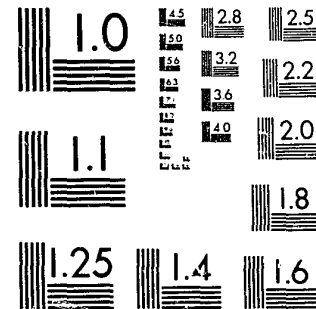


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# THE BURNABY, BRITISH COLUMBIA EXPERIMENTAL PUBLIC DEFENDER PROJECT: AN EVALUATION REPORT

## REPORT III: COST ANALYSIS

PATRICIA L. BRANTINGHAM, JOHN  
INTERDYK and NANCY MAXIM

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Canada

REPORT III

THE BURNABY, BRITISH COLUMBIA EXPERIMENTAL  
PUBLIC DEFENDER PROJECT: AN EVALUATION

COST ANALYSIS

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ACQUISITIONS

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DECEMBER 1981

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NOTE

THE BURNABY, BRITISH COLUMBIA EXPERIMENTAL  
PUBLIC DEFENDER PROJECT: AN EVALUATION

IS REPORTED IN SEVEN DIFFERENT VOLUMES:

- I PROJECT SUMMARY
- II EFFECTIVENESS ANALYSIS
- III COST ANALYSIS
- IV CLIENT SATISFACTION ANALYSIS
- V TARIFF ANALYSIS
- VI PUBLIC DEFENCE/COURT RELATIONSHIP ANALYSIS
- VII DISTRIBUTIONAL IMPACT ANALYSIS

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PREFACE

So many people were involved in providing information and assistance during this project that it is impossible to mention all of them by name. Special mention must be given to members of project staff who spent many long hours. Mention should also be made of the cooperation received from staff of the Legal Services Society of British Columbia. Final thanks must be given to the members of the Private Bar in British Columbia who, through interviews and written comments, provided information necessary for the design and execution of this evaluation.

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## Project Summary

### Description of the Evaluation

During 1979 and 1980 an experimental public defence office was established in Burnaby, British Columbia. The office was run by the Legal Services Society of British Columbia, an independent society with the mandate to deliver legal aid in British Columbia. The office was set up to determine the feasibility of introducing staff criminal defence offices within the Province. Currently most criminal legal aid in British Columbia is delivered by private lawyers paid under a fee for service tariff. Payment for legal aid under a fee for service tariff is generally called a judicare mode of delivering legal aid.

The experimental public defence office was structured within an evaluation framework. The project was evaluated throughout the two year experimental operation. Prior to the opening of the office an evaluation was designed. The office was run under an on-going evaluation strategy. Information was collected throughout the two years of experimental operation. This report presents some of the results of that evaluation.

There were six major goals in the evaluation:

- Analysis of the relative effectiveness of a public defence and judicare modes of delivering criminal legal aid;
- Analysis of the relative costs of delivering legal aid under the two modes;
- Determination of client satisfaction with public defence counsel and judicare counsel representation;
- Analysis of the time spent by lawyers providing criminal legal aid and an analysis of the existing possible alternative tariff structures;
- Determination of the relationships which develop between criminal staff counsel, Crown counsel and judges.
- Projection of the impact on the private bar of the

introduction of a broader network of criminal defence offices.

The results relating to each of the major goals in the evaluation analyses, and an overall summary, are presented in separate reports and are available upon request. A list of the titles of the reports are given at the beginning of this report.

This report examines the comparative costs of criminal legal aid under the public defence and judicare modes of delivering services. A brief summary of the actual evaluation experiment and the results of the other major segments will be presented before the cost analysis is reported.

The Public Defence Office was a small criminal legal aid office set up near the provincial court in Burnaby. The office staff included three full-time staff lawyers, a paralegal and a secretary. The office functioned as a general, non-specialized, criminal defence office. All lawyers handled all types of criminal cases. All lawyers handled all appearances, from first appearance through to disposition. All lawyers provided duty counsel services. The paralegal supplemented the lawyers' duties by interviewing clients, assisting lawyers, and providing entry point social services for clients by making referrals to social agencies.

The office structure was representative of the structures which most likely could be set up in other cities in the Province if the public defence mode of delivering legal aid were more widely adopted. Most cities in British Columbia could only support small offices such as the office in Burnaby.

The evaluation of the public defence operation involved a comparison of public defence counsel cases with cases handled by judicare counsel in the Burnaby, New Westminster, and Vancouver Courts. The public defence counsel primarily represented clients in Burnaby Provincial Court. To a lesser extent, they acted for clients in the County and Supreme Court in New Westminster. For comparison purposes, two groups of judicare cases were used. The Public Defence Office in Burnaby did not handle all criminal legal aid clients in Burnaby. Some clients were referred to private counsel. The cases referred to private counsel were used in the evaluation. These cases were heard in the same courts, Burnaby Provincial Court and New Westminster County Court,

as the cases handled by public defence counsel. Cases handled by judicare counsel in Vancouver Provincial, County and Supreme courts were also used for comparison purposes.

#### Summary of Effectiveness Analysis

Clients of public defence counsel and judicare counsel received guilty outcomes at about the same rate, but there were differences in the procedures which were used to reach a determination of guilt. Public defence counsel pleaded their clients guilty more frequently than judicare counsel. Judicare counsel went to trial more often. However, when guilty pleas and determinations of guilt were combined, there was little difference in the overall rate of guilty outcomes for the two modes of delivering legal aid.

There were differences in the patterns of sentences received by public defence and judicare counsel clients. Public defence counsel clients received fewer jail sentences than clients of judicare counsel. As something of a balance, judicare clients received more stays of proceedings or withdrawals of charges.

Public defence counsel engaged in more discussions with Crown. The discussions resulted in more guilty pleas and Crown recommendations for sentences. The overall pattern of justice under the public defence mode was one of more negotiations, more guilty pleas, but fewer incarceration sentences than under the judicare mode. Differences in pleas, negotiations and sentences occurred within generally similar total patterns of guilty and non-guilty outcomes.

#### Summary of Relative Costs

Under the experimental structure in Burnaby, the average costs per case for public defender cases was \$9 more than for judicare cases in Burnaby, but \$25 less than judicare cases in Vancouver. The average cost for judicare cases in Burnaby was \$225. In Vancouver the average was \$264 per case. The average cost for public defender cases was \$235.

The Burnaby Office was a three lawyer office, a size similar to what could be set up in other British Columbia cities if the public defence mode of delivering legal aid were expanded. Because it was a small office, average case

costs were susceptible to fairly large variation with small changes in caseloads. If Burnaby public defender case flow figures were increased one case a month, there would be no appreciable difference in average costs per case for the two modes of delivering legal aid. In fact, the public defence mode would be marginally less expensive. It should be noted that, if caseloads fell much below the level the office experienced during the experimental operation, the operation would become cost inefficient. Caseloads fluctuated some from month to month. The fluctuation in caseload in the Criminal Defence Office in Burnaby was the result of internal management decisions and some variability in application rates. The Public Defence Office did not handle all criminal cases in Burnaby, some were referred to private counsel. The decision to refer was made when the director of the office believed the staff lawyers were fully booked or when co-accused conflicts occurred or when another lawyer was already acting for an accepted applicant. Caseloads could be increased or decreased. For a small public defence office to remain cost efficient, at a local level of analysis, caseloads would have to be maintained.

Analysis was also performed to project costs under increased tariffs and under projected staff salary increases. Generally the staff model of delivering legal aid was found to be cost competitive with the judicare mode under expected tariff increases.

A small public defence operation appears to produce similar case costs to judicare delivery of legal aid. A staff operation permits monitoring and predictions of cost. If caseloads are maintained there is no apparent cost reason for the Legal Services Society to choose one mode of delivery over the other. As noted in the effectiveness summary, there were differences in how cases were handled by the judicare and public defence counsel. Public defence counsel clients were given terms of imprisonment less frequently than judicare clients. If correctional costs are considered, the public defence counsel mode is much less expensive. For every 1000 legal aid cases, the correctional saving produced by reduced incarceration costs could be over \$200,000.

#### Summary of Client Satisfaction

Clients of public defenders and judicare lawyers were both reasonably well satisfied with the performance of their lawyers. Neither mode of delivering legal aid presented

major problems in client satisfaction. If anything, clients of public defence lawyers were marginally more satisfied with the services they received.

#### Summary of Time/Tariff Analysis

The average time spent on a case by a public defender was 5 hours and 40 minutes. The average time spent by judicare counsel was around 7 hours. The major component of time spent was time travelling to, waiting at, and appearing in court. About 4 hours were spent in court-related activities by judicare counsel per case. About 1 hour was spent with clients; little time was spent in preparation or doing research.

The equivalent hourly rate (tariff payment/time spent) received by judicare counsel was \$34 per hour under the 1980 tariff. Lawyers received approximately the same equivalent hourly rate for major tariff services. Cases which ended by clients' "failure to appear", guilty pleas, stays and by trials were paid at the same equivalent hourly rate.

#### Summary of Public Defence/Court Relationships

It was generally felt by judges and Crown counsel in Burnaby that the presence of public defence counsel in the court improved the quality of justice for legal aid clients. Crown, in particular, felt that the presence of public defence counsel made their job easier. Both Crown counsel and the judges felt free to call upon public defence counsel to perform "on the spot" legal services for individuals. They saw them as part of the court system and their general availability as a major strength of a public defence office.

Public defence counsel felt that Crown was willing to give them good "deals" for their clients, better than the "deals" given for clients of judicare counsel. Crown, defence and judges all believed that this improved ability to communicate and obtain good sentences was the result of defence counsel being present in the court regularly, not the fact that the public defenders were staff counsel. However, during the course of the experimental operation of the office, Crown became aware of the fact that private counsel were not present in court as frequently as public defence counsel, so that a close working relationship could not develop with private counsel.



The public defence counsel, while acknowledging that Crown made them offers which were very good for their clients, gave the impression that they did not like the feeling that Crown or judges would call upon them for special services such as stand-in representation in court or impromptu discussions with accused persons. The pattern of open accessibility of the public defenders whenever in court which Crown and the judges liked was not uniformly liked by the public defenders.

Public defence counsel, if they are to remain independent, must have their independence continually reinforced by the Legal Services Society and must learn ways to limit their accessibility for general, non-duty counsel, court representation services. Under the current arrangements, it was generally agreed that the quality of defence had greatly improved, but that public defence counsel are likely to burn out rapidly.

#### Summary of Distributional Impact Analysis

It would be possible to set up several small public defence offices in the Province without having a major impact on the private criminal bar. There are about 1,000 lawyers in British Columbia who accept criminal legal aid cases. Most of these, however, handle only a few cases at a time. Only six lawyers in the whole province average as many criminal legal aid cases as staff counsel did in Burnaby. Only 1.4% handle more than 12 cases per month, and only 21% handled more than 1 case per month.

