules, and indigent defense service contracts. The Law Enforcement Assistance Administration in the 1970s required any applicant for indigent defense funding to implement the requirements of *Argersinger v. Hamlin*, the U.S. Supreme Court case extending the right to counsel to any misdemeanor case involving a potential loss of liberty, and follow the caseload standards of the National Advisory Commission. In 1998, an ABA resolution called upon all States, bar associations, and courts to adopt enforceable standards relating to the operations of indigent defense systems and to make substantial compliance with those standards a necessary predicate to funding.

A good example of the effective use of standards is in Indiana. The Indiana Public Defender Commission proposed, and the State supreme court adopted, a rule on capital defense, Indiana Criminal Rule of Procedure 24, which drew heavily from prevailing national standards on the provision of defense services in capital cases. As explained by Indiana Law School Dean Norman Lefstein, chair of the Public Defender Commission, the rule requires two qualified attorneys and sets forth experiential requirements for lead counsel as well as co-counsel. It also requires

continuing legal education (CLE) for capital defense representation, with a minimum of 12 hours of experience within 2 years of the date of appointment. A special duty is imposed on judges to assess the defense lawyers’ workload to determine whether the lawyer can handle the capital case, and the lawyer is also required to assess workload. A public defender cannot be appointed in a capital case if the defender, at any time during the pendency of the capital case, has more than 20 open felony cases, and no felony case can be set for trial within 30 days of the date of trial in a capital case. Lawyers are paid \$70 an hour, in and out of court, with no cap on fees, and counsel must be provided with adequate funds for investigative, expert, and other services necessary to prepare and present an adequate defense, including the sentencing phase. In Indiana, as discussed above, compliance with standards is a condition of State funding in both capital and noncapital cases.

G. Building a Capacity for Using Technology

Case management, computerization, and technology issues all are aspects of long-term program stability for indigent defense services and are increasingly critical to the fast, efficient, and cost-effective processing of cases—not only by the defender program but by the criminal justice system. A significant problem is that many defender programs lack technology altogether. This section describes some of the innovations in technology by indigent defense programs and summarizes new partnerships between defenders and other justice system components.

Significant technology innovation and assistance comes from the Federal Government. OJP General Counsel Paul Kendall described a major OJP initiative to develop an intergovernmental justice information protocol that would permit information sharing among all components of the criminal justice system. Indigent defense services are included because the Omnibus Crime Control

and Safe Streets Act defines “criminal justice” as “activities of the courts having criminal jurisdiction and related agencies, including, but not limited to prosecutorial and defender services.”

Today, OJP spending on technology integration has three targets identified by Attorney General Reno. First, it seeks a greater measure of cooperation between Federal, State, and local governments and private industry. Second, it seeks to prevent “smokestack” development, whereby isolated and unlinked efforts of individual agencies occur but no information is shared among agencies or across jurisdictions. Third, it draws attention to privacy and security concerns as systems grow larger and more integrated. The overall objective is to improve the effectiveness and fairness of the criminal justice system through better information sharing.

“Information technology has changed and will continue to change the paradigm of our current notions of the practice of law. It will change your office and the criminal justice system in almost every way imaginable.”

—Jeff Gale, Chief Deputy State Public Defender of California

In addition to nationally coordinated efforts of technology collaboration, local programs have shown great skill and creativity in implementing technology integration. In the 12th Judicial Circuit in Sarasota, Florida, as described at the symposium by Toby Hockett, chief assistant public defender, and Janice Lovern, executive director, State Attorney’s Office, who collaborated on the project at the request of the chief judge of the circuit, meetings began with the circuit’s court clerk, the sheriff, the State attorney, and the public defender (see appendix 10). Their mission was more efficient operations through systemic approaches. After surveying the office

staff, they found duplicate data entry was frequent and delays in information transfer were chronic. Their solution was to put out bids for a computer company to provide the whole system with hardware and software that would eliminate duplicate data entry, increase accuracy of information, and make the system run smoother. The initial contract, signed in October 1994, was for nearly \$6 million.

Three basic components exist in the system now. There is a module, or data packet, for the sheriff’s department, the clerk, the State attorney, the public defender, and the corrections department. Access to data in the system is provided to each agency based on its role in the criminal justice process; some information may be kept confidential based on role division. The public defender office has added systems for conflicts checks and mental health issues. The system permits the sheriff to enter standard data every time a person is arrested. After using those data, posted to networked computers, to conduct intake at the State Attorney’s Office, the information is passed through the network to the public defender’s office, where the intake staff can click on the entered data. The office decides whether to accept the case for assignment and, if accepted, passes the file on to the attorney’s desktop computer. A single body of baseline data is consistently kept throughout this process. Future possibilities include the use of scanned documents and electronic signature, which would significantly reduce paper pleadings.

H. Establishing Case Management

Case management approaches in defender programs can vary widely. The approaches to case management and work overload in New York City’s Legal Aid Society and Miami’s Dade County Public Defender programs could not be more different. One of the most sophisticated case management systems in a large defender office is that of the Legal Aid Society of New York, which, despite its size and longevity, has only recently

begun systematic development of a predictive case-weighting system. The model was developed because of two significant shifts in the organization's structure in the past 5 years: a downward spiral of funding in a competitive market for defense services and a dramatic shift in the office's caseload toward misdemeanors. The Legal Aid Society maintained data that counted and minimally tracked only assignments and dispositions of over 2 million cases during the prior 10-year period, but it needed a system that would permit predictive decisionmaking for staffing and budgetary purposes.

The Legal Aid Society decided to track three primary elements of cases: first, the size of the entire pool of indigent defendants in New York City; second, the number of anticipated misdemeanor and felony arraignments that went to the office from that pool; and third, its staffing resources to deal with those assignments. Michelle Maxian, attorney-in-charge, Criminal Division, called the resulting system "an interactive computer model that is premised on variable assumptions and actual past performance for the past 3 years that predicts, within a range of reliability, what our intake and caseload will be for the next 12 months." That information is available for estimates of anything from one attorney's caseload to estimates of caseloads for the entire division of 400 lawyers. She noted that any system that is developed must be simple. "The more sophisticated your use of the data, the less related it is to what I can ballpark as a manager . . . And to the extent that it seems unreal, it also seems unreliable to me."

With the new system in place, David Newhouse, an outside consultant working on computer issues in the office, noted that the office was able to anticipate that if it had 4 "fully certified" felony attorneys in court every day, those attorneys would pick up an average of 4.6 felonies and 5.4 misdemeanors per day. Although there are some seasonal variations in caseload

and some distortions caused by particular events such as higher arrest rates in some locations, the system is accurate over time. The new system has been operating for about a year. During the last fiscal year, estimates were accurate to within 3 or 4 percentage points when compared with the actual work of the office.

Bennett Brummer, the public defender for Dade County, Miami, Florida, had a more hard-line perspective on case management. "What works out there," he argued, "is raw political power." From his perspective, case management must be seen from both the management and litigation points of view. His response to case overload, when it first occurred in 1989, was to visit the chief judge of his circuit and ask the judge what to do with the excess cases that his office could no longer handle. Although that request resulted in new staffing for the office, the problem of case overload continued. He returned to the judge with the same issue, and this time told the judge that his office would have to consider motions to withdraw due to case overload. Although the judge ultimately must decide the limits on caseload, the threat of litigation may be necessary to accomplish caseload limits.

This view comports with prevailing national standards, which contemplate refusal of additional appointments. Standard 5-5.3 of the ABA *Standards on Providing Defense Services* says that defenders "must take such steps as may be appropriate to reduce their pending or projected caseloads, including the refusal of further appointments" when that caseload "will lead to the furnishing of representation lacking in quality or to the breach of professional obligations." The commentary to that standard states that in a defender program with excessive workload, "additional cases must be refused and, if necessary, pending cases transferred to assigned counsel." National Study Commission Guideline 5.1 urges setting maximum pending workload limits for defender offices, with suggested criteria to

determine if workload is excessive. Drastic steps such as refusal of appointments, withdrawal from pending cases, or the threat of litigation on

caseloads have sometimes been the last resort of severely overloaded defender services programs.

IV. Collaborations: Indigent Defense as a Full Partner in the Criminal Justice System

Several initiatives have attempted to make the best use of limited justice system resources by implementing projects that depend on collaborative interagency planning. This section provides descriptions of successful programs.

A. Criminal Justice Coordinating Committees: Los Angeles County, California, and Fulton County, Georgia

The Los Angeles County Criminal Justice Coordinating Committee was created by the Los Angeles County Board of Supervisors in 1981 to provide a forum for improving the efficiency and the effectiveness of the justice system by bringing together leaders from each of its components. The committee's 40 members include traditional actors in the criminal justice system as well as city officials, educators, directors of the mental health and alcohol and drug programs, and representatives from Federal law enforcement agencies (see appendix 15).

The committee operates in one of the largest urban jurisdictions in the United States. The 5-member county board of supervisors controls an annual budget authority of more than \$13 billion. Michael P. Judge, chief public defender for the County of Los Angeles, runs a countywide operation with 40 offices and more than 600 lawyers; the chair of the board acts as his immediate supervisor. The Criminal Justice Coordinating Committee, in turn, operates with about 30 different subcommittees and working groups. Representatives from the public defender office serve on all of these subcommittees. The public defender's office has held a seat on the committee since its inception. In describing his vision for the role of indigent defense representatives in the

committee's operations, Mr. Judge said that he seeks "a dynamic kind of collaboration, the notion that the public defender can and should be a leader in the process, bringing our values and perspectives to the criminal justice initiatives that do occur. My vision is not to expand my office unless it's absolutely necessary. My vision is to achieve better outcomes."

Mr. Judge believes that the committee's best program has been the drug treatment program run in conjunction with the drug courts. The role is not the classic adversarial one for the defenders, but the design of drug court permits defenders to be, in Mr. Judge's words, "responsible for life outcomes." He points to the fact that Los Angeles developed the quickest settlement rate in drug felonies in the Nation, in some instances within 2 days of arrest. The quick settlement allows clients to gain access to diversion and treatment programs that provide longer term solutions for them. The defender office also was able to have an effective impact on a diversion program from the three-strikes law in California. Another recent success came in the area of domestic violence courts. The public defender program obtained a grant to hire licensed clinical social workers to identify community-based resources and gain access to them for the office's clients.

The committee also provided a forum for the public defender to resist undesirable initiatives, such as proposals for nonunanimous and 6-person juries, elimination of juries in cases with a punishment of 6 months or less, professional jurors, and a proposed option for prosecutors to eliminate the potential of jail time from lesser misdemeanors, which would therefore eliminate

not only the right to a jury but also the right to a counsel.

The justice system budget for Fulton County, Georgia, is the largest aggregate budget in the county (see appendix 16). What became the Fulton County Justice System Coordinating Committee, however, grew not from a general effort to coordinate the various components of the justice system, as in Los Angeles, but from a single issue: shortcomings in the public defender office.

Steve Kinnard, now chief circuit mediator for the 11th Circuit Federal Court of Appeals in Atlanta, served from 1991 to 1998 as facilitator for a group that became known, in 1995, as the Fulton County Justice System Coordinating Committee. In October 1990, an outside consulting group came in at the request of the Fulton County Superior Court and the county manager to analyze and write a report on the operations of the public defender program of Fulton County. The report concluded that the indigent defense system was “disjointed and fragmented, there was a lack of communication and coordination among the various agencies, the attorney caseloads were way too high, and the office was underfunded.” It urged an emergency appropriation for the office and appointment of a Blue Ribbon Committee by the president of the Atlanta Bar Association to look into the situation and make further recommendations. The Fulton County Justice Commission was the result of those efforts.

The commission had 21 members, named by the Atlanta Bar Association. In March 1991, it began its work, meeting not only about the public defender’s office but also about Fulton County criminal justice issues in general. It met with the county commissioners, noting that the public defender office’s budget at the time was less than \$1.8 million. The county commissioners told the commission to go to the State for funding, an effort that proved unsuccessful. However, the commission’s local negotiations with the Budget

Subcommittee of the County Commission resulted in a 1992 budget that raised salaries of all public defenders. Over time, the budget increases for the public defender program continued, and today the office’s budget has climbed to about \$5.5 million.

Between 1992 and 1995, a growing group of criminal justice officials, known as the Fulton County Justice System Ad Hoc Committee, continued to meet monthly to discuss budgets for the public defender and justice system operations in general. “People began to understand the problems of the other components,” Mr. Kinnard noted. “They began to develop a common language.” No such dialogue had taken place before in the justice system, particularly between public officials and criminal justice participants. In October 1995, the Fulton County Justice System Coordinating Committee was institutionalized to implement a master plan for the county’s justice system. The new coordinating committee, now made up of representatives from 19 city, county, and State agencies, publishes press advisories and a monthly newsletter and is developing a comprehensive case management system with outside consultants. It has developed various teams studying preindictment issues, postindictment issues, clerk’s office support, forms, data management and information, and backlog reduction. During the past year, the committee allocated approximately \$2 million for a new pretrial services unit and another \$2 million for a new complaint room for the prosecutor’s office. The program received its full budget request of \$19.6 million for fiscal year 1999, after receiving only \$4.2 million of an \$8 million request in 1998. The committee has attracted more than \$28 million for new projects to date, 96 percent of which are locally funded.

B. Defending Juveniles Charged as Adults: Maryland and Chicago

Juvenile transfer to adult courts experienced a precipitous rise in the past decade. In the past

8 years, 40 States expanded transfer, lowered the age for transfer, or expanded the categories of offenses making juveniles eligible for transfer to or for original jurisdiction in the adult court. The State of Maryland and the city of Chicago have developed successful collaboration strategies to deal with this trend.

The Youthful Defender Unit in the Maryland State Public Defender Office in Baltimore was created in July 1995 and is staffed by two attorneys. It was created when Maryland law was changed to require that a much broader category of juveniles be prosecuted in the adult courts. In attempting a systematic response to the problem, the original goal of the unit was total vertical representation—that is, once one of its lawyers becomes involved in a juvenile case, that lawyer follows it wherever it goes, throughout the adult or juvenile process. The unit’s attorneys are allowed discretion in limiting caseload to permit the movement with cases that vertical representation requires.

Collaboration with others in this newly revised process grew out of another mandate to the Youthful Defender Unit. The unit was charged with examining the process by which new cases were being handled, and if defects or shortcomings in the system were discovered the unit’s supervisor, David Addison, was allowed to work on those issues as well. As Mr. Addison worked in the system, he discovered that there were significant delays in the process of consideration of motions to transfer cases out of the adult courts and back to juvenile court. To attack the problem, he had an undergraduate intern from Johns Hopkins University develop a timeline of how long it took for each link in the consideration of such motions to be accomplished. If the law had been followed, 2 months should be required from the time the case came to circuit court until it was ready for a transfer hearing. The study showed, however, that the actual time was 7 months to 1 year. This was a serious shortcoming;

time is crucial when dealing with juveniles because one of the criteria for deciding whether transfer is appropriate is age and delays work to the prejudice of clients who may age a year before being heard.

As a result of the unit’s findings, the Ad Hoc Task Force on Juvenile Transfers was created. The task force was made up of Mr. Addison, the judge in charge of the Criminal Division, and representatives from the Medical Services Office, the Department of Juvenile Justice, the clerk’s office, and the State Attorney’s Office, particularly its Juvenile Court Division. Working together, the group members came up with several innovations. First, they devised a standard motion to trigger the request for transfer. Second, they modified the form used by the Medical Services Office to include more useful information for them and for other recipients of the report. Third, all motions were filed directly with the judge, rather than with the clerk, so that copies could be sent from there to the clerk, the Department of Juvenile Justice, and the Medical Services Office. In certain expedited situations involving vulnerable juveniles detained in adult facilities, the process of transfer to a juvenile facility can be completed in as few as 7 days.

In Chicago, there are two significant difficulties in getting information about children threatened with transfer to adult proceedings, according to Carl Bell, a psychiatrist and president of the Community Mental Health Council. First, the juveniles are likely to have multiple problems and may be involved with several agencies such as public health, family services, police departments, and schools. The problem of getting accurate and complete information about children for court assessments by doctors is daunting. Second, the reports that are provided by social services and psychiatric evaluative personnel are often filled with what Dr. Bell called “psycho-babble” and are not helpful to the court in assessing a course of action.

Dr. Bell suggested two collaborations for defenders: to work closely with mental health centers and schools of psychology to get better evaluations of their clients and to work with treatment providers to develop alternatives to punishment for children. In Chicago, defenders and doctors are linking clients with specially trained youth officers—not line police officers but people trained in children’s issues and vested with significant discretion to implement programs with public schools, probation, social services, mental health, and family services. When the child leaves the police department, someone will follow up to make sure that the child and his or her family receive useful services. According to Dr. Bell, research shows that such linkages help prevent the child from repeated delinquent behavior.

C. The Arizona Fill the Gap Program

Arizona began its Fill the Gap Program in 1997. The “gap” refers to a gap that has developed in resources and programs for the criminal justice system’s middle component—the courts, prosecutors, defenders, clerks, and other adjudication system employees—in the face of recent major infusions of State and Federal funding for the beginning and end of the system—police and corrections. Extra funding at both ends of the system leaves the middle weakened (see appendix 13).

Judges organized an initial meeting about the project with the Attorney General’s Office, the county attorneys, the public defender office, and the judges and their clerks. Group members first discussed their common problems, then devised a plan to go to the Arizona legislature for additional funding. They proposed a program that would appropriate \$19.5 million from the general fund to “reengineer” the court system in all counties and reduce case-processing time.

The overloaded Arizona courts found that the average time to process a case from arrest to trial

had increased from a statewide average of 195 days in 1991 to an average of 290 days in 1977. The goal of the Fill the Gap Program was to reduce the average time to trial to fewer than 100 days for 90 percent of the cases and to 180 days for the remaining 10 percent. Case delay, it was argued, affects all of the actors in the criminal court. Defendants languish in overcrowded facilities with no treatment or rehabilitation; victims are affected by increased stress and frustration from lengthy waits for outcomes; prosecutors, defenders, and court workers are plagued by excessive caseloads; and court clerks drown in a sea of paperwork, averaging 25,000 pages of new documents a day in Maricopa County alone. And the cost to taxpayers for additional time of incarceration of those awaiting trial is approximately \$40 a day for each inmate.

The legislature rejected the program’s large funding request and instead provided initial funding for the program of about \$350,000, permitting it to proceed in 7 counties. Arizona Supreme Court Justice Charles Jones gave an example of what reengineering would look like in a typical county. First, it required a commitment of cooperation and hard work among all of the criminal justice agencies. Second, an expert consultant was retained to help the judges with case management. Third, firm dates were established for significant events in each case, which were to change only under “extreme good cause.” Justice Jones asserted that these dates were held firm while still maintaining constitutional protections for criminal defendants. Meg Wuebbels, from the Maricopa County Public Defender’s Office, noted that although the trial rate in her office had gone up dramatically in each month, the win rate in the office held steady at about 40 percent after commencement of the new system. Fourth, systems were automated to provide all participants with consistent, more current information.

Justice Jones noted that the average number of days served prior to trial dropped from 173 to

55 in Coconino County over a 4-year period. But he concluded that there are obvious limitations to what reengineering can do without the broader financial and human resources necessary to improve the court system in all respects and that ensuring funding for the Fill the Gap Program is always a challenge.

D. Public Defenders and Drug Courts: Montana, California, Connecticut, Florida, and Oregon

Public defenders from Montana, California, Connecticut, Florida, and Oregon discussed the ways in which collaborations had occurred in treatment drug courts, an increasingly popular alternative to traditional adjudication in drug cases. Such courts present real challenges to the traditional adversarial role played by defense counsel but create opportunities for defenders to play a role in devising long-term positive direction to their clients' lives. On the whole, defenders find that the benefits to their clients, such as dismissal of charges and life-changing treatment, outweigh the risks of a change in the lawyers' role.

Margaret Borg, chief public defender in Missoula, Montana, has been working with drug courts for about 2 years. A local judge was the first proponent of the treatment drug court. Participants in the Missoula program, other than the defendant, are the judge, the prosecutor, the public defender, and a youth court representative, either a case manager or a probation officer dedicated to the court. As design of the program progressed, Ms. Borg became aware that the treatment option would require compromises of traditional adversarial roles, not only her own but those of the prosecutor and judge as well. She was willing to change her role so that treatment options would be made available to her clients. "I have always thought," she said, "that treatment was a very important component and a very underplayed resource in our youth system." She felt that, in the long run, she did not have to make many serious concessions because the prosecutor

was willing to implement preadjudication procedures for admission to the treatment program. "All of our kids that are in the drug court," she said, "enter denials and go through the program."

James Egar is the Yolo County public defender in Woodland, California, by his own account a small, relatively poor county of about 150,000 people (see appendix 18). When he arrived, the county had no juvenile drug treatment facilities. After obtaining a modest grant from the county of \$40,000 for drug-testing and related services, interested participants were able to put together a volunteer network. Mr. Egar built partnerships by working closely with the sheriff, participating in ethnic diversity training for the sheriff's deputies, training local law enforcement officers how to testify, speaking to local civic and school groups, and building alliances with national groups such as the National Drug Court Institute. The National Drug Court Institute provided national data showing that participants in drug court programs experienced an 80-percent success rate, with success defined as completion of treatment and no further contact with the courts. Mr. Egar rejects the concern that drug courts require defenders to sell out clients. Work in the drug courts requires a different approach to advocacy, but successful completion of the program can be as important as a successful defense and acquittal in court because the attorney actually helps to change the defendant's life. The "social worker aspect" of defense in drug court, he suggested, "should not be spoken of with embarrassment but with pride, boasting that you're doing the finest work in criminal defense."

In New Haven, Connecticut, a drug court was started 3 years ago as a result of State legislation introducing drug courts in five locations across the State. Assistant Public Defender James Chase described the operation of the drug court in New Haven. The drug court accepts cases involving felony and misdemeanor defendants, excluding violent criminals and drug sellers. Participants enter treatment programs lasting from 12 to 15

months, depending on how well they respond. The drug court also helps with housing and other social programs and permits home visits by police. Because of Mr. Chase's concern about letting police officers into his clients' homes, the New Haven program gives advance notice of police visits. Mr. Chase expressed respect and trust for the judge and prosecutor who work with him and his clients in the drug court. Even the police have become willing participants. After 3 years of participation in the program, Mr. Chase concludes that the drug court is a success. "My view as a public defender has to be a long-term view," he said. "I need my drug court clients to succeed."

Theda James is Misdemeanor/Juvenile Bureau chief in the Office of the Public Defender in Tampa, Florida. She works with a voluntary, prediversion juvenile drug court. A contract for participation is signed by the parent, the child, the prosecutor, and the defense attorney. For all of the participants, training in the model is crucial because adversarial style is sacrificed to a cooperative effort to ensure the client's success. Treatment is the focal point. She concludes that "if a child completes this program, then we've all won."

Paul Newton is a staff attorney with the Metropolitan Public Defender's Office in Portland, Oregon. He is supervisor of Portland's adult drug court and the community court. After some resistance to abandonment of adversarial representation of his clients, he found that he could figure out ways to present his position without litigating. Now his narrow goal is dismissal of the charges because, if clients succeed in either community court or drug court, their cases are dismissed. From a broader perspective, however, he is trying to get and keep clients out of the system. "I'm trying to keep them out of a system that dehumanizes, humiliates, and treats them badly," he said.

E. Detention and Sentencing Advocacy for Juveniles: Baltimore and Miami

Defender programs representing juveniles often embrace a more holistic philosophy based on the premise that children are fundamentally different from adults in all ways: socially, emotionally, cognitively, and developmentally. It is not enough, said Patricia Puritz, director of the Juvenile Justice Center of the ABA, to merely represent children. "You really have to get to know who your client is," she said. Defenders must ask themselves, "who is this child before you?"

In juvenile detention facilities in Maryland, children are generally locked in their rooms and receive poor educational services inside the facility. About 80 percent are represented by the public defender. The Detention Response Unit of the Office of the Public Defender in Baltimore, Maryland, was created to deal with children who are detained not because they are accused of serious crimes but because they are bothersome. These juveniles, said Mary Ann Scali, an attorney and social worker with the unit, "who have gotten into a fight with their sister and the parents called the cops; their mom got a new boyfriend and decided that she didn't want the child at home any more; a girl who decided that she needed to steal diapers for her baby; or girls who don't want to be home because they can't get along with either of their parents."

The unit was designed to deal with two related issues: the overrepresentation of minorities in juvenile facilities and the provision of effective assistance of counsel to detained juveniles. Funding for the program came from a joint grant proposal by the public defender office and the Juvenile Justice Advisory Council, under which the public defender hired an attorney and a social worker to work specifically on these two issues. Later, the grant was doubled to two social

workers and two attorneys working in all of the juvenile facilities statewide. One of the benefits of collaboration with the Juvenile Justice Advisory Council is that its name gives public defenders and social workers immediate access to clients in any facility.

By having the kind of early intervention the Detention Response Unit can provide, Ms. Scali said the attorneys are able to gain the trust of the child and provide a much-needed service. “Having the child removed from the facility and actually wrapping those community-based services around them and putting them back in a better environment makes a huge difference,” she concluded. “We see many fewer of our clients coming back” (see appendix 17).

Florida law permits the prosecutors unfettered discretion in the transfer of children as young as 14 from juvenile to adult court, and a grand jury can indict at younger ages. As a result, Steve Harper, a Dade County public defender, said that in the Miami Public Defender’s Juvenile Section, a separate unit in the public defender’s office, they now have about 1,300 cases transferred from the juvenile to the adult system. The office represents children ranging in age from 11 to 17. Although the adult court assumes jurisdiction, in a number of cases the child can be sentenced as a juvenile, and transfers back to the juvenile court can occur on a negotiated plea.

Working from the premise that the mandate of the office is not just to provide representation but to try to have meaningful effects on the lives of clients, the program obtained more than \$100,000 in grants from BJA to fund two social workers and a full-time lawyer who, in addition to two attorneys contributed by the office, worked with outside consultants hired to put together a juvenile sentencing project.

The program has assessment, advocacy, and programming components. The initial objective

of the program is to get a clinically based assessment of children transferred to the adult system. “We wanted to provide a very comprehensive and thorough assessment of who they are, what they need, what their strengths are,” said Mr. Harper. The office then proposes a sentencing outcome for the child that includes a recommendation for a particular program. Of the 1,300 juveniles who were waived in during the past year, only 23 received juvenile sanctions in the adult system, a result that supports the need for the sentencing advocacy program.

Marty Beyer, a clinical psychologist from Great Falls, Virginia, who has worked with children and families in the juvenile justice system for more than 20 years, discussed issues of adolescent development, offering not just new strategies but new moral insights into defender representation in that context (see appendix 14). Dr. Beyer urged a developmental perspective in juvenile representation. These theories can be applied at waiver hearings, at the hearing or trial, or later at the dispositional stage. Overall, the developmental perspective holds that children do not think in the linear style of adults. First, she said, “adolescents don’t anticipate. They don’t plan well. They have a lot of accidents because of their cognitive, not their intellectual, limitations.” Second, children take a lot more risks than adults. Third, adolescent thinking can be inflexible. Adolescents only have the capacity, she asserted, for a “plan A, not a plan B.” In addition, adolescents have not completed their moral development. Loyalty and fairness are the moral rules that kids operate by, and loyalty is the stronger of the two. She finds that one of the most difficult things to assess is a child’s remorse. “It’s too easy,” she concluded, “to take at face value a kid’s lack of shame and not recognize that their ability to talk about their victim has to do with their feelings of guilt and their immaturity in handling those guilt feelings rather than a lack of remorse.”

F. The Tennessee Weighted Caseload Study

The Tennessee General Assembly created a statewide system of public defense in 1989. Before that time, the two largest cities, Memphis and Nashville, had locally funded public defender programs whereas the rest of the State used assigned counsel. After a successful pilot project creating four new public defender offices in the State promoted by the Tennessee Bar Association in 1986, the legislature was convinced that a public defender system would provide more systematic defense services and hold down costs. As originally adopted, the legislation created staffing levels defined by statute as one-half the number of attorneys in the district attorney's offices.

But from the start, public defender caseloads were a major problem. In 1991, caseloads rose 26 percent, mostly because the office had been given appellate as well as trial responsibility for cases. In 1992, it had risen to crisis levels: 653 cases per attorney, including all types of cases from felony to misdemeanor and appeals. As described by State Public Defender Andrew Hardin, the program had two significant methods by which to control caseloads: conflicting out and work stoppage. The first alternative was of limited utility, so the second alternative finally was invoked by the Knox County public defender in 1992, when he decided that his office could not take any more cases and render effective assistance of counsel. The trial judges shut down the general sessions courts from public defender representation and started appointing everyone in Knox County who had a law license, including U.S. Senator Howard Baker and U.S. Department of Education Secretary Lamar Alexander. After prominent members of the bar complained of receiving appointments, the legislature started to listen.

In part because of the staggering caseload figures, the legislature gave the office 41

additional full-time attorneys statewide. After consistent increases in both 1994 and 1995, the office was able to get help from a Byrne grant to employ private counsel to handle some appeals. With a sharp increase in the number of capital cases in 1996, caseloads again rose to more than 670 cases per attorney. That situation repeated itself in the 1997–98 fiscal year.

Judges and prosecutors were pressing the legislature for additional funding. Homicides and capital prosecutions were creating serious stresses on small county systems not accustomed to long and expensive trials. The legislature, tired of dealing with the three unconnected, apparently subjective sets of requests, started asking for an objective, fact-driven formula that could be relied upon over time to link and project workloads and budgets for all three agencies. The result was the agencies' proposal for a joint weighted caseload study. To develop a funding formula for equitable and proportionate funding among the agencies in the future, all three agencies' workloads were examined, incorporating shared assumptions about the number and type of cases, the workload weight attached to different types of cases, the workload capacity of staff, and the inherent interdependence of all agencies' workloads.

The Tennessee legislature made clear that until such a study was complete, there would be no funding for any additional judicial resources. An amendment was added in the general appropriations act authorizing payment for a judicial weighted caseload study to be prepared under the auspices of the State comptroller's office and completed by April 1, 1999, in time for consideration during the fiscal year 2000 appropriations process.

G. Juvenile Defenders and Dependency Cases: District of Columbia and Maryland

Defender programs have increasingly taken on civil matters that grow out of their criminal

caseload. This happens because there is often a loss of liberty at stake, because there is no other agency available, and because the clientele are, like criminally charged clients, indigent and entitled to the services of counsel. Examples of such civil matters are representation of children and parents in dependency, abuse, and neglect matters. Although national standards suggest that defender offices should be limited in their representation to proceedings “arising from or connected to the initiation of criminal action against the accused” (*ABA Standards on Providing Defense Services*, Standard 5–5.2), the line between civil and criminal matters is increasingly blurred when personal or familial losses of liberty are at stake.

Attorneys in abuse and neglect matters in the District of Columbia are controlled by the Council for Child Abuse and Neglect (CCAN) program of the D.C. Superior Court. Director Lori Parker and her 3-person staff administer CCAN as a branch of the Family Division. About 400 attorneys take cases as assigned counsel, representing parents and children in abuse and neglect cases. For the past 3 years, an average of 1,500 petitions for abuse and neglect have come into the D.C. Superior Court. Children are automatically entitled to counsel, but parents must prove financial eligibility. She estimated that 95 to 99 percent of the parents qualify for counsel, even though income and asset levels to qualify for appointment are very low. The program never has a problem with recruiting new attorneys, who are required to participate in a 2-day training program and 16 hours of continuing legal education a year. They also hold bimonthly brown bag lunch training sessions on areas most desired by the panel attorneys.

Lawyers for children are guardians ad litem, and counsel must agree to represent either party in proceedings. Every year, the program brings on about 50 to 60 new attorneys. Lawyers in the program are affiliated in the Family Trial Lawyers Association. Whereas recruiting and training

new lawyers is fairly easy, maintaining attorneys on the list and holding them accountable is more difficult. The D.C. Bar has no formal continuing legal education requirements, so attorneys in the program resist more rigorous standards.

The Maryland public defender initially took cases of parents in abuse and neglect proceedings if they met financial eligibility guidelines. Some 90 to 95 percent were indigent. However, the number of clients rose and the State never supplemented the office’s budget for this representation, so the program asked to be relieved of representation of abuse and neglect matters because they were not part of the office’s statutory mandate. The office agreed to take on the cases when the government supplemented the budget, and in 1991 the office set up the Children in Need of Assistance (CINA) Unit to handle these matters.

As in the District of Columbia, the program works with assigned counsel panel attorneys. Recruitment for the program is not difficult because the young lawyers take the job “and within 2 months you’re in court and the case is yours,” according to CINA Chief Attorney Vanita Taylor. However, because fees for these cases are \$30 an hour for out-of-court work and \$35 an hour for in-court work, with fee caps in the cases, retention in the program is a big problem. Lawyers, once trained, often quit the program, so the CINA Unit began using staff attorneys.

An example of collaboration within a large public defender office began when the Maryland CINA Unit joined with the juvenile, appellate, misdemeanor, and felony units to create the Family Justice Committee, which meets every 3 months. That committee watches for changes in the law and prepares positions for the office to take on proposed legislation. One example of its work was a proposal to hold parents criminally responsible for their children’s wrongdoing when the children are adjudicated by the drug treatment court. The program simply refused to participate, an option which Ms. Taylor said it had because it

exclusively control the contract for provision of counsel to parents in CINA cases. Another example was legislation that permanently removed children from the custody of a parent who is convicted of certain offenses, permitting only supervised visitation. After consultation among the members of the Family Justice Committee, the office opposed the legislation. Collaboration permitted a unified approach by diverse units in a larger program.

H. Mental Health Court in Broward County, Florida, and Neighborhood Defender Services in Harlem

Some defender programs are so unique and innovative that they stand alone in their structure and organization. Such is the case with the Mental Health Court in Broward County, Florida, and Neighborhood Defender Services (NDS) in Harlem.

The largest provider of indigent mental health services in most areas is the local jail, due in part to the gradual shift in recent years away from institutionalization and toward criminalization of the mentally ill. Nationwide, it is estimated that about 10 percent of incarcerated people are mentally ill; approximately 200,000 on any given day. The percentages are 5 percent among women and 20 percent for juveniles. In Broward County, Florida, about 20 percent of all clients coming through the system are clients of the local provider of mental health services. The Broward County jail has almost twice the number of mentally ill inmates as the State hospital in Broward County, a facility that serves a four-county area.

The development in the 1960s of drugs that allowed management of serious psychiatric illnesses resulted in a vast movement, supported by liberals and conservatives alike, toward deinstitutionalization of the mentally ill, with a commensurate reduction in the number of beds in State institutions. However, systemic costs are

much greater for the mentally ill in jail. First, their average length of stay in jail can be as much as five times as long as that of nonmentally ill inmates. Additional costs include psychiatrists, special jail cells, and medications. In addition, the medications that mentally ill inmates receive in jail may not be as effective in treating their illnesses as medications they could get in medical facilities.

Doug Brawley, chief assistant public defender in charge of courts, Broward County Public Defender Office, Fort Lauderdale, Florida, was instrumental in creating the first Mental Health Court in the Nation. Because so much of the initial contact with the mentally ill is made by police or caseworkers, he said, "if the police diverted all the minor misdemeanors with mental health problems and didn't put them in custody, or the caseworkers were more active, there would be very little need for a criminal justice system." When he focused his representation on the mentally ill about 7 years ago, before creation of the Mental Health Court, he felt that his job as a defender was to get mentally ill defendants out of the system as quickly as possible by having them plead guilty to time served. But that created an endless cycling of people in the system.

As a partial solution, he and others began to press for competency exams, arguing that the office would not plead guilty when the client was incompetent. However, many people actually stayed in custody longer with that argument. Mr. Brawley conducted a publicity campaign using 30 or 40 articles that highlighted mentally ill people in jail, showing how misguided that policy was. When the press coverage of the issue ceased, the public defender's office began its own newspaper, the *Mental Health Court News*, which was sent to judges and local hospitals and was posted on the office's Web site.

As a result of the campaign, a local legislator helped the office get funding for residential treatment. The courts responded by creating the

Mental Health Court, in which the judge dispenses what she calls therapeutic jurisprudence. If a defendant wants a trial, the case is returned to the trial division, but the judge's knowledge of local service providers has made her quite effective in obtaining treatment alternatives, supported by ample resources to make mental health assessments. Because the court is focused on keeping mentally ill offenders out of jail, treatment providers are available and there is information about noncustodial alternatives. The court also uses psychology interns; local college students finishing a doctoral program in psychology have volunteered to develop a screening instrument that could get more people into the program.

Unlike a traditional public defender office that reacts to criminal charges by waiting for appointments from the courts, Neighborhood Defender Services (NDS) of Harlem was created to try to rethink the provision of indigent defense services. Traditional public defender offices, said NDS Director Leonard Noisette, are structured more for the convenience of judges, prosecutors, and lawyers—everyone but the defendant. The structure of the traditional office is to respond to the needs of the court by providing representation to qualified people who appear before the court without representation. Client focus was one of the reasons that the Harlem office was community based. Harlem was chosen for a number of reasons. First, it had the most in-borough prosecutions, so office personnel were not stretched by having to travel to several courthouses. Second, it had a rich political history and a strong network of other service providers, which would be important for full-service delivery. The office represents only people who reside within a defined geographic area in Harlem.

A second feature of the office is early entry into representation of its clients, with service provided on request, even at the police precinct and before formal charging. The office prefers to accept cases prior to the first court appearance, but it will accept cases up to the sixth day after

the first appearance. Early entry has its greatest impact on the office's ability to conduct early and effective factual investigation. For instance, the office very aggressively seeks and finds witnesses and tries to take written statements, and there have been a number of instances in which its teams have contacted witnesses before the district attorney's office. Although early entry into cases did not cut down on case-processing time or pretrial release rates in statistically significant ways, the positive effects of early entry are most notable in ultimate results. Research conducted by the office shows that as a result of early entry, its clients serve significantly fewer days of incarceration overall.

The third major component of the program is team defense. Rather than assigning a single lawyer a caseload, the office makes a group of people collectively responsible for representation. The teams are composed of a supervising attorney, four staff attorneys, an investigator, a social worker, and an administrative assistant. One lawyer is assigned lead representation. The method has proved to be effective in helping the investigator and social worker on the team understand their roles and how their work relates to the overall representation.

A fourth component is comprehensive representation of clients in civil matters that arise out of criminal proceedings, such as forfeiture proceedings related to drug charges; eviction proceedings as a result of a family member being arrested and charged with a crime; family court proceedings if a family member is accused of abuse and neglect and is also facing termination of parental rights proceedings; or police misconduct cases in which a client in a criminal case has alleged police abuse. In assessing the success of the Neighborhood Defender Services, Mr. Noisette recommended that defenders and others in the system expand their definition of the notion of value. "We really have got to begin to define value differently than how much it costs to process how many cases." Some very significant

components of the value of a system of defender services may be difficult to quantify. “What is the value of working with someone after their case is over? What is the value of keeping a family together? What is the value of providing job

placement in terms of reducing the number of people coming back into the system?” An accessible office in one’s own community and the ability to choose one’s own lawyer, Mr. Noisette observed, have benefited clients significantly.

V. Conclusion

Collaborations, partnerships, affiliations, or coalitions—no matter what the name, the clear message of the National Symposium on Indigent Defense was the value of working in community. At least four themes ran through an agenda of coalition building and systemic thinking. First was the necessity of maintaining core values, civility, respect, and trust, not only within the program but in interaction with other components of the criminal justice system. Second, although the role of systemic actor is not new to many successful public defender systems, a shifting national terrain requires more effort in combining the political skills of the manager with the classic defense skills of the advocate. True leaders must also be good managers. Third, that same shifting national terrain includes a shared commitment by the justice system to the efficiencies of information sharing and economies of scale in technology use. The options created by reasonably priced new computers and other technologies, combined with new cooperation agreements across the justice system, put these assets within reach of virtually all organized defender programs. Fourth, and perhaps most important, there is a change in the vision of the role of the public defender in providing legal services to the office's clients. Instead of seeing an endless succession of individual cases moving through the assembly line of the courts, defenders are beginning to see and develop new programs that treat their clients more holistically, focusing on their grounding in families and the broader community. Diversion and treatment alternatives to prison are sprouting up in public defender programs mostly on behalf of children, who are the most vulnerable, impressionable, and fragile of our community assets.

The fact that so many of the innovative programs target populations of color also speaks to deeper societal divides in need of attention. “Long-term impact” on clients’ lives was mentioned as a goal of many collaborations by defender programs, in contrast to “repeated representation.” Prevention, focusing on strengthening family and community, is seen as an important part of the defender’s role.

“If you go into a collaborative effort as a defender to batter down the doors, you are going to fail. But if you go into the collaborative effort understanding what your values are and where you’re not going to give, but also understanding that the other parties at the table also have their own core values, then you can find areas of common work where you’ll succeed.”

**—Jim Hennings, Executive Director,
Metropolitan Public Defender Service,
Portland, Oregon**

Attorney General Reno and her Justice Department staff, in demonstration of their own commitment to collaboration, continue to hold regular meetings with the representative of the defense bar to discuss ongoing concerns. Plans are already under way for a Second National Symposium on Indigent Defense that will build on the 1999 symposium’s profiled programs and successes. At the close of the symposium, BJA Director Nancy Gist urged defenders to write a

letter to her if they were interested in learning more about BJA's programs or resources.

"We will serve as a broker and hook you up with what it is that you are looking for—the information or the technical assistance," she said. She

also noted that OJP is in the process of putting together a special Web site with information resources available within OJP for defender organizations.

Appendixes

Appendix 1

Agenda: National Symposium on Indigent Defense

AGENDA

***Office of Justice Programs
and Bureau of Justice Assistance***

***National Symposium on Indigent Defense:
Improving Criminal Justice Systems Through
Expanded Strategies and Innovative
Collaborations***

***February 25–26, 1999
Washington, D.C.***



Thursday, February 25, 1999

7:30 a.m.

Registration

8:30 a.m.–8:45 a.m.
(East Room)

Welcome

Overall Moderator:

Norman Lefstein
Dean and Professor of Law
Indiana University School of Law
Indianapolis, IN

The Honorable Laurie Robinson
Assistant Attorney General
Office of Justice Programs
Washington, D.C.

The Honorable Nancy Gist
Director
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

8:45 a.m.–10:15 a.m.
(East Room)

Plenary Session: Systemic Problem Solving

Moderator:

Charles Ogletree
Professor
Harvard University Law School
Cambridge, MA

Panelists:

The Honorable Dennis Archer
Mayor
Detroit, MI

Angela Jordan Davis
Professor of Law
Washington College of Law
The American University
Washington, D.C.

Charles Ramsey
Chief of Police
Washington, D.C.

The Honorable Rosemary Barkett
U.S. Circuit Judge for the 11th
Circuit
Miami, FL

Peter Franchot
House of Delegates
Maryland General Assembly
Annapolis, MD

Anne Seymour
Victim Advocate
Washington, D.C.

Judy Clarke
Executive Director
Federal Defenders of Eastern
Washington and Idaho
Spokane, WA

E. Michael McCann
District Attorney
Milwaukee, WI

Carol Shapiro
Project Director
La Bodega de la Familia
New York, NY

Bobbie Steele
Cook County Commissioner
Chicago, IL

10:15 a.m.–10:30 a.m.

Break

10:30 a.m.–11:45 a.m.
(East Room)

**Plenary Session: Showcasing Strong Public Defender
Leadership in Effective Collaborations**

Moderator:

The Honorable Nancy Gist
Director
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

Panelists:

Karl Dean
Metropolitan Public Defender
Nashville, TN

Michael Judge
Chief Public Defender
Los Angeles, CA

Larry Landis
Executive Director
Indiana Public
Defender Council
Indianapolis, IN

11:45 a.m.–12:00 noon

Break

12:00 noon–1:30 p.m.
(State Room)

Working Lunch Presentation

Moderator:

The Honorable Laurie Robinson
Assistant Attorney General
Office of Justice Programs
Washington, D.C.

Keynote Speaker:

The Honorable Janet Reno
Attorney General
U.S. Department of Justice
Washington, D.C.

Panelists:

The Honorable Bennett Brummer
Public Defender of Dade County
Miami, FL

The Honorable Gerald Wetherington
Judge, Retired
Miami, FL

1:30 p.m.–2:30 p.m.

**Concurrent Workshop Sessions: Examples of
Effective Programs That Encourage Collaboration**

Session	Location
Arizona: "Fill in the Gap" Program	South Carolina Room
California: Los Angeles County Criminal Justice Coordinator Forum	Virginia Room
Georgia: Fulton County Justice System Coordinating Committee	New York Room
Oregon: Portland Collaborative Effort	Massachusetts Room
Tennessee: Weighted Caseload Study	New Hampshire Room

(South Carolina Room)

Arizona: "Fill in the Gap" Program

Moderator:

Jill Beres
Program Manager
Drug Courts Program Office
Office of Justice Programs
Washington, D.C.

Panelists:

Margot Wuebbels
Attorney
Maricopa County Public Defenders Office
Phoenix, AZ

The Honorable Charles E. Jones
Vice Chief Justice
Arizona Supreme Court
Phoenix, AZ

(Virginia Room)

**California: Los Angeles County Criminal Justice
Coordinator Forum**

Moderator:

Bud Hollis
Chief, Adjudications Branch
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

Panelists:

Michael Judge
Chief Public Defender
Los Angeles, CA

Robert Mimura
Executive Director
Countywide Criminal Justice Coordination Committee
Los Angeles, CA

(New York Room)

**Georgia: Fulton County Justice System
Coordinating Committee**

Moderator:

Jennifer Knobe
Program Manager
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

Panelists:

Steve Kinnard
Chief Circuit Mediator
11th Circuit Federal Court of Appeals
Atlanta, GA

Tom Ulbricht
Justice System Coordinator
Atlanta, GA

(Massachusetts Room)

Oregon: Portland Collaborative Effort

Moderator:

Carol DeFrances
Statistician
Bureau of Justice Statistics
Office of Justice Programs
Washington, D.C.

Panelists:

James Hennings
Executive Director
Metropolitan Public Defender Services
Portland, OR

Michael Schrunk
District Attorney
Portland, OR

(New Hampshire Room)

Tennessee: Weighted Caseload Study

Moderator:

Andy Hardin
Executive Director
District Public Defenders Conference
Nashville, TN

Panelists:

Phil Doss
Project Director
Weighted Caseload Study
Nashville, TN

Matthew Kisber
Chair
House Finance Committee
Nashville, TN

Elizabeth Sykes
Director of Statistical Service
Nashville, TN

2:30 p.m.–2:45 p.m.

Break

2:45 p.m.–3:45 p.m.
(East Room)

Plenary Session: Developing Allies

Moderator:

Noël Brennan
Deputy Assistant Attorney General
Office of Justice Programs
Washington, D.C.

Panelists:

Ron Goldstock
Immediate Past Chair
Criminal Justice Section
American Bar Association

Gerald Lefcourt
Immediate Past President
National Association of Criminal
Defense Lawyers

William Murphy
Immediate Past President
National District Attorneys
Association

3:45 p.m.–4:00 p.m.

Break

4:00 p.m.–5:00 p.m.

**Concurrent Workshop Sessions:
Examples of Defender System Innovations**

Session	Location
Adjudication Partnerships	Virginia Room
Specialty Defender Programs: Neighborhood Defender Services and Mental Health Court	Massachusetts Room
Case Management	South Carolina Room
Salary and Resource Parity	New York Room

(Virginia Room)

Adjudication Partnerships

Moderator:

Marilyn McCoy Roberts
Director
Drug Courts Program Office
Office of Justice Programs
Washington, D.C.

Panelists:

Margaret Borg
Chief Public Defender
Missoula, MT

James Egar
Yolo County Public Defender
Woodland, CA

Paul Newton
Staff Attorney
Metropolitan Public Defender's Office
Portland, OR

James Chase
Assistant Public Defender
New Haven, CT

Theda James
Misdemeanor/Juvenile Bureau Chief
Office of the Public Defender
Tampa, FL

(Massachusetts Room)

**Specialty Defender Programs: Neighborhood
Defender Services and Mental Health Court**

Moderator:

Kristine Orlando
Resident Practitioner
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

Panelists:

Doug Brawley
Assistant Public Defender
Fort Lauderdale, FL

Sebastian Cotrone
Assistant Public Defender
Fort Lauderdale, FL

Leonard Noisette
Director
Neighborhood Defender Services
New York, NY

(South Carolina Room)

Case Management

Moderator:

Jo Ann Wallace
Director
Public Defender Service for the District of Columbia
Washington, D.C.

Panelists:

The Honorable Bennett Brummer
Public Defender of Dade County
Miami, FL

Elaine Kurtz
Chief Operating Officer
The Legal Aid Society
New York, NY

Michelle Maxian
Attorney in Charge
Criminal Defense Division
The Legal Aid Society
New York, NY

(New York Room)

Salary and Resource Parity

Moderator:

Scott Wallace
Director
Defender Legal Services
National Legal Aid and Defender Association
Washington, D.C.

Panelists:

Steve Asin
Deputy Chief
Defender Services Division
Administrative Office of the U.S. Courts
Washington, D.C.

Gerard A. Smyth
Chief Public Defender
Hartford, CT

Phyllis Subin
Chief Public Defender
Santa Fe, NM

Friday, February 26, 1999

8:30 a.m.–9:30 a.m.
(East Room)

Plenary Session: Juvenile Justice System Reform— Approaches That Work

Moderator:

John Wilson
Deputy Administrator
Office of Juvenile Justice and Delinquency Prevention
Office of Justice Programs
Washington, D.C.

Panelists:

Jo Ann Wallace
Director
Public Defender Service for
The District of Columbia
Washington, D.C.

Rebecca Ballard DiLoreto
Post Trial Services Director
Department of Public Advocacy
Frankfort, KY

Jane Spinak
Edward Ross Aranow
Clinical Professor of Law
Columbia University
New York, NY

9:30 a.m.–9:45 a.m.

Break

9:45 a.m.–10:45 a.m.

Concurrent Workshop Sessions: A Closer Look at Successful Juvenile Defender Collaborations

Session	Location
Defending Juveniles Charged as Adults	New York Room
Detention and Sentencing Advocacy for Juveniles	South Carolina Room
Issues in Juvenile Detention Institutional Conditions Cases	Massachusetts Room
Juvenile Defenders and Dependency Cases	Virginia Room

(New York Room)

Defending Juveniles Charged as Adults

Moderator:

Randy Stone
Clinical Professor of Law
University of Chicago Law School
Mandel Legal Aid Clinic
Chicago, IL

Panelists:

David Addison
Assistant Public Defender
Youthful Defendant Unit
Baltimore, MD

Carl Bell
CEO/President
Community Mental Health Council
Chicago, IL

(South Carolina Room)

Detention and Sentencing Advocacy for Juveniles

Moderator:

Patricia Puritz
Director
Juvenile Justice Center
American Bar Association
Washington, D.C.

Panelists:

Dr. Marty Beyer
Psychologist
Great Falls, VA

Steve Harper
Coordinator
Capital Litigation Unit
Miami, FL

Mary Ann Scali
Social Worker
Detention Response Unit
Office of the Public Defender
Baltimore, MD

(Massachusetts Room)

Issues in Juvenile Detention and Institutional Conditions Cases

Moderator:

James Bell
Staff Attorney
Youth Law Center
San Francisco, CA

Panelists:

Robinsue Frohboese
Deputy Director
Special Litigation
Office of Civil Rights
Washington, D.C.

David Utter
Director
Juvenile Justice Project of Louisiana
New Orleans, LA

(Virginia Room)

Juvenile Defenders and Dependency Cases

Moderator:

Howard Davidson
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American Bar Association Center on Children and the Law
Washington, D.C.

Panelists:

Monica Drinane
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New York, NY

Vanita Taylor
Chief Attorney
Public Defender—Children in
Need of Assistance Division
Baltimore, MD

Lori Parker
Director
Council for Child Abuse
and Neglect
D.C. Superior Court
Washington, D.C.

10:45 a.m.–11:00 a.m.

Break

11:00 a.m.–12:15 p.m.
(East Room)

**Plenary Session: Partnerships That Improve
the System**

Moderator:

Robert Spangenberg
President
The Spangenberg Group
West Newton, MA

Panelists:

The Honorable Kevin Burke
District Court Judge
Minneapolis, MN

James R. Mowbray
Chief Counsel
Nebraska Commission on Public
Advocacy
Lincoln, NE

Harold Rock
Kutak Rock
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Beth Davis
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State Defender
Jackson, MS

James L. Robertson
Chair
Mississippi Public Defender
Commission
Jackson, MS

Dick Scherman
Chief Administrator
State Board of the
Public Defender
Minneapolis, MN

12:15 p.m.–1:30 p.m.
(State Room)

Working Lunch

**Plenary: Improving the Criminal Justice System
Through Defender Standards**

Moderator:

Norman Lefstein
Dean and Professor of Law
Indiana University School of Law
Indianapolis, IN

Panelists:

Dennis Keefe
Lancaster County Public Defender
Lincoln, NE

The Honorable Frank Sullivan, Jr.
Associate Justice
Indiana Supreme Court
Indianapolis, IN

1:30 p.m.–2:45 p.m.
(East Room)

**Plenary Session: Technology as a Tool—Getting
There Through Information Sharing**

Moderator:

The Honorable Jeremy Travis
Director
National Institute of Justice
Office of Justice Programs
Washington, D.C.

Panelists:

Paul Kendall
General Counsel
Office of Justice Programs
Washington, D.C.

Fern Laethem
State Public Defender of California
Sacramento, CA

Jim Neuhard
State Appellate Defender
Detroit, MI

2:45 p.m.–3:00 p.m.

Break

3:00 p.m.–4:00 p.m.

**Concurrent Workshop Sessions: Examples of
Sharing Information/Sharing Technology**

Session	Location
Countywide Integrated Criminal Justice Systems	Massachusetts Room
Technology for Beginners: What Is Out There and Where Do I Begin?	New York Room
Technology for the Intermediate to Advanced	Virginia Room
Video Conferencing	South Carolina Room

(Massachusetts Room)

Countywide Integrated Criminal Justice Systems

Moderator:

Arnold Hopkins
Special Assistant to the Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice

Panelists:

Toby Hockett
Chief Assistant Public Defender
Sarasota, FL

Janice Lovern
Executive Director
State Attorney's Office
Sarasota, FL

(New York Room)

Technology for Beginners: What Is Out There and Where Do I Begin?

Moderator:

Deb Goelman
Program Manager
Violence Against Women Grants Office
Office of Justice Programs
Washington, D.C.

Panelists:

Fern Laethem
State Public Defender of California
Sacramento, CA

Isaac Merkel
District Public Defender
Knoxville, TN

Mark Stephens
District Public Defender
Knoxville, TN

(Virginia Room)

Technology for the Intermediate to Advanced

Moderator:

Janice Munsterman
Program Manager
National Institute of Justice
Office of Justice Programs
Washington, D.C.

Panelists:

Jeff Gale
Chief Deputy State Public Defender
Sacramento, CA

David Newhouse
Computer Analyst
The Spangenberg Group
Tigard, OR

(South Carolina Room)

Video Conferencing

Moderator:

Paul Petterson
Indigent Defense Coordinator
National Association of Criminal Defense Lawyers
Washington, D.C.

Panelists:

Gail Rohm
Criminal Justice Coordinating Committee
Wilmington, DE

Lawrence Sullivan
Public Defender for the State of Delaware
Wilmington, DE

4:00 p.m.–4:15 p.m.

Norman Lefstein
Dean and Professor of Law
Indiana University School of Law
Indianapolis, IN

Closing Session

The Honorable Nancy Gist
Director
Bureau of Justice Assistance
Office of Justice Programs
Washington, D.C.

4:15 p.m.

Adjourn

Appendix 2

Symposium Participants and Contact Information

**Office of Justice Programs
and Bureau of Justice Assistance**

**National Symposium on Indigent Defense:
*Improving Criminal Justice Systems
Through Expanded Strategies and
Innovative Collaborations***

February 25–26, 1999 • Washington, D.C.

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Appendix 3

Bibliography of Key Documents on Indigent Defense

Bibliography of Key Documents in Indigent Defense

I. National Studies on Indigent Defense

BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUST., SELECTED FINDINGS: INDIGENT DEFENSE (1996).

BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUST., BULLETIN: CRIMINAL DEFENSE FOR THE POOR 1986 (1988).

BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUST., NATIONAL CRIMINAL DEFENSE SYSTEMS STUDY (1986).

BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUST., SPECIAL REPORT: CRIMINAL DEFENSE SYSTEMS (1984).

NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, THE OTHER FACE OF JUSTICE (1973).

II. Selected Materials on Indigent Defense

BUREAU OF JUSTICE ASSISTANCE, U.S. DEP'T OF JUST., KEY ELEMENTS OF SUCCESSFUL ADJUDICATION PARTNERSHIPS (1999).

American Bar Association, Bar Information Program, *Rates of Compensation for court-appointed counsel in Capital Cases at Trial: A State-By-State Overview* (1998) (unpublished manuscript, on file with The Spangenberg Group).

BUREAU OF JUSTICE ASSISTANCE, U.S. DEP'T OF JUST., IMPROVING STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS: A REPORT ON HOW PUBLIC DEFENDERS, PROSECUTORS, AND OTHER CRIMINAL JUSTICE PRACTITIONERS ARE COLLABORATING ACROSS THE COUNTRY (1998).

American Bar Association, Bar Information Project, *Public Defender Application Fees: An Update* (1997) (unpublished manuscript, on file with The Spangenberg Group).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, NATIONAL SURVEY OF INDIGENT DEFENSE SYSTEMS (interim report, 1997).

Robert L. Spangenberg & Marea L. Beeman, *Indigent Defense Systems in the United States*, 51 LAW & CONTEMP. PROBS. 31 (1995).

Robert L. Spangenberg & Tessa J. Schwartz, *The Indigent Defense Crisis is Chronic: Balanced Allocation of Resources Is Needed to End the Constitutional Crisis*, 9 CRIM. JUST. 13 (1994).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, INDIGENT DEFENSE CASELOADS AND COMMON SENSE: AN UPDATE (1992).

Robert L. Spangenberg, *We Are Still Not Defending the Poor Properly*, 6 CRIM. JUST. 11 (1989).

III. Juvenile Justice and Indigent Defense

AMERICAN BAR ASSOCIATION CENTER ON CHILDREN AND THE LAW, PUBLICATIONS AND PROGRAMS (1998).

COALITION FOR JUVENILE JUSTICE, A CELEBRATION OR A WAKE? THE JUVENILE COURT AFTER 100 YEARS (1998).

N. Lee Cooper et al., *Fulfilling the Promise of In Re Gault: Advancing the Role of Lawyers for Children*, 33 WAKE FOREST L. REV. 651 (1998).

AMERICAN BAR ASSOCIATION JUVENILE JUSTICE CENTER, MORE THAN MEETS THE EYE: RETHINKING ASSESSMENT, COMPETENCY AND SENTENCING FOR A HARSHER ERA OF JUVENILE JUSTICE (1997).

AMERICAN BAR ASSOCIATION JUVENILE JUSTICE CENTER ET AL., A CALL FOR JUSTICE: AN ASSESSMENT OF ACCESS TO COUNSEL AND QUALITY OF REPRESENTATION IN DELINQUENCY PROCEEDINGS (1996).

Appendix 4

Resource Organizations for Indigent Defense

Resource Organizations for Indigent Defense

1. U.S. Department of Justice – Office of Justice Programs
www.ojp.usdoj.gov/
Includes the Bureau of Justice Statistics, the US's primary source for criminal justice statistics, and the Bureau of Justice Assistance, which supports innovative programs that strengthen the Nation's Criminal Justice System by assisting state and local governments in combating violent crimes and drug abuse
2. U.S. Department of Justice – Office of Juvenile Justice and Delinquency Prevention
ojjdp.ngrs.org
Primary federal agency dealing with juvenile issues.
3. National Criminal Justice Reference Services (NCJRS)
www.ncjrs.org
Searches Federal sources for crime and justice information, research, statistics, and funding opportunities
4. National Legal Aid & Defender Association (NLADA)
1625 K Street, NW
Suite 800
Washington, D.C. 20006-1604
(202) 452-0620
(202) 872-1031 (fax)
www.nlada.org (maintains links to many state and local defense organizations)
e-mail: info@nlada.org
NLADA provides a wide range of services and benefits to its individual and organizational members. It works to improve the American system of justice by seeking adequate funding and promoting high standards for the delivery of legal assistance
5. National Association of Criminal Defense Lawyers (NACDL)
1025 Connecticut Ave., NW
Suite 901
Washington, D.C. 20036
(202) 872-8600
(202) 872-8690 (fax)
www.nacdl.org/ www.criminaljustice.org
e-mail: assist@nacdl.com
Ensures justice and due process for persons accused of crime; fosters the integrity, independence, and expertise of the criminal defense profession; and promotes the proper and fair administration of criminal justice

6. The Association of Federal Defenders of America
8530 Wilshire Blvd, Suite 404
Beverly Hills, CA 90211
www.afda.org
e-mail: defense@afda.org
Provides attorneys with the educational resources and support that are essential to effectively represent defendants in federal district and appellate courts
7. ABA- Criminal Justice Section
740 15th Street, NW
Washington, D.C. 20005-1009
(202) 662-1500
(202) 622-1501 (fax)
www.abanet.org/crimjust/home.html
e-mail: crimjustice@abanet.org
Plays an active leadership role in bringing ABA views to the attention of state and federal courts, and other judicial, legislative, and executive policy making bodies
8. ABA- Standing Committee on Legal Aid and Indigent Defense
www.abanet.org/legalservices/sclaid.html
Advocates for effective civil legal aid and indigent defense services
9. Death Penalty Information Center
1320 18th Street, NW
Washington, D.C. 20036
(202) 293-6970
(202) 822-4787 (fax)
www.essential.org/dpic/
Serving the media and the public with analysis and information on issues concerning capital punishment
10. The Sentencing Project
918 F Street, NW
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Provides resources and information for news media and the public concerned with criminal justice and sentencing issues. Promotes defense- based alternative sentencing program services nationwide

Appendix 5

Office of Justice Programs Indigent Defense Grants, Fiscal Years 1998 and 1999

**OFFICE OF JUSTICE PROGRAMS INDIGENT DEFENSE GRANTS
FISCAL YEARS 1998 AND 1999**

No. Of Grants = 20

Total Amount of Awards= \$5,686,887

Technical Assistance and Training

Funding Source	Project Title	Grantee	Amount
OJJDP	Juvenile Defender Center	ABA Juvenile Justice Center	\$299,973
BJA	Staff Trng. & TA	NLADA	250,000
OJJDP	Legal Representation Education Courses	Suffolk University Law School	1,300,000 (Earmark)
BJA	Juvenile Automatic Transfers To Adult Criminal Courts	The Sentencing Project	199,439
BJA	State Commission Project	ABA Standing Committee on Legal Aid and Indigent Defendants	170,066

Open Solicitation Program-Emerging Issues

BJA	Sentencing Pilot Project for Juveniles Sentenced As Adults	Public Defender, Miami, FL	150,000
BJA	Develop Policies to Minimize Racism in Justice System	King Co WA Public Defender	146,000
BJA 150,000	Establish Triage System to Identify ADA Clients	Office of Defender General, VT	
BJA	Special Court Session to Address Homeless Person Cases	Office of Public Defender San Diego, CA	105,725

Emerging Issues Solicitation-Management Technology

BJA	Courtroom Presentation Systems	TN District Public Defenders	80,000
BJA	Update Computer-Based Case Management System	NY Legal Aid Society	80,000
BJA	Computer Case Management Equipment Purchase	Navajo Co AZ	34,633
BJA	Legal Seminars on DNA and Genetics	El Paso, TX Public Defender	50,791
BJA	Purchase Office/Computer Management Software	Rosebud Sioux Tribe	12,050

Research and Studies

Funding Source	Project Title	Grantee	Amount
BJA/BJS	National Survey of Indigent Defense Systems	NORC	\$270,473
NIJ	Standards Impact Study	NLADA	48,221
BJA	Compendium of Best Practice Standards	IL&J	59,941
BJA	State Commission Project	ABA/SCLA&ID	170,066

Leadership Development

BJA	Executive Session on Indigent Defense Systems	Harvard Law School	790,695
BJA	National Defender Leadership	Vera Institute of Justice	1,086,000

Appendix 6

The Spangenberg Group,

***Indigent Defense in the United States:
A State-by-State Overview***

INDIGENT DEFENSE IN THE UNITED STATES: A State-by-State Overview

State (FY '97 Indigent Def. Expenditure)	Primary Funding Source	Primary Provider of Indigent Defense Services	Statewide Oversight Commission		Statewide Public Defender Agency		Assigned Counsel Hourly Compensation Rates at Trial (Felony Only)					
			Yes	No	Yes	No	Non-Capital			Capital		
							Out-of-Court	In-Court	Maximum	Out-of-Court	In-Court	Maximum
Alabama	Court Filing Fees; Some State Funding	Assigned Counsel & Contract Defenders		X		X	\$20	\$40	\$1,000	\$20	\$40	\$1,000 for out-of-court; No maximum for in-court
Alaska	State	Public Defender		X	X		\$50	\$60	\$4,000*	Non-Death Penalty State		
Arizona	County	Public Defender, Assigned Counsel & Contract Defender		X		X	Varies	Varies	Varies*	Varies from county to county, ranging from \$45-\$100		Varies
Arkansas	Primarily State; Some County Funding	Public Defender & Assigned Counsel	X		X		Varies; \$50 is typical.		Varies	Varies from judge to judge, ranging from \$75-\$100		None
California	County	Public Defender & Contract Defender	X		X		Varies; In San Francisco: \$65 for felonies and \$80 for serious felonies		Varies	Varies from county to county, ranging from \$50-\$150+		None
Colorado (\$26,444,260)	State	Public Defender	X		X		\$40	\$50	\$1,750-\$5,000*	\$40	\$50	\$5,000- \$10,000*
Connecticut (\$20,814,611)	State	Public Defender	X		X		\$20	\$25 if case is appointed to a non-contract attorney	None	\$50	\$50	None
Delaware (\$6,902,126)	State	Public Defender		X	X		N/A	N/A	N/A*	Varies depending on the case.		None
District of Columbia	Federal	Public Defender & Assigned Counsel	X		X		\$50	\$50	\$2,400*	Non-Death Penalty Jurisdiction		
Florida (\$163,950,000)	Primarily State; Some County Funding	Public Defender	X			X	Varies; In Dade County: \$40 \$50		\$2,500-\$3,000*	Varies from circuit to circuit, ranging from \$40-\$100		None
Georgia (\$31,000,000)	Primarily County; Some State Funding	Primarily Assigned Counsel & Contract Defender with some Public Defenders	X			X	\$35 \$45 in the 141 of the 159 counties that meet Georgia Indigent Defense Council standards		\$1,000-\$2,500*	Varies from county to county, but on average: \$45 \$55		None

* = Per case maximums may be waived.

INDIGENT DEFENSE IN THE UNITED STATES: A State-by-State Overview

State (FY '97 Indigent Def. Expenditure)	Primary Funding Source	Primary Provider of Indigent Defense Services	Statewide Oversight Commission		Statewide Public Defender Agency		Assigned Counsel Hourly Compensation Rates at Trial (Felony Only)					
			Yes	No	Yes	No	Non-Capital			Capital		
							Out-of- Court	In-Court	Maximum	Out-of- Court	In-Court	Maximum
Hawaii	State	Public Defender	X		X		\$40	\$60	\$3,000*	Non-Death Penalty State		
Idaho	County	Public Defender, Assigned Counsel & Contract Defender		X		X	Varies; Typical rates are: \$40 \$50		None	Varies from county to county, but on average: \$50-\$75 \$40- \$100		None
Illinois	County	Public Defender, Assigned Counsel & Contract Defender	X		X		\$30	\$40	\$1,250*	Varies from county to county.		\$1,250 in Cook County. None elsewhere
Indiana (\$30,876,105)	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender	X		X		\$60 in those counties that meet Indiana Public Defender Commission Standards		None	Varies, but \$70 for those counties that comply with R.Crim.P. 24		None for those counties in compliance
Iowa (\$27,855,490)	State	Primarily Public Defender with assigned counsel and contract defenders	X			X	\$45	\$45	None	Non-Death Penalty State		
Kansas (\$13,774,470)	Mixed State & County Funding	Public Defender, Assigned Counsel & Contract Defender	X		X		\$50	\$50	\$5,000*	\$90- \$100	\$90- \$100	None
Kentucky (\$16,627,328)	Primarily State; Some County Funding	Public Defender & Contract Defender	X		X		\$25	\$35	\$1,250*	N/A	N/A	N/A
Louisiana (\$23,000,000)	Primarily County; Some State Funding	Public Defender & Contract Defender	X			X	Varies; \$42 is a typical rate.		None	\$57.65	\$57.65	\$78,000 for two attorneys.*
Maine	State	Assigned Counsel		X		X	\$40	\$40	\$2,500*	Non-Death Penalty State		
Maryland (\$36,588,453)	State	Public Defender	X		X		\$30	\$35	\$1,000*	\$30	\$35	\$12,500
Massachusetts (\$63,555,000)	State	Public Defender, Assigned Counsel & Contract Defender	X		X		Murder Cases: \$54 Felonies & Juvenile: \$39 All others: \$30		None	Non-Death Penalty State		

* = Per case maximums may be waived.

INDIGENT DEFENSE IN THE UNITED STATES: A State-by-State Overview

State (FY '97 Indigent Def. Expenditure)	Primary Funding Source	Primary Provider of Indigent Defense Services	Statewide Oversight Commission		Statewide Public Defender Agency		Assigned Counsel Hourly Compensation Rates at Trial (Felony Only)					
			Yes	No	Yes	No	Non-Capital			Capital		
							Out-of-Court	In-Court	Maximum	Out-of-Court	In-Court	Maximum
Michigan	County	Public Defender, Assigned Counsel & Contract Defender	X		X		Varies widely.		Varies	Non-Death Penalty State		
Minnesota (\$41,000,000)	State	Public Defender	X		X		\$50	\$50	None	Non-Death Penalty State		
Mississippi	Primarily County; Some State Funding	Primarily Contract Defender & Assigned Counsel with some Public Defenders until state-wide felony public defender system is in place.	X		X (System implementation underway, effective July 1998)		Varies between counties.		\$1,000 plus overhead expenses	Varies from county to county.		\$2,000 plus overhead expenses
Missouri (\$23,169,886)	State	Public Defender	X		X		N/A	N/A	N/A*	N/A	N/A	N/A
Montana	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender	X		X		Varies; \$60 is a typical rate.		None	Varies from county to county.		None
Nebraska	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender	X			X	Varies; \$60 is a typical rate.		None; Except Omaha: \$3,500*	Varies from judge to judge, ranging from \$40-\$100		None
Nevada	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender		X		X	\$75	\$75	\$2,500 if facing less than life without parole.*	\$75	\$75	\$7,500*
New Hampshire	State	Public Defender & Contract Defender	X		X		\$60	\$60	\$3,000*	\$60	\$60	\$15,000*
New Jersey (\$57,295,000)	State	Public Defender		X	X		\$15	\$22.50	None	\$50	\$50	None
New Mexico (\$17,956,300)	State	Public Defender & Contract Defender		X	X		N/A	N/A	N/A	N/A	N/A	N/A
New York	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender		X		X	\$25	\$40	\$1,200*	Lead Counsel: \$175 Co-Counsel: \$150		None

* = Per case maximums may be waived.