Small criminal legal aid offices could be set up in 10 communities in British Columbia without any substantial economic impact on the practices of most lawyers. A ten lawyer office could be set up in Vancouver without much impact on the criminal bar.

#### Overall Summary

The evaluation study found that:

- Public defence offices can be introduced in the Province in a limited way without disrupting the practice of most lawyers;

- Clients were generally well pleased with both public defence representation and judicare representation;
- Court personnel in Burnaby were well pleased with what was viewed as an improvement in the quality of justice in the court after the introduction of public defence counsel;
- The type of representation provided by public defence counsel differed from the type provided by judicare counsel;
- Under a public defence mode there were more guilty pleas and fewer trials. The overall guilty rates, (found guilty plus plead guilty) however, were similar, but clients of public defence counsel received fewer jail terms than judicare clients; and
- Under the fee for service tariff in operation at the end of the experimental period judicare lawyers received an effective rate of \$34 per hour. The tariff was increased after the experimental project ended.

A public defence mode for delivering legal aid within the Province could be introduced in a limited way. It would likely improve both judges' and Crown counsels' perception of the quality of defence representation in court. Based on the experience in Burnaby, clients would not be dissatisfied.

The introduction of a public defence mode of criminal legal services, however, would produce more negotiated justice and fewer trials. It would also most likely produce fewer jail sentences for those convicted.

Maintaining the cost-effectiveness of offices would require monitoring of caseloads and maintenance of minimum workloads. Small offices would rapidly become cost inefficient if workloads were not maintained. With a public defence system, the performance of staff counsel would also have to be monitored. With a more limited number of lawyers providing criminal legal aid, the presence of a staff lawyer

who received worse outcomes for his clients than other staff would have a more profound impact on criminal representation.

The introduction of a public defence office in Burnaby was seen as an improvement in justice by court personnel, including Crown counsel and judges. The introduction of criminal legal aid offices in other parts of the Province, if done within a more general judicare system and operated with the necessary monitoring, should improve the quality of justice generally.

## COST

### 1. Introduction

An important consideration in evaluating any program is cost. In a resource constrained environment, a government sponsored program should be cost effective and cost efficient. A major goal of the evaluation was determining the relative costs of delivering legal aid under public defence and judicare systems. The costs presented in this report, coupled with the effectiveness analysis results, provide a picture of the cost effectiveness of the two modes of delivering legal aid.

Several costs were calculated:

- Average costs of delivering services
- Costs under alternative work loads
- Costs under expected tariff increases and salary increases
- Tariff equivalent costs for staff delivered services.

Costs were calculated for services delivered through the Burnaby Criminal Defence Office and the Vancouver Regional Office.

The costing methods will be briefly described, followed by a detailed description of the methods and results of the analysis.

## 2. Overview of Costing Methods

### 2.1 Average Costing Model.

To analyze the relative costs of delivering legal aid through a public defence system and a judicare system, three primary sets of average costs were calculated:

- Average cost of cases referred to the private bar and handled through the Vancouver Regional Office;
- Average cost of cases handled through the Burnaby Criminal Defence Office and referred to private counsel; and
- Average cost of cases processed through the Burnaby Office and handled by a staff criminal lawyer.

Average costs for major activities, such as screening applications, interviewing applicants and making referrals were also calculated. These costs and total average case costs were calculated by determining the proportion of time staff spent performing specific services, such as interviewing or referral cases, and allocating salary and other expenses to services based on proportional time.

### 2.2 Alternative Costing.

Average costs were not the only costs calculated. The Burnaby Criminal Defence Office was a relatively small operation. Average costs are calculated by dividing total costs by the number of units of service. For example, average case costs are total case costs divided by the number of cases handled; average application processing costs are total application processing costs divided by the number of applications; average referral costs are total costs for making referrals divided by the number of referrals. If the number of cases, applications, and referrals are relatively small, as they were in Burnaby, then average costs can be decreased by relatively small increases in case, application or referral numbers. The costing analysis included an analysis of what would happen if workloads were increased or decreased. Examining costs under varying workloads gives a better picture of what costs might really be like in a small office.

In addition, several other costing projections were made:

- Costs were estimated for anticipated changes in tariff fees and expected salary increases;
- Costs were estimated for criminal defence offices of various sizes;
- Costs were compared for tariff payments to judicare lawyers and what would be equivalent tariff payments for public defence counsel; and
- Criminal justice system costs were projected and compared for the two systems

Each each of these projection methods will be briefly described.

Each cost projection adds to the overall comparison of the two modes of delivering legal aid. The first projection, costs under tariff changes, is essential. Relative cost advantages for a legal aid delivery mode may not hold under future increases in tariff payments or salaries. Costs are not static. Projections for expected future conditions were made.

Costs were also estimated for offices of various sizes and staffing combinations. The Burnaby office employed a paralegal. Cost projections were made for offices with and without paralegals. If a paralegal were not employed some paralegal duties would be picked up by staff lawyers, others by secretarial staff. When staffing levels change average case costs change.

Projections were also made of tariff equivalent cost for staff criminal cases handled throughout the Province. These estimates are of limited value since, as the Effectiveness Analysis reports, cases handled by staff counsel were processed differently than private bar cases. The tariff equivalent billing of a staff case is not necessarily the same as the expected tariff billing for that case if handled by a member of the private bar. The projections were made because of the surface attractiveness of this cost comparison and to provide an opportunity to address the dangers of such a comparison.

Finally, criminal justice system cost projections were made for judicare and public defence criminal legal aid. Judicare and public defender clients received different outcomes (see Report I, Effectiveness Analysis), criminal justice system costs were not the same. In developing a comprehensive picture of the relative costs of the two systems it is important to look at general system costs.

### 3. Average Costing Analysis

Programatic costing methods were used to calculate average costs. Services provided by the Legal Services Society were identified and costs of delivering those services by public defenders and judicare lawyers calculated. The Legal Services Society uses many mechanisms to deliver legal services to people who would otherwise be unable to obtain counsel, but even within different delivery mechanisms similar functions must be performed:

- Applications must be screened and persons accepted as clients or rejected;
- Accepted clients must be assigned counsel either in-house or externally;
- Legal services must be provided for the clients.

Associated with these functions, office space must be maintained for staff to screen applicants and process application forms. Lawyers must be paid either through salary or for their service. Support staff must be paid and supplies bought.

Obviously, the mode of delivering legal aid influences space needs, salaries and general office expenses. When all services are provided in-house then all support services must be provided in-house. When some services are provided externally, such as judicare legal services, then some support services are not necessarily provided in-house. Specifically, the costs of providing support for staff lawyers who act in criminal cases are eliminated. The cost analysis involved:

- The identification of detailed functions and activities performed by Legal Service Society staff in the delivery of legal aid under both the

public defence and judicare modes.

- The calculation of average costs of providing the services identified within the function and activity analysis.
- A comparison of costs for the public defence mode and judicare mode of delivering legal aid.

### 3.1 Functions and Activities.

The analysis compared costs for criminal legal aid in Vancouver and Burnaby. In Vancouver, criminal legal aid is provided by members of the private bar. In Burnaby, the Criminal Defence Office provided direct representational services through staff lawyers and referred people to members of the private bar.

To provide legal aid, either through staff counsel or private counsel, certain activities must occur. Applications must be processed, eligibility of applicants assessed, clients informed, and cases handled. For the purposes of the evaluation activities were grouped into four functional areas:

- Application Management;
- Case Management;
- Case Administration;
- Office Management.

Each of these functions and the activities classified within the functions will be described briefly in the following section and detailed in Appendix A.

#### 3.1.1 Application Management.

The category application management included activities performed by Legal Service Society staff when screening applicants, accepting applications in person and reviewing applications for eligibility.

The major categories of activities were:

- Preliminary screening of applicants
- Application intake and initial application processing
- Eligibility assessment with interview
- Eligibility assessment without applicant interview

#### 3.1.2 Case Management.

Case management activities were broken down into two broad areas:

- Case referrals activities;
- Case administration of staff handled cases activities.

Referrals obviously occur when cases are not handled by staff counsel. Case administration activities occur when cases are handled by staff. These two categories of activities are mutually exclusive.

#### 3.1.3 Case Administration: Courtwork.

Courtwork activities included, as the category label indicates, activities performed by lawyers or paralegals while preparing for and appearing in court on specific cases.

#### 3.1.4 Office Management.

The office management function included staff activities performed to keep the office running. The activities are:

- Budgeting
- Personnel management
- Record keeping

These activities are not directly tied to the provision of legal services, but indirectly linked. They are necessary activities in all offices.

### 3.1.5 General Program Costing Methods.

The calculations of costs for activities and functional groups of activities involved these steps:

- The determination of total costs for services;
- The determination of numbers of applications, referrals, inquiries and cases handled;
- The calculation of average costs per activity;
- The determination of total costs involved;
- The calculation of time spent by staff on activities;
- The proportional allocation of salary and other expenses to activity costs; and
- The allocation of total activity costs into service costs.

Application and other service flow numbers provided the base for calculating average costs.

The following section details how certain costs or expenditures were identified and related to the activities and functions performed by the Public Defence Office and the Vancouver Regional Office.

### 3.2 Total Costs.

The Vancouver Regional Office used the *judicare* mode to deliver legal services. Legal aid cases were referred to private counsel, but applications were screened, applicants accepted, and clients approved or rejected within the office. Legal representation was provided by members of the private bar who were compensated for their work through payments under the criminal legal aid tariff. Cost associated with delivering legal assistance through the Vancouver office were a combination of the costs associated with screening and processing applications, referring approved clients' cases to lawyers and paying lawyers on the basis of submitted invoices.

The Burnaby Criminal Defence Office, was primarily a criminal defence office using staff lawyers to represent clients, but cases were also referred to private counsel. In Burnaby, applications were screened and clients accepted or rejected, as in the Vancouver office (albeit on a much smaller scale). However, approved clients were not automatically referred to members of the private bar. Cases were referred when conflicts between co-accused occurred, or when the staff lawyers' caseloads become too heavy. When a case was referred from the Burnaby Office to a *judicare* lawyer, legal representation was provided by a member of the private bar, and compensation made to the lawyer in the same manner as in Vancouver. The cost associated with this method of providing legal service was the same combination of costs as in Vancouver.

In Burnaby, when approved applicants were provided with legal assistance from a staff lawyer, the cost associated with providing legal aid was a combination of the costs associated with screening and processing applications, the costs associated with some proportion of the staff lawyer's and support staffs' salaries, and a proportion of operating expenses and the other related expenses incurred in the office.