INDIGENT DEFENSE IN THE UNITED STATES: A State-by-State Overview

State (FY '97 Indigent Def. Expenditure)	Primary Funding Source	Primary Provider of Indigent Defense Services	Statewide Oversight Commission		Statewide Public Defender Agency		Assigned Counsel Hourly Compensation Rates at Trial (Felony Only)					
			Yes	No	Yes	No	Non-Capital			Capital		
							Out-of- Court	In-Court	Maximum	Out-of- Court	In-Court	Maximum
North Carolina (\$51,756,903)	State	Primarily Assigned Counsel & Contract Defender with some Public Defenders		X		X	Varies widely.		None	\$85	\$85	None
North Dakota	Primarily State; Some County Funding	Public Defender, Assigned Counsel & Contract Defender	X			X	N/A	N/A	None	Non-Death Penalty State		
Ohio (\$56,333,359)	Mixed State & County Funding	Public Defender	X		X		Varies; \$28 is a typical rate.		\$1,500- \$2,000	Varies from county to county, ranging from \$30-\$50		\$12,500*
Oklahoma	Mixed State & County Funding	Public Defender & Contract Defender	X		X		\$40	\$60	\$3,500*	\$60	\$80	\$20,000
Oregon (\$53,258,841)	State	Public Defender, Assigned Counsel & Contract Defender		X		X	\$40	\$60	None	Lead Counsel: \$55 Co-Counsel: \$40		None
Pennsylvania	County	Public Defender		X		X	Varies	Varies	None	Varies	Varies	Varies*
Rhode Island (\$4,003,769)	State	Public Defender		X	X		Felony 1: \$50 Felony 2: \$35		\$2,500- \$5,000*	Non-Death Penalty State		
South Carolina (\$14,213,281)	Mixed State & County Funding	Public Defender	X			X	\$40	\$60	\$3,500*	\$50	\$75 but may be increased by a judge.	\$25,000*
South Dakota	County	Primarily Assigned Counsel & Contract Defender with some Public Defenders		X		X	\$55	\$55	None	\$55	\$55	None
Tennessee (\$33,102,428)	Primarily State; Some County Funding	Public Defender	X		X		\$40	\$50	\$1,000*	Lead Counsel: \$75-\$100 Co-Counsel: \$60-\$80		None
Texas	County	Assigned Counsel & Contract Defender		X		X	Varies widely.		Varies	Varies from county to county		Varies
Utah	County	Primarily Contract Defender with some Public Defenders		X		X	Varies	Varies	Varies	Varies from county to county		None

* = Per case maximums may be waived.

INDIGENT DEFENSE IN THE UNITED STATES: A State-by-State Overview

State (FY '97 Indigent Def. Expenditure)	Primary Funding Source	Primary Provider of Indigent Defense Services	Statewide Oversight Commission		Statewide Public Defender Agency		Assigned Counsel Hourly Compensation Rates at Trial (Felony Only)					
			Yes	No	Yes	No	Non-Capital			Capital		
							Out-of- Court	In-Court	Maximum	Out-of- Court	In-Court	Maximum
Vermont (\$5,355,000)	State	Public Defender & Contract Defender		X	X		\$40	\$40	\$1,000- \$5,000*	Non-Death Penalty State		
Virginia	State	Public Defender & Assigned Counsel	X			X	\$40	\$60	\$265 - \$575	Varies from judge to judge, but generally: \$40	\$60	None
Washington	Primarily County; Some State Funding	Public Defender, Assigned Counsel & Contract Defender	X			X	Varies	Varies	Varies	Varies from county to county, but generally: \$60-\$125		None
West Virginia (\$20,400,137)	State	Public Defender & Contract Defender		X		X	\$45	\$65	\$3,000*	Non-Death Penalty State		
Wisconsin (\$56,045,000)	State	Public Defender	X		X		\$40	\$40	None	Non-Death Penalty State		
Wyoming	Primarily State; Some County Funding	Public Defender		X	X		\$25-\$50	\$50	None	\$30	\$50	None

* = Per case maximums may be waived.

Appendix 7

The Spangenberg Group,

***Statewide Indigent Defense Systems:
Organization and Structure***

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
ALABAMA	None	Not applicable	None	Not applicable
ALASKA State Public Defender Agency (Executive agency, Department of Administration)	None	Not applicable	Appointed by Governor from nominations of judicial council. Confirmed by majority of legislature in joint sitting. Four-year term; renewal requires legislative confirmation. Member of bar. Governor can remove for good cause.	Appoint, supervise and control assistant public defenders and other employees. Submit annual report to legislature & Supreme Court on number and types of cases, dispositions and expenditures. Full-time; private practice prohibited.
ALASKA Office of Public Advocacy (Executive agency, Department of Administration)	None	Not applicable	Public Advocate appointed by Governor. Serves at will of Governor.	Provides Guardians Ad Litem for abused and neglected children and status offenders. Provides representation in conflict cases from the Alaska Public Defender Agency. Acts as Public Guardian and conservator for citizens with disabilities.
ARIZONA	None	Not applicable	None	Not applicable
ARKANSAS Arkansas Public Defender Commission (Executive agency)	Seven members appointed by Governor: at least four licensed Arkansas attorneys experienced in criminal defense; at least one county judge. Governor designates one member as Chair. No more than two residents of same congressional district. No two members from same county. Serve five-year terms.	Establish policies and standards for Public Defender System. Approve budgets for trial public defender offices. Require annual reports from trial public defender offices. Appoint Executive Director. Evaluate performance of Executive Director, Capital, Conflicts & Appellate Office, trial public defenders and private assigned counsel. Maintain list of private attorneys willing and qualified to accept capital case appointments. Authorize contracts with trial public defenders.	Executive Director appointed by Commission. Must have experience in defense of capital cases. Serves at will of commission.	Supervise capital conflict and appellate office. Maintain records of operation of public defender system. Prepare budget for commission. Implement attorney performance procedures pursuant to commission's standards. Maintain court opinions, statutes, etc. for use by trial public defenders and court-appointed counsel. Maintain appellate brief bank. Convene training program related to public defender system. Prepare annual report.
CALIFORNIA California Habeas Resource Center (Judicial Branch)	Five-member Board of Directors confirmed by the Senate. Each of the state's five Appellate Projects shall appoint one board member; all must be attorneys. No lawyer working as judge, prosecutor or in a law enforcement capacity is eligible. Four year terms.	Appoint Executive Director.	Executive Director appointed by Board of Directors. Must be member of California state bar during the five years preceding appointment and possess substantial experience in the representation of accused or convicted persons in criminal or juvenile proceedings during that time. Serves at the will of the board.	Hire up to 30 attorneys to represent any indigent person convicted and sentenced to death in California in postconviction actions in state and federal courts. Work with the supreme court to recruit attorneys to accept death penalty habeas case appointments and to maintain a roster of attorneys so qualified. Employ investigators and experts to provide services to appointed attorneys in capital postconviction cases. Develop and maintain brief bank for use by appointed counsel. Review case billings and recommend compensation of members of the private bar to the court. Prepare annual report on the status of appointment of counsel for indigent prisoners in capital postconviction cases.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
FLORIDA Florida Public Defender Association (FPDA); Florida Public Defender Coordination Office (FPDCO)	None per se, but the FPDA is governed by a Board of Directors comprised of the 20 elected public defenders in Florida, two representatives of the assistant public defender staff and one representative apiece from public defender investigative and administrative staff. The FPCDO works with the FPDA.	The FPDA engages in activities that promote and develop the public defender system in Florida. The FPCDO coordinates FPDA meetings; collects caseload and budget information from public defenders; analyzes public defender workload; prepares annual funding formulae which are based on caseload and attorney unit cost and used by the three branches of government and the circuit public defenders in the budget request process; monitors pertinent legislative developments; conducts training for public defender staff; and circulates pertinent case law to the elected public defenders.	Not applicable	Not applicable
GEORGIA Georgia Indigent Defense Council (separate agency within Judicial branch)	Fifteen member council. Supreme Court selects members: ten lawyers; three lay persons; and two county commissioners. Selected for four year terms.	Recommend standards and guidelines for local programs. Administer state funds to local public defender programs that comply with standards. Support local defenders. Provide local attorneys with technical, clinical help and training. Prepare budget.	Director selected by Council.	Duties and responsibilities not contained in statute.
HAWAII Office of State Public Defender (Executive agency, Department of Budget and Finance)	Five member Defender Council. Appointed by Governor. Serve at Governor's pleasure. One member from each county. Chairman selected by members.	Council shall be governing body of Office of State Public Defender. Shall appoint Public Defender. Approve employment decision of Public Defender.	State Public Defender appointed by Council. Four-year term. Qualified to practice law in Hawaii. Full-time position.	Subject to approval of Council: employ assistant public defenders, investigators and other support personnel. Assistant public defenders may be part-time and engage in private practice other than criminal law.
IDAHO State Appellate Public Defender (The Department of Self-Governing Agencies)	None	Not applicable	State Appellate Defender appointed by the governor with advice and consent from the senate from a list of 2-4 persons recommended by a committee comprised of the president of the Idaho state bar association, chairmen of the senate judiciary and rules committee, and a citizen at large appointed by the governor. The chief justice of the Idaho supreme court, or her designee, is ex officio member of the committee. Public defender must be attorney licensed to practice in Idaho with at least five year experience practicing law. Four-year term; removed only for good cause.	Provide appellate and postconviction representation to indigent defendants convicted of felony offenses in those counties which participate in the capital crimes defense fund; prepare annual report. Employ deputy state appellate defenders and othe employees. Adopt necessary policies or rules.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
ILLINOIS Office of State Appellate Defender (agency of the Judicial department)	Board of Commissioners. Nine members. Appointed by various courts and bars. Governor appoints Chair. Serves one six- year term.	Approve budget. Advise Appellate Public Defender on policy. Can recommend dismissal of the Appellate Public Defender.	State Appellate Defender appointed by Illinois Supreme Court. Four-year term. Qualified to practice law in Illinois.	Provide representation in criminal appeals. Establish offices around the state. Train and assist trial level defenders.
INDIANA Public Defender Commission (Policy board for capital and non-capital representation) (Judicial agency)	Public Defender Commission: Eleven members: three appointed by Governor; three appointed by Chief Justice; one appointed by Board of Indiana Criminal Justice Institute; two House members appointed by the Speaker of the House; two Senate members, appointed by Speaker Pro Tempore of the Senate. Four-year term. No law enforcement officers or court employees. Members designate one member Chair.	Set standards for indigent defense services in capital and non-capital cases. Adopt guidelines and fee schedule under which counties may be reimbursed. Make recommendations concerning the delivery of indigent defense services in Indiana. Prepare annual report on operation of public defense fund.	Not applicable	Not applicable
INDIANA Public Defender of Indiana (State post- conviction public defender) (Judicial agency)	None	Not applicable	Public Defender appointed by Supreme Court. Four-year term. Resident. Practicing lawyer in Indiana for three years.	Represent all indigent defendants in post- conviction proceedings.
IOWA Office of the State Public Defender (independent agency within Executive branch)	None	Not applicable	State Public Defender appointed by Governor. Four-year term. Licensed to practice law in Iowa.	Oversee all 18 public defender offices. Coordinate non-public defender indigent defense program. Contract with attorneys when public defender unable to take case.
KANSAS State Board of Indigent Defense Services (Executive branch agency)	Nine members: five lawyers, four non- lawyers. Appointed by Governor and confirmed by Senate. Two members from First Congressional District, one of whom is a registered Kansas lawyer, and at least one member from each other Congressional District. At least one (and up to five) registered Kansas lawyer from each county with over 100,000 population. No members may be judicial or law enforcement personnel. Three-year terms.	Appoint Director and public defenders. Maintain statistics on indigent defense representation. Conduct training programs. Establish public defender offices. Enter into contracts with attorneys to provide indigent defense representation and with cities or counties for misdemeanor representation. Provide technical assistance to public defenders and private attorneys.	Board appoints Director who must be licensed in Kansas and demonstrate commitment and ability in criminal law.	Serve as Chief Executive Officer of Board. Supervise operation, policies, procedures of Board. Prepare annual report.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
KENTUCKY Department of Public Advocacy (independent state agency within Executive branch)	Nine appointed members plus deans of Kentucky law schools. Two members appointed by Governor. One by speaker, one by president of the senate, two by Supreme Court; two criminal lawyers appointed by Governor from list of five submitted by Bar Association, one appointed by Governor from list submitted by Kentucky Protection and Advocacy Advisory Board. Four-year term. No prosecutors or law enforcement officials. Chair elected by Commission to one-year term. Also a 17-member citizen advisory board appointed by the Public Advocate.	Recommend to Governor three attorneys as nominees for Public Advocate. Assist Public Advocate in selecting staff. Provide general supervision of Public Advocate and review performance. Engage in public education and generate political support. Review and adopt annual budget. Not interfere with handling of cases.	Public Advocate appointed by Governor from nominees submitted by Commission. Member of Kentucky Bar with five years experience. Four-year term.	Appoint Deputy Public Defender. Appoint assistant public defenders and other personnel. Serve as ex officio, non-voting member of Commission. Appoint 17-member Advisory Board for Protection and Advocacy Division.
LOUISIANA Louisiana Indigent Defender Program (separate agency within Executive branch created by Supreme Court Rule)	Seven to fifteen members. Appointed by Chief Justice of Supreme Court with concurrence of majority of justices. Renewable three-year terms. One member from each of the six Supreme Court districts. One additional member from First Supreme Court District. Not more than three non-lawyer members. At least three experienced criminal lawyers.	Members elect Chair. Establish uniform standards and guidelines for statewide program. Subdivide state into regions. Select most appropriate system for delivery in each region. Select regional full-time public defenders. Set policy for the Expert Witness/Testing Fund and the District Assistance Fund. Set eligibility standards and guidelines for district defender boards to receive Expert Witness/Testing and District Assistance Funds.	Chief Executive Officer selected by Board. Attorney with five years prior experience in criminal practice. Board sets term.	Supervise attorneys in Appellate Division and Capital Litigation programs. Manage monies in Expert Witness/Testing Fund and District Assistance Fund. Assist Board in enforcing its standards and guidelines.
MAINE	None	Not applicable	None	Not applicable
MARYLAND Office of the Public Defender (Executive agency)	Three-member Board of Trustees; two must be active attorneys. Appointed by Governor. Three-year term. Chair designated annually by Trustees.	Study and observe operation of Public Defender office. Coordinate activities of district Advisory Boards. Appoint Public Defender. Advise Public Defender on all relevant matters.	Public Defender appointed by Board of Trustees. Term is at the pleasure of Trustees. Attorney admitted in Maryland plus five years in practice.	Appoint Deputy Public Defender with Board approval. Appoint First District Defender in each judicial district. Appoint assistant public defenders with advice of District Defenders. Appoint other employees. Maintain at least one office in each district. General responsibility for operation of all offices. Maintain records. Supervise district defenders' maintenance of local attorney panels.
MASSACHUSETTS Committee for Public Counsel Services (independent agency; Judicial branch for budget purposes only)	Fifteen members. Appointed by Justices of Supreme Judicial Court. Three-year term. Chair elected by the Committee.	Establish standards for public counsel and private counsel divisions. Establish uniform standards of indigency. Establish guidelines for training and for qualification and removal of counsel in public and private divisions. Prepare annual report. Appoint chief counsel and two deputies. Extensive list of other duties and responsibilities enumerated by Statute.	Chief Counsel appointed by Committee. Attorney. Serves at pleasure of Committee.	Overall supervision of various divisions of committee. Perform duties as defined by the Committee. Authorize all payments certified by judges for private counsel.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
MICHIGAN State Appellate Defender Office, Appellate Defender Commission (agency of Judicial branch)	Seven members appointed by Governor. Two recommended by Supreme Court; one recommended by Court of Appeals; one recommended by Michigan Judges Association; two recommended by State Bar; one non-attorney. Four-year term. No member a sitting judge, prosecutor or law enforcement officer.	Choose State Appellate Defender. Develop appellate defense program. Develop standards for program. Maintain list of attorneys willing and qualified for appointment in indigent appellate cases. Provide CLE training for attorneys on list.	State Appellate Defender chosen by Commission. Can only be removed for cause.	Provide appellate representation. Maintain a manageable caseload. Prepare and maintain brief bank available to court-appointed attorneys who provide appellate services to indigents.
MINNESOTA State Board of Public Defense (separate agency within Judicial branch)	Seven members. One district court judge appointed by Supreme Court. Four attorneys familiar with criminal law but not employed as prosecutors, appointed by Supreme Court. Two public members appointed by Governor.	Elect chair and appoint State Public Defender. Chair may appoint Chief Administrator. Prepare annual report. Recommend budget for Board, Office of State Public Defender and public defense corps. Establish procedures for distribution of funds for public defense. Set standards for state and district public defenders and court-appointed system.	State Public Defender appointed to four-year term. Full-time position.	Provide appellate and post-conviction proceeding representation in all indigent cases. Assist in trial representation in conflict of interest cases when requested by a district public defender or appointed counsel. Conduct training programs.
MISSISSIPPI Public Defender Commission of the State of Mississippi	Nine members, no active prosecutors may serve. The Governor, Lieutenant Governor, Speaker of the House of Representatives, Chief Justice of the Supreme Court of Mississippi, Conference of Circuit Judges of the State of MS, Conference of County Court Judges of the State of Mississippi, President of the Mississippi Bar, President of the Magnolia Bar and the President of the Public Defenders Association each appoint one member. The Chairman of the Senate Judiciary Committee and House of Representatives Judiciary B Committee, or their designees, serve as legislative liaisons and non-voting members. Members serve three-year terms.	Appoint an Executive Director of the Statewide Public Defender System; establish, implement and enforce policies and standards for a comprehensive and effective public defender system throughout the state of Mississippi. The Commission may delegate to the Executive Director, in whole or in part, these duties.	Executive Director shall be an experienced criminal lawyer, licensed to practice law in Mississippi for four years prior to appointment.	Commission's duties, which it may delegate to the Executive Director, include: appoint a District Defender in each circuit court district; supervise the Conflicts and Appellate Divisions; develop indigency eligibility and caseload standards; establish qualification and performance standards for all attorneys working for the statewide system; re-assign conflict or overload cases from one district office to another; maintain lists of attorneys willing and able to accept appointments to individual cases, including capital cases; provide CLE and training seminars; compile and maintain a law library and brief bank for district defenders and private attorneys participating in the Statewide Public Defender System; assume all budgeting and reporting responsibilities for the System.
MISSOURI Office of State Public Defender (independent department in Judicial Branch)	Public Defender Commission: Seven members: four lawyers; no more than four from same party. Appointed by Governor with advice and consent of Senate. Six-year term. State Public Defender is ex officio member without vote. Chair elected by members.	Select director and deputies. Establish employment procedures. Review office performance and monitor director. Public education to ensure independence of system. Advise on budgetary matters. Contract with private attorneys. Approve fee schedule for assigned counsel.	Director appointed by Commission. Four-year term. Attorney with substantial criminal law experience, also experienced in personnel administration.	Administer and coordinate operation. Direct and supervise work of employees. Submit annual report to budget to Commission. Supervise training. Contract out for legal services with approval of Commission.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
MONTANA State Appellate Public Defender (Executive branch agency)	Five members. One trial level judge, nominated by Judges Association. Three attorneys, nominated by State Bar, who must have criminal defense experience. One lay person nominated by Governor. Staggered terms, one or two years.	Appoint Appellate Public Defender. Help gather attorney list for appointments of counsel at trial and state post-conviction. Draft criminal defense standards for counsel.	State Appellate Defender hired by Commission. No term limit.	Provides representation in state post-conviction or appeals if defendant claims ineffective assistance. Help in or assume responsibility in appeals. Assume case if trial or Supreme Court judge appoints.
NEBRASKA (Executive branch agency)	Commission for Public Advocacy. Nine members: six members for each judicial district; chair and two positions at large. Governor appoints from list prepared by State Bar. Non-salaried. Qualified attorneys with criminal defense experience or demonstrated commitment. Budget is from general funds and recovery of one-third of expenses from Nebraska's counties.	Provide legal services and resources to assist counties in providing effective assistance to indigent persons through its capital litigation, appellate and felony resource center divisions. Select a chief counsel.	Chief Counsel selected by Commission. Serves at will of Commission. Five years Nebraska practice. Criminal defense experience including capital case defense.	Overall supervision of appellate, capital and major case divisions and litigation support fund. Prepare budget and annual report. Establish and administer projects and programs for the operation of the commission. Oversee training programs.
NEVADA State Public Defender (Judicial branch agency)	None	Not applicable	Four-year term. Selected by Governor. Nevada Bar member.	Establish statewide system for all counties who choose to be part of state system. Oversee activities of these programs. Prepare annual budget. Annual report to legislature.
NEW HAMPSHIRE Judicial Council (Judicial branch agency)	State-level Judicial Council. Fourteen members. One selected from each court level: Supreme, Superior, Probate; President of the New Hampshire Municipal and District Court Justices Association (ex officio); Attorney General (ex officio); President of New Hampshire Bar Association (ex officio); representative from Superior Court Clerks; seven others appointed by Governor, four of whom must be attorneys.	The Judicial Council's responsibilities related to indigent defense include contracting with local defender corporations and individual attorneys for provision of defense services and general supervision of indigent programs in regard to: allocation of cases between public defender program and assigned counsel; performance of counsel; competence of counsel; fiscal and budgetary matters.	See below.	Executive Director's responsibilities are contained in a contract with the Judicial Council.
NEW HAMPSHIRE New Hampshire Public Defender (Judicial branch)	The New Hampshire Public Defender is a private non-profit corporation under contract with the Judicial Council and has an oversight Board of Directors.	Select Executive Director.	The Executive Director of the New Hampshire Public Defender is selected by the corporation's board of directors.	Represent indigent defendants in criminal cases or juveniles charges as delinquents in the district, municipal, superior and supreme courts.
NEW JERSEY Office of the Public Defender (Executive Agency, Part of Division of the Public Advocate)	None	Not applicable	Appointed by Governor with advice and consent of Senate. Five-year term. Attorney, experienced in practice in New Jersey.	Appoint deputy and assistant public defenders as well as support personnel. Establish State Public Defender system for all counties. Engage and compensate assigned counsel.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
NEW MEXICO State Public Defender (Executive department)	None	Not applicable	Chief Public Defender appointed by and serves at pleasure of Governor. Attorney active for five years prior to appointment and is experienced in defense or prosecution.	Manage all operations of department. Set fee schedule for assigned counsel. Establish local public defender districts. Appoint district public defenders who serve at his/her pleasure.
NEW YORK Capital Defender Office (independent agency in Judicial branch)	Three-member Board of Directors: one appointed by the chief judge of the Court of Appeals; one by the temporary president of the Senate; and one by the Speaker of the Assembly. Three-year terms.	Appoint a Capital Defender. Determine, with the Capital Defender, the number of attorneys, investigators and other staff necessary to the office.	Capital Defender selected by Capital Defender Office Board of Directors.	In consultation with Board of Directors, hire attorneys as deputy capital defenders, investigators and other staff. The Capital Defender Office provides both direct representation and consultation services; it also has responsibility for determining, in consultation with the administrative board of the judicial conference, attorney qualification standards.
NORTH CAROLINA Appellate Defender Office (Judicial branch agency)	None	Not applicable	Appellate Defender appointed by Chief Justice.	Provide appellate representation to indigents. Maintain appellate brief bank. Provide CLE training. Consult with attorneys representing defendants in capital cases. Recruit qualified, willing attorneys for state and federal death penalty post-conviction proceedings.
NORTH DAKOTA North Dakota Legal Counsel for Indigents Commission (Judicial agency)	Eight members. Chief Justice appoints: one county government representative recommended by North Dakota Association of Counties; one judge recommended by Chief Presiding Judge; three recommended by State Bar; and two recommended by Attorney General. Three-year terms. Chief Justice appoints Chair. State Court Administrator provides staff.	Review cost and caseload data. Prepare annual report and budget. Provide planning, guidelines and technical assistance to counties and judicial districts re: indigent defense services. Adopt guidelines for indigent defense services. Review disputed fee decisions of trial judges.	None	Not applicable
OHIO Ohio Public Defender Commission (independent commission within the Executive branch)	Nine members. Chair appointed by Governor. Four appointed by Governor; two of whom are from each political party. Four members appointed by Supreme Court. Chair and at least four members are bar members. Four-year terms.	Provide, supervise and coordinate legal representation. Establish rules for Public Defender such as compensation, indigency standards and caseloads. Approve budgets.	State Public Defender appointed by Commission. Attorney with minimum of four years experience. State bar member.	Appoint Assistant State Public Defender. Supervise maintenance of Commission standards. Keep records and financial information. Establish compensation procedures.
OKLAHOMA Oklahoma Indigent Defense System Board (Executive branch agency)	Five members for five-year terms. Appointed by Governor, subject to advice and consent of Senate. At least three lawyers. Governor designates Chair.	Make policies for indigent defense programs. Approve budget. Appoint advisory council of indigent defense attorneys. Establish policies on maximum caseloads. Appoint Executive Director.	Executive Director appointed by and serves at pleasure of Board. Licensed as Oklahoma attorney for four years. Experienced in criminal defense.	Develop state system, with exception of Oklahoma and Tulsa counties. Prepare system budget. Keep list of private attorneys for capital and non-capital case appointments. Advisor to indigent defenders. Act on system's behalf in legislative efforts. Conduct training.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
OREGON State Public Defender Office (agency of Judicial branch)	Six-member Board appointed by Chief Justice of Supreme Court for four-year terms.	Make policy for statewide appeals. Selects state Public Defender. Chairman chosen by committee. Responsible for establishing policy of program.	Selected by independent committee under Judicial branch. Four-year term. Full-time; private practice prohibited.	Two levels - appellate (on-staff) and trial (contract provider). Report to Legislature biannually.
PENNSYLVANIA	None	Not applicable	None	Not applicable
RHODE ISLAND Office of the Public Defender (agency of Executive branch)	None	Not applicable	Appointed by Governor with advice and consent of Senate. Three-year term. Attorney with five years experience.	Appoint, supervise and direct assistants as necessary. Develop and oversee statewide system by regions.
SOUTH CAROLINA Office of Indigent Defense (independent agency within Executive branch)	Commission on Indigent Defense. Seven members appointed by Governor on recommendation of South Carolina Public Defender Association. One from each congressional district. One from state at- large who serves as Chair. Four-year terms.	Appoint Executive Director of Office of Indigent Defense. Supervise operation of Office of Indigent Defense.	Executive Director appointed by Commission.	Administer Office of Indigent Defense. Distribute state funds to counties. Compile statistics on indigent defense statewide. Report to General Assembly on indigent defense. Maintain list of attorneys qualified to accept appointments in death penalty cases. Administer collection and distribution of public defender application fees and surcharge fines imposed on specified criminal offenses. Supervise staff and carry out requirements of Commission.
SOUTH CAROLINA Office of Appellate Defense (independent state agency within Executive branch)	Commission on Appellate Defense: Dean of the University of South Carolina Law School; President of the South Carolina Public Defenders Association; President of the South Carolina Bar Association; President of the South Carolina Trial Lawyers Association; Chairman of the South Carolina Judicial Council; Chairman of the Senate Judiciary Committee or his designee; and Chairman of the Judiciary Committee of the House of Representatives or his designee. Commission elects Chairman for one-year term.	Appoint Chief Attorney. May, subject to rules of Supreme Court, recommend or establish policies for the operation of the Office of the Appellate Defense. Approve annual budget. Establish indigency criteria.	Chief Attorney appointed by Commission to four- year term. Licensed to practice law in South Carolina.	Submit budget to Commission. Establish training for employees. Represent indigent defendants in appeal of a conviction in trial court or decision of any proceeding in civil commitment or other involuntary placement.
SOUTH DAKOTA	None	Not applicable	None	Not applicable
TENNESSEE District Public Defenders Conference (agency of the Judicial branch)	Not applicable, but see below.	Not applicable, but see below.	The District Public Defender Conference has an Executive Secretary who is elected by the Conference for eight-year term.	Assist district public defenders to coordinate their responsibilities. Serve as liaison among various branches of state government. Prepare budgets for each district for submission to state. Provide public defenders with minimum law libraries.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
TENNESSEE Tennessee Indigent Defense Commission of the Supreme Court of Tennessee (Judicial branch)	Tennessee Indigent Defense Commission of the Supreme Court of Tennessee. Eleven members appointed by Supreme Court from recommendations made by petitioner organizations who pushed for creation of Commission through Supreme Court rule. Three-year terms. Chair appointed by Supreme Court.	Appoint officers. Adopt rules for operation of Commission. Develop a comprehensive plan for indigent defense services in state court system. Collect case information; determine reasonable caseload for district defenders; set standards for criminal defense attorneys representing indigent defendants; set compensation schedule for assigned counsel; set annual budget for court-appointed counsel expenditures; and develop voucher review process.	Not applicable, but see above.	Not applicable, but see above.
TENNESSEE Office of the Post-Conviction Defender and Post-Conviction Defender Commission	Nine members: two appointed by the Governor; two appointed by the lieutenant governor; two appointed by the speaker of the House of Representatives; three appointed by the Supreme Court of Tennessee. Serve four-year terms.	Appoint Post-Conviction Defender; prepare annual budget for the Office of Post-Conviction Defender.	Post-Conviction Defender appointed by Post-Conviction Defender Commission. Four-year term. Must be lawyer in good standing with Supreme Court of Tennessee and possess demonstrated experience in capital case litigation.	Provide legal representation to indigent persons convicted and sentenced to death, hire assistant post-conviction defenders, investigators and support staff; maintain clearinghouse of materials and brief bank for public defenders and private counsel who represent indigents charged or convicted of capital crimes; provide CLE training and consulting services to lawyers representing defendants in capital cases; recruit qualified members of the bar to provide representation in state death penalty proceedings.
TEXAS	None	Not applicable	None	Not applicable
UTAH	None	Not applicable	None	Not applicable
VERMONT Office of the Defender General (agency of Executive branch)	None	Not applicable	Defender General appointed by Governor with advice and consent of Senate. Four-year term.	Operates program thru public defenders and deputy public defenders or by contracting out to private attorneys. May establish local offices headed by a public defender. Contract with member of bar to serve as assigned counsel coordinator.
VIRGINIA Public Defender Commission (agency of Judicial branch)	Nine members. Appointed by Speaker of the House in consultation with Senate and House Courts of Justice Committees. Three judges, three practicing attorneys, three lay people. Three-year terms.	Oversee administration of Public Defender Commission. Select Executive Director and individual head public defenders.	Commission selects Executive Director who serves at pleasure of Commission. Member of Virginia State Bar and experienced.	Statute sets up office. Hire staff. Establish and oversee local public defender offices mandated by state legislature.

STATEWIDE INDIGENT DEFENSE SYSTEMS

STATE Type of Program	Commission	Commission Duties & Responsibilities	Public Defender Selection Process, Terms & Qualifications	Public Defender Duties & Responsibilities
WASHINGTON Office of Public Defense (independent agency of the Judicial branch)	Advisory Committee has nine members: three persons appointed by the chief justice; two non-attorneys appointed by the governor; two senators and two members of the house of representatives; one person appointed by the court of appeals executive committee; and one member appointed by the Washington State Bar Association.	Submit three names to the Supreme Court for Director of the Office of Public Defense.	Director serves at the pleasure of the supreme court, which selects from list of three names submitted by Advisory Committee. Director must: have practiced law in Washington for at least five years, represented criminal defendants, and possess proven managerial or supervisory experience.	Administers all criminal appellate defense services; submits to state legislature a biennial budget for costs related to appellate indigent defense; recommends indigency standards; collects information and reports to the legislature on indigency cases; coordinates with the supreme court and judges of each division of the court of appeals to determine how attorney services should be provided. The Office of Public Defense does not provide direct representation.
WEST VIRGINIA	None	Not applicable	None	Not applicable
WISCONSIN Wisconsin State Public Defender (independent agency within Executive branch)	Nine members. Appointed by Governor, approved by Senate. At least five must be attorneys. Three-year terms. Chair is elected by Board.	Appoint state Public Defender and establish salary. Approve budget and submit to Governor. Promulgate standards of indigency. Promulgate rules for assignment of private counsel in regard to standards, payments and pro bono programs. Perform all other duties necessary and incidental. Contract with federal agencies and local public defender organizations for provision of services.	State Public Defender appointed by Board. Member of Wisconsin Bar. Five-year term.	Supervise operation of all state and regional public defender offices. Maintain data and submit biennial budget to Board. Delegate cases to any member of Wisconsin Bar. Negotiate contracts out for representation as directed by Board. Appoint staff.
WYOMING State Public Defender (Executive agency)	None	Not applicable	State Public Defender appointed by Governor. No term specified. Member of Wyoming Bar with experience in defense or prosecution.	Administer public defender program in districts and oversee operation of public defender system statewide. Assistant public defenders appointed by Governor and serve at pleasure of Public Defender. Public Defender may require them to be full-time. Public defender in each district appointed by Governor upon recommendations from district judge and county commissioners.

Appendix 8

Standards for Indigent Defense

Standards for Indigent Defense

Spangenberg Group, *Indigent Standards and Guidelines Index* (1998) (state and local standards index, available on the web from <<http://www.NACDL.org>>).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, DEFENDER TRAINING AND DEVELOPMENT STANDARDS (1997).

AMERICAN BAR ASSOCIATION, STANDARDS OF PRACTICE FOR LAWYERS REPRESENTING ABUSED AND NEGLECTED CHILDREN (RESOLUTION, 1996).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, PERFORMANCE GUIDELINES FOR CRIMINAL DEFENSE REPRESENTATION (1995).

AMERICAN BAR ASSOCIATION STANDARDS FOR CRIMINAL JUSTICE: PROVIDING DEFENSE SERVICES (3RD ED.1992).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, STANDARDS FOR THE ADMINISTRATION OF ASSIGNED COUNSEL SYSTEMS (1989).

AMERICAN BAR ASSOCIATION, DEATH PENALTY (1989).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, STANDARDS FOR THE APPOINTMENT AND PERFORMANCE OF COUNSEL IN DEATH PENALTY CASES (1988).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION GUIDELINES FOR NEGOTIATING AND AWARDED GOVERNMENTAL CONTRACTS FOR CRIMINAL DEFENSE SERVICES (1984).

AMERICAN BAR ASSOCIATION JUVENILE JUSTICE STANDARDS (1980).

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION, STANDARDS FOR ADMINISTRATION OF JUVENILE JUSTICE (1980).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION, STANDARDS AND EVALUATION DESIGN FOR APPELLATE DEFENDER OFFICES (1980).

NATIONAL LEGAL AID & DEFENDER ASSOCIATION GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES: NATIONAL STUDY COMMISSION ON DEFENSE SERVICES (1976).

NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, COURTS (1973).

Appendix 9

**Administrative Office of the U.S. Courts,
Defender Services Division,**

***Compensation of Federal Defenders and Staff:
Parity With U.S. Attorney Office Compensation***

COMPENSATION OF FEDERAL DEFENDERS AND STAFF -- PARITY WITH U.S. ATTORNEY OFFICE COMPENSATION

Framework of Compensation Systems for Federal Defender Staff

For compensation purposes, there are three categories of employees in federal defender organizations, and each category has its own separate system of compensation. The three categories are:

- (1) the Defender (Federal Public Defender or Executive Director of a Community Defender Organization);
- (2) assistant federal defenders (staff attorneys, all of whom are un-graded); and
- (3) "graded" employees (everyone else).

Compensation of the Defender

1. Federal Public Defenders (FPDs)

The Criminal Justice Act (CJA), 18 U.S.C. 3006A, provides that each FPD's salary shall be determined by the court of appeals of the circuit in which the federal public defender organization (FPDO) is located, at a rate not to exceed the salary of the U.S. attorney in the same district(s).

Accordingly, each circuit court of appeals has established its own policy regarding how the FPD's salary is to be determined. Six of the twelve circuits have policies requiring that all FPDs in the circuit be paid the same salary as the U.S. attorney in the same district. Four circuit policies require their FPDs' salaries to be set at some specified amount less (e.g., \$500 less) than the U.S. attorney's salary. The two remaining circuits use formulas for determining FPD salaries based on a combination of factors including the salary of the U.S. attorney, the salary of the highest paid assistant U.S. attorney, and/or the maximum allowable salary payable to a court unit head in the same district.

Whenever there is a change in the U.S. attorney's salary or in any other factor that dictates a change in FPD salaries pursuant to a circuit's FPD compensation policy, the Defender Services Division (DSD) requests the AO's Human Resources Division (HRD) to adjust each affected FPD's salary accordingly. HRD processes the payroll for all FPDO staff.

Note that all U.S. attorneys within the 48 contiguous United States earn the same salary. For 1999, that salary is \$118,400. The salary for U.S. attorneys in Alaska, Hawaii and U.S. territories is \$118,400 plus a "non-foreign COLA" adjustment of between 10 - 25% depending on location.

2. Community Defender Organization (CDO) Executive Directors

The CJA does not address compensation for CDO employees. However, DSD policy requires that CDO Executive Director salaries are to be determined by the CDO's board of directors, subject to the restriction that the Executive Director's salary may not exceed that of the U.S. attorney in the district. This restriction is intended to maintain consistency between the salaries of Executive Directors and FPDs.

Each CDO manages its own payroll and cuts paychecks for its employees.

Compensation of Federal Defender Organization Staff

1. Generally

The CJA provides that compensation paid to FPDO employees shall be determined by the FPD at a rate not to exceed that paid to employees in the U.S. attorney's office having "similar qualifications and experience." U.S. Judicial Conference policy states that FPDO staff salaries should be consistent with those of U.S. attorney's office employees having "similar qualifications, experience, and responsibilities."

In its March 1993 report, the Judicial Conference stated that the CJA contemplates equal pay between FPDO staff and comparably experienced and qualified staff in the U.S. attorneys' offices. The Conference said that such parity will reflect the importance of the work performed in defender offices and will assist in recruiting and retaining qualified and diversified personnel.

Accordingly, DSD has established policies for compensation of AFDs and other staff which are consistent with the compensation policies applicable to staff in U.S. attorney's offices. Because the Judicial Conference's Committee on Defender Services evaluates and approves CDO grants based upon the assumption that CDO employees will be compensated in accordance with the policies applicable to FPDO employees, all compensation policies are applicable to both FPDOs and CDOs.

FPDOs and CDOs use DSD's policies and salary charts to make all salary determinations.

2. Assistant Federal Defenders (AFDs)

DSD's policies on compensation of AFDs are generally identical to those applicable to assistant U.S. attorneys. These policies primarily include: (1) the use of charts for determining AFD starting salaries and annual performance-based increases, and salary "cap" charts (see samples attached), all of which are basically identical to the charts used in U.S. attorney offices; and (2) written policies for applying these charts, which are consistent with those used in U.S.

attorney offices. DSD also authorizes the same annual cost of living increases for AFDs as those authorized for comparable assistant U.S. attorneys.

By using the same salary charts and compensation policies as those used in U.S. attorney offices, defenders are assured that their AFDs' salaries are consistent with those of comparable assistant U.S. attorneys in the same district.

3. Graded Employees

Graded employees are compensated pursuant to a prescribed range of grades available to their job classification. The graded pay tables applicable to these employees (showing the salary amount of each grade and step -- see attached sample) are identical to the "GS" scales used in U.S. attorney offices. However, due to the many differences between the responsibilities of graded employees in federal defender organizations as compared to those in U.S. attorney offices, a job classification system has been developed for graded personnel in federal defender offices which is significantly different from the classification system used in U.S. attorney offices. In fact, there are several job classifications in the defender organization classification system (DOCS) that are not available in U.S. attorney's offices because the specific responsibilities do not exist in U.S. attorney offices. E.g., defender organizations employ their own investigators while U.S. attorney offices do not (they rely on investigators from the FBI and other federal agencies.) Attached is a chart showing all DOCS position classifications and the grade ranges assigned to each.

In developing the DOCS classifications and the grade ranges assigned to each, every reasonable effort was made to promote consistency between the salaries paid to employees having comparable responsibilities in federal defender and U.S. attorney offices. In addition, all policies regarding grade promotions, step increases, and other aspects of graded compensation are identical to those in the U.S. attorney's office. Annual cost of living increases authorized for graded staff are the same in both offices.

One significant advantage in terms of compensation for graded employees in U.S. attorneys offices is that they may receive cash awards. Federal defenders declined to institute an awards program for their employees.

Attachments

1999 LINE AFD SALARY CHARTS*

Enter the Applicable 1999 Locality Rate:** **5.6** %

Office Location(s)***

with this locality rate:

Starting Salary Chart Calendar Year 1999				
AD Level	Years of Attorney Experience			Starting Salary Ranges
	At Least		Less Than	
AD-21	0	-	4	40,125 - 55,211
AD-24	4	-	5	43,989 - 60,505
AD-25	5	-	6	48,224 - 66,328
AD-26	6	-	7	52,882 - 72,733
AD-27	7	-	8	57,964 - 79,720
AD-28	8	-	9	63,575 - 87,396
AD-29	9+			69,662 - 95,812

APR Increase Chart (and AD level maximums)**** Calendar Year 1999					
AD Level	Years of Attorney Experience			SALARY RANGES	
	At Least		Less Than	for "Meets or Exceeds Expectations" AFDs	for "Substantially Exceeds Expectations" AFDs
AD-21	0	-	4	40,125 - 55,211	45,154 - 60,240
AD-24	4	-	5	43,989 - 60,505	49,494 - 66,010
AD-25	5	-	6	48,224 - 66,328	54,258 - 72,362
AD-26	6	-	7	52,882 - 72,733	59,499 - 79,350
AD-27	7	-	8	57,964 - 79,720	65,216 - 86,972
AD-28	8	-	9	63,575 - 87,396	71,515 - 95,336
AD-29	9+			69,662 - 95,812	78,397 - 104,494

* Use these charts to determine starting salaries and APR salary increases for non-supervisory/non-senior litigator AFDs (Line AFDs) for all such salary actions effective between January 4, 1999 and January 2, 2000. All policies necessary for the proper use of these charts are found in the October 1, 1998 AFD Appointment and Compensation Policies document.

** Each organization located within the conterminous United States must enter the appropriate locality percentage rate in this space, pursuant to the instructions provided with these charts.

*** If your organization has office locations in more than one locality rate area, a separate version of these charts should be prepared for each applicable locality area, pursuant to instructions provided in the WordPerfect memorandum accompanying this chart.

**** Shaded amounts in the right hand column represent the maximum allowable salary for each AD-level. Any AFD salary that exceeds the applicable AD-level maximum is subject to the "red-circled rate" policies found in section II.B.4. of the AFD Appointment and Compensation Policies document.

1999 SALARY CAPS*
FOR SUPERVISORY AND SENIOR LITIGATOR AFDs
IN PAY PLAN B AREAS**

Enter the Applicable 1999 Locality Rate***: 5.7% %

Office Location(s)
 with this locality rate: San Antonio, Texas, District 10

<u>Pay Cap Level</u>		<u>Salary Cap#</u>
Level 1 (First Assistants)	\$117,569
Level 2 (Second Level Supervisors)	112,752
Levels 3 & 4 (All Third Level Supervisors and all Senior Litigators)	108,358 112,752

* This chart is applicable to salary actions effective January 4, 1999 through January 2, 2000. Policies to be used in applying this chart are found in the October 1, 1998 AFD appointment and compensation policies document.

** Pay Plan B areas include all districts EXCEPT: CA-C, DC, FL-S, NY-S&E, IL-N, TX-S, PA-E, and NJ.

*** Each organization located within the conterminous United States (except in districts listed in footnote ** above) must enter the appropriate locality percentage rate in this space, pursuant to the instructions provided with these charts.

Cap amounts reflect the full 1999 ECI increase and any applicable locality adjustments, except when such adjustments would result in a cap that exceeds the 1999 "ceiling" of \$118,300. In such cases, reduced adjustment(s) are applied so that the cap amount is held to \$118,300.

1999 Pay Rates of the Judiciary Salary Plan with 5.87% Locality Pay Differential

[illegible]

Appendix 10

Sarasota County, Florida,

Criminal Justice Information System: Outline

SARASOTA COUNTY, FLORIDA
CRIMINAL JUSTICE INFORMATION SYSTEM
OUTLINE

1. Agency Structure
 - a. Chart
 - b. Agreement
 1. Selection of CJIS Team Members
 - a. Duties
 - b. Knowledge
 - c. Cooperation
2. Selection of Working Groups
 - a. Users
 1. Individuals with knowledge of system
 2. Technical staff
 - b. Interviewing
 - c. Cooperation
 - d. Consultant
 - “Thinking outside the box”
3. Questionnaire to Users
4. Request for Proposal
 - a. Functional Specifications
 - b. Technical Specifications
5. Selection of Vendor
 - a. Qualifying Vendors
 1. Written Responses
 2. Demonstrations
 - b. Contract Negotiations
 - a. Mediator
6. Design of System
 - a. Applications
 1. Sheriff
 2. Courts
 3. Compound Documents
 4. Software Components
 - b. Electronic Document Exchange
 1. System Generated Images
 2. Scanned Documents
 3. Electronic Signature

Outline - Page 2

7. Development of Uniform Report
 - a. Probable Cause Affidavit
 - b. Data Collection for State Tracking System
 - c. Standard Code Tables between Agencies
8. System Testing and Implementation
 - a. Module Testing
 - b. Bug Testing
 1. Report Form
 - c. Security Testing
 2. User Roles
 - d. Workflow Testing
 - e. Partial Implementation
 1. Sheriff's Modules
9. Initial System Training
 - a. User Training
10. Office Processes
 - a. Inter-Agency Workflow
 - b. Workflow between Agencies
 - c. Security of Information
11. Final System Implementation
 - a. Plan for failure
 1. Disaster Recovery Plan
 - b. Final User Training
 1. Super-Users
 2. End Users
 3. Technical Staff
 - c. Final Conversion
12. System Maintenance
 - a. Project Director
 - b. Team Members

CURRENT CJIS SYSTEM

AVERAGE CASELOAD FOR ALL AGENCIES

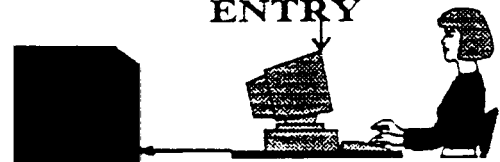


SHERIFF

1973
18,500

1991
57,500

DUPLICATE
ENTRY



CLERK of the CIRCUIT COURT

DUPLICATE
ENTRY



STATE ATTORNEY

DUPLICATE
ENTRY



PUBLIC DEFENDER

DUPLICATE
ENTRY



PROBATION

TOTAL VIRTUAL CASELOAD
DUE TO DUPLICATION

1973
92,800

1991
287,500

SARASOTA COUNTY CRIMINAL JUSTICE INFORMATION SYSTEM
QUALITY IMPROVEMENT TEAM

STATEMENT

In April, 1991, representatives who comprise the criminal justice agencies for Sarasota County, and members of the Sarasota County Management Information Systems Department met and formed the Sarasota County Criminal Justice Information System Quality Improvement Team.

The Quality Improvement Team is comprised of delegates from the following offices:

Sheriff
Clerk of Circuit Court
State Attorney
Public Defender
Court Administrators Office
Department of Corrections
Management Information Systems

The team determined that its mission should be to review, discuss and recommend a mechanism that will bring representatives of all the criminal justice agencies in Sarasota County together in order to provide the best possible information sharing capabilities.

The Quality Improvement Team has been meeting over the last five months to review the current procedures, problems, and goals of the agencies involved. At the bi-weekly meeting, held September 6, 1991 the team concurred on the following observations and goals:

1. All the criminal justice agencies agreed to work together to outline a long term approach to enhancing the local criminal justice information system, whether it be through a totally new system or a re-write of existing system.
2. While a long term approach is being developed, the agencies agreed to define and implement short term goals that will enhance the exchange of information, even though duplication of some information will have to be maintained until the long term goals can be implemented.
3. Financial savings, whether through personnel time or operating costs, could be achieved for all agencies through a joint information sharing venture. Information sharing would eliminate the need for duplication or re-entry of information required by each agency.

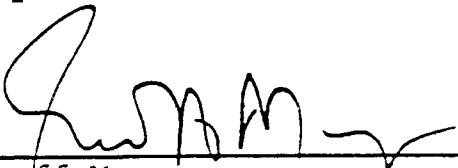
Quality Improvement Team
Statement - Page Two

Information sharing would allow common data element information entered by one agency to be used by any other agency requiring the same information, if the agency has a legal right by law to receive the information.

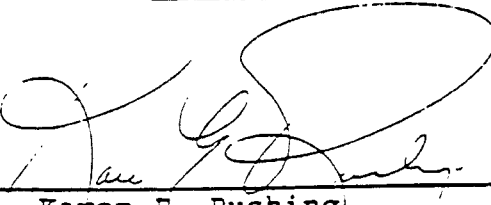
4. Resources could be shared between agencies. Resources could include personnel, software, and hardware. However, any system, whether software or hardware, must be responsive to users, provide for rapid modification capabilities, and provide day to day performance to all agencies, without degrading the ability of any one agency to obtain vital information 24 hours per day, 7 days per week.

Any resources allocated to the CJIS project would have to be in compliance with any legal or statutory obligations for obtaining, reviewing or disseminating information.

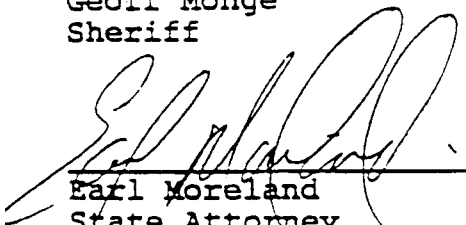
Submitted and approved for dissemination this 30TH day of September, 1991.



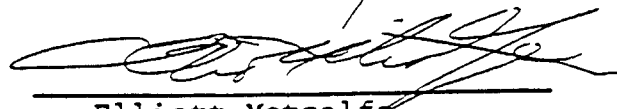
Geoff Monge
Sheriff



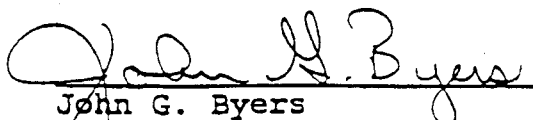
Karen E. Rushing
Clerk of Circuit Court



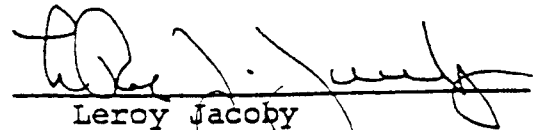
Earl Moreland
State Attorney



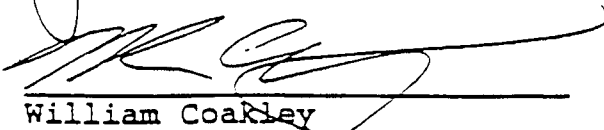
Elliott Metcalfe
Public Defender



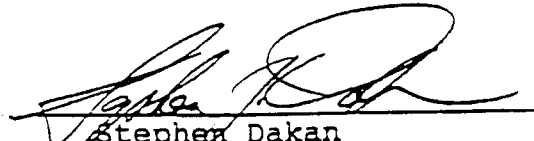
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Appendix 11

*Technology for Beginners: What Is Out There
and Where Do I Begin?*

**National Symposium on Indigent Defense:
*Improving Criminal Justice Systems Through Expanded
Strategies and Innovative Collaborations***

Technology for Beginners: What Is Out There and Where Do I Begin?

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Introduction

The following materials are prepared in response to the question, Technology for Beginners: What Is Out There and Where to Begin? The materials assume that there is some base level of funding, and the policy makers for your particular district or system have made a commitment to a technology investment.

Assuming for the purposes of this presentation that those two hurdles have been cleared, these materials address trial level attorneys and attempt to point out a few ways that technology can assist and improve the effectiveness of the representation we provide our clients.

Unfortunately, due to the subject of this document, it may get slightly technical at times. We have tried to explain as much as possible as we go along. If you have a technically inclined employee or outside help, they will have no difficulty in assimilating the information that follows. We suggest that you find a good local computer consultant to work with you, not only to acquire and install your hardware and software, but also to help design an information system specifically for your office. Ask for client references and follow up with them, and you should have no difficulty finding a consulting firm you can rely on.

Using Computers to Increase Your Office's Capability

In a legal office of any size, it is becoming more important than ever to automate common tasks with the use of computers in a networked environment. Due to the increase in caseloads of most public defense offices it is becoming more difficult to provide quality client representation. Office automation can help staff members accomplish more work in less time, expending less effort.

Office automation includes the use of high-speed computers, quality case management and research software, and a network to allow sharing of information between attorneys, their secretaries, and support staff.

With the advent of the Internet and CD-ROM-based research materials, it is easier than ever to find and make use of valuable information. Quality research equals quality representation. Most attorneys, especially Public Defenders, have such heavy caseloads that it is not really feasible to spend hours poring over books, looking for obscure references that may help your current client. Computers, legal software, and the varied research materials now available to Public Defenders make it much easier to maintain your case files, do research, and manage your court docket.

What is a Network?

A network is simply an arrangement whereby several computers are connected together using a special cable. Through this cable files can be shared, stored, and printed.

Using the network, a group of computer users can share a single or multiple printers, scanners, research tools, etc. A network makes it possible to use and share information on an office-wide basis.

What Brand of Computers Should We Buy, and From Whom?

There are many different brands of computer systems currently on the market. Each company will tell you, at great length, why their computers are better than their competition's. Don't be overly concerned, though, about brand names. The truth is that they are all fairly similar.

It makes little difference where you buy your computer, as long as you buy the most powerful you can afford. There are literally hundreds of brands, but there is very little to differentiate between them. Most computers use the same components internally. More important than brand choice is forming a relationship with a computer vendor that you can depend on to help you keep your computers running smoothly.

The best course of action in choosing a vendor is to ask others in your area for their experience with local computer companies. Like buying a car, you'll eventually find someone with a good reputation. Ask potential vendors for references. If a dealer can provide good references, you can feel confident about doing business with him or her.

Beware the temptation to buy low-cost superstore-type computers. These are the sort generally sold in office supply houses and consumer-oriented department stores. These are not really suitable for use in a networked environment, as they have limited upgradability, and have been designed for use in a "home" environment. Some of the lower-cost superstore computers are very, very difficult to setup on a network. In general, you will have better results from a well-established local computer store or consulting firm that sells "generic" or dealer-brand computers. These systems are designed for network use, component by component, and can accept a wide variety of upgrades and expansions.

Mail-order computers from companies like Dell or Gateway are generally acceptable for networked use, but if you have a failure in a computer component, it can take days or weeks to get a repair done. In most cases it is preferable to use local computer consultants or stores, as you can establish a face-to-face relationship with the vendor, and repairs can generally be effected in a more timely fashion.

How Much Will Computers Cost?

The cost of your computers will vary more with their power level than with their brand name or vendor. You may have heard that it is best to use one type of processor (the computer's brain) over another. According to whom you are speaking with, this can develop into a discussion approaching religious fervor. So, should you buy a computer with a Pentium II, a Celeron, an AMD, a Cyrix, or some other type of processor?

Intel Pentium II processors are premium, and will serve you well. If you can afford the extra \$100 to \$200 per computer, then you would do well to buy Intel Pentium II processor-based systems. Generally, you will do just fine with an AMD or Cyrix processor, though, and will save significant money in the process. The Intel Celeron processor is not as powerful as an AMD or Cyrix processor, and the performance decrease is more significant than the money you would save.

An Intel Pentium II processor-based computer will cost \$1,300-\$1,500 with a processor in the 350MHz speed range. An AMD processor-based computer will cost from \$1,000 to \$1,300 for the same level of power, while a Cyrix processor-based computer will cost from \$800 to \$1,000. We have found very little difference in the processing power of these three processor brands. The Intel Celeron processor generally costs about the same as an AMD processor, but displays inferior performance compared to any of the other processors.

Keep in mind that prices and power levels are continually changing. Within ninety days of the day you read this, these same computers will probably cost less and more powerful processors will have moved into their places. Historically, the power level of computers doubles about every eighteen months. There is no use waiting for a better computer; you'll not have the use of a computer while you are waiting, and when you find the one you consider the better computer, it, too, will be outperformed by newer machines within ninety days. Don't despair, though; you can get three to five years of use out of any good computer system without worrying about upgrading or buying new systems. With yearly upgrades, the system will serve you for a very long time indeed.

How Fast Should Our Computers Be?

As of this writing, it is best to buy computers that are at or above 300MHz speed in terms of processor speed. 350 to 450MHz processors are now available, with those over 350MHz costing significantly more. The 350MHz speed and below are the most cost effective for the next several weeks. Several of the processor manufacturers are in the process of releasing processors that exceed 500MHz barrier, but you can expect to pay \$2,000 or more for machines with these processors. Unless you are really strapped for funds and have found a great deal, do not buy computers that have processor speeds less than 300MHz. New 300MHz computers are available for less than \$1,000 each, and a 266MHz

system may only save you \$10 to \$20 per workstation. Sub-300MHz processors are not worth their cost, unless you can get some good used computers. Beware of buying any used system that has a processor speed of less than 200MHz, since Windows 95/98 slows down considerably on systems slower than 200MHz.

What Other Criteria Can Be Used to Judge a Computer?

The storage capacity of a computer's hard disk deserves a little attention, as well, since it dictates how much software can be installed on the computer, how much data it can store locally, and, to a limited extent, the speed of the machine. We recommend that you do not buy computers with hard drives smaller than 3.2 gigabytes, with 4.3 gigabytes or more being preferable.

Make sure that your new computer has at least 32 megabytes of SDRAM memory, with 64 megabytes or more being preferable.

The video card provides the computer with the ability to display information and graphics on the monitor. An underpowered video card can slow down the computer's performance significantly. At a minimum, you will want a PCI bus video card with 4Mb of memory. Video cards with more memory or AGP bus architecture are preferable.

What Are the Minimum Specifications for a Network Workstation?

- ✓ 300 MHz speed using one of the following processors: Intel Pentium II, an AMD K6/2, or a Cyrix 6x86 MII
- ✓ Pentium-level motherboard with 512K Cache and a PC-100 (100MHz) bus, AT or ATX form factor
- ✓ A minimum of three PCI slots and two ISA slots, with more slots and/or an AGP slot preferable
- ✓ 32 Megabytes SDRAM in 168-pin DIMMs, 100Mhz, 7 nanosecond
- ✓ 3.2 Gigabyte hard drive, UltraDMA, EIDE, 8-10 millisecond seek time
- ✓ SuperVGA PCI or AGP bus Video Card (prefer AGP) with 4 to 8 megabytes of memory onboard
- ✓ PCI Network Card with either 10 or 100BaseT, or 10Base2 interface (according to the network wiring scheme)
- ✓ 1.44 Megabyte 3.5" Floppy Drive
- ✓ 14" monitor (larger preferred) SuperVGA, .28 mm dot-pitch, non-interlaced

- ✓ Keyboard, mouse, and mousepad
- ✓ Minitower or desktop case with 230 or 250 watt UL power supply
- ✓ Windows 95/98 or Windows NT 4.0 Workstation operating systems

Networking Small Law Offices

In a small legal office, with one to five attorneys and their support staff using up to five computers, it may be most reasonable to build implement a peer-to-peer network scheme.

A peer-to-peer network is the most basic network architecture. It simply connects all the computers together so that they can share files and printers. A tape backup unit can be installed on one of the computers so that mission critical data may be backed up nightly for each terminal on the network.

Some use a peer-to-peer network and make one of the computers a non-dedicated file-server. This file-server computer can be used as a normal network workstation, but everybody on the network stores his or her files on this computer. This is a safer since all data files are in one place and are more easily backed up on tape.

A peer-to-peer network normally uses one of two wiring schemes: 10Base2 (Coaxial cable) or 10BaseT (Category 3 Twisted Pair – like phone wire except with 8 wires).

10BaseT is more up-to-date and is preferable for more than two computers. Expect to pay around \$80 to \$100 per computer for network wiring and labor in addition to buying a network hub to connect all the systems together and direct network traffic. The hub should cost between \$150 and \$300, and should have up to eight network ports.

If you only have a couple of computers to network together, a 10base2 coaxial network is fine and should cost about \$100 to install, depending upon the physical distance between the computers. No hub is required for a 10Base2 network.

Example costs of a five terminal 10BaseT peer-to-peer network

Per terminal wiring	\$100.00	\$500.00
8-Port hub		\$200.00

	\$700.00	

Make sure that any computers you purchase have network cards preinstalled or you will need to price one network card per computer at around \$50 per card.

As of this writing, 100BaseT networks (Category 5 UTP) are becoming feasible. These networks cost about twice what a 10BaseT network costs to install, but can run up to ten times faster.

If you do new network wiring it is a good idea to request "Category 5" wiring since that scheme will support both 10BaseT and 100BaseT, permitting you the option of upgrading to 100BaseT at a later date without having to run new network cable. The extra cost in a 100BaseT network comes from the price of the hub and network cards; they are significantly more expensive than their 10BaseT counterparts.

10BaseT (10 Megabits per second) generally provides more than enough speed for a small peer-to-peer network.

Networking Medium to Large Legal Offices

When you exceed five to ten computers, your network is going to have significantly more traffic, reducing overall network performance. It is no longer feasible to use the peer-to-peer arrangement; instead, it is preferable to install a 100BaseT network in larger systems. This affords you the extra speed you will need.

It also becomes necessary to put in place a special, dedicated computer called a server. This computer will cost from two to five times what a normal computer costs. As you get into networks from 25 to 50 computers, it is necessary to increase the power of the server, and, in most cases, add more than one server to the network.

For optimal performance, it is recommended that you have one server for each twenty-five computers in your network.

What Are the Minimum Specifications for a Network Server?

- ✓ 400 MHz speed incorporating one or two Intel Pentium II or Pentium III processors (prefer dual-processor system)
- ✓ Pentium-level motherboard with 1024K Cache and a PC-100 (100MHz) bus, AT or ATX form factor
- ✓ A minimum of three PCI slots and two ISA slots, with more slots and/or an AGP slot preferable

- ✓ 128 Megabytes SDRAM (per processor) in 168-pin DIMMs, 100Mhz, 7 nanosecond
- ✓ Two 9.5 Gigabyte hard drives, UltraWide SCSI, 8 to 10 millisecond seek time, with RAID level one (disk mirroring)
- ✓ Adaptec 2940 Ultra Wide SCSI adapter (prefer using two SCSI adapters, one for each hard drive to allow not only disk mirroring, but also disk duplexing – one SCSI adapter per hard drive with mirroring)
- ✓ SuperVGA PCI or AGP Video Card (prefer AGP) with 4 megabytes of memory onboard
- ✓ PCI Network Card with either 10BaseT or 100BaseT network interface (according to the network wiring scheme). Use a very high quality card such as a 3Com Fast EtherLink card with parallel processing)
- ✓ 1.44 Megabyte 3.5" Floppy Drive
- ✓ 32X CD-ROM drive
- ✓ Keyboard, mouse, mousepad
- ✓ 14" SVGA Monitor, .28 mm dot-pitch, non-interlaced
- ✓ Full-tower case with 250 or 300 Watt UL power supply (prefer dual redundant power supplies)
- ✓ Four high-efficiency cooling fans
- ✓ Windows NT 4.0 Server operating system (Novell NetWare 4.x could be considered as an alternative, but NetWare is losing popularity for new installations due to its complexity)

What Sort of Network Architecture is Recommended for Larger Networks?

The wiring scheme for larger networks needs to be of the 10BaseT or 100BaseT Category 5 UTP level with a hub. It is not advisable to use 10Base2 (coaxial) wiring on a network over five terminals. A 10Base2 network is similar to a strand of Christmas tree lights - if one computer loses its connection to the network, all of the computers lose their network connections. On a 10BaseT or 100BaseT network, if one terminal breaks its connection, only that terminal is affected and the network continues to function normally.

Larger networks will require hubs with more capacity, or multiple hubs. Do not exceed four hubs on your network, since that could cause some instability in the network. Each hub should be connected with a backbone wire to each other hub.

This will permit multiple hubs to function as one, eliminating timing problems in the direction of network traffic.

Keep in mind that the wiring scheme you use requires you to match the computers network cards to that scheme. Decide what type of wiring scheme you will use before buying your computers. If you already own the computers, make sure that the hubs and network cards you order match your wiring scheme; they cannot be mixed and matched

What Will a Larger Network Cost?

It is harder to examine the cost of a larger network since there are so many variables. Generally, each network connection to a computer will cost from \$80 to \$100 for the network wiring itself. Each hub will cost from \$300 to \$1000 according to the brand, warranty, quality, and capacity of the hub unit. You can buy hubs with four to forty-eight ports of capacity (one is occupied by each computer on your network). Most networks use twelve to twenty-four port hubs and stack them (with a maximum of four hubs in a stack).

What is Windows NT 4.0, and What is Its Significance?

Windows NT 4.0 is today's operating system of choice for business use. This powerful operating system allows use of server systems like the Intel Pentium II or Pentium III fileserver. NT can manage up to four processors, giving you room for future expansion of your servers. NT is very simple to administrate. One person could be appointed as Network System Administrator, and would oversee the file-server security, user files, etc. NT makes it very simple to do these things. The entire NT file-server user interface is based on the easy-to-use Windows 95 look and feel. If you are comfortable with Windows 95, then NT will feel very familiar to you. There are other network operating systems available, but NT is outselling them two to one. There are very good reasons for this, and one of them is ease-of-use.

Windows NT 4.0 is a C-Level Secure Network Operating System, as specified by the federal government. This means that you can set up security to protect critical office information, both from theft by break-ins and from the prying eyes of those who do not need access to critical data. You will be able to segregate all sensitive information such as payroll data, so that only those who are allowed access can see the files. No one else will be able to access the directory containing the protected information.

NT also includes several very powerful features that you may find useful. One is the Remote Access Service, which allows those with authorization to log in to the server from a home computer by dialing in with a modem. The authorized person will have full access to company files and data. The actual methodology for using data while connected through an offsite computer is no different from working

while in the office; the same actions are used to open and save files. In effect, you have extended the office network right into your home, through the phone lines.

Another of NT's powerful features is interoffice e-mail. E-mail gives you the ability to send important notes, documents, or images back and forth between key members of your staff without leaving your computer terminal. It is very simple with Windows NT to establish e-mail connections to the outside world through the Internet.

NT allows you to assign different levels of power to different users. One employee may be able to only view certain files; another will be able to view and make changes to those files. One user may be able to work with sensitive data, while another employee cannot even see that data in any way. It is all controlled by the user database, setup by the administrator as the server is installed, and then maintained as employees come and go. NT makes the entire network system simple to administer.

With NT you have the capability to connect to almost any other type of network system through the use of common networking protocols such as NetBEUI, IPX/SPX, TCP/IP, NetBIOS, and others. Connections may be established between workstations, servers, and standalone devices through the network via network cabling or modem dialup.

Windows NT 4.0 has become the preferred operating system for network servers and even desktop workstations. It is easy to use, and very powerful. It works directly with Windows 95/98.

Case Management

The computer's greatest strength is the ability to store, retrieve, and sort through staggering amounts of data, quickly and accurately. This capability is perfectly suited to the law office, where files burgeoning with memos, reports, and Post-It notes cover every available flat surface. A good case management application can serve as your digital assistant, making the contents of every file in your office accessible in an instant. There are two approaches you may take towards acquiring a case management system.

Your first alternative is to purchase one of the several commercially available case management systems. You will find that all case management systems will incorporate certain core features, such as the ability to store various types of information regarding individuals, charges, and cases. Your choice of case management systems must therefore be made based upon other features and factors. Here are a few suggestions:

Operating System Support

It is always safest to insist upon software designed specifically for your operating system. Remember that MS-DOS software may have incompatibility issues with contemporary operating systems like Windows 98 and Windows NT 4.0.

Data Export Support

You should verify that the case management system has the capacity to export its data to a generic format, such as comma-delimited text. If, for some reason, you decide later that you want or need to switch to a different case management system, it will be of utmost importance to you that your existing data can be transferred to the new system. Without data export support, you may find yourself stuck with a system that doesn't work for you.

Year 2000 Compliance

As threadbare as the term is quickly becoming, Y2K compliance is of paramount importance, particularly in data warehousing software such as a case management system. Believe it or not, many software applications (and even operating systems) currently on the market are not Y2K compliant.

Workgroup Capabilities

One of the biggest benefits of implementing a case management system is the ability to work together more easily and efficiently. We have a number of different ways that our attorneys work together on cases, including vertical representation and defense teams. A good case management system can simplify this sort of teamwork by allowing multiple attorneys to be associated with a case within the system, permitting attorneys to contribute jointly to a central Trial Notebook, providing a case journal that attorneys and support staff can access and contribute to, and facilitating workgroup scheduling and task assignment.

Reporting Functionality

For many indigent defense offices, funding is based upon documented caseload. Providing accurate statistics can be a daunting task, particularly if much detail is required. A good case management system will provide flexible reporting functions that will permit you to extract the data you need in the format you need it. Reporting functions are often treated as an afterthought in case management systems; remember that the data in

your system is no good to you if you can't make it work for you, on your terms.

If none of the existing case management systems fit your needs, your second alternative is to have a case management system designed specifically for your office. This is not as unattainable a goal as it may sound at first; new rapid application development tools and a glut of young computer professionals make such a project feasible in terms of both time and money. Depending upon the size and workload of your office, the resources expended in the development of custom software may well be dwarfed by the amount that would have been wasted in trying to accommodate the eccentricities of an existing case management system.

Computerized Legal Research

Computerized legal research is the standard for lawyers today. Both CD-ROM systems and the multitude of research opportunities available on the Internet need to be utilized by attorneys in order to stay on top of rapidly developing case law and legislative actions. In offices with more than one or two attorneys, sharing research disks or setting up one terminal to serve as a research tool is burdensome. Networking these systems makes the information immediately retrievable at each individual workstation.

Computerized legal research generally permits you to search through a large number of documents to locate search terms of your choosing. These searches are instantaneous and result in concise listings of references pertinent to your issues.

Premise

The Premise CD-ROM system, published by the West Publishing Co., includes state and federal case law reporters, digests and legal codes. In our network, we have established several CD-ROM servers whose sole function is to house multiple CD-ROM drives that can be shared across the network. Each attorney can access the materials from any network terminal at any time. Research projects can be saved by topic or client name. Entire cases can be printed and attached to briefs and memoranda. Selected sections can be copied and inserted directly into the body of a manuscript. Links within cases can be followed from one reporter or digest or code system to another, permitting attorneys to complete projects that would have previously required moving from one book to another, without leaving the computer screen. Updates to the materials are sent on a quarterly basis, with online access to the newest materials provided at no additional cost.

Shepard's Citations

In order to assure that the case law being cited is current, Shepard's Citations can be added to the server system. The Shepard's system not only displays cases which have interpreted, approved or reversed the legal issue the attorney is researching, but permits one to move from case to case to follow the history of the case or the legal issue involved.

The Internet

State bar associations and court administrations organizations often provide up-to-the-minute case law as it is released by the appellate courts. The Tennessee Bar Association provides such a service. Attorneys who subscribe to the TBA's Opinion Flash program receive a short digest of every new case released by the Tennessee Supreme Court, Court of Appeals and Court of Criminal Appeals on their internet server daily. Links at the end of the digest can be followed to receive the full text of the opinion and the opinions can be searched for terms. Similar releases are made by the Administrative Office of the Courts and can be access at their web site at no cost but are not searchable.

The Tennessee Legislature provides up to the minute information about new legislation pending before the House and Senate and the results of legislative actions on new bills. Other state administrative offices provide similar information that can be of assistance to lawyers. Specialized bar associations, both on the state and national levels, provide links to sites of interest to their members and information about training opportunities. Scholarly works on just about any subject an attorney might encounter in handling his caseload can be accessed on the Internet from various professional organizations and universities across the nation.

Most of the federal district courts and federal circuits courts also provide copies of their opinions on internet sites. The United States Supreme Court makes opinions and briefs available at their official web site and Cornell University provides a free service which sends short digests of US Supreme Court cases to subscribers via e-mail as soon as they are released.

Extras

Once you have a basic computer network in place, there are many varied hardware devices you may find beneficial to your practice. These items vary in price, complexity, and utility. Several ideas are listed below. (Bear in mind, though, that the world of specialized computer hardware is virtually infinite; if you can imagine an application, chances are that at least one piece of hardware is available for specifically that purpose.)

Distributed Internet Connectivity

Once your individual workstations are connected in a Local Area Network, they can share devices and resources. Rather than install modems connected to dedicated phone lines at each individual terminal, you can distribute Internet connectivity from a communications server with multiple shared modems or from a single dedicated high-bandwidth Internet connection. By localizing internet connectivity to a single server, high-speed access can be provided to all users with minimal hardware and simplified administration, while facilitating network-wide sharing of a single internet account as well as usage auditing.