### 3.2.1 Types of Expenditures.

For Burnaby and Vancouver Regional Offices expenditures were classified into four groups: 1) salaries and payroll benefits; 2) capital expenditures; 3) operating expenditures; and 4) special expenditures (incurred because Burnaby staff counsel provided court services). The expenditure categories within these groups are:

- Salaries and payroll benefits
  - Salaries;
  - B.C. Medical Plan;
  - Canada Pension Plan;
  - Unemployment Insurance;
  - Mutual of Omaha benefit package.
- Capital expenditures
  - office equipment;
  - leasehold improvements;
- Operating expenses
  - casual labour - secretarial services;

- casual labour - janitorial services;
  - Continuing Legal Education - seminars and courses to update legal training;
  - insurance;
  - office supplies;
  - postage;
  - rent;
  - repairs and maintenance of office equipment;
  - telephone;
  - utilities;
  - xeroxing.
- Special expenditures
    - transcripts;
    - investigators' fees;
    - witnesses' fees.

The Burnaby Criminal Defence Office and the Vancouver Office incurred some expenses related to the evaluation. These expenses were subtracted from Burnaby's and Vancouver's operating expenses in all calculations.

### 3.2.2 Regional Office Expenditures and Program Costing.

No formal links exist in the Legal Services Society's accounting system between regional offices' expenditure records and the delivery of criminal legal aid services. In order to link expenditures to services a framework was established to translate historical costs into programme costs. The costing structure included:

- assignment of expenditures in each regional office to functions and activities appropriate to the mode of delivery.
- allocation of proportion of expenditures to functions and activities.

The linkages allowed for:

- integration of specific activities with types of expenditures to produce costs for single activities such as interviewing clients or

provides legal services for a trial.

- integration of activities with types of expenditures to provide costs for a logically grouped cluster of activities such as processing applications or providing legal services for several court appearances.
- integration of entire functions with types of expenditures to produce costs for whole functions such as courtwork.

### 3.2.3 Method of Allocating Expenditures.

All expenditures were directly or indirectly apportioned to functions and activities described in Section 3. When possible expenditures were directly linked to functions and activities. Where linkages did not exist, expenditures were indirectly allocated to all functions or activities falling within a broader function. Salaries and benefits were directly allocated in both Burnaby and Vancouver. Other office expenditures were allocated or assigned to functions and activities based on the proportion of time spent by staff on activities.

All non-salary costs were allocated proportionally across all activities with a few exceptions. Law society dues, library expenses and expenses associated with continuing legal education were costs which were incurred in relation to lawyers' and paralegals' casework activities. Since secretaries and paralegals are not members of the Law Society, Law Society dues were not allocated to activities which they performed. On the other hand, both lawyers and paralegals attended courses or workshops relevant to criminal legal aid matters and lawyers made use of the law library in the course of performing their duties. Since library expenses and Law Society dues were generally incurred in relation to court work activities, allocation of these costs was made on the basis of proportions of time the lawyers spent performing court work activities. Continuing legal education expenses were allocated proportionally to court work activities which lawyers and paralegals performed. The total expenditures allocated to specific functions and activities became the base for calculating costs.

#### 3.2.4 Allocation of Time.

Costs associated with providing criminal legal services were calculated by assigning expenditures to functions, activities and sub-activities. The proportion of time salaried employees spent in specific activities became the basis for the assignment, both for expenditures that could be directly allocated to activities (salaries) and for those which could only be indirectly allocated (rent, office maintenance, hydro, etc.).

In Burnaby and Vancouver Legal Aid offices, employees performed activities directly related to the provision of criminal legal services. Additionally, employees in the Vancouver office performed tasks associated directly with the delivery of civil legal aid services. Employees in both offices also performed activities not directly related to the delivery of legal services, activities associated with the operation and management of the offices themselves.

Office management activities were not directly assigned to particular aspects of the delivery of legal services. The total time each individual spent on office management activities was allocated proportionally over the activities directly related to the provision of criminal legal aid services. If a particular employee, for example, spent two hours on criminal case referrals, one hour on criminal related staff case administration and one hour on general office management activities, forty minutes of the office management time was allocated to case referrals, and twenty minutes to staff case administration. Similarly, if 25% of an employee's time, excluding management time, was spent performing activities associated with the delivery of criminal legal aid, 25% of time spent on office management activities would be proportionally allocated to the criminal-related activities. Data collected from time-activity logs for both offices were collapsed in this manner, accounting for all work time as either criminal or civil related.

#### 3.2.5 Description of Average Costs.

Average costs were calculated by dividing total expenditures allocated to particular functions and activities by units of service. The average cost of taking, processing and approving or rejecting an application for criminal legal aid was computed by dividing expenditures associated with application management by number of applications received. The average cost of referring a criminal case to a judicare lawyer was found by dividing the

total cost associated with criminal legal aid referrals by number of cases referred to judicare counsel. To calculate the average cost associated with the actual legal defence provided to the client, total defence-related expenditures were divided by number of cases referred to lawyers for criminal legal services. The average cost of staff lawyers' case administration was obtained by dividing the expenditures allocated to staff case administration by the number of cases the staff lawyers handled.

The average cost per case of delivering criminal legal aid services by either the judicare mode or public defender mode was the sum of costs associated with each stage or step performed while providing criminal legal services. Since the stages associated with each mode of delivery differed, the cost components of average cost per case for each of the two modes of delivery were different. The average cost per case of providing criminal legal services under the judicare mode was a combination of the average cost of taking, processing and approving or rejecting an application, the average cost of referring an approved case to a judicare lawyer and the average cost of the tariff payment for legal service provided. Since criminal case referral activities took place only when a case was referred to a judicare lawyer, the average cost associated with this stage of the process was not a component of the average cost of a case handled by a public defender lawyer. On the other hand, the average cost of a public defender case included the cost associated with the administration of staff lawyers' cases. Direct expenditures were made to provide the public defenders with support services for their casework. Thus, the cost components of the average cost of providing criminal legal services through public defenders included the average cost of taking, processing and approving or rejecting criminal legal aid applications, the average cost of staff case administration, and the average cost of providing direct lawyer services.

#### 4. Method of Data Collection and Description of the Data

To link the Legal Services Society's accounting system to delivery of criminal legal aid, information about how much time staff spent on different activities was collected through time-activity logs and telephone logs.

#### 4.1 Description of Time and Telephone Logs.

Based on the functions, activities and sub-activities outlined in Section 3, time logs were developed for each class of employee in the Vancouver Regional and Burnaby Legal Aid offices. Because the Vancouver Regional Office provided both civil and criminal legal services, the time-activity logs distinguished between activities related to the delivery of criminal legal aid and the delivery of civil legal aid. In Vancouver expenditures were proportionally assigned to activities associated with criminal and civil legal services.

Three variations of the time log were prepared: one for secretaries; another for staff lawyers; and a third for paralegals. A telephone log was developed to collect time information necessary to the allocate Application Management costs. The Technical Appendix contains these and other evaluation forms. Observation of some staff members also was done. In particular, activities performed in case referral administration in Vancouver proved difficult to code on an activity from. Observations provided information about the average time spent in criminal case referral activities.

#### 4.2 Implementation of the Time-Activity Logs.

Two, two-week periods were randomly selected for filling out time logs in the Vancouver and Burnaby offices. Extended periods for collecting the data were necessary to reduce the effects of short term variations in activity patterns. Some activities were performed only one day a week or less. A short sampling period might have over or underestimated the total time for less frequent activities depending on whether the sample period included a day when the activities occurred.

#### 4.3 Description of Data.

The data collected from the Burnaby and Vancouver Legal Aid offices consisted of daily records of activity for each person in each office.

Patterns of activity varied from individual to individual and from day to day in both Vancouver and Burnaby. The variation of activity patterns over time affected the overall proportions of total time spent working on particular activities. The number of employees in each office also affected the time proportions. As the number of individuals engaged in a particular activity increased, the

effects of day to day variation of each person's activity pattern were reduced. The size of an office became an important factor in determining overall proportions of time spent per activity. The small size of the Burnaby office meant that calculated proportions of time were more vulnerable to fluctuation produced by short term variation in work patterns and workloads of the individual staff members.

#### 5. Time Costs

In Burnaby, 100% of total work time was spent delivering criminal legal services. In the Vancouver office, where civil legal services are also provided, 37% of the total work time which was spent delivering direct client legal aid services, was spent in criminal legal aid activities, while the remaining 63% of total work time was associated with delivery of civil legal aid. In the analysis which follows Vancouver figures were based on the relative proportion of time spent on criminal legal aid activities, not civil legal aid activities.

Time costs were calculated for the Vancouver Regional Office and the Burnaby Office. The proportions of time spent by each type of staff member on the activities related to the delivery of legal services are reported in this section. The following discussions focus first on Vancouver and then on Burnaby.

##### 5.1 Proportions of Time Spent by Activity-Vancouver.

Table 5.1.1 details proportion of time spent on criminal legal aid related activities in the Vancouver Regional Office. The percentages presented in this table were based solely on criminal legal aid-related work time.

##### 5.1.1 Application Management Activities.

Application management activities took up the greatest proportion of time, 51% of total criminal legal aid-related work time. This figure represented 19% of all work time, criminal and civil, in the Vancouver office. The activities related to preliminary screening (telephone inquiries and advising prospective applicants to fill in an application form) comprised 16.2% of the time spent on criminal legal aid activities. Application intake and process activities, including attending to applicants, helping them complete forms, making inquiries on their behalf, and the



preliminary processing of the application forms themselves took up 9.5% of total time spent on criminal related activities.

Table 5.1.1  
Proportions of Time Spent by Activity  
and Function

VANCOUVER		
	Activity	Function
Application Management:		
Preliminary Screening Activities	16.2%	
Application Intake and Initial Processing	9.5%	
Eligibility Assessment with Interview	19.7%	
Eligibility Assessment without Interview	5.6%	
APPLICATION MANAGEMENT ACTIVITIES		51%
Case Management		
Case Referrals(sec)	23.4%	
Case Administration	18.4%	
Case Administration	7.2%	
CASE MANAGEMENT AND CASE Administration Activities		49%
		100%

Eligibility assessment with interview is the final aspect of the application management function detailed in this report. As Table 5.1.1 indicates, 19.7% of time spent on criminal related activities was devoted to interviewing applicants to determine their eligibility for legal aid. Time spent assessing eligibility of applicants who were not interviewed represented 5.6% of the total time spent on criminal legal aid related activities. This figure merits special interpretation. Criminal legal aid applications came into the office two ways: Either the prospective applicant came to the office himself or herself and was given an application form to be completed in the office or a member of the Salvation Army, or some other individual administered the application in the courthouse or at the jail. In the first instance, the applicant was interviewed upon completion of the form by a staff member of the Vancouver Regional Office to determine whether or not the applicant was eligible for legal aid. In the second instance, the application was passed directly to the staff member in charge of referring criminal cases to lawyers, where the form was studied, and eligibility determined. No interview occurred in conjunction with this second method of taking criminal legal aid applications.