Videoconferencing

With the addition of a small video camera and video capture card to a standard networked workstation, you can videoconference with similarly equipped colleagues across the Local Area Network (or across town, if you have a high-bandwidth connection). Various combinations of hardware and software permit videoconferencing with audio or chat.

Digital Still Cameras

Digital photography has both advantages and disadvantages as compared to traditional photographic processes. On the plus side, digital photos do not require developing or processing; the camera interfaces directly with the computer, making images immediately available for viewing, e-mailing to colleagues, or storing on disk for transportation or cataloging. Digital "film" occupies less space and is significantly less sensitive to environmental conditions than 35mm film. On the negative side, digital photos are of lower resolution than regular photos. They are intangible; if you want a hardcopy, you must print one out on a color printer. Digital cameras are slightly more sensitive to lighting conditions, making the perfect photo a little more elusive. We have chosen to employ a combination of digital and 35mm photography in our investigations.

Digital Video Cameras

VHS-quality video is usually adequate for internal use, but sometimes you will be recording material that may prove useful in court. Rather than hire a videographer with production-quality equipment, you might want to consider purchasing your own digital video equipment. With digital video, you are assured of CD-quality audio and crisp, high-definition video. Non-linear editing can be effected on a computer workstation, and the edited final product can be laid down on digital videotape, S-VHS tape, or VHS tape. The end result is first-generation, broadcast quality video that can be used to make striking in-court presentations. Digital video cameras are

smaller and lighter than their VHS, VHS-C, or Hi8 counterparts, and provide a richer feature set. Digital video cameras also incorporate the functionality of digital still cameras, allowing you to record an hour and a half of digital video, several hundred digital still photos, or any combination thereof to a single, compact digital videotape.

Digital Data Projectors

If you often give presentations inside or outside the office, a digital data projector can be a powerful asset in getting your point across. The projector displays images from a computer workstation or laptop on a large screen, facilitating multimedia presentations, digital slideshows, and group software training. A digital data projector can also be an effective tool in a courtroom. Exhibits can more effectively be displayed to the jury and witness examinations are more meaningful in conjunction with the visual display.

Laptop Computers

In the courtroom, when you are away from your office, or visiting a client at a detention facility, a laptop computer can offer you access to your documents, your Internet connection, and your case management system. Laptop computers have distinct advantages (such as portability and connectivity) and disadvantages (like expense and non-upgradability). Docking stations with port replicators permit the laptop to be attached to full-size hardware (monitor, mouse, and keyboard) while in the office, allowing the same computer to be used in the office or on the go.

Personal Digital Assistants

A cross between laptop and calculator, Personal Digital Assistants (commonly called PDAs) are fairly small and reasonably inexpensive. A PDA gives you access to your contacts, appointments, to do lists, and notes while you are away from your computer. When you get back to your office, you place the PDA in a special cradle, signaling it to synchronize its data with the data in your computer's Personal Information Manager (or PIM, like Microsoft Outlook). PDAs offer dynamic data access without the expense or bulk of a laptop, though power and versatility are sacrificed.

Scanners

A powerful tool for digital data storage, scanners allow you to take printed material and capture a digital image of it within the computer. Once inside the computer, photos can be cropped, enlarged, enhanced, and saved on disk. Documents can be analyzed with Optical Character Recognition

(commonly referred to as OCR) software and translated into editable text within your word processor.

Supplemental Funding Sources

While our co-presenter, Fern Laethem, addressed funding issues in detail, we wanted to briefly address three specific supplemental funding mechanisms that are specific to our system, but have been a wonderful source of funding for our office. While our office is a state-supported office, we receive “local money” as a supplement to our state budget.

In 1992, the Tennessee State Legislature passed a public defender reform bill that addressed questions of funding and staffing for the thirty-one district public defender offices in Tennessee. In that legislation, a provision was inserted to help maintain a “balance of power” between the district attorney general (usually possessing sufficient political influence resulting in funding) and the district public defender (usually possessing insufficient political influence resulting in funding deficits). The Tennessee Legislature passed Tennessee Code Annotated §16-2-518, requiring local governmental bodies to increase funding to public defender offices by 75% of any increase in local funding for positions or office expenses provided to the local district attorney general’s office. The state legislature did not send a “funding mandate” to local governments. The local governmental bodies have the option of supplementing the budget of their district attorney general’s office, which is a state office, receiving state funding. The effect of the legislation, however, is to preclude local governmental bodies from shifting the appropriate state determined balance of power with regard to staffing and other funding by supplementing the district attorney’s budget and refusing to supplement the same district’s public defender office. The legislation required that a “base year” be established and the existing local funding for the district attorney’s office be exempted. However, any subsequent year increase in local funding to the district attorney office must be accompanied by a 75% contribution to the district public defender office to the extent that those supplemental funds go for staffing or office expenses. (T.C.A. §16-2-518 is included in the Appendix, Document 1).

Additionally, the Tennessee Legislature passed Tennessee Code Annotated §40-14-210, allowing any county, in misdemeanor and felony prosecutions to collect a fee of \$12.50 for the purpose of defraying the costs of legal representation and support services provided indigent defendants in criminal proceedings. Following the passage of that legislation, the Knox County Commission authorized the assessment and collection of such a fee. Further, the County Commission specified that all funds collected pursuant to that legislation “...shall be provided to the Public Defenders Office for the Sixth Judicial District and that in no event shall those funds be used for any purpose other than providing representation and support services to indigent defendants in criminal proceedings.” (T.C.A. §40-

14-210 and Resolution R-94-6-133 contained in Appendix, Collective Document 2).

In 1983, (amended in 1985) a Private Act, (Original House Bill 1221, Amended House Bill 1052) was passed by the Tennessee Legislature providing the sum of \$1.00 (later amended to \$2.00) "...shall be added to the litigation tax on each warrant in Knox County General Sessions Court and shall be used for the disbursement to attorneys who are appointed to represent indigents in Knox County General Sessions criminal cases." Further, the Act provided that a uniform, fixed fee of no more than \$50.00 per defendant should be payable to appointed attorneys for services rendered in the representation of indigent defendants at the General Sessions Court level. The Knox County Commission passed Resolution 85/5/F, ratifying the private act.

The Knox County Law Director opined in 1991 that the Public Defenders Office for the Sixth Judicial District should be considered an "appointed attorney" for the purposes of allowing us to draw on the funds collected pursuant to the Private Act. (House Bill 1221 and 1052 as well as Resolution 85/5/F contained in Appendix, Document 3).

Appendix 12

**Special Litigation Section, Civil Rights, Division,
U.S. Department of Justice,**

***Federal Constitutional and Statutory Rights
of Confined Juveniles***

**FEDERAL CONSTITUTIONAL AND STATUTORY RIGHTS OF
CONFINED JUVENILES**

**THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT
OF 1994, 42 U.S.C. § 14141 (copy attached), AS IT APPLIES
TO JUVENILE DETENTION AND CORRECTION FACILITIES AND THE
ADMINISTRATION OF JUVENILE JUSTICE**

**SPECIAL LITIGATION SECTION, CIVIL RIGHTS DIVISION
P.O. BOX 66400
WASHINGTON, D.C. 20035-6400
(202)514-6255**

OVERVIEW:

- Enacted in 1994 as part of the Violent Crime Control and Law Enforcement Act.
- The Act prohibits a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of their Constitutional or federal statutory rights.
- Gives the Attorney General authority to initiate a lawsuit to obtain equitable and declaratory relief to eliminate the pattern or practice when she has reasonable belief that one exists.
- In the context of juvenile corrections, the types of conduct covered would include abuse of confined juveniles as well as conditions of confinement that violate the Constitution or federal statutes, such as the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Acts, and the Americans with Disabilities Act. Also covered are violations of juvenile federal rights during the arrest and delinquency process.

Police Misconduct Provision of The Violent Crime Control and Law Enforcement Act 1994

42 USC § 14141

Current through P.L. 105-165, approved 3-20-98

§ 14141. Cause of action

(A) Unlawful conduct

It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(B) Civil action by Attorney General

Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

**FEDERAL CONSTITUTIONAL AND STATUTORY RIGHTS OF CONFINED
JUVENILES**

**CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT (CRIPA)
42 U.S.C. § 1997 (copy attached)**

**SPECIAL LITIGATION SECTION, CIVIL RIGHTS DIVISION
P.O. BOX 66400
WASHINGTON, D.C. 20035-6400
(202) 514-6255**

OVERVIEW:

- Enacted in 1980 in response to national concern about institutional conditions
- Gives the Attorney General standing to redress unlawful conditions in publicly operated residential institutions, including juvenile detention and training facilities, facilities serving people with mental retardation and other developmental disabilities, mental health facilities, nursing homes, jails, and prisons
- Jurisdiction under CRIPA includes all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. territories, counties, and cities
- Gives the Attorney General pattern or practice authority to enforce constitutional and federal statutory rights, including: Individuals with Disabilities Education Act; Section 504 of the Rehabilitation Act; and Americans with Disabilities Act
- Focus is on systemic deficiencies rather than individual, isolated problems

INVESTIGATIONS:

- Initiated by complaints from parents, residents, staff, advocates, media reports, U.S. Attorneys, and other sources
- Investigations are conducted by expert consultants, attorneys, and paralegals
- On-site tours of facility and observation of conditions; interviews with administrators, staff, residents, relatives, and advocates; review of records and other documents
- Broad range of inquiry, including adequacy of basic care, medical services, psychiatric treatment, training, rehabilitation, education, protection from harm and abuse, freedom from undue restraint, staffing, sanitation, and fire safety

OUTCOME OF INVESTIGATIONS:

- Report of findings and legal conclusions in "49 day letter" sent to the jurisdiction
- Resolution occurs most frequently through consent decree filed in federal court detailing remedial steps the jurisdiction agrees to take
- Consent decree is monitored by Special Litigation staff in conjunction with experts, monitors or special masters; contempt actions filed for non-compliance if the jurisdiction is unwilling to agree to further remedial actions
- Attorney General is authorized to file suit when necessary; adversarial litigation is used only as a last resort

Appendix 13

**Administrative Office of the Courts,
Arizona Supreme Court,**

***Reengineering: Projects To Improve
Criminal Case Processing***



REENGINEERING

PROJECTS TO IMPROVE CRIMINAL CASE PROCESSING



Presented by the
Administrative Office of the Courts
Arizona Supreme Court

December 1, 1998

EXECUTIVE SUMMARY

Recent emphasis on funding the "front end" of the criminal justice system - the police - has resulted in substantial statewide increases in the number of arrests and court filings. This pressure on the "middle part" of the system - prosecutors, public defenders and the courts - has resulted in significant delays in case processing times.

For justice to be meaningful, it must be swift and fair. Arizona standards establish that 90% of criminal cases should be disposed of within 100 days, and 99% within 180 days.

Projects to "reengineer" the criminal case processing system - collaborative efforts involving all the criminal justice stakeholders in a county, have been developed and implemented in an attempt to manage these ever increasing caseloads and delays. Expansion of these projects across the state has been facilitated by the enactment of 1998 legislation that provided funding for this purpose. This report provides information on these reengineering efforts.

Significant findings of the projects include:

- Reengineering is a **proven concept**. The projects have resulted in substantial reductions in case processing times, with the associated savings in staff and jail costs. For example, Coconino County, the first county to complete a reengineering project, reduced the average number of jail days per defendant from 173 to 55 days. The Yavapai County reengineering effort resulted in a decrease of 95 days in the median case processing time.

- Implementation of the projects has been greatly enhanced through utilization of **automation**. Automated court databases allow for management of caseloads and provide accountability measures.
- There are **limits** to the improvements that can be realized through reengineering alone. Some additional resources are needed to fully implement and sustain the case flow volume once reengineering takes place.
- As the criminal caseloads continue to increase, "**slippage**" of the improvement in the case processing time will occur, if additional resources are not added.
- Prompt resolution of cases is dependant upon the improvements that can be realized through reengineering projects and **adequate resources** for the "middle part" of the system.

BACKGROUND

Between fiscal years 1992 and 1996, local, state and federal funding initiatives resulted in a 21% increase in the number of police officers on the streets in Arizona. Additional law enforcement officers have contributed to a corresponding increase of almost 25% in the statewide arrest rate for all offenses and an increase of more than 22% in the criminal felony filings in the Superior Court. During that same time period, the length of time to process criminal cases increased significantly. For example, between 1991 and 1997, case processing time for 90% of the criminal cases in the Superior Court in Maricopa County increased by 95 days. Although Arizona standards establish that 90% of criminal cases should be handled within 100 days, by 1997 it took 290 days to process 90% of the cases in the Superior Court in Maricopa County. This delay in case processing time has an adverse impact on jail populations, victims, the processing of civil cases, and on the general public who expect timely handling of criminal cases to protect their safety and well-being.

Under the leadership of Supreme Court Chief Justice Thomas Zlaket, the Arizona criminal justice community proposed the "Fill the Gap" legislative initiative during the 1998 legislative session to address this problem. The goal of this effort, to provide *swift, fair justice* by processing 90% of the criminal cases within 100 days and 99% within 180 days, is a component of *Justice 2002*, Chief Justice Zlaket's strategic plan for the judicial department. The "Fill the Gap" effort resulted in the Legislature establishing the Criminal Case Processing Improvement Fund and appropriating \$350,000 to the fund for criminal "reengineering" projects to improve the processing of criminal cases in the Superior Court and justice courts. Senate Bill 1378, Chapter 182, Laws 1998, directed the Arizona Supreme Court to allocate monies in the fund to counties for the planning and implementation of collaborative projects to improve the processing of criminal cases. The legislation also specified that in order to be eligible for funding, a county must submit a

plan to the Supreme Court that demonstrates how the criminal justice entities in the county will work together to address problems with criminal case processing. The new statutory provisions also direct the Administrative Office of the Courts to submit a report to the Legislature, Governor, each county board of supervisors and the Arizona Criminal Justice Commission on the progress of the projects by December 1, 1998.

Reengineering is a collaborative process involving the public defenders, prosecutors, courts and other criminal justice stakeholders in each county to improve the processing time of criminal cases. The process typically consists of three stages:

1. Analyzing existing problems in processing criminal cases,
2. Developing innovative methods to more efficiently and effectively dispose of cases, and
3. Implementation of these new methods. A critical component is the establishment of benchmarks to measure the current case processing time and improvements realized through the reengineering process.

Pursuant to the statutory provisions, the Administrative Office of the Courts developed and distributed to each county information regarding the application process for funding. The application specifies that courts that receive funding must establish a consistent statistical reporting method that will provide information on the success of the reengineering project. Included in the required information are statistics on the number of criminal filings, pending criminal cases, and disposed criminal cases.

During the summer of 1998, the Administrative Office of the Courts also conducted meetings with judges and court administrators from around the state to provide information and assistance on successful case management techniques and reengineering projects. Although there are different needs and problems in each county in regard to the

processing of criminal cases, there are also similarities. The Administrative Office of the Courts has encouraged and facilitated the sharing of information and ideas among the counties and will continue to perform this role as the reengineering projects are developed and implemented.

To assist the counties with their reengineering projects, the Administrative Office of the Courts issued a Request for Qualifications (RFQ) to identify qualified consultants to conduct criminal case flow studies. Maureen Solomon, a nationally recognized expert on case processing, was retained and is currently working with identified counties. Ernie Friesen and Harvey Solomon, other nationally recognized experts in this field, are currently working with some of the other counties.

Appendix 14

Development Assessment of Delinquents

DEVELOPMENTAL ASSESSMENT OF DELINQUENTS

1. What are this young person's strengths?
2. How mature are this young person's thought processes? At the time of the offense, to what extent was this young person able to anticipate? reacting to threat? minimizing danger? seeing only one choice? Could this young person foresee the outcome of his/her actions? Was this young person able to plan like an adult, and under stress, how did he/she react if things did not occur as planned? If the young person was carrying a weapon, to what extent had he/she envisioned using the weapon to cause injury? What else is informative about this young person's intent at the time of the offense?
3. What moral values was this young person brought up with in his/her family? What is this young person's understanding of fairness, rights, and responsibility? Does this young person consider loyalty a higher moral principle than conventional views of right and wrong? How does this young person view the wrongness of the offense, and how does he/she explain it if the offense was a violation of his/her moral values?
4. Who is this young person most attached to? Does he/she feel a sense of belonging?
5. Who does this young person show the most empathy for? What are the young person's feelings for his/her victim? Could this young person's adolescent bravado and/or his/her view of the offense as accidental be misinterpreted as a lack of remorse?
6. What connections, if any, exist between his/her childhood trauma and the offense? Does this young person need help recognizing that he/she is not to blame for childhood neglect, physical or sexual abuse, or domestic violence? Does he/she need help getting out of a victim role? How much loss has the young person experienced? To what extent has the young person grieved these losses? Is this young person unusually controlling because of early victimization?
7. What connections, if any, exist between this young person's history of school failure and the offense? Is this young person primarily an auditory learner, a visual learner, or someone who learns best by doing? Is he/she aware of this learning style? Does he/she need to develop compensatory skills for difficulties in processing visual or spoken information? What is this young person's current reading and math skill level? What is this young person's school history, including most recent IEP objectives? Does he/she require special teaching techniques to follow instructions or to organize material? What specifically are the triggers of school behavior problems for this young person-- does he/she have difficulty concentrating? does he/she feel picked on by teachers or students? Is school non-attendance caused by boredom or being embarrassed by lack of skills? Does this young person have sports/music/art or other special interests that should be built on?

8. Is this young person's delinquent behavior a method of getting attention? Is this young person's delinquent behavior a method of gaining control? Does this young person's delinquent behavior express anger?

9. To what extent is this young person's delinquency driven by a need for peer approval? What is this young person good at? Does he/she need to be taught to appreciate self more?

10. Does this young person have an anger cycle or a fear cycle? Does this young person over-react to perceived hostility from others? Does this young person need to improve his/her ability to regulate specific behaviors? Does this young person need to improve his/her ability to express what he/she wants in effective, non-aggressive ways? In what ways, if any, was this young person's anger cycle or fear cycle operating during the offense?

11. What connections, if any, exist between this young person's substance abuse and the offense? What is the extent of this young person's use of alcohol and drugs? Does this young person use substances to relieve depression or hopelessness?

12. Does this young person have a positive view of him/herself in the future? What type of vocational instruction and/or employment assistance would fit this young person?

13. Having identified the young person's strengths and clarified what additional areas of development remain for this young person, what are the specific services that would meet his/her emotional, educational and other developmental needs and build on those strengths? What kind of a setting is likely to have the identified services to meet these needs and build on those strengths? What kind of a setting would not meet this young person's needs or would be harmful to this young person?

14. How amenable is the young person to the services recommended? What is the prognosis for this young person if these services are provided?

Marty Beyer, Ph.D.
703-757-0292
73243.1605@compuserve.com

10/98

Appendix 15

County of Los Angeles, California,

***Countywide Criminal Justice
Coordination Committee 1981–1999***

COUNTY OF LOS ANGELES

***COUNTYWIDE CRIMINAL JUSTICE
COORDINATION COMMITTEE***

1981 – 1999

*County Criminal Justice
Coordination Committee
Kenneth Hahn Hall of Administration
500 West Temple Street
Room 520
Los Angeles, CA 90012
(213) 974-8398*

THE COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

The Countywide Criminal Justice Coordination Committee (CCJCC) is an advisory body established in 1981 by the Los Angeles County Board of Supervisors to improve the effectiveness and efficiency of the local criminal justice system. Originally created as part of a comprehensive program to reduce violent crime, the 40-member Committee brings together virtually all of the top leaders in criminal justice and local government to form a unique policy-level forum whose overall purpose is to strengthen interagency coordination, communication, and cooperation.

The CCJCC is a voluntary organization. It has no statutory powers or legal authority, nor does it have independent authority to set policies or determine resource allocations. Yet, the Committee is able to play a leadership role in addressing a variety of countywide justice issues because of the commitment and support of its members. This membership reflects the support of municipal, county, state, and Federal jurisdictions, and includes law enforcement executives, prosecutors, judges, court administrators, criminal justice agency heads, as well as elected officials and key leaders from the disciplines of health services, mental health, and education.

COMMITTEE ORGANIZATION

The CCJCC organization reflects the size and complexity of the countywide criminal justice system in Los Angeles. Covering an area twice the size of the state of Delaware with a population exceeded by only seven states, this system reflects multi-jurisdictional problems and planning issues that are more typically associated with statewide justice systems. Within the County of Los Angeles, there are 47 law enforcement agencies, 24 independent municipal courts, 10 regions of the Superior Court, and a County jail system that is capped by a Federal court order of 20,000 inmates. The County is also the major part of some of the nation's largest and most complex Federal law enforcement and judicial regions.

Mirroring the complexity of the County jurisdiction, the CCJCC now consists of 40 members, including elected officials from the County and city government, judges representing the Superior and Municipal courts, the District Attorney, the Los Angeles City Attorney, the Public Defender, and the Chief Probation Officer. Law enforcement is represented by the Sheriff, the Los Angeles Police Department Chief, and the elected representative of the County's 47 police chiefs. Federal law enforcement is represented by the United States Attorney, local heads of the Federal Bureau of Investigation, the Drug Enforcement Agency, and the Immigration

and Naturalization Service. Also, reflecting the growing recognition of the interdependencies between criminal justice and other elements of the larger community, the CCJCC membership now includes top level executives from health services, mental health, and education.

The Committee, which meets monthly and is always chaired by the Chairperson of the County Board of Supervisors, encourages the support and personal involvement of its principal members. The Board of Supervisors also supports the Committee by providing full-time professional staff, who are administratively assigned to the Board's Executive Office. **(See Attachment A for Committee Organizational Rules)**

SUMMARY OF MAJOR ACCOMPLISHMENTS

Working largely through an organization of subcommittees and specialized task forces, the CCJCC has been successful at creating a wide variety of new programs and at forging partnerships to address issues of countywide importance. These high-level working groups are an essential part of the CCJCC. Typically reflecting a cross-section of agency perspectives and expertise, these groups are organized around specific justice system issues and problems or around much broader subject areas with long-term strategic importance. **(See Attachment B for CCJCC Subcommittees)**

Whatever the subject area, the underlying goal of these high-level subcommittees and working groups is to build consensus and promote interagency coordination and resource sharing. Their cooperative planning and problem solving efforts have generated over the years a wide range of new programs, policy and legislative recommendations, multi-agency plans, and long-term countywide strategies.

Jail Overcrowding

Overcrowded jails and juvenile halls have severely impacted the local justice system for many years. The overcrowding of the County's detention facilities is the result of numerous systemwide issues that transcend agency and jurisdictional boundaries. Solutions to alleviate the congested conditions of the facilities require approaches calling for extensive cooperation and coordination of every organization within the justice community. The CCJCC has developed and implemented a wide range of strategies to help bring relief to our adult and juvenile detention systems. Some of these strategies, such as those targeting own recognizance releases and diversion (which strengthened the release criteria for defendants), have helped to reduce the number of pre-trial inmates entering the jail system. Other efforts, such

as expedited arraignment programs (where case disposition is provided at the earliest possible court proceeding) and accelerated probation reports (which reduce the in-custody time of the defendant from conviction to sentencing), have quickened the processing of court cases involving in-custody, pre-sentenced inmates.

Criminal Aliens

The Committee has also been instrumental in documenting the impact of criminal aliens on jail overcrowding and local justice system costs. In May 1990, the CCJCC conducted the first comprehensive study of deportable foreign-born inmates in the County jails. This research determined that over 11% of the County's jail population consisted of deportable aliens. A follow-up study completed in July 1992 further documented that approximately 40% of the deportable aliens were rearrested within one year of their release from jail. Through these studies it was estimated that deportable criminal aliens account for over \$75 million in County justice system costs. A third study completed in 1997 revealed that the proportion of deportable aliens in the jail had increased to 17% and that one-year re-arrest rates had gone up to 45%. The CCJCC is now actively working within the County to develop and support aggressive legislative and operational strategies to address the problem of criminal aliens.

Street Gangs

Established in 1981 and added to the CCJCC as a subcommittee in 1985, the Interagency Gang Task Force provides a countywide forum for the development of cooperative strategies to combat gangs and gang-related crime. The Task Force has become known throughout the State as a model for multi-agency coordination and cooperation as a result of its reports to the Board of Supervisors, projects related to community mobilization, and a number of other activities including gang prevention publications such as the "Networker" and the "Gang Prevention Resource Guide".

Data Processing and Video Technology

In the area of technology, the CCJCC has played a major leadership role in creating a model approach for the coordinated development of justice information systems. Through the Information System Advisory Body (ISAB), numerous individual justice agencies are willing partners in cooperative systems development, resource sharing, and development of countywide standards for data exchange and reliability. The Committee, through ISAB, created the County's first comprehensive,

long-range information systems master plan in 1983. The plan provided the "blueprint" for an integrated countywide network of 20 independent criminal justice information systems and system interfaces, and included a plan for long-term financing and systems development. Now known as the Los Angeles Justice Information System (LAJIS), this system will arguably be the largest integrated system of local government computer applications in the world. **(See Attachment C)**

ISAB also provided the leadership to develop plans for a high-speed countywide digital communications network to serve the local criminal justice system. When completed, this network will interconnect every major County justice facility and be capable of supporting a wide range of telecommunication services including data, voice, fax, e-mail, image, and video.

In the area of video communication, the CCJCC has been at the forefront in developing cooperative approaches to video arraignment and video conferencing systems. The Committee has implemented five major pilot projects and in 1992 developed the County's first long range strategic plan for criminal justice video-conferencing systems.

Legislative Strategies

The CCJCC has been active in supporting a wide range of critical State and Federal legislation to improve the local justice system. The Committee has also played a leadership role in developing statewide measures for County sponsorship to improve the criminal justice system. Most noteworthy of these efforts was a comprehensive bill on computer crime. The bill was developed by the Committee, approved by the Board as a County-sponsored measure, and signed into law in 1987. Additionally, the CCJCC has originated legislative proposals in areas of revenue collection, child abuse, and video arraignment, and currently advocates a number of legislative proposals regarding the apprehension and deportation of criminal aliens.

Special Projects

The CCJCC has been especially successful in promoting cooperative strategies to solve specific justice system problems. Of particular importance are projects involving drug treatment courts, jail-based drug treatment, emergency response planning, electronic monitoring home detention, regional vehicle theft enforcement, and local implementation of the "3-Strikes" legislation. These projects have brought justice agencies together into working partnerships that have tested new ideas and

innovative programs as well as increased awareness and understanding of systemwide issues.

Summary

The Committee's accomplishments since 1981 have reaffirmed the Board's original belief that cooperation, coordination, and communication are vital to the effectiveness and efficient operation of our local criminal justice system. The CCJCC has provided an effective forum for systemwide discussions of critical issues and common problems that have produced innumerable improvements in the administration of justice in Los Angeles County.

Countywide Criminal Justice Coordination Committee

SUBCOMMITTEES & PROJECTS

February 1999

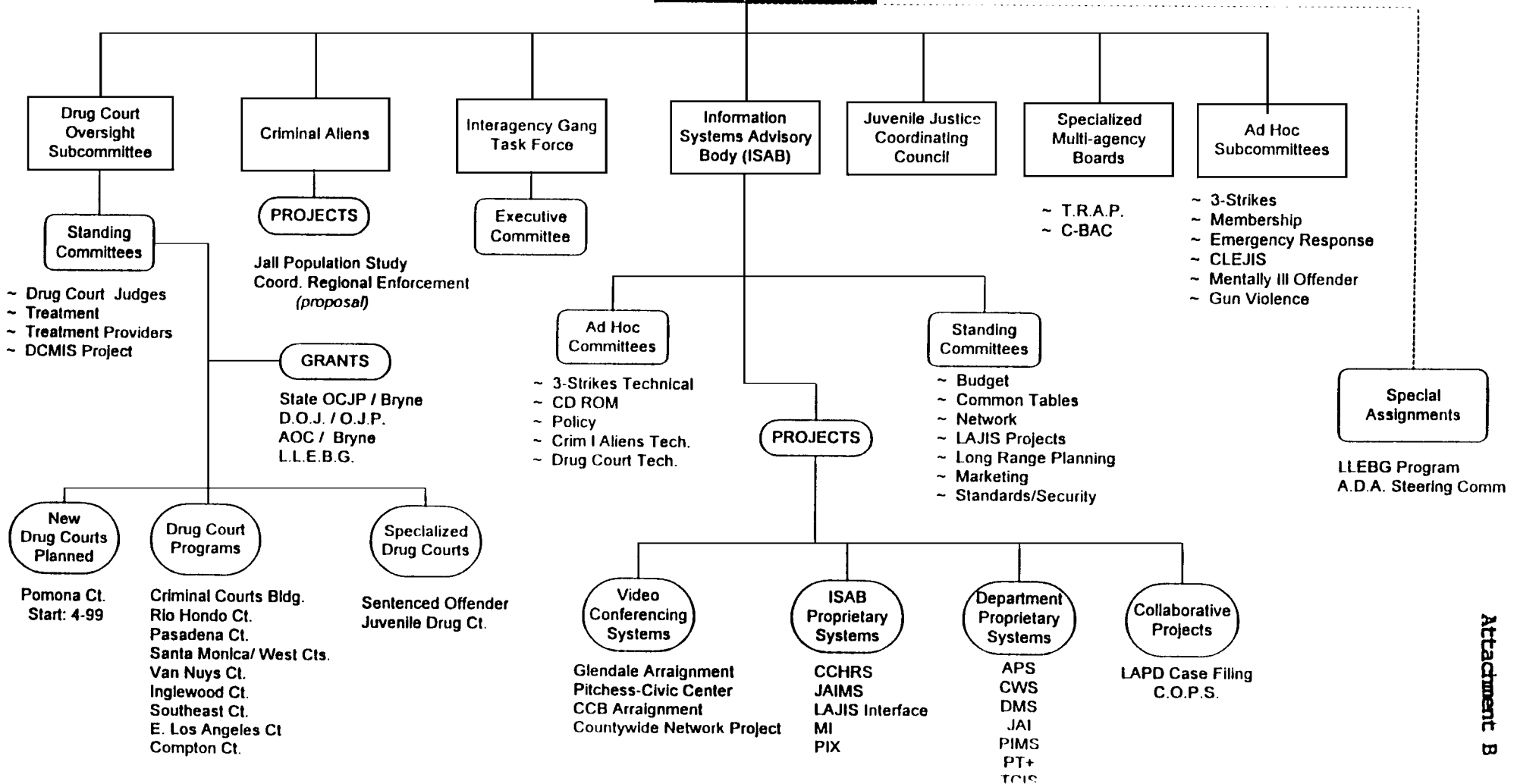
Board of Supervisors

County of Los Angeles

500 W. Temple St., Room 520

Los Angeles, California

CCJCC



Appendix 16

Collaborative Efforts Involving Indigent Defense: Fulton County, Georgia's Experience

COLLABORATIVE EFFORTS INVOLVING INDIGENT DEFENSE

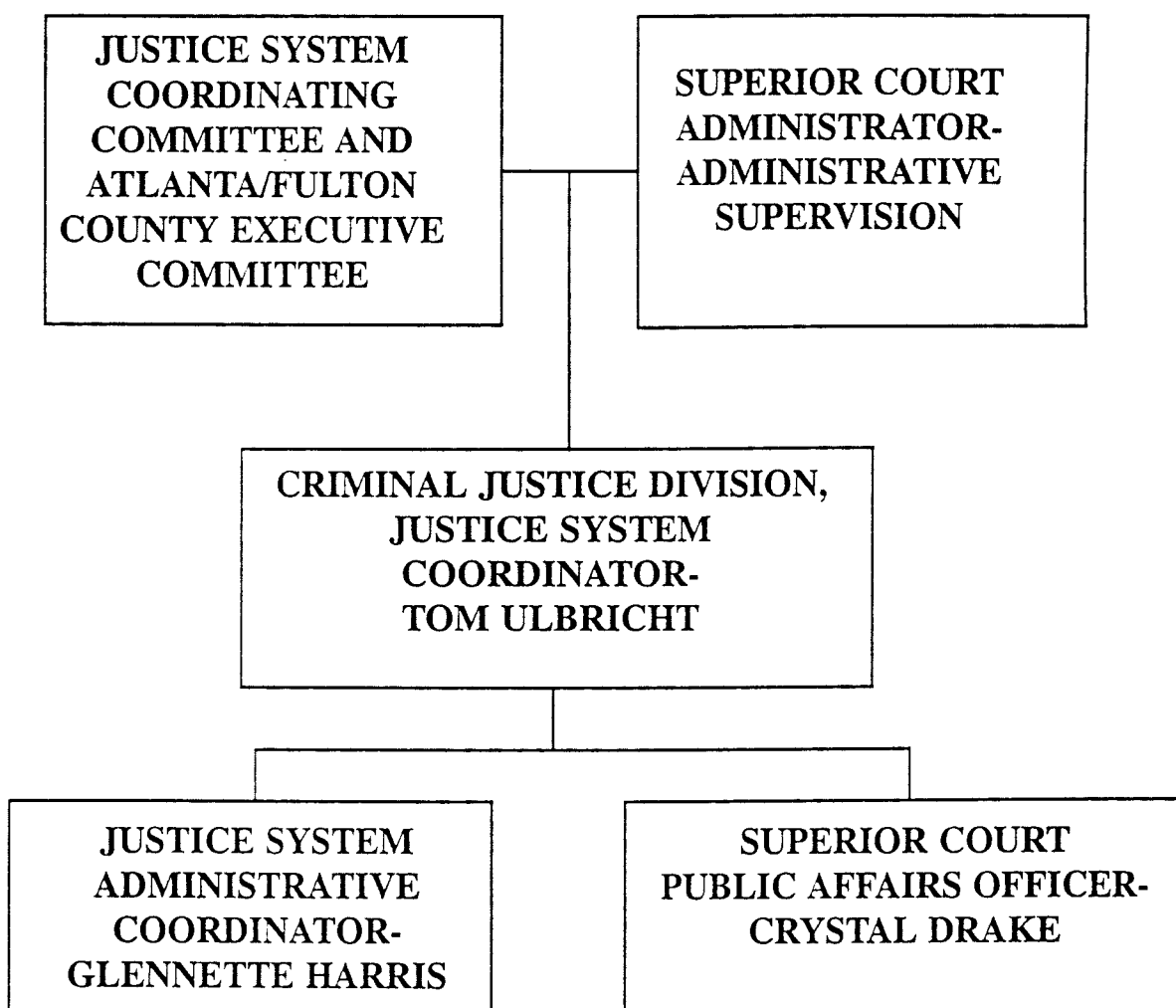
FULTON COUNTY, GEORGIA'S
EXPERIENCE



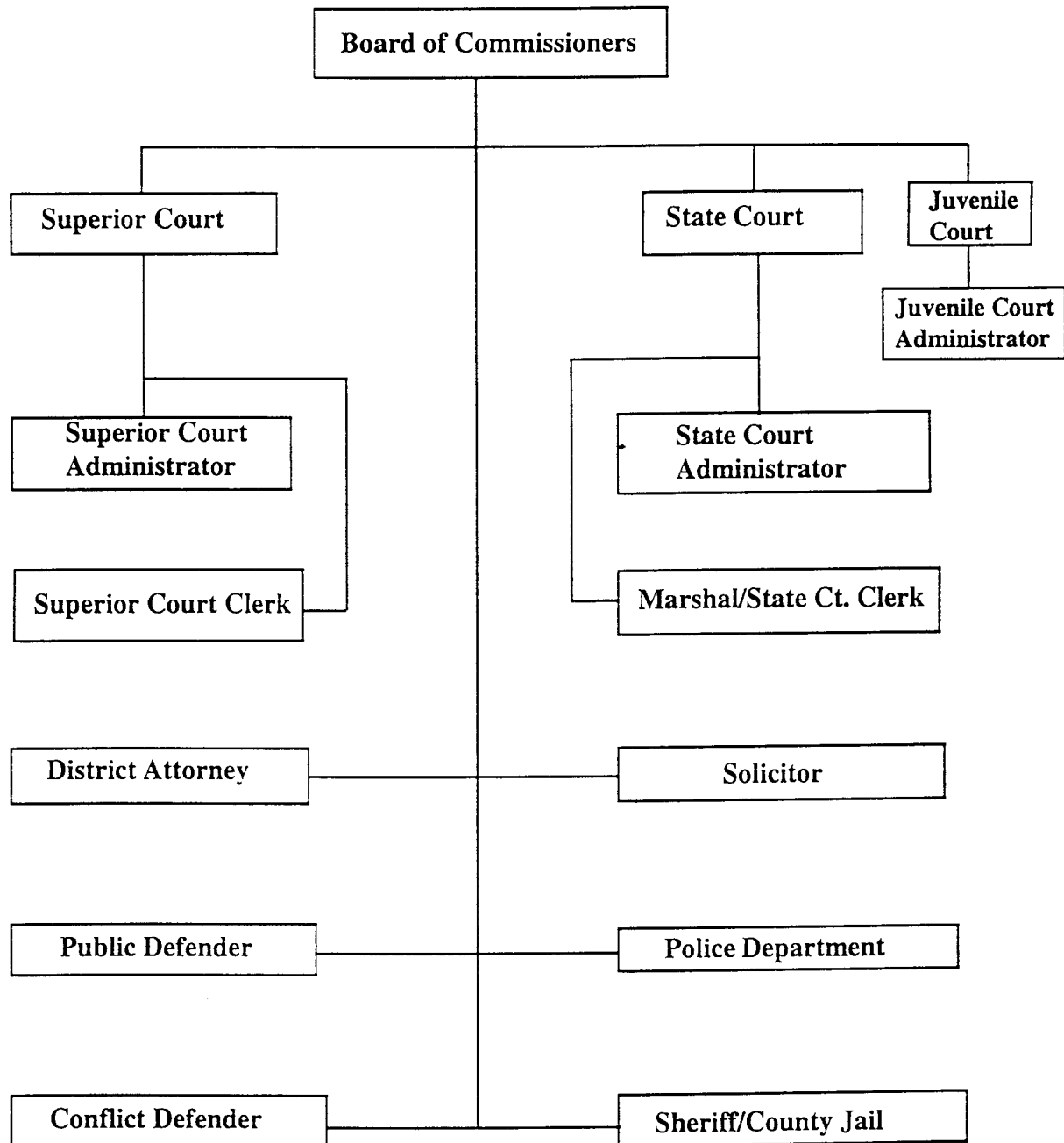
STEPHEN O. KINNARD, CHIEF MEDIATOR
11TH CIRCUIT COURT OF APPEALS

TOM C. ULBRICHT, JUSTICE SYSTEM COORDINATOR
FULTON COUNTY SUPERIOR COURT

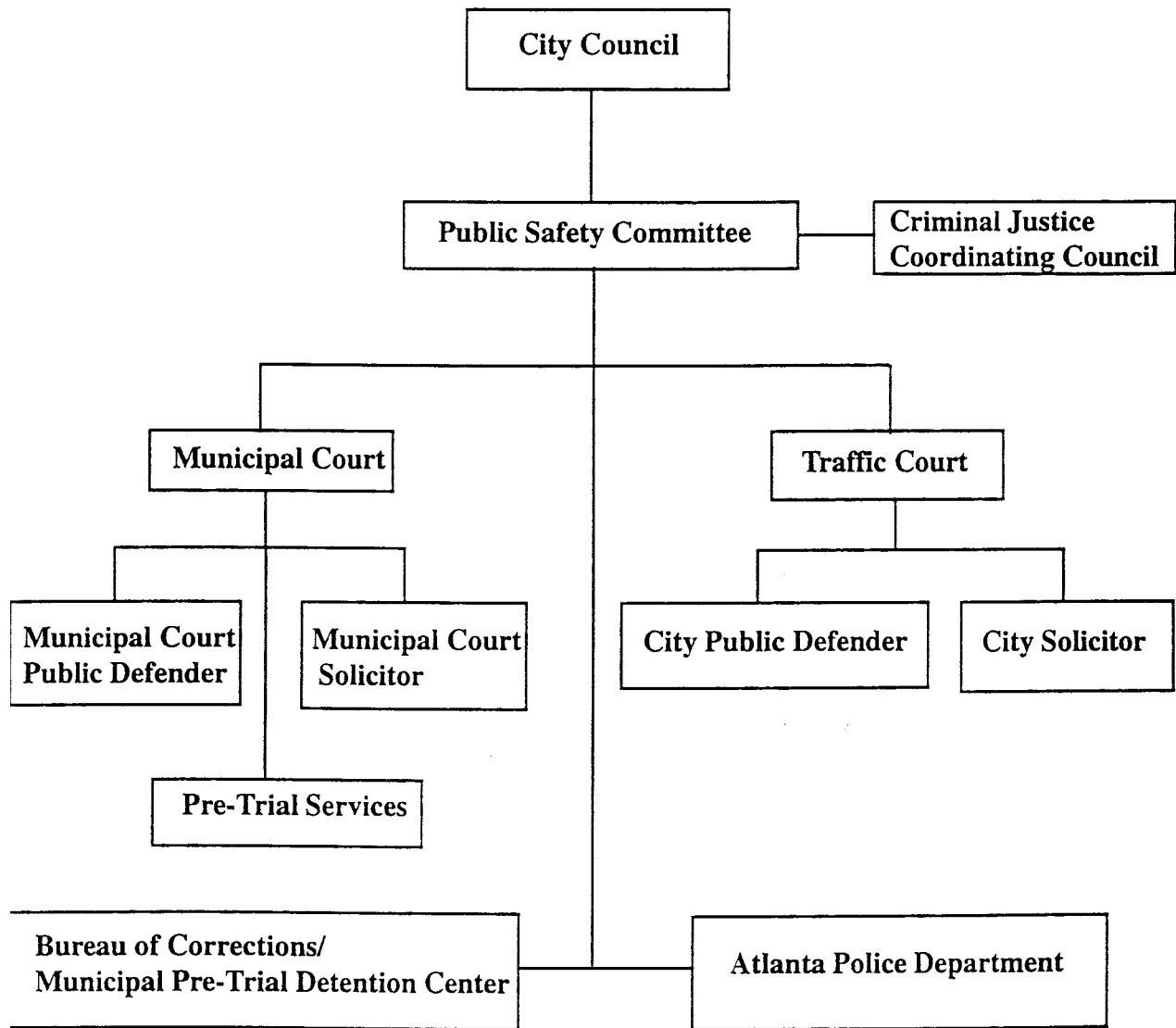
**ORGANIZATION CHART
JUSTICE SYSTEM COORDINATOR AND STAFF**



FULTON COUNTY JUSTICE SYSTEM MAJOR COMPONENTS



CITY OF ATLANTA JUSTICE SYSTEM MAJOR COMPONENTS



FULTON COUNTY JUSTICE SYSTEM ORGANIZATIONS

Atlanta/Fulton County Committees:

Atlanta/Fulton County Justice System Executive Committee (Meets As Needed)

Co Chairs: Ch. Judge - Superior Court;
Ch. Judge Municipal Court

Members:

<u>Fulton County</u>	<u>City of Atlanta</u>
2 Commissioners-	Mayor/Chief Operating Officer
Bd of Commiss.	Ch. Judge Traffic Court
Ch. Judge - State Court	Chair. Pub. Safety Com.
District Attorney	City Solicitor
Solicitor-General	City Pub. Defender
Public Defender	Atlanta Pol. Chief
Sheriff	Chief of Corrections
F.C. Pol. Chief	City Ct. Pub. Defender
Clerk, Super. Court	City Ct. Solicitor
Clerk, State Court	
County Manager	

State: Director, Adult Probation

Purpose: To re-engineer the City/County Criminal Justice System.

Justice System Grants Subcommittee (Meets Monthly)

Facilitator: Justice System Coordinator

Members: County Grants Coordinator,
District Attorney, Superior Court Administrator,
F.C. Police Chief, State Court Administrator,
Clerk of Superior Court, Adult Probation,
Finance Department, Sheriff, Municipal
Court Representative

Purpose: Clearinghouse for Grants Info.

Fulton County Committees:

Board of Commissioners

Comprehensive Justice Information System (CJIS) Committee (Meets Monthly)

Chair: Ch. Judge Sup. Court/Designee
Members: Chair. Bd. of Comm.,
Ch. Judge State Court, District Attorney,
Sheriff, Pub. Defender, Solicitor, Clerk -
Sup. Ct., Clerk - State Ct., F.C. Police
Chf., Dir. Emerg. Communicat., Marshal
Staff: Dir. Inform. Techn.

Dept.- John Rowan (404)730-7200
Proj. Mgr. Inform Techn. Dept.-
Peter Paizs (404)224-0977
Judy Cramer, Superior Court
Administrator (404)730-4518
Tom Ulbricht, Justice System
Coordinator (404) 730-8103

Purpose: To set policy for the
implementation of CJIS

Justice System Coordinating Committee (Meets Quarterly)

Facilitator: vacant

Members: Representatives of 19 City and
County Justice System Agencies and Citizen
Representatives, North and South Fulton

Purpose: To provide collaboration between
County Justice System Agencies and
ensure information dissemination

Staff: Tom C. Ulbricht (404)730-8103

Criminal Case Management Team (Meets Monthly)

Chairman: Chief Judge Thelma W.C. Moore

Members: Department Heads and Selected
individuals from the Justice System

Purpose: To evaluate and make recommendations
on operational and informational matters between
departments and governments in the Justice
System.

Staff: Angel Wheeler (404-730-4039)

Subcommittees: Pre-Indictment; Post-Indictment,
Clerk's Office Suppt; Forms, Data/Management
Info.; Backlog Reduction (SEE ATTACHED
FOR DETAIL)

Staff to Executive Committee:

Justice System Coordinator-Tom Ulbricht (404)730-8103
Admin. Coordinator-Glennette Harris (404)893-0823
Super. Ct. Administrator-Judy Cramer(404)730-4518
D.A. Planning Dir-Marla Robinson (404)730-4874
Atlanta Staff Representative-Joi Thompson (404)865-8100

Legend:

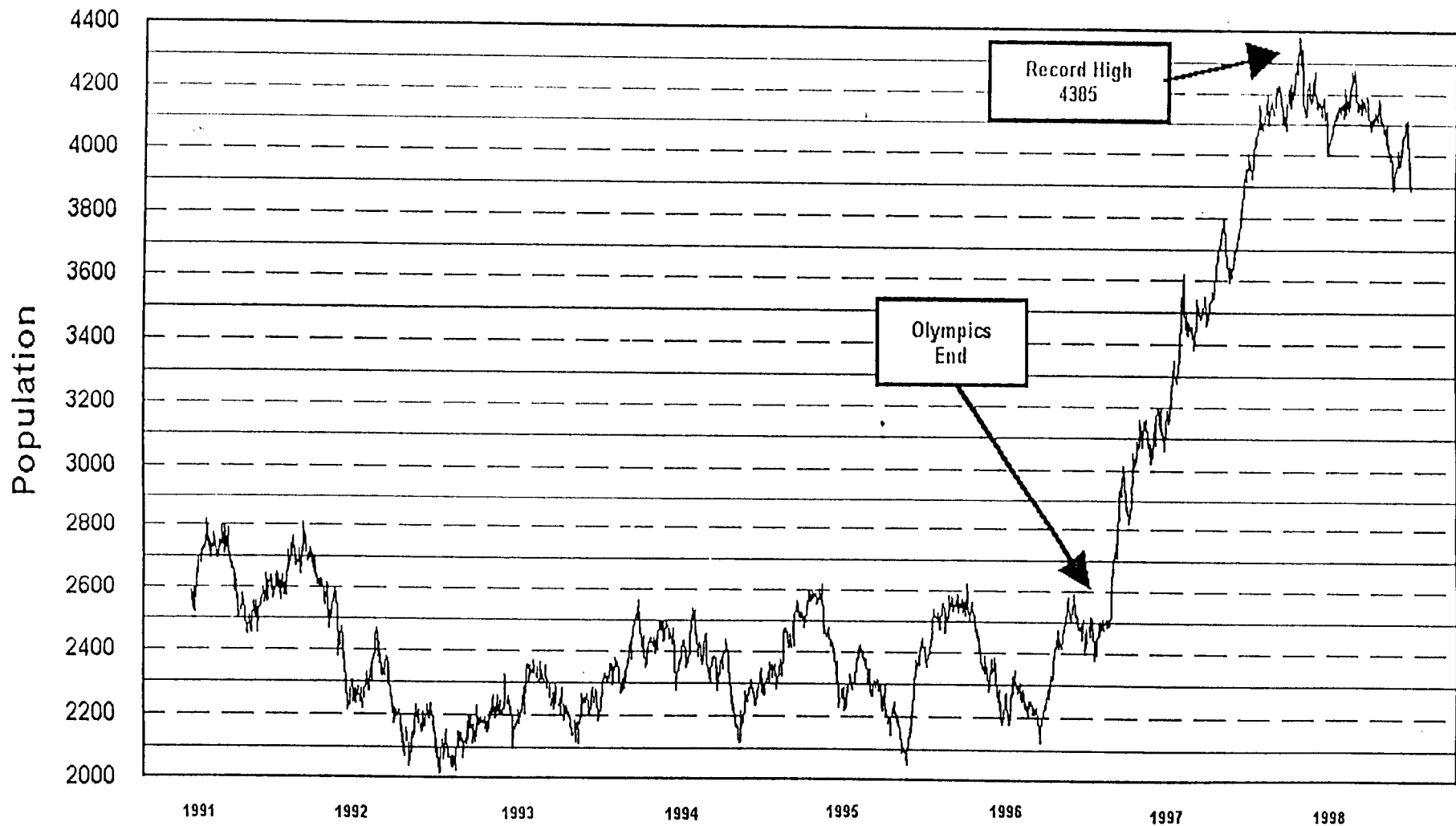
Coordinating Relationship ---
Reporting Relationship ———

Revision Date: November 10, 1998 (TCU)

Fulton County Jail

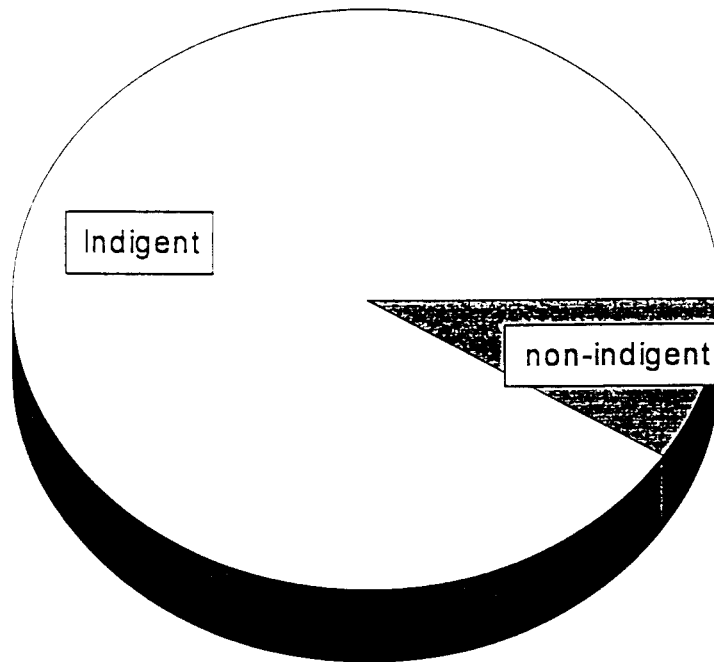
Daily Inmate Population

For the Period of 01/01/91 through 06/30/98



INDIGENT DEFENDANTS

FULTON COUNTY, GEORGIA

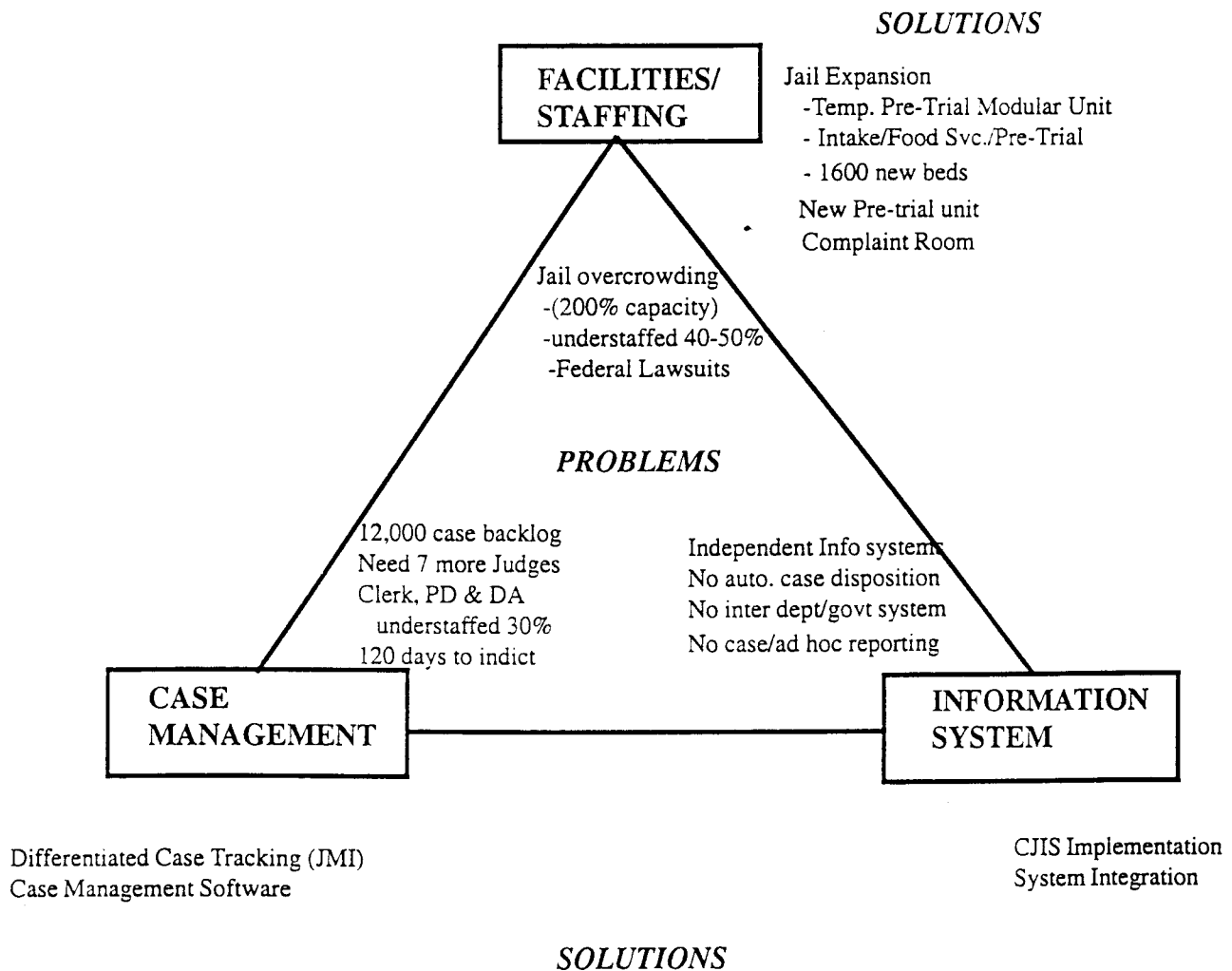


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FULTON COUNTY JUSTICE SYSTEM PROBLEMS AND SOLUTIONS



SUCCESS TO DATE FROM COLLABORATION

1. Created Atlanta/Fulton County Justice System Executive Committee
2. Created Comprehensive Justice Information System (CJIS) Policy Board
3. Attracted \$26 million for CJIS Projects
4. Collaborated on Information Sharing between City and County
5. Supported effort to fund and create a Complaint Room. Attracted \$2 million for the effort, to date.
6. Brought the jail population down from 4350 to 3500.
7. Have created a new Pre-trial Services Unit staffed with 30+ individuals. Have created a supervision unit with over 200 clients. Projected to be 3500 by end of the year.
8. Obtained bond funds for jail expansion and new pre-trial facility with 2 court rooms.
9. Have obtained funding for 4 consulting contracts for planning and implementation programs. (Pre-trial, Superior Court Clerk, Case Management, and Justice System Implementation Program).
10. Have helped put Public Defender and Conflict Defender on equal basis with Prosecution.
11. Have helped streamline the bindover information flow process and moving toward paperless information flow.
12. Have created a new Drug Court, Drug Treatment Facility, and a new Family Court

LESSONS FROM THE FULTON COUNTY JUSTICE SYSTEM COORDINATING COMMITTEE INITIATIVE

1. A high percentage of defendants in a local criminal justice system are indigent.
2. Some problems that impact on indigent defense do not directly involve the public defender's office.
3. The public defender needs to be at the table and needs to be seen as an equal, not a stepchild.
4. There is no public awareness of the problems confronted by a local criminal justice system. It is out-of-sight and out-of-mind for most of the public. Many public officials are not aware of these problems. For example, none of these problems have become part of the ongoing debate about the response to crime and what to do about it.
5. Local criminal justice systems generally address problems only in response to a crisis. Justice planning needs to become institutionalized in local government.
6. There is no identifiable public constituency for the problems in the local criminal justice system. The components of the local justice system must be their own constituency.
7. There needs to be coordination of the various segments of the local criminal justice system for there to be any change. You need some type of forum (committee) that is actively engaged in addressing all the needs of your local justice system. It needs to meet regularly. It needs to have its own staff. It needs to establish short-term and long-term goals. It needs to develop an evolving "justice system plan."
8. You need a strong administrative infrastructure to support the components of your local justice system. In addition to the key justice system departments, the information technology department, finance department, and city or county manager's office, need to be actively involved with whatever committee is established.

9. Judges need to understand the dynamics and challenges of the entire local justice system and need to lead as a group.

10. Involvement of the appropriate local public officials is crucial to any change. Public officials will fund the local criminal justice system appropriately when:

- they understand that it is an interrelated system;
- they appreciate the total budget impact of the local criminal justice system and the increasing demands made on that system and their respective budgets;
- they appreciate that it is in their economic self-interest to insure that their local criminal justice system, including the defense function, has the resources and administrative support needed to address its tasks;
- they are presented with solid information on which to make sound fiscal decisions.

11. When you present a unified front you can be successful.

12. “Problems in indigent defense” is probably not the theme that will lead the charge to an improved overall justice system. We suggest “a rising tide raises all boats.” Indigent defense has its best long-term chance of improvement when you improve the entire local justice system.

Appendix 17

**Office of the Maryland State Public Defender,
Juvenile Court Division,**

The Detention Response Unit



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GOVERNOR

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The Detention Response Unit

In July of 1994, the Juvenile Justice Advisory Council of Maryland (the local State Advisory Group) awarded the Office of the Public Defender a federal grant from the Office of Juvenile Justice and Delinquency Prevention to establish the Detention Response Unit (DRU). The DRU is now funded through the joint efforts of the Office of the Public Defender and the Department of Juvenile Justice. The DRU is designed to address the over-representation of minority youth in secure detention and to improve the quality of representation for detained youth.

The DRU staff consists of two attorneys and two licensed social workers who work at the detention facilities and in the courts throughout Maryland. The DRU attorneys and social workers receive cases through screening the secure detention population and from juvenile court attorneys. The DRU has offices at three of the state's secure detention facilities which allows them to maintain direct contact with youth and the facilities' staff. Maintaining a presence at the facilities enables the DRU to concentrate its efforts on the target population by talking to youth and helping them access community programs, by locating family resources and by working with the Department of Juvenile Justice to develop appropriate placements for committed youth.

Through the collaborative efforts of the DRU attorneys and social workers the unit seeks immediate reviews of detention orders when alternative family or community resources are accessed; advocates for holistic dispositions by doing psychosocial evaluations and providing expert testimony; minimizes both pre-disposition and post-disposition time in secure detention by advocating for less restrictive environments and by bringing court reviews to expedite release. The social workers act as both information gatherers and sources of expert opinion for the attorneys. The attorneys then use this information and/or expert testimony to advocate for alternatives to secure confinement.

This intensified approach to representation of detained youth has successfully reduced the duration of detention and increased the use of appropriate alternatives to secure detention in a substantial number of cases. Consequently, the DRU has begun to accomplish its goals of reducing the over-representation of minority youth in secure confinement and improving the quality of their representation.

Appendix 18

Planning and Implementing a Drug Court or Community Court



JAMES S. EGAR
PUBLIC DEFENDER OF YOLO COUNTY

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Woodland, California 95695

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NATIONAL SYMPOSIUM ON
INDIGENT DEFENSE

**PLANNING AND IMPLEMENTING A DRUG COURT OR COMMUNITY
COURT**

There are few absolute rules that apply in all situations when it comes to establishing drug or community courts. However, having made mistakes as well as having success has been a good teacher. It is with this experience in mind that the following suggestions are respectfully offered for your consideration.

1. Don't depend on outside funding unless necessary and then only to the extent required by your particular circumstances.

Yolo County began its drug court operation based upon the cooperation of the criminal justice partners and a small appropriation (\$40,000) from the County for drug testing. A great deal was accomplished by re-organizing the court calendar and the part time assignment of a prosecutor, defender and probation officer. County Alcohol and Drug department personnel provided the initial treatment component. The mutual inter-dependance of local participants together with a strong commitment to succeed enabled the drug court and later the domestic violence court to be implemented.

2. Avoid adversarial relations that are not absolutely necessary (don't have fights you don't have to engage in).

Remember this is a collaborative process. Rarely, will any party have all things their way. For example, California law changed to require guilty pleas before enrollment in drug diversion programs unless the prosecutor agrees to the contrary. However, laboratory results and police reports are often not available for some time

after arraignment. Therefore, defenders could not competently plead their clients guilty without review of the evidence. All this combined to significantly delay the prompt identification and enrollment of eligible drug court participants as recommended in the Key Components of Drug Courts published by the Department of Justice. Local prosecutors and defenders compromised to allow enrollment in drug court immediately after arraignment without a guilty plea to encourage and promote treatment aspects. Prosecutors concerns for cases becoming stale were met by mandating deferred pleas for all participants who had not completed the treatment program within nine (9) months of enrollment. This arrangement addressed and reconciled competence of counsel issues, stale prosecution issues and speedy treatment issues.

3. Training is critical for all participants.

Judges, prosecutors, defenders and probation officers are all skilled professionals in their fields. However, that expertise doesn't automatically confer competence concerning treatment, substance abuse or psychological components of abuse. Remember, these collaborative courts are a marriage of legal and treatment/therapeutic components. They are successful because both criminal justice and treatment issues are incorporated. There is no substitute for education. Many organizations including the Office of Justice Programs of the U.S. Department of Justice, National Association of Drug Court Professionals and National Drug Court Institute offer outstanding training programs for all of the various players in the collaborative courts.

4. Non traditional approaches may be required to achieve success.

The traditional adversarial criminal justice system approach to substance abuse and domestic violence has resulted in limited results. Drug courts have demonstrated markedly better achievements with this same population. How can ethical responsibilities be reconciled with treatment needs?

For instance, defense attorneys often voice concerns about confidentiality requirements or fiduciary obligations which may be infringed on by drug court models. These concerns are both valid and appropriate. Perhaps they can be addressed by true informed consent in advance of enrollment. Attorneys and clients must confer and be

aware that drug court is not for everyone and that once enrolled the attorneys approach may change from traditional advocate to counselor (at law). It may be appropriate to divulge certain information about a client. This should only be done after fully advising the client in advance of enrollment in drug court and agreement with this practice. It is in essence a waiver of some traditional ethical responsibilities. Informed consent is a key.

5. Reach out and involve diverse groups in planning and implementing drug courts.

The temptation is to rely on traditional criminal justice participants in planning and implementing drug and community courts. It is true that they are key players who must be involved. However, there are many other entities who can be involved to develop a stake in the success of these programs.

Police departments can be powerful allies who are likely to be supportive upon learning of increased supervision and diminished recidivism resulting from drug courts. School districts may be involved and have a strong incentive to support drug courts. The clergy and religious community are usually willing participants in programs designed to ameliorate substance abuse. The corporate and business communities may provide support and resources and often provide valuable assistance.

Local governmental entities such as cities, districts and associations should be involved if possible. They will probably be relieved to learn of the drug courts functions and will be among the principal beneficiaries of its work.

These suggestions are by no means a comprehensive list. Your jurisdictions may require different attention. Please feel free to contact our office if we can be of any assistance with your courts.



NATIONAL SYMPOSIUM ON INDIGENT DEFENSE:

**Looking Back, Looking Forward,
2000–2010**

FEBRUARY 18–19, 2010 • WASHINGTON, DC

Agenda

Thursday, February 18

Time	Event	Location
8:30–8:50 a.m.	Opening and Welcome <ul style="list-style-type: none">• Symposium Moderator: Charles Ogletree, Jesse Climenko Professor of Law, Harvard University Law School, Cambridge, MA• The Honorable Laurie O. Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC	Grand Ballroom
8:50–9:15 a.m.	Keynote Address <ul style="list-style-type: none">• The Honorable Eric H. Holder, Jr., Attorney General of the United States, U.S. Department of Justice, Washington, DC	Grand Ballroom
9:15–10:30 a.m.	Plenary 1: Fulfilling the Promise of Counsel <p>More than 45 years have passed since the U.S. Supreme Court's decision in <i>Gideon</i>, and it has been decades since the Court extended the right to counsel to juveniles. Yet the struggle to establish effective, well-funded defense programs throughout the 50 States continues. Although there has been important progress since the last National Symposium in 2000, there is undeniable, mounting evidence that we are far from the goal of equal justice. This plenary will provide an overview of the progress and setbacks in implementing the Sixth Amendment over the last decade. The panel of leaders from different arenas will be challenged to consider lessons learned from failed attempts at public defense reform as well as successful efforts and to think beyond past practices as they explore what it will take to secure the right to counsel in America.</p> <p>Moderator: Jo-Ann Wallace, President and Chief Executive Officer, National Legal Aid & Defender Association, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none">• Avis E. Buchanan, Director, Public Defender Service for the District of Columbia, Washington, DC• The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV• Nancy Diehl, Retired Attorney, Wayne County Prosecutor's Office, Detroit, MI• The Honorable Lydia P. Jackson, State Senator, Louisiana Senate, Shreveport, LA• Norman Lefstein, Professor of Law and Dean Emeritus, Indiana University School of Law, Indianapolis, IN	Grand Ballroom

Time	Event	Location
10:30–10:45 a.m.	Break	Promenade and Second Floor Foyer
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops	
Workshop 1–A	<p>The Current Crisis in Indigent Defense: Litigation Solutions</p> <p>National reports often have referred to a crisis in indigent defense stemming from too many indigent clients to be represented and insufficient financial resources to provide the necessary defense services. Several defense programs have challenged their caseloads in court by filing motions to halt assignments or withdraw from cases. In a few jurisdictions, systemic lawsuits have been filed challenging entire systems of indigent defense. This workshop will focus on litigation alternatives for dealing with the current crisis.</p> <p>Moderator: Stephen Bright, President and Senior Counsel, Southern Center for Human Rights, Atlanta, GA</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Dana Hlavac, Deputy County Manager for Criminal Justice Services, Mohave County, Kingman, AZ • The Honorable Mark Stephens, District Public Defender, Public Defender's Office, Knoxville, TN • Parker Thomson, Attorney, Hogan and Hartson, Miami, FL 	Colonial
Workshop 1–B	<p>Legislative Changes in Public Defense Services</p> <p>Since the last National Symposium on Indigent Defense sponsored by the U.S. Department of Justice, 11 States have amended their statutes dealing with the delivery of indigent defense services. Some States have enacted laws that transform the way in which indigent defense is delivered, whereas others have made relatively modest changes in their statutes. This panel will explore structural changes that States have made for indigent defense and the extent to which they are succeeding or hold the promise of doing so in the future.</p> <p>Moderator: Mary Lou Leary, Principal Deputy Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Robin Huseby, Executive Director, Commission on Legal Counsel for Indigents, Valley City, ND • The Honorable Lydia P. Jackson, State Senator, Louisiana Senate, Shreveport, LA • Ronald W. Schneider, Chair, Maine Commission on Indigent Legal Services, Portland, ME 	Chinese
Workshop 1–C	<p>How Investigative Reports Can Support Defense Reform</p> <p>Several recent reports have documented the dramatic problems facing public defense and solutions implemented by several jurisdictions. This discussion will focus on how to leverage existing reports and recommendations as well as how to obtain new reports to support reform at local, State, and national levels. Panelists will share key findings and successes from the most recent reports issued by the National Right to Counsel Committee, sponsored by The Constitution Project; the National Legal Aid & Defender Association; the National Association of Criminal Defense Lawyers, and others.</p> <p>Moderator: Michelle Molloy, Senior Vice President, Spitfire Strategies, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Rhoda Billings, Co-Chair, National Right to Counsel Committee, Lewisville, NC • Robert Boruchowitz, Professor, Seattle University School of Law, Seattle, WA • David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA 	Senate

Time	Event	Location
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops (continued)	
Workshop 1–D	<p>The Evolving Role of the Public Defender</p> <p>Public defenders in increasing numbers are expanding the role they play in shaping the quality of justice in their communities. By collaborating with other criminal justice agency leaders, reaching out to the community, engaging the media, and advocating for policies that enhance the integrity of the courts, public defense leaders have embraced new ways to advocate for clients and their communities. This workshop will explore how defender leadership roles enhance justice, the Federal government's efforts in supporting these new roles, and how collaborative leaders can work together to improve resources, systems, and community support.</p> <p><i>Moderator: Paul Butler, Professor, George Washington University Law School, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Melanca Clark, Counsel, Brennan Center for Justice, New York University School of Law, New York, NY</i> • <i>The Honorable Lee Satterfield, Chief Judge, Superior Court of the District of Columbia, Washington, DC</i> • <i>Robin Steinberg, Executive Director, The Bronx Defenders, Bronx, NY</i> 	Pennsylvania
Workshop 1–E	<p>Indigent Defense and Criminal Justice Reform: Challenges and Opportunities</p> <p>Recent criminal justice reform efforts have been aimed at cutting costs while improving fairness and reducing crime. Current initiatives include diverting funds from the prison industrial complex to more cost-effective treatment options, renewing commitment to research-driven sentencing and corrections practices, and recognizing the importance of addressing the needs of former inmates returning to their homes and communities. This workshop will focus on the important role public defense can play in stimulating desirable change and the ramifications that criminal justice reform initiatives may have for efforts to improve public defense systems.</p> <p><i>Moderator: Richard Goemann, Director, Defender Legal Services, National Legal Aid & Defender Association, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Tony Fabelo, Director of Research, Council of State Governments Justice Reinvestment Initiative, Austin, TX</i> • <i>William Leahy, Chief Counsel, Committee for Public Counsel Services, Boston, MA</i> • <i>Anthony Thompson, Professor of Clinical Law, New York University School of Law, New York, NY</i> 	Rhode Island
Workshop 1–F	<p>Effective Representation and Drug Courts</p> <p>While drug courts have been praised for effectiveness in reducing drug abuse and recidivism, this approach to justice raises new challenges for defense counsel to ensure due process while leveraging access to critical resources for their client. This session will explore the legal and ethical concerns of drug courts and their impact on public defense and examine innovative ways in which the national community can partner to ensure that such courts strike an appropriate balance between treatment and due process.</p> <p><i>Moderator: A. Elizabeth Griffith, Associate Deputy Director, Bureau of Justice Assistance, U.S. Department of Justice, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Rick Jones, Executive Director, Neighborhood Defender Service of Harlem, New York, NY</i> • <i>Michael P. Judge, Chief Public Defender, Los Angeles County, Los Angeles, CA</i> • <i>The Honorable Michael L. Rankin, Associate Judge, Superior Court of the District of Columbia, Washington, DC</i> 	Georgia

Time	Event	Location
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops (continued)	
Workshop 1–G	<p>The Privatization of Juvenile Punishment: Has It Gone Too Far?</p> <p>In the wake of one of the biggest justice scandals in Luzern County, PA, which resulted in the recent indictment of two juvenile court judges accused of taking bribes from a private detention center for sending children to that facility, speakers will address whether an insurmountable conflict of interest exists with “for profit” private detention centers. The audience will develop an understanding of the pros and cons between private “for profit” and private “not for profit” detention centers and service providers. Additionally, while the growing use of ankle monitoring bracelets has helped court-involved children return to school rather than spending their days in detention centers, they cost money; in many cases, that cost is passed along to the accused, regardless of his or her economic status. The workshop panel will examine these issues and present recommended solutions for the justice community.</p> <p>Moderator: Christopher Gowen, Senior Staff Attorney, American Bar Association, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center, Philadelphia, PA • Marc Schindler, Interim Director, District of Columbia Department of Youth Rehabilitation Services, Washington, DC • Wansley Walters, Director, Miami-Dade County Juvenile Services, Miami, FL 	Massachusetts
Workshop 1–H	<p>Systemic Advocacy and Juvenile Defense: Bringing About Meaningful Change</p> <p>Speakers will convey their experiences bringing about meaningful change relevant to juvenile defense through systemic advocacy. They will share their insights on successful reform strategies that they have employed in their State legislatures, commissions, and courts. Audience participants who are interested in learning about how Pennsylvania is addressing the serious concerns raised in the Luzerne County case and how litigation has been used to increase resources for juvenile defenders should attend this session. Information about relevant Federal legislation will also be provided.</p> <p>Moderator: Kathi Grasso, Senior Juvenile Justice Policy and Legal Advisor, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Lisa Baker, State Senator, Pennsylvania Senate, Dallas, PA • Elizabeth Clarke, President, Juvenile Justice Initiative, Evanston, IL • Robin Dahlberg, Senior Staff Attorney, American Civil Liberties Union Racial Justice Program, New York, NY 	New York
11:45 a.m.–12:45 p.m.	<p>Working Lunch</p> <ul style="list-style-type: none"> • The Honorable Thomas E. Perez, Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice, Washington, DC 	State/East
12:45–1:30 p.m.	State Delegation Discussions	State/East

Time	Event	Location
1:45–3:00 p.m.	Plenary 2: Innovations in Juvenile Defense Reform Innovation—growing out of acute necessity—is spreading throughout juvenile indigent defense systems nationwide. When it comes to innovation in the public defense of youth, we need to look across several systems including typical public defender offices, appointed/contract counsel systems, nonprofit law centers, and law school clinical programs. While public defenders and other appointed counsel represent the bulk of youth who come into the system, nonprofit law centers and law school clinics are vital and contribute greatly to reform. This session will explore current strategies and innovations that have been initiated by juvenile defenders and others in public defender offices, courts, communities, clinics, and law centers across the country. Moderator: <i>Kristin H. Henning, Professor of Law and Co-Director, Juvenile Justice Clinic, Georgetown University Law Center, Washington, DC</i> Speakers: <ul style="list-style-type: none"> • <i>The Honorable Sue Bell Cobb, Chief Justice, Alabama Supreme Court, Montgomery, AL</i> • <i>Robert Listenbee, Jr., Chief, Juvenile Unit, Defender Association of Philadelphia, Philadelphia, PA</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>The Honorable Robert C. Scott, Chairman, Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, U.S. House of Representatives, Washington, DC</i> 	Grand Ballroom
3:00–3:15 p.m.	Break	Promenade and Second Floor Foyer
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops Workshop 2–A MacArthur Juvenile Indigent Defense Action Network As part of the MacArthur Juvenile Indigent Defense Action Network (JIDAN) Project, California, Florida, Massachusetts, and New Jersey are establishing baseline data to undertake strategies that will improve the representation of youth in their States' juvenile justice systems. While the MacArthur JIDAN Project will point the way in groundbreaking capacity-building efforts over the next 2 years, the dire situation of juvenile defenders calls for recognition at the highest policy levels of our justice system. This workshop will explore the status quo and how increased Federal and State support for professional training and support for juvenile defender organizations could help to change it. The audience will learn about how California is building an infrastructure for a statewide juvenile defense community—to reach lawyers wherever they are with training, expert/appellate advice, and assistance in fighting for quality representation. New Jersey has focused on providing post-dispositional representation, representation at the initial detention hearing, and improved special education advocacy. Through JIDAN, the Miami Dade Public Defender is implementing attorney training and developing attorney performance evaluations and supervisory materials. Moderator: <i>Melodee Hanes, Counsel to the Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i> Speakers: <ul style="list-style-type: none"> • <i>Sue Burrell, Staff Attorney, Youth Law Center, San Francisco, CA</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Sandra Simkins, Clinical Professor, Children's Justice Clinic, Rutgers School of Law—Camden, Camden, NJ</i> 	Senate

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–B	<p>Juvenile Defense as a Specialty: The Role and Obligations of Counsel</p> <p>Juvenile defenders have to know everything criminal defense counsel has to know (evidence, sentencing law, trial practice), but they also have to know about what works in rehabilitation, adolescent development, and how to do post-sentencing advocacy, including education and conditions of confinement work. Despite the demanding array of areas in which they must have expertise, they often find themselves an afterthought in discussions about indigent defense services, in practice standards, and in discussions of defender career tracks. This workshop will examine and propose solutions to perpetual problems in not recognizing juvenile defense as its own specialty and forcing talented attorneys to transfer out of juvenile defense to advance in the office.</p> <p>Moderator: <i>Patricia Puritz, Executive Director, National Juvenile Defender Center, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Kristin H. Henning, Professor of Law and Co-Director, Juvenile Justice Clinic, Georgetown University Law Center, Washington, DC</i> • <i>Robert Listenbee, Jr., Chief, Juvenile Unit, Defender Association of Philadelphia, Philadelphia, PA</i> • <i>Winston A. Peters, Assistant Public Defender, Los Angeles County Public Defender's Office, Los Angeles, CA</i> 	Pennsylvania
Workshop 2–C	<p>Post-Disposition Advocacy: Making a Critical Difference in Outcomes for Youth</p> <p>Many public defender offices and private bar attorneys terminate their representation of youth at the disposition hearing. It is no surprise that youth recidivate at high rates as they do not have the benefit of legal counsel during the pendency of the youth's involvement in the juvenile delinquency system. Speakers will address State law, standards, and policy that describe the responsibilities of children's counsel in delinquency proceedings to include monitoring the child's interest at every stage of delinquency representation post-disposition. They will highlight public defender offices that have created post-disposition juvenile advocacy units that are making a critical difference in ensuring youth have access to special education and other necessary services, as well as promising public policy initiatives that are leading toward long-term reform.</p> <p>Moderator: <i>Jeff Slowikowski, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Patricia Lee, Deputy Public Defender, Managing Attorney, Juvenile Unit, San Francisco Public Defender's Office, San Francisco, CA</i> • <i>The Honorable Michael Nash, Presiding Judge, Los Angeles Juvenile Court, Los Angeles, CA</i> • <i>Eric J. Zogry, Juvenile Defender, State of North Carolina Office of the Juvenile Defender, Durham, NC</i> 	Rhode Island

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–D	<p>Maintaining Your Office’s Resources in a Difficult Budgetary Climate</p> <p>Chief Defenders will share their innovative and creative ways of working to maintain a budget in these challenging economic times. You will hear suggestions on ways to build unconventional collaborations and community support for defender services and other ways to stretch your dollars.</p> <p>Moderator: Lynn Overmann, Senior Advisor to the Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Jeff Adachi, Public Defender, Office of the San Francisco Public Defender, San Francisco, CA • Edwin Burnette, Vice President of Defender Legal Services, National Legal Aid & Defender Association, Alexandria, VA • Yvonne Smith Segars, Public Defender, New Jersey Office of the Public Defender, Trenton, NJ 	Chinese
Workshop 2–E	<p>Youth Waiver Into the Adult Criminal Justice System: Review of Research and Defender Responses</p> <p>Current research findings reflect that youth waiver into the adult criminal justice system has an adverse impact on rates of recidivism and is detrimental to overall youth well-being. Panelists will provide an overview of this research and the defender responses.</p> <p>Moderator: Liz Ryan, President and Chief Executive Officer, Campaign for Youth Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Robert A. Hahn, Senior Scientist, U.S. Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Atlanta, GA • Richard E. Redding, Associate Dean for Administration and Professor of Law, Chapman University School of Law, Orange, CA • Santha Sonenberg, Attorney, Public Defender Service for the District of Columbia, Washington, DC 	Georgia
Workshop 2–F	<p>Status Offenders: The Role of Legal Counsel</p> <p>This panel will explore the topic of status offenders and the importance of legal representation in their cases. Given the real threat of incarceration, the question “Are status offenders entitled to counsel?” needs to be answered. Speakers will provide insights into this question and on Federal law, model statutes, and other programs that ensure attorneys and appropriate interventions for status offenders. In addition, speakers will engage the audience in a discussion of a pending appellate case addressing the issue in Washington State.</p> <p>Moderator: Elissa Rumsey, Compliance Monitoring Coordinator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Robert Boruchowitz, Professor, Seattle University School of Law, Seattle, WA • Jessica R. Kendall, Assistant Staff Director, American Bar Association Center on Children and the Law, Washington, DC • Robert Schwartz, Executive Director, Juvenile Law Center, Philadelphia, PA 	Massachusetts

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–G	<p>Representation, Education, and Modeling: Multidisciplinary Law School Clinics</p> <p>Law school clinical programs serve many different purposes in promoting best practices in juvenile representation. These programs, often because they enjoy smaller case loads and sufficient resources, offer clients excellent and well-supervised representation by student-attorneys. The education received by law students allows them to focus on their development as ethical, prepared, and reflective attorneys. These programs often can model best practices to the public defenders, appointed counsel, and courts in which they practice. This session will explore the design and implementation of three such multidisciplinary programs: the Georgetown University Law Center Juvenile Justice Clinic, the Suffolk University Law School Juvenile Justice Center, and the University of the District of Columbia Juvenile and Special Education Law Clinic.</p> <p>Moderator: <i>Lou Ann Holland, Program Manager, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Wallace J. Mlyniec, Professor of Law, Co-Director, Juvenile Justice Clinic, Georgetown Law Center, Washington, DC</i> • <i>Jeffrey J. Pokorak, Professor and Director of Clinical Programs, Suffolk University Law School, Boston, MA</i> • <i>Joseph B. Tulman, Professor of Law, David A. Clarke School of Law, University of the District of Columbia, Washington, DC</i> 	New York
4:30–5:45 p.m.	<p>Plenary 3: Indigent Defense Reform: The Many Modes of Collaboration</p> <p>“Collaboration” is an often-used word (particularly around reform efforts), but what does collaboration really mean for indigent defense reform? This plenary will provide a detailed look at how some States have begun indigent defense improvements by collaborating with the judiciary, bar leaders, nonprofits, legislators, grassroots leaders, and funders to protect and advance the Sixth Amendment right to counsel. This session will highlight how some leaders do not come to the issue with a natural affinity for defense reform, but rather assume a leadership role through effective collaboration that enlightens them as to the extent of the indigent defense crisis in their States. The panelists will explore creative ideas for improving collaborative reform efforts.</p> <p>Moderator: <i>Cait Clarke, Director, Public Interest Law Opportunities, Equal Justice Works, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brian Austin, Jr., Under Secretary, Criminal Justice Policy and Planning Division, Office of Policy and Management, Hartford, CT</i> • <i>The Honorable Daniel T. Eismann, Chief Justice, Idaho Supreme Court, Boise, ID</i> • <i>The Honorable Rodney G. Ellis, State Senator, Texas Senate, Houston, TX</i> 	Grand Ballroom
5:45 p.m.	Adjourn for the Day	

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops	
Workshop 3–A	<p>Collaborations With the Private Bar</p> <p>In many States, indigent defense counsel is appointed from the private bar. In that case, the collaboration between public and private defense attorneys becomes key to ensuring effective representation for indigent defendants. The private bar can also be an effective and influential partner in ensuring reform in indigent defense. This session will focus on these valuable public/private partnerships.</p> <p>Moderator: Robin Maher, Director, American Bar Association Death Penalty Representation Project, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Frank X. Neuner, Jr., Managing Partner, Laborde & Neuner, Lafayette, LA • Donald P. Salzman, Pro Bono Counsel, Skadden, Arps, Slate, Meagher, and Flom, Washington, DC • Johanna Steinberg, Assistant Counsel, NAACP Legal Defense and Educational Fund, Inc., New York, NY 	Senate
Workshop 3–B	<p>State Collaborations for Systemic Reform—Learning From Setbacks</p> <p>This session will explore several different State-level efforts to reform indigent defense systems. The discussion will examine collaborative strategies in Georgia, Mississippi, and Texas. In particular, panelists will discuss what strategies were employed in each State and why they were chosen, who the key parties to bring to the table in any such effort are, and which strategies worked and which didn't, and why. Panelists will discuss what we can learn from these successes and their setbacks and how to employ these lessons in the future.</p> <p>Moderator: Virginia Sloan, President, The Constitution Project, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • James D. Bethke, Director, Texas Task Force on Indigent Defense, Austin, TX • The Honorable Norman S. Fletcher, Retired Justice, Of Counsel, Brinson, Askew, Berry, Seigler, Richardson & Davis LLP, Rome, GA • Phyllis E. Mann, Director, National Defender Leadership Institute, National Legal Aid & Defender Association, Cedar Hill, TX 	Pennsylvania
Workshop 3–C	<p>Court Involvement in Reform—Critical Judicial Collaborations</p> <p>The judiciary has tremendous influence and can be a key partner in seeking indigent defense reforms. This session will explore the different collaborations between the defense bar and the judiciary that have been successful in achieving reform, focusing on the success of New York, Nevada, and North Carolina.</p> <p>Moderator: Norman Reimer, Executive Director, National Association of Criminal Defense Lawyers, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Rhoda Billings, Co-Chair, National Right to Counsel Committee, Lewisville, NC • The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV • The Honorable Judith Kaye, Retired Justice, Of Counsel, Skadden, Arps, Slate, Meagher and Flom, New York, NY 	Chinese

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops (continued)	
Workshop 3–D	<p>Effective Use of Media: Examples of Collaboration</p> <p>This session will explore how State reform efforts can be accelerated by collaborations involving the press and other key State leaders. The successful use of local and national media advances the common goals of collaboration among indigent defense providers and committed State leaders.</p> <p>Moderator: <i>Maureen Dimino, Indigent Defense Counsel, National Association of Criminal Defense Lawyers, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA</i> • <i>Alan Maimon, Special Projects Reporter, Las Vegas Review-Journal, Las Vegas, NV</i> • <i>The Honorable Gerald Malloy, State Senator, South Carolina Senate, Hartsville, SC</i> 	Rhode Island
Workshop 3–E	<p>Unlikely Allies—Collaborating Around Litigation</p> <p>Litigation is generally confrontational and antagonizing. However, it may also serve as a focal point around which traditional adversaries and unlikely allies can work to realize common goals. This session will discuss how advocates for the indigent, public defenders, and the judiciary have used lawsuits to enlist the assistance of each other and bar associations, prosecutors, legislators, and other defense attorneys to obtain more resources for indigent defense programs.</p> <p>Moderator: <i>Robin Dahlberg, Senior Staff Attorney, American Civil Liberties Union, New York, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Karla Gray, Retired Chief Justice, Montana Supreme Court, Helena, MT</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Susan O. Storey, Chief Public Defender, Connecticut Division of Public Defender Services, Office of Chief Public Defender, Hartford, CT</i> 	Georgia
Workshop 3–F	<p>Partnering With Foundations, Governments, and Nonprofits to Improve Indigent Defense</p> <p>This session explores how nonprofit organizations, State and local governments, and private foundations can work together to leverage resources for indigent defense reform. Leveraging private and public dollars to provide opportunities for the next generation of public defense lawyers is one way to bring about lasting improvements inside rural and urban justice systems. Panel members will speak about their perceptions of the current reform efforts under way. The discussion will explore ways to leverage resources with foundations, nonprofits, and governments to improve the quality of representation for the indigent.</p> <p>Moderator: <i>Cait Clarke, Director, Public Interest Law Opportunities, Equal Justice Works, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Kirsten Levingston, Program Officer, The Ford Foundation, New York, NY</i> • <i>Leonard Noisette, Program Director, Criminal Justice Fund, Open Society Institute, New York, NY</i> • <i>Jonathan Rapping, Chief Executive Officer and Founder, Southern Public Defender Training Center, Atlanta, GA</i> • <i>Rebecca Rittgers, Programme Executive, U.S. Reconciliation and Human Rights Programme, The Atlantic Philanthropies, New York, NY</i> 	Colonial

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops (continued)	
Workshop 3–G	<p>State Administering Agencies as a Resource for Indigent Defense*</p> <p>This session will provide an overview of how State Administering Agencies across the Nation determine how to spend U.S. Department of Justice Byrne Justice Assistance Grant (JAG) formula grants for criminal justice and how some States have been successful in securing a portion of those funds to go toward indigent defense.</p> <p>Moderator: <i>Kay Chopard Cohen, Deputy Executive Director, National Criminal Justice Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brendan O’Neill, Public Defender, Delaware Public Defender’s Office, Wilmington, DE</i> • <i>Christine P. Rapillo, Director of Juvenile Delinquency Defense, Connecticut Division of Public Defender Services, Hartford, CT</i> • <i>Jeanne Smith, Director, Division of Criminal Justice, Colorado Department of Public Safety, Denver, CO</i> <p><i>*This session is repeated in Workshop 4–H on Friday, February 19 from 11:15 a.m. to 12:15 p.m.</i></p>	Massachusetts
Workshop 3–H	<p>Law School Partners for Training: Broadening and Deepening Education for Bench and Bar</p> <p>Funding for indigent defense and for training defenders is chronically inadequate in jurisdictions across the country. Often considered “neutral ground” in the sometimes contentious discussion of how to address juvenile and criminal justice issues, law schools also often have faculty members working on relevant issues and an institutional mission that includes service to the profession. In this session, participants will consider how to leverage resources at law schools to expand indigent defense and to help meet related training needs for lawyers and judges. The presenters for this workshop have been involved in successful training, continuing legal education, and advanced multidisciplinary education programs for the bench and bar, in addition to systemic reform efforts. Emphasizing juvenile justice, the presenters will discuss partnership opportunities and specific programs and design ideas.</p> <p>Moderator and Speaker: <i>Joseph B. Tulman, Professor of Law, David A. Clarke School of Law, University of the District of Columbia, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Eden Harrington, Assistant Dean of Clinical Education and Public Service, University of Texas School of Law, Austin, TX</i> • <i>Carole Wagan, Director, Center for Advanced Legal Studies, Suffolk University Law School, Boston, MA</i> 	New York
9:45–11:00 a.m.	<p>Plenary 4: Ensuring Quality Representation</p> <p>How can your jurisdiction ensure quality representation for indigent defendants? There are a number of nationally recognized legal and ethical standards and guidelines for public defenders, assigned counsel, and contract attorney systems. Yet since the 1963 Gideon and the 1967 <i>Gault</i> rulings by the Supreme Court, States, counties, and jurisdictions across the Nation have established varying means of providing public representation for adult and juvenile defendants unable to afford a private defense attorney. Plenary speakers will discuss the importance of nationally recognized standards related to caseloads, attorney training, and ethical considerations in the provision of indigent defense. The value of training, supervision, and management will be discussed from a variety of perspectives, as well as the impact of quality representation on clients, judges, prosecutors, and the judicial system. Subsequent workshops will highlight the importance of reform efforts related to caseloads, workloads, attorney performance, ethics, and other standards in indigent defense systems across the United States.</p> <p>Moderator: <i>Stephen Bright, President and Senior Counsel, Southern Center for Human Rights, Atlanta, GA</i></p>	Grand Ballroom

Time	Event	Location
	Speakers: <ul style="list-style-type: none"> • <i>The Honorable Stanford Blake, Circuit Court Judge, Eleventh Judicial Circuit of Florida, Criminal Division, Miami, FL</i> • <i>Derwyn Bunton, Chief District Defender, Orleans Public Defender's Office, New Orleans, LA</i> • <i>Marvin Anderson, Exoneree, Innocence Project, Hanover, VA</i> 	
11:00–11:15 a.m.	Break	Promenade and Second Floor Foyer
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops	
Workshop 4–A	Beyond Counting Cases: Workloads for Crime Reduction <p>How do defender caseloads impact quality representation and other standards for indigent defense? This workshop will provide a picture of caseloads carried by public defender offices nationwide, as well as the policies and procedures public defender offices have adopted to ensure manageable caseloads that follow nationally accepted standards. Speakers from Wisconsin will speak specifically about the impact of defender caseloads from the prosecutorial perspective and the steps the State took to mandate caseload limits. Discussion will focus on how State and local indigent defense systems can support quality representation through caseload limits.</p> <p>Moderator: <i>Caroline Cooper, Associate Director and Research Professor, Justice Programs Office at the School of Public Affairs, American University, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Lynn Langton, Statistician, Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC</i> • <i>The Honorable John T. Chisolm, District Attorney, Milwaukee County District Attorney's Office, Milwaukee, WI</i> • <i>Nicholas L. Chiarkas, Public Defender, Wisconsin State Public Defender Agency, Madison, WI</i> 	Chinese
Workshop 4–B	The Court's Role in Ensuring Due Process: The Nevada Model <p>On January 4, 2008, the Nevada Supreme Court took a monumental step toward ensuring justice for the poor, adopting a series of reforms regarding the representation of indigent defendants in criminal and juvenile cases. In its order, the Nevada Supreme Court set forth extensive ethical standards for the representation of indigent defendants, ordered that public defenders inform county officials when they are unable to accept further appointments in line with such standards, and removed the judiciary from the administration of right to counsel services. The order concluded that by "any reasonable standard" a caseload crisis exists in Clark (Las Vegas) and Washoe (Reno) counties where public defenders are handling caseloads far in excess of nationally recommended limits. The workshop will focus not only on "what" the Court did, but perhaps more importantly, on the process undertaken to reach such reforms.</p> <p>Moderator: <i>Emily Chiang, Visiting Assistant Professor, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV</i> • <i>David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA</i> • <i>Franny A. Forsman, Federal Public Defender, Law Offices of the Federal Public Defender, Las Vegas, NV</i> 	Colonial

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–C	<p>Michigan Builds a Movement for Public Defense Reform</p> <p>What does it take to turn policy into effective practice? The State of Michigan was able to develop broad-based, bipartisan political and public support for reform in a climate of diminishing resources. The Eleven Principles of a Public Defense Delivery System were adopted in 2002 and serve as the fundamental standards for a public defense delivery system to provide effective, efficient, quality, and ethical representation to those in criminal proceedings who cannot afford to hire an attorney. The State legislature recently announced a new subcommittee on indigent defense as the Campaign for Justice, in partnership with the State Bar of Michigan, is pursuing legislative changes to the approach by which Michigan provides adequate defense for the poor population. Workshop speakers will describe the practical strategies they applied in one of the most fiscally challenged States in the Nation to jump-start statewide reform efforts, protect early and intermediate gains, and implement best practices to ensure quality indigent defense.</p> <p>Moderator: <i>Steve Zeidman, Professor and Director of the Criminal Defense Clinic, City University of New York Law School, New York, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Nancy J. Diehl, Retired, Wayne County Prosecutor's Office, Detroit, MI</i> • <i>The Honorable Mark Meadows, Representative, Michigan House of Representatives, Lansing, MI</i> • <i>Laura Sager, Executive Director, Campaign for Justice, Lansing, MI</i> 	Senate
Workshop 4–D	<p>Using Standards to Improve the Quality of Defense Services With Assigned Counsel</p> <p>Virtually every public defense delivery system in the United States, in whole or part, relies on assigned counsel. This session will explore in a variety of settings how standards are used to evaluate and establish effective and efficient assigned counsel systems and how standards are used to measure and monitor the performance of attorneys within it.</p> <p>Moderator: <i>Adele Bernhard, Associate Professor, Pace Law School, Pace University, White Plains, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>William J. Leahy, Chief Counsel, Committee for Public Counsel Services, Boston, MA</i> • <i>Fern Laethem, Director, Sacramento County Conflict Criminal Defenders, Sacramento, CA</i> • <i>James R. Neuhard, Director, State Appellate Defender Office, Detroit, MI</i> 	Pennsylvania
Workshop 4–E	<p>Justice Sought: Ethical Duties of Attorneys in the Criminal Justice System</p> <p>This panel will explore several important issues as follows: What are the ethical duties of defenders, prosecutors, and judges when confronted with a defense office that is failing to provide competent representation? What about attorney members of oversight commissions who are responsible for public defense budgets as lawyers—do they have ethical duties to prevent unethical conduct by the indigent defense attorneys who work within their systems?</p> <p>Moderator: <i>Maureen Dimino, Indigent Defense Counsel, National Association of Criminal Defense Lawyers, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Monroe Freedman, Professor of Law, Hofstra University Law School, Garden City, NY</i> • <i>Henderson Hill, Attorney, Ferguson, Stein, Chambers, Gresham and Sumter, PA, Charlotte, NC</i> • <i>Robin Maher, Director, American Bar Association Death Penalty Representation Project, Washington, DC</i> 	Rhode Island

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–F	<p>Measure by Measure: Using Data to Evaluate Quality and Advocate for Indigent Defense Funding</p> <p>Reliable statistics can mean so much more to your organization than just numbers. Data systems can be used to highlight indigent defense needs, successfully argue for more resources, and ultimately free up the time of staff in indigent defense delivery systems to focus on their primary responsibility: quality defense. Panelists will provide answers to the following important questions: How can organizations know whether standards, caseload reductions, and other reforms make a difference?; How can a public defender agency adequately monitor the performance of multiple assigned counsel and contract attorney systems across the State?; and What pitfalls should a public defender agency be aware of when implementing a system to gather caseload statistics?</p> <p>Moderator: <i>Duren Banks, Chief, Prosecution and Adjudication Statistics Unit, Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>T. Patton Adams, Executive Director, South Carolina Commission on Indigent Defense, Columbia, SC</i> • <i>Margaret Gressens, Research Director, North Carolina Office of Indigent Defense Services, Durham, NC</i> • <i>Carl Richey, President, Justice Works, LLC, Bountiful, UT</i> 	Georgia
Workshop 4–G	<p>Importance of Holistic Representation for Juvenile Justice</p> <p>Standards and guidelines serve to inform all stakeholders—indigent defense providers, judges, prosecutors, law enforcement, probation officers, State and county officials, and others affected by the juvenile justice system—about the specific role that defense counsel should play in representing children charged with crimes. Indeed, publicly endorsed standards help those with little experience with juvenile indigent defendants understand the fundamental requirements for effective representation. While in every justice system defendants may have needs outside the context of adversarial proceedings and of defense work, <i>these needs for comprehensive services and holistic representation are amplified by the unique and precarious position of juveniles in the justice system.</i></p> <p>Because of the panelists' personal leadership in formulating defense quality standards, and in particular the <i>Ten Core Principles for Providing Quality Delinquency Representation through Public Defense Delivery Systems</i>, those attending will have a rare opportunity to hear about the motivations leading to creation of these standards and their development from the authors themselves. Additionally, panelists will consider the obstacles to implementation of these standards, innovative approaches to implementation, and the role of counsel in specialty courts, such as drug and mental health courts, among others.</p> <p>Moderator: <i>Stephanie Baucus, Associate Director, Office of Intergovernmental and Public Liaison, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Patricia Puritz, Executive Director, National Juvenile Defender Center, Washington, DC</i> • <i>Jo-Ann Wallace, President and Chief Executive Officer, National Legal Aid & Defender Association, Washington, DC</i> 	Massachusetts

Friday, February 19

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–H	<p>State Administering Agencies as a Resource for Indigent Defense</p> <p>This session will provide an overview of how State Administering Agencies across the Nation determine how to spend U.S. Department of Justice Byrne Justice Assistance Grant (JAG) formula grants for criminal justice, and how some States have been successful in securing a portion of those funds to go toward indigent defense.</p> <p>Moderator: <i>Kay Chopard Cohen, Deputy Executive Director, National Criminal Justice Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brendan O'Neill, Public Defender, Delaware Public Defender's Office, Wilmington, DE</i> • <i>Christine P. Rapillo, Director of Juvenile Delinquency Defense, Connecticut Division of Public Defender Services, Hartford, CT</i> • <i>Jeanne Smith, Director, Division of Criminal Justice, Colorado Department of Public Safety, Denver, CO</i> 	New York
12:15–1:15 p.m.	<p>Working Lunch</p> <ul style="list-style-type: none"> • <i>The Honorable Lanny A. Breuer, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, DC</i> 	State/East
1:15–2:00 p.m.	State Delegation Discussions	State/East
2:15–3:30 p.m.	<p>Plenary 5: Strengthening Forensic Science</p> <p>In March 2009, the National Academy of Sciences released a congressionally mandated report on the assessment of the needs of the forensic science community and its scientific disciplines. This study of the standards and protocols for analyzing and reporting on evidence led to 13 recommendations to improve the field, including the establishment of a National Institute of Forensic Sciences that would assist in the resolution of the identified inadequacies, as well as improve and advance the forensic sciences. The panel will discuss the state of forensics, the study findings, and their potential impact for the legal community.</p> <p>Moderator: <i>Kristina Rose, Acting Director, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable William J. Fitzpatrick, District Attorney, Onondaga County, Syracuse, NY</i> • <i>Jennifer Friedman, Deputy Public Defender and Forensic Science Coordinator, Los Angeles County Public Defender's Office, Los Angeles, CA</i> • <i>Randall Murch, Associate Director, Research Program Development, Virginia Tech Center for Technology, Security, and Policy, Alexandria, VA</i> • <i>Barry Scheck, Co-Director, The Innocence Project, New York, NY</i> 	Grand Ballroom
3:30–3:45 p.m.	Break	Promenade and Second Floor Foyer

Time	Event	Location
3:45–4:45 p.m.	Plenary 5: Concurrent Workshops	
Workshop 5–A	<p>Case Management Systems: Improving Public Defense and the Criminal Justice System</p> <p>An effective case management system will benefit a public defender office's operations and interactions with stakeholders, whether they are office staff or management, clients, funders, law enforcement agencies, legislators, courts, or the general public. From managing staff workload and caseloads, making a case for funding, and evaluating office performance, to tracking trends and improving efficiency within the office and within the criminal justice system, a good case management system is a useful tool for any public defender office. Well-designed case management systems also demonstrate the ability of appropriately resourced public defender offices to both improve public safety and save the tax payers money. These and other benefits of a good case management system, as well as useful features of such a system, will be discussed.</p> <p>Moderator: <i>Avis E. Buchanan, Director, Public Defender Service for the District of Columbia, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Joshua Dohan, Director, Youth Advocacy Department, Committee for Public Counsel Services, Roxbury, MA</i> • <i>James R. Neuhard, Director, State Appellate Defender Office, Detroit, MI</i> • <i>David Newhouse, Research Assistant Professor, The Spangenberg Project, Hillsboro, OR</i> 	Senate
Workshop 5–B	<p>DNA: Pretrial Investigation and Defense</p> <p>Forensic sciences have been used in courtrooms for many years to prove, illustrate, corroborate, or eliminate suspects or defendants in their roles in the commission of crimes. Applications at the investigative and pretrial stages of a case can be critical to resolving the case or ensuring the appropriate suspect is convicted. This panel will discuss the importance of using DNA evidence at the pretrial phase of a criminal case and how different types of forensic evidence and their results can (and cannot) support the defense strategy.</p> <p>Moderator: <i>Michael G. Sheppo, Director, Office of Investigative and Forensic Sciences, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Lisa Kreeger-Norman, Attorney, United States Army Criminal Investigations Laboratory, Forest Park, GA</i> • <i>Betty Layne DesPortes, Attorney, Benjamin & DesPortes, PC, Richmond, VA</i> • <i>Edward Ungvarsky, Capital Defender for Northern Virginia, Northern Virginia Capital Defender Office, Arlington, VA</i> 	Pennsylvania
Workshop 5–C	<p>DNA: Post-Conviction Investigation and Defense</p> <p>The National Academy of Sciences (NAS) report recommendations to create an independent agency and to separate crime labs from law enforcement are controversial, whereas others have wide support and are consistent with American Bar Association standards. Before the NAS report, actual innocence cases resulted in more than 240 exonerations through post-conviction DNA analysis by testing evidence either not tested at the time of trial or analyzed using less discriminating technology. Crime scene samples once thought to be unsuitable for testing may now yield DNA profiles. Courts must weigh the probative value of DNA evidence in determining whether to grant a motion requesting post-conviction relief.</p> <p>Moderator: <i>Jack Hanna, Criminal Justice Section Director, American Bar Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Paul C. Gianelli, Professor, Case Western Reserve University, Cleveland, OH</i> • <i>Barry Scheck, Co-Director, The Innocence Project, New York, NY</i> • <i>Michael Ware, Special Fields Bureau Chief, Dallas County District Attorney's Office, Dallas, TX</i> 	Chinese

Time	Event	Location
3:45–4:45 p.m.	Plenary 5: Concurrent Workshops (continued)	
Workshop 5–D	<p>Impression Evidence—Probabilistic Testimony, and Scientific and Legal Issues</p> <p>Forensic examinations involving specific forensic disciplines are typically dependent on qualitative analyses and expert interpretation of observed patterns, rather than quantitative results, based on a statistical and scientific foundation. These disciplines include latent fingerprints, questioned documents, shoe prints, and other forms of impression and pattern evidence. This workshop addresses the current fundamental research needs in the areas of impression evidence examination and the legal issues surrounding what is reasonable now and in the future in terms of courtroom presentation of results.</p> <p>Moderator: <i>Edwin Zedlewski, Director, International Center, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Jules Epstein, Associate Professor of Law, Widener University School of Law, Wilmington, DE</i> • <i>Sargur Srihari, SUNY Distinguished Professor, University at Buffalo, The State University of New York, Buffalo, NY</i> 	Rhode Island
Workshop 5–E	<p>Juveniles’ Competence to Exercise Legal Rights and Confessions</p> <p>Recent research on adolescent brain development shows that the juvenile brain is not fully developed in areas of reasoning and judgment. States and juvenile justice professionals are currently re-examining prevailing practices involving juveniles to determine what changes are needed in light of what we now know about adolescent psychosocial and brain development. This panel will focus on issues related to juveniles’ competence to exercise legal rights during interrogations and confessions.</p> <p>Moderator: <i>Jean M. Faria, State Public Defender, Louisiana Public Defender Board, Baton Rouge, LA</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Steven A. Drizin, Clinical Professor of Law, Northwestern University School of Law, Chicago, IL</i> • <i>Barry C. Feld, Centennial Professor of Law, University of Minnesota Law School, Effie, MN</i> • <i>Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center, Philadelphia, PA</i> 	Georgia
Workshop 5–F	<p>Investigative Technologies: GPS, Fingerprints, Cell Phones, and Video</p> <p>In the last decade, the interaction between science, technology, law, and criminal justice has produced as many questions as advances in evidence analysis. In reviewing the most cutting-edge investigative technologies, experts will discuss commensurate standards, admissibility, and other criminal case issues.</p> <p>Moderator: <i>Kristina Rose, Acting Director, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>D. Miles Brissette, Assistant Criminal District Attorney, Tarrant County Criminal District Attorney’s Office, Fort Worth, TX</i> • <i>Gary Perkinson, Agent in Charge, Special Investigations Unit, Oklahoma State Bureau of Investigation, Oklahoma City, OK</i> 	Massachusetts

Friday, February 19

Time	Event	Location
4:50–5:15 p.m.	Closing Session The goal of the Symposium goes beyond just expanding the base of knowledge—the goal is to begin the process of reform so that all defendants, adult and juvenile, are assured access to counsel. In the final session, participants will receive important information regarding how the U.S. Department of Justice can assist in translating the ideas for indigent defense reform discussed at the Symposium into action when they return home. <ul style="list-style-type: none">• <i>The Honorable Laurie O. Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</i>• <i>The Honorable Thomas J. Perrelli, Associate Attorney General, U.S. Department of Justice, Washington, DC</i>	Grand Ballroom
5:15 p.m.	Adjourn	



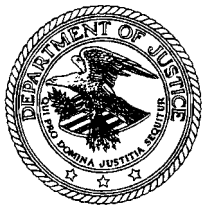
U.S. DEPARTMENT OF JUSTICE

**NATIONAL SYMPOSIUM
ON INDIGENT DEFENSE:**

Looking Back, Looking Forward, 2000–2010

FEBRUARY 18–19, 2010 • WASHINGTON, DC

The U.S. Department of Justice
wishes to thank
the Charles Hamilton Houston Institute for Race and Justice
at the Harvard Law School
for its generous donation of thumb drives
with presentations and other materials
for our Symposium participants.



Office of the Attorney General
Washington, D. C. 20530

January 27, 2010

Dear Friends:

More than four decades ago, Justice Hugo Black wrote: "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." Sadly, today, in spite of the Supreme Court's decisions in *Gideon* and *In re Gault*, too many Americans often find equal justice elusive. Inadequate funding and lack of oversight are just some of the reasons for limited access to counsel for many of our fellow citizens.

As a public official sworn to uphold the law, I am deeply concerned about the constitutional, human, and practical consequences of this problem. The Department of Justice has a responsibility to serve as a guardian of the rights of all Americans. We fail in our duty if we allow basic rights to become privileges reserved only for those who can pay for them, whether they are adult defendants facing criminal charges or juvenile defendants in delinquency proceedings. Furthermore, the success of our criminal justice system depends in part on every American having confidence in it – the more just the system is, the more effective it will be as well. And so we have convened this symposium with you – our partners in the effort to improve indigent defense.

This symposium brings together leaders from across our nation including public defenders, prosecutors, judges, legislators, and advocates for the indigent. It is my hope that we will be able to learn from one another through a frank and earnest exchange of ideas. I encourage each of you to participate in the workshops, which cover important topics such as reform efforts through litigation and legislation, and practical issues such as managing limited resources in a difficult budgetary climate.

But this is only the beginning. The dialogue we engage in here will set the course for future work toward indigent defense reform. I am grateful that you have joined us in this important effort, and I thank you for your commitment to equal justice for all Americans.

Sincerely,

Eric H. Holder, Jr.
Attorney General



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

Dear Colleagues:

I am pleased to join the Attorney General in welcoming you to this National Symposium on Indigent Defense. This symposium builds on two conferences held in 1999 and 2000, at which the Department of Justice (DOJ) began in earnest a national dialogue with the public defense bar on improving the state of indigent defense in America. Those earlier conferences created significant momentum for resolving what was then considered a crisis in our nation's public defense system. Unfortunately, though some progress has been made in the intervening decade, many of the problems identified then remain issues of serious concern today.

As states and communities struggle financially, and already underfunded public defender systems struggle to sustain operations, finding a way to address these problems has become a matter of great urgency. The good news is that some jurisdictions have managed to ensure effective representation of poor and underprivileged defendants, both adults and juveniles. Our job here is to share those promising approaches and to determine how to take them to scale. We will present the latest information on issues ranging from juvenile defense to public-private collaborations to the role of the courts in indigent defense reform. We will also discuss coalition building, standards development, accessing technology, and a host of other important topics.

In addition to sharing information, we hope this symposium will give you something that you can apply immediately upon returning to your community—a plan of action or a message for your colleagues back home about how you can more effectively serve indigent defendants. And this is not a one-time opportunity. The Office of Justice Programs' (OJP) Bureau of Justice Assistance (BJA), which is sponsoring this symposium along with our Office of Juvenile Justice and Delinquency Prevention, is supporting ongoing technical assistance to jurisdictions on indigent defense services. I encourage you to visit BJA's Web site at www.ojp.usdoj.gov/bja for more information about how you can avail yourself of those opportunities. After all, our goal is not simply to expand the base of knowledge, but to begin the process of reform so that all defendants, adult and juvenile, are assured access to counsel.

DOJ and OJP believe strongly in the principle of equal justice under the law. We fully understand that our systems of justice work only if they provide every defendant with competent counsel. We want to work with you to attain that ideal and to help make the promises of *Gideon* and *Gault* realities.

Sincerely,

Laurie O. Robinson
Assistant Attorney General



U.S. DEPARTMENT OF JUSTICE

NATIONAL SYMPOSIUM ON INDIGENT DEFENSE:

Looking Back, Looking Forward, 2000–2010

FEBRUARY 18–19, 2010 • WASHINGTON, DC

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NATIONAL SYMPOSIUM ON INDIGENT DEFENSE:

**Looking Back, Looking Forward,
2000–2010**

FEBRUARY 18–19, 2010 • WASHINGTON, DC

Agenda-at-a-Glance

Thursday, February 18

Time	Event	Location
8:30–8:50 a.m.	Opening and Welcome	Grand Ballroom
8:50–9:15 a.m.	Keynote Address	Grand Ballroom
9:15–10:30 a.m.	Plenary 1: Fulfilling the Promise of Counsel	Grand Ballroom
10:30–10:45 a.m.	Break	Promenade and Second Floor Foyer
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops	
	Workshop 1–A The Current Crisis in Indigent Defense: Litigation Solutions	Colonial
	Workshop 1–B Legislative Changes in Public Defense Services	Chinese
	Workshop 1–C How Investigative Reports Can Support Defense Reform	Senate
	Workshop 1–D The Evolving Role of the Public Defender	Pennsylvania
	Workshop 1–E Indigent Defense and Criminal Justice Reform: Challenges and Opportunities	Rhode Island
	Workshop 1–F Effective Representation and Drug Courts	Georgia
	Workshop 1–G The Privatization of Juvenile Punishment: Has It Gone Too Far?	Massachusetts
	Workshop 1–H Systemic Advocacy and Juvenile Defense: Bringing About Meaningful Change	New York

Thursday, February 18

Time	Event	Location
11:45 a.m.–12:45 p.m.	Working Lunch	State/East
12:45–1:30 p.m.	State Delegation Discussions	State/East
1:45–3:00 p.m.	Plenary 2: Innovations in Juvenile Defense Reform	Grand Ballroom
3:00–3:15 p.m.	Break	Promenade and Second Floor Foyer
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops	
	Workshop 2–A MacArthur Juvenile Indigent Defense Action Network	Senate
	Workshop 2–B Juvenile Defense as a Specialty: The Role and Obligations of Counsel	Pennsylvania
	Workshop 2–C Post-Disposition Advocacy: Making a Critical Difference in Outcomes for Youth	Rhode Island
	Workshop 2–D Maintaining Your Office’s Resources in a Difficult Budgetary Climate	Chinese
	Workshop 2–E Youth Waiver Into the Adult Criminal Justice System: Review of Research and Defender Responses	Georgia
	Workshop 2–F Status Offenders: The Role of Legal Counsel	Massachusetts
	Workshop 2–G Representation, Education, and Modeling: Multidisciplinary Law School Clinics	New York
4:30–5:45 p.m.	Plenary 3: Indigent Defense Reform: The Many Modes of Collaboration	Grand Ballroom
5:45 p.m.	Adjourn for the Day	

Friday, February 19

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops Workshop 3–A Collaborations With the Private Bar Workshop 3–B State Collaborations for Systemic Reform—Learning From Setbacks Workshop 3–C Court Involvement in Reform—Critical Judicial Collaborations Workshop 3–D Effective Use of Media: Examples of Collaboration Workshop 3–E Unlikely Allies—Collaborating Around Litigation Workshop 3–F Partnering With Foundations, Governments, and Nonprofits to Improve Indigent Defense Workshop 3–G State Administering Agencies as a Resource for Indigent Defense* <i>*This session is repeated in Workshop 4–H on Friday, February 19 from 11:15 a.m. to 12:15 p.m.</i> Workshop 3–H Law School Partners for Training: Broadening and Deepening Education for Bench and Bar	Senate Pennsylvania Chinese Rhode Island Georgia Colonial Massachusetts New York
9:45–11:00 a.m.	Plenary 4: Ensuring Quality Representation	Grand Ballroom
11:00–11:15 a.m.	Break	Promenade and Second Floor Foyer
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops Workshop 4–A Beyond Counting Cases: Workloads for Crime Reduction Workshop 4–B The Court’s Role in Ensuring Due Process: The Nevada Model Workshop 4–C Michigan Builds a Movement for Public Defense Reform Workshop 4–D Using Standards to Improve the Quality of Defense Services With Assigned Counsel Workshop 4–E Justice Sought: Ethical Duties of Attorneys in the Criminal Justice System	Chinese Colonial Senate Pennsylvania Rhode Island

Friday, February 19

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
	Workshop 4–F Measure by Measure: Using Data to Evaluate Quality and Advocate for Indigent Defense Funding	Georgia
	Workshop 4–G Importance of Holistic Representation for Juvenile Justice	Massachusetts
	Workshop 4–H State Administering Agencies as a Resource for Indigent Defense	New York
12:15–1:15 p.m.	Working Lunch	State/East
1:15–2:00 p.m.	State Delegation Discussions	State/East
2:15–3:30 p.m.	Plenary 5: Strengthening Forensic Science	Grand Ballroom
3:30–3:45 p.m.	Break	Promenade and Second Floor Foyer
3:45–4:45 p.m.	Plenary 5: Concurrent Workshops	
	Workshop 5–A Case Management Systems: Improving Public Defense and the Criminal Justice System	Senate
	Workshop 5–B DNA: Pretrial Investigation and Defense	Pennsylvania
	Workshop 5–C DNA: Post-Conviction Investigation and Defense	Chinese
	Workshop 5–D Impression Evidence—Probabilistic Testimony, and Scientific and Legal Issues	Rhode Island
	Workshop 5–E Juveniles’ Competence to Exercise Legal Rights and Confessions	Georgia
	Workshop 5–F Investigative Technologies: GPS, Fingerprints, Cell Phones, and Video	Massachusetts
4:50–5:15 p.m.	Closing Session	Grand Ballroom
5:15 p.m.	Adjourn	

Hotel Map

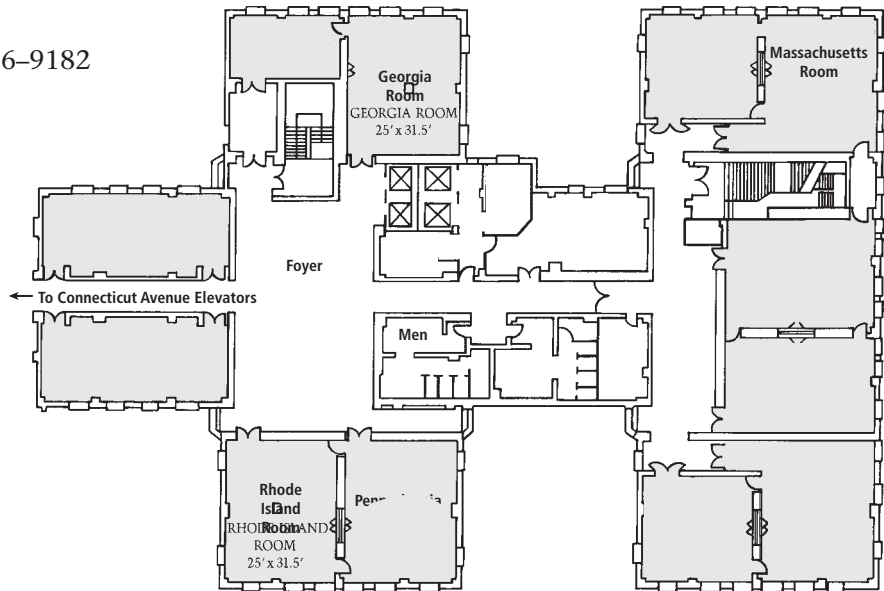
The Mayflower Renaissance Washington, DC Hotel

1127 Connecticut Avenue NW

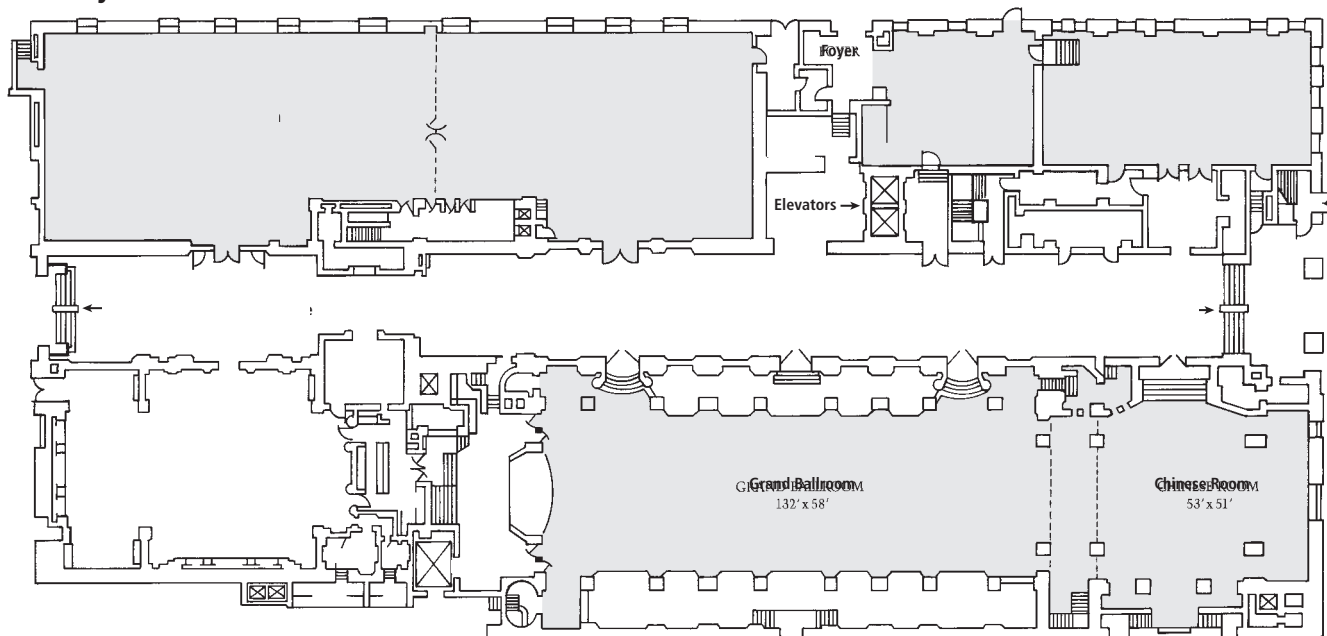
Washington, DC 20036

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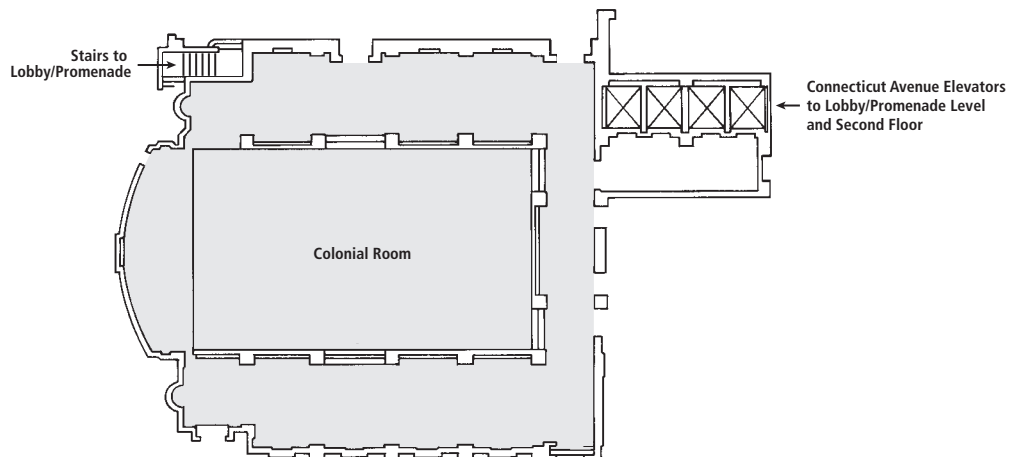
Second Floor Meeting Rooms



Lobby/Promenade Level



Lower Lobby Level





NATIONAL SYMPOSIUM ON INDIGENT DEFENSE:

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Agenda

Thursday, February 18

Time	Event	Location
8:30–8:50 a.m.	Opening and Welcome <ul style="list-style-type: none"> • Symposium Moderator: Charles Ogletree, Jesse Climenko Professor of Law, Harvard University Law School, Cambridge, MA • The Honorable Laurie O. Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC 	Grand Ballroom
8:50–9:15 a.m.	Keynote Address <ul style="list-style-type: none"> • The Honorable Eric H. Holder, Jr., Attorney General of the United States, U.S. Department of Justice, Washington, DC 	Grand Ballroom
9:15–10:30 a.m.	Plenary 1: Fulfilling the Promise of Counsel <p>More than 45 years have passed since the U.S. Supreme Court's decision in <i>Gideon</i>, and it has been decades since the Court extended the right to counsel to juveniles. Yet the struggle to establish effective, well-funded defense programs throughout the 50 States continues. Although there has been important progress since the last National Symposium in 2000, there is undeniable, mounting evidence that we are far from the goal of equal justice. This plenary will provide an overview of the progress and setbacks in implementing the Sixth Amendment over the last decade. The panel of leaders from different arenas will be challenged to consider lessons learned from failed attempts at public defense reform as well as successful efforts and to think beyond past practices as they explore what it will take to secure the right to counsel in America.</p> <p>Moderator: Jo-Ann Wallace, President and Chief Executive Officer, National Legal Aid & Defender Association, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Avis E. Buchanan, Director, Public Defender Service for the District of Columbia, Washington, DC • The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV • Nancy Diehl, Retired Attorney, Wayne County Prosecutor's Office, Detroit, MI • The Honorable Lydia P. Jackson, State Senator, Louisiana Senate, Shreveport, LA • Norman Lefstein, Professor of Law and Dean Emeritus, Indiana University School of Law, Indianapolis, IN 	Grand Ballroom

Time	Event	Location
10:30–10:45 a.m.	Break	Promenade and Second Floor Foyer
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops	
Workshop 1–A	<p>The Current Crisis in Indigent Defense: Litigation Solutions</p> <p>National reports often have referred to a crisis in indigent defense stemming from too many indigent clients to be represented and insufficient financial resources to provide the necessary defense services. Several defense programs have challenged their caseloads in court by filing motions to halt assignments or withdraw from cases. In a few jurisdictions, systemic lawsuits have been filed challenging entire systems of indigent defense. This workshop will focus on litigation alternatives for dealing with the current crisis.</p> <p>Moderator: <i>Stephen Bright, President and Senior Counsel, Southern Center for Human Rights, Atlanta, GA</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Dana Hlavac, Deputy County Manager for Criminal Justice Services, Mohave County, Kingman, AZ</i> • <i>The Honorable Mark Stephens, District Public Defender, Public Defender's Office, Knoxville, TN</i> • <i>Parker Thomson, Attorney, Hogan and Hartson, Miami, FL</i> 	Colonial
Workshop 1–B	<p>Legislative Changes in Public Defense Services</p> <p>Since the last National Symposium on Indigent Defense sponsored by the U.S. Department of Justice, 11 States have amended their statutes dealing with the delivery of indigent defense services. Some States have enacted laws that transform the way in which indigent defense is delivered, whereas others have made relatively modest changes in their statutes. This panel will explore structural changes that States have made for indigent defense and the extent to which they are succeeding or hold the promise of doing so in the future.</p> <p>Moderator: <i>Mary Lou Leary, Principal Deputy Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Robin Huseby, Executive Director, Commission on Legal Counsel for Indigents, Valley City, ND</i> • <i>The Honorable Lydia P. Jackson, State Senator, Louisiana Senate, Shreveport, LA</i> • <i>Ronald W. Schneider, Chair, Maine Commission on Indigent Legal Services, Portland, ME</i> 	Chinese
Workshop 1–C	<p>How Investigative Reports Can Support Defense Reform</p> <p>Several recent reports have documented the dramatic problems facing public defense and solutions implemented by several jurisdictions. This discussion will focus on how to leverage existing reports and recommendations as well as how to obtain new reports to support reform at local, State, and national levels. Panelists will share key findings and successes from the most recent reports issued by the National Right to Counsel Committee, sponsored by The Constitution Project; the National Legal Aid & Defender Association; the National Association of Criminal Defense Lawyers, and others.</p> <p>Moderator: <i>Michelle Molloy, Senior Vice President, Spitfire Strategies, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Rhoda Billings, Co-Chair, National Right to Counsel Committee, Lewisville, NC</i> • <i>Robert Boruchowitz, Professor, Seattle University School of Law, Seattle, WA</i> • <i>David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA</i> 	Senate

Time	Event	Location
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops (continued)	
Workshop 1–D	<p>The Evolving Role of the Public Defender</p> <p>Public defenders in increasing numbers are expanding the role they play in shaping the quality of justice in their communities. By collaborating with other criminal justice agency leaders, reaching out to the community, engaging the media, and advocating for policies that enhance the integrity of the courts, public defense leaders have embraced new ways to advocate for clients and their communities. This workshop will explore how defender leadership roles enhance justice, the Federal government’s efforts in supporting these new roles, and how collaborative leaders can work together to improve resources, systems, and community support.</p> <p><i>Moderator: Paul Butler, Professor, George Washington University Law School, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Melanca Clark, Counsel, Brennan Center for Justice, New York University School of Law, New York, NY</i> • <i>The Honorable Lee Satterfield, Chief Judge, Superior Court of the District of Columbia, Washington, DC</i> • <i>Robin Steinberg, Executive Director, The Bronx Defenders, Bronx, NY</i> 	Pennsylvania
Workshop 1–E	<p>Indigent Defense and Criminal Justice Reform: Challenges and Opportunities</p> <p>Recent criminal justice reform efforts have been aimed at cutting costs while improving fairness and reducing crime. Current initiatives include diverting funds from the prison industrial complex to more cost-effective treatment options, renewing commitment to research-driven sentencing and corrections practices, and recognizing the importance of addressing the needs of former inmates returning to their homes and communities. This workshop will focus on the important role public defense can play in stimulating desirable change and the ramifications that criminal justice reform initiatives may have for efforts to improve public defense systems.</p> <p><i>Moderator: Richard Goemann, Director, Defender Legal Services, National Legal Aid & Defender Association, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Tony Fabelo, Director of Research, Council of State Governments Justice Reinvestment Initiative, Austin, TX</i> • <i>William Leahy, Chief Counsel, Committee for Public Counsel Services, Boston, MA</i> • <i>Anthony Thompson, Professor of Clinical Law, New York University School of Law, New York, NY</i> 	Rhode Island
Workshop 1–F	<p>Effective Representation and Drug Courts</p> <p>While drug courts have been praised for effectiveness in reducing drug abuse and recidivism, this approach to justice raises new challenges for defense counsel to ensure due process while leveraging access to critical resources for their client. This session will explore the legal and ethical concerns of drug courts and their impact on public defense and examine innovative ways in which the national community can partner to ensure that such courts strike an appropriate balance between treatment and due process.</p> <p><i>Moderator: A. Elizabeth Griffith, Associate Deputy Director, Bureau of Justice Assistance, U.S. Department of Justice, Washington, DC</i></p> <p><i>Speakers:</i></p> <ul style="list-style-type: none"> • <i>Rick Jones, Executive Director, Neighborhood Defender Service of Harlem, New York, NY</i> • <i>Michael P. Judge, Chief Public Defender, Los Angeles County, Los Angeles, CA</i> • <i>The Honorable Michael L. Rankin, Associate Judge, Superior Court of the District of Columbia, Washington, DC</i> 	Georgia

Time	Event	Location
10:45–11:45 a.m.	Plenary 1: Concurrent Workshops (continued)	
Workshop 1–G	<p>The Privatization of Juvenile Punishment: Has It Gone Too Far?</p> <p>In the wake of one of the biggest justice scandals in Luzern County, PA, which resulted in the recent indictment of two juvenile court judges accused of taking bribes from a private detention center for sending children to that facility, speakers will address whether an insurmountable conflict of interest exists with “for profit” private detention centers. The audience will develop an understanding of the pros and cons between private “for profit” and private “not for profit” detention centers and service providers. Additionally, while the growing use of ankle monitoring bracelets has helped court-involved children return to school rather than spending their days in detention centers, they cost money; in many cases, that cost is passed along to the accused, regardless of his or her economic status. The workshop panel will examine these issues and present recommended solutions for the justice community.</p> <p>Moderator: Christopher Gowen, Senior Staff Attorney, American Bar Association, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center, Philadelphia, PA • Marc Schindler, Interim Director, District of Columbia Department of Youth Rehabilitation Services, Washington, DC • Wansley Walters, Director, Miami-Dade County Juvenile Services, Miami, FL 	Massachusetts
Workshop 1–H	<p>Systemic Advocacy and Juvenile Defense: Bringing About Meaningful Change</p> <p>Speakers will convey their experiences bringing about meaningful change relevant to juvenile defense through systemic advocacy. They will share their insights on successful reform strategies that they have employed in their State legislatures, commissions, and courts. Audience participants who are interested in learning about how Pennsylvania is addressing the serious concerns raised in the Luzerne County case and how litigation has been used to increase resources for juvenile defenders should attend this session. Information about relevant Federal legislation will also be provided.</p> <p>Moderator: Kathi Grasso, Senior Juvenile Justice Policy and Legal Advisor, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Lisa Baker, State Senator, Pennsylvania Senate, Dallas, PA • Elizabeth Clarke, President, Juvenile Justice Initiative, Evanston, IL • Robin Dahlberg, Senior Staff Attorney, American Civil Liberties Union Racial Justice Program, New York, NY 	New York
11:45 a.m.–12:45 p.m.	<p>Working Lunch</p> <ul style="list-style-type: none"> • The Honorable Thomas E. Perez, Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice, Washington, DC 	State/East
12:45–1:30 p.m.	State Delegation Discussions	State/East

Time	Event	Location
1:45–3:00 p.m.	Plenary 2: Innovations in Juvenile Defense Reform <p>Innovation—growing out of acute necessity—is spreading throughout juvenile indigent defense systems nationwide. When it comes to innovation in the public defense of youth, we need to look across several systems including typical public defender offices, appointed/contract counsel systems, nonprofit law centers, and law school clinical programs. While public defenders and other appointed counsel represent the bulk of youth who come into the system, nonprofit law centers and law school clinics are vital and contribute greatly to reform. This session will explore current strategies and innovations that have been initiated by juvenile defenders and others in public defender offices, courts, communities, clinics, and law centers across the country.</p> <p>Moderator: <i>Kristin H. Henning, Professor of Law and Co-Director, Juvenile Justice Clinic, Georgetown University Law Center, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Sue Bell Cobb, Chief Justice, Alabama Supreme Court, Montgomery, AL</i> • <i>Robert Listenbee, Jr., Chief, Juvenile Unit, Defender Association of Philadelphia, Philadelphia, PA</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>The Honorable Robert C. Scott, Chairman, Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, U.S. House of Representatives, Washington, DC</i> 	Grand Ballroom
3:00–3:15 p.m.	Break	Promenade and Second Floor Foyer
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops Workshop 2–A MacArthur Juvenile Indigent Defense Action Network <p>As part of the MacArthur Juvenile Indigent Defense Action Network (JIDAN) Project, California, Florida, Massachusetts, and New Jersey are establishing baseline data to undertake strategies that will improve the representation of youth in their States' juvenile justice systems. While the MacArthur JIDAN Project will point the way in groundbreaking capacity-building efforts over the next 2 years, the dire situation of juvenile defenders calls for recognition at the highest policy levels of our justice system. This workshop will explore the status quo and how increased Federal and State support for professional training and support for juvenile defender organizations could help to change it. The audience will learn about how California is building an infrastructure for a statewide juvenile defense community—to reach lawyers wherever they are with training, expert/appellate advice, and assistance in fighting for quality representation. New Jersey has focused on providing post-dispositional representation, representation at the initial detention hearing, and improved special education advocacy. Through JIDAN, the Miami Dade Public Defender is implementing attorney training and developing attorney performance evaluations and supervisory materials.</p> <p>Moderator: <i>Melodee Hanes, Counsel to the Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Sue Burrell, Staff Attorney, Youth Law Center, San Francisco, CA</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Sandra Simkins, Clinical Professor, Children's Justice Clinic, Rutgers School of Law—Camden, Camden, NJ</i> 	Senate

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–B	<p>Juvenile Defense as a Specialty: The Role and Obligations of Counsel</p> <p>Juvenile defenders have to know everything criminal defense counsel has to know (evidence, sentencing law, trial practice), but they also have to know about what works in rehabilitation, adolescent development, and how to do post-sentencing advocacy, including education and conditions of confinement work. Despite the demanding array of areas in which they must have expertise, they often find themselves an afterthought in discussions about indigent defense services, in practice standards, and in discussions of defender career tracks. This workshop will examine and propose solutions to perpetual problems in not recognizing juvenile defense as its own specialty and forcing talented attorneys to transfer out of juvenile defense to advance in the office.</p> <p>Moderator: <i>Patricia Puritz, Executive Director, National Juvenile Defender Center, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Kristin H. Henning, Professor of Law and Co-Director, Juvenile Justice Clinic, Georgetown University Law Center, Washington, DC</i> • <i>Robert Listenbee, Jr., Chief, Juvenile Unit, Defender Association of Philadelphia, Philadelphia, PA</i> • <i>Winston A. Peters, Assistant Public Defender, Los Angeles County Public Defender's Office, Los Angeles, CA</i> 	Pennsylvania
Workshop 2–C	<p>Post-Disposition Advocacy: Making a Critical Difference in Outcomes for Youth</p> <p>Many public defender offices and private bar attorneys terminate their representation of youth at the disposition hearing. It is no surprise that youth recidivate at high rates as they do not have the benefit of legal counsel during the pendency of the youth's involvement in the juvenile delinquency system. Speakers will address State law, standards, and policy that describe the responsibilities of children's counsel in delinquency proceedings to include monitoring the child's interest at every stage of delinquency representation post-disposition. They will highlight public defender offices that have created post-disposition juvenile advocacy units that are making a critical difference in ensuring youth have access to special education and other necessary services, as well as promising public policy initiatives that are leading toward long-term reform.</p> <p>Moderator: <i>Jeff Slowikowski, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Patricia Lee, Deputy Public Defender, Managing Attorney, Juvenile Unit, San Francisco Public Defender's Office, San Francisco, CA</i> • <i>The Honorable Michael Nash, Presiding Judge, Los Angeles Juvenile Court, Los Angeles, CA</i> • <i>Eric J. Zogry, Juvenile Defender, State of North Carolina Office of the Juvenile Defender, Durham, NC</i> 	Rhode Island

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–D	<p>Maintaining Your Office’s Resources in a Difficult Budgetary Climate</p> <p>Chief Defenders will share their innovative and creative ways of working to maintain a budget in these challenging economic times. You will hear suggestions on ways to build unconventional collaborations and community support for defender services and other ways to stretch your dollars.</p> <p>Moderator: Lynn Overmann, Senior Advisor to the Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Jeff Adachi, Public Defender, Office of the San Francisco Public Defender, San Francisco, CA • Edwin Burnette, Vice President of Defender Legal Services, National Legal Aid & Defender Association, Alexandria, VA • Yvonne Smith Segars, Public Defender, New Jersey Office of the Public Defender, Trenton, NJ 	Chinese
Workshop 2–E	<p>Youth Waiver Into the Adult Criminal Justice System: Review of Research and Defender Responses</p> <p>Current research findings reflect that youth waiver into the adult criminal justice system has an adverse impact on rates of recidivism and is detrimental to overall youth well-being. Panelists will provide an overview of this research and the defender responses.</p> <p>Moderator: Liz Ryan, President and Chief Executive Officer, Campaign for Youth Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Robert A. Hahn, Senior Scientist, U.S. Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Atlanta, GA • Richard E. Redding, Associate Dean for Administration and Professor of Law, Chapman University School of Law, Orange, CA • Santha Sonenberg, Attorney, Public Defender Service for the District of Columbia, Washington, DC 	Georgia
Workshop 2–F	<p>Status Offenders: The Role of Legal Counsel</p> <p>This panel will explore the topic of status offenders and the importance of legal representation in their cases. Given the real threat of incarceration, the question “Are status offenders entitled to counsel?” needs to be answered. Speakers will provide insights into this question and on Federal law, model statutes, and other programs that ensure attorneys and appropriate interventions for status offenders. In addition, speakers will engage the audience in a discussion of a pending appellate case addressing the issue in Washington State.</p> <p>Moderator: Elissa Rumsey, Compliance Monitoring Coordinator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Robert Boruchowitz, Professor, Seattle University School of Law, Seattle, WA • Jessica R. Kendall, Assistant Staff Director, American Bar Association Center on Children and the Law, Washington, DC • Robert Schwartz, Executive Director, Juvenile Law Center, Philadelphia, PA 	Massachusetts

Time	Event	Location
3:15–4:15 p.m.	Plenary 2: Concurrent Workshops (continued)	
Workshop 2–G	<p>Representation, Education, and Modeling: Multidisciplinary Law School Clinics</p> <p>Law school clinical programs serve many different purposes in promoting best practices in juvenile representation. These programs, often because they enjoy smaller case loads and sufficient resources, offer clients excellent and well-supervised representation by student-attorneys. The education received by law students allows them to focus on their development as ethical, prepared, and reflective attorneys. These programs often can model best practices to the public defenders, appointed counsel, and courts in which they practice. This session will explore the design and implementation of three such multidisciplinary programs: the Georgetown University Law Center Juvenile Justice Clinic, the Suffolk University Law School Juvenile Justice Center, and the University of the District of Columbia Juvenile and Special Education Law Clinic.</p> <p>Moderator: <i>Lou Ann Holland, Program Manager, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Wallace J. Mlyniec, Professor of Law, Co-Director, Juvenile Justice Clinic, Georgetown Law Center, Washington, DC</i> • <i>Jeffrey J. Pokorak, Professor and Director of Clinical Programs, Suffolk University Law School, Boston, MA</i> • <i>Joseph B. Tulman, Professor of Law, David A. Clarke School of Law, University of the District of Columbia, Washington, DC</i> 	New York
4:30–5:45 p.m.	<p>Plenary 3: Indigent Defense Reform: The Many Modes of Collaboration</p> <p>“Collaboration” is an often-used word (particularly around reform efforts), but what does collaboration really mean for indigent defense reform? This plenary will provide a detailed look at how some States have begun indigent defense improvements by collaborating with the judiciary, bar leaders, nonprofits, legislators, grassroots leaders, and funders to protect and advance the Sixth Amendment right to counsel. This session will highlight how some leaders do not come to the issue with a natural affinity for defense reform, but rather assume a leadership role through effective collaboration that enlightens them as to the extent of the indigent defense crisis in their States. The panelists will explore creative ideas for improving collaborative reform efforts.</p> <p>Moderator: <i>Cait Clarke, Director, Public Interest Law Opportunities, Equal Justice Works, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brian Austin, Jr., Under Secretary, Criminal Justice Policy and Planning Division, Office of Policy and Management, Hartford, CT</i> • <i>The Honorable Daniel T. Eismann, Chief Justice, Idaho Supreme Court, Boise, ID</i> • <i>The Honorable Rodney G. Ellis, State Senator, Texas Senate, Houston, TX</i> 	Grand Ballroom
5:45 p.m.	Adjourn for the Day	