#### 5.1.2 Case Management Related Activities.

Within case management, administration of referrals of approved criminal legal aid applicants to private lawyers accounted for 23.4% of all time spent on criminal legal aid activities. The administration of the case referral process included typing, filing, answering and making inquiries about the status of any particular application.

Although staff lawyers in the Vancouver office did not handle criminal legal aid cases on a regular basis, occasionally some time was spent on criminal case work. As shown in Table 5.1.1, 18.4% of all time spent on criminal legal aid activities was devoted to the administration of staff criminal cases. Staff case administration was identified as part of the function of case management, in order to distinguish support services provided from actual courtwork-related activities. Staff case administration included activities such as opening, closing and working on files, and case related filing and typing.

5.1.3 Case Administration: Courtwork Related  
Activities.

Courtwork activities included court appearances, consultations with the client, legal research, making case related phone calls and other case related activities. These activities accounted for 7% of the total criminal legal aid activity time in the Vancouver Regional Office. This figure largely represented the time of one lawyer.

5.2 Proportion of Time by Staff Category-Vancouver.

Table 5.2.1 shows the proportion of total time spent on particular criminal legal aid related activities for categories of staff in the Vancouver Office. Table 5.2.1 lists the proportion of total time spent by each staff category on criminal legal aid activities.

As can be seen from the Tables, secretaries perform most activities related to criminal legal aid. Time spent by secretaries accounted for 78.5% of all time spent on these activities. The paralegal accounted for 1.9% of total time, and the articling student for 0.5%. Lawyers' time was made up 19.1% of the total criminal legal aid time.

Most time spent on criminal matters in Vancouver was secretary time. Preliminary screening and application intake and processing, major application management activities, were performed by secretaries alone. As can be observed from Table 5.2.1, preliminary screening activities alone took up 20.6% of total time spent by secretaries on criminal related activities, with an additional 12.1% of all secretary criminal time spent on application intake and initial processing.

Three categories of staff engaged in interviewing clients to determine eligibility: secretaries, lawyers and the paralegal. All (100%) of the time devoted to criminal legal aid-related activities by the paralegal was devoted to interviewing clients. This figure represented only 1.9% of the total time spent by all staff engaged in criminal legal aid related activities. A major proportion, 66%, of the lawyers' criminal legal aid time, was also spent interviewing. This represented 12.5% of total time spent on criminal legal aid activities. Time spent on assessing the eligibility of clients who applied through the Salvation Army took up 7.1% of all secretary time spent on criminal legal aid activities and 5.6% of the total criminal legal aid time in the office.

TABLE 5.2.1  
Proportion of Time\* Spent by Activity for  
Classes of Employee-Vancouver  
VANCOUVER

	Secre- tary	Para- legal	Lawyers	Articling Student
<u>Application Management</u>				
Preliminary Screening Activities	20.6%			
Application Intake and Initial Processing	12.1%			
Eligibility Assessment with Interview	7.2%	100.0%	66.0%	
Eligibility assessment without interview	7.1%			
<u>Case Management</u>				
Administration: Case Referral	29.8%			
Case Administration	23.1%			
<u>Case Administration:</u> <u>Courtwork</u>				
Courtwork			34.0%**	100.0%
Total	100%	100%	100%	100%
	*** 78.5%	1.9%	19.1%	0.5%

\*Based on time spent on criminal legal aid activities, excluding civil legal aid time.

\*\*This figure is high and disproportionate because one lawyer spent an unusual amount of time doing case-related activities (court appearances, legal research and case-related phone calls).

\*\*\*Of total criminal related time

TABLE 5.3.1  
Proportion of Time Spent by Activity  
BURNABY

<u>Application Management</u>		
Preliminary Screening activities		0.6
Application intake and initial processing		1.6
Eligibility assessment with interview		2.8
Eligibility assessment without interview		<u>0.7</u>
Total		5.7
<u>Case Management</u>		
Administration: case referral		3.4
Case Administration		12.5
Secretary	11.8	
Paralegal	0.7	
Total		15.9
<u>Case Administration: Courtwork</u>		
Duty Counsel		11.7
Casework		60.0
Lawyers	43.7	
Paralegal	16.3	
Publications (Articles)		<u>6.7</u>
Total		78.4
GRAND TOTAL		100.0%

Case management activities were performed by secretarial staff. As shown in Table 5.2.1, case management accounted for the greatest proportion of total secretarial time - 52.9%. This represented 41.8% of the total time spent by all types of staff on criminal legal aid work. Nearly 30% of all secretarial criminal legal aid time was spent on referrals.

Activities related to courtwork were performed by an articling student. One hundred percent of the articling student's time went into this activity. Thirty-four percent of all lawyers' criminal legal aid time was spent performing courtwork related activities. As mentioned before, criminal legal aid courtwork was a low volume activity in Vancouver.

#### 5.3 Proportion of Time Spent by Activity-Burnaby.

The Burnaby Legal Aid Office provided only criminal legal services. Unlike proportions reported for the Vancouver Regional Legal Aid Office, where criminal legal aid-related activities represented under 37% of all work time, the proportions presented in the following tables reflect 100% of the time spent working on criminal legal aid matters in the Burnaby office.

The proportion of time spent on various criminal legal aid-related activities in Burnaby are presented in Table 5.3.1. The proportions calculated included the time taken by one lawyer to write articles. This was an unusual activity, not usually related to criminal legal aid work. The proportions presented here would be slightly higher if the article time were removed.

#### 5.3.1 Application Management Activities.

Of the total working time in the Burnaby office 5.7% was devoted to application management; with .6% of total time spent on preliminary screening activities; 1.6% of the total time spent on application intake and processing activities; 2.8% on activities related to eligibility assessment with interviews. Negligible time was spent (0.7%) conducting eligibility assessments without interviews.

### 5.3.2 Case Management Related Activities.

Case management in Burnaby included two distinct groups of activities which were mutually exclusive. Once an application was approved, the case was assigned to a staff lawyer, unless conflicts between co-accused existed or staff lawyers' caseloads were too heavy. If either of these conditions exists, the case was referred to a member of the private bar. The two main activities associated with the case management function, (the referral of cases to judicare lawyers and the activities associated with the maintenance of staff lawyers' files) are mutually exclusive, since a case cannot be both a staff lawyer's case and referred to a member of the private bar. The two case management activities accounted for about 16% of total working time in Burnaby, with 3.4% of the time devoted to case referral and 12.5% of the time devoted to the maintenance of staff lawyers' case files.

In Section 4.3, it was noted that overall proportions of time spent in specific activities are more vulnerable to fluctuation in work patterns and work loads of individual staff members when the number of employees in the office is small. One circumstance occurred which may have effected the work patterns normally associated with case referral and case administration. The proportion of time spent in case administration activities may be inflated. During the evaluation, lawyers in the Burnaby Office began asking the secretary to type tapes of interviews with witnesses and clients. Before the change, interviews were recorded on cassette tape only. Since typing interview tapes was not a normal part of case administration throughout the whole evaluation study period (and may not be, in judicare offices), it possibly inflated the proportion of time spent by the secretary on case administration activities.

### 5.3.3 Case Administration: Courtwork Related Activities.

Activities associated with casework include: making court appearances; consulting with the client; legal research; and other related activities. Case administration activities relating to courtwork accounted for 78.4% of all work time in the Burnaby Office. Of this, most time was actual casework time; about 12% was duty counsel time.

### 5.4 Proportion of Time by Staff Category-Burnaby.

Table 5.4.1 reports the proportion of total time spent on particular criminal legal aid-related activities for each category of staff in the Burnaby Criminal Defence Office.

The time spent by the secretary in Burnaby on office activities accounted for 18.1% of all time spent on activities related to the delivery of criminal legal aid. Paralegal activities in Burnaby accounted for 19.8% of the total time, while the lawyers activities accounted for 62.1% of the total time spent working in the office.

Preliminary screening and application intake activities were performed by the secretary alone. As Table 5.4.1 shows, the time spent in these activities was 3.1% and 8.7% respectively of total secretary work time.

In Burnaby, only the paralegal conducted eligibility interviews. Of the total time she spent working, 14.1% was spent interviewing and determining the eligibility of applicants who came into the Burnaby office to apply for legal aid. The eligibility of persons who applied for criminal legal aid through the Salvation Army or other volunteers was assessed by the secretary. Time spent assessing eligibility without interviews accounted for 4% of all secretarial time, and 0.7% of all time spent on criminal legal aid activities.

Case management activities were primarily performed by the secretary. The secretary did all work related to the administration of case referral; these activities comprised 8.7% of her working time (see Table 5.4.1). Case referral activities accounted for 3.4% of time spent working by the entire Burnaby staff (Table 5.3.1).

The secretary and paralegal both performed tasks associated with staff case administration. Time spent by the secretary on case administration accounted for 65.4% of her work time, and 11.8% of total staff work time (Tables 5.3.1 and 5.4.1). The paralegal spent 3.7% of her work time in case administration-related activities (Table 5.4.1); this represented 0.8% of all staff working hours (Table 5.3.1).

Activities related to the courtwork were performed by the paralegal and by the lawyers. Approximately 82% of all the paralegal's work time was spent on these aspects of case

TABLE 5.4.1  
Proportion of Time Spent by Activity  
BURNABY

	Secre- tary	Para- legal	Lawyers
<u>Application Management</u>			
Preliminary Screening activities	3.1		
Application intake and initial processing	8.7		
Eligibility assessment with interview		14.1	
Eligibility assessment without interview	4.0		
<u>Case Management</u>			
Administration: case referral	18.8		
Case Administration	65.4	3.7	
<u>Case Administration: Courtwork</u>			
Courtwork		82.2	70.4%
Duty Counsel			18.8%
Publications (articles)			10.8%
Total	100%	100%	100%
	* 18.1%	19.8%	62.1%

\*Of total criminal related time

administration. The lawyers spent 100% of their time on activities related to case administration. Duty counsel services accounted for 18.8% of the total working time; actual casework comprised 70.4% of all lawyer working time. The balance, 10.8%, of lawyer time reflected the time spent by one lawyer writing articles.

#### 6. Dollar Costs

Dollar costs were calculated using proportion of time spent on particular activities. Time proportions were used to allocate budget expenditures for the Burnaby and Vancouver offices in 1980. Budget expenditures for Vancouver and Burnaby are described first, followed by average costs for the two offices.