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops	
Workshop 3–A	<p>Collaborations With the Private Bar</p> <p>In many States, indigent defense counsel is appointed from the private bar. In that case, the collaboration between public and private defense attorneys becomes key to ensuring effective representation for indigent defendants. The private bar can also be an effective and influential partner in ensuring reform in indigent defense. This session will focus on these valuable public/private partnerships.</p> <p>Moderator: Robin Maher, Director, American Bar Association Death Penalty Representation Project, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • Frank X. Neuner, Jr., Managing Partner, Laborde & Neuner, Lafayette, LA • Donald P. Salzman, Pro Bono Counsel, Skadden, Arps, Slate, Meagher, and Flom, Washington, DC • Johanna Steinberg, Assistant Counsel, NAACP Legal Defense and Educational Fund, Inc., New York, NY 	Senate
Workshop 3–B	<p>State Collaborations for Systemic Reform—Learning From Setbacks</p> <p>This session will explore several different State-level efforts to reform indigent defense systems. The discussion will examine collaborative strategies in Georgia, Mississippi, and Texas. In particular, panelists will discuss what strategies were employed in each State and why they were chosen, who the key parties to bring to the table in any such effort are, and which strategies worked and which didn't, and why. Panelists will discuss what we can learn from these successes and their setbacks and how to employ these lessons in the future.</p> <p>Moderator: Virginia Sloan, President, The Constitution Project, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • James D. Bethke, Director, Texas Task Force on Indigent Defense, Austin, TX • The Honorable Norman S. Fletcher, Retired Justice, Of Counsel, Brinson, Askew, Berry, Seigler, Richardson & Davis LLP, Rome, GA • Phyllis E. Mann, Director, National Defender Leadership Institute, National Legal Aid & Defender Association, Cedar Hill, TX 	Pennsylvania
Workshop 3–C	<p>Court Involvement in Reform—Critical Judicial Collaborations</p> <p>The judiciary has tremendous influence and can be a key partner in seeking indigent defense reforms. This session will explore the different collaborations between the defense bar and the judiciary that have been successful in achieving reform, focusing on the success of New York, Nevada, and North Carolina.</p> <p>Moderator: Norman Reimer, Executive Director, National Association of Criminal Defense Lawyers, Washington, DC</p> <p>Speakers:</p> <ul style="list-style-type: none"> • The Honorable Rhoda Billings, Co-Chair, National Right to Counsel Committee, Lewisville, NC • The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV • The Honorable Judith Kaye, Retired Justice, Of Counsel, Skadden, Arps, Slate, Meagher and Flom, New York, NY 	Chinese

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops (continued)	
Workshop 3–D	<p>Effective Use of Media: Examples of Collaboration</p> <p>This session will explore how State reform efforts can be accelerated by collaborations involving the press and other key State leaders. The successful use of local and national media advances the common goals of collaboration among indigent defense providers and committed State leaders.</p> <p>Moderator: <i>Maureen Dimino, Indigent Defense Counsel, National Association of Criminal Defense Lawyers, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA</i> • <i>Alan Maimon, Special Projects Reporter, Las Vegas Review-Journal, Las Vegas, NV</i> • <i>The Honorable Gerald Malloy, State Senator, South Carolina Senate, Hartsville, SC</i> 	Rhode Island
Workshop 3–E	<p>Unlikely Allies—Collaborating Around Litigation</p> <p>Litigation is generally confrontational and antagonizing. However, it may also serve as a focal point around which traditional adversaries and unlikely allies can work to realize common goals. This session will discuss how advocates for the indigent, public defenders, and the judiciary have used lawsuits to enlist the assistance of each other and bar associations, prosecutors, legislators, and other defense attorneys to obtain more resources for indigent defense programs.</p> <p>Moderator: <i>Robin Dahlberg, Senior Staff Attorney, American Civil Liberties Union, New York, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Karla Gray, Retired Chief Justice, Montana Supreme Court, Helena, MT</i> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Susan O. Storey, Chief Public Defender, Connecticut Division of Public Defender Services, Office of Chief Public Defender, Hartford, CT</i> 	Georgia
Workshop 3–F	<p>Partnering With Foundations, Governments, and Nonprofits to Improve Indigent Defense</p> <p>This session explores how nonprofit organizations, State and local governments, and private foundations can work together to leverage resources for indigent defense reform. Leveraging private and public dollars to provide opportunities for the next generation of public defense lawyers is one way to bring about lasting improvements inside rural and urban justice systems. Panel members will speak about their perceptions of the current reform efforts under way. The discussion will explore ways to leverage resources with foundations, nonprofits, and governments to improve the quality of representation for the indigent.</p> <p>Moderator: <i>Cait Clarke, Director, Public Interest Law Opportunities, Equal Justice Works, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Kirsten Levingston, Program Officer, The Ford Foundation, New York, NY</i> • <i>Leonard Noisette, Program Director, Criminal Justice Fund, Open Society Institute, New York, NY</i> • <i>Jonathan Rapping, Chief Executive Officer and Founder, Southern Public Defender Training Center, Atlanta, GA</i> • <i>Rebecca Rittgers, Programme Executive, U.S. Reconciliation and Human Rights Programme, The Atlantic Philanthropies, New York, NY</i> 	Colonial

Time	Event	Location
8:30–9:30 a.m.	Plenary 3: Concurrent Workshops (continued)	
Workshop 3–G	<p>State Administering Agencies as a Resource for Indigent Defense*</p> <p>This session will provide an overview of how State Administering Agencies across the Nation determine how to spend U.S. Department of Justice Byrne Justice Assistance Grant (JAG) formula grants for criminal justice and how some States have been successful in securing a portion of those funds to go toward indigent defense.</p> <p>Moderator: <i>Kay Chopard Cohen, Deputy Executive Director, National Criminal Justice Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brendan O’Neill, Public Defender, Delaware Public Defender’s Office, Wilmington, DE</i> • <i>Christine P. Rapillo, Director of Juvenile Delinquency Defense, Connecticut Division of Public Defender Services, Hartford, CT</i> • <i>Jeanne Smith, Director, Division of Criminal Justice, Colorado Department of Public Safety, Denver, CO</i> <p><i>*This session is repeated in Workshop 4–H on Friday, February 19 from 11:15 a.m. to 12:15 p.m.</i></p>	Massachusetts
Workshop 3–H	<p>Law School Partners for Training: Broadening and Deepening Education for Bench and Bar</p> <p>Funding for indigent defense and for training defenders is chronically inadequate in jurisdictions across the country. Often considered “neutral ground” in the sometimes contentious discussion of how to address juvenile and criminal justice issues, law schools also often have faculty members working on relevant issues and an institutional mission that includes service to the profession. In this session, participants will consider how to leverage resources at law schools to expand indigent defense and to help meet related training needs for lawyers and judges. The presenters for this workshop have been involved in successful training, continuing legal education, and advanced multidisciplinary education programs for the bench and bar, in addition to systemic reform efforts. Emphasizing juvenile justice, the presenters will discuss partnership opportunities and specific programs and design ideas.</p> <p>Moderator and Speaker: <i>Joseph B. Tulman, Professor of Law, David A. Clarke School of Law, University of the District of Columbia, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Eden Harrington, Assistant Dean of Clinical Education and Public Service, University of Texas School of Law, Austin, TX</i> • <i>Carole Wagan, Director, Center for Advanced Legal Studies, Suffolk University Law School, Boston, MA</i> 	New York
9:45–11:00 a.m.	<p>Plenary 4: Ensuring Quality Representation</p> <p>How can your jurisdiction ensure quality representation for indigent defendants? There are a number of nationally recognized legal and ethical standards and guidelines for public defenders, assigned counsel, and contract attorney systems. Yet since the 1963 Gideon and the 1967 <i>Gault</i> rulings by the Supreme Court, States, counties, and jurisdictions across the Nation have established varying means of providing public representation for adult and juvenile defendants unable to afford a private defense attorney. Plenary speakers will discuss the importance of nationally recognized standards related to caseloads, attorney training, and ethical considerations in the provision of indigent defense. The value of training, supervision, and management will be discussed from a variety of perspectives, as well as the impact of quality representation on clients, judges, prosecutors, and the judicial system. Subsequent workshops will highlight the importance of reform efforts related to caseloads, workloads, attorney performance, ethics, and other standards in indigent defense systems across the United States.</p> <p>Moderator: <i>Stephen Bright, President and Senior Counsel, Southern Center for Human Rights, Atlanta, GA</i></p>	Grand Ballroom

Time	Event	Location
	Speakers: <ul style="list-style-type: none"> • <i>The Honorable Stanford Blake, Circuit Court Judge, Eleventh Judicial Circuit of Florida, Criminal Division, Miami, FL</i> • <i>Derwyn Bunton, Chief District Defender, Orleans Public Defender's Office, New Orleans, LA</i> • <i>Marvin Anderson, Exoneree, Innocence Project, Hanover, VA</i> 	
11:00–11:15 a.m.	Break	Promenade and Second Floor Foyer
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops	
Workshop 4–A	Beyond Counting Cases: Workloads for Crime Reduction <p>How do defender caseloads impact quality representation and other standards for indigent defense? This workshop will provide a picture of caseloads carried by public defender offices nationwide, as well as the policies and procedures public defender offices have adopted to ensure manageable caseloads that follow nationally accepted standards. Speakers from Wisconsin will speak specifically about the impact of defender caseloads from the prosecutorial perspective and the steps the State took to mandate caseload limits. Discussion will focus on how State and local indigent defense systems can support quality representation through caseload limits.</p> <p>Moderator: <i>Caroline Cooper, Associate Director and Research Professor, Justice Programs Office at the School of Public Affairs, American University, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Lynn Langton, Statistician, Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC</i> • <i>The Honorable John T. Chisolm, District Attorney, Milwaukee County District Attorney's Office, Milwaukee, WI</i> • <i>Nicholas L. Chiarkas, Public Defender, Wisconsin State Public Defender Agency, Madison, WI</i> 	Chinese
Workshop 4–B	The Court's Role in Ensuring Due Process: The Nevada Model <p>On January 4, 2008, the Nevada Supreme Court took a monumental step toward ensuring justice for the poor, adopting a series of reforms regarding the representation of indigent defendants in criminal and juvenile cases. In its order, the Nevada Supreme Court set forth extensive ethical standards for the representation of indigent defendants, ordered that public defenders inform county officials when they are unable to accept further appointments in line with such standards, and removed the judiciary from the administration of right to counsel services. The order concluded that by "any reasonable standard" a caseload crisis exists in Clark (Las Vegas) and Washoe (Reno) counties where public defenders are handling caseloads far in excess of nationally recommended limits. The workshop will focus not only on "what" the Court did, but perhaps more importantly, on the process undertaken to reach such reforms.</p> <p>Moderator: <i>Emily Chiang, Visiting Assistant Professor, S.J. Quinney College of Law, University of Utah, Salt Lake City, UT</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Michael A. Cherry, Supreme Court Justice, Nevada Supreme Court, Carson City, NV</i> • <i>David Carroll, Director of Research and Evaluation, National Legal Aid & Defender Association, Cambridge, MA</i> • <i>Franny A. Forsman, Federal Public Defender, Law Offices of the Federal Public Defender, Las Vegas, NV</i> 	Colonial

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–C	<p>Michigan Builds a Movement for Public Defense Reform</p> <p>What does it take to turn policy into effective practice? The State of Michigan was able to develop broad-based, bipartisan political and public support for reform in a climate of diminishing resources. The Eleven Principles of a Public Defense Delivery System were adopted in 2002 and serve as the fundamental standards for a public defense delivery system to provide effective, efficient, quality, and ethical representation to those in criminal proceedings who cannot afford to hire an attorney. The State legislature recently announced a new subcommittee on indigent defense as the Campaign for Justice, in partnership with the State Bar of Michigan, is pursuing legislative changes to the approach by which Michigan provides adequate defense for the poor population. Workshop speakers will describe the practical strategies they applied in one of the most fiscally challenged States in the Nation to jump-start statewide reform efforts, protect early and intermediate gains, and implement best practices to ensure quality indigent defense.</p> <p>Moderator: <i>Steve Zeidman, Professor and Director of the Criminal Defense Clinic, City University of New York Law School, New York, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Nancy J. Diehl, Retired, Wayne County Prosecutor's Office, Detroit, MI</i> • <i>The Honorable Mark Meadows, Representative, Michigan House of Representatives, Lansing, MI</i> • <i>Laura Sager, Executive Director, Campaign for Justice, Lansing, MI</i> 	Senate
Workshop 4–D	<p>Using Standards to Improve the Quality of Defense Services With Assigned Counsel</p> <p>Virtually every public defense delivery system in the United States, in whole or part, relies on assigned counsel. This session will explore in a variety of settings how standards are used to evaluate and establish effective and efficient assigned counsel systems and how standards are used to measure and monitor the performance of attorneys within it.</p> <p>Moderator: <i>Adele Bernhard, Associate Professor, Pace Law School, Pace University, White Plains, NY</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>William J. Leahy, Chief Counsel, Committee for Public Counsel Services, Boston, MA</i> • <i>Fern Laethem, Director, Sacramento County Conflict Criminal Defenders, Sacramento, CA</i> • <i>James R. Neuhard, Director, State Appellate Defender Office, Detroit, MI</i> 	Pennsylvania
Workshop 4–E	<p>Justice Sought: Ethical Duties of Attorneys in the Criminal Justice System</p> <p>This panel will explore several important issues as follows: What are the ethical duties of defenders, prosecutors, and judges when confronted with a defense office that is failing to provide competent representation? What about attorney members of oversight commissions who are responsible for public defense budgets as lawyers—do they have ethical duties to prevent unethical conduct by the indigent defense attorneys who work within their systems?</p> <p>Moderator: <i>Maureen Dimino, Indigent Defense Counsel, National Association of Criminal Defense Lawyers, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Monroe Freedman, Professor of Law, Hofstra University Law School, Garden City, NY</i> • <i>Henderson Hill, Attorney, Ferguson, Stein, Chambers, Gresham and Sumter, PA, Charlotte, NC</i> • <i>Robin Maher, Director, American Bar Association Death Penalty Representation Project, Washington, DC</i> 	Rhode Island

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–F	<p>Measure by Measure: Using Data to Evaluate Quality and Advocate for Indigent Defense Funding</p> <p>Reliable statistics can mean so much more to your organization than just numbers. Data systems can be used to highlight indigent defense needs, successfully argue for more resources, and ultimately free up the time of staff in indigent defense delivery systems to focus on their primary responsibility: quality defense. Panelists will provide answers to the following important questions: How can organizations know whether standards, caseload reductions, and other reforms make a difference?; How can a public defender agency adequately monitor the performance of multiple assigned counsel and contract attorney systems across the State?; and What pitfalls should a public defender agency be aware of when implementing a system to gather caseload statistics?</p> <p>Moderator: <i>Duren Banks, Chief, Prosecution and Adjudication Statistics Unit, Bureau of Justice Statistics, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>T. Patton Adams, Executive Director, South Carolina Commission on Indigent Defense, Columbia, SC</i> • <i>Margaret Gressens, Research Director, North Carolina Office of Indigent Defense Services, Durham, NC</i> • <i>Carl Richey, President, Justice Works, LLC, Bountiful, UT</i> 	Georgia
Workshop 4–G	<p>Importance of Holistic Representation for Juvenile Justice</p> <p>Standards and guidelines serve to inform all stakeholders—indigent defense providers, judges, prosecutors, law enforcement, probation officers, State and county officials, and others affected by the juvenile justice system—about the specific role that defense counsel should play in representing children charged with crimes. Indeed, publicly endorsed standards help those with little experience with juvenile indigent defendants understand the fundamental requirements for effective representation. While in every justice system defendants may have needs outside the context of adversarial proceedings and of defense work, <i>these needs for comprehensive services and holistic representation are amplified by the unique and precarious position of juveniles in the justice system.</i></p> <p>Because of the panelists' personal leadership in formulating defense quality standards, and in particular the <i>Ten Core Principles for Providing Quality Delinquency Representation through Public Defense Delivery Systems</i>, those attending will have a rare opportunity to hear about the motivations leading to creation of these standards and their development from the authors themselves. Additionally, panelists will consider the obstacles to implementation of these standards, innovative approaches to implementation, and the role of counsel in specialty courts, such as drug and mental health courts, among others.</p> <p>Moderator: <i>Stephanie Baucus, Associate Director, Office of Intergovernmental and Public Liaison, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable Carlos J. Martinez, Public Defender, Public Defender's Office, Miami, FL</i> • <i>Patricia Puritz, Executive Director, National Juvenile Defender Center, Washington, DC</i> • <i>Jo-Ann Wallace, President and Chief Executive Officer, National Legal Aid & Defender Association, Washington, DC</i> 	Massachusetts

Time	Event	Location
11:15 a.m.–12:15 p.m.	Plenary 4: Concurrent Workshops (continued)	
Workshop 4–H	<p>State Administering Agencies as a Resource for Indigent Defense</p> <p>This session will provide an overview of how State Administering Agencies across the Nation determine how to spend U.S. Department of Justice Byrne Justice Assistance Grant (JAG) formula grants for criminal justice, and how some States have been successful in securing a portion of those funds to go toward indigent defense.</p> <p>Moderator: <i>Kay Chopard Cohen, Deputy Executive Director, National Criminal Justice Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Brendan O’Neill, Public Defender, Delaware Public Defender’s Office, Wilmington, DE</i> • <i>Christine P. Rapillo, Director of Juvenile Delinquency Defense, Connecticut Division of Public Defender Services, Hartford, CT</i> • <i>Jeanne Smith, Director, Division of Criminal Justice, Colorado Department of Public Safety, Denver, CO</i> 	New York
12:15–1:15 p.m.	<p>Working Lunch</p> <ul style="list-style-type: none"> • <i>The Honorable Lanny A. Breuer, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, DC</i> 	State/East
1:15–2:00 p.m.	State Delegation Discussions	State/East
2:15–3:30 p.m.	<p>Plenary 5: Strengthening Forensic Science</p> <p>In March 2009, the National Academy of Sciences released a congressionally mandated report on the assessment of the needs of the forensic science community and its scientific disciplines. This study of the standards and protocols for analyzing and reporting on evidence led to 13 recommendations to improve the field, including the establishment of a National Institute of Forensic Sciences that would assist in the resolution of the identified inadequacies, as well as improve and advance the forensic sciences. The panel will discuss the state of forensics, the study findings, and their potential impact for the legal community.</p> <p>Moderator: <i>Kristina Rose, Acting Director, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>The Honorable William J. Fitzpatrick, District Attorney, Onondaga County, Syracuse, NY</i> • <i>Jennifer Friedman, Deputy Public Defender and Forensic Science Coordinator, Los Angeles County Public Defender’s Office, Los Angeles, CA</i> • <i>Randall Murch, Associate Director, Research Program Development, Virginia Tech Center for Technology, Security, and Policy, Alexandria, VA</i> • <i>Barry Scheck, Co-Director, The Innocence Project, New York, NY</i> 	Grand Ballroom
3:30–3:45 p.m.	Break	Promenade and Second Floor Foyer

Time	Event	Location
3:45–4:45 p.m.	Plenary 5: Concurrent Workshops	
Workshop 5–A	<p>Case Management Systems: Improving Public Defense and the Criminal Justice System</p> <p>An effective case management system will benefit a public defender office's operations and interactions with stakeholders, whether they are office staff or management, clients, funders, law enforcement agencies, legislators, courts, or the general public. From managing staff workload and caseloads, making a case for funding, and evaluating office performance, to tracking trends and improving efficiency within the office and within the criminal justice system, a good case management system is a useful tool for any public defender office. Well-designed case management systems also demonstrate the ability of appropriately resourced public defender offices to both improve public safety and save the tax payers money. These and other benefits of a good case management system, as well as useful features of such a system, will be discussed.</p> <p>Moderator: <i>Avis E. Buchanan, Director, Public Defender Service for the District of Columbia, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Joshua Dohan, Director, Youth Advocacy Department, Committee for Public Counsel Services, Roxbury, MA</i> • <i>James R. Neuhard, Director, State Appellate Defender Office, Detroit, MI</i> • <i>David Newhouse, Research Assistant Professor, The Spangenberg Project, Hillsboro, OR</i> 	Senate
Workshop 5–B	<p>DNA: Pretrial Investigation and Defense</p> <p>Forensic sciences have been used in courtrooms for many years to prove, illustrate, corroborate, or eliminate suspects or defendants in their roles in the commission of crimes. Applications at the investigative and pretrial stages of a case can be critical to resolving the case or ensuring the appropriate suspect is convicted. This panel will discuss the importance of using DNA evidence at the pretrial phase of a criminal case and how different types of forensic evidence and their results can (and cannot) support the defense strategy.</p> <p>Moderator: <i>Michael G. Sheppo, Director, Office of Investigative and Forensic Sciences, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Lisa Kreeger-Norman, Attorney, United States Army Criminal Investigations Laboratory, Forest Park, GA</i> • <i>Betty Layne DesPortes, Attorney, Benjamin & DesPortes, PC, Richmond, VA</i> • <i>Edward Ungvarsky, Capital Defender for Northern Virginia, Northern Virginia Capital Defender Office, Arlington, VA</i> 	Pennsylvania
Workshop 5–C	<p>DNA: Post-Conviction Investigation and Defense</p> <p>The National Academy of Sciences (NAS) report recommendations to create an independent agency and to separate crime labs from law enforcement are controversial, whereas others have wide support and are consistent with American Bar Association standards. Before the NAS report, actual innocence cases resulted in more than 240 exonerations through post-conviction DNA analysis by testing evidence either not tested at the time of trial or analyzed using less discriminating technology. Crime scene samples once thought to be unsuitable for testing may now yield DNA profiles. Courts must weigh the probative value of DNA evidence in determining whether to grant a motion requesting post-conviction relief.</p> <p>Moderator: <i>Jack Hanna, Criminal Justice Section Director, American Bar Association, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Paul C. Gianelli, Professor, Case Western Reserve University, Cleveland, OH</i> • <i>Barry Scheck, Co-Director, The Innocence Project, New York, NY</i> • <i>Michael Ware, Special Fields Bureau Chief, Dallas County District Attorney's Office, Dallas, TX</i> 	Chinese

Time	Event	Location
3:45–4:45 p.m.	Plenary 5: Concurrent Workshops (continued)	
Workshop 5–D	<p>Impression Evidence—Probabilistic Testimony, and Scientific and Legal Issues</p> <p>Forensic examinations involving specific forensic disciplines are typically dependent on qualitative analyses and expert interpretation of observed patterns, rather than quantitative results, based on a statistical and scientific foundation. These disciplines include latent fingerprints, questioned documents, shoe prints, and other forms of impression and pattern evidence. This workshop addresses the current fundamental research needs in the areas of impression evidence examination and the legal issues surrounding what is reasonable now and in the future in terms of courtroom presentation of results.</p> <p>Moderator: <i>Edwin Zedlewski, Director, International Center, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Jules Epstein, Associate Professor of Law, Widener University School of Law, Wilmington, DE</i> • <i>Sargur Srihari, SUNY Distinguished Professor, University at Buffalo, The State University of New York, Buffalo, NY</i> 	Rhode Island
Workshop 5–E	<p>Juveniles' Competence to Exercise Legal Rights and Confessions</p> <p>Recent research on adolescent brain development shows that the juvenile brain is not fully developed in areas of reasoning and judgment. States and juvenile justice professionals are currently re-examining prevailing practices involving juveniles to determine what changes are needed in light of what we now know about adolescent psychosocial and brain development. This panel will focus on issues related to juveniles' competence to exercise legal rights during interrogations and confessions.</p> <p>Moderator: <i>Jean M. Faria, State Public Defender, Louisiana Public Defender Board, Baton Rouge, LA</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>Steven A. Drizin, Clinical Professor of Law, Northwestern University School of Law, Chicago, IL</i> • <i>Barry C. Feld, Centennial Professor of Law, University of Minnesota Law School, Effie, MN</i> • <i>Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center, Philadelphia, PA</i> 	Georgia
Workshop 5–F	<p>Investigative Technologies: GPS, Fingerprints, Cell Phones, and Video</p> <p>In the last decade, the interaction between science, technology, law, and criminal justice has produced as many questions as advances in evidence analysis. In reviewing the most cutting-edge investigative technologies, experts will discuss commensurate standards, admissibility, and other criminal case issues.</p> <p>Moderator: <i>Kristina Rose, Acting Director, National Institute of Justice, U.S. Department of Justice, Washington, DC</i></p> <p>Speakers:</p> <ul style="list-style-type: none"> • <i>D. Miles Brissette, Assistant Criminal District Attorney, Tarrant County Criminal District Attorney's Office, Fort Worth, TX</i> • <i>Gary Perkinson, Agent in Charge, Special Investigations Unit, Oklahoma State Bureau of Investigation, Oklahoma City, OK</i> 	Massachusetts

Friday, February 19

Time	Event	Location
4:50–5:15 p.m.	<p>Closing Session</p> <p>The goal of the Symposium goes beyond just expanding the base of knowledge—the goal is to begin the process of reform so that all defendants, adult and juvenile, are assured access to counsel. In the final session, participants will receive important information regarding how the U.S. Department of Justice can assist in translating the ideas for indigent defense reform discussed at the Symposium into action when they return home.</p> <ul style="list-style-type: none">• <i>The Honorable Laurie O. Robinson, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC</i>• <i>The Honorable Thomas J. Perrelli, Associate Attorney General, U.S. Department of Justice, Washington, DC</i>	Grand Ballroom
5:15 p.m.	Adjourn	



Looking Back, Looking Forward, 2000–2010

FEBRUARY 18–19, 2010 • WASHINGTON, DC

Speaker Biographies

Jeff Adachi

The Honorable Jeff Adachi is CA's only elected Public Defender and has worked as a public defender and trial attorney for more than 20 years. Since 2002, Mr. Adachi has led the San Francisco Public Defender's office, which has a nationally recognized reputation for innovation for its Clean Slate expungement programs, prisoner reentry services, and expansion of juvenile representation to include holistic, family, and educational-based support. Mr. Adachi received the American Bar Association's top public law office award and was featured in the PBS documentary *Presumed Guilty*. He is a graduate of University of California, Hastings College of the Law.

T. Patton Adams

Mr. Adams is Executive Director of the South Carolina Commission on Indigent Defense. Previously, he maintained an active private law practice in Columbia, SC, for more than 28 years and served as vice president for government relations and general counsel for a major hospital industry trade association. He is a member of many legal and civic organizations, including the Charleston School of Law Board of Advisors, the South Carolina Bar Criminal Law Section Council, and the National Legal Aid & Defender Association. He is a graduate of Washington and Lee University and the University of South Carolina School of Law.

Marvin Anderson

Mr. Anderson is the 99th person in the United States to be exonerated due to post-conviction DNA testing. On December 14, 1982, then 18 years old, he was convicted by a jury of robbery, forcible sodomy, abduction, and two counts of rape. The court sentenced Mr. Anderson to 210 years in the VA State Penitentiary. He was released after 15 years, facing lifetime parole. Mr. Anderson continued his efforts to clear his name. On August 21, 2002, VA Governor Mark Warner granted Mr. Anderson a full pardon. He spent 15 years in prison and 4 years on parole fighting to prove his innocence.

Brian Austin, Jr.

Mr. Austin was appointed CT's first Under Secretary of Criminal Justice Policy and Planning in July 2006. He is responsible for leading the Criminal Policy and Planning Division at the Governor's Office of Policy and Management. In addition, he oversees approximately \$30 million in Federal criminal justice grants and more than 200 sub-grantees and chairs the State's Criminal Justice Policy Advisory Commission. Previously, Under Secretary Austin was a prosecutor in CT and an attorney for the New York City Police Department. He graduated from Syracuse University and its College of Law and is a lecturer at the University of Connecticut School of Law.

Lisa Baker

The Honorable Lisa Baker is serving her first term representing PA's 20th Senatorial District. She chairs the Veterans Affairs and Emergency Preparedness Committee and is a member of the Aging and Youth, Appropriations, Communications and Technology, Environmental Resources and Energy, and Public Health and Welfare committees. Senator Baker is leading the push for changes to the laws and procedures governing PA's juvenile justice system in the wake of widespread corruption in Luzerne County. She previously held top-level positions under Governors Tom Ridge and Mark Schweiker. Senator Baker is a graduate of Shippensburg University.

Ms. Banks is Chief of the Prosecution and Adjudication Unit at the Bureau of Justice Statistics. She oversees several court-related data collection activities, including the National Judicial Reporting Program and the State Courts Processing Statistics Data Collection Program. She also manages projects focused on specific crimes and populations, including the Human Trafficking Reporting System and American Indian criminal justice statistics. Ms. Banks has conducted research in alternatives to prison, prisoner reentry, domestic violence, and criminal justice system sentencing practices and impact. She earned her Ph.D. in criminology from the University of Maryland.

Stephanie Baucus

Ms. Baucus is Associate Director of the Office of Intergovernmental and Public Liaison, U.S. Department of Justice (DOJ). She represents DOJ in outreach and collaborative policy making with State and local governments, external groups, and individuals, particularly with state legislatures and counties. Separately, she focuses on human trafficking, indigent defense, financial crime, and other issues. Previously, she practiced law in Washington, DC, specializing in criminal investigations, international litigation, and regulation. Ms. Baucus is a graduate of Emory University and Harvard Law School, where she was the Prison Legal Assistance Project's Director and was involved in other civil rights advocacy.

Adele Bernhard

Ms. Bernhard is an Associate Professor at Pace Law School, where she directs the Post-Conviction Project. She was a public defender with The Legal Aid Society in the South Bronx. She established a resource and continuing legal education center to improve indigent defense services provided by the private assigned bar in New York City. She was a member and Chair of the Indigent Defense Organization Oversight Committee and a fellow with the Brennan Center for Justice, New York University School of Law. She is a member of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants.

James D. Bethke

Mr. Bethke serves as Director of the Texas Task Force on Indigent Defense, implementing a system of standards, financing, and other resources for criminal defendants unable to hire attorneys. He is a U.S. Army veteran from the 101st Airborne Division. He serves on the Indigent Defense Advisory Group for the American Bar Association's Standing Committee for Legal Aid and Indigent Defendants and is a past Chair of the Juvenile Law Exam Commission for the Texas Board of Legal Specialization. Mr. Bethke is a graduate of the University of Texas at Tyler and the Texas Tech University Law School.

Rhoda B. Billings

The Honorable Rhoda Billings is the Vice-Chair of the North Carolina Indigent Services Commission and has been a North Carolina Commissioner to the National Uniform Laws Commission since 1985. She served as Working Co-Chair of the Constitution Project's National Right to Counsel Committee that issued its report *Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel* in April 2009. She is a former Chief Justice of North Carolina, past President of the North Carolina Bar Association, and Professor of Law Emeritus at Wake Forest University School of Law, where she received her law degree *cum laude*.

Stanford Blake

The Honorable Stanford Blake is a Circuit Judge of the Eleventh Judicial Circuit in Miami, FL, and Administrative Judge for the Criminal Division. Previously, he served as an assistant public defender. He teaches at the New Judge's College twice a year, has been the Dean of Handling Capital Cases Course for Advanced Judicial Studies, and is an Adjunct Professor at the University of Miami School of Law. He has received numerous awards, including the Justice Gerald Kogan Judicial Distinction Award. He received his B.S. from the University of Florida and his J.D. from the University of Miami School of Law.

Robert C. Boruchowitz

Mr. Boruchowitz is a Professor from Practice and Director of The Defender Initiative at Seattle University School of Law. Previously, he was Director of The Defender Association for 28 years. He is coauthor of *Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts*. He is the Founding President of the Washington Defender Association, a former member of the Executive Committee of the American Council of Chief Defenders, and a former Soros senior fellow. He has received numerous awards, including the Washington State Bar Association Professionalism Award. He earned a J.D. from Northwestern University School of Law.

Lanny A. Breuer

The Honorable Lanny A. Breuer was confirmed as the Criminal Division's Assistant Attorney General on April 20, 2009. He began his career as an assistant district attorney in Manhattan. In 1989, he joined Covington & Burling LLP, where he became a partner and served as co-chair of the White Collar Defense and Investigations practice group. From 1997 to 1999, he served as Special Counsel to President William J. Clinton. He is a fellow of the American College of Trial Lawyers. He received his B.A. from Columbia University and his J.D. from Columbia Law School.

Stephen B. Bright

Mr. Bright is President and Senior Counsel of the Southern Center for Human Rights in Atlanta and teaches at Yale and Georgetown Law Schools. He has also been a legal services attorney and public defender. Subjects of his litigation, teaching, and writing include capital punishment, legal representation of poor people accused of crimes, human rights of prisoners, and judicial independence. He received the American Bar Association's Thurgood Marshall Award in 1998. In 2003, the *Fulton Daily Law Report* named him Newsmaker of the Year for his contributions in bringing about creation of a public defender system in GA.

Miles Brissette

Mr. Brissette is an assistant criminal district attorney in Tarrant County, TX, assigned to the Felony Trial Division. He specializes in arson and complex litigation cases involving digital-based evidence. He is also the system designer for a custom case management system for the Criminal District Attorney's Office. He has served as the Testing and Certifications Chair for the International Association of Chiefs of Police Digital Video Systems Minimum Performance Specifications for in-Car Video. He is a member of the National Institute of Justice's (NIJ's) Sensors and Surveillance Technology Technical Working Group. He is currently participating on the NIJ Multimedia Evidence Systems Standards panel.

Avis E. Buchanan

Ms. Buchanan is Director of the Public Defender Service (PDS) for the District of Columbia. After graduating from Michigan State University and Harvard Law School, she was a law clerk for Federal Appellate Judge Theodore McMillian. Next, she was a public defender at PDS for 6 years, and then, for 13 years, a litigation attorney with the Washington Lawyers' Committee for Civil Rights and Urban Affairs, working on employment and public accommodations cases in Federal and local courts. Ms. Buchanan returned to PDS as Deputy Director in 2002 and became Director in 2004.

Derwyn Bunton

Mr. Bunton is Chief District Defender for New Orleans. After Hurricane Katrina, he was part of a team that helped State and local leaders locate and reunite prisoners from the Orleans Parish Prison, who had been evacuated and scattered across the State after being trapped by floodwaters, with their families. In 2006, Mr. Bunton was appointed to the Orleans Indigent Defender Board to re-establish public defense in New Orleans. As a local board member and a member of LA's Right to Counsel Committee, he assisted in indigent defense reform after Katrina at the State and local levels.

Edwin A. Burnette

Mr. Burnette is Vice President of Defender Legal Services at the National Legal Aid & Defender Association (NLADA), overseeing the Defender Division of NLADA and coordinating its program and service delivery in support of defender members nationwide. Previously, he served as Cook County (IL) Public Defender, where he established policies and procedures for representing clients and developing liaisons to all county agencies involved in the administration and funding of the Office. After completing his term as Public Defender, he consulted on organizational development and strategic leadership. Mr. Burnette graduated from the United States Naval Academy and DePaul College of Law.

Sue Burrell

Ms. Burrell is a Staff Attorney at the San Francisco-based Youth Law Center, a national nonprofit, public interest law firm, where she advocates, litigates, speaks, writes, and consults on juvenile justice issues. She began her legal career handling appeals for the California State Public Defender and then served as a trial lawyer and Juvenile Appellate/Training Specialist for the Los Angeles County Public Defender. She is the CA Team Leader for the MacArthur Foundation's Juvenile Indigent Defense Action Network and coauthor of the first national juvenile defender assessment, *A Call for Justice*.

Paul Butler

Mr. Butler is Associate Dean for Faculty Development and Carville Dickinson Benson Research Professor of Law at George Washington (GW) University Law School. He teaches criminal law, race relations law, and jurisprudence. Previously, he was a Visiting Professor at the University of Pennsylvania Law School and the Acting Co-Director of the GW/Oxford Human Rights Program at Oxford University. He was elected to the American Law Institute in 2003 and has been awarded the Soros Justice Fellowship. Mr. Butler graduated *cum laude* with a B.A. from Yale University and *cum laude* with a J.D. from Harvard Law School.

David Carroll

Mr. Carroll is Research Director for the National Legal Aid & Defender Association. He has conducted numerous indigent defense assessments, including in MT and the District of Columbia. *A Race to the Bottom* (2008) details how the right to counsel is inadequately enforced throughout MI. *Defense of Public Access to Justice* (2004) describes systemic deficiencies in Avoyelles Parish, LA. A subsequent report about post-Katrina New Orleans created a road map for legislative reform leading to the passage of the Louisiana Public Defender Act of 2007. Mr. Carroll is an advisor to the Nevada Supreme Court Task Force on Indigent Defense.

Michael A. Cherry

The Honorable Michael A. Cherry was elected Justice of the Nevada Supreme Court in 2006. He began his career as a Deputy Clark County Public Defender before becoming a private attorney. He served as Special Master in the MGM Grand Hotel fire litigation case and served in the same role in the Las Vegas Hilton fire litigation cases. In 1997, he returned to public service when he was named to lead the newly created Clark County Special Public Defender's Office. In 1998, he was elected a District Court Judge in Clark County.

Emily Chiang

Ms. Chiang is a Visiting Assistant Professor at the S.J. Quinney College of Law at the University of Utah, where she teaches a civil rights clinic. Previously, she was an attorney in the Racial Justice Program, American Civil Liberties Union National Legal Department; at the Brennan Center for Justice, New York University School of Law; and at Cravath, Swaine & Moore LLP. She has been involved with indigent defense reform efforts in a number of states, including MT, MI, OH, NY, PA, LA, and UT. Ms. Chiang received her J.D. from Harvard Law School and her B.A. from Yale University.

Nicholas L. Chiarkas

Mr. Chiarkas is Director of Wisconsin's State Public Defender Agency, founder of Justice Without Borders, and Adjunct Professor of Law at the University of Wisconsin Law School. He has won numerous awards and is a published author. Mr. Chiarkas earned doctorate and master's degrees from Columbia University, a law degree from Temple University, master's and bachelor's degrees in Criminal Justice from the City University of New York, a postgraduate certificate in computer systems analysis from New York University, and was a Pickett fellow at the John F. Kennedy School of Government at Harvard University.

John Chisholm

The Honorable John Chisholm is District Attorney of Milwaukee County. He organized his office to work closely with neighborhoods and expanded his nationally recognized Community Prosecution program. He formed a Public Integrity Unit to focus on corruption matters and a Witness Protection Unit to thwart attempts to intimidate victims and witnesses of crime. He also helped inaugurate a drug treatment court. Mr. Chisholm sits on the Racial Disparities Oversight Commission and serves on the Milwaukee Homicide Review Commission, Community Justice Council, Safe & Sound, and Milwaukee Addiction Treatment Initiative boards.

Kay Chopard Cohen

Ms. Chopard Cohen is Deputy Executive Director of the National Criminal Justice Association, a nonprofit association representing State, local, and tribal governments on issues of crime control and public policy. Ms. Chopard Cohen manages projects ranging from a national training program for community-based strategic planning to developing technical assistance and training for domestic preparedness for State and local officials. She is on the faculty of several continuing legal education institutions and organizations. Ms. Chopard Cohen graduated from the University of Iowa School of Law and is a member of the Iowa bar and the U.S. Supreme Court Bar.

Sue Bell Cobb

The Honorable Sue Bell Cobb is AL's first female Chief Justice. Previously, she served on the Alabama Court of Criminal Appeals for 12 years. In 1981, at the age of 25, she was appointed Conecuh County District Judge. From 1997 to 2000, she served as Alternate Chief Justice of the Alabama Court of the Judiciary. Chief Justice Cobb has been recognized by numerous State and national awards, including the Juvenile Probation Officer Institute Outstanding Service Award. She earned a B.A. in history and a J.D. from the University of Alabama.

Melanca D. Clark

Ms. Clark is Director of the Community Oriented Defender Network at the Brennan Center for Justice, New York University School of Law and is leading a racial justice reform agenda in partnership with defender programs across the country. Ms. Clark was a John J. Gibbons fellow in public interest and constitutional law, where she litigated cases in the areas of civil rights, civil liberties, prisoners' rights, and criminal law. Prior to that, she challenged employment barriers for individuals with criminal records with the NAACP Legal Defense Fund. She received her J.D. from Harvard Law School and her B.A. from Brown University.

Cait Clarke

Ms. Clarke is Director of Public Interest Law Opportunities at Equal Justice Works in Washington, DC. She was an Associate Law Professor at Loyola Law School and later taught in Harvard Law School's Kennedy School of Government's Program in Criminal Justice Policy and Management and managed the Executive Session on Public Defense. She is a member of the Board of Directors of the Southern Public Defender Training Center. She has an S.J.D. from Harvard Law School, an LL.M. from Georgetown University Law Center's Criminal Justice Clinic, a J.D. from Catholic University's Columbus School of Law, and a B.S. from Villanova University's School of Business.

Elizabeth (Betsy) Clarke

Ms. Clarke is Founder and President of the Juvenile Justice Initiative (JJI), an advocacy organization to reform juvenile justice (JJ) policies in IL. JJI successfully advocated for community-based alternatives to confinement, juvenile drug transfer reform, early appointment of counsel, and inclusion of 17-year-old misdemeanants in juvenile court. Ms. Clarke served as JJ Counsel for the Cook County Public Defender for 6 years and Legislative Liaison/JJ Coordinator for the Office of the State Appellate Defender. She is Co-Chair of the Midwest Juvenile Defender Center and Co-Chair of the National Juvenile Justice Network.

Caroline Cooper

Ms. Cooper is Associate Director of the Justice Programs Office of the School of Public Affairs at American University and a research faculty member of the School of Public Affairs. She has been a practicing attorney, an assistant public defender, and has written on judicial system issues relating to the management of criminal, civil, juvenile, and family matters and drug court programs. She is Director of the Bureau of Justice Assistance (BJA) Drug Court Clearinghouse/ Technical Assistance Project and Associate Director of the BJA Criminal Courts Technical Assistance Project at American University. She graduated from Smith College, Howard University (M.A.), and the Washington College of Law.

Robin L. Dahlberg

Ms. Dahlberg is a Senior Staff Attorney with the American Civil Liberties Union. She has served as lead counsel in lawsuits, successfully challenging inadequacies in indigent defense systems in CT, PA, and MT. She is currently counsel for plaintiffs in a lawsuit seeking to reform MI's public defense system. Ms. Dahlberg has advised on reform efforts in several other states and has lectured widely on the use of litigation as an advocacy tool and organized conferences on the issue. She is a graduate of Stanford University and New York University School of Law.

Betty Layne DesPortes

Ms. DesPortes is a criminal defense attorney with the Richmond, VA, law firm Benjamin & DesPortes. She has actively sought reform of the State's indigent defense system and is committed to improving indigent defense forensic resources. In 1996, Ms. DesPortes and her law partner, Steven D. Benjamin, obtained a landmark VA Supreme Court decision recognizing the constitutional right of an indigent criminal defendant to expert forensic assistance. Since 2005, she has helped lead speaker recruitment of the VA Chief Justice's Advanced Indigent Criminal Defense Training Seminar, an annual day-long program for more than 1,000 defense attorneys.

Nancy J. Diehl

Ms. Diehl recently retired from the Wayne County Prosecutor's Office. Her prosecution career spanned 28 years (1981–2009), and her last position was as Chief of the Trial Division. Some of her professional and community affiliations include Executive Committee, Governor's Task Force on Children's Justice; Commissioner, Judicial Tenure Commission; Co-Chair, State Bar of Michigan Video Recording Interrogations Task Force; and past President, State Bar of Michigan. Ms. Diehl received her undergraduate degree from Western Michigan University and her J.D. from Wayne State University Law School.

Maureen Dimino

Ms. Dimino is Indigent Defense Counsel for the National Association of Criminal Defense Lawyers (NACDL). She also staffs the Indigent Defense Committee and assists in developing programs for NACDL members who practice indigent defense. Previously, she was an assistant public defender in Miami-Dade County. Prior to her legal career, she taught and counseled low-income urban youth at the San Francisco Conservation Corps. Ms. Dimino graduated from American University's Washington College of Law, where she participated in the Marshall-Brennan Program Constitutional Literacy Project, and Phi Beta Kappa from Brandeis University.

Joshua Dohan

Mr. Dohan is Director of The Youth Advocacy Department (YAD). YAD is the new Juvenile Defender Division of the Massachusetts Public Defender Agency, the Committee for Public Counsel Services. In 2001, YAD was the first juvenile defender organization to win the American Bar Association/ National Legal Aid & Defender Association's Clara Shortridge Foltz Award for outstanding achievement. MA is a member of the Juvenile Indigent Defense Action Network. Mr. Dohan is a graduate of Harvard University and Northeastern University School of Law.

Steven A. Drizin

Mr. Drizin is Assistant Director at the Bluhm Legal Clinic and Legal Director of the Center on Wrongful Convictions at Northwestern University. At the Bluhm Legal Clinic, he represents children in delinquency and criminal cases in the trial and appellate courts and school disciplinary proceedings and represents children and adults in parole and clemency hearings, post-conviction cases, appeals, and political asylum proceedings. He helped lead the effort to get the U.S. Supreme Court to rule that executing children under the age of 18 is unconstitutional. He received the American Bar Association's Livingston Hall Award in 2005 for excellence in juvenile justice advocacy.

Daniel T. Eismann

The Honorable Daniel T. Eismann is Chief Justice of the Idaho Supreme Court. He is also Chair of the Drug Court and Mental Health Court Coordinating Committee, Co-Chair of Idaho Partners Against Domestic Violence, and serves on the Criminal Justice Commission and the boards of the Idaho State Bar Lawyers Assistance Program and the Idaho Law Foundation. In 2009, he was inducted into the National Association of Drug Court Professionals Stanley M. Goldstein Hall of Fame. Chief Justice Eismann is a Vietnam veteran and Purple Heart recipient. He received his undergraduate degree and his law degree, *cum laude*, from the University of Idaho.

Rodney Ellis

The Honorable Rodney Ellis was elected to the Texas Senate in 1990. During his tenure, Senator Ellis has earned praise as a leader on economic development, education, civil rights, responsible environmental policy, tax cuts for the middle class, criminal justice, and workforce development issues. He is also a partner in Rice Financial Products Company, a shareholder in The Tagos Group, and is Of Counsel at Reaud, Morgan, & Quinn. Senator Ellis earned his B.A. from Texas Southern University, his M.P.A. from the Lyndon B. Johnson School of Public Affairs, and his J.D. from the University of Texas School of Law.

Jules Epstein

Mr. Epstein is Associate Professor of Law at Widener University School of Law, where he teaches evidence, criminal procedure, and criminal law. He is Of Counsel at Kairys, Rudovsky, Messing & Feinberg LLP in Philadelphia and has published extensively regarding the death penalty, eyewitness identification, and evidence. He is faculty for the National Judicial College. In the area of forensics, Mr. Epstein has worked on two DNA work groups and in capital case trainings for the National Institute of Justice and now serves on a working group on latent print issues for the National Institute for Standards and Technology.

Tony Fabelo

Mr. Fabelo is the Austin-based Director of Research of the Justice Center of the Council of State Governments. He was Executive Director of the Texas Criminal Justice Policy Council from 1991 to 2003. Before that, he served in other capacities assisting five TX governors and 11 regular biennial TX legislatures. He is a member of the National Right to Counsel Committee of the Constitution Project, which in 2009 issued a report with recommendations to improve indigent defense systems in the nation. He holds a doctorate in government from the University of Texas at Austin.

Jean M. Faria

Ms. Faria is the State Public Defender of Louisiana. Previously, she served as an Assistant Federal Public Defender assigned to the Middle and Western Districts of LA. She was also a public defender in East Baton Rouge Parish State District Court. Ms. Faria was the first Chief Executive Officer of the Louisiana Indigent Defender Board. She is a charter member of the Louisiana Association of Criminal Defense Lawyers, member of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (SCLAID), Chair of SCLAID's Indigent Defense Advisory Group, and fellow of the American Bar Foundation.

Barry C. Feld

Mr. Feld is Centennial Professor of Law at the University of Minnesota Law School. He has written eight books, 80 law reviews, book chapters, and criminology articles about juvenile justice, focusing on race, waiver and sentencing of serious young offenders, procedural justice, and police interrogation of juveniles. His book *Bad Kids: Race and the Transformation of the Juvenile Court* received awards from the Academy of Criminal Justice Sciences and the American Society of Criminology. His current projects include an empirical analysis of 350 police interrogations of 16- and 17-year-old juveniles charged with felony offenses.

William J. Fitzpatrick

The Honorable William J. Fitzpatrick is District Attorney of Onondaga County. He served as President of the New York State District Attorney's Association in 1999 and was named the association's Outstanding Prosecutor in 2003. The New York State Bar Association named him the State's Outstanding Prosecutor in 2005. He currently serves on the New York State Forensic Science Commission, is the New York state representative to the National District Attorney's Association, and serves as Co-Chair of the American Bar Association's Criminal Justice Section Committee on Science and Technology.

Norman S. Fletcher

The Honorable Norman S. Fletcher is a former Justice, Georgia Supreme Court (1990–2005), Presiding Justice (1995–2001), and Chief Justice (2001–2005). He was Chair of the Judicial Council of Georgia (2001–2005) and served on the Board of Directors of the Conference of Chief Justices (2003–2005). He received the Georgia First Amendment Weltner Freedom of Information Award (2005), the Georgia Excellence in Public Service Award (2005), and the State Bar of Georgia 2009 Distinguished Service Award. Mr. Fletcher earned a B.A. and an LL.B. from the University of Georgia and an LL.M. from the University of Virginia.

Franny Forsman

Ms. Forsman is the Federal Public Defender for the District of Nevada. She received the Distinguished Nevadan award in 2005 from the University of Nevada Las Vegas, where she teaches trial advocacy at the Boyd School of Law. She received the President's Medal in 2003, the Kendra Alexandra Award from the National Alliance Against Racist and Political Repression in 1995, and, in 1993, was named Nevada Civil Libertarian of the Year and Nevada Attorneys for Criminal Justice Defender of the Year. Ms. Forsman received her law degree from Notre Dame Law School.

Monroe Freedman

Mr. Freedman is a Professor of Law and the former Dean at Hofstra Law School, a Visiting Professor at Georgetown Law Center, and an annual Lecturer on lawyers' ethics at Harvard Law School. He has testified as an expert witness in scores of cases in Federal and State courts, including on behalf of the U.S. Department of Justice. He received the American Bar Association's highest award for professionalism in recognition of "a lifetime of original and influential scholarship in the field of lawyers' ethics." His latest book is *Understanding Lawyers' Ethics* (3rd ed., 2004) (with Abbe Smith).

Jennifer Friedman

Ms. Friedman has been Deputy Public Defender in Los Angeles County for more than 23 years. She is the office's Assistant Special Circumstance Coordinator and Forensic Science Coordinator and represents clients charged with capital murder. She is a member of the California Crime Laboratory Task Force and the National Association of Criminal Defense Lawyers Forensic Science Task Force. She writes the expert section of the *California Death Penalty Manual*. She is a frequent lecturer on the use of various forensic sciences in the courts and recently on how the NAS report affects the admissibility of forensic evidence.

Paul C. Giannelli

Mr. Giannelli is the Albert J. Weatherhead III & Richard W. Weatherhead Professor of Law at Case Western Reserve University. He has authored or coauthored 10 books, including *Scientific Evidence* (4th ed. 2007), and published articles in the *Columbia*, *Virginia*, *Cornell*, *Vanderbilt*, *Fordham*, *North Carolina*, *Wisconsin*, *Ohio State*, and *Hastings* law reviews; the *Journal of Criminal Law & Criminology*; the *Criminal Law Bulletin*; and the *American Criminal Law Review*. Mr. Giannelli served as Reporter for the American Bar Association (ABA) Criminal Justice Standards on DNA Evidence and as Co-Chair of the ABA Ad Hoc Committee on Innocence.

Richard Goemann

Mr. Goemann is Director of Defender Legal Services for the National Legal Aid & Defender Association. Previously, he was an Assistant Federal Public Defender for the Eastern District of VA and served as Executive Director for the Indigent Defense Commission, as the Public Defender for Fairfax, and as an Assistant and Senior Assistant Public Defender in Alexandria. He was also a staff attorney and supervisor in the DC Law Students in Court Program. He received his J.D. from New York University and was a Prettyman graduate fellow at Georgetown University Law Center, where he earned an LL.M. in advocacy.

Christopher Gowen

Mr. Gowen is Senior Staff Attorney for the American Bar Association's (ABA's) Criminal Justice Section in Washington, DC. His practice focuses on developing policy and programs for juvenile law, victims of crime, and mediation in criminal matters. He is project director for two grants studying the collateral consequences of criminal convictions. Before joining ABA, he was the National Advance Lead for Senator Hillary Rodham Clinton's presidential campaign and worked for the Clinton Foundation and the Clinton HIV Aids Initiative. Mr. Gowen is a graduate of the University of Miami School of Law.

Kathi Grasso

Ms. Grasso is the Senior Policy and Legal Advisor at the Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice. She has 20 years of experience serving as Director of OJJDP's Research and Program Development Division, Director of the Child and Adolescent Health Law Program of the American Bar Association's Center on Children and the Law, and Chief Attorney of the Legal Aid Bureau's Child Advocacy Unit in Baltimore. Ms. Grasso has extensive litigation experience, has published in the child advocacy field, and has participated in numerous national advisory groups addressing societal concerns.

Karla M. Gray

The Honorable Karla M. Gray is a former Chief Justice of the Montana Supreme Court. She graduated from University of California Hastings College of the Law in 1976, moved to MT for a Federal court clerkship, and subsequently was a solo practitioner, corporate attorney, and lobbyist. She became the first woman elected as a Justice of the Montana high court in 1992. A past member of the American Bar Association's Standing Committee on Legal Aid and Indigent Defense, she was a defendant in the litigation which resulted in MT's 2005 Public Defender Act.

Margaret A. Gressens

Ms. Gressens is Research Director for the North Carolina Office of Indigent Defense Services. She has more than 20 years of social and economic research and program evaluation experience, including assessments of the criminal justice system, measurement of health and quality of life for the Municipality of Anchorage Department of Health and Human Services, and evaluation of the impact of U.S. foreign policy on the United States and the international economy. Ms. Gressens holds a B.A. from Brown University and an M.P.A. from the University of Alaska, Anchorage.

A. Elizabeth Griffith

Ms. Griffith is an Associate Deputy Director at the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice (DOJ). She leads cross-cutting strategic efforts such as planning, program model development, and strategic outreach efforts. She started her career at DOJ in the National Institute of Justice as the Director of Development. Before that, Ms. Griffith served as the Director of the Mayor's Office on Criminal Justice for the City of Baltimore, where she advised the mayor and managed criminal justice initiatives and grants, including the development of the Baltimore Drug Court Program.

Robert A. Hahn

Mr. Hahn has served as an epidemiologist at the U.S. Centers for Disease Control and Prevention (CDC) since 1986 and is a member of the Senior Biomedical Research Service. Mr. Hahn is currently Coordinating Scientist of systematic reviews on excess alcohol prevention and is launching a review on health equity for the CDC Guide to Community. He is the author of *Sickness and Healing: An Anthropological Perspective* and editor of *Anthropology in Public Health: Bridging Differences in Culture and Society*. He received his Ph.D. in anthropology from Harvard University and his M.P.H. in epidemiology from the University of Washington.

Melodee Hanes

Ms. Hanes is Special Counsel to the Administrator and Acting Deputy Administrator of Policy at the Office of Juvenile Justice and Delinquency Prevention. She was a Deputy County Attorney for 17 years in Des Moines, IA, and Billings, MT. She primarily prosecuted child abuse, sexual assault, and homicide cases. Additionally, she has served as an Adjunct Professor of Law at Drake University. Most recently, Ms. Hanes served for 7 years with United States Senator Max Baucus as his State Director. Ms. Hanes is a graduate of Drake University Law School.

Jack C. Hanna

Mr. Hanna is Director of the American Bar Association's (ABA's) Criminal Justice Section. He previously served as Director of the ABA Section of Dispute Resolution and Business Manager of Judicial Arbitration and Mediation Service's Washington, DC, and Philadelphia offices. He is a lawyer, mediator, trainer, program designer, curriculum designer, and grant writer. Mr. Hanna developed a membership plan for the Criminal Justice Section that has dramatically increased lawyer memberships. He is the former Director of the South Carolina Bar *Pro Bono* Program. A writer/producer for South Carolina Instructional Television, he has developed more than 60 educational television programs about law.

Eden Harrington

Ms. Harrington is Assistant Dean of Clinical Education and Public Service and Director of the William Wayne Justice Center for Public Interest Law at the University of Texas School of Law in Austin. She teaches courses on public service lawyering, the legislative process, and poverty law. Previously, she worked for 9 years (including serving as the Executive Director) with the Texas Resource Center, a federally funded community defender organization representing death-sentenced inmates in post-conviction appeals. She is the Chair of the Board of Directors of the Texas Defender Service.

Kristin Henning

Ms. Henning is a Professor and Co-Director of the Juvenile Justice Clinic at Georgetown Law and was Lead Attorney for the Juvenile Unit of the Public Defender Service for the District of Columbia. Ms. Henning serves on the Board of Directors for the Center for Children's Law and Policy and has investigated the quality of representation for accused juveniles in eight states. She has assisted in juvenile justice reform in Liberia and has consulted with several State and Federal agencies in the United States. Ms. Henning received her J.D. from Yale Law School and an LL.M. from Georgetown.

Henderson Hill

Mr. Hill is an attorney with Ferguson, Stein, Chambers, Gresham, and Sumter, P.A., in Charlotte, NC, concentrating on general civil litigation, medical negligence, civil rights litigation, and criminal defense. Previously, he served as Trial Lawyer; Deputy Chief, Appellate Division; and Training Chief, Office of the Public Defender Service for the District of Columbia. In 1991, he became Director of the North Carolina Resource Center. In 1995, Mr. Henderson opened the Center for Death Penalty Litigation (CDPL), a nonprofit trial and post-conviction support office for capital litigators. He serves on the Board of Directors of CDPL.

Dana Hlavac

Mr. Hlavac is Deputy County Manager for Criminal Justice Services for Mohave County, AZ. He has served as a deputy and assistant district attorney, private practitioner, and Chief Public Defender. He is the past President of the Arizona Public Defender Association. He has served as an advisory member of the Arizona Joint Legislative Study Committee on State Court Funding, Joint Legislative Committee on Youthful Sex Offenders, and Joint Study Committee on Security Threat Groups and Criminal Street Gangs. He holds a B.A. from Syracuse University, a J.D. from the University of Denver, and a C.P.M. from Arizona State University.

Eric Holder

The Honorable Eric Holder became the 82nd Attorney General of the United States on February 3, 2009. Prior to that, he was a litigation partner at Covington & Burling LLP in Washington, DC. In 1997, Mr. Holder was appointed Deputy Attorney General by President Clinton and was the first African-American named to that post. Previously, he served as U.S. Attorney for the District of Columbia. In 1988, President Reagan named him an Associate Judge of the Superior Court of the District of Columbia. He earned a B.A. in American history from Columbia College and a J.D. from Columbia Law School.

Lou Ann Holland

Ms. Holland is a Program Manager in the Child Protection Division (CPD), Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice (DOJ). CPD manages federally funded work in areas including training for attorneys, judges, and law enforcement on child protection issues; Internet crimes against children; missing and exploited children; children's advocacy centers; and research/evaluation. Previously, Ms. Holland served as appointed counsel in both adult and juvenile indigent defense matters. At DOJ, she has served as Program Manager for the National Juvenile Defender Center and currently manages various law school-based clinical projects.

Robin Huseby

Ms. Huseby is Executive Director of the North Dakota Commission on Legal Counsel for Indigents. In 2005, the ND legislature passed sweeping reform legislation transferring the administration and financial responsibility of indigent defense services to a newly formed commission, and Ms. Huseby was hired by the commission to develop and implement a new delivery system for the state. Ms. Huseby graduated from the University of North Dakota School of Law and was in private practice for 6 years. She was Assistant Barnes County State's Attorney for 5 years and was the elected State's Attorney for 15 years.

Lydia P. Jackson

The Honorable Lydia P. Jackson was elected to the Louisiana Senate in 2004. She is a Vice President and Business Development Officer for Capital One Bank and is responsible for initiating partnerships with community-based organizations, government agencies, and other groups to facilitate opportunities for expansion of bank products and services and the production and rehabilitation of affordable housing. Senator Jackson is Vice-Chair of the Senate Finance Committee, Chair of the Senate Select Committee on Women and Children, and a member of the State Bond Commission and the Senate Committees on Senate and Governmental Affairs, Judiciary C, and Local and Municipal Affairs.

Rick Jones

Mr. Jones is Executive Director and a founding member of the Neighborhood Defender Service of Harlem. He is also a Lecturer in law at Columbia Law School and on the faculty of the National Criminal Defense College in Macon, GA. Mr. Jones is a member of the Board of Directors of the National Association of Criminal Defense Lawyers, where he serves as Co-Chair of the Special Task Force on Problem-Solving Courts. In September 2009, the Task Force released its critically acclaimed report *America's Problem-Solving Courts: The Criminal Costs of Treatment and the Case for Reform*.

Michael P. Judge

Mr. Judge is the Chief Public Defender for the County of Los Angeles, CA, with responsibility for more than 40 offices and more than 750 lawyers. He is the past President of the California Public Defenders Association and a founding member of the American Council of Chief Defenders and the National Association of Drug Court Professionals. He serves as Vice Chair of the Los Angeles County Drug Court Oversight Committee and was a member of the State Commission on the Fair Administration of Justice, which investigated wrongful convictions and conceived reforms to avoid them.

Judith S. Kaye

The Honorable Judith S. Kaye joined Skadden's Litigation Group as Of Counsel in 2009. Previously, she was Chief Judge of the New York Court of Appeals for 15 years. Ms. Kaye has written numerous publications and articles on legal process, State constitutional law, women in law, professional ethics, and problem-solving courts. She has received the American Bar Association's (ABA's) Justice Center John Marshall Award, the National Center for State Courts' William H. Rehnquist Award for Judicial Excellence, the ABA Commission on Women in the Profession's Margaret Brent Women Lawyers of Achievement Award, and the U.S. Department of Health and Human Services' Adoption Excellence Award.

Jessica R. Kendall

Ms. Kendall is Assistant Staff Director at the American Bar Association's Center on Children and the Law. She manages grants relating to status offenders and child welfare reforms. She also represents children in the abuse and neglect system in the District of Columbia. Ms. Kendall has written several articles and a book about juvenile status offenders and has conducted national trainings on the topic. Ms. Kendall graduated *summa cum laude* with a J.D. from Catholic University's Columbus School of Law and *magna cum laude* with a B.A. in psychology from the University of Pennsylvania.

Lisa Kreeger Norman

Ms. Kreeger-Norman is the Attorney Advisor to the United States Army Criminal Investigations Laboratory and is its principal legal advisor. She is an associate member of the American Academy of Forensic Sciences. Ms. Kreeger-Norman graduated from the University of Cincinnati College of Law, where she was on the dean's list and was a 2-year member of the Honor Council. She graduated *summa cum laude* with a B.A. in political science and *magna cum laude* with a B.S. in economics from the University of Cincinnati. She was a member of Phi Beta Kappa and Omicron Delta Kappa honorary societies.

Ms. Laethem is Executive Director of Sacramento County Conflict Criminal Defenders. Previously, she was State Public Defender of California. She is Vice Chair of the National Legal Aid & Defender Association's (NLADA's) Defender Policy Group. She was a member of the California Committee of Bar Examiners, the California Judicial Council Appellate Standing Advisory Committee, and the California Council on Criminal Justice. She was a trainer for NLADA's National Defender Leadership Institute and provides leadership training to Sacramento County executives and managers. Ms. Laethem graduated from University of the Pacific, McGeorge School of Law.

Ms. Langton is a statistician at the Bureau of Justice Statistics (BJS), U.S. Department of Justice, and the Project Manager for the 2007 Census of Public Defender Offices (CPDO). She has been involved in the development, implementation, and analysis of CPDO since 2006. Other projects at BJS cover topics ranging from law enforcement to civil trials, court organization, gangs, and identity theft. Ms. Langton earned her master's degree in criminology from the University of Florida and is currently a doctoral candidate in criminology.

Mr. Leahy is Chief Counsel for the Committee for Public Counsel Services (CPCS). His legal career has been dedicated to the representation of indigent persons. He has served as a trial and appellate defender with the Massachusetts Defenders Committee and as the first Leader of the Public Defender Division of the CPCS. He is an advisor to the American Law Institute Model Penal Code revisions, serves on the Executive Committee of the American Council of Chief Defenders, and teaches criminal law and human rights law at Brandeis University. He graduated from the University of Notre Dame and Harvard Law School.

Ms. Leary is Principal Deputy Assistant Attorney General of the Office of Justice Programs (OJP). Before joining OJP, she was Executive Director of the National Center for Victims of Crime. Ms. Leary has also served in the Department of Justice as Acting Assistant Attorney General of OJP, Deputy Associate Attorney General, and Acting Director of the Office of Community Oriented Policing Services. She has extensive trial experience as United States Attorney and Assistant United States Attorney in the District of Columbia and Assistant District Attorney in Middlesex County, MA. Ms. Leary helped lead the Department's indigent defense efforts under then-Attorney General Janet Reno in 2000.

Ms. Lee is a deputy public defender in San Francisco. She has been practicing in the juvenile courts since 1981 and is the managing attorney of the Juvenile Division of the San Francisco Public Defender's Office. She is Co-Director of the Pacific Juvenile Defender Center, established to improve the quality of representation provided by juvenile delinquency attorneys in CA and HI. She is a core member of the John D. and Catherine T. MacArthur Research Network on Adolescent Development and Juvenile Justice. She is a graduate of the University of California, Berkeley and Lincoln University Law School.

Mr. Lefstein was Dean of the Indiana University School of Law, Indianapolis from 1988 to 2002. During the 1970s, he served as a Federal prosecutor and Director of the DC Public Defender Service. He has written and lectured extensively about indigent defense and served as a reporter for the American Bar Association and the National Right to Counsel Committee. Mr. Lefstein served 17 years as Chairman of the Indiana Public Defender Commission. He is a recipient of the Champion of Indigent Defense Award presented by the National Association of Criminal Lawyers.

Ms. Levick co-founded the Juvenile Law Center (JLC) in 1975 and serves as its Deputy Director and Chief Counsel. For more than 30 years, she has been an advocate for children's and women's rights and is a nationally recognized leader in juvenile law. Ms. Levick manages JLC's litigation and appellate docket. She has written numerous appellate and amicus briefs in state and Federal courts, including the U.S. Supreme Court, and argued before courts nationwide. She has coauthored several articles about children's rights issues and is an adjunct faculty member at the University of Pennsylvania and Temple Law Schools.

Kirsten D. Levingston

Ms. Levingston is a Ford Foundation program officer focused on criminal justice reform. She has led advocacy and public education efforts around indigent defense, women in the system, the Census count of prisoners, and other issues at the Brennan Center for Justice, New York University School of Law. She developed a project to enhance political leadership among public defenders at the Vera Institute and practiced law in a Washington, DC, firm; in the U.S. Department of Justice's Civil Division; and at the NAACP Legal Defense Fund. Ms. Levingston graduated from the University of Southern California and Harvard Law School.

Robert Listenbee

Mr. Listenbee has been a trial lawyer at the Defender Association of Philadelphia since 1986 and Chief of the Juvenile Unit since 1997. He serves on the Governor's Advisory Committee on Juvenile Justice and the Disproportionate Minority Contact Subcommittee and is President of the Juvenile Defenders Association of Pennsylvania. He also serves on the Advisory Board of the National Juvenile Defender Center and is actively involved in the MacArthur Foundation's Models for Change Initiative in PA. Mr. Listenbee received his B.A. from Harvard University and his J.D. from the Boalt Hall School of Law at the University of California, Berkeley.

Robin Maher

Ms. Maher is Director of the American Bar Association Death Penalty Representation Project in Washington, DC. She works to improve the quality and availability of defense counsel for anyone facing a potential death sentence in the United States. Her work includes legal reform of capital counsel systems, training of judges and defense lawyers, systemic litigation, and recruitment of volunteer lawyers to represent people on death row without counsel. Ms. Maher has been a trainer and lecturer on the death penalty throughout the United States and in Canada, France, Ireland, China, and Japan. She graduated from the University of Minnesota Law School.

Alan Maimon

Mr. Maimon is a special projects reporter for the *Las Vegas Review-Journal*. His stories about indigent defense helped prompt a Nevada Supreme Court study of the state's public defender systems. Before joining the *Review-Journal*, he managed the Eastern KY bureau of the *Louisville Courier-Journal*. While there, he worked on a series about delays in KY's courts that was a 2004 finalist in the Pulitzer Prize's public service category. He started his journalism career as a news assistant in the Berlin bureau of *The New York Times*. He is a Philadelphia native and a graduate of Brown University.

Gerald Malloy

The Honorable Gerald Malloy is an attorney and State Senator in South Carolina. He is President, South Carolina Trial Lawyers Association; member, South Carolina Bar Association; Chairman, Public Defenders Board of Darlington County Bar Association; member, South Carolina Supreme Court Commission on Lawyer Conduct (1996–2002); and served on the Judicial Qualifications Committee of the South Carolina Bar Association. He received the South Carolina Commission on Indigent Defense Distinguished Service Award. This award was named the Gerald Malloy Distinguished Service Award and is given annually. Senator Malloy received a B.A. and a J.D. from the University of South Carolina.

Phyllis Mann

Ms. Mann is Director of the National Defender Leadership Institute at the National Legal Aid & Defender Association (NLADA). Before returning to TX, Ms. Mann practiced criminal defense in LA. In 2005, she secured the LA opinion, *State v. Citizen*, establishing authority to halt capital prosecutions where there is inadequate defense funding. Following Hurricane Katrina, she led the attorneys who documented and represented the 8,500 people evacuated from LA jails. She received NLADA's Arthur von Briesen Award for her contributions to indigent defense and the Louisiana Association of Criminal Defense Lawyers' Tate Award for lifetime achievement in criminal defense.

Carlos J. Martinez

The Honorable Carlos J. Martinez was elected Public Defender in 2008. He directs almost 400 employees and volunteers who handle more than 100,000 cases each year. He has instituted numerous law reform and other initiatives to help ex-felons regain their rights and to teach teenagers about the consequences of illegal behavior and arrest and how to interact with police. He led the effort that resulted in FL banning the indiscriminate shackling of juveniles in court. He serves on the American Bar Association Criminal Justice Council, the Florida Blueprint Commission on Juvenile Justice, and the Florida Department of Juvenile Justice Zero Tolerance Task Force.

Mark Meadows

The Honorable Mark Meadows served as an assistant attorney general from 1975 until his retirement in 2002. He then became a shareholder at Willingham Coté, an East Lansing, MI, law firm. In 2006, he was elected State Representative. Prior to his election, he was a council member and Mayor of East Lansing for 8 years. Representative Meadows is Assistant Leader, Chair of the House Judiciary Committee and serves on two other House committees: Great Lakes and the Environment and Urban Policy. He earned his bachelor's degree at Western Michigan University and his law degree at Michigan State University College of Law.

Wallace Mlyniec

Mr. Mlyniec is a Professor and co-director of the Juvenile Justice Clinic at Georgetown Law. Mr. Mlyniec joined the faculty in 1973 and was Associate Dean for Clinical Programs from 1989 until 2005. He has also been a Distinguished Visiting Scholar in Pediatric Law at Loyola University Law School's Child Law Program and a recipient of a Bicentennial Fellowship from the Swedish government to study their child welfare system. He is a member of the American Bar Association's Juvenile Justice Committee and is Vice Chair of the Board of Directors for the National Juvenile Defender Center.

Michelle Molloy

Ms. Molloy is Senior Vice President at Spitfire Strategies. She consults with nonprofit organizations and foundations to promote positive social change. With more than 15 years' experience in strategic communications, she has worked with the Open Society Institute for the past 6 years to develop and implement compelling strategies for communicating about the need for indigent defense reform. She has worked with various national, state, and local organizations on their communications work around reform efforts and developed strategies to support litigation, coalition building, public education efforts, and legislative work.

Randall Murch

Mr. Murch is on the faculty at Virginia Tech. His interests include the advancement of forensic science for law enforcement and national security. Previously, he was with the Federal Bureau of Investigation (FBI), where he was assigned to the FBI Laboratory as a forensic biologist, research scientist, department head, and Deputy Director. He led the overhaul of the FBI Laboratory in the mid-1990s and created the national program in forensic science applied to weapons of mass destruction. He has been a member of several National Academy of Science study committees, including Strengthening Forensic Science in the United States.

Michael Nash

The Honorable Michael Nash has been a Municipal Court Judge since 1985. He served as Deputy Attorney General in the criminal division of the California Attorney General's Office, was elevated to the Superior Court in 1989, and has served in the Juvenile Court since 1990. He holds numerous memberships and has received several awards, including being named Juvenile Court Judge of the Year by the Juvenile Court Judges of California. He received his undergraduate degree from the University of California, Los Angeles and his law degree from Loyola Law School in Los Angeles.

James (Jim) Neuhard

Mr. Neuhard is Director of the Michigan State Appellate Defender Office and manages a highly automated public defender program with a statewide resource center that provides published and Internet support to thousands of members of MI's private bar. His office received the American Bar Association/National Legal Aid & Defender Association's (NLADA's) 2009 Clara Shortridge Foltz Award. He is past President of NLADA and the National Equal Justice Library and has served on indigent defense advisory committees for the U.S. Department of Justice. He is the principle author of *Ten Principles of a Public Defense System*.

Frank X. Neuner, Jr.

Mr. Neuner is Chair of the Louisiana Public Defender Board and Managing Partner of Laborde & Neuner, a civil litigation law firm in Lafayette, LA. Prior to his involvement with the Louisiana Public Defender Board, he was a board member and officer of the Louisiana State Bar Association (LSBA) and served as its President in 2005–2006, when Hurricanes Katrina and Rita devastated LA. While serving as LSBA President he witnessed firsthand the deficiencies in the criminal justice system, which were both caused and uncovered by the hurricanes.

David Newhouse

Mr. Newhouse is a Research Assistant Professor at The Spangenberg Project at George Mason University. In his 15 years with The Spangenberg Group, Mr. Newhouse has specialized in technology improvements, case management systems, data analysis, and case weighting studies for indigent defense systems in numerous jurisdictions throughout the country. The Spangenberg Project offers research, consulting, and technical assistance on issues of access to justice and indigent defense.

Leonard Noisette

Mr. Noisette is Director of the Criminal Justice Fund at the Open Society Institute (OSI), where he oversees the foundation's criminal justice system reform efforts. Prior to joining OSI, Mr. Noisette was Executive Director of the Neighborhood Defender Service of Harlem, an innovative public defender office renowned for its development of community-based, holistic defense practices. From 1999 to 2001, he was a member of the Executive Session on Public Defense, sponsored by the Bureau of Justice Assistance and Harvard University's Kennedy School of Government. He is an Adjunct Professor at Fordham and Columbia University Law Schools.

Charles J. Ogletree

Mr. Ogletree is the Harvard Law School Jesse Climenko Professor of Law and the Founding and Executive Director of the Charles Hamilton Houston Institute for Race and Justice. He has received numerous awards, including the American Bar Association's Spirit of Excellence Award in 2009. Mr. Ogletree is the co-editor of several books, including *When Law Fails: Making Sense of Miscarriages of Justice* (2009). He earned an M.A. and a B.A. (with distinction) in political science from Stanford University, where he was Phi Beta Kappa, and holds a J.D. from Harvard Law School.

Brendan O'Neill

Mr. O'Neill was appointed Public Defender for the State of Delaware in 2009. In 2006, the Delaware Association of Criminal Defense Lawyers named Mr. O'Neill the recipient of its Killen Award, presented to an individual seeking fairness and justice for persons accused of crime. In 2008, he was inducted as a fellow of the American College of Trial Lawyers. Mr. O'Neill is a graduate of Dartmouth College and The King Hall School of Law at the University of California, Davis.

Lynn Overmann

Ms. Overmann is a Senior Advisor to the Assistant Attorney General of the Office of Justice Programs. Before joining the Department of Justice, she was a practicing attorney in Miami, where she specialized in criminal defense and civil rights litigation, with a focus on police brutality and prison conditions cases. A graduate of the New York University School of Law, Ms. Overmann started her career as an assistant public defender in Miami, where she spent more than 5 years representing indigent defendants charged with serious crimes.

Thomas E. Perez

The Honorable Thomas E. Perez is Assistant Attorney General for the Civil Rights Division. He has served as Secretary of MD's Department of Labor, Licensing, and Regulation; Deputy Assistant Attorney General for Civil Rights under Attorney General Janet Reno; Special Counsel to the late Senator Edward Kennedy; and Law Professor. He was a past President of the Montgomery County Council. He received a bachelor's degree from Brown University, a master's of public policy from the John F. Kennedy School of Government, and a juris doctorate from Harvard Law School.

Gary L. Perkinson

Mr. Perkinson has been employed in Oklahoma law enforcement, where he worked as a patrol officer and detective, since 1990. In October 2000, he became a Special Agent for the Oklahoma State Bureau of Investigation, investigating crimes ranging from homicide to narcotics trafficking. In July 2009, he was promoted to Agent in Charge over the Special Investigations Unit. He is currently assigned to the Oklahoma State Bureau of Investigation Headquarters. Agent in Charge Perkinson has been involved in cellular telephone tracking and cell phone investigations since 2005, where his work has helped solve numerous violent crimes.

Thomas J. Perrelli

The Honorable Thomas J. Perrelli is Associate Attorney General of the U.S. Department of Justice (DOJ). He has served at DOJ as Counsel to Attorney General Janet Reno and as Deputy Assistant Attorney General in leading the Civil Division's Federal Programs Branch. In private practice, he worked for the national litigation firm of Jenner & Block LLP, where he was Co-Chair of the firm's Entertainment and New Media practice group and served as Managing Partner of its Washington, DC, office. He is a graduate of Brown University and Harvard Law School.

Winston A. Peters

Mr. Peters is an assistant public defender in the Office of the Los Angeles County Public Defender and oversees the Special Operations Bureau. He serves on the California State Advisory Committee on Juvenile Justice and Delinquency Prevention and on the seven-member CA delegation to the John D. and Catherine T. MacArthur Foundation's Juvenile Indigent Action Network. He has received several awards, including the American Bar Association's Livingston Hall Award. He received his law degree from the University of California, Hastings College of the Law and his undergraduate degree in history from the University of California, Los Angeles.

Jeff Pokorak

Mr. Pokorak is a Professor and Director of Clinical Programs at Suffolk University Law School. An expert in prosecutorial discretion, he teaches criminal law, capital punishment, and international criminal activity. Previously, Mr. Pokorak was on the faculty at the St. Mary's University School of Law; was Senior Staff Attorney at the Texas Resource Center, an organization that represented death-sentenced inmates; worked as an assistant public defender in Miami; clerked for Federal District Court Judge Joe Eaton; and served as assistant public counsel in Roxbury, MA. Mr. Pokorak graduated from the Northeastern University School of Law.

Patricia Puritz

Ms. Puritz is the Executive Director of the National Juvenile Defender Center (NJDC), an organization created in 2005 to serve as a clearinghouse and resource center for lawyers who defend children. NJDC delivers a broad range of training, technical assistance, leadership, policy development, and capacity-building activities designed to improve juvenile indigent defense systems nationwide. Ms. Puritz has worked as a child advocate in the juvenile justice system for more than 30 years and has been involved in designing, implementing, managing, and monitoring programs to reform the nation's juvenile justice system.

Michael Lee Rankin

The Honorable Michael Lee Rankin is an Associate Judge of the District of Columbia Superior Court. He is a member of the court's Committee on Rules and has served as the Presiding Judge of both the Criminal Division and the Special Operations Division of the court. He teaches trial advocacy at George Washington University Law School and is on the visiting faculty of Emory Law School's Kessler-Eidson Program for Trial Techniques. Judge Rankin is a Vietnam veteran. He graduated from Howard University School of Law in 1970 and was admitted to the District of Columbia Bar.

Christine Rapillo

Ms. Rapillo is the Director of Juvenile Delinquency Defense, Connecticut Office of the Chief Public Defender. She served as Supervisor of the Hartford Juvenile Public Defender's Office and began her career practicing in adult felony trial courts. Attorney Rapillo is the Co-Chair of the Steering Committee for the Connecticut Juvenile Justice Alliance, where she was active in the efforts to raise CT's jurisdictional age. She serves on the Connecticut Juvenile Justice Advisory Committee and chairs the Connecticut Juvenile Training School Advisory Committee. Ms. Rapillo graduated from the University Connecticut School of Law and Wheaton College.

Jonathan Rapping

Mr. Rapping is Associate Professor at Atlanta's John Marshall Law School and the founder and Chief Executive Officer of the Southern Public Defender Training Center. He has been central to reform efforts in GA and in rebuilding the Public Defenders Office in New Orleans. Prior to his work in the South, Mr. Rapping was the Training Director for the Public Defender Service for the District of Columbia. He designs and participates in training programs for public defenders across the United States.

Richard E. Redding

Mr. Redding is Associate Dean and Professor of Law at Chapman University School of Law. He is a fellow of the American Psychological Association and has published four books and more than 75 articles and book chapters. He specializes in forensic issues in criminal law and juvenile justice and serves as a consultant to the U.S. Department of Justice. He previously served as Director of the J.D./Ph.D. Program in Law and Psychology at Villanova and Drexel Universities. He received his Ph.D. in psychology from the University of Virginia and his J.D. from Washington and Lee University.

Norman L. Reimer

Mr. Reimer is Executive Director of the National Association of Criminal Defense Lawyers (NACDL). NACDL, which is based in Washington, DC, is the preeminent organization in the United States advancing the mission of the nation's criminal defense bar to ensure justice and due process for all and to advocate for rational and humane criminal justice policies. As Executive Director, Mr. Reimer leads a professional staff serving NACDL's more than 11,000 direct members and 90 local, State, and international affiliate organizations with another 35,000 members. He is a graduate of New York University School of Law.

Carl Richey

Mr. Richey is the founder and President of Justice Works, a technology service provider specializing in case management systems for justice agencies. The flagship product, defenderData®, has been implemented in more than 80 public defender offices in 14 states. Mr. Richey has been providing case management consulting and services to public defenders since 1987.

Rebecca Rittgers

Ms. Rittgers is a Programme Executive for The Atlantic Philanthropies' U.S. Reconciliation & Human Rights Programme. Under her direction, Atlantic has funded an extensive portfolio of Federal and state policy change and capacity-building strategies impacting immigration reform, alternatives to capital punishment, ex-felons disenfranchisement, and indigent defense reform. Her portfolio ranges from targeted advocacy campaigns to grants that strengthen key infrastructures to protect rights. She also acts as a resource internally and to other funders on coalition building and strategic advocacy. She serves on the boards of the International Human Rights Funders Group and Grantmakers Concerned for Immigrants and Refugees.

Laurie O. Robinson

The Honorable Laurie O. Robinson is Assistant Attorney General of the Office of Justice Programs (OJP). Since joining OJP in January 2009, she has overseen the award of \$2.7 billion in Recovery Act funds, launched an agency-wide initiative to integrate evidence-based approaches in OJP programs, and held a series of listening sessions with state, local, and national constituents. Ms. Robinson also served as OJP's Assistant Attorney General from 1993 to 2000. Prior to her current appointment, she directed the Master of Science Program at the University of Pennsylvania's Department of Criminology. Ms. Robinson helped lead the Department's indigent defense efforts under then-Attorney General Janet Reno in 1999.

Kristina Rose

Ms. Rose is Acting Director of the National Institute of Justice (NIJ), where she oversees the research, development, and evaluation activities of the U.S. Department of Justice. She also leads agency-wide special projects and initiatives that cut across social and physical sciences. She has served as Senior Advisor to the Director of NIJ and as Chief of Staff at the Department's Office on Violence Against Women. Ms. Rose has a B.S. in sociology from George Mason University and an M.S. in criminal justice from Northeastern University.

Elissa Rumsey

Ms. Rumsey is the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) Compliance Monitoring Coordinator, ensuring states comply with the Juvenile Justice and Delinquency Prevention Act's core requirements. While at OJJDP, she has managed research projects and administered numerous grant programs. Previously, Ms. Rumsey served as Research Director for Fight Crime: Invest in Kids. She also has worked as a pretrial specialist at the Alameda County Jail and volunteers in the Arlington County Jail. Ms. Rumsey graduated from the University of California, Berkeley with a B.A. in psychology and Northeastern University with an M.S. in criminal justice.

Liz Ryan

Ms. Ryan is President and CEO of Campaign for Youth Justice (CFYJ). CFYJ was founded by Ms. Ryan and is dedicated to ending the practice of trying, sentencing, and incarcerating children in the adult criminal justice system. Ms. Ryan co-chairs the Act 4 Juvenile Justice campaign to reauthorize the Juvenile Justice and Delinquency Prevention Act. She previously worked at the Youth Law Center and the Children's Defense Fund and served as Deputy Chief of Staff and Legislative Director to U.S. Senator Thomas R. Carper. Ms. Ryan has a B.A. from Dickinson College and an M.A. from The George Washington University.

Laura Sager

Ms. Sager is Executive Director of the Campaign for Justice (CFJ), a nonprofit, nonpartisan MI organization working to reform MI's public defense system. CFJ leads a coalition of more than 50 organizations spanning the political spectrum. Prior to heading CFJ, Ms. Sager served as Michigan Director and then National Executive Director of Families Against Mandatory Minimums (FAMM) before returning to MI in 2004 as FAMM's National Campaign Director. Her work on sentencing reform in MI led to the most sweeping reforms of state mandatory minimum drug sentencing laws in the nation and gained national media attention.

Donald P. Salzman

Mr. Salzman is *Pro Bono* Counsel for Skadden's Washington, DC, office. He was an assistant public defender in Maryland (1988–2002), where in addition to being a trial lawyer and Supervisor, he started a *pro bono* representation partnership project between the Office of the Public Defender and prominent DC law firms. He is on the board of the Mid-Atlantic Innocence Project and was a legal director of the Innocence Commission for VA.

Lee F. Satterfield

The Honorable Lee F. Satterfield is Chief Judge of the Superior Court of the District of Columbia. He has served as the Presiding Judge of the Family Court of the Superior Court, the Presiding Judge of the Domestic Violence Unit, a drug court judge, and in the criminal and civil divisions of the court. He is a member of the Board of Trustees of the National Council of Juvenile and Family Court Judges, the District of Columbia Courts Joint Committee on Judicial Administration, and the Steering Committee of the National Judicial Institute on Domestic Violence.

Barry C. Scheck

Mr. Scheck is a Professor of Law at the Benjamin N. Cardozo School of Law in New York City; the Co-Founder and Co-Director of The Innocence Project, a nonprofit organization affiliated with Cardozo Law School; and a partner in Neufeld, Scheck & Brustin LLP, specializing in civil rights and constitutional litigation. He has extensive experience in trial and appellate litigation in significant civil rights and criminal defense cases and has published extensively in these areas. He has a bachelor's degree from Yale University and a law degree from Boalt Hall School of Law, University of California, Berkeley.

Marc A. Schindler

Mr. Schindler is Interim Director for the Department of Youth Rehabilitation Services (DYRS) in the District of Columbia. He has served as the first General Counsel for DYRS, as staff attorney with the Youth Law Center, and as assistant public defender in Baltimore's juvenile court. He has chaired several committees and is a founding member of the Justice for DC Youth Coalition. He is a member of the American Bar Association's Juvenile Justice Committee and a graduate of the University of Maryland School of Law and Yale University.

Ronald (Ron) Schneider

Mr. Schneider is a partner with the Portland firm of Bernstein Shur and specializes in employment, health, and criminal law. He is Chair of the Maine Commission on Indigent Legal Services, which is charged with administering the assignment of constitutionally required counsel to the indigent. He is a member of the Maine Association of Criminal Defense Attorneys, the Maine Civil Liberties Union, and a past President of the Maine Association for Public Interest Law. He also authored the article "A Measure of Our Justice System: A Look at Maine's Indigent Criminal Defense Delivery System."

Robert (Bob) Schwartz

Mr. Schwartz is Co-Founder and Executive Director of the Juvenile Law Center. He is a former Chair of the Juvenile Justice Committee of the American Bar Association's (ABA's) Criminal Justice Section. He is coauthor of the ABA's report *America's Children at Risk and A Call for Justice*, a report about juveniles' access to quality lawyers. He co-edited *Youth on Trial: A Developmental Perspective on Juvenile Justice*. He is a graduate of Haverford College and Temple University School of Law.

Robert C. (Bobby) Scott

The Honorable Robert C. Scott began serving his ninth term in Congress on January 6, 2009. Prior to serving in the U.S. House of Representatives, Representative Scott served in the Virginia House of Delegates and in the Senate of Virginia. Representative Scott serves on the Committee on the Judiciary, where he is the Chairman of the Subcommittee on Crime, Terrorism, and Homeland Security. Representative Scott also serves on the Committee on Education and Labor and the Committee on the Budget. He is a graduate of Harvard University and Boston College Law School.

Yvonne Smith Segars

Ms. Segars is the New Jersey Public Defender, overseeing more than 1,300 employees. She is a member of the American Council of Chief Defenders, a member of the board of the National Legal Aid & Defender Association (NLADA), and serves as Chair of the Defender Policy Group. She served as a member of the board for the National Association of Drug Court Professionals and has served as a consultant for the U.S. Department of Justice, National Drug Court Institute, and Justice Management Institute. She received her J.D. from Rutgers School of Law, Newark and her B.A. in psychology from Kean University.

Michael G. Sheppo

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Mr. Slowikowski was designated Acting Administrator of the Office of Juvenile Justice and Delinquency Prevention by President Barack Obama on January 20, 2009. He served as Associate Administrator of the Demonstration Programs Division since May 2004. He led the development and management of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Working with the Department of Justice's Office of Community Oriented Policing Services, he developed the Youth-Focused Community Policing Program. Mr. Slowikowski earned a B.S. in criminal justice and a master's of public administration from the University of Baltimore.

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Ms. Wallace is President and CEO of the National Legal Aid & Defender Association. In 1994, she was appointed Director of the Public Defender Service for the District of Columbia, where she previously served as Deputy Chief of the Appellate Division, Coordinator of the Juvenile Services Program, and staff attorney representing juvenile and adults. She is a founder of the American Council of Chief Defenders, the National Defender Leadership Institute, and the District of Columbia Appellate Practice Institute. She graduated from the New York University School of Law.

Wansley Walters

Ms. Walters is Director of the Miami-Dade County Juvenile Services Department (JSD). JSD operates the Juvenile Assessment Center, an arrest center that has processed more than 120,000 arrested juveniles since 1998. Ms. Walters developed and heads a national demonstration project with the U.S. Department of Justice to implement reform, which has resulted in a 46 percent reduction in juvenile arrests, an 80 percent drop in re-offenders, and a 66 percent decline in detention referrals, while generating a \$33 million savings. She is a frequent presenter on juvenile justice at national and international conferences.

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Mr. Ware has served as the Special Fields Bureau Chief and the Head of the Dallas County District Attorney's Office Conviction Integrity Unit since July 2007. He clerked for United States District Judge David O. Belew, Jr., in Fort Worth, TX, from 1983 to 1984. In 1984, Mr. Ware began private practice, primarily in criminal defense. He became board certified in criminal law in 1990. Mr. Ware graduated with honors from the University of Texas with a degree in philosophy and from the University of Houston Law School, where he was a member of the *Houston Law Review*.

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NATIONAL SYMPOSIUM ON INDIGENT DEFENSE:

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**Attorney General Eric Holder Addresses the Department of Justice
National Symposium on Indigent Defense: Looking Back, Looking Forward, 2000–2010**
Washington, D.C.

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Thursday, February 18, 2010

Thank you, Laurie. It's an honor to join with you and my old friend, Tree, in opening today's conference and welcoming our participants. Many of you have traveled from all across the country to be here, and I want to thank each of you for your engagement, for your service to your communities, and for your commitment to the principles that define who we are, and who we can be, as a nation.

For well over two centuries now, we, as a people, have been striving to build a more perfect union – an America that lives up to the vision of our Founders. A country where the words of our Constitution can, finally, reach the full measure of their intent.

It is no less than this ongoing work – the fulfillment of our Constitution – that brings us together today. I'm here to discuss a responsibility that we, as stewards of our nation's criminal justice system, all share – a responsibility to ensure the fairness and integrity of that system.

I would argue that our criminal justice system is one of the most distinctive aspects of our national character. And I also would argue that it is one of the most praiseworthy. That said, we must face facts. And the facts prove that we have a serious problem on our hands.

Nearly half a century has passed since the Supreme Court's decision in *Gideon v. Wainwright*. The Court followed with other decisions recognizing the right to counsel in juvenile and misdemeanor cases. Today, despite the decades that have gone by, these cases have yet to be fully translated into reality.

But you already know this. All of you have read the reports and know the data. And many of you have learned this truth in the hardest of ways – by experiencing it on the ground. You've seen how, in too many of our counties and communities, some people accused of crimes – including juveniles – may *never* have a lawyer, either entirely or during a critical stage of the proceedings against them. In fact, juveniles sometimes waive their right to counsel without *ever* speaking to an attorney to help them understand what they are giving up. And our courts accept these waivers.

Meanwhile, recent reports evaluating state public defense systems are replete with examples of defendants who have languished in jail for weeks, or even months, before counsel was appointed.

When lawyers *are* provided to the poor, too often they cannot represent their clients properly due to insufficient resources and inadequate oversight – that is, without the building blocks of a well-functioning public defender system, the type of system set forth in the ten principles of the American Bar Association and the National Juvenile Defender Center.

As we all know, public defender programs are too many times under-funded. Too often, defenders carry huge caseloads that make it difficult, if not impossible, for them to fulfill their legal and ethical responsibilities to their clients. Lawyers buried under these caseloads often can't interview their clients properly, file appropriate motions, conduct fact investigations, or spare the time needed to ask and apply for additional grant funding. And the problem is about more than just resources. In some parts of the country, the primary institutions for the delivery of defense to the poor – I'm talking about basic public defender systems – simply do not exist.

I continue to believe that if our fellow citizens knew about the extent of this problem, they would be as troubled as you and I. Public education about this issue is critical. For when equal justice is denied, we all lose.

As a prosecutor and former judge, I know that the fundamental integrity of our criminal justice system, and our faith in it, depends on effective representation on both sides. And I recognize that some may

perceive the goals of those who represent our federal, state, and local governments and the goals of those who represent the accused as forever at odds. I reject that premise. Although they may stand on different sides of an argument, the prosecution and the defense can, and must, share the same objective: Not victory, but justice. Otherwise, we are left to wonder if justice is truly being done, and left to wonder if our faith in ourselves and in our systems is misplaced.

But problems in our criminal defense system aren't just morally untenable. They're also economically unsustainable. Every taxpayer should be seriously concerned about the systemic costs of inadequate defense for the poor. When the justice system fails to get it right the first time, we all pay, often for years, for new filings, retrials, and appeals. Poor systems of defense do not make economic sense.

So, where do we go from here?

I want to speak with you clearly and honestly about this. In the last year, I have thought about, studied, and discussed the current crisis in our criminal defense system. What I've learned, and what I know for sure, is that there are no easy solutions. No single institution – not the federal government, not the Department of Justice, not a single state – can solve the problem on its own. Progress can only come from a sustained commitment to collaboration with diverse partners.

I expect every person in this room to play a role in advancing the cause of justice. Yes, everyone. And, yes, I say this with the knowledge that we have some unlikely partners among us. Some might wonder what the United States Attorney General is doing at a conference largely about the defense that poor people receive in state and local courts.

Likewise, many of you – the local officials, budget officers, and prosecutors gathered here – have not traditionally been engaged in discussions about the right to counsel. But all of us should share these concerns. It must be the concern of every person who works on behalf of the public good and in the pursuit of justice. That's what this conference is all about – expanding and improving this work; learning from each other; recruiting new partners; and making sure that, for our criminal defense community, government is viewed as an ally, not an adversary.

In particular, I think our common work must have three areas of focus. I've touched on each of these goals over the last year. But all of them are worth mentioning here again today.

First, we must commit to an ongoing dialogue about these issues. We need partners at the federal, state, and local levels, both within and outside of government, to be involved. By sharing information and working together, I believe we can build on the good work that has gone into developing model standards for our public defense systems.

Second, we must raise awareness about what we're up against. As Americans understand how some of their fellow citizens experience the criminal justice system, they will be shocked and angered – feelings I hope would compel them to become advocates for change and allies in our work.

Third, we must expand the role of the public defender. We must encourage defenders to seek solutions beyond our courtrooms and ensure that they're involved in shaping policies that will empower the communities they serve. I'm committed to making sure that public defenders are at the table when we meet with other stakeholders in the criminal justice system. I have charged the Department's leadership with calling on our components to include members of the public defense system in a range of meetings. We will also involve defenders in conferences, application review panels, and other venues where a public defense perspective can be valuable. And it should not go without saying – every state should have a public defender system. Every state.

In all of this, I stand with you and with anyone who is committed to ensuring the Sixth Amendment right to counsel. Last year, when I became Attorney General, I took an oath to support and defend the Constitution of the United States. I also made a promise. A promise to the citizens I serve and the

colleagues I work alongside. A promise to guard the rights of all Americans and make certain that, in this country, the indigent are not invisible.

So let me assure you today that this is not a passing issue for the Department. I have asked the entire Department of Justice – in my office, in Laurie Robinson's, and in components as diverse as the Office of Legal Policy and the Criminal Division – to focus on indigent defense issues with a sense of urgency and a commitment to developing and implementing the solutions we need.

In the coming weeks, we will take concrete steps to make access to justice a permanent part of the work of the Department of Justice, with a focused effort by our leadership offices to ensure the issue gets the attention it deserves. Government must be a part of the solution – not simply by acting as a convener but also by serving as a collaborator.

Once again, we stand at the beginning of a new decade. We must seize this opportunity to return to the beliefs that guided our nation's founding and to renew the strength of our justice system.

I have every expectation that our criminal defense system can, and will, be a source of tremendous national pride. And I know that achieving this requires the best that we, as a profession and as a people, have to offer.

I pledge my own best efforts. And, today, I ask for yours.

Thank you.

Speaker:

Attorney General: Eric H. Holder, Jr.

Component(s):

Office of the Attorney General

Updated August 20, 2015

PUBLIC DEFENDER EXCESSIVE CASELOAD LITIGATION IN MIAMI-DADE COUNTY, FLORIDA

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I. INTRODUCTION

1. In the past 18 months, the Public Defender for the Eleventh Judicial Circuit (the “11th Circuit PD”) applied to the courts in two separate proceedings to seek relief from the office’s excessive caseload. The following is a summary of: (a) the state of events which caused the 11th Circuit PD to apply to the courts for relief; (b) the ethical rules, standards, guidance and law that supported the applications for relief; and (c) the posture and results of the court proceedings.

II. BACKGROUND

2. The United States Constitution’s Sixth Amendment imposes a duty on each State to provide defense counsel to indigent criminal defendants. Florida has elected to do so principally through the creation in each of the State’s twenty judicial circuits of a public defender’s office. Each of the public defenders is a constitutional officer (Art. V, §18, Fla. Const.). ^{1/} In 2003, the Florida Legislature added in each of the five appellate regions of the State an office of criminal conflict and civil regional counsel (“Regional Counsel”) to handle cases which the

^{1/} The appointment of Regional Counsel occurs whenever “the interests of those accused are so adverse or hostile that they cannot all be counseled by the public defender...without a conflict of interest, or that none can be counseled the public defender...because of a conflict of interest...”

public defender cannot handle because of a conflict of interest. In case of Regional Counsel conflict, private counsel may be appointed.

3. In July 2008, for the first time in 16 years, the 11th Circuit PD urgently needed relief from excessive caseload. The enormous number of pending cases to which the office had been appointed, and the rate of new appointments, had reached a breaking point and was jeopardizing the ability of the 11th Circuit PD to satisfy the State's obligation of providing effective assistance of counsel pursuant to the Sixth Amendment.

4. The growing caseload in the office of the 11th Circuit PD was related to a 1998 revision to the Florida Constitution which made funding of public defenders in Florida the sole responsibility of the State by the year 2004. Before this change, counties had provided some funding to public defenders. Miami-Dade County had funded 82 lawyer positions for the 11th Circuit PD. As a result of the constitutional revision funding shift, over 30 attorney positions were cut from the office of the 11th Circuit PD. Then, between fiscal years 2007-08 and 2008-09, the 11th Circuit PD's budget was cut by approximately 9 percent. Attorneys in the office started resigning at unprecedented levels, and their vacated positions could not be filled due to the retracting budget and budget holdbacks which prevented management from knowing what funding the office actually had for salaries. At

the same time, arrests were increasing. The overall result was extraordinary high caseloads for most of the attorneys in the office.

5. The 11th Circuit PD decided to address the caseloads of the noncapital felony lawyers first. While the whole office had a caseload problem, the lower degree felony cases (largely 3d degree and some 2d degree felony cases) were growing rapidly and were burdening all the assistant public defenders practicing in the felony courts.

6. In the prior fiscal year (July 1-June 30), the 11th Circuit PD had been appointed to represent indigent defendants on 40,651 new and reopened noncapital felony cases and had less than 100 lawyers to handle them.^{2/} Doing simple math, this meant that each lawyer, on average, had a total annual caseload of 406 noncapital felony cases, which was more than double the recognized caseload standards, which are discussed below. In reality, however, the average annual caseloads at the time were between 500 to 600 cases.^{3/} These caseloads grossly exceeded recognized caseload standards.

^{2/} Cases are defined as those cases to which the public defender is appointed to represent a client shortly after arrest and includes all matters, no matter when the case is resolved, whether it is pled at arraignment, just before trial, or is tried.

^{3/} In fiscal year 2008-09, one noncapital felony lawyer had 971 cases, including pleas at arraignment.

III. **CASELOAD STANDARDS, ETHICAL RULES AND GUIDANCE, AND THE LAW**

7. **Caseload Standards:** In 1973, the National Advisory Commission on Criminal Justice Standards and Goals (“NAC”) determined that the *maximum* annual caseload a lawyer representing indigent defendants should handle is 150 cases. Over the years this *maximum* has been iterated and reiterated. ^{4/} The Florida Public Defender Association (“FPDA”) has stated that 200 is an appropriate maximum number of cases per year.^{5/} Even that figure was essentially 1/3 of the average annual caseloads in the 11th Circuit PD at the time.^{6/}

8. **Ethical Rules:** The 11th Circuit PD recognized that excessive caseloads impair the ability of the PD and the assistant public defenders to meet their ethical duties. The Florida Rules of Professional Conduct, as concerns duties

^{4/} See *In re Certification of Conflict in Motions to Withdraw*, 636 So. 2d 18, 19 (Fla. 1994). A commissioner appointed to make findings and a report and recommendation on a motion to withdraw filed by a public defender in Florida used the NAC and other similar standards in determining the public defender had an excessive caseload and recommending that he should be allowed to withdraw from hundreds of cases. The Florida Supreme Court cited the NAC standards in affirming the appellate court’s adoption of the commissioner’s report and recommendation.

^{5/} The Florida Bench/Bar Commission adopted the FPDA’s maximum caseload standards. In addition, the Florida Governor’s Commission recommended an annual limit of 100 felony cases.

^{6/} Over the years, suggestions have been made that any appropriate standard pertaining to “maximums” should be one of “workload” instead of “caseload.” This suggestion was made in the context of technological developments, which some assumed would permit lawyers to handle more cases. But even if things had worked out this way – which they have not – the fact is that when non-caseload factors are taken into consideration, the resultant “workload” indicates that lawyer can handle *less*, not *more*, cases. These non-caseload factors include waits in courtrooms for judicial priority afforded private-lawyer cases, training functions required of senior lawyers to junior lawyers, physical location of jails and prisons, and non-English speaking clients.

owed to clients, generally follow the American Bar Association’s Model Rules. They are written in mandatory terms, and apply to *all* Florida lawyers, whether they are private or public. The 11th Circuit PD recognized that the breach of ethical duties means the lawyers in the office could not satisfy the State’s obligation to provide effective assistance of counsel to indigent defendants. The applicable ethical rules are these:

- **Rule 4-1.1**, requiring competent representation.
- **Rule 4-1.3**, requiring “reasonable diligence and promptness” in representation [7/](#)
- **Rule 4-1.4** requiring effective communications with the client. [8/](#)
- **Rule 4-1.7(a)(2)** providing: [A] lawyer shall not represent a client if...there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person...” [9/](#)
- **Rule 4-1.16**, requiring a lawyer to “withdraw from the representation of a client if...the representation will result in violation of the Rules of Professional Conduct or law.”
- **Rule 4-5.1**. imposing on a “firm” the obligation to see that individual lawyers in the firm abide by the Rules of Professional Conduct. Florida

[7/](#) The commentary on Rule 4-1.3 says: “A lawyer’s workload must be controlled so that each matter can be handled competently.”

[8/](#) The commentary on Rule 4-1.4 says: “Reasonable communications between the lawyer and the client is necessary for the client to effectively participate in the representation.”

[9/](#) The commentary on Rule 4-1.7 says: “Loyalty and independent judgment are essential elements in the lawyer’s relationship to a client. Conflicts of interest can arise from the lawyer’s responsibilities to another client, a former client or a third person...” and “Loyalty to a client is also impaired when a lawyer cannot consider, recommend, or carry out an appropriate course of action for the client because of the lawyer’s other responsibilities or interests.”

courts have held the public defender's office is a "firm" for these purposes.

9. **ABA Guidance:** The 11th Circuit PD closely follows the guidance of the American Bar Association ("ABA") on caseload and workload. Before 2008, the ABA had spoken thus to this issue.

- **Principle 5 of ABA, The Ten Principles of a Public Defense Delivery System (Feb. 2002):** *Defense counsel's workload is controlled to permit the rendering of quality representation.* The commentary states: "Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appointments above such levels. National caseload standards should in no event be exceeded, but the concept of workload (i.e., caseload adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement."

- **ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Defendants When Excessive Caseload Interferes with Competent and Diligent Representation (May 13, 2006)** echoes the requirements of *The Ten Principles* and the Model Rules of Professional Responsibility: "If workload prevents a lawyer from providing competent and diligent representation to existing clients, she must not accept new clients."

10. At its 2009 annual meeting, the American Bar Association adopted The Eight Guidelines of Public Defense Related to Excessive Workloads, which provided a framework for public defenders to follow when faced with an excessive workload. The Eight Principles provide, in part:

1. The Public Defense Provider avoids excessive lawyer workloads and the adverse impact that such workloads have on providing quality legal representation to all clients. . . .

2. The Public Defense Provider has a supervision program that continuously monitors the workloads of its lawyers to assure that all essential tasks on behalf of clients . . . are performed.
3. The Public Defense Provider trains its lawyers in the professional and ethical responsibilities of representing clients, including the duty of lawyers to inform appropriate persons within the Public Defense Provider program when they believe their workload is unreasonable.
4. Persons in Public Defense Provider programs who have management responsibilities determine, either on their own initiative or in response to workload concerns expressed by their lawyers, whether excessive lawyer workloads are present.
5. Public Defense Providers consider taking prompt actions . . . to avoid workloads that either are or are about to become excessive
6. Public Defense Providers or lawyers file motions asking a court to stop the assignment of new cases and to withdraw from current cases, as may be appropriate when workloads are excessive and other adequate alternatives are unavailable.
7. When motions to stop the assignment of new cases and to withdraw from cases are filed, Public Defense Providers and lawyers resist judicial directions regarding the management of Public Defense Programs that improperly interfere with their professional and ethical duties in representing their clients.
8. Public Defense Providers or lawyers appeal a court's refusal to stop the assignment of new cases or a court's rejection of a motion to withdraw from cases of current clients.

11. The 11th Circuit PD followed the steps of The Eight Principles in 2008 and 2009 prior to applying to the court for caseload relief.

12. Decisional Law: In 1980, for the first time, the Florida Supreme Court approved withdrawals from representation by the public defender because of excessive caseload. In the 1990s, the Florida Supreme Court decided three times in favor of public defender withdrawal by reason of excessive caseload, and the Florida appellate courts followed this lead in many decisions.

13. Presumably in light of these judicial decisions, in 2003, the Florida Legislature adopted a statute, which is unlike those in most, if not all, other States:

In no case shall the court approve a withdrawal by the public defender or criminal conflict and civil regional counsel based solely upon inadequacy of funding or excess workload of the public defender or regional counsel.

§ 27.5303(1)(d), Fla. Stat. The 11th Circuit PD believed that this statute applied only to withdrawals, and, rather than challenge its constitutionality, it was best to seek to reduce caseload to a more constitutionally appropriate level by moving to decline any new non-felony appointments.

IV. THE MOTIONS FOR CASELOAD RELIEF

Phase I – Motions to Decline Appointments to All Noncapital Felony Cases

14. In June 2008, the 11th Circuit PD filed a motion to decline appointments to unappointed noncapital felony cases in each of the 21 criminal divisions in the circuit court. Before filing, the 11th Circuit PD notified the chief judge of the 11th Judicial Circuit of its intent to file these motions. The chief judge

consolidated the motions before the administrative judge of the circuit court criminal division. The motions contended that the 11th Circuit PD's caseload requires the PD to decline new noncapital felony appointments so long as its docket remained so grossly unbalanced as to prohibit the PD from providing conflict-free and ethical representation to indigent defendants. The motions also contended that, unless granted, the State would be denying indigent defendants effective representation of counsel in violation of the Sixth Amendment.

15. The motions did not question the amount of money the Florida Legislature had appropriated for the 11th Circuit PD. In fact, the 11th Circuit PD's budget has been reduced further in recent years. Nevertheless, the motions were directed in no way to budgetary issues – they merely sought to reduce caseload to a level which reasonably could be handled within the budget it received.

16. The 11th Circuit prosecutor appeared on behalf of the State to oppose the motions, which appearance the 11th Circuit PD opposed. The judge denied the prosecutor party status but permitted her appearance *amicus curiae*. But the judge, being practical, effectively afforded the prosecutor party status. Specifically, the prosecutor was permitted to take document discovery and fully participate in all court proceedings, including the evidentiary hearing.

17. At a two-day evidentiary hearing, the 11th Circuit PD presented the testimony of the public defender, the chief assistant public defender, the PD's

general counsel, two assistant public defenders, expert-witness Dean Emeritus Norman Lefstein, and a practicing private lawyer/former assistant public defender, all of whom the prosecutor cross-examined.

18. After hearing the evidence, the judge granted the motions in September 2008, but only as to third-degree felonies and some second degree felonies (collectively referred to as “C” felonies. The judge required the 11th Circuit PD to report on caseload status every 60 days. The State appealed and the appellate court stayed the trial court’s order.

19. The appellate court initially agreed with the 11th Circuit PD that the case belonged in the Florida Supreme Court, and attempted to “pass it through.” The Supreme Court rejected the attempted “pass-through” on the ground that the “appeal” was really a petition for certiorari and “pass throughs” were limited to genuine appeals. The appellate court then proceeded with the appeal and rendered its opinion, reversing the trial court, and concluding:

a. The prosecutor had standing to participate as a party in the proceeding;

b. The statute prohibiting withdrawals from representation based on caseload and budget applied equally to declining new appointments;

c. Motions to withdraw could not be considered on an office-wide basis but only by an individual assistant public defender in an individual case

based on her/his individual caseload. The appellate court ignored the fact that all appointments are to the 11th Circuit PD, not an individual assistant public defender; and

d. The individual assistant public defender must show “prejudice” in order to justify withdrawal, but the appellate court did not define “prejudice.” This issue was left for determination by trial courts. The State had asked the appellate court to conclude that the “prejudice” a public defender must show to decline to be appointed to handle a case she/he would otherwise accept (or withdraw from existing representation) was the type of “actual prejudice” required by the U. S. Supreme Court in *Strickland v. Washington*, 466 U.S. 668 (1984), which dealt with post-conviction relief based on ineffective assistance of counsel. This prejudice standard requires the defendant to show that, but for counsel’s errors, there is a reasonable probability that the outcome would have been different. This prejudice standard, which looks back, is wholly unworkable when a public defender seeks relief prospectively.

20. In July 2009, after the appellate court both refused to certify its decision to the Florida Supreme Court as being of great public interest (one method of securing review in that court), the 11th Circuit PD sought Florida Supreme Court review of the appellate court’s decision on other bases – that it affects a class of constitutional officers and there is conflict between the appellate court’s decision

and the 1990s decisions of the Supreme Court. That jurisdictional petition remains pending as of this writing.

Phase II – One APD’s Motion to Withdraw from One Case

21. In August 2009, the 11th Circuit PD and Assistant Public Defender Jay Kolsky decided to file a motion to withdraw in a single case, while advising the trial court that the conditions recited in the motion equally applied to many of Kolsky’s cases. At the time Kolsky’s motion to withdraw was filed, his caseload was the most severe of any assistant public defender, although before the hearing on the motion was completed, other assistant public defenders had higher caseloads than Kolsky. In the prior fiscal year, Kolsky had been assigned to handle 971 cases, which included 766 felony trial cases and 205 probation violation cases. His pending caseload for purposes of the motion to withdraw was stipulated to be 105 cases – a reduced caseload resulting from a plea blitz the court held in order to reduce the caseloads of Kolsky and the prosecutor.^{10/} Since a C-felony assistant public defender’s cases typically turn-over five to six times per

^{10/} The 11th Judicial Circuit’s criminal bench regularly hold plea blitzes when the overall calendar of a particular criminal division becomes clearly beyond the ability of any court to handle. When a plea blitz occurs the prosecutor notifies the cases which will be considered shortly before the date on which the plea blitz is scheduled. It is anticipated that the trial judge at the plea blitz will pressure the prosecutor to offer a lesser sentence than the prosecutor might otherwise have offered. On the scheduled date of the plea blitz, the assistant public defender normally will have had no effective contact with the indigent defendant. She/he will normally have some five minutes per case to advise the indigent defendant on the appropriateness of the proposed sentence. The 11th Circuit PD’s expert witness, Professor Lefstein, testified that the pleas entered by the assistant public defenders at arraignment and during a “plea blitz” were effectively uncounseled and thereby constitute a denial of effective representation.

year, Kolsky's pending caseload of 105 translated into an annual caseload of 525 to 630 cases.

22. The case from which Kolsky sought to withdraw was one in which the indigent defendant had been bonded out. The 11th Circuit PD had adopted a policy that each assistant public defender would give priority to in-custody clients over out-of-custody clients. This meant that Kolsky could not prioritize this client's case, and Kolsky testified that he did not know when he could get to this indigent defendant's case.

23. The underlying case involved a June 2009 arrest for an alleged drug sale in April 2009 based on information supplied by a confidential informant. The informant was not identified in the police arrest form. Nor was the existence of any witness. Because of prior convictions, the indigent defendant could receive a life sentence. At the time the motion to withdraw was filed, Kolsky had met with his client for only five minutes. He had done *no* workup on the case, had taken *no* discovery and had taken *no* depositions. Depositions by criminal defendants are permitted in Florida, and Kolsky always takes depositions (limited to 30 minutes by reason of his caseload). At the time of the hearing on the motion to withdraw (two months after the motion was filed), Kolsky's caseload was increasing, and work conditions remained the same.

24. In connection with the motion to withdraw, the 11th Circuit PD argued the statute denying withdrawal on the grounds of caseload was unconstitutional “as applied” to Kolsky because it violated the separation of powers clause of the Florida Constitution (Art. II, § 3, Fla. Const.). The PD asserted the statute interfered with the Florida Supreme Court’s exclusive control over the ethical rules governing lawyer conflicts of interest by prohibiting public defenders from withdrawing from representation when the Rules of Professional Conduct (as promulgated by the Florida Supreme Court) tell those lawyers they must withdraw. The PD also contended that the statute violated the Sixth Amendment by preventing effective representation of indigent defendants.

25. The prosecutor again opposed the motion, this time fully as a party. The court allowed the prosecutor to take depositions of Kolsky and the PD, despite the PD’s opposition to such discovery. The 11th Circuit PD and the prosecutor stipulated to certain caseload figures for Kolsky. The key disputed issue for the evidentiary hearing was what those numbers meant.

26. The court held an evidentiary hearing over three days, at which the 11th Circuit PD presented the testimony of Kolsky, the 11th Circuit PD, and Professor Lefstein. The prosecutor cross-examined each of these witnesses, and took direct testimony from two prosecutors who had worked on cases with Kolsky.

27. The trial court then granted the motion to withdraw, ruling that prejudice to the indigent defendant's constitutional rights had in fact occurred. The trial court concluded that the number of cases assigned to Kolsky has had a detrimental effect on his ability to competently and diligently represent and communicate with all his clients on an individual basis, including the client in the case at issue, and that the prejudice to this specific client is a direct result of Kolsky's caseload/workload.

28. Having found prejudice, the trial court found that the withdrawal was not *solely* by reason of caseload, and therefore the statute had not been violated. So the Florida constitutional issue was not reached. The appellate court once again stayed the trial court's order. Oral argument was held in December, 2009, but as of this writing, there is no published decision.

29. The 11th Circuit PD will make every effort to place the matter before the Florida Supreme Court. Several additional routes to accomplish this are being currently evaluated. Meanwhile, the 11th Circuit PD remains hopeful that the pending request to that Court to accept jurisdiction of the first proceeding will be granted.

***Maine's Journey Toward An Appropriate System
For The Delivery Of Indigent Legal Services***

**National Symposium on Indigent Defense
February 18-19, 2010
Ron Schneider, Chair
Maine Commission on Indigent Legal Services**

As of July 1, 2010, in the State of Maine, the provision of constitutionally and statutorily required indigent legal services will be administered by the Maine Commission on Indigent Legal Services, a newly-created independent state agency. At the present time, Maine provides constitutionally and statutorily required indigent legal services through a varied set of county-specific and court-specific procedures for court-appointed counsel. The Commission was created through legislation in response to the impact of the State's fiscal woes on the court system and the concern that there was a conflict of interest in having judges both appoint defense lawyers and approve payment for those lawyers.

As early as 1974, it was recognized that Maine's standards for criminal justice did not comply with those of the American Bar Association and the National Advisory Commission on Criminal Justice. Maine did not have any formal plan for the selection of attorneys, did not have an independent body to administer a plan to ensure professional independence and did not have a staff to monitor, assist or train assigned counsel. Until July 1, 2010, nothing has changed since 1974 with regard to the Maine's lack of compliance. Maine has no application process for attorneys, no eligibility requirements for lawyers seeking appointment, no training for new court-appointed lawyers, no performance standards, no mandatory vehicle for defense-specific continuing legal education, no administrator to ensure professional independence, and no other checks on attorneys that the State appoints to represent the poor.

Historically and at the present time, depending on which court or which county the defendant is located in, lawyers are selected for appointment by either judges, clerks or, in some circumstances, court financial screeners. Lawyers regularly are appointed to represent a person simply because the lawyer is next on the court's list of attorneys or the lawyer is in the courtroom. Generally, to be eligible to accept court appointments, a lawyer need only possess a Maine bar card.

Lawyers are paid when at the close of a case, the lawyers submit vouchers, which are reviewed by a sitting judge, who is entitled to approve payment of the voucher in the amount requested or a lesser amount determined appropriate by the judge. Expert fees and other funds necessary for the defense are likewise subject to the approval of the presiding judge.

The present system supports the conclusion that although an indigent person in Maine could be assigned one of the best lawyers in Maine, that person could also be assigned one of the worst lawyers in Maine, and there is no independent, organized, or systematic mechanism to ensure that they do not receive the latter. It also supports a criminal defendant's reasonable belief that the State is more concerned with the cost of his defense than the quality of it.

Historically, Maine appropriated funds for constitutionally required counsel from the State's General Fund to the Judicial Branch's budget, which essentially consists of an amount for personnel expenses and an amount for everything else. While Maine's Judiciary has been consistently underfunded, matters worsened when Maine's budget problems combined with an increase in court filings and a resulting increase in counsel fees to wreak havoc on the Judiciary's budget. In FY 2009, the Legislature cut the Judiciary's budget by \$1.1 million at the same time that the Judiciary had to pay \$1.9 million extra in unexpected expenses for court-appointed counsel. The Legislature did not appropriate any additional money to cover the unexpected

increases in counsel fees, which caused a net reduction of \$3.0 million in the Judiciary's budget. Because the Judiciary would not and could not stop paying for constitutionally required counsel the budget reduction resulted in many courthouse cut backs, including reductions in court hours, staff in court clerk's offices, court security and court reporters.

In response to this crisis, the Chief Justice of Maine's Supreme Judicial Court, Leigh Saufley, established the Judicial Branch Indigent Legal Services Commission ("the Clifford Commission"), which was chaired by Senior Associate Justice Robert W. Clifford, to look at the current system and propose any changes. The Chief and others were not only concerned about the Judiciary's budget but also about the appearance of a conflict of interest caused by having judges appoint and approve payment for defense lawyers. There was particular sensitivity to the appearance of a conflict given the fact that the money used for payment to lawyers was money that was needed for day-to-day courthouse operations.

The Clifford Commission's goal was to have the responsibility for appointed counsel removed from the Judiciary's budget through the creation of an independent agency that would be separately funded. The Clifford Commission consisted of a variety of legislators, judges, prosecutors, defense attorneys, stakeholder representatives and individuals. With the assistance of the Spangenberg Group, the ABA's *Ten Principles of a Public Defense Delivery System*, and Robert Ruffner of the Maine Indigent Defense Center, the Clifford Commission drafted legislation to create the Maine Commission on Indigent Legal Services. The legislation was widely supported and became law effective September 2009. The stated purpose of the Commission is:

[T]o provide efficient, high quality representation to indigent criminal defendants, juvenile defendants and children, and parents in child protective cases, consistent with federal and state constitutional and statutory obligations.

The Commission is further charged with working “to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a Statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest.”

The Commission is made up of five Commissioners: Ron Schneider, a litigator with Bernstein Shur in Portland; Marvin Glazier, a seasoned criminal defense attorney with Vafiades, Brontas & Kominsky in Bangor; Kim Moody, the Executive Director of the Disability Rights Center; Ken Spirer, who retired in 2001 as First Vice President and Assistant General Counsel at Merrill Lynch & Co. and is presently on the boards of the Maine Community Foundation and the Portland Symphony; and Sally Sutton, a Senior Policy Analyst at the University of Southern Maine’s Muskie School of Public Service since 2005.

As part of the enacting legislation, the Commission is required to do the following:

- hire an Executive Director, who will in turn hire support staff;
- establish minimum qualifications for counsel to be eligible to receive assignments from the Commission;
- develop and implement performance standards for appointed counsel;
- develop a system for appointments for contracts;
- create a training program for new lawyers;
- develop a voucher review and payment system, as well as a system for caseload management and expenditure details;
- establish rates; and
- establish a monitoring and oversight process for assigned counsel.

To date, the Commission has:

- hired an Executive Director, John Pelletier, a veteran criminal defense attorney and most recently the Criminal Process Manager for the Judicial Branch, who began work officially for the Commission on January 11, 2010, and who is working on hiring staff;
- proceeded through the substantive rulemaking process to establish a rule for minimum qualifications for attorneys to be eligible to receive assignments;
- established and distributed a request for proposals for a case management and billing computer system (the bids are scheduled to be opened on February 18, 2010);
- began work on a training program
- established rates, which at this point are the same rates used by the Judicial Branch; and
- began work on the technical rulemaking process for performance standards.

Unfortunately, while the creation of the Commission will relieve the Judicial Branch of the burden of increased defense costs as of July 1, 2010, Maine's budget problems will continue to impact the Commission. Already, as part of a \$400 million State-wide budget cut, the Commission is facing a \$600,000 deappropriation for its first year of operation. The cuts attributed to the Commission are based on an anomalous six-month downward trend in criminal filings and child protective cases in the current fiscal year. The Commission opposed the cuts and made it clear that the cuts could compromise the Commission's ability to sustain the operation of the Commission's work through to the end of its first fiscal year. The Commission may have to return to the Legislature to request further funds. Only time will tell what happens,

but the Commission is nevertheless dedicated to operating a system that delivers high quality defense services to Maine's indigent population.

If anybody has any questions, suggestions or advice, please contact either:

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State Collaborations for Systemic Reform . . .



U.S. Department of Justice
National Symposium on Indigent Defense:
Looking Back, Looking Forward, 2000-2010

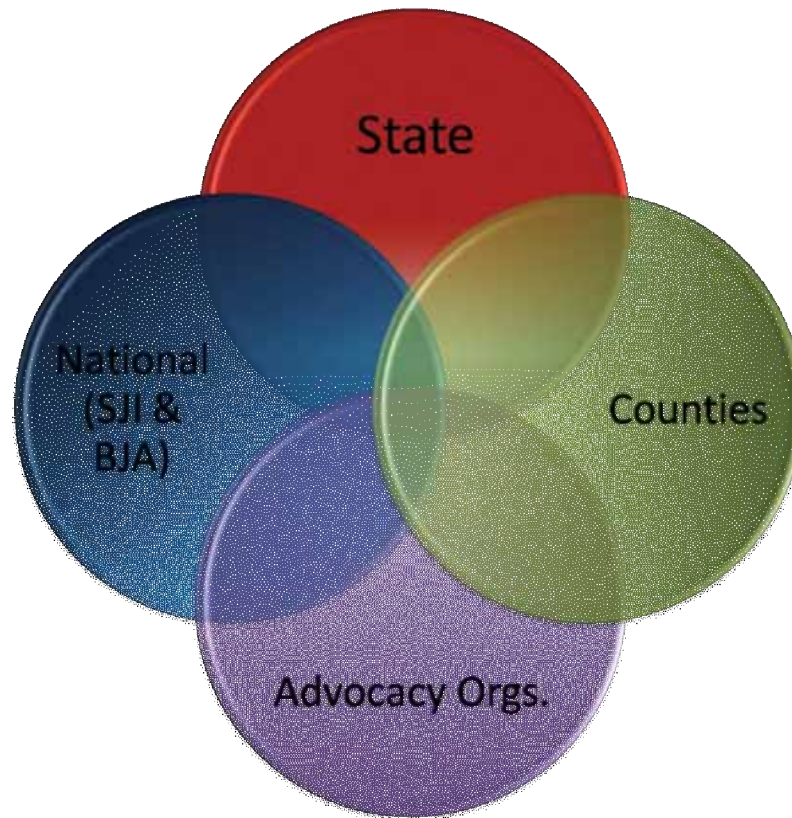
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“The Task Force has created an efficient and collaborative infrastructure for continuing implementation of the Act and for future improvements to indigent defense procedures statewide.”

Bill Beardall
Executive Director,
Equal Justice Center



<http://www.courts.state.tx.us/tfid>



“The Task Force has committed to bringing various interests to the table to support reforms that have significantly changed the landscape of indigent defense. The Task Force’s promotion of transparency and consensus-building is a model for other agencies.”

Ana Yáñez-Correa
Executive Director
Texas Criminal Justice Reform Coalition



<http://www.courts.state.tx.us/tfid>

“The Task Force has recognized the special needs of Texas Counties, and worked with us to produce a model system that ensures strict compliance with the Act taking into consideration the financial burden placed on counties. Their willingness to allow us input into innovative techniques to address the problems in small, rural counties has been especially helpful. I commend them for going the extra mile make sure all stakeholders are heard.”

Gene Terry
Executive Director,
Texas Association of Counties



<http://www.courts.state.tx.us/tfid>



Professor from P1

Director, Defender Initiative at the K01

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Equality



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Key Needs for Reform

Independence of Defenders

Counsel at all hearings

Reasonable Caseloads

Adequate Compensation

Expert and support staff resources

Training and Supervision

Interpreters

Diversion or Decriminalization of Minor Offenses

Attention to Racial Disparity

Reduction in Sentencing Impact and Collateral
Consequences

FINAL



JUSTICE DENIED

AMERICA'S CONTINUING NEGLECT OF
OUR CONSTITUTIONAL RIGHT TO COUNSEL

Report of the
National Right to Counsel Committee

The
Constitution Project
★★★★★

- **What States Should Do**
- *Compliance with the Constitution*

➤ **Recommendation 1**—States should adhere to their obligation to guarantee fair criminal and juvenile proceedings in compliance with constitutional requirements. Accordingly, legislators should appropriate adequate funds so that quality indigent defense services can be provided. Judges should ensure that all waivers of counsel are voluntary, knowing, intelligent, and on the record, and that guilty pleas are not accepted from accused persons absent valid waivers of counsel. Prosecutors should not negotiate plea agreements with accused persons absent valid waivers of counsel and should adhere to their duty to assure that accused persons are advised of their right to a lawyer.

- **Recommendation 2**—States should establish a statewide, independent, non-partisan agency headed by a Board or Commission responsible for all components of indigent defense services. The members of the Board or Commission of the agency should be appointed by leaders of the executive, judicial, and legislative branches of government, as well as by officials of bar associations, and Board or Commission members should bear no obligations to the persons, department of government, or bar associations responsible for their appointments. All members of the Board or Commission should be committed to the delivery of quality indigent defense services, and a majority of the members should have had prior experience in providing indigent defense representation

- *Qualifications, Performance, and Supervision of Counsel*

➤ **Recommendation 5**—The Board or Commission should establish and enforce qualification and performance standards for defense attorneys in criminal and juvenile cases who represent persons unable to afford counsel. The Board or Commission should ensure that all attorneys who provide defense representation are effectively supervised and remove those defense attorneys who fail to provide quality services.

- *Workload*

- **Recommendation 6**—The Board or Commission should establish and enforce workload limits for defense attorneys, which take into account their other responsibilities in addition to client representation, in order to ensure that quality defense services are provided and ethical obligations are not violated.

- *Compensation*

- **Recommendation 7**—Fair compensation should be provided, as well as reasonable fees and overhead expenses, to all publicly funded defenders and for attorneys who provide representation pursuant to contracts and on a case-by-case basis. Public defenders should be employed full time whenever practicable and salary parity should be provided for defenders with equivalent prosecution attorneys when prosecutors are fairly compensated. Law student loan forgiveness programs should be established for both prosecutors and public defenders

- *Adequate Support and Resources*
- **Recommendation 8**—Sufficient support services and resources should be provided to enable all defense attorneys to deliver quality indigent defense representation, including access to independent experts, investigators, social workers, paralegals, secretaries, technology, research capabilities, and training.
- **Recommendation 9**—Prompt eligibility screening should be undertaken by individuals who are independent of any defense agency, and defense lawyers should be provided as soon as feasible after accused persons are arrested, detained, or request counsel.

- **Recommendation 10**—In order to promote the fair administration of justice, certain non-serious misdemeanors should be reclassified, thereby reducing financial and other pressures on a state's indigent defense system.

Minor Crimes, Massive Waste

The Terrible Toll of America's Broken Misdemeanor Courts



News conference
April 28, 2009
10 a.m.



SEATTLE
UNIVERSITY
SCHOOL OF LAW



The explosive growth of misdemeanor cases is placing a staggering burden on America's courts. Defenders across the country are forced to carry unethical caseloads that leave too little time for clients to be properly represented.

As a result, constitutional obligations are left unmet and taxpayers' money is wasted....

Legal representation for misdemeanants is absent in many cases. When an attorney is provided, crushing workloads often make it impossible for the defender to effectively represent her clients. Counsel is unable to spend adequate time on each of her cases, and often lacks necessary resources, such as access to investigators, experts, and online research tools.

- These deficiencies force even the most competent and dedicated attorneys to engage in breaches of professional duties. Too often, judges and prosecutors are complicit in these breaches, pushing defenders and defendants
- to take action with limited time and knowledge of their cases. This leads to guilty pleas by the innocent, inappropriate sentences, and wrongful incarceration, all at taxpayer expense.

WASHINGTON DEFENDER ASSOCIATION

STANDARDS FOR PUBLIC DEFENSE SERVICES

Objectives and minimum requirements for
providing legal representation to poor persons
accused of crimes or facing Juvenile or Civil
Commitment proceedings in Washington State.

October 1989

Defender News

Tales of the Seattle - King County Defender Association

August 28, 1987

City Council Staff Report Finds Defender Caseloads Excessive, Recommends Higher Salaries

A City Council staff report recommends that Defender caseloads be reduced and public defender salaries be increased so that they are more comparable to those paid to assistant city attorneys. The report also recommends increasing the payment rate for RALJ cases.

The recommendations were contained in a 30 page report presented this week to the City Council Public Safety Committee. The report was written by staff person Susan Crane, who formerly worked at Evergreen Legal Services. Representatives of the Defender and ACA were consulted in the preparation of the report.

The report recommends lowering the budgeting assumption of 400 cases per public defender attorney. The Defender aims for a caseload of 360-375, and ACA runs between 400 and 450 per lawyer. The report also recommends increasing the payment rate for RALJ appeals, from the current \$487.50 to approximately \$839, recognizing that it takes defender attorneys at least 20 hours per case instead of the 9.3 hours budgeted. This recommendation was relatively uncontroversial, as both the Defender and ACA support this analysis and the city budget office did not object.

The report concluded that Seattle's defenders carry heavy caseloads and that the nature of the work has become more complex in recent years. The salaries are low by both local and national standards, with only Snohomish County defenders among Washington cities earning less than the Defender staff.

Ms. Crane recommended, however, that the city not readjust the caseload and salary assumptions immediately, and that the city and county should develop a "unitary standard for public defender reimbursement."

At the council meeting, Mr. D. ...

Defender News

Tales of the Seattle - King County Defender Association

September 14, 1988

Rights 'Stomped On', Says Judge

City Attorney Calls Municipal Court Arraignment Calendar a 'Zoo'

City Attorney Doug Jewett, lamenting budget problems, told the City Council Public Safety Committee yesterday that "no one feels comfortable in the zoo that is now the arraignment calendar" in Municipal Court.

In a meeting called to discuss problems in the court, Mr. Jewett described the arraignment calendar and the pre-jury trial calendar as a "zoo" in which it is difficult to provide justice. He said that the addition of 90 police officers has become counterproductive in terms of the inefficiencies in the system and the failure to provide justice. "We're all the losers for it," he said.

Judge Ron Kessler said that the in-custody arraignment calendar is the most serious problem that the court has. Noting that the National Legal Aid and Defender Association in 1981 condemned the arraignment calendar as "supermarket justice", he said that the number of cases has increased and the amount of court time available has decreased, and "if anything, we're in worse shape now." He said that the average time per accused person on the calendar is under three minutes. The pressure on the lawyers and the judges is to move the calendar along, "and when you do that, people's rights get stomped on."

The judges are not taking the time to determine the appropriateness of the sentence, and once again, Judge Kessler said, "you end up with supermarket justice."

Judge Kessler recommended that the calendar be limited to 70-80 clients per day, not the 150 who appeared on the Labor Day calendar which went until 9 p.m. He said the court can handle 20 an hour, but that "is intolerable." He described the tank where the clients wait as "woefully inadequate" and said that the noise level is "horrible". Because of the noise, the judges do not even bother to advise the group of their rights because they cannot hear.

Because of the pressure to move cases, the judges do not have time, he said, to weigh carefully release or sentencing decisions.

Presiding Judge Ron Mamiya, who pointed out that the court's revenue would exceed its

Defender Initiative's Misdemeanor Right to Counsel Project

To implement the right to counsel in misdemeanor courts in Washington State, and create a model for application in other states

Funded by The Foundation to Promote Open Society

Defender Initiative Plan

- Identify courts that do not provide counsel at arraignment
- Urge them to do so
- If necessary, take legal action
- Education—bar, bench, public

Methodology

- Observe courts, listen to recorded hearings
- Write to courts explaining deficiencies and proposing change
- Meet with judges, defenders, others
- Follow up
- Discuss possible litigation

Success So Far

- Sunnyside Municipal Court—added lawyer at arraignment
- Spokane District Court—added lawyer to the DUI arraignment calendar that did not have one
- Spokane Municipal—Promise to provide counsel at all hearings by March 1
- Pasco Municipal—changes in court procedures, promised change in advice of rights form, commitment to seek funding for arraignment counsel, completing plan to provide counsel

Strategies for Change

- Make Reports Widely Available
- Get Media Interest in Problems and Recommendations
- Build Alliances—Include Local Bar Associations
- Suggest ways to improve, need for funding
- Have Litigation as Option, Including writs and appeals
- Seek Legislation
 - To Limit Caseloads
 - To Require Standards

Legislation



City of Seattle 2004

Council Bill Number: 114900

Ordinance Number: 121501

- The City hereby reaffirms the caseload standards established in the 1989 Budget Intent Statement. The 1989 Budget Intent Statement, **the American Bar Association's Ten Principles of a Public Defense Delivery System** and the provisions of Section 1 of this Ordinance shall collectively constitute "standards for public defense services" as that term is used in RCW 10.101.030 until such time as the City Council may by ordinance adjust those standards. Consistent with the 1989 Budget Intent Statement, City agreements with indigent public defense service providers shall require caseloads no higher than 380 cases per-attorney per-year. The City also affirms the Washington State Bar- endorsed supervision standard of one full-time supervisor for every ten staff lawyers.

Washington State

- RCW 10.101.030 Standards.
- Each county or city under this chapter shall adopt standards for the delivery of public defense services, whether those services are provided by contract, assigned counsel, or a public defender office. **Standards shall include the following: Compensation of counsel, duties and responsibilities of counsel, case load limits and types of cases, responsibility for expert witness fees and other costs associated with representation, administrative expenses, support services, reports of attorney activity and vouchers, training, supervision, monitoring and evaluation of attorneys, substitution of attorneys or assignment of contracts, limitations on private practice of contract attorneys, qualifications of attorneys, disposition of client complaints, cause for termination of contract or removal of attorney, and nondiscrimination.** The standards endorsed by the Washington state bar association for the provision of public defense services should serve as guidelines to local legislative authorities in adopting standards.

Case Law Citing Reports

IN THE SUPREME COURT OF THE STATE OF WASHINGTON
STATE OF WASHINGTON,)Respondent,) No. 81236-5

v.) En Banc

A.N.J.,)) Appellant.)
Filed January 28, 2010

- Yet 45 years after Gideon, we continue our efforts to fulfill Gideon's promise. While the vast majority of public defenders do sterling and impressive work, in some times and places, inadequate funding and troublesome limits on indigent counsel have made the promise of effective assistance of counsel more myth than fact, more illusion than substance. Public funds for appointed counsel are sometimes woefully inadequate, and public contracts have imposed statistically impossible case loads on public defenders and require that the costs of experts, investigators, and conflict counsel must come out of the defenders' own already inadequate compensation. [citing among other references The Constitution Project, Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel]

- The Washington Defender Association (WDA) has established standards for adequate representation. ... However, while not binding, **relevant standards are often useful to courts in evaluating things like effective assistance of counsel.** See, e.g., *In re Pers. Restraint of Brett*, 142 Wn.2d 868, 879-80, 16 P.3d 601 (2001). We note that state law now requires each county or city providing public defense to adopt such standards, guided by standards endorsed by the Washington State Bar Association. RCW 10.101.030; see also Wash. State Bar Ass'n, *Standards for Indigent Defense*

Ways to Cut Caseload and Costs

- Diversion of Suspended Driver License Cases
- Re-Licensing programs
- Diversion of Marijuana Possession Cases
- Diversion of Minor in Possession of Alcohol Cases
- Diversion of Shoplifting Cases
- Decriminalization of Offenses Such as Sleeping on Sidewalk

Examples of Press Coverage



Study: Drug, driving charges sap nation's courts

By LEVI PULKKINEN
SEATTLEPI.COM STAFF

- Immediate change is needed in the prosecution of low-level driving offenses and drug crimes, Seattle University researchers said in announcing the results of a study of the nation's misdemeanor courts.
- The nation's misdemeanor courts, which handle criminal cases that carry less than a one-year jail term, are stressed to the point that many jurisdictions fail to provide low-income defendants with constitutionally mandated legal counsel, said Professor Bob Boruchowitz, lead researcher on the National Association of Criminal Defense Lawyers-supported study. Much of that load could be removed if authorities would handle some non-injury driving offenses and simple drug possession like they currently process traffic infractions.
- Often regarded as minor offenses, Boruchowitz said those convicted of misdemeanors lose employment and housing opportunities as well as access to federally backed student loans and other government services. Compounding the problem for poorer defendants, misdemeanor public defenders handle, at a minimum, several hundred cases a year.
- In King County, public defenders handling misdemeanors take on the equivalent of 380 to 450 cases a year. That's far lower than other jurisdictions studied by Boruchowitz, several of which carried averages of more than 2,000 cases a year.
- In the study -- "Minor Crimes, Massive Waste: The Terrible Toll of America's Broken Misdemeanor Courts" -- the authors outline a number of specific recommendations, including a proliferation in the number of diversion programs available to drivers caught with suspended licenses. King County Prosecutor Norm Maleng implemented such a system years before his death in 2007, a framework which Boruchowitz called "a model for the rest of the country."

Monday, July 21, 2008

Thousands lack lawyers in crucial court hearings

Defenders on mission to ensure legal rights

By TRACY JOHNSON

SEATTLE POST-INTELLIGENCER REPORTER

- One man who was found drunk in a broken-down truck near Issaquah pleaded guilty without the help of a lawyer, later regretting that decision as he sat behind bars.
- Another man listened to a courtroom discussion between an Auburn city prosecutor and a judge, who seemed to agree on his fate.
- "What's going on?" the man asked, quickly learning he was headed to jail for three years.
- To most people, it's a given: You get charged with a crime; you have the right to a lawyer. If you decide to go it alone, the judge must make sure you fully understand what you're up against -- and each right that you're giving up.
- Yet in smaller Washington courts that handle misdemeanor charges, that doesn't always happen.

The Olympian

- **Don't send kids to court alone**

Published April 21, 2008



Legal aid for the thousands of impoverished people charged with crimes in Washington state has improved in recent years, thanks to increased responsibility and funding by the state.

- **But a just-released report on the status of public defense in the state shows there are still major gaps in legal support for the poor.**

- **Most troubling is the finding that 17 counties never or only sometimes make public defense attorneys available to children and teenagers during their first appearance in juvenile court.**

Helpful to Remind Local Governments

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITTITAS COUNTY

JEFFREY BEST, DANIEL CAMPOS, and
GARY DALE HUTT, on behalf of
themselves and all others similarly situated;
and GREG HANSEN,

Plaintiffs,

v.

GRANT COUNTY, a Washington county,

Defendant.

NO. 04-2-00189-0

SETTLEMENT AGREEMENT

A. Commitment to Provide Effective Assistance of Counsel

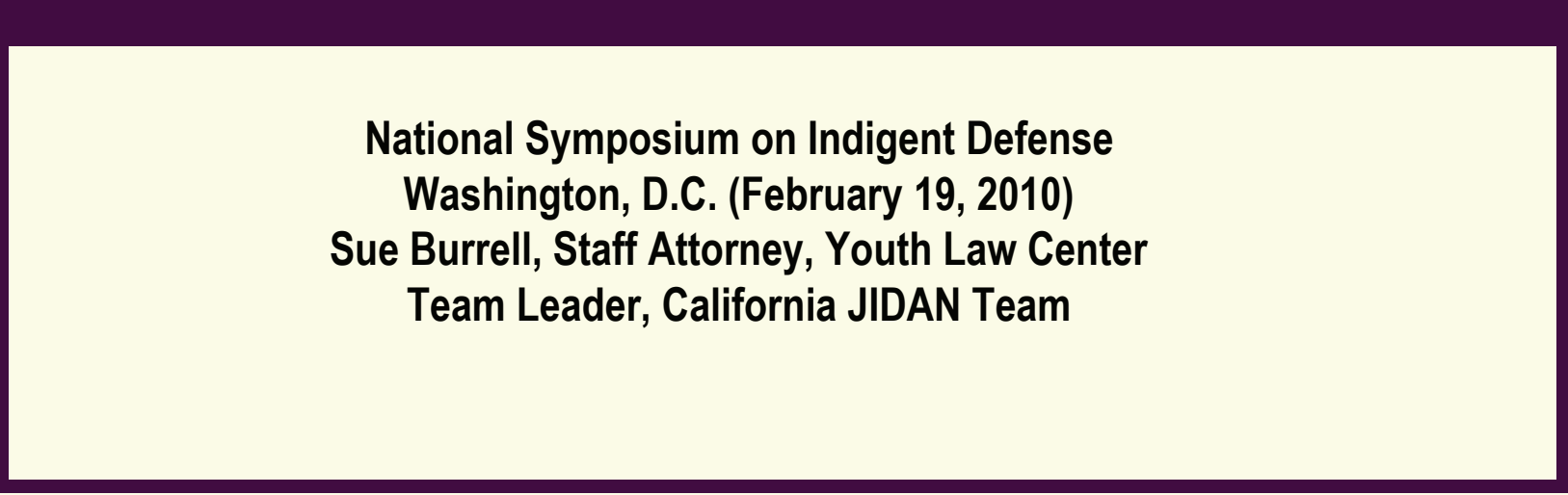
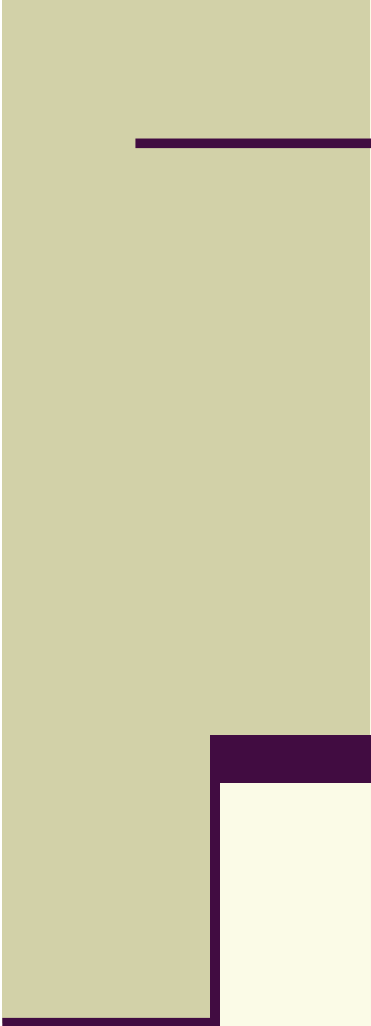
Grant County agrees to maintain and operate a public defense system that provides effective assistance of counsel to all indigent persons charged with felony crimes in Grant County.