##### 6.1 Allocation of Budget - Vancouver.

Criminal legal aid-related activities accounted for 36.9% of the total working time in the Vancouver Regional Legal Aid Office. Allocations were based on figures detailing expenditures for the Vancouver Office for the period January to December 1980. Thirty-six and 9/10% of all work time in Vancouver was devoted to the delivery of criminal legal services and 36.9% of expenditures were allocated to criminal legal aid-related activities. Table 6.1.1 gives a proportional breakdown of total expenditures. Criminal legal aid costs in Vancouver are dominated by salary costs.

Table 6.1.1

Proportionate Allocations made for Budget Groups  
Vancouver 1980

For Jan.-Dec. 1980 Vancouver	% Criminal Related Expenditures
Salary and benefits	73.7%
Operating expenditures	23.8%
Other expenditures	2.5%
	-----
	100.0%
	-----

As noted in the time/activity analysis, different categories of staff spent different proportion of their time on criminal legal aid. Secretaries spent more time administering criminal legal aid, while paralegals and articling students spent little time. Table 6.1.2 contains a breakdown of the proportion of salary costs for different categories of staff which can be allocated directly to criminal legal aid activities.

Table 6.1.2

Proportional Criminal Related  
Salary and Benefit Expenditures  
Vancouver 1980

For Jan-Dec., 1980 Vancouver	% of Total Salary & Benefit Allocation
Lawyers' salary and benefits	34.7%
Paralegal salary and benefits	1.9%
Secretary salary and benefits	63.0%
Articling Student salary and benefits	0.4%
	<u>100.0%</u>

Criminal legal aid-related salary and benefit expenditures for the lawyers in the Vancouver Regional Office constitute about 35% of all criminal-related salary and benefit expenditures and about 25% of all criminal legal aid related expenditures for January to December 1980. The articling student accounted for .4% of all criminal legal aid related salary and benefit expenditures and .2% of the entire criminal expenditure for the year 1980. Since staff

lawyers in Vancouver engaged in criminal legal aid-related activities primarily by interviewing applicants to determine eligibility, the majority of this expenditure was linked to eligibility assessment activities.

Expenditures in the Vancouver office for the paralegal's criminal legal aid-related salary and benefits made up 1.9% of all criminal-related salary and benefit expenditures during this period, and 1.4% of all criminal-related expenditures. The only criminal legal aid-related activities which the paralegal performed involved interviewing applicants to determine eligibility; thus, this expenditure is strictly associated with eligibility assessment activities.

Secretarial criminal legal aid-related salary and benefit expenditures for January to December, 1980 accounted for 63% of all criminal-related salary and benefit expenditures and 46.5% of all criminal legal aid-related expenditures. Most of this cost could be linked to the referral of accepted clients to judicare lawyers, application intake and processing, and the determination of an applicant's eligibility by means of an interview.

Operating expenditures accounted for 23.8% of all criminal legal aid-related expenditures in the Vancouver office from January to December, 1980. Table 6.1.3 details the breakdown of the operating expenditures made for the year.

Rent constituted the largest criminal legal aid-related operating expenditure (30.3% of total operating expenditures). Rent represented 7.2% of all expenditures made during the year for the delivery of criminal legal aid services in Vancouver.

Table 6.1.3  
Proportions of Criminal Related Operating Expenditures  
Vancouver 1980

Operating Expenditures made for Jan-Dec, 1980 - Vancouver for Criminal Legal Aid	% of Total Criminal Operating Expend. Alloc.
Casual labour - janitor	7.5%
Casual labour - secretary	14.4%
Hydro	3.3%
Office insurance	0.2%
Office equipment	8.9%
Office supplies and sundry	9.5%
Postage	3.5%
Rent	30.3%
Repair and Maintenance	2.9%
Telephone	13.2%
Student interviewer	2.4%
Xerox	3.9%
	100%

Expenditures for casual labour (secretary) were the second most costly criminal legal aid-related expenditures made in Vancouver, accounting for 14.4% of all criminal legal aid-related operating expenses and 3.4% of all criminal legal aid-related operating expenditures made during the year 1980. Telephone costs came third, accounting for 13.2% of all criminal legal aid-related operating expenditures and 3.1% of all criminal legal aid related expenditures made during this period.

The remainder of criminal legal aid-related expenditures made for this period included expenditures for casual labour (janitor), office equipment, office supplies, hydro, postage, repair and maintenance, student interviewers and Xerox.

6.2 Budget Allocation by Activity and Function - Vancouver.

Proportional budget allocations made for criminal legal aid-related activities and functions performed in Vancouver are presented in Table 6.2.1. These totals represent the combination of salary and benefit expenditures, operating expenditures and other expenditures associated with the functions and activities related to the delivery of criminal legal aid services.

Table 6.2.1  
Proportional Budget Allocations  
by Activity and Function  
Vancouver 1980

	% of Total Criminal Legal Aid Related Expenditures:	
	by Activity	by Function
Application Management		
Preliminary screening	11%	
Application intake and initial processing	8%	
Eligibility assessment with interview	32.6%	
Eligibility assessment without interview	4%	
Application Management		55.6%
Case Management		
Case referrals	19.3%	
Case administration	18%	
Case Management		37.3%
Case Administration: Courtwork		
Courtwork	7.1%	
Proportion of Total Criminal Related Expenditures for Case Administration: Courtwork		7.1%
	100%	100%

Application management and case referral accounted for most criminal legal aid-related costs in Vancouver. Together, these two groups of activities accounted for 92.9% of all criminal legal aid related expenditures. Determining eligibility of criminal legal aid applicants who came into the Vancouver Office was the most costly activity, followed closely by referral procedures.

A detailed breakdown of the contributions of various types of staff costs to the costs of eligibility assessment activities are presented in Table 6.2.2.

Table 6.2.2  
Proportional Contributions of Types of Staff  
To Expenditures Related to Eligibility  
Assessment Including Interview  
Vancouver 1980

Eligibility Assessment with Interview	% Total Criminal Related Eligibility Expenditures
Lawyers	82.6%
Paralegal	5.3%
Secretaries	12.1%
	100%

Of total cost of eligibility interviews for the year 1980, 82.6% can be linked back to costs associated with lawyers performing these interviews. The eligibility-interview lawyer costs represent 27% of the total expenditures in Vancouver for criminal legal aid.



### 6.3 Allocation of Budget - Burnaby.

Budget allocations for the Burnaby legal aid office were based on expenses for the Burnaby Office during the period January - December, 1980, and the proportion of time spent by staff in various criminal legal aid activities. Unlike the Vancouver office, no civil legal aid-related activities were performed in Burnaby. Therefore, 100% of expenditures were linked to the delivery of criminal legal services. Table 6.3.1 shows the proportional allocations made in each budget grouping for the year of 1980. As noted in Section 6.1 in relation to Vancouver, expenditures identified in Table 6.3.1 apply only to the criminal legal aid-related activities which occurred in the Burnaby office itself, and do not reflect any costs associated with the tariff payments or disbursements to *judicare* lawyers.

Table 6.3.1

#### Proportionate Allocations made for Budget Groups Burnaby 1980

For Jan.-Dec. 1980 Burnaby	% Total Expenditures
Salary and benefits	72.3%
Operating expenditures	16.0%
Other expenditures	11.7%
	-----
	100.0%

Salaries and benefits paid to the staff in the Burnaby legal aid office accounted for 72.3% of all expenditures made during the period from January to December, 1980. This percentage is highly similar to the salary/benefit percentage in Vancouver.

Table 6.3.2

#### Proportionate Allocations of Budget Expenditure by Type of Staff - Burnaby

For Jan-Dec. 1980 Burnaby	% of Total Salary & Benefit Allocation
Lawyers' salary and benefits	71.0%
Paralegal salary and benefits	15.4%
Secretary salary and benefits	13.6%
	-----
	100.0%

Expenditures in the Burnaby office for lawyers' salaries and benefits represented 71% of all salary and benefit expenditures, and 51.7% of all expenditures for the twelve month period, January to December 1980. Since staff counsel in the Burnaby Office handled cases and provided duty counsel services exclusively, this expenditure was exclusively associated with activities related to court work.

Salary and benefit expenditures for the paralegal in Burnaby accounted for 15.4% of all salary and benefit expenditures for the twelve month period, and 11.2% of the total expenditures. Secretarial expenditures for the same period were 13.6% of the total salary and benefit expenditures, and 9.8% of all expenditures during the twelve month period.

Operating expenditures accounted for 16% of all expenditures in Burnaby from January to December, 1980. Table 6.3.3 presents the breakdown of operating expenditures made for this period in Burnaby.

Table 6.3.3

Proportional Operating Expenditures  
Burnaby 1980

For Jan-Dec. 1980 Burnaby	% of Total Operating Expense Allocation
Casual labour (secretary)	3.3%
Hydro	0.0%
Office insurance	0.6%
Office equipment	0.6%
Office supplies and sundry	7.9%
Postage	2.4%
Rent	63.8%
Repair and maintenance	1.1%
Telephone	13.1%
Xerox	7.2%
	-----
	100.0%

Rent accounted for approximately 64% of all operating expenditures made in Burnaby and 10.3% of all expenditures made during the year. As in Vancouver, rent was the most costly operating expense in Burnaby. However, in Vancouver rent made up only 30% of total criminal legal aid-related operating expenditures. Rent in Burnaby was allocated in the same way as in Vancouver with one exception. The Evaluation Project occupied 20% of the office space in the Burnaby legal aid office. The dollar allocation for rent in Burnaby represents 80% of the total rent expenditure, with 20% being as an evaluation related cost. The rent allocation presented in Table 6.3.3 has been reduced to eliminate evaluation related expenses from the calculations. A major difference between Vancouver and Burnaby was rental expenditure. Rent, however, was not the dominant cost salaries and benefits were. A 50% reduction in rent expenditures (from around 60% to 30% of operating expenditures), would only produce about a 5% reduction in total expenditures.

Expenditures relating to the telephone ranked second, accounting for 13.1% of operating expenditures and 2.1% of all expenditures. Office supplies and sundry expenditures account for about 8% of operating expenses and 1.3% of all expenditures.

The remainder of operating expenditures during this period included expenditures for casual labour (secretary), office equipment, postage, repair and maintenance and Xerox. Individually, each of these budgetary categories accounted for less than 3% of total expenditures, together they account for 15.2% of all operating expenditures.

Nonsalary expenditures associated with criminal representation by staff counsel are detailed in Table 6.3.4.

Table 6.3.4  
Proportional Unique Expenditures  
Burnaby 1980

For Jan-Dec. 1980 Burnaby	% of Expenditures for Unique Requirements
Continuing legal education	8.1%
Law Society	34.9%
Library	13.4%
Transcripts	10.4%
Travel and transportation	12.9%
Witness fees	20.2%
Investigation	0.0%
	<u>100.0%</u>

These expenditures together made up 11.7% of total expenditures in the Burnaby legal aid office from January to December, 1980. Law Society expenses each constituted 34.9% of all special expenditures, followed by witness fees, library, travel and transportation, transcripts and continuing legal education costs. All special budgetary expenditures made in Burnaby were allocated to courtwork-related activities in the costing analysis, since they were incurred as a direct result of providing legal representational services in-house.

6.4 Budget Allocation by Activity and Function - Burnaby.

Proportional allocations from January to December, 1980, for functions and activities performed in Burnaby are presented in Table 6.4.1.

Table 6.4.1

Proportional Budget Allocations  
by Activity and Function - Burnaby

	% Total Criminal Legal Aid Related Expenditures: by Activity by Function	
<u>Application Management</u>		
Preliminary screening	0.4%	
Application intake and initial processing	1.1%	
Eligibility assessment with interview	2.1%	
Eligibility assessment without interview	0.5%	
Proportion of Total Budget Expend- itures for Application Management		4.1%
<u>Case Management</u>		
Case referrals	2.4%	
Case administration	8.9%	
Proportion of Total Budget Expenditures for Case Management		11.3%
<u>Case Administration: Courtwork</u>		
Courtwork	63.7%	
Duty counsel	13.3%	
Proportion of Total Budget Expenditures for Case Administration: Courtwork		77.0%
Lawyer's Articles	7.6%	7.6%
	<u>100%</u>	<u>100%</u>

Allocations for each activity and function represent the total of the three components of the cost: salary and benefit expenditures, operating expenditures and other expenditures.

Case administration activities related to courtwork accounted for most expenditures. Fully 75% of all costs incurred by the Burnaby office were associated with courtwork activities, including duty counsel. The costs of courtwork activities performed by public defenders and the paralegal were 63.7% of the total expenditures. Duty counsel activities made up 13.3% of the total.

Staff case administration activities, performed by the secretary and paralegal accounted for 8.9% of all Burnaby expenditures. Case referral and application intake and processing activities accounted for 2.5% and 1.1% respectively of all expenditures made during the twelve month period. Eligibility assessments through interviews had associated costs which were 2.1% of the total expenditures. Assessing eligibility without interviews accounted for 0.5% of the year's expenditures. Preliminary screening activities performed by the secretary also accounted for 0.5% of expenditures.

A detailed breakdown of the relative contributions of the paralegal and the lawyers to the costs associated with criminal case work is presented in Table 6.4.2.

Table 6.4.2

Relative Contributions of Paralegal and Lawyer  
to Criminal Casework Expenditures  
Burnaby 1980

Case Administration: Courtwork	% Total of Related Expenditures
Lawyers	76.2%
Paralegal	23.8%
	100.0%

As would be expected, the cost associated with lawyers' casework activities made up a greater proportion of total costs. Further, the cost related to lawyers' casework in Burnaby comprises 48.5% of costs incurred by the office.

Table 6.4.3 details the breakdown of staff case administration activities by types of staff who perform them.

Table 6.4.3

Relative Contributions of Secretary and Paralegal  
to Staff Case Administration Expenditures  
Burnaby, 1980

Case Management: Staff Case Administration	% Total of Related Expenditures
Secretary	94%
Paralegal	6%
	100%

Ninety four percent of the costs associated with staff case administration was secretarial related, while 6% was paralegal related. Secretarial related staff case administration costs made up 8.9% of total expenditures for 1980.

As was noted in Sections 4.3 and 5.3.2, time spent by the secretary on staff case administration activities increased during the evaluation period, with the onset of a office policy requiring typing case-related lawyer client interviews. Expenses were allocated directly or indirectly to activities according to actual time spent. Thus, the cost assigned to secretarial staff case administration in Burnaby may have been slightly inflated.

6.5 Average Costs - Vancouver.

Using information obtained from the Legal Services Society's caseload reports, and budget allocations, average costs were calculated for criminal legal aid functions and activities in Vancouver Regional Office and Burnaby Criminal Defence Office. Average costs per function and activity were calculated by taking the expenditures allocated on the

basis of time spent and dividing these allocations by the relevant units of service. Application costs were calculated by taking application costs and dividing by the number of applications. Interview costs were divided by the number of interviews, and case costs were divided by the number of cases. The calculated costs are costs per unit of service. Vancouver average costs are presented first (Table 6.5.1).

Preliminary screening - determining whether or not the applicant should fill out an application form - cost \$6.27 per application. Application intake and processing costs were \$1.67 per application. The average cost of interviewing a criminal legal aid applicant in Vancouver was \$14.37. The largest proportion of this cost came from using lawyers to interview (\$10.73 out of \$14.37).

It should be noted that these average costs do not include the costs of applications taken by Salvation Army courtworkers. The average cost for eligibility assessment within the Vancouver Office of applications taken by the Salvation Army courtworkers was \$1.95. Total application management costs associated with applications taken by the Salvation Army include preliminary screening costs, the fee paid to the Salvation Army for application intake (\$3.50), and the cost of assessing eligibility of the applicant in the regional office. These costs were \$11.72 or 4.8% of the total cost of cases in which no interview occurred.

Case referral had an associated cost of \$5.06 per referral or 2% of the total average cost of a criminal legal aid case in Vancouver.

The average tariff plus disbursement cost per case associated with the criminal legal services provided by judicare lawyers in Vancouver was \$236.29. This was 89.6% of the total average cost per case for a criminal legal aid case in Vancouver which included an eligibility interview and 93.4% of the average cost for a criminal legal aid case where an eligibility interview did not take place. The tariff amount reflected an increase in the tariff fees paid to lawyers who performed criminal legal aid casework.

TABLE 6.5.1  
Average Cost Per Activity for 1980  
Vancouver Judicare

	With Eligibility Interview	Without Eligibility Interview
<u>Application Management</u>	\$	\$
Preliminary screening	6.27*	6.27*
Application intake	1.67*	
Eligibility assessment with interview	14.37**	
Lawyer	10.73	
Paralegal	1.05	
Secretary	2.59	
Eligibility assessment without interview		
Salvation Army		3.50*
Secretary		1.95*
<u>Case Management</u>		
Case referral	5.06***	5.06***
<u>Case Administration: Courtwork</u>		
Average tariff and disbursement	236.29****	236.29****
TOTAL CASE COST WITH INTERVIEW	263.66	
TOTAL CASE COST WITHOUT INTERVIEW		253.07

\*Per application \*\*Per interview \*\*\*Per referral \*\*\*\*Per case

During 1980, the criminal tariff was increased by about 8%. The average tariff payment used in the costing analysis was calculated for all 1980 and reflected about half of the total increase or an increase of 4%. Since 1980 there has been an additional tariff increase of about 38%.

#### 6.6 Average Costs - Burnaby.

Average costs were calculated for functions and activities performed in the Burnaby Legal Aid Office using the allocations previously detailed. The average costs are presented in Table 6.6.1. The average cost of criminal legal aid case which included an eligibility interview and handled by a Burnaby staff lawyer was \$234.65. This cost was a combination of three main components: the average cost per application of application management, the average cost per case of case management, and the average cost per case of case administration.

The average cost per application in Burnaby was \$12.02. This represented 5% of the total cost per case, and included the cost of an eligibility interview. As in Vancouver, only applicants who submitted an application in the Burnaby Office were interviewed. Applicants who applied for legal aid through the Salvation Army courtworkers were not interviewed. The average cost associated with application management for Salvation Army taken applications was \$6.74 or 2.9% of the total average cost per case associated with cases in which no eligibility interview occurred.

The average cost of preliminary screening of prospective applicants was \$.60 per application. This cost represented less than 1% of the total cost per case in Burnaby.

The average cost per application of application intake and processing activities was \$1.66. This figure represented 0.7% of the total per case cost, and 13.8% of the per application costs for application management. These costs are incurred only with applications taken in the Burnaby office.

TABLE 6.6.1  
Average Cost Per Activity for 1980  
Burnaby Public Defender

	With Eligibility Interview	Without Eligibility Interview
<u>Application Management</u>		
Preliminary screening	\$ .60*	\$ .60*
Application intake	1.66*	
Eligibility assessment with interview	9.76**	
Eligibility assessment without interview		
Salvation Army Secretary		3.50* 1.09*
<u>Case Management</u>		
Staff case administration		
Secretary	25.79***	25.60***
Paralegal	1.64***	1.64***
<u>Case Administration: Courtwork</u>		
Casework		
Lawyers	148.74***	148.74***
Paralegal	46.46***	46.46***
TOTAL CASE COST WITH INTERVIEW	234.65	
TOTAL CASE COST WITHOUT INTERVIEW		227.63

\*Per application \*\*Per interview \*\*\*Per referral \*\*\*\*Per case

TABLE 6.6.2  
Average Cost Per Activity for 1980  
Burnaby Judicare

	With Eligibility Interview	Without Eligibility Interview
<u>Application Management</u>	\$	\$
Preliminary screening	.60*	.60*
Application intake	1.66*	
Eligibility assessment interview		
Paralegal	9.76**	
Eligibility assessment without interview		
Salvation Army Secretary		3.50* 1.09*
<u>Case Management</u>		
Administration: case referral		
Secretary	10.98***	10.98***
<u>Case Administration:</u> <u>Courtwork</u>		
Average tariff, disbursement	<u>202.36****</u>	<u>202.36****</u>
TOTAL CASE COST WITH INTERVIEW	225.36	
TOTAL CASE COST WITHOUT INTERVIEW		218.53

\*Per application \*\*Per interview \*\*\*Per referral \*\*\*\*Per case

Eligibility assessment with interview costs \$9.76 per application or 80.8% of the average cost per application for application management function where eligibility assessment with an interview occurred, and 4% of the total average cost per public defender case in Burnaby.

Case referral in Burnaby cost an average of \$10.98 per case. Referral costs were 4.8% of the total average cost per case in Burnaby where an eligibility interview occurred, and 5% of total average cost per case where no eligibility interview occurred. (The per case cost of case referral was not included in the average cost of a staff lawyers' case, since case referrals took place only when a case was not assigned to a public defender).

Staff case administration was performed by both the paralegal and secretary in Burnaby. The average cost per case for administration of staff cases was \$27.43. This amounted to 11.7% of the total average cost per public defender case in Burnaby when eligibility interview occurred and 11.9% of the average cost per staff case with no interview. Of this cost, \$25.79 or 94% was for secretarial support service, and \$1.64 or 6% for duties performed by the paralegal. Staff case administration costs occurred only for public defender cases.

The average cost per case of staff lawyer and paralegal courtwork in Burnaby is \$195.20 or 83.2% of total per case costs when an eligibility assessment occurred with an interview, and 85.8% of the total cost of a staff case when no interview was held. Both public defence counsel and the paralegal in Burnaby performed case-related courtwork activities. The cost per case for staff lawyers' work was \$148.74 or 63.4% of the total cost per case for courtwork. Paralegal cost were \$46.46 per case or 19.8% of the total cost per case for courtwork.