V. ATTORNEYS' FEES AND COSTS

1. Base Payment. Not later than two weeks after the Effective Date, Grant County shall pay Plaintiffs' counsel the sum of \$500,000 in partial payment of the attorneys' fees and costs incurred by Plaintiffs' counsel during the litigation of this action.



MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)



**National Symposium on Indigent Defense
Washington, D.C. (February 19, 2010)
Sue Burrell, Staff Attorney, Youth Law Center
Team Leader, California JIDAN Team**

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

In the Beginning, there was *In re Gault*

387 U.S. 1 (1967)

California children have had the statutory right to appointed counsel in delinquency cases since 1961.

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

Effective Representation is Even More Essential as California Juveniles Face Increasingly Severe Consequences:

- Being found “unfit” for juvenile court & facing prosecution in criminal court – upon conviction, facing prison or even LWOP
- Lifetime law enforcement records, DNA in state database, sex offender registration, use of juvenile cases as sentencing enhancements
- Educational disruption; interference with activities that would reduce delinquency
- Difficulty getting back into school; accessing health/mental health services
- Lengthy incarceration, up age 25; often in substandard or abusive institutions
- Employment barriers - joining the military, working in some professions
- Adjusting immigration status
- Exercising driving privileges
- Obtaining financial aid, public housing and other public benefits

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

How Do Things Look for California Juvenile Delinquency Defense in 2010?

The Good:

- Several statewide conferences focus on delinquency; The Dog Book: A Practical Guide to Delinquency Law since 1994
- Pacific Juvenile Defender Center - affiliate of NJDC (since 1999) – small listserv & core group of defenders
- Mobilization of juvenile defenders in relation to state facilities crisis beginning 2003
- Increasing use of social workers, education and placement specialists and some post-disposition work
- Loyola Center for Juvenile Law & Policy established 2004
- Attention to delinquency In State Bar Guidelines for Indigent Defense 2007 & Delinquency Court Assessment 2008

The Not So Good:

- Unequal access to training and support resources – small core is highly energized, educated; many are missing in action
- Inability to connect with one another for support and issue development – 58 different county systems; geography
- Lack of clarity on standards for juvenile delinquency representation
- Structuring of our work that fails to meet our clients needs (education, post-disposition work)
- Compensation structuring in some places that is inadequate to the tasks we must perform
- Workloads that are too heavy to assure adequate representation
- Lack of career paths for juvenile defenders
- Exclusion from local and statewide policy discussions
- General lack of respect for or understanding of what we do with the public at large
- Even in professional organizations, being overlooked or viewed as a side issue

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

The MacArthur Juvenile Indigent Defense Action Network (JIDAN)
Offers a Way to Work on the “Not So Good” in a Deliberate Way:

- California team includes Youth Law Center; Center for Families, Children & the Courts; Los Angeles, San Francisco, Contra Costa County Public Defenders; Loyola Center for Juvenile Law & Policy; Human Rights Watch
- Focus to be on developing capacity in the Pacific Juvenile Defender Center (PJDC)
- Multi-year project
- Work with MacArthur Models for Change and National Juvenile Defender Center
- Initial goal: building a statewide Resource Center

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

Step One: Assessment of Training and Resource Needs

- 45% had no juvenile specific training when they began representing children
- Of those who received some training, 43% received one day or less
- 50% do not work in offices that provide ongoing juvenile delinquency defense training
- 70% work in an office with no practice manual or do not know if one exists
- 82% work in an office that lacks practice standards or do not know if standards exist
- Only 13% were members of the statewide Pacific Juvenile Defender listserv
- 71% are not paid or reimbursed for attending training

[Survey of more than 200 juvenile defense counsel from 38 counties]

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

California JIDAN Work So Far:

- Launching of comprehensive PJDC web site with practice materials
- Outreach to every juvenile defense counsel in the state (no easy task) to connect them with PJDC
- Creating an infrastructure to do work
 - ✓ Committees
 - ✓ Coordination of Training
 - ✓ Expert Corner
- Beginning to connect with system professionals on other issues

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

Work In Progress/The Future

- Develop training for outlying areas of the state
- Work toward practice standards for juvenile defense
 - ✓ Model contracts for appointed counsel
 - ✓ Tie standards to workload and compensation
- Create training academy; practice manuals; mentoring
- Do a better job of explaining what we do and why it is important
- Enhance juvenile defense as a specialty profession
- Make organizational decisions for PJDC (incorporation, governance, location)
- Address sustainability issues for PJDC – funding, staffing

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

An investment in knowledge always pays the best interest.

-- *B. Franklin*

MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN)

For further information , please go to:

Web site: www.pjdc.org

E-mail: info@pjdc.org

Or contact:

California JIDAN Team Leader
Sue Burrell, Staff Attorney
Youth Law Center
200 Pine Street, Suite 300
San Francisco, CA 94104
(415) 543-3379, x 3911; sburrell@ylc.org

POST - DISPOSITION

ADVOCACY

“Making a Critical Difference in Outcomes for Youth”

Honorable Michael Nash, Presiding Judge,
Juvenile Court of the Los Angeles Superior
Court

Patricia Lee, Managing Attorney Juvenile Unit,
San Francisco Office of the Public Defender

Eric J. Zogry, North Carolina Juvenile Defender,
State of North Carolina Office of the Juvenile
Defender Durham, NC

The Expanded Role and Responsibility of the Juvenile Defender California Rule of Court: 5.663

The juvenile defender is required to examine the interests of the client beyond the scope of the delinquency proceedings and monitor and inform the court if the client has other ancillary needs that may need to be addressed or protected until relieved by the Court.

Rationale for post – disposition representation:

- promised services not provided
- placement is a bad match and adequate re-entry plans for OHP clients
- inadequate probation supervision
- youth held under dangerous or inappropriate conditions
- youth on commitments to county camps or DJJ without counsel for add times, revocation proceedings, parole release advocacy, adequate re-entry plans and services
- Motions to reduce felony wobblers for record sealing

Attorney and Youth Advocate/Social Worker
Specialists

**“A Model in Holistic Representation of the
Child”**

- **Senior Licensed Clinical Social Worker:**
 - Prepares alternatives to DJJ or transfer to adult criminal court
 - * No DJJ commitment since 2006
 - * 14 out of 15 youth were found fit in juvenile court since 2007
 - Assists in parole release hearings with re-entry plan and case management

- **Placement Attorney Specialist:**

- _Expedited appropriate placement for all clients committed to OHP

- _Reduced placement detention delay time from 60- 90 days to 2 weeks

- Monitors child's well being in placement through visits, phone calls, and family intervention and services

- _Second Offender Chance Grant recipient:

Collaboration with the Courts, Juvenile Probation Department, Community based agency, Attorney and

Specialist Public Defender Re-entry Social Worker

- **Public Defender Youth Advocates (YA):**
 - _ Educational advocacy in IEP's and expulsion hearings
 - _ Prevention and diversion from the juvenile justice system
 - _ Program alternatives to incarceration
 - Case management through wardship for successful re-entry and public safety
 - _ Family intervention and advocacy
 - _ Culturally competent services for mono-lingual families
 - Specialized roles: Girl's YA, Placement YA, Court School YA

Juvenile Defenders in Partnership with the Community

- Community Law Office
- Law School Clinic
- Neighborhood partnerships in the “hot spots” of San Francisco, provides necessary collaboration and access to community resources in which our clients reside

Bayview MAGIC Program
Mo'MAGIC Program

Avoiding Data Collection Pitfalls

Carl Richey

Justice Works, LLC



Understanding Competing Interests

- State/County leadership
 - Better statistics to assist in negotiating funding needs
 - Measure attorney performance
 - Track compliance with caseload standards



Understanding Competing Interests

- Attorney Supervisors
 - Manage attorney workloads
 - Perform case assignments
 - Monitor team calendars
 - Review team disposition statistics



Understanding Competing Interests

- Attorneys
 - Organize active case files
 - Balance court calendar with other meetings
 - Coordinate document needs through office staff
 - Track notes from client meetings and trial proceedings



Understanding Competing Interests

- Support staff
 - Automate document generation
 - Provide visibility into attorney calendars
 - Organize competing requests and priorities
 - Reconcile physical and electronic files



Gathering Input

(not necessarily consensus)

- Meet with stakeholders representing all interests
 - Attorney Supervisors
 - Attorneys
 - Support staff
 - Investigators
 - Social Workers
 - Information Technology



Gathering Input

(not necessarily consensus)

- Provide Vision
 - Discuss current issues with gathering data
 - Express understanding of day to day challenges
 - Define goals and timelines
 - Get expert help
 - Spangenberg Group
 - Case management providers



Suggested Data Elements

- Demographics
 - City/County where case originated
 - Defendant
 - Ethnicity
 - Gender
 - Date of birth
 - Gang affiliations
- Dates
 - Warrant date
 - Arrest date(s)
 - Release date(s)
 - Filing date
 - Bond hearing date
 - Arraignment date
 - Indigency determination
 - Date bound over
 - Date case appointed to PD office
 - Date case assigned to attorney
 - Disposition date
- Reference
 - Case number
 - Statute code of each charge
 - Warrant/Indictment numbers
 - Court of initial appearance
- Involvement
 - Magistrate/Judge
 - Defense Attorney
 - Prosecuting Attorney
 - Arresting Officer
 - Witnesses
 - Victims
- Outcome
 - Disposition
 - Conflict, Withdrawal, Dismissal, Nolle Prose, Plea, Judge Trial, Jury Trial, Diversion
 - Trial or Plea Outcome
 - Plea to Charged, Plea to Lesser, Convicted of Charge, Convicted of Lesser, Acquitted, Mistrial
 - Sentence
 - Probation, Jail time, Fines/Fees, Deportation



Common Concerns

- I don't have time to do data entry
- I'm worried the data will be used to micro-manage me
- The data doesn't accurately measure the work that I do



Responding to Concerns

- Emphasize importance of data for seeking funding
- System efficiencies gained through automation
- Investigate possibilities for automatic information exchange with Court/Booking/Prosecution Systems



Case Management Options

- Make sure to attend Workshop 5-A “Case Management Systems and Information Sharing” at 3:15 pm Today





Justice Works, LLC
Carl Richey, President
598 West 900 South, Suite 107
Bountiful, UT 84010

801-294-2848
www.justiceworks.com

State Prosecutors A Statutory History

WDAA Executive Board

ASP Executive Board

3 Areas of Focus

Transition County to State Administration

Legislative History

How State Program Functions DOA

Resources are measured and allocated

Association of State Prosecutors

Founding, Role and Responsibilities

Recent Legislation and Hearings

Transition from County To State Administration

County Administration

Prior to January 1, 1990 County Government

maintained responsibility for funding district attorney positions and resources.

District Attorneys

Deputy District Attorneys

Assistant District Attorneys

Appointment Special Prosecutors

DA's Office Support Staff

County Administration

During County Administration:

- _ Unacceptable turnover highlighted in Rural Jurisdictions
- _ Urban Centers provided examples in value of career prosecutors.
- _ Loss of Experience attributed numerous factors including disproportionately low salaries and fringe benefits.

Transition

- Throughout 1980's significant political efforts to transfer district attorney positions from County to State employment.
- Effort was the State's third of a three-stage process to assume a major portion of the costs of the justice system.

Transition

Throughout 1980's 3 stage State effort to assume greater responsibility in administering criminal justice system.

Funding Circuit Court Judges

All costs associated w/ SPD

Transition

- In 1989 Wisconsin Act 31 was drafted to transfer district attorney positions from County to State employment.

Legislative Intent:

- 1) Provide Local Property Tax Relief
- 2) Reducing prosecutor turnover.

Transition

- Wisconsin Act 31 Passed 1989.
- *“When the State assumed responsibility for funding district attorney positions it maintained the existing county staffing levels **without attempting to establish standards for staff size based on comparative workload.**”*

1994 Legislative Audit Report.

Transition

- No explicit workload standards or goals were established for prosecutors.
- Instead, available information on the caseload in each county would be used only to compare counties against the Statewide average caseload.

Transition

- Act 31 created the **State Prosecutors Office**, attached to the Dept. of Administration to assume responsibility over program operations:

Payroll and Benefits

Budgeting

Collective Bargaining

Communications

Transition

Wisconsin Act 31 did not pass in its original form.

State Program operations were originally

envisioned to be a joint venture between DOA and Prosecutors.

To equitably administer a State program and resources to unique constitutionally elected district attorney's offices original intent was to ensure that prosecutors directly participated in how the program would be administered.

Transition

Wisconsin Act 31 in its original form

Would have enacted a **prosecutors council**.

Membership **include** elected and other
State prosecutors.

Responsibilities **Budgeting,**
Communications etc.

Transition

- Wisconsin Act 31 passed in original form out of committee sent to Joint Finance.
- Joint Finance Committee eliminated the State Prosecutors Council and all responsibility over the administration of the State Prosecution Program was transferred to DOA.

Enactment

- On January 1, 1990 district attorney positions were transferred from county to state employment following a transition period completed December 31, 1992.
 - Salaries many counties increased
 - State maintained County staffing levels.
 - Recognized Property Tax Relief.

State Administration

- Concerns soon developed:
 - ◆ Criticism of method measuring workloads and distributing resources.
 - From 1990 to 1996 based on Statewide averages rather than direct measures of prosecutors caseloads.
 - From 1990 to 1994 majority of request for additional positions were denied.

State Administration

- State Legislative Audit Report 1994:

*“According to State budget materials, **insufficient information** about district attorney workload and a lack of consensus on how to interpret available workload information have contributed to **denials of position requests.**”*

State Administration

- 1990-1997 3 fiscal budgets:

District Attorney's Requested 42.65 FTE

Governor Recommended 2.00

Legislature Authorized 0.00

State Administration

- 2004 Legislative Audit Report

Recommended significant improvements to State caseload formula and these improvements lead to present formula used by DOA and SPO today.

Required prosecutors to participate in a system wide time study.

State Administration

- Present Audit Formula measures prosecutorial resources through a weighted caseload formula.
- WDAA and ASP jointly created the Case Management/Time Reporting Committee 1994.

State Administration

<u>Case Type</u>	<u>Hours</u>
■ Class Homicide s. 940.01 and .02	50.00
■ All Other Homicides	100.00
■ Security Fraud	8.49
■ All Other Felonies	2.17
■ Misdemeanors	1.68
■ Criminal Traffic	

State Administration

3.32

- Juvenile Delinquency
- Children in Need Protection CHIPS³⁵⁰ 6.00
- CHIPS Extensions 3.50
- Guardianships 35.00
- Termination of Parental Rights

State Administration

■ Writs of Habeas Corpus	2.00
■ Inquests	64.00
■ Sexual Predator	100.00

State Administration

- Significantly **Outdated Time** Averages
- **Initial Appearance** Based Audit
 - No Consideration for:
 - Diversion Agreements
 - Investigations
 - NPR decisions in case reviews.
- **Fundamental Flaws** in time consideration.

State Administration

- Sexual Predator Chapter 980 100.00
- Among most undervalued time estimates
- Only recorded once...

State Administration

- Audit improvements applied in 1996 not resulted in improvements in resource allocation.

2003	447.70 FTE Positions
2004	431.50 FTE Positions
2005	427.15 FTE Positions
2006	424.65 FTE Positions

Changes in Staffing Levels and Caseloads

- Authorized positions have declined 4.4% since 2002
- Population has increased 3.7 %
- Criminal caseloads have increased 11.5%
- Since 2001 prosecutor turnover now exceeds 50%

Program Revenue-Funded Prosecutor Positions

County	Program Revenue Funded Positions	% of Total Positions
Milwaukee	37.00	29.8%
St. Croix	1.00	17.5%
Marathon	1.50	15.0%
Outagamie	1.50	14.3%
Dane	4.25	13.7%
Kenosha	2.00	13.3%
Waukesha	1.00	6.5%

State Administration

■ 2007 Legislative Audit Bureau Report

“Use of the formula is limited.”p. 11

“... only occasionally used to guide decisions regarding where to add new positions or eliminate existing ones...”p. 11

“Most elements of the weighted caseload formula have not been updated since 1994.”p. 34

History Association of State Prosecutors

ASP President Catharine White

PRESENT LEGISLATIVE ACTION

WDAA Exec. Board Member and
Green Lake DA Winn Collins

LAB Report (1995)

- Title: *An Evaluation of Allocation of District Attorney Positions*
- Number: 95-24
- Date: December 1995

LAB Report (1995)

“At the directive of the Joint Legislative Audit Committee . . . we reviewed options for measuring prosecutorial workload, as well as for improving the State’s current system for assessing the need for prosecutorial resources.”

LAB Report (1995)

“On January 1, 1990, district attorney positions were transferred from county to state employment, largely as a means of providing local property tax relief and reducing turnover in prosecutor positions.”

LAB Report (1995)

“As a result, district attorneys in some counties believe the current comparisons of relative workload among counties are inaccurate and that their offices are understaffed to handle their prosecutorial responsibilities.”

LAB Report (2007)

- Title: *An Evaluation: Allocation of Prosecutor Positions*
- Number: 07-9
- Date: July 2007

LAB Report (2007)

The original intent of the audit was to complete “an evaluation of the allocation of prosecutor positions, as requested by the Joint Legislative Audit Committee.”

LAB Letter (July 24, 2007)

LAB Report (2007)

- Felony cases prosecuted by district attorney's offices increased by 16.2 percent from 2001 to 2005.
- Wisconsin's population increased by 3.7 percent (from 5.4 to 5.6 million people) from 2001 to 2005.
- The number law enforcement officers statewide increased by 1.3 percent from 2001 to 2005.

LAB Report (2007)

- The number of prosecutor positions decreased by 6.0 percent (from 447.40 to 420.65 prosecutors) from 2003 to 2006.
- The information technology expenditures for district attorneys' offices decreased to 71.2 percent of their original expenditures when comparing 2001-02 to 2005-06.
- Additional reductions are likely as a result of declines in federal grant funding.

LAB Report (2007)

■ Turnover & Experience:

“Responsibility for funding county-level prosecutors . . . was transferred to the State . . . largely as a means of . . . re-ducing turnover in prosecutor positions.”

“. . . experienced prosecutors may handle cases more efficiently.”

LAB Report (2007)

■ Understaffing:

“Using the current formula, the State Prosecutor Office calculated in August 2006 . . . a net statewide need of an additional 117.33 FTE positions.”

2005 Wisconsin Act 60 contained a fiscal estimate projecting “a need for 15.0^{FTE} additional prosecutors.”

LAB Report (2007)

■ Prosecutor Positions:

- 376.40 GPR Funded
- 48.25 Program Revenue

LAB Report (2007)

- GPR (Funded) = 376.40 (67.6%)
- Program Revenue (Funded) = 48.25 (8.6%)
- Work Formula (Unfunded) = 117.33 (21.1%)
- Statutory Change (Unfunded) = 15.00 (2.7%)

LAB Report (2007)

■ Solutions:

“First, the Legislature could consider whether current staffing levels and the consequences of understaffing justify adding new prosecutor positions.”

“As an alternative, given limited resources and other funding priorities, the Legislature could consider ways to lessen prosecutors’ workloads.”

LAB Hearing (2007)

- Date: October 18, 2007

- Chairs:
Sen. Jim Sullivan

Rep. Suzanne Jeskewitz

- Speakers:
18 Speakers in Total

LAB Hearing (2007)

- The 18 Speakers at the LAB Hearing
 - Legislative Audit Bureau (2)
 - Department of Administration (2)
 - Presidents of ASP & WDAA (2)
 - District Attorneys (5)
 - Assistant District Attorneys (4)
 - Law Enforcement (2)
 - Victim Advocacy (1)

LAB Hearing (2007)

■ Attorney General (10/18/07):

“The prosecutor shortage is among the most pressing public safety issues facing Wisconsin today.”

■ Victim/Witness Professionals (10/18/07):

“... even the most competent professionals cannot completely fulfill their obligations [because of] understaff-[ing] and ... a high turnover rate.”

■ Coalition Against Sexual Assault (10/19/07):

“A shortage of prosecutors means fewer prosecutions of sex offenders, a decrease in community safety, and a loss of trust in the justice system by victims.”

Wisconsin Lawyer (2008)

- Title: *Empty Pockets and Overfilled Dockets: Prosecutors Leaving the Profession*
- Number: Vol. 81, No. 3
- Date: March 2008

Wisconsin Lawyer (2008)

- **Turnover Rate:**

Approximately 50 percent over Six Years

- **Program Revenue Positions:**

Funding cuts likely so future positions reductions very probable.

Legislative Update

■ **2007 Wisconsin Act 28**

- Wisconsin Statutes Chapter 753
- Create Additional Circuit Court Branches
- Enacted: November 12, 2007

■ **2007 Senate Bill 321 / Assembly Bill 576**

- Wisconsin Statutes Chapter 977
- Create Additional Public Defenders
- Failed to Pass

PRETRIAL INVESTIGATION: USING THE GOVERNMENT LAB

Betty Layne DesPortes
Benjamin & DesPortes, PC
Richmond, VA

THE NAS REPORT

“Strengthening Forensic Science in the United States: A Path Forward,” Committee on Identifying the Needs of the Forensic Sciences Community: Committee on Applied and Theoretical Statistics, National Research Council, National Academy of Sciences, 2009.



THE PROBLEM

- “The judicial system is encumbered by, among other things, judges and lawyers...”

THE PROBLEM

- “...who generally lack the scientific expertise necessary to comprehend and evaluate forensic evidence in an informed manner...”



THE FINDINGS

- **“The forensic science system, encompassing both research and practice, has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic science community in this country. This can only be done with effective leadership at the highest levels of both federal and state governments, pursuant to national standards, and with a significant infusion of federal funds.” p. xx**

WHAT SCIENTISTS HEARD

- “The forensic science system, encompassing both **research** and practice, has serious problems that can only be addressed by a **national commitment to** overhaul the current structure that supports the forensic science community in this country. This can only be done with effective leadership at the highest levels of both federal and state governments, pursuant to **national standards**, and with a significant infusion of federal funds.”

WHAT LAB DIRECTORS HEARD

- “The forensic science system, encompassing both research and practice, has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic science community in this country. This can only be done with effective leadership at the highest levels of both federal and state governments, pursuant to national standards, and with a

significant infusion of **federal**
funds.”

WHAT PROSECUTORS HEARD

- “The forensic science system, encompassing both research and practice, has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic science community in this country. This can only be done with effective leadership at the

highest levels of both **federal and**
state
governments, pursuant to
national standards, and with a significant infusion of federal funds.”

WHAT DEFENSE ATTORNEYS HEARD

- **science** system, encompassing both research and practice, has serious problems that can only be addressed by a national commitment to overhaul the current structure that supports the forensic

science community in this country. This can only be done with effective leadership at the highest levels of both federal and state governments, pursuant to national standards, and with a significant infusion of federal funds.”

DEFENSE USE OF SCIENCE

- Forensic science does not belong to law enforcement
- Science is essential to search for truth
- Truth belongs to everyone
- How do we determine the truth?

BENEFITS OF USING GOVERNMENT LAB

- Cost
- Availability
- Expertise
- Credibility



WAYS TO USE

- Testing
- Explanation
- Leads
- Education
- Preview

TESTING

- Va. Code 9.1-1104:

“ . . . the accused . . . by motion . . . certify that in good faith he believes that a scientific investigation **may be relevant to the criminal charge**. The motion shall be heard ex parte . . . and the court shall, after a hearing upon the motion and being satisfied as to the correctness of the certification, order that the same be performed by the Department.”



EXPLANATION

- Who are you?
- What evidence did you receive?
- Where do you work?
- When did you do the examination?
- How did you examine it?
- Why did you reach this conclusion?



LEADS

- Physical evidence
- Additional testing
- Witnesses
- Alternative suspects



EDUCATION

- “Cliff notes”
- Resources
- Other experts



PREVIEW

- WHY WOULDN'T YOU?
- Seriously.... Why?

Interrogation Gone Bad: Juvenile False Confessions in the post-DNA Age

Steven A. Drizin

Clinical Professor of Law &

Assistant Director, Bluhm Legal Clinic

Northwestern University, Chicago

(312)503-6608

Email: s-drizin@law.northwestern.edu

Some statistics re juvenile false confessions

False confessions make up approximately 16% of all known wrongful convictions (251 DNA exonerations)

Most documented false confessions are in murder cases (80%)

Juveniles are overrepresented in documented cases of false confessions. In Drizin and Leo's study of 125 proven false confessions (2004), juveniles made up 1/3 of the sample

Gross et al's study of 340 exonerations since 1989 showed that 13% of adults in study falsely confessed but 42% of all juvenile wrongful convictions involved false confessions.

The younger the defendant, the greater likelihood there is of a false confession. Gross et al found that of all juvenile wrongful convictions, 69% of the juveniles aged 12-15 falsely confessed compared to 25% of the 20 juveniles aged 16 and 17.

Laboratory studies of juvenile compliance rates show that the younger the juvenile, the more likely he or she is willing to accept responsibility for an act not committed (Redlich and Goodman).

What do juveniles tell us about why they falsely confess



LAGATTUTA: why wouldn't you just stick to your guns and say, I didn't do this, I didn't do this, there's no way in the world I'm going to confess to something I didn't do?

M. CROWE: Eventually, they wear you down to where you don't even trust yourself. You can't trust your memory anymore.

Why Confess? Josh Treadway



LAGATTUTA: Why in the world an innocent person would ever confess to a crime as serious as murder?

TREADWAY: I had a lot of pressure on me at the time. And, again, you'd have to just be there

Why confess? Marty Tankleff



- Marty Tankleff, now age 33, reflecting on his interrogation after spending 14 years of a 50 years to life sentence in prison for murdering his parents.

■ *It's like having an 18- wheeler driving on your chest and you believe that the only way to get that weight off your chest is to tell the police whatever they want to hear ... even admitting to a murder."*

Why Confess? Calvin Ollins



“They told me that, you know, 'You just go ahead and cooperate, and we'll let you go home.' I thought I was going home, but it turns out I was--I've been here ever since then.”

STAFFORD: And you think if you confess to the crime you can--you don't go to prison for that?

OLLINS: At the same, I didn't underst--I didn't understand the--the seriousness of what was going on. I didn't understand exactly what I was getting myself into once I signed that statement.

Drizin, S. & R. Leo. 2004.

Pathways to False Confession

- 1st: The Misclassification Error
 - “Behavioral analysis”
- 2nd: The Coercion Error
 - Psychological interrogation methods
 - Individual vulnerabilities
- 3rd: The Contamination Error
 - Scripting, misleading specialized knowledge, and the problem of deception

Behavior Symptom Analysis: Mistaking Normal Adolescent Behavior and Responses for Deception?

- Human Lie Detection
- Theory:
 - Deception = Anxiety
 - Manifested involuntarily in physiological responses
 - Properly trained detective can “read” the signs
- Three applications
 - **Verbal behavior** (e.g., word choice)
 - **Non-verbal behavior** (e.g., posture, eye contact, facial expressions, arm and leg movements)
 - **Paralinguistic behavior** (e.g., response length, response delivery, continuity of response)

Nonverbal Behavior Symptoms

Truthful Suspect

- Upright
- Open and relaxed
- Lean forward on occasion
- Frontally aligned with the interviewer
- Casual posture changes

Deceptive suspect

- Retreating from investigator
- Slouching
- Frozen
- Non-frontal alignment
- Barriered posture
- Erratic and rapid posture changes
- Head and body slump

Typical Behavioral Attitudes During an Interview

- Truthful Suspect

- Composed
- Concerned/Realistic
- Cooperative
- Direct/Spontaneous
- Open/Helpful
- Sincere
- Confident

- Deceptive Suspect

- Overly anxious
- Unconcerned/Unrealistic
- Uncooperative/Defensive
- Guarded/Evasive/Hesitant
- Rationalizing/Unhelpful
- Insincere
- Defeated

Nonverbal Behavior Symptoms

Truthful Suspect

- Upright
- Open and relaxed
- Lean forward on occasion
- Frontally aligned with the interviewer
- Casual posture changes

Deceptive suspect

- Retreating from investigator
- Slouching
- Frozen
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- Barriered posture
- Erratic and rapid posture changes
- Head and body slump

RESPONDING TO DENIALS THAT ARE VOICED

VI. EVALUATE THE SUSPECT'S DENIAL

*→ Seldom in street
truthful person is false
misleading*

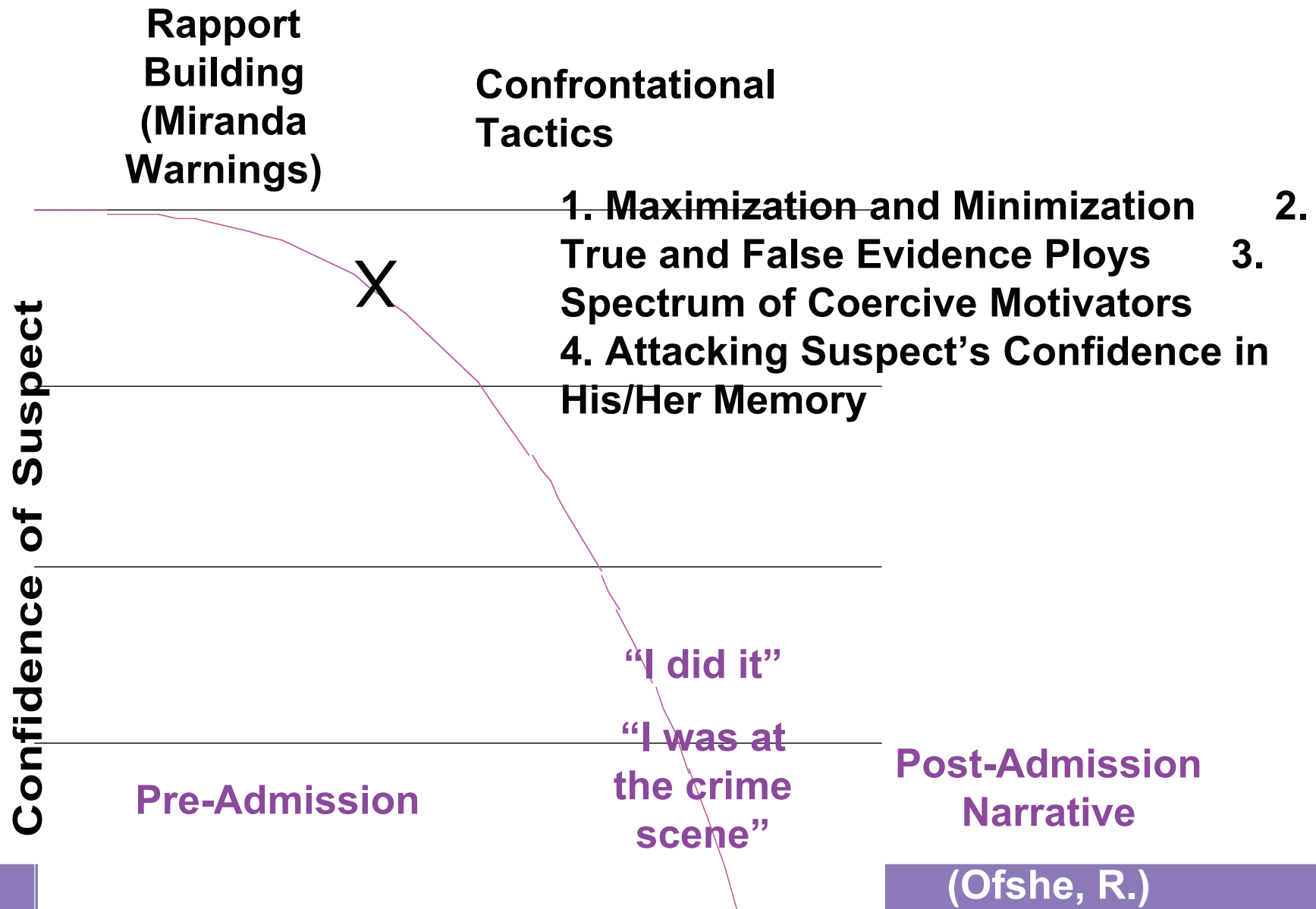
DECEPTIVE DENIALS	TRUTHFUL DENIALS
Avoid Descriptive Language "I didn't take that money" "I didn't do that to her"	Use Descriptive Language "I did not rob anyone!" "I did not rape her!"
Qualifying Phrases "I honestly wouldn't do that." "I swear I didn't do this."	Definitive Statement "I don't care what your investigation shows -- I had nothing to do with this!"
Specific Denials "I did not take \$517.82" "I don't own a gun!"	Broad Denials "I've never had sexual contact with that student or any other!"
Theme Acceptance "I understand what you're saying, but..." "I believe what you're telling me, but..."	Theme Rejection "Listen, even though I was drinking that night I was in control and I know I was never at that gas station!"
Weak Verbal	Firm, Strong, Forceful
Strong Verbal / Weak Nonverbal	Persistent

*Clipped Denial
Weakly Insisted*

VII. HANDLING TRUTHFUL DENIALS

Interrogation: The Coercion Error

- Based on presumption of guilt which is often based on behavioral analysis not evidence
- Accusatorial, suggestive
- Interrogator dominates interaction
- Interrogators uses deceptive, manipulative & sometimes coercive methods
- Purpose = To get incriminating statements, not necessarily the truth



Psychology of Police Interrogations: The Pre-Admission Phase

■ Rapport Building Phase

- Non-confrontational interview (20-45 minutes)
- Miranda warning is issued
 - Miranda warning does not provide much more than a speed bump
 - Many people do not understand the concept of the Miranda warning
 - Waiver rates for adults is 80-85%,
 - Juvenile suspects is 95-100%
- Police officers are taught to read visual cues of suspects as evidence that they are lying

Pre-Admission Phase

- Use of Bait Questions – Is there any reason why witnesses would be telling us you were at the crime scene? What do you think should happen to the person who committed this crime?
- Confrontation Mode
 - Shift from rapport-building to confrontation mode occurs quickly, all-of-a-sudden
 - “We’re not here to talk about whether you committed the crime but why you did it.”
 - MESSAGE CONVEYED: “We think you’re guilty, we have evidence that you’re guilty, and confession would give you some benefit later.”

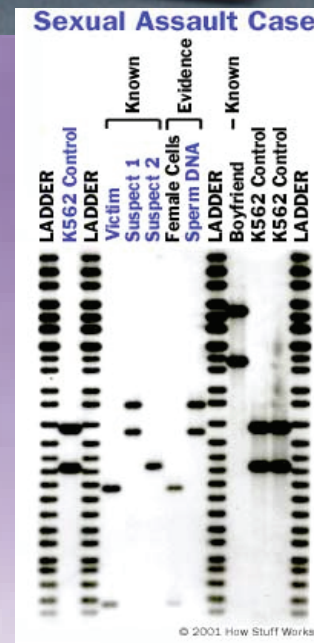
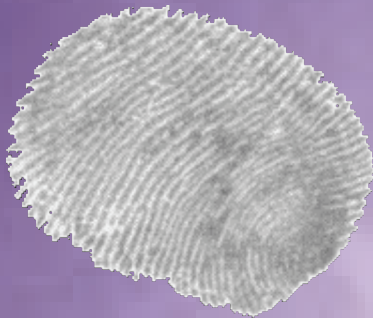
Maximization and Minimization

- Techniques to motivate the suspect into confessing by conveying the interrogator's absolute certainty of the suspect's guilt
 - Maximization (overstating strength of case against suspect, interrupting denials, accusing suspect of lying, false evidence ploys)
 - “We have talked to numerous witnesses who place you at the crime”
 - “Your co-defendant is laying this on you”

True and False Evidence Plays

■ “We found your hair, blood, semen, in the room. We’ve sent materials to the lab that quite frankly will screw you.”

■ Redlich and Goodman study suggests f/e plays may trigger false confessions



Maximization and Minimization

- Minimization - “psychological themes” that allow the suspect to save face
 - Moral excuse:
 - “You stole the money to feed your children”
 - Legal excuse:
 - “You shot the victim in self defense”
 - “The sex you had was consensual”
 - “The crime was impulsive rather than pre-meditated”

Spectrum of Coercive Motivators

- Low end – appeals to conscience, decency, religion, morality
- High end – promises of leniency / threats of harm
- Middle-end motivators: Systemic inducements
 - “Put yourself in the shoes of the prosecutor or judge. Who would you rather have in front of you, someone who cooperates or someone who doesn’t?”

Attacking Suspect's Confidence in His/Her Memory

- Suspects will begin to doubt their own memory
 - “I must have done these awful things, but why can’t I remember it?”
- Detectives suggest that the suspect may have “blacked out” or been in a “dream state” and that these states “happen all the time”
- Essential step in coerced internalized false confessions

Causes of False Confession:

Police Interrogation: The Coercion Error

- Psychologically coercive police methods interact with Individual Vulnerabilities
- Vulnerabilities include youth, low intelligence, mental illness, suggestibility, compliance, etc.
 - Suspect made to feel hopeless & perceives confessing as only way to improve situation (e.g., receive help, avoid prosecution, minimize punishment, etc)
 - To stop interrogation, escape custody, go home (coerced compliant)
 - Failure to understand implications of confession
 - Interrogator persuades suspect that he committed the crime, despite no memory of it. (coerced internalized)

The Contamination Error

One police officers obtain an admission from a suspect, their job is not yet finished. In order to persuade a jury to convict a defendant, they need to elicit details of the crime from the defendant. The standard test for law enforcement of a reliable confession is:

Was the Suspect Able to Provide Information About the Crime That Only Could Have Been Known by The True Perpetrator and Can that Information be Independently Verified and/or Corroborated by Police Investigation?

Contamination Occurs When Police Officers Either Accidentally or Deliberately Feed or Suggest These Details to a Suspect Who Then Adopts Them in His or Her Statement. Without a Videotape of the Process, it is impossible to Detect Contamination

Sources of Contamination include leading questions, showing crime scene photos, taking suspect to crime scene, suspect's own innocent knowledge, facts released to media, etc.

Characteristics of Unreliable Confession Evidence”: Post-Admission Narrative

- Assuming no contamination by interrogator(s):
- Confessor’s post-admission narrative (PAN) does not fit with the crime scene facts;
- Instead, PAN is replete with errors, guesses and impossibilities (I.e., factually inaccurate)
- This lack of fit demonstrates confessor’s lack of independent knowledge about:
 - Unique crime facts
 - Non-public information about crime
 - Both dramatic and mundane details
- PAN does not lead police to new, derivative, or missing evidence

Indicia of Reliability: Contamination

Brandon Garrett, in a soon to be released study in Stanford Law Review, analyzed all cases of proven false confessions among the DNA exonerations, many of which were highly detailed:

Out of 238 DNA exonerations (now 251), 38 or 16% involved false confessions.

In 35 of the 36 cases which were litigated at trial, police claimed that suspects were guilty because their confessions contained “facts” that only the true perpetrator would have known;

In 20 cases, detectives testified that the information was non-public information;

In 22 cases, detectives claimed to have avoided contaminating the confessions by not asking leading questions;

In 19 cases, prosecutors emphasized in closing arguments that the facts in the defendant’s confessions were “non-public” or corroborated by crime scene evidence;

In 17 cases, prosecutors emphasized that facts were non-public and could only have been known by the perpetrator;

in 10 exonerees’ trials, prosecutors specifically denied law enforcement had disclosed any facts.


Contamination Produces Wrongful Convictions

- Whose statement is it?
- US Supreme Court has questioned police tactics that are designed to get a suspect to agree to the police officer's "pre-conceived" theory of the case (Miranda)
- Involuntary statements are those which are the products of tactics designed to force the suspect to provide specific answers sought by the interrogators – even if the suspect does not believe them to be true.
- Interrogator's tactics are designed to get "specific answers" to questions – to get the suspect to agree to "the composition of a statement that was not even cast in his own words." (Culombe v. Conn.)(1961)

GOOD NEWS: Eliminating Contamination is Something That Police Officers and Defenders Can Agree On

Center on Wrongful Convictions of Youth

Mission Statement

-  The Center on Wrongful Convictions of Youth identifies, investigates, and litigates credible innocence claims of wrongfully convicted young people, provides resources and support for actors in the juvenile and criminal justice systems, and advocates for policy reforms that will decrease the likelihood that any youth will be wrongfully convicted.

 www.cwcy.org

Indigent Defense

Paul Giannelli
Weatherhead Professor of
Law
Case Western Reserve
University

ABA Standards on DNA

- ABA Standards for Criminal Justice, DNA Evidence (3d ed. 2007)
- Standard 6.1
 - No time limitation.
 - Guilty pleas are not precl
 - Innocenc
factor in^C
or manda

NAS Report (2009)

- “Among existing forensic methods, only nuclear DNA analysis has been rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between an evidentiary sample and a specific individual or source.”

✓ Report at 100.

Lack of Research

- “[S]ome forensic science disciplines are supported by little rigorous systematic research to validate the discipline’s basic premises and techniques. There is no evident reason why such research cannot be conducted.”
 - *Id.* at 22.

Justice Scalia

- “Serious deficiencies have been found in the forensic evidence used in criminal trials”
- “Forensic evidence is not uniquely immune from the risk of manipulation.”
 - Commonwealth v. Melendez-Diaz, 129 S. Ct. 2527, 2537-38 (2009)

Firearms Identification

- “Sufficient studies [on firearms identification] have not been done to understand the reliability and repeatability of the methods.”
 - NAS Report at 154.

Cartridge Case Ident.

- “O’Shea declared that this match could be made ‘to the exclusion of every other firearm in the world.’ . . . That conclusion, needless to say, is extra particularly given O’Shea’s methods.”
- Admitting similarities, but not conclusion
 - U.S. v. Green, 405 F. Supp. 2d 104 (D. Mass. 20

Handwriting

- “The scientific basis for handwriting comparisons needs to be strengthened.”
 - NAS Report at 166.

Handwriting Comparisons

- “Because the principle of uniqueness is without empirical support, we conclude that a document examiner will not be permitted to testify that the maker of a known document is the maker of the questioned document.”
 - U.S. v. Hidalgo, 229 F. Supp. 2d 961, 967 (D. Ariz. 2001)

Fingerprints

- Research is needed “[t]o properly underpin the process of friction ridge [fingerprint] identification.”
 - NAS Report at 144.

Fingerprints

- U.S. v. Llera Plaza, 188 F. Supp. 2d 549, 558 (E.D. Pa. 2002) (excluding and then admitting)

State v. Rose, KO6-545 Cir. Ct. Baltimore, Md. 2007) (excluded fingerprint evidence under *Frye* standard); but see

- U.S. v. Rose, 2009 WL 4691612 (D. Md. 2009)
- Markham v. State, 2009 WL 4070865 (Md. Ct. Spec. App. 2009)

Hair Analysis

- “[T]estimony linking microscopic hair analysis with particular defendants is highly unreliable.”
 - NAS Report at 161.

Hair Comparisons

- “This court has been unsuccessful in its attempts to locate *any* indication that expert hair comparison testimony meets any of the requirements of *Daubert*.”
 - Williamson v. Reynolds, 904 F. Supp. 1529, 1558 (E.D. Okl. 1995) *rev'd on this issue*, 110 F.3d 1508, 1522-23 (10th Cir. 1997) (due process, not *Daubert*, standard applies in habeas proceedings)

Bite Mark Comparison

- “There is no science on the reproducibility of the different methods of [bitemark] analysis that lead to conclusions about the probability of a match.”
 - NAS Report at 174.

Bitemark Comparison

- “Despite the continued acceptance of bitemark evidence in European, Oceanic and North American Courts, the fundamental scientific basis for bitemark analysis has never been established.”
 - Pretty & Sweet, The Scientific Basis for Human Bitemark Analyses – A Critical Review, 41 Sci. & Just. 85, 86 (2001)

Bitemark (cont.)

- State v. Krone, 897 P.2d 621 (Ariz. 1995) (“The bite marks were crucial to the State’s case because there was very little other evidence to suggest Krone’s guilt.”)
- Krone exonerated through DNA profiling
 - Hansen, The Uncertain Science of Evidence, ABA J. 49 (July 2005)

DNA Exonerations

- Mistaken eyewitnesses: 84 %
 - Police misconduct: 50 %
 - Prosecutorial misconduct: 42 %
 - Tainted or fraudulent science: 33 %
 - Ineffective defense counsel: 27 %
 - False confessions: 24 %
 - Jailhouse snitches: 21 %
- ✓ Scheck et al., *Actual Innocence* 246 (2000) (62 cases)

- Garrett & Neufeld, Invalid Forensic Science Testimony and Wrongful Convictions, 95 Va. L. Rev. 1 (2009)
- Giannelli, Wrongful Convictions and Forensic Science: The Need to Regulate Crime Labs, 86 N.C. L. Rev. 163 (2007)

NAS Report criticized

- “exaggerated” testimony (Report at 4)
- claims of perfect accuracy (*Id.* at 47),
- infallibility (*Id.* at 104), or
- zero error rate. (*Id.* at 143).

“Zerro Error Rate”

- “Testimony at the *Daubert* hearing indicated that some latent fingerprint examiners insist that there is no error rate associated with their activities This would be out-of-place under Rule 702.”
 - U.S v. Mitchell, 365 F.3d 215, 245-46 (3d Cir. 2004).

“Absolute Certainty”

- “examiners testified to the effect that they could be 100 percent sure of a match. Because an examiner’s bottom line opinion as to an identification is largely a subjective one, there is no reliable statistical or scientific methodology which will currently permit the expert to testify that it is a ‘match’ to an absolute certainty, or to an arbitrary degree of statistical certainty.”
 - U.S. v. Monteiro, 407 F. Supp.2d 351(D. Mass. 2006).

“Scientific”

- Excluded use of terms such as “science” or “scientific,” due to the risk that jurors may bestow the aura of the infallibility of science on the testimony.
- U.S. v. Starzecpyzel, 880 F. Supp. 1027, 1038 (S.D.N.Y. 1995).

“reasonable scientific certainty”

- Has no scientific meaning.
- Not required under Federal Rules.
 - “There is no such requirement.”
 - √ U.S. v. Cyphers, 553 F.2d 1064 (7th Cir. 1977)
(hair samples found on items used in a robbery
“could have come” from the defendants).

- Legal meaning is ambiguous at best.
 - Sometimes confidence statement
 - Hair sample probably came from the defendant and not that it came from him. State v. Holt, 246 N.E.2d 365, 368 (Ohio 1969).
- Misleading under Federal Rule 403.
- Excluded due to subjective nature of opinion.
 - U.S. v. Glynn, 578 F. Supp. 2d 567 (S.D. N.Y. 2008).

- U.S. v. Willock, 2010 WL 118371 (D. Md. 2010) (“The parties have agreed that Esposito should not be permitted to express his opinions with any degree of certainty.”)
- U.S. v. Taylor, 2009 WL 3347485 (D.N.M. 2009)

Limitations on Testimony

- “Many other district courts have similarly permitted a handwriting expert to analyze a writing sample for the jury without permitting the expert to offer an opinion on the ultimate question of authorship.”
 - U.S v. Oskowitz, 294 F. Supp. 2d 379, 384 (E.D.N.Y. 2003)

- Expert permitted to testify only that it was “more likely than not”^{that} recovered bullets and cartridge cases came from a particular weapon.

- U.S. v. Glynn, 578 F. Supp. 2d 567 (S.D.N.Y.) (firearms examination).

NRC Ballistic Imaging (2008)

- Report was concerned about testimony cast “in bold absolutes” such as that a match can be made to the exclusion of all other firearms in the world: “Such comments cloak an inherently subjective assessment of a match with an extreme probability statement that has no firm grounding and unrealistically implies an error rate of zero.” Report at 82.

A faint, stylized illustration of a balance scale is visible in the background. The scale is tilted, with the right pan being lower than the left pan. The pans are simple, shallow bowls. The entire image has a monochromatic brown color scheme.

Systems Evaluation Project (SEP): Measuring Quality by Looking at System Outcomes

Margaret A. Gressens
Research Director

North Carolina Office of Indigent Defense Services (IDS)

February 2010

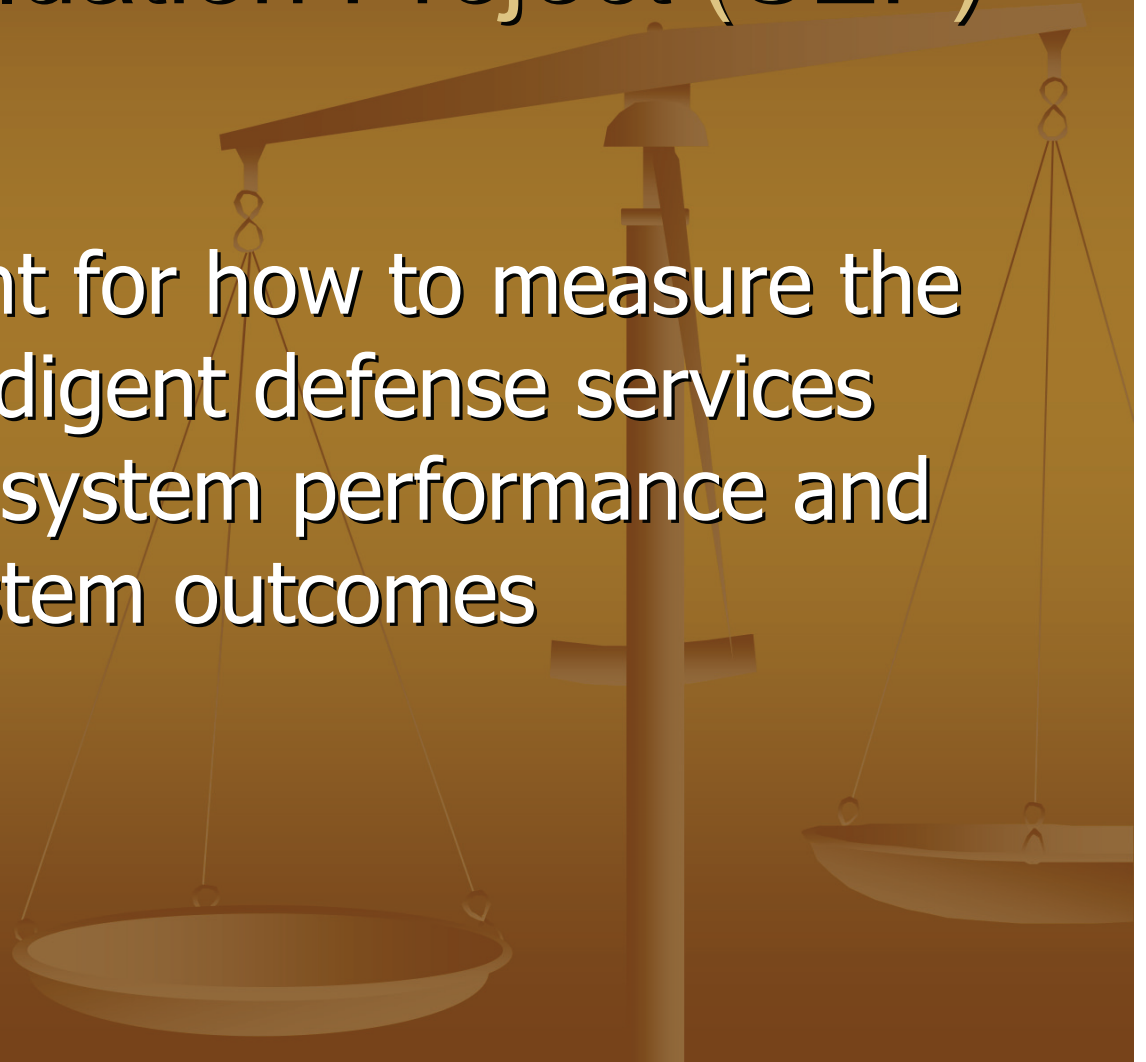
Rebecca's Story



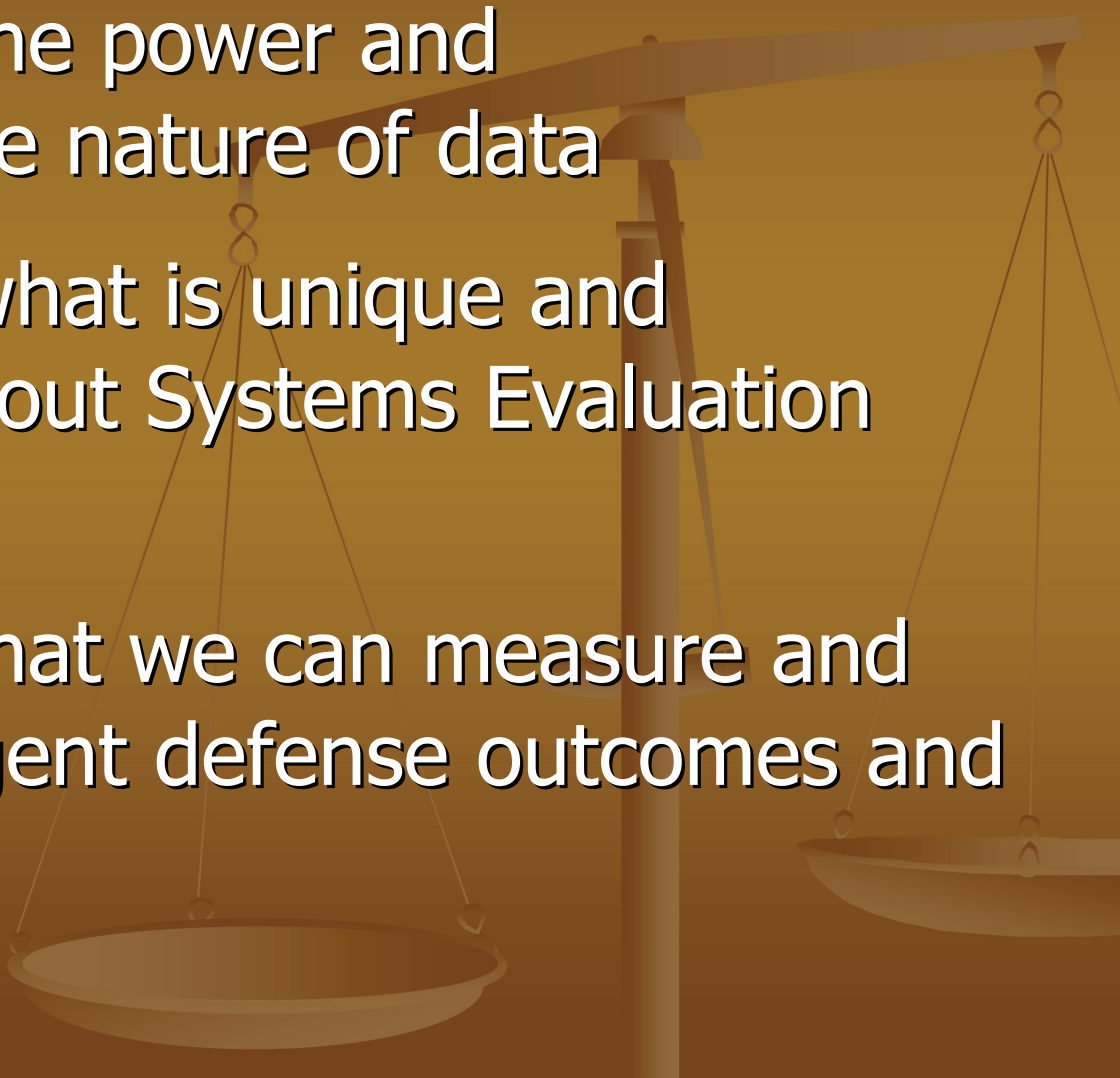
- 20-year-old single mother of two children
- Works as a grocery store clerk and struggles to provide for her family
- Arrested for shoplifting and providing false information to the police
- Magistrate set \$1,000 bond, which she cannot afford
- Next court date is 2 weeks away and she will lose her job if she misses work for that long
- Her rent is due and her children have been in the custody of a local social

North Carolina's Systems Evaluation Project (SEP)

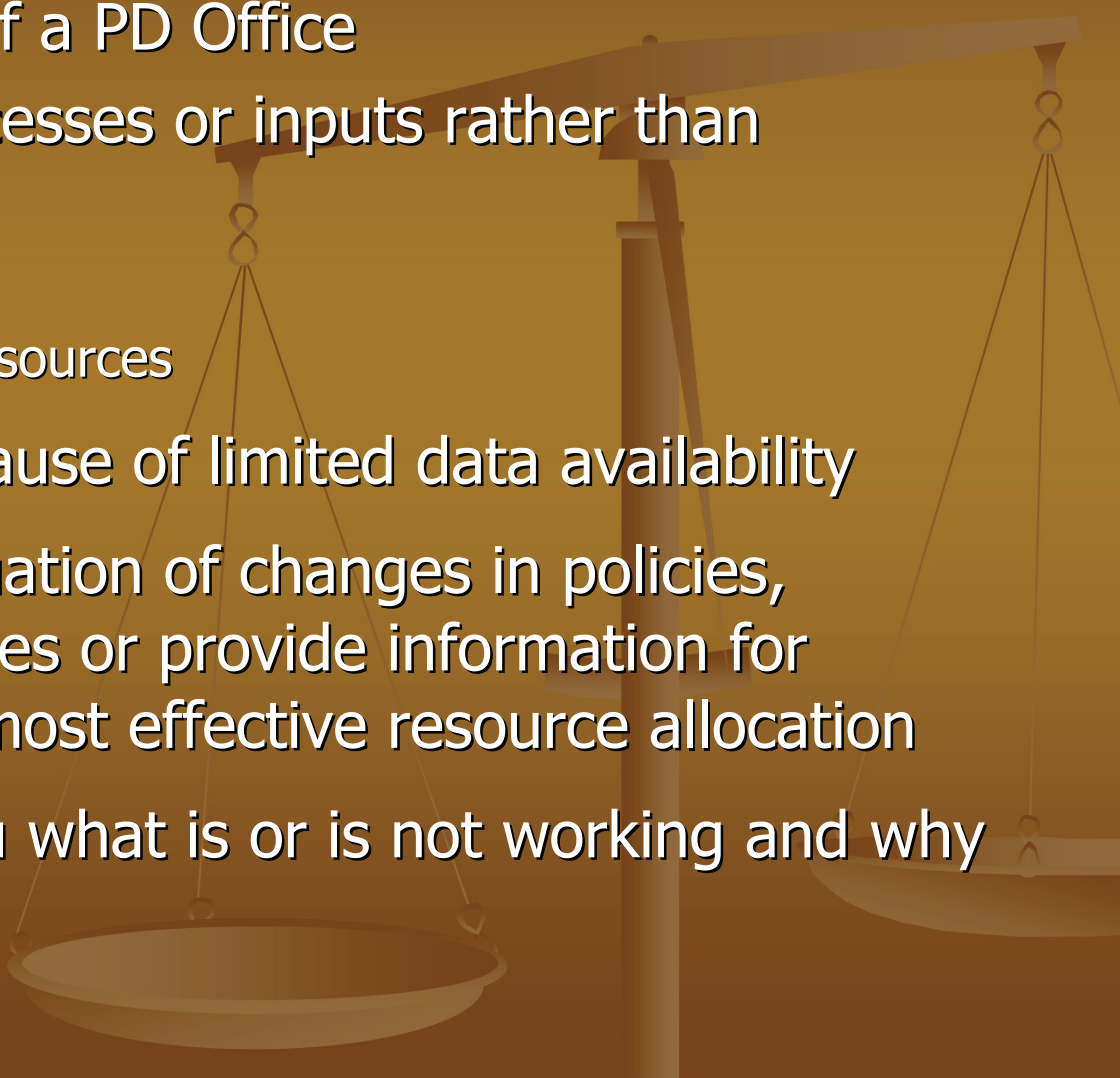
SEP is a blueprint for how to measure the
quality of indigent defense services
by looking at system performance and
system outcomes



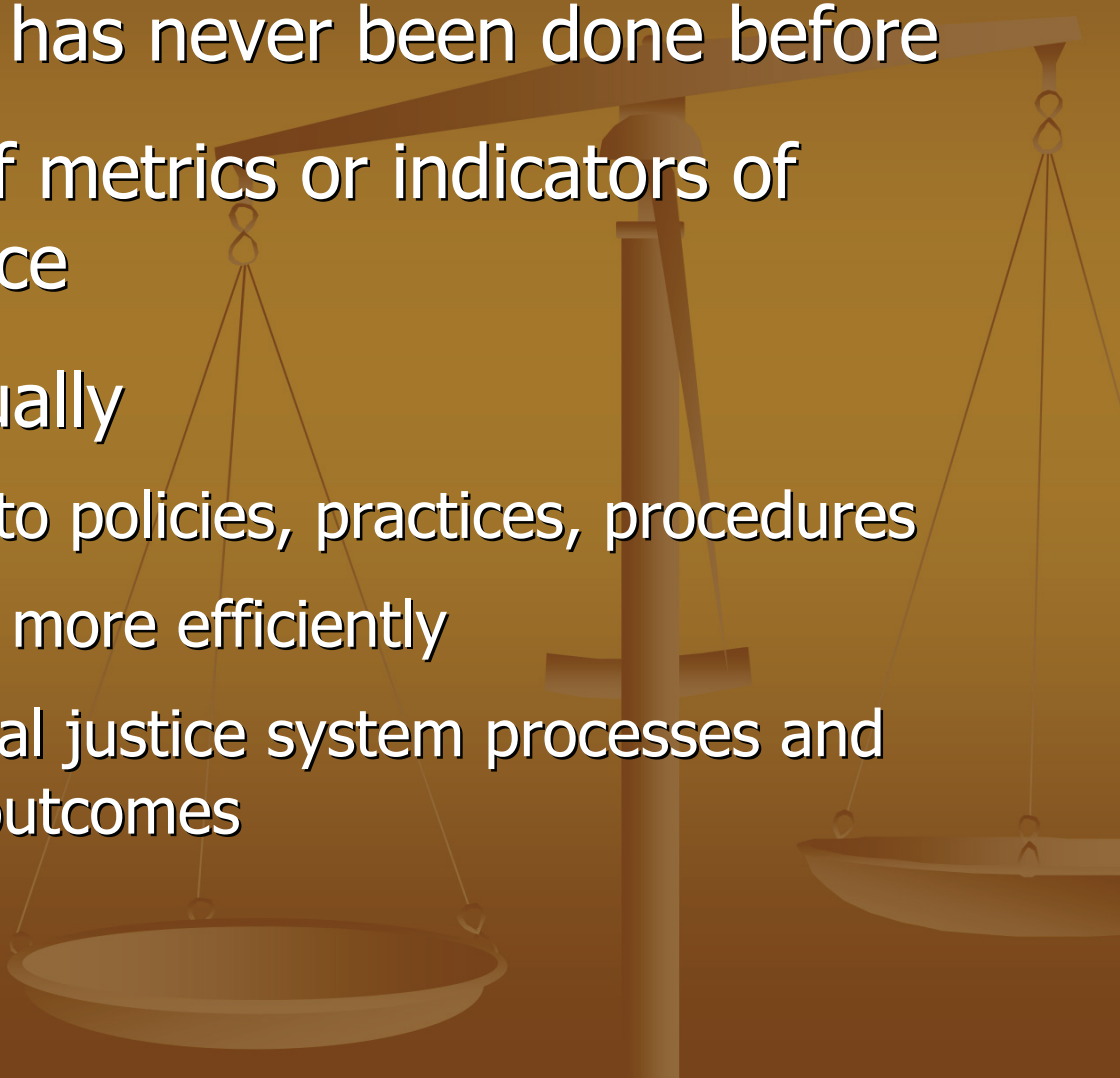
Overview of Presentation

- Understand the power and transformative nature of data
 - Understand what is unique and innovative about Systems Evaluation Project (SEP)
 - Understand that we can measure and quantify indigent defense outcomes and quality
- 

The SEP Difference: Indigent Defense Evaluations to Date

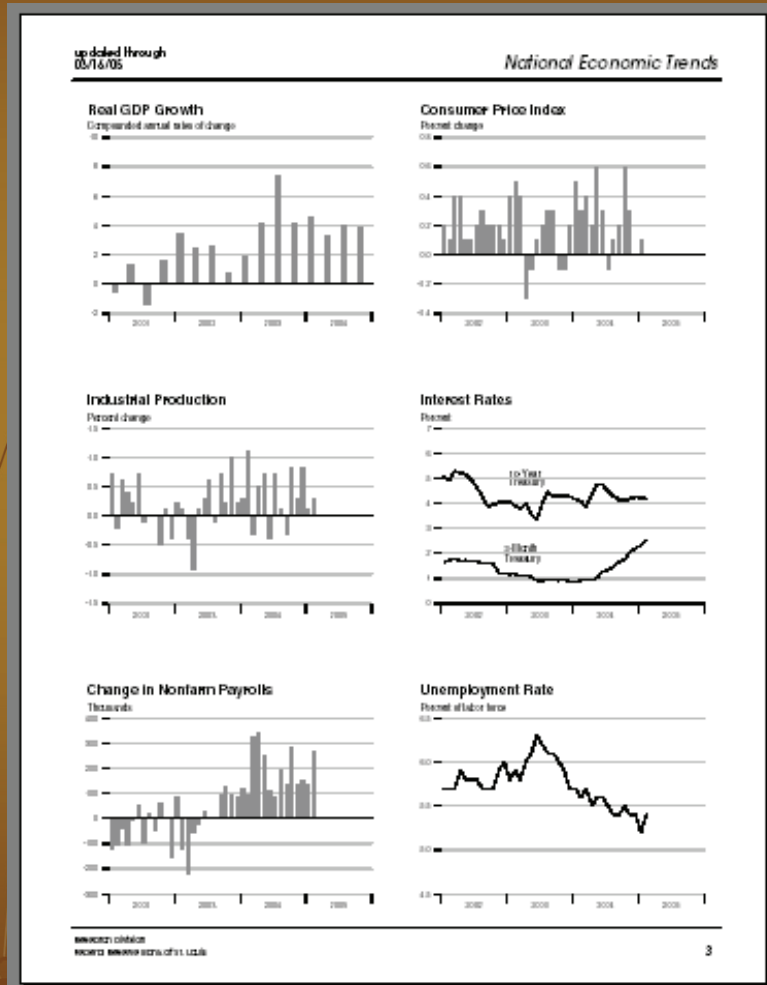
- One-time snapshots of a PD Office
 - Tend to focus on processes or inputs rather than outcomes
 - Caseloads
 - Lack of funding and resources
 - Fairly predictable because of limited data availability
 - Do not allow for evaluation of changes in policies, practices, or procedures or provide information for managers about the most effective resource allocation
 - Do not always tell you what is or is not working and why
- 

SEP: Unique and Innovative

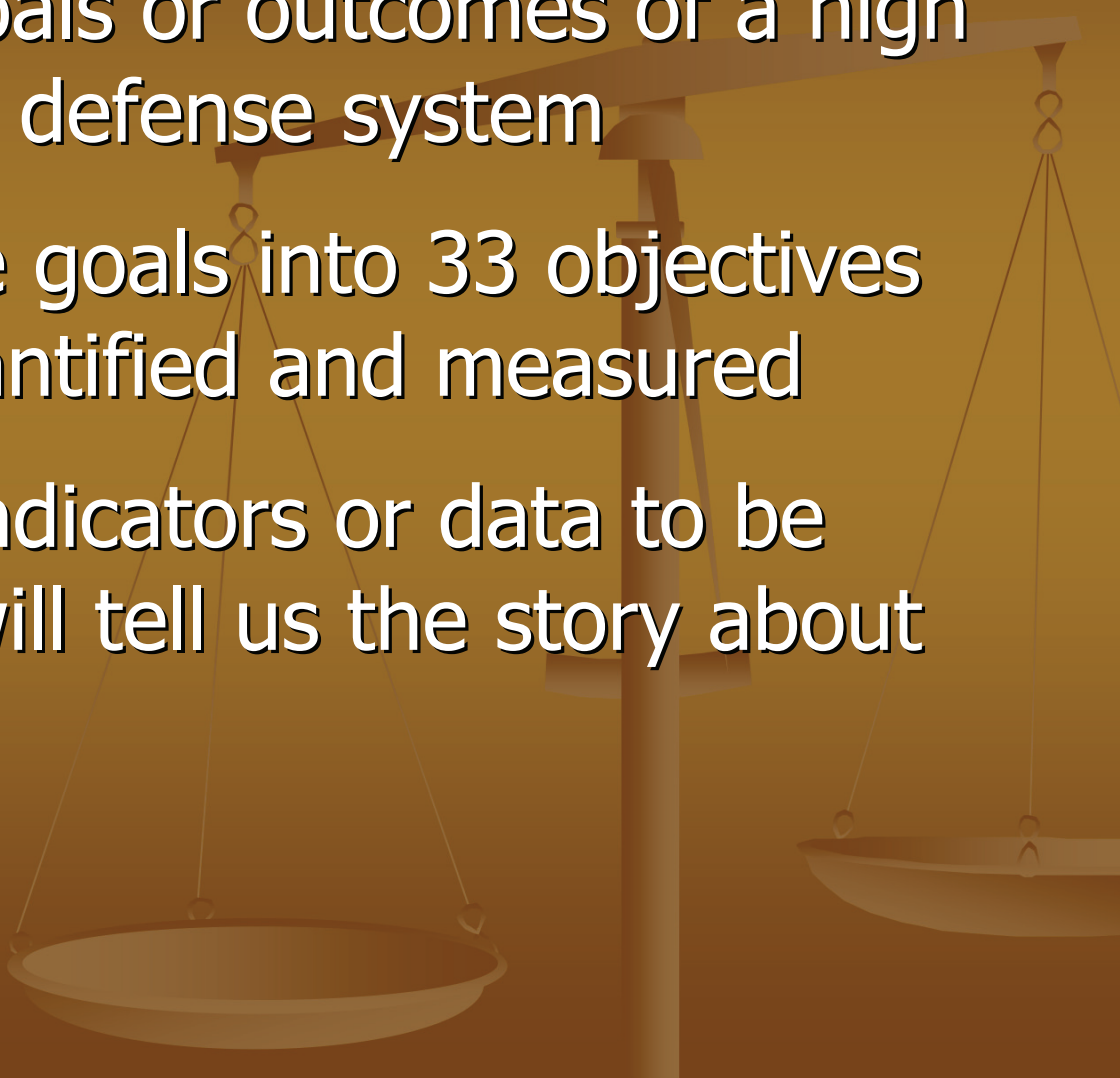
- SEP is doing what has never been done before
 - Set up a system of metrics or indicators of system performance
 - Track data continually
 - Evaluate changes to policies, practices, procedures
 - Allocate resources more efficiently
 - Understand criminal justice system processes and indigent defense outcomes
- 