Duty Counsel costs were not part of the cost per criminal legal aid case, but constituted a major service provided by Burnaby staff counsel. The cost per hour for Burnaby staff lawyers acting as duty counsel was \$27.

The average tariff and disbursement cost per case associated with the criminal legal services provided by judicare lawyers in Burnaby was \$202.36. This represents 89.8% of the total average cost per case for a criminal legal aid case in Burnaby which included an eligibility assessment, and 92.6% of the average cost of a case for a

criminal legal aid case where an eligibility interview did not take place. The tariff costs partially reflect a 1980 increase in the tariff fees paid to lawyers who performed criminal legal aid casework. The tariff was increased during 1980 by about 8%. The \$202 figure is an average figure computed from all 1980 cases and includes billings before and after the increase. The tariff was increased again in 1981. This most recent increase is not reflected in the cost figures. The average cost per case for lawyers' services reflects the average tariff and disbursement paid to lawyers taking referral cases from the Burnaby legal aid office. Costs are listed in Table 6.6.2.

#### 7. Comparison of Vancouver and Burnaby

The Vancouver Regional Legal Aid Office and the Burnaby Criminal Defence Office both provided criminal legal aid services. In Vancouver, criminal legal services included the taking and processing applications, approving or rejecting applications for criminal legal aid and referring approved applicants to members of the private bar who acted as counsel in exchange for payment made according to a fee schedule. Both civil and criminal legal aid services were provided in the Vancouver Office, however, staff lawyers there did not handle much criminal legal aid casework.

In contrast to Vancouver, in Burnaby only criminal legal aid services were provided. As in Vancouver, applications for criminal legal aid were taken, processed and approved or rejected. Approved cases were assigned to staff lawyers who provided actual legal services. The secretary and paralegal provided support services for the lawyers. In the event of conflict between co-accused, or when the staff lawyers' caseloads became too full, cases were referred to members of the private bar who provided legal services in return for payment made under the criminal legal aid tariff. Both public defender representation and Judicare representation were available at the Burnaby Criminal Defence Office. In Vancouver, only the Judicare services were available.

The volume of criminal legal aid applications received by the Vancouver (7,499) office was much larger than in Burnaby (1,195). In addition, civil legal aid services were provided in Vancouver as well as criminal legal aid services. The number of staff and size of the working facility was correspondingly larger than in the three-lawyer Burnaby office. The sizes of the two offices also

influenced the internal organization, specifically, how jobs were performed and who performed them. The size and organization of each of the offices also affected the costs of activities performed in the process of delivering criminal legal aid services.

#### 7.1 Application Management in Vancouver and Burnaby.

The average cost per application for application processing activities which included an eligibility interview in Vancouver was \$22.31. The cost in Burnaby was \$12.02 per application when an eligibility interview took place. Table 7.1.1 provides a comparative breakdown of costs per application of activities associated with application management, including eligibility interview, for the two offices.

Application management costs associated with applications taken by the Salvation Army were \$11.72 in Vancouver and \$5.19 in Burnaby. Table 7.1.2 details the activities for those applications taken by Salvation Army courtworkers.

Table 7.1.1

Average Costs of Application Management Activities  
Including Eligibility Assessment Interviews

Application Management Activities Including Interview	Average Cost per Activity	
	Vancouver	Burnaby
Preliminary Screening: per app.	\$6.27	\$0.60
Application Intake and Initial Processing: per app.	\$1.67	\$1.66
Eligibility Assessment with Interview: per int.	\$14.37	\$9.76
Total average cost of application management with eligibility assessment interview	\$22.31	\$12.02



Table 7.1.2

Average Costs of Application Management Activities  
Without Eligibility Assessment Interviews

Application Management Activities Without Interview	Average Cost per Activity	
	Vancouver	Burnaby
Preliminary Screening: per app.	\$6.27	\$ .60
Salvation Army Application Intake fee: per app.	\$3.50	\$3.50
Eligibility Assessment without Interview: per app.	\$1.95	\$1.09
Total average cost of application management without eligibility assessment interview	\$11.72	\$5.19

The average cost per application for preliminary screening activities was \$6.27 per application in Vancouver and \$0.60 in Burnaby. In Vancouver, a full-time switchboard operator initially performed most preliminary screening activities. In Burnaby, the secretary answered preliminary enquiries in addition to her other duties. Burnaby costs were negligible. In Burnaby the full time secretary was able to handle inquiries during the course of her other duties. In Burnaby, the low volume of inquiries enabled greater savings.

Application intake and processing in Vancouver cost \$1.67 per application, while in Burnaby the cost was \$1.66 per application. There was no effective difference.

The cost per application of assessing an applicant's eligibility for criminal legal aid in an interview was \$9.76 in Burnaby and \$14.37 in the Vancouver office. In Vancouver, interviewing was done by lawyers, the paralegal, secretaries and head office staff, including head office lawyers. In Burnaby, only the paralegal interviewed applicants. In both offices, only persons who applied in the office itself were interviewed; persons who applied through Salvation Army courtworkers were not interviewed.

The high volume of applications in Vancouver made it possible to assign staff to block interviewing periods. Generally three persons were interviewing at any given time. Prospective applicants were interviewed soon after they completed the application form. No appointments were made for interviews. In Burnaby, the low volume of applications made it necessary to schedule interview appointments with the paralegal. Interviews took place in the afternoon, two days per week.

Costs associated with lawyers interviewing prospective criminal legal aid applicants accounted for 80.3% of the total cost associated with eligibility assessment in Vancouver. Except for the director of the Vancouver office, who performed criminal legal aid-related administrative activities, staff lawyers did not regularly engage in any other criminal legal aid activities. In contrast, interviews in the Burnaby office were performed by the paralegal; staff lawyers in Burnaby engaged only in activities related to criminal courtwork.

The higher cost per application of eligibility interview in Vancouver was linked to the use of lawyers as interviewers. However, the physical and organizational structure of the Vancouver office encouraged the use of lawyers in this capacity. Vancouver processed civil and criminal applications. Civil applications were often more complex than criminal applications. Some applications for civil legal aid entailed sufficiently complex legal issues that a lawyer was required. The lawyers' offices in Vancouver were physically removed from the interviewing area, at a distance which made informal lawyer-interviewer consulting impractical. Therefore, each staff lawyer was assigned "duty days" during which he or she remained on consulting duty in an office in the interviewing area. Since complex civil legal aid cases and lawyer interviewer consulting would not fully occupy the duty lawyer's time, staff lawyers assigned interviewing duties conducted some eligibility interviews with criminal legal aid applicants. The difference between salaries paid to lawyers and salaries paid to secretaries was substantial; provision of a consulting lawyer for interviews not usually requiring a lawyer increased the cost per application of eligibility assessment which included an interview.

In Burnaby, only criminal legal aid applications were received. While from time to time some legal consultation took place, criminal applications tended to be considerably less complex than civil legal aid applications. In addition, the lawyers offices in Burnaby were physically

close (next door) to the paralegal's office, where the interviews took place. Interviews were scheduled in the afternoon; usually one or more staff lawyers were in the office at that time. The low volume of applications received in the Burnaby office made a full-time interviewer unnecessary. Thus appointments were scheduled. Low volume, the absence of complex civil applications, the close physical proximity of lawyers and the interviewer reduced cost per application for eligibility assessment interviews.

The use of lawyers as interviewers in Vancouver and the associated higher cost per application for interviews there, does not necessarily indicate that the interviewing procedure in Vancouver is less efficient than that of Burnaby. Even though the use of lawyers as interviewers increased the cost of eligibility assessment, restricting lawyers to consulting duty alone on criminal applications, or requiring secretary and paralegal interviewers to go to the lawyers' offices for consulting purposes could be less efficient in the long run. The lawyer or lawyers conducting interviews in civil cases might have more dead time, increasing the amount of time associated with civil legal aid activities and increasing the total office cost as additional staff are needed to provide services while lawyers have free time.

The average cost per application was lower for applications received from Salvation Army courtworkers. Applicants who applied for criminal legal aid through the Salvation Army were not interviewed in either Burnaby or Vancouver. Application processing costs for applications received through the Salvation Army included preliminary screening costs, the fee paid by Legal Services to the Salvation Army for application intake, and the cost of determining the applicant's eligibility. In Burnaby, interviewing costs accounted for 81% of application processing costs. In Vancouver interviewing costs were 64% of the total average cost per application for application management. Average eligibility assessment costs for applications taken by the Salvation Army were \$1.95 and \$1.09 per application in Vancouver and Burnaby respectively. By paying the Salvation Army a flat fee of \$3.50 per application for intake activities, and eliminating eligibility assessment interviews, the average cost per application for application management in Vancouver was 47% of the cost of assessments with interviews. The cost was reduced from \$22.31 to \$11.72. In Burnaby, the average cost per application for application management was reduced 43% from \$12.02 to \$5.19.

The low volume of applications in the Burnaby office was, in part, responsible for the occurrence of a unique service provided in Burnaby. In both Vancouver and Burnaby, an applicant determined to be ineligible for criminal legal aid usually was not sent away without some sort of advice. The high volume of applications in Vancouver restricted time spent with ineligible applicants. The low volume of applications in Burnaby provided the opportunity for the paralegal to spend more time advising ineligible applicants, and to take action on their behalves. On occasion, the paralegal spent up to one day performing some service for an ineligible applicant, when it was obvious that she could resolve the problem. The amount of time spent providing services for ineligible applicants, and the number of ineligible applicants so served were not recorded in any systematic fashion. The time spent on such activities was included in the interviewing related costs. The Burnaby office, through the paralegal, thus provided a unique, hidden service - limited amounts of legal service to persons who did not qualify for legal aid. From a policy perspective, this service may or may not be desirable, however, it was a service which existed and contributed to the average cost.

#### 7.2 Case Management in Vancouver and Burnaby.

Case management included two types of tasks; activities relating to criminal case referral; and staff case administration. Case referrals occurred in the Burnaby office on an occasional basis and in the Vancouver office on a regular basis. Staff case administration was performed in Burnaby and, less frequently, in Vancouver. There was no substantial criminal caseload in Vancouver. The minimal expenditures made for criminal-related staff case administration were not converted into average costs and no comparison of staff case administration costs between the two offices was made.

The average cost per referral in Vancouver was \$5.06 compared to \$10.98 in Burnaby. Case referral activities in Vancouver were primarily performed by a full-time secretary. In Burnaby, the secretary made referrals in addition to her other duties. As was the case with application intake and processing activities, the volume of referrals probably accounted for the major differences in cost between the two offices. The volume of cases to be referred to the private bar in Vancouver was high. Vancouver processing was more efficient than Burnaby processing. Unlike most work activities in Vancouver, case referral was performed by a single individual on a full-time basis. Some of the

apparent efficiency in the case referral process may be attributable to the work habits of one individual.