Widely Used Methodology

■ U.S. Economic Indicators



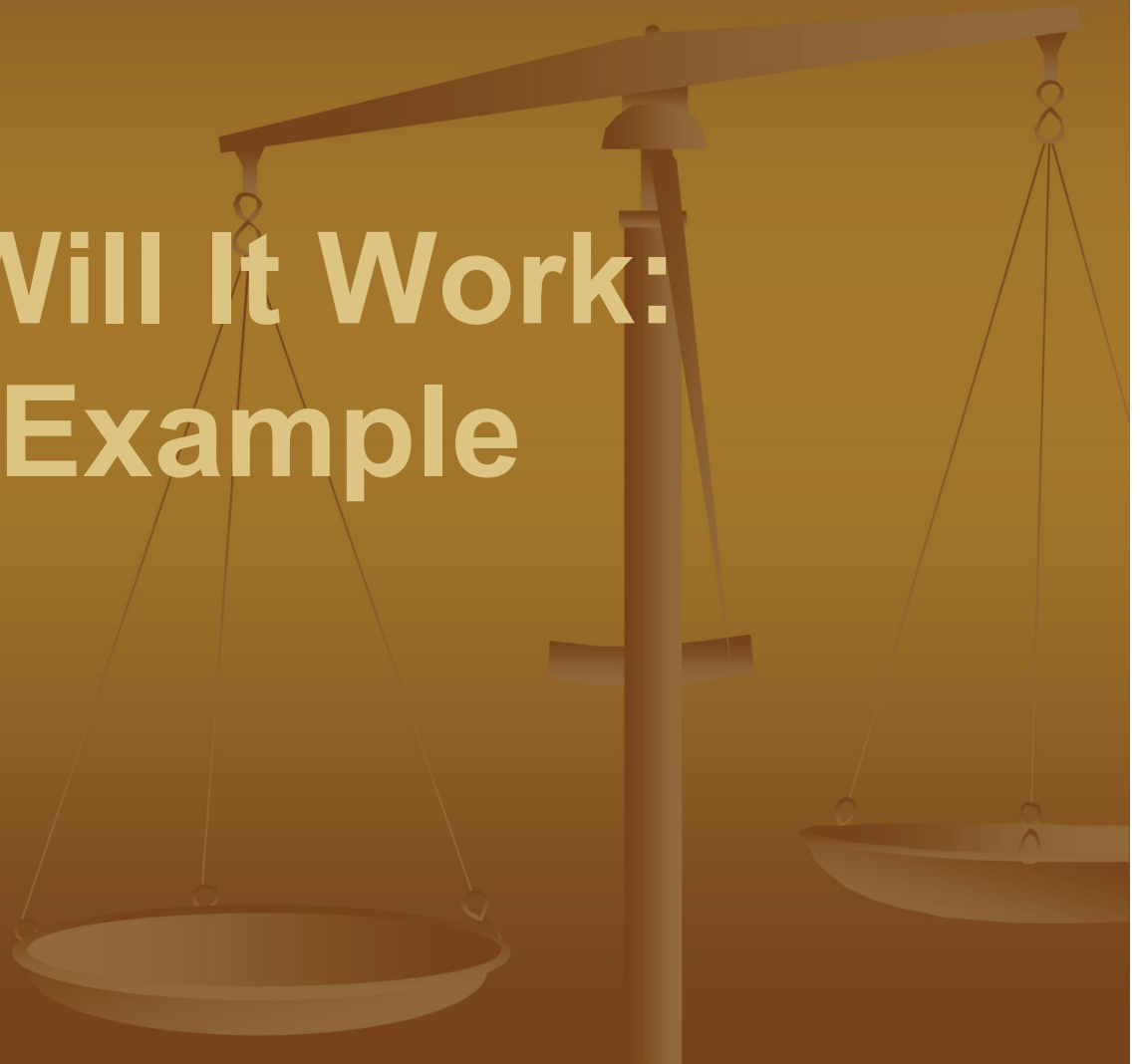
SEP System Performance Measures

- Identified 11 goals or outcomes of a high quality indigent defense system
 - Broke down the goals into 33 objectives that can be quantified and measured
 - Identified the indicators or data to be collected that will tell us the story about performance
- 

SEP System Performance Measures Development

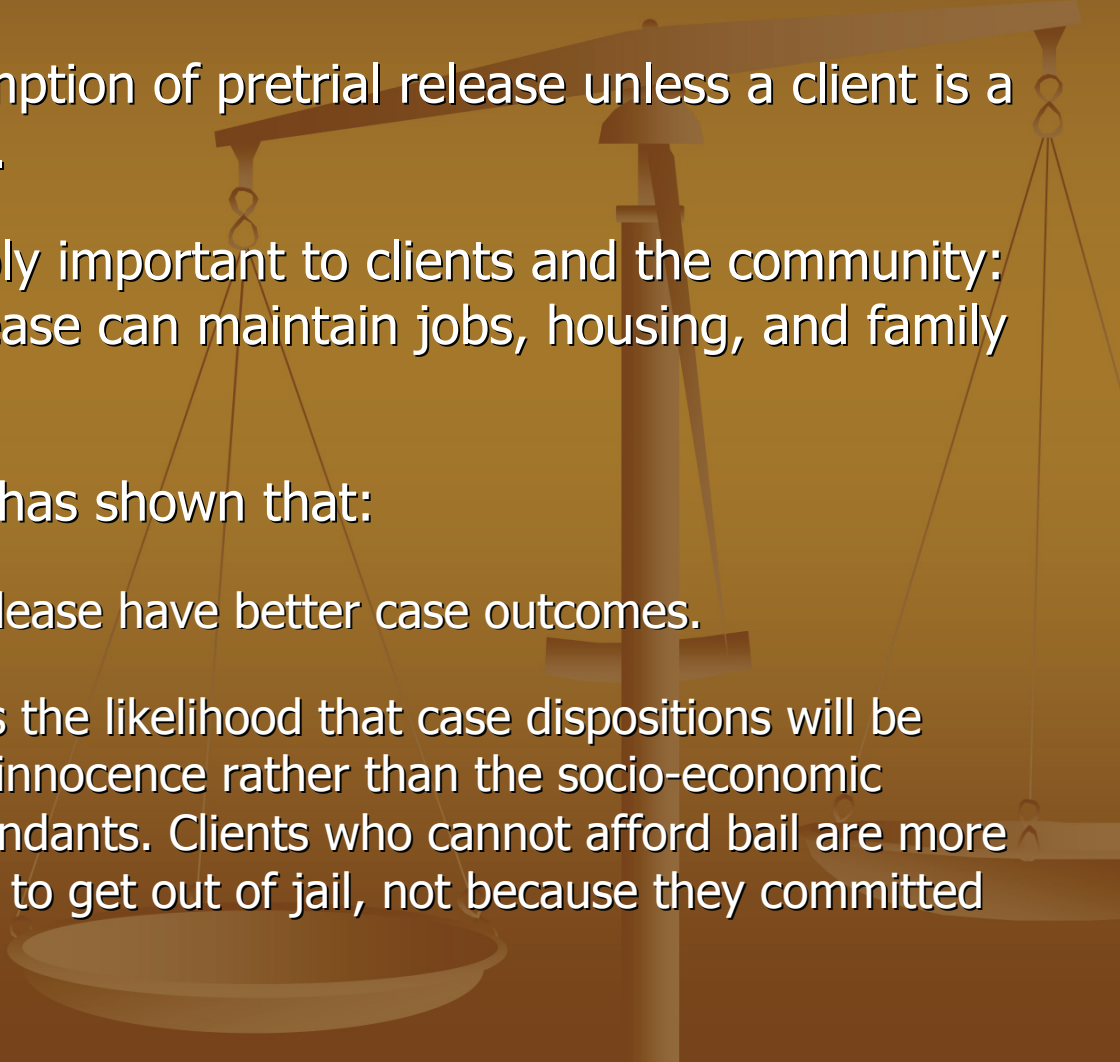
- National conference with indigent defense practitioners and criminal justice researchers to discuss strategies for evaluating indigent defense
- SEP Focus Groups: Asked attorneys, judges, prosecutors, clients, law enforcement, and community organizations about indigent defense
- 2-Year Literature: New developments in criminal justice research, innovations in defense practice, evaluation strategies

How Will It Work: An Example



Goal: Best Possible Outcomes for Clients

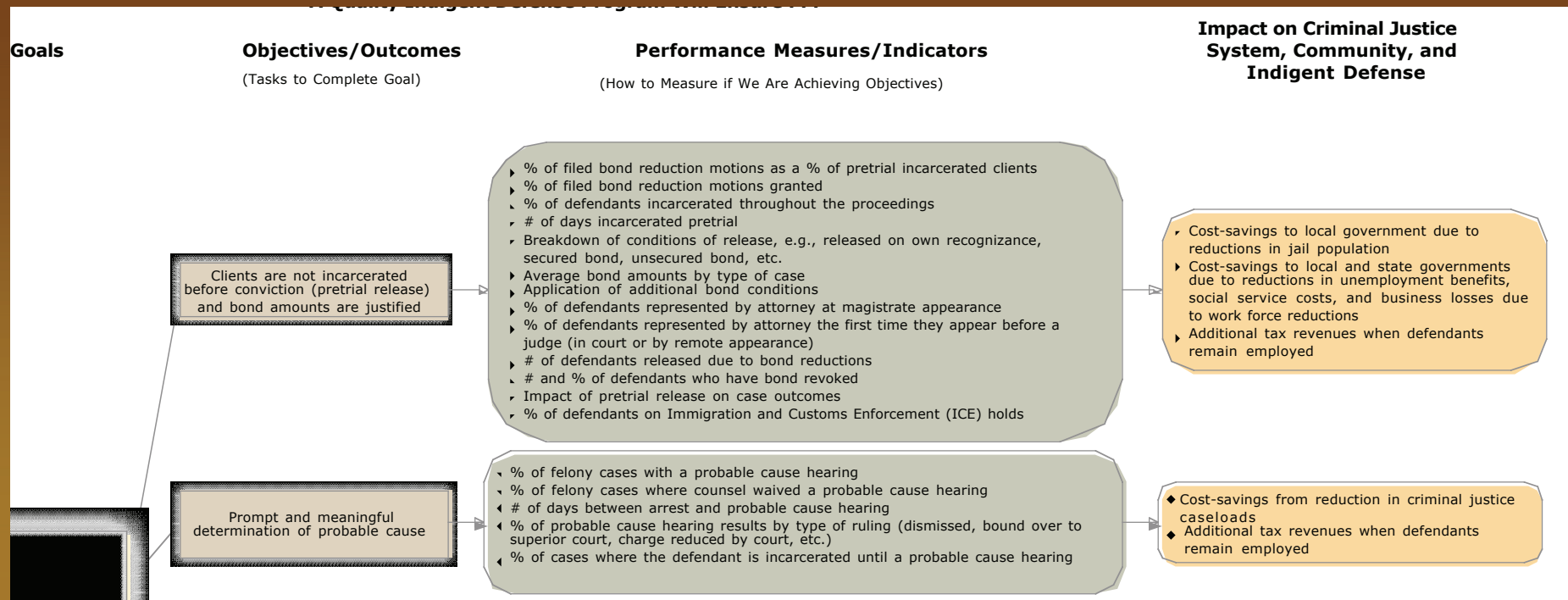
Objective: Clients Are Not Incarcerated Before Conviction

- Criminal law has a presumption of pretrial release unless a client is a flight or public safety risk.
 - Pretrial release is incredibly important to clients and the community: clients out on pretrial release can maintain jobs, housing, and family stability.
 - Evidence-based research has shown that:
 - Clients out on pretrial release have better case outcomes.
 - Pretrial release increases the likelihood that case dispositions will be based on actual guilt or innocence rather than the socio-economic backgrounds of the defendants. Clients who cannot afford bail are more likely to plead guilty just to get out of jail, not because they committed the offense.
- 

Data Tells a Story: County A's Story

Goal: Best Possible Outcomes for Clients					
(not actual data)	County A Average	County B Average	County C Average	County D Average	Statewide Average
<i>Clients are Not Incarcerated before Conviction (Pretrial Release) and Bond Amounts are Justified</i>					
% of defendants incarcerated throughout the proceedings	30.0%	5.0%	20.0%	18.0%	23.0%
# of days incarcerated pretrial	45	17	30	24	33
Average bond amounts by type of case	\$ 1,000	\$ 400	\$ 700	\$ 500	\$ 500
% of filed bond reduction motions as a % of pretrial incarcerated clients	15.0%	50.0%	45.0%	48.0%	47.0%
% of filed bond reduction motions granted	3.0%	15.0%	9.0%	11.0%	10.0%
% of Defendants out on bond who failed to appear	5.0%	6.0%	5.0%	5.4%	5.3%

- County A average bond amounts are significantly higher than most of the state
- County A incarcerates defendants pretrial more often and for longer
- Defense attorneys in County A do less bond reduction work than the rest of the state
- County A's failure to appear rates are not significantly better than the rest of the state



- Impact on Criminal Justice System and Community
 - Impact to local governments due to jail and social service costs, such as foster care, unemployment benefits, and financial assistance programs
 - Impact on local businesses from sudden loss of employees
 - Impact on state tax revenues

Data Tells a Story and Makes the Case for Reform and Resource Allocation

Goal: Best Possible Outcomes for Clients					
(not actual data)	County A Average	County B Average	County C Average	County D Average	Statewide Average
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- County A's tough bond policies are costing that county \$55 per day per incarcerated defendant for an average of 45 days AND FTA rates are not lower.
- IDS sees that aggressive bond motion practices are working elsewhere and needs to put more resources into securing pretrial release in County A

Rebecca's Story Before SEP



- 20-year-old single mother of two children
- Works as a grocery store clerk and struggles to provide for her family
- Arrested for shoplifting and providing false information to the police
- Magistrate set \$1,000 bond, which she cannot afford
- Next court date is 2 weeks away and she will lose her job if she misses work for that long
- Her rent is due and her children have been in the custody of a local social

Rebecca's Story After SEP



A year before Rebecca's arrest, SEP publishes its pretrial release study, which described bond practices in County A and suggested that changes in bond practices could:

1. Reduce jail overcrowding
2. Save taxpayer money in reduced jail costs and child protective services, and increase tax revenues
3. Reduce family disruption that was counter-productive for children
4. Relieve disproportionate punishment for a category of misdemeanor offenses
5. Not have a negative impact on public safety

Rebecca's Story After SEP



- A coalition of defense attorneys, judges, social service and advocacy programs, community representatives, and elected officials effectively advocate for reform in County A regarding pretrial release practices in misdemeanor offenses.
- IDS creates an online bond motions bank for defense attorneys to utilize
- IDS initiates a pilot project in a PD office to see if having attorney representation at the initial appearance before a magistrate improves pretrial release rates

Rebecca's Story



Bond amounts are lowered and pretrial release rates rise for misdemeanor defendants in County A

- Magistrates and judges benefit from having more complete information on which to make bond decisions
- Defense attorneys benefit from time and labor savings from fewer client jail visits, access to bond-motions bank, and improved client trust

Rebecca's Story



- State and local government benefit from reductions in jail costs, social service program expenditures and increased tax revenues from increases in employment
- County A benefits from taxpayer savings now that there is no longer a need to build a new jail because of jail overcrowding
- Local businesses benefit from fewer disruptions due to the sudden loss of workers
- Overall, there is increased trust and respect for the criminal justice system within the community

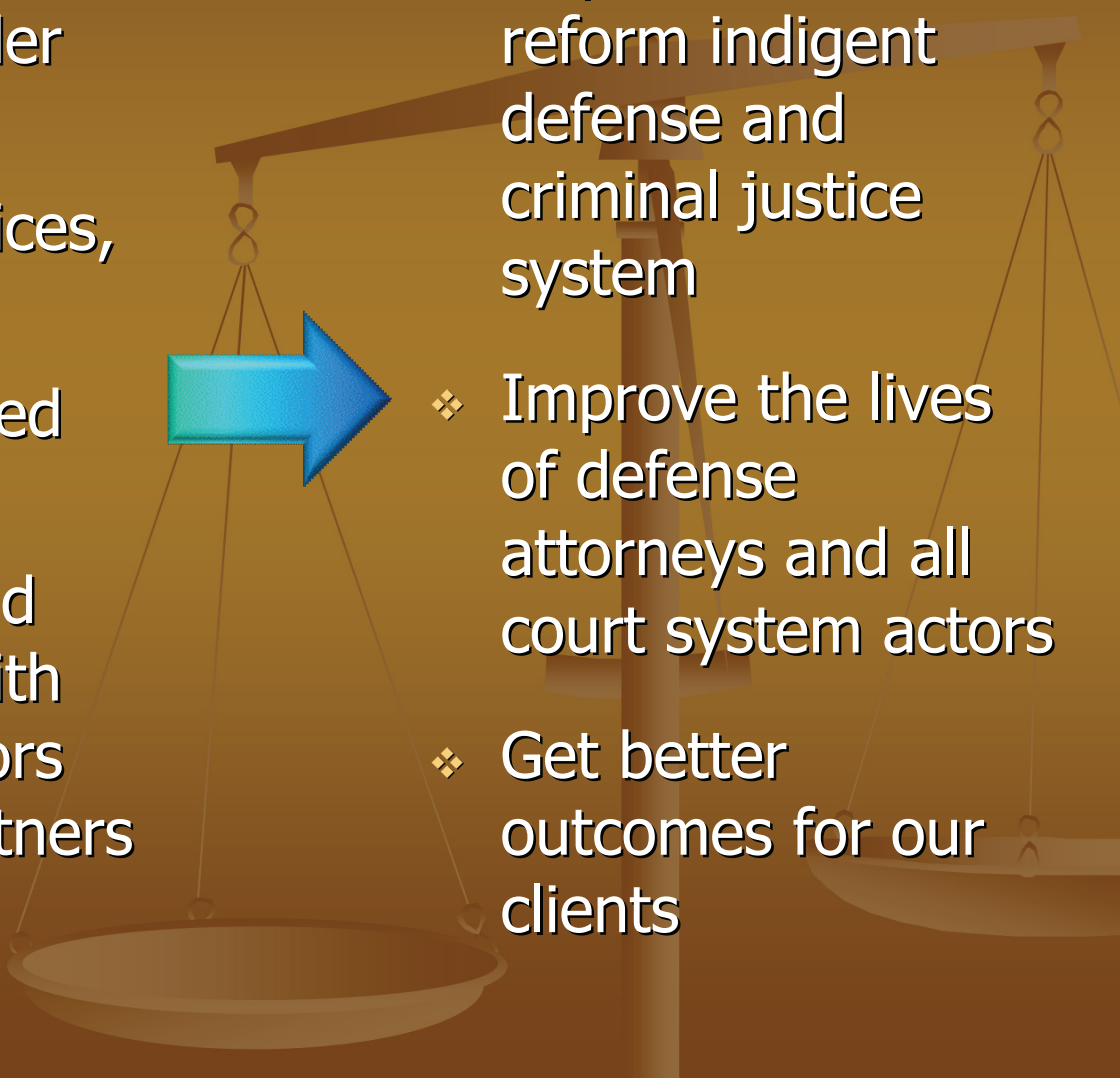
Rebecca's Story After SEP



Rebecca was given a more reasonable bond amount and her family was able to post bond.

As a result she maintained her job and her apartment, and her children avoided the trauma of foster care.

SEP: The Power of Outcome Data

- 
- ❖ Understand criminal justice processes from a broader perspective
 - ❖ Evaluate policies, practices, and resource allocation
 - ❖ Often reveals unexpected information
 - ❖ Creates common ground that fosters alliances with other court system actors and non-traditional partners to advocate for reform
- ❖ Improve and reform indigent defense and criminal justice system
 - ❖ Improve the lives of defense attorneys and all court system actors
 - ❖ Get better outcomes for our clients

For Information on SEP

Margaret A. Gressens

Research Director

North Carolina Office of Indigent Defense Services

123 West Main Street, 4th Floor

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919-560-3380

Margaret.A.Gressens@nccourts.org

[www.ncids.org/Systems Eval Proj](http://www.ncids.org/SystemsEvalProj)



The End



New Jersey Juvenile Indigent Defense Action Network

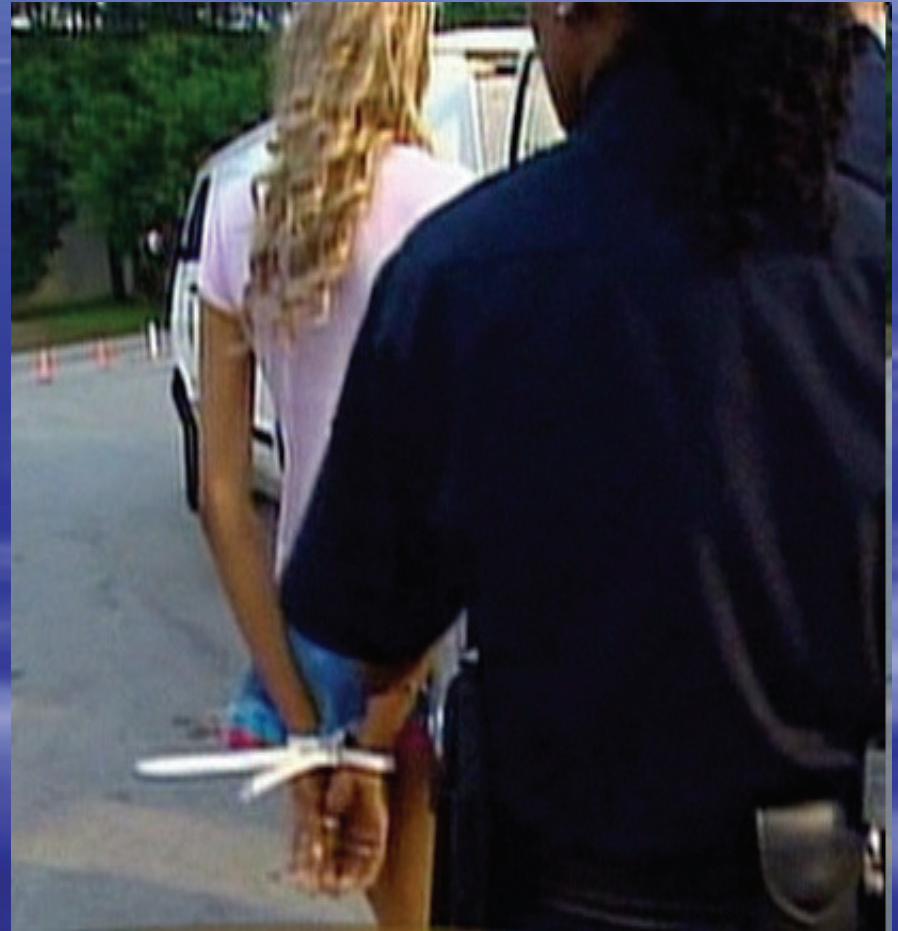
Sandra Simkins
January 18, 2010

Access to Counsel in Delinquency Proceedings

	Arrest	Detention Hearing	Trial (Adjudicatory) Hearing	Disposition	Post Dispositon Aftercare & Re-entry
New Jersey					
National Guidelines					

Gaps in Legal Representation of New Jersey Youth

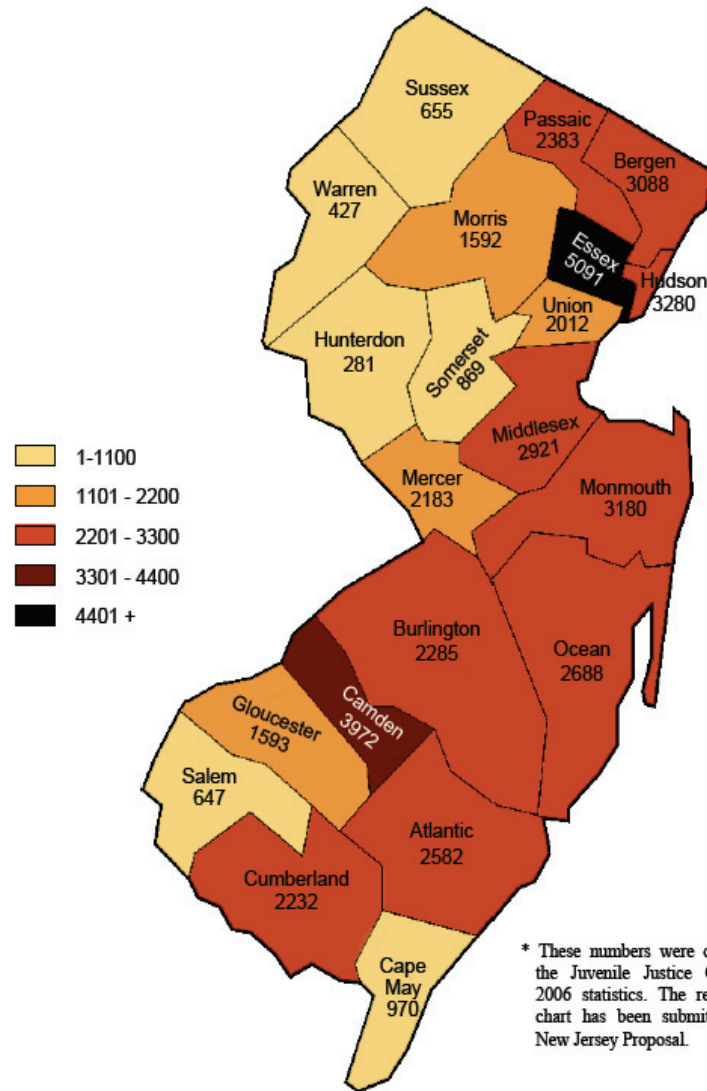
- Children often are not represented by counsel at initial detention hearings.
- Lack of post dispositional representation for children in JJC and other residential placements.
- Lack of specialized advocacy for children with special needs.



New Jersey JIDAN Goals

- Provide youth with counsel at initial detention hearings.
- Increase attorney involvement in post dispositional representation.
- Implement model programs to effectuate change.

2006
Number of Juvenile Cases Filed*



* These numbers were obtained from the Juvenile Justice Commission's 2006 statistics. The referenced JJC chart has been submitted with the New Jersey Proposal.

NJ JIDAN Representation at Initial Detention Hearing Project

NJ Statewide Public
Defender's
Leadership and Vision



Training
Increased Education
and awareness
of importance of
representation



Local County Juvenile
Defenders restructured
resources to ensure
representation

New Jersey
JIDAN

Post Disposition Representation Project

Access to Counsel Post Disposition is Critical

To prevent institutional abuse

To improve improve system system
accountability

- Ensure that what the judge ordered for the child is actually happening
- To improve the transition back to the community

The New York Times

January 15, 2010

Sentenced To Abuse

A shocking new study by the Justice Department's Bureau of Justice Statistics surveyed more than 9,000 young people in custody and found that more than 12% reported being sexually abused one or more times.

The New York Times

August 6, 2007

Psychiatric Center for Teenagers is Mired in Patient Accusations of Rape

A widely respected residential **psychiatric treatment center for teenagers** in Manhattan acknowledged yesterday that it was cooperating with law-enforcement authorities who have **charged three former employees with sexually assaulting girls** at the center in recent years.

The Washington Post

April 5, 2007

In Texas, Scandals Rock Juvenile Justice System

Joseph Galloway is days away from walking out of a Texas juvenile detention center where he has been **held for years beyond his original sentence** -- and where at age 15, he said, he **endured sexual assaults** by a corrections officer and a fellow inmate.

Baltimore Sun

January 27, 2007

Judge orders 3 removed from juvenile facility after teen being restrained dies

At least **four youths** at a private residential program for juvenile offenders have independently told their lawyers that they **witnessed staff members sit on a struggling Isaiah Simmons for three hours Tuesday until he passed out and died**, Maryland's chief public defender said last night.

The Sunbury Daily Item

August 15, 2008

Woman confesses to sexual encounter at juvenile detention center

It was not known Friday if a **former employee** of a juvenile detention center who confessed to having sex with an inmate the same age as her son will be allowed to remain a part of Danville's football boosters association.

Baltimore Sun

March 7, 2007

Report shows sex abuse at youth lockups not unusual

In all: 40 allegations of staff sexual conduct with incarcerated teenagers at the West Texas lockup between January 2000 and October 2006.

AMERICAN-STATESMAN

March 7, 2007

Report shows sex abuse at youth lockups not unusual

The mother's warning to Texas Youth Commission officials in early 2003 now seems eerily prophetic.

"My son is being molested and now, because he has tried to get help from other staff, he is being harassed."

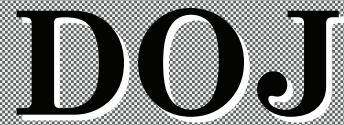
U.S. News & World Report

"Juvenile justice facilities across the nation **are in a dangerously advanced state of disarray,** with violence an almost everyday occurrence and rehabilitation the exception rather than the rule. **Abuse of juvenile inmates by staff is routine."**

Miami Herald

2003

"[The]Florida Department of Juvenile Justice workers and supervisors included about 350 ex-felons and persons with arrest records, including four superintendents and four assistant superintendents of juvenile detention facilities



Office of Justice Programs
Bureau of Justice Statistics
Special Report
January 2010

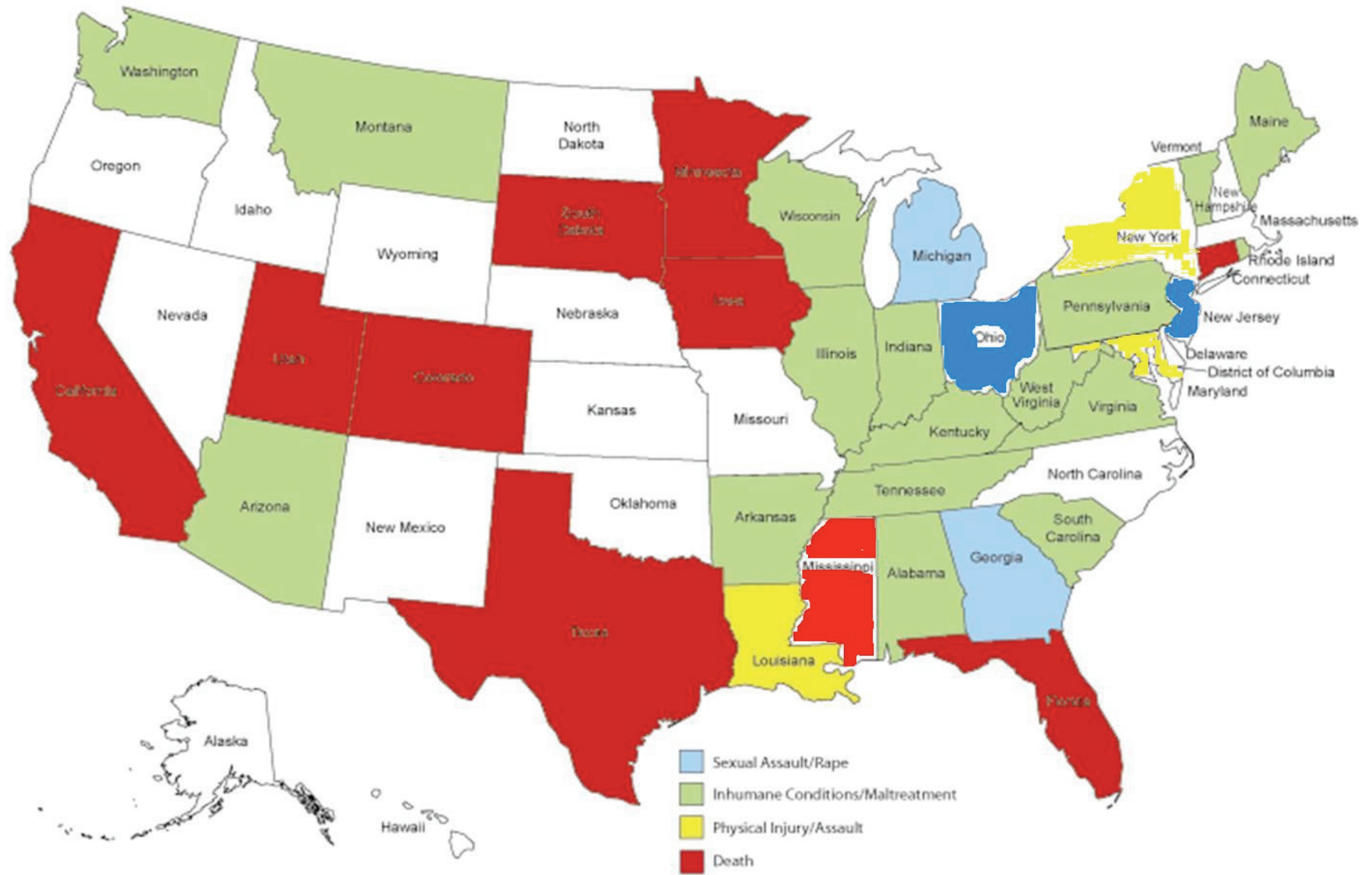
Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-2009

An estimated 12% of youth in state juvenile facilities and large non state facilities reported experiencing one or more incidents of sexual victimization

13 Facilities were identified as high rate

6 facilities had a victimization rate of 30% or more

Institutional Abuse In Juvenile Facilities



JUVENILE DELINQUENCY GUIDELINES

Improving Court Practice in Juvenile Delinquency Cases

NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES



NATIONAL COUNCIL OF
JUVENILE AND FAMILY COURT JUDGES
est. 1937



Office of Juvenile Justice and
Delinquency Prevention

National Council of Juvenile and Family Court Judges

Key principal #13 of these guidelines states:

Juvenile delinquency court judges should ensure effective post-disposition review is provided to each delinquent youth as long as the youth is involved in any component of the juvenile justice system.

National Council of Juvenile and Family Court Judges

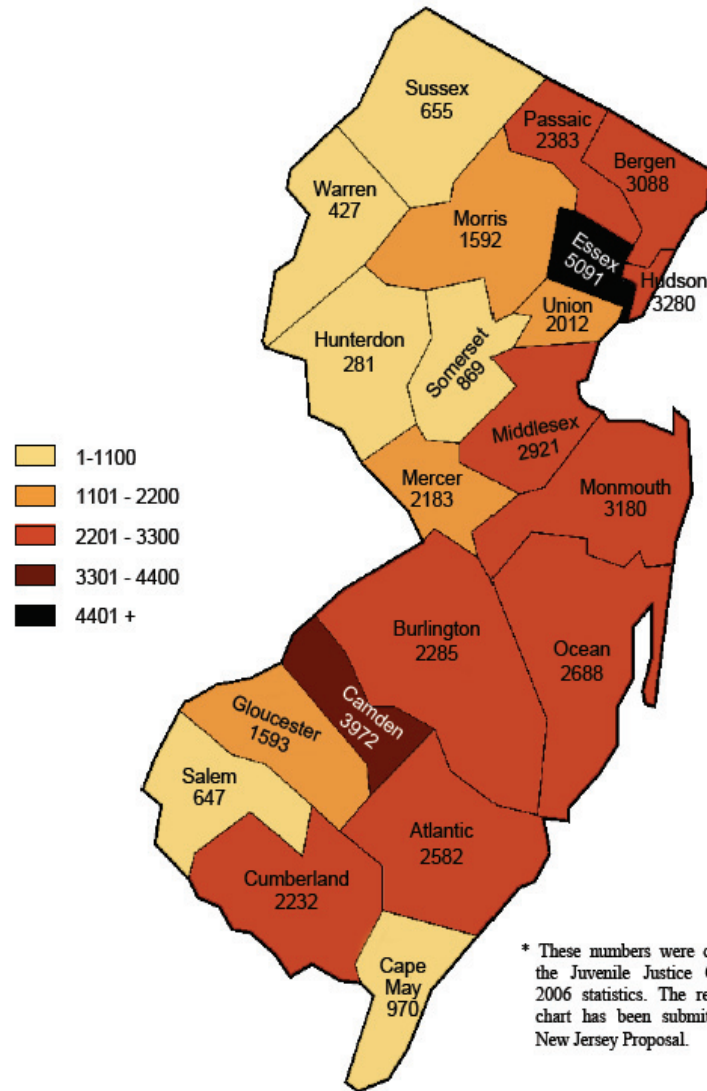
“post disposition reviews should happen not less than every 90 days”

New Jersey Juvenile Justice Statistics

Who are the kids sent to placement?

- Over 39% of children committed to juvenile facilities had history of DYFS involvement.
- 63% of children residing in Juvenile Justice Commission (JJC) facilities have a DSM IV diagnosis.
- Approximately 57% of the in JJC custody were eligible to receive special education services.

2006
Number of Juvenile Cases Filed*



* These numbers were obtained from the Juvenile Justice Commission's 2006 statistics. The referenced JJC chart has been submitted with the New Jersey Proposal.

Why Essex and Camden?

- In Camden, which has been ranked the most dangerous city in the country, 1 in 3 children are arrested before the age of 18. Account for approx 1/3 of kids in placement.
- Newark's children account for 14.5% of JJC placements.



NJ JIDAN Post Disposition Project

Local juvenile PD
refers cases



Law School
Clinical Program



Law Students visit children
in secure custody
to ensure appropriate
treatment

“He who passively accepts evil is as much involved in it as he who helps to perpetrate it. He who accepts evil without protesting against it is really cooperating with it.”

Martin Luther King Jr.



Do What you Can

With what you have

Where you are

Theodore Roosevelt



Never Give Up

Never Give Up

Never Give Up

Winston Churchill

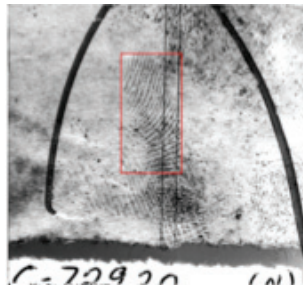
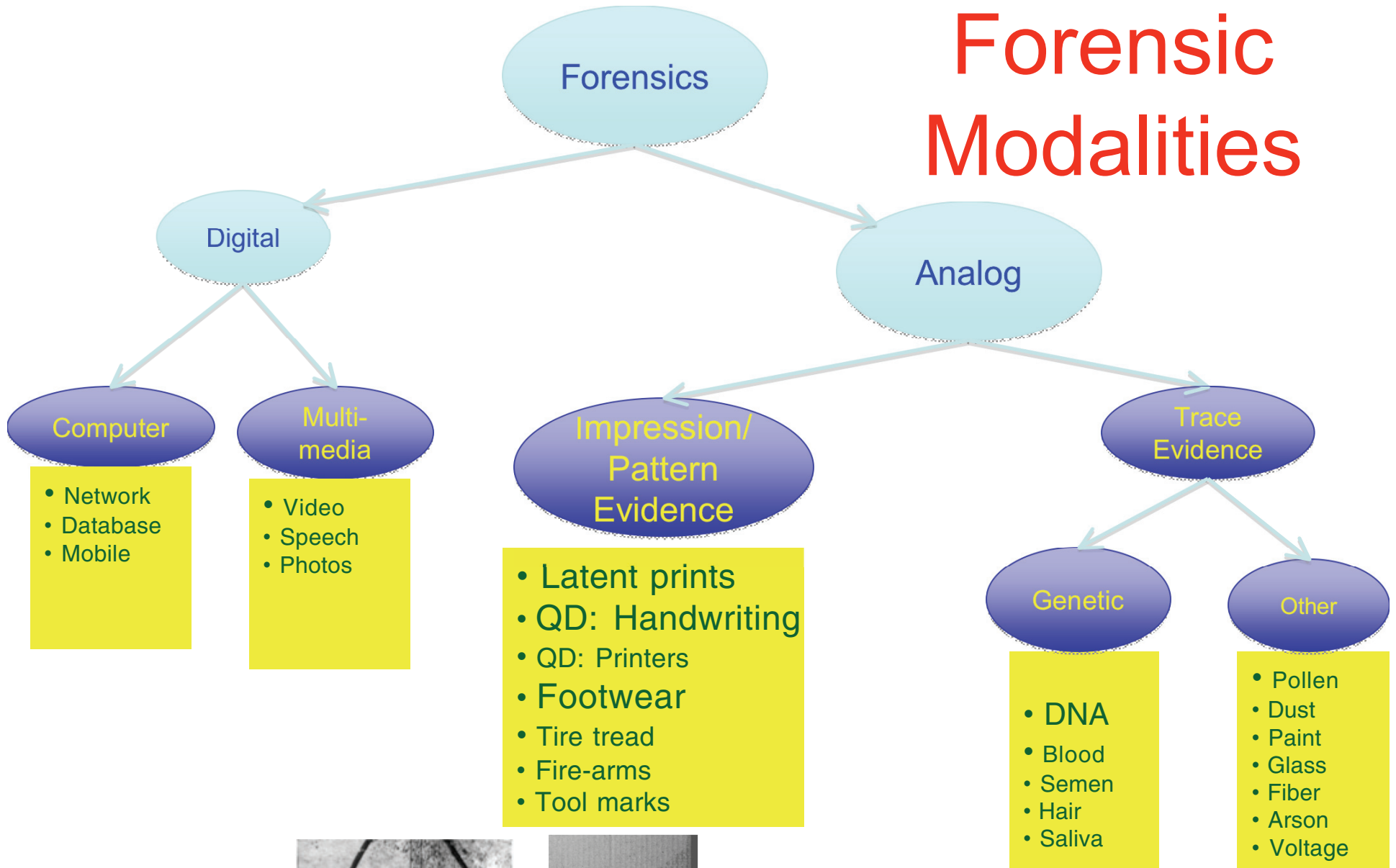
Probability Models for Impression and Pattern Evidence

Sargur Srihari

Department of Computer Science and Engineering
University at Buffalo, The State University of New York

Indigent Symposium 2010
MayFlower Hotel, Washington DC

Forensic Modalities



Forensic Opinion

- Courts allow Latent Print Examiner to opine on ultimate question of individualization
 - Evidence is attributed to a single individual and no other
- Three possible opinions
 - The evidence
 - Individualizes
 - No other individual on earth
 - Inconclusive
 - Excludes
 - Definitely not this individual

Madrid Bombing Case

Latent Fingerprint
on bag of detonator



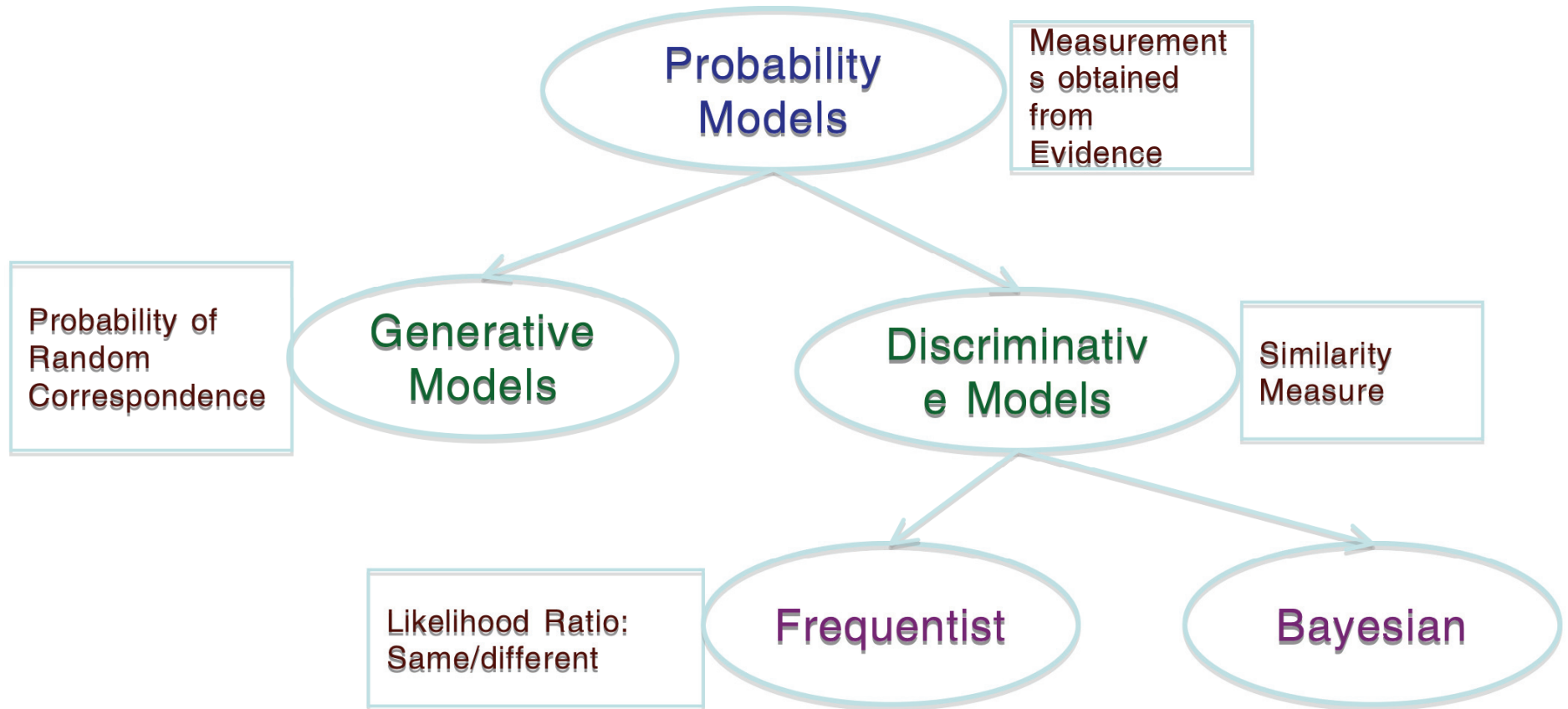
Brandon Mayfield
Identified by FBI



Algerian National
Identified by SNP



Methods for Expressing Uncertainty



How to Compute Uncertainty?

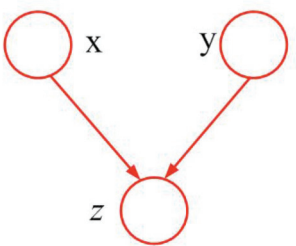
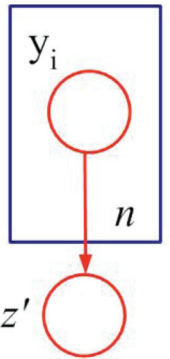
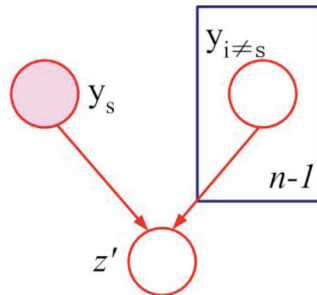
- Discrete Variables
 - Birthdays
 - DNA
- Continuous Variables
 - Heights
 - Pattern/Impression evidence (Ongoing Research)
 - 5 or 9-point scale suggested by SWGs-- no guidelines
 - New statistical models being developed

Generative Models: Several Probabilities

Random two have
same birthday ($n=2$)

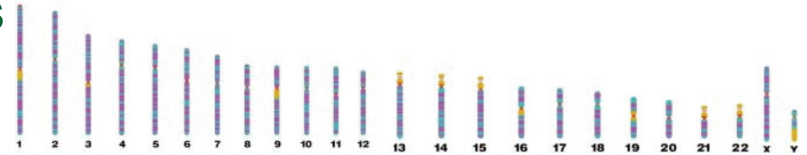
Some two among n
have same birthday

A specific birthday among n

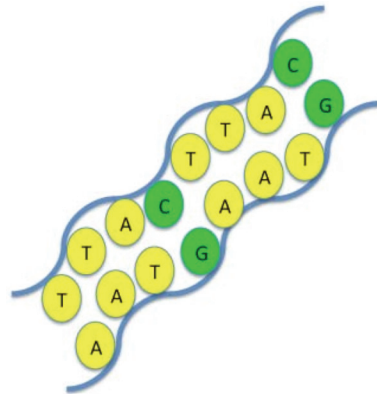
	PRC	nPRC	Specific nPRC
Graphical Model	 <p>(a)</p> $z = \{1, 0\}$	 <p>(b)</p> $z' = \{1, 0\}$	 <p>(c)</p> $z' = \{1, 0\}$
Inference	$p(z) = \sum_{\mathbf{x}} \sum_{\mathbf{y}} p(z \mathbf{x}, \mathbf{y}) p(\mathbf{x}) p(\mathbf{y})$ <p>PRC is $\rho^{\overline{=}} p(z=1)$</p>	$\rho[n] = 1 - (1 - \rho)^{\frac{n(n-1)}{2}}$	$p(z' y_s) = \sum_{Y'} p(z', Y' y_s) = \sum_{Y'} p(z' y_s, Y') p(Y')$

Generative Model: DNA

Genome: sequence of 3×10^9 base-pairs (nucleotides A,C,G,T)
Represents full set of chromosomes



Actual Electron photomicrograph



Single Chromosome: $\sim 10^8$ base-pairs

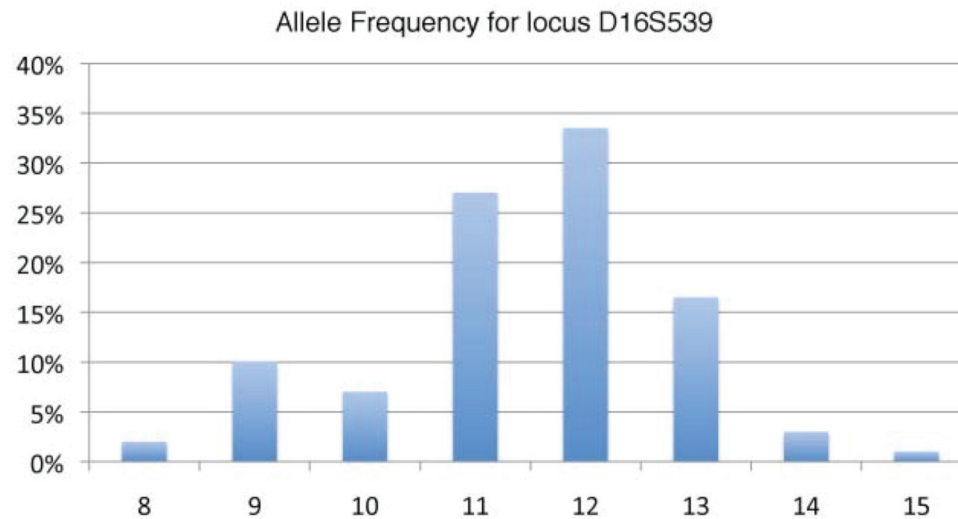
Genome has 46 chromosomes
(22 are repeated plus XX and XY)

Large portions of DNA have no survival function (98.5%) and have variations
useful for identification

TH01 is a location on short arm of chromosome 11:
short tandem repeats (STR) of same base pair AATG
Variant forms (alleles) different for different individuals

Generative Model: DNA

Allele Frequency of single locus for 200 individuals



DNA profile of 13 loci:

Average match probability (PRC) is 0.1 per locus, 10^{-13} for a profile

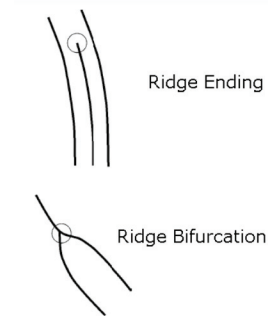
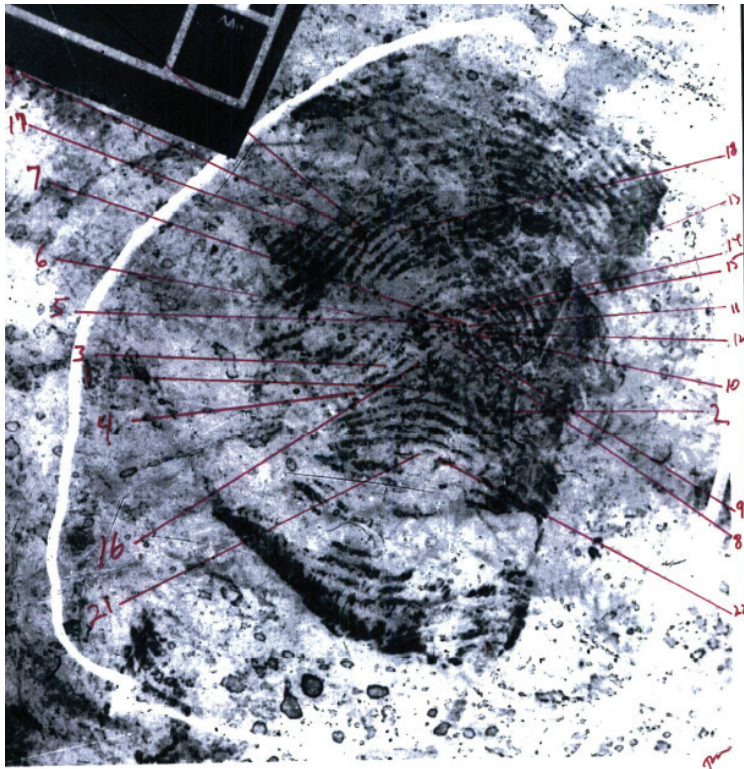
If database has 1 million entries,

since there are 500 billion pair-wise matches, $nPRC = 0.05$

However specific $nPRC$ can be much lower

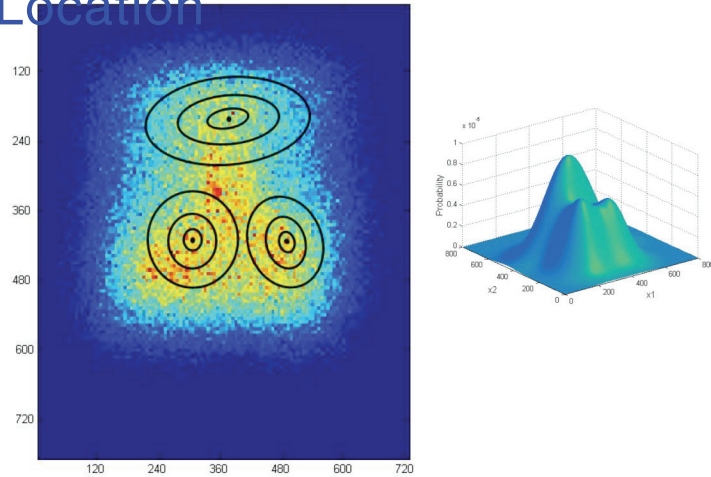
Generative Models: Fingerprints

- Fingerprints are characterized by ridges and minutiae

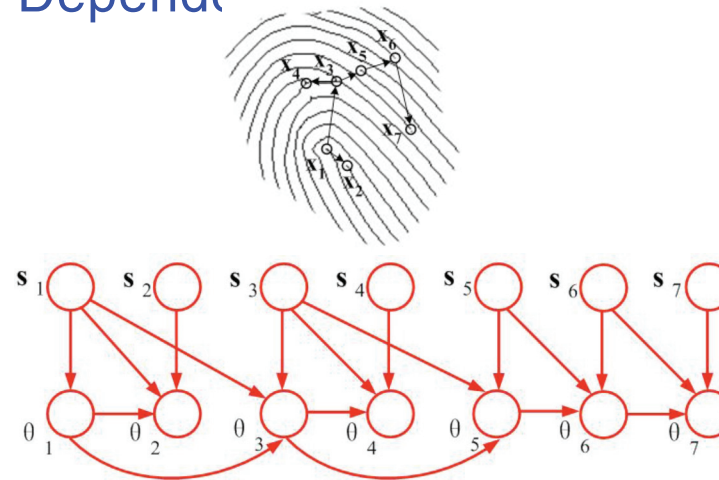


Generative Model: Minutiae

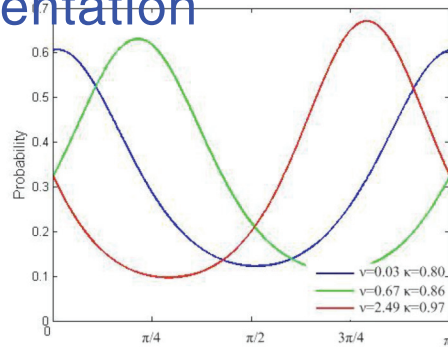
1. Distribution of Minutia Location



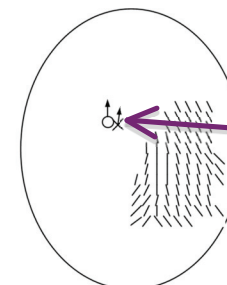
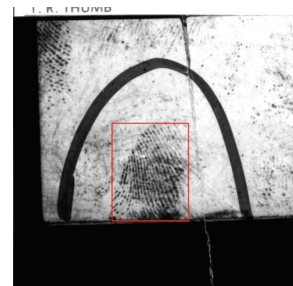
3. Distribution of Minutia Dependency



2. Distribution of Minutia Orientation

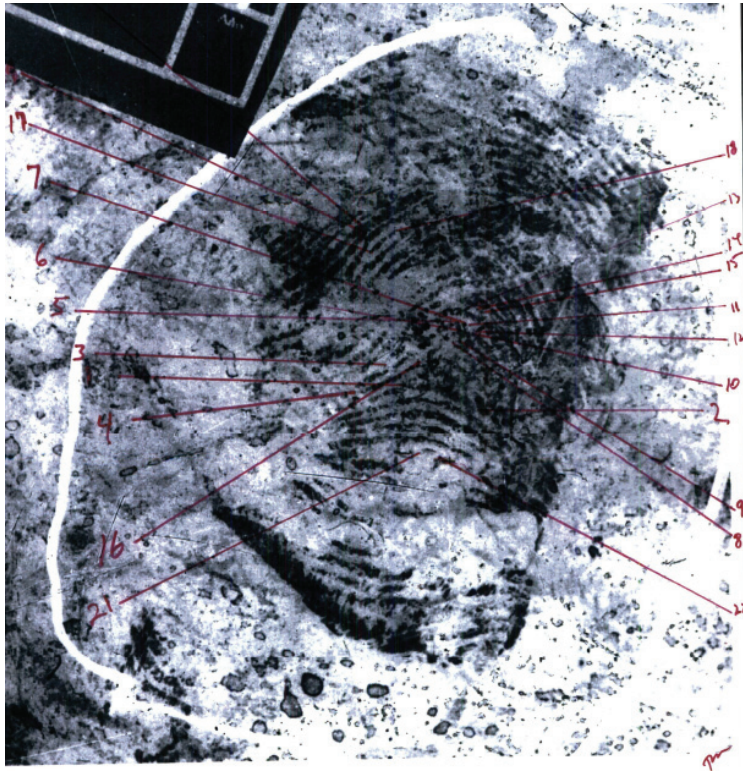


4. Distribution of Minutia Certainty



Core point
predicted
Using
Regression

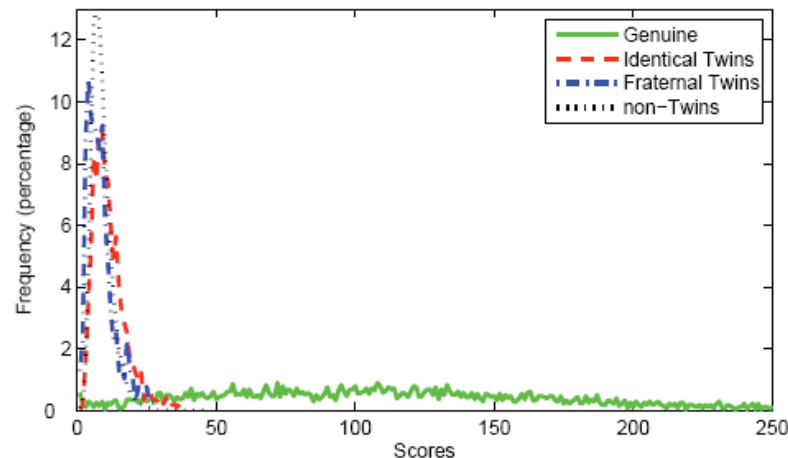
Madrid Bomber Case Revisited



- Madrid Bomber case 22 minutiae identified
- 10 were matched by three FBI experts
- Generative Model
 - 12 of 19 minutiae used for specific nPRC: 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 17, and 18
 - specific nPRC
 - World population (6.8b) = 0.16
 - US population (330m) = 0.008

Discriminative Models: Fingerprints

- Need a similarity measure for fingerprints
- AFIS Minutiae Matcher
 - Score distributions give two probabilities
 - Likelihood Ratio
- Error Rates



	EER	EER threshold
Non-Twins	3.33%	19
Fraternal	4.88%	23
Identical	5.09%	25

Discriminative Model: QD

Known

Nov. 10, 1999

From

Jim Elder
829 Loop Street, Apt. 300
Allentown, New York 14707

To

Dr. Bob Grant
602 Queensberry Parkway
Omar, West Virginia 25638

We were referred to you by Xena Cohen at the University Medical Center. This is regarding my friend, Kate Zuck. It all started around six months ago while attending the "Rubeq" Jazz Concert. Organizing such an event is no picnic, and as President of the Alumni Association, a co-sponsor of the event, Kate was overworked. But she enjoyed her job, and did what was required of her with great zeal and enthusiasm.

However, the extra hours affected her health; halfway through the show she passed out. We rushed her to the hospital, and several questions, x-rays and blood tests later, were told it was just exhaustion.

Kates been in very bad health since. Could you kindly take a look at the results and give us your opinion?

Thank You!

Jim

Letter shape

Word shape

Questioned

November 10, 1999

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Bigram shape

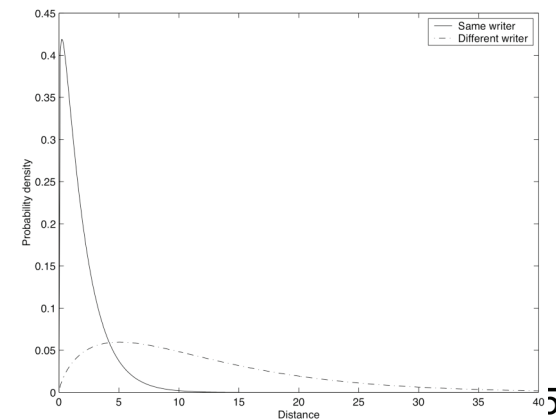
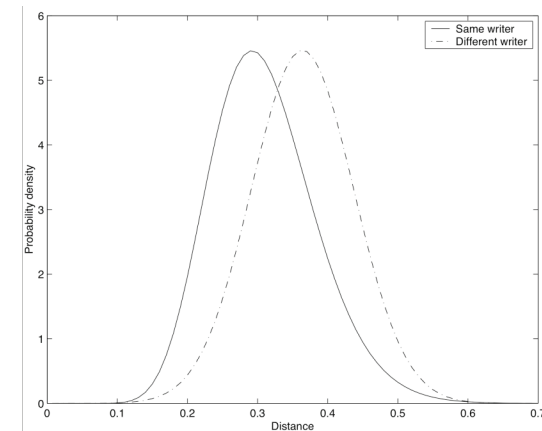
Handwriting Features and Similarities

Distributions of Similarities



```
00000011011000000001100000011100
00000101000000110100001111000000
00001101000011110001010000000110
011000011000110001110001000000100
01000001000000000000000000000100
01100000000001000100000100011000
11000000000000000100101100011000
00000010000000001101000000000001
00000001111010000000001100000000
10100000000000110000001000100100
00000000000000000011000100000100
00000001000100000000000000000001
01110111111100010111001000000000
01010101000100010111001011110010
00000000011001110000000000000000
00000000000000000000000000000000
```

Likelihood Ratio
obtained from
distributions of
similarities
for same and different
origination of evidence



Discriminative Model for Handwriting

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LLR Value for this pair is 41.52

















1. Identified as same
2. Highly probable same
3. Probably same
4. Indicating same
5. No conclusion
6. Indicating different
7. Probably different
8. Highly probably different
9. Identified as different

Human-Machine Interface: Dialog for character image comparison

Characters Display

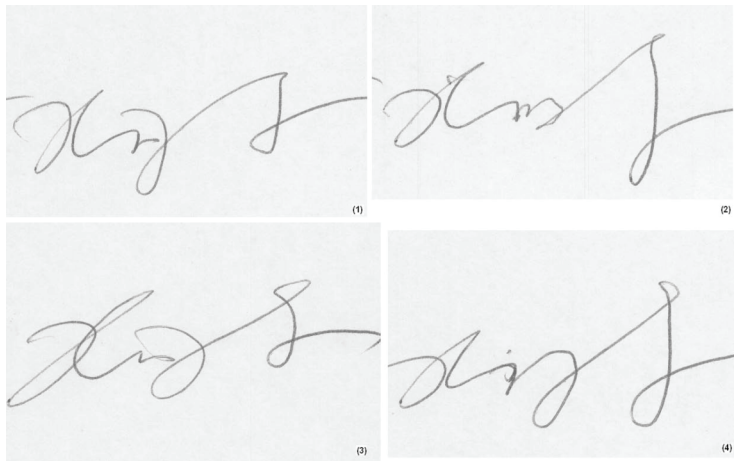
Character ID: Character Type:

Questioned	Known	LLR Value	
 <input type="text" value="kindly in line 5"/>	 <input type="text" value="York in line 4"/>	<input type="text" value="2.1425"/>	<input type="button" value="Go Top"/>
 <input type="text" value="kindly in line 5"/>	 <input type="text" value="Parkway in line 7"/>	<input type="text" value="-0.2894"/>	<input type="button" value="Page Up"/>
 <input type="text" value="kindly in line 5"/>	 <input type="text" value="Zack in line 10"/>	<input type="text" value="0.6211"/>	<input type="button" value="Page Down"/>
 <input type="text" value="take in line 5"/>	 <input type="text" value="York in line 4"/>	<input type="text" value="-0.3098"/>	
 <input type="text" value="take in line 5"/>	 <input type="text" value="Parkway in line 7"/>	<input type="text" value="0.2085"/>	<input type="button" value="Go Bottom"/>
 <input type="text" value="take in line 5"/>	 <input type="text" value="Zack in line 10"/>	<input type="text" value="0.9207"/>	
 <input type="text" value="look in line 6"/>	 <input type="text" value="York in line 4"/>	<input type="text" value="1.5929"/>	<input type="button" value="OK"/>

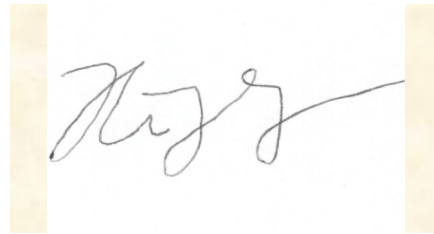
Signatures: Bayesian Adaptation

Wide variability and small learning sets for case at hand

Known Signatures



Questioned Signature

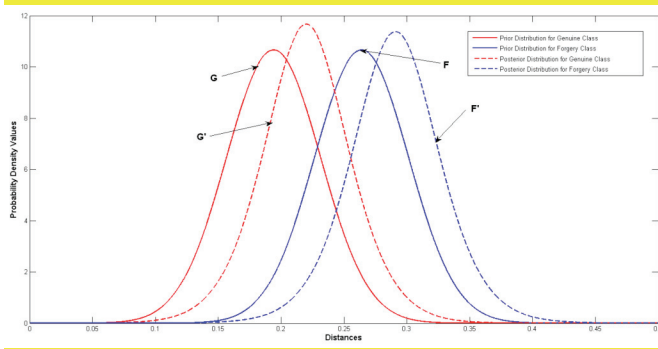


Approach:

Learn hyper-parameters from large data set

Adapt parameters using Bayesian approach

Bayesian Adaptation



	Error Rate
Only Prior	18%
Bayesian Adaptation	11.5% - 14.5%

	After Learning	After Adaptation
Parameter	$\theta_g \sim N(\mu_{g0}, \tau_{g0}^2)$ $\theta_f \sim N(\mu_{f0}, \tau_{f0}^2)$	$P(\theta_g Y_g) \propto N(\theta_g \mu_{g0}, \tau_{g0}^2) \times N(Y_g \theta_g, \sigma_g^2) = N(\mu_g, \tau_g^2)$ $P(\theta_f Y_f) \propto N(\theta_f \mu_{f0}, \tau_{f0}^2) \times N(Y_f \theta_f, \sigma_f^2) = N(\mu_f, \tau_f^2)$
Distance	$P(d_g G) = \int_{-\infty}^{\infty} P(d_g \theta_g) \times P(\theta_g Y_g) d\theta_g = \frac{1}{\sqrt{2\pi(\sigma_g^2 + \tau_{g0}^2)}} e^{-\frac{(d_g - \mu_{g0})^2}{2(\sigma_g^2 + \tau_{g0}^2)}}$ $P(d_f F) = \int_{-\infty}^{\infty} P(d_f \theta_f) \times P(\theta_f Y_f) d\theta_f = \frac{1}{\sqrt{2\pi(\sigma_f^2 + \tau_{f0}^2)}} e^{-\frac{(d_f - \mu_{f0})^2}{2(\sigma_f^2 + \tau_{f0}^2)}}$	$p(t/G) = \int_{-\infty}^{\infty} p(t \theta_g) \times p(\theta_g Y_g) d\theta_g = \frac{1}{\sqrt{2\pi(\sigma_g^2 + \tau_g^2)}} e^{-\frac{(t - \mu_g)^2}{2(\sigma_g^2 + \tau_g^2)}}$ $p(t/F) = \int_{-\infty}^{\infty} p(t \theta_f) \times p(\theta_f Y_f) d\theta_f = \frac{1}{\sqrt{2\pi(\sigma_f^2 + \tau_f^2)}} e^{-\frac{(t - \mu_f)^2}{2(\sigma_f^2 + \tau_f^2)}}$

Summary and Conclusion

- Uncertainty is easily expressed for DNA
 - Discrete counts
- For Impression Evidence it is much harder
 - Continuous features/tolerances
- New Models proposed (being validated)
 - Generative
 - PRC
 - Fingerprints, Handwriting
 - Discriminative (similarity automatically computed)
 - Likelihoods/ Bayesian scores
 - Fingerprints, Handwriting

Developing Post- Disposition Representation in North Carolina

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Problem: No Express Right to Post- Disposition Counsel

- NC statutory law is unclear as to whether juveniles are afforded legal counsel once disposition is entered
- Attorneys presume that representation ends once disposition is entered

Goal: Provide Right to Counsel for Juvenile Post-Disposition

■ The details:

- Which juveniles should be represented? Committed juveniles? All juveniles post-disposition?
- What issues should juveniles be represented on?
- Are there any current protections in place?
- What laws or rules need to be changed/created?

Plan: 2008 YDC Project

■ Project Goals

- To review court files and determine if there were errors resulting in defective commitments;
- To identify reasons for defective commitments that were found;
- To develop an understanding of practices and training needs for juvenile justice system actors and to improve current training;
- To cure defective commitments, if possible; and
- To determine the need for ongoing review of commitment cases, and issues relating to post-disposition representation

Plan: 2008 YDC Project

- Selected counties based on geography, type of counsel, number of juveniles previously committed
- Partnered with chief district court judges
 - temporary administrative order
- Briefed NC Department of Juvenile Justice and Delinquency Prevention
- Notified District Attorneys

Results: 2008 YDC Project

- 2 out of every 3 cases had at least one legal error that could have affected the decision to commit
- 16.4% of the files had an error that could be immediately corrected, while 40.4% had an error that could lead to a change in the juvenile's commitment
- Out of the 83 files with possible correctable errors, 24 were corrected
- Most Frequent Errors
 - Incorrect or unknown legal basis for commitment
 - Incorrect disposition level option
 - Critical missing information

Other Findings: 2008 YDC Project

■ Court Practices

- Multiple disposition orders
- Local forms
- Orders entered without notice
- Incorrect disposition level options

■ Defense Counsel Practices

- Receiving court orders and commitment orders
- Contesting allegations
- Appealing commitments
- Requesting credit for time served
- Establishing extraordinary circumstances

Follow Up: Awareness and Training

- Distributed the report state and nationwide to interested parties
- Presented at 2009 NC Annual Juvenile Defender Training on disposition advocacy
- Presented at numerous other trainings and presentation opportunities

Follow Up: 2009 Voluntary Review of Commitments

- Eight participating counties
- Purpose:
 - Identify and remedy defective commitments
 - Gather data
 - Forecast and prepare for permanent review procedure
- Partnership with UNC Juvenile Justice Clinic
- Work with appellate counsel on commitment issues

Follow Up: Youth Development Center Work Group

- Comprised of defense counsel, prosecutors, judges, NC Department of Juvenile Justice, court system representatives, Prisoner Legal Services
- Main Issues:
 - Legislation review/reform
 - Official state form review
 - Post-disposition representation/ access to counsel

Next Steps

- Continue to train attorneys and bring awareness to issues
- Work with NC Prisoner Legal Services on a grant for pilot project to provide representation
- Continue to work with the UNC Clinic and approach other clinics to perform reviews
- Pursue legislation to clarify laws and provide access to counsel