Case referral in Burnaby occurred only when staff were unable to accept a case. For Burnaby referral costs to be as low as those in Vancouver, the number of cases referred during the same period would have to be increased without increasing the time presently spent on case referral.

Staff case administration activities were activities services performed by the secretary and paralegal for staff lawyers. Activities performed by the secretary included opening, closing and updating files. The paralegal kept the lawyers diaries up-to-date, prepared files and notes for court appearances, and generally performed case-related administrative duties which required limited legal expertise, thus freeing some lawyer time for tasks which required expertise in the law.

The cost associated with staff case administration was \$27.43 per case, of which \$25.79 was secretarial cost and \$1.64 was paralegal cost.

### 7.3 Case Administration: Courtwork in Vancouver and Burnaby.

Costs associated with courtwork-related activities could not be compared between the Burnaby and Vancouver offices, since criminal legal aid casework did not occur in any volume in Vancouver.

Cost for public defence representation and judicare representation were compared. Public defence costs for courtwork activities and support secretarial activities were combined and compared to average tariff payments for judicare cases, plus referral costs.

The total average cost per case of courtwork in Burnaby was \$195.20. Of this amount, lawyer costs were \$148.74 or 76% of the total; paralegal cost were \$46.46 or 24%. When combined with the cost per case for staff case administration (primarily secretarial time) in Burnaby (\$27.43), the cost per case for all aspects of case administration was \$223.70 per case.

On the average, a judicare counsel handling a criminal legal aid case referred from the Vancouver Office received \$226.27 for his or her services and \$10.02 in disbursements, while a Burnaby judicare lawyer received an average payments of \$190.40 per case and \$11.96 in disbursements. Referral

costs were \$10.98 per referral in Burnaby and \$5.06 per referral in Vancouver. As with total costs per case, the cost for services of public defence counsel was more than the costs for judicare counsel acting in the Burnaby court and similar to the cost for judicare counsel acting in Vancouver.

The utilization of a paralegal to perform some duties otherwise performed by the lawyers was probably the most significant reason for a competitive cost per case in the Burnaby Office. The paralegal performed some activities normally performed by a lawyer. These included: case investigation; client and witness interviews; making appearances in court (primarily to fix appearance dates); and, preparing reports (pre-sentence, etc.). It was less costly to have a paralegal perform these activities not requiring a lawyer's expertise, thus freeing the lawyer to spend time on activities requiring professional knowledge.

Use of paralegal staff would not be feasible in all offices. Many private lawyers who regularly accept legal aid cases maintain one-lawyer offices and can not financially support a paralegal. The paralegal in Burnaby indicated that even in the three-lawyer Burnaby office she was not utilized to her full capacity, although she might have been if caseloads were increased, or her duties expanded. For example, she did not speak to sentence although she felt that this was an activity which she could have performed effectively if permitted. More extensive use of a paralegal in the Burnaby office, if coupled with increased caseloads, would reduce the cost per case.

The cost per public defender case in Burnaby was further effected by the office's physical proximity to the Burnaby Courthouse. Much of the time a lawyer spent making court appearances was actually spent waiting in the courthouse for the case to be called. Burnaby staff lawyers were able to move from their office to the courthouse quickly. Since the overwhelming majority of their cases were heard there, they were able to be more efficient in arranging their other work around courttime.

The Public defence counsel and the paralegal were highly visible in the Burnaby Court. Their frequent appearance and continual presence in the courthouse made them logical resource persons for the performance of special services, when no other criminal lawyers or knowledgeable persons were available. Special requests of the public defenders when they were in the courthouse were routinely made by Crown and judges. Public defenders were asked to

appear for individuals who needed legal representation or whose lawyers were unavailable. Public defenders and the paralegal provided on-the-spot counselling services to people who were at court on criminal matters. While Burnaby staff lawyers performed formal duty counsel activities in Burnaby, they also acted as informal "duty-counsel in-residence." The costs associated with these "hidden" services were not calculable. The services were performed primarily during waiting periods in court and were formally allocated to the lawyers' measurable casework as was all court waiting time.

These special services were related to the perceived role of the Criminal Defence Office staff in the Burnaby Court and are covered in depth in Report VI, Public Defence Relationship Analysis. Client views of the role of public defence counsel in court are presented in the Client Satisfaction Analysis, Report IV.

#### 7.4 Cost per Case in Vancouver and Burnaby.

The overall cost per criminal legal aid case handled by the Vancouver Office was the sum of the application cost the cost of case referral, and the average payment to a judicare lawyer. The average cost per criminal legal aid case handled in Burnaby included the cost per application of application processing and the cost per case of staff case administration, courtwork, and courtwork related case administration.

Table 7.4.1 summarizes the average cost per case for Vancouver judicare, Burnaby judicare and Burnaby public defender cases. The average cost of a Vancouver criminal legal aid case which included an eligibility assessment interview was \$263.66. The average cost associated with a Burnaby public defender case was \$234.65, and \$225.36 for Burnaby judicare cases which included an eligibility assessment interview. The average cost for cases did not include an eligibility assessment interview was \$253.07 for a Vancouver judicare case, \$227.62 for a Burnaby public defence case, and \$218.53 for a Burnaby judicare case.

The average judicare costs were calculated for initial disposition of legal aid cases. The Burnaby public defender cases included some limited criminal appeal work (2.8% of cases in 1980). The costs of appeals cases could not be separately estimated. Their costs inflated the average case costs of non-appeal cases. If appeal cases take twice as long as initial criminal cases, the average case costs would be reduced \$5.28. If appeal cases took 2 1/2 times as long average case costs would be reduced \$7.64. These reductions effectively eliminate the small cost difference between judicare and public defence cases in Burnaby.

TABLE 7.4.1

	Vancouver Judicare	Burnaby Judicare	Burnaby Public Defence
Average cost per case with eligibility assessment	\$263.66	\$225.36	\$234.65
Average cost per case without eligibility assessment	\$253.07	218.53	\$227.62

Burnaby cases, both judicare and public defence, had lower average costs than Vancouver judicare cases. This difference was largely due to the higher average tariff payment made to Vancouver judicare lawyers (\$236 versus \$202). The difference in cost between cases handled by judicare and public defence counsel in Burnaby was not substantial. Judicare cases averaged about \$9 less than public defence counsel cases. Individual payments varied so much, that in another year the costs might have been reversed.

When the Salvation Army courtworkers handled application intake activities, the average cost per case in Vancouver and Burnaby was reduced. The average cost associated with providing application intake and eligibility assessment interviews in legal aid offices was found to be significantly greater than the average cost associated with Salvation Army application intake and eligibility assessment without interview. Using the Salvation Army as an intake point was more efficient than processing non-interview applications in the office.

Eligibility assessment activities which included an interview were less costly on a per application basis in Burnaby. The complexities of the interviewing process in Vancouver required the use of lawyers for interviewing increasing the overall cost. Head office lawyers were also used, increasing costs.

The use of a paralegal in Burnaby appeared to reduce per case costs in Burnaby. By performing some tasks otherwise discharged by lawyers, the cost associated with courtwork activities in Burnaby was reduced. Use of paralegals to reduce costs are limited, however, since a one or two lawyer office could probably not support a paralegal staff member. Since most judicare lawyer offices are one or two lawyer operations, it probably would not be feasible for the majority of judicare offices to effectively employ a paralegal. Private offices also often take on articling students who perform many services which might be provided by a paralegal. Few private offices could support both articling students and paralegals. The cost-benefit of employing paralegals is structurally related to the size of the office, and consequently is more likely in larger staff operations.

The difference in costs between judicare cases handled in Vancouver and those handled in Burnaby was large and worth special discussion. Judicare cases in Burnaby averaged \$38 less than judicare cases in Vancouver. Most of this difference came from differential payments under the tariff. The average judicare payment in Burnaby was more than \$30 below the payment in Vancouver. Most of this difference can be linked back to the structure of the tariff and differences between cases in Vancouver and Burnaby. Vancouver cases included a high proportion of multiple information cases. As discussed in the Tariff Analysis, Report VI, multiple information cases were paid at higher rates than single information cases.

The difference between Vancouver and Burnaby judicare costs places the costing analysis in perspective. Judicare costs depend on the charging patterns in courts and distribution of procedures used by counsel. Public defence costs depend on average time spent by public defence counsel. Judicare tariff costs are generally beyond the administrative control of the Legal Services Society. The Society sets a tariff schedule, but individual billings from lawyers depend on conditions over which the Legal Services Society has no direct control. Staff counsel costs are potentially more controllable. Staff counsel are paid for hours which can be used to provide many services, not for services provided.

#### 8. Alternative Costing Models

The average costing figures presented in the previous sections were based on information gathered in both Vancouver and Burnaby. As discussed, average costing analysis should not be the only method used to analyze what happens in a small operation such as the office in Burnaby. Averages are calculated by dividing total costs by the number of units of service. Average case costs are total case costs divided by the number of cases handled. Average application processing costs are total application processing costs divided by the number of applications. Average referral costs are total costs for making referrals divided by the number of referrals. If the number of cases, applications, and referrals are relatively small, as they were in Burnaby, then average costs can be decreased by relatively small increases in case, application or referral numbers. An analysis of costing in small offices should also include an analysis of what happens when workloads are increased or decreased.

The average costing figures in the previous sections represent costs based on 1980 dollars and expenditures. Projections based on future expected costs must also be made.

Finally, costing studies should not be limited to costs incurred by organizational structures providing the direct services. Cost impacts on other organizations should be computed. A cost analysis of a public defender mode of delivering legal aid should include, at the very least, costs to the criminal justice system.

To improve the costing analysis, several sub-analyses were performed:

- Costs were estimated from average costs for alternative case volumes in the Burnaby office;
- Costs were estimated for anticipated changes in tariff fees;
- Costs were estimated for criminal defence offices of various sizes;
- Costs were compared for tariff payments to judicare lawyers and equivalent tariff payments for public defence counsel; and
- Criminal justice system costs were estimated.

#### 8.1 Costs For Alternative Case Volumes.

Average costing methods have limitations when used to analyze small operations. Average costs are computed by dividing a total cost by some units of service. When an operation is small, total costs and units of service are relatively small. When these numbers are small, small changes can produce large changes in averages. Three, four or five lawyer offices are a reasonable size for criminal defence operations in most of British Columbia (See Distributional Impact Analysis, Report VII). Average costs, computed at an office level may vary substantially across smaller criminal defence offices.

The average case cost in the Burnaby Criminal Defence Office was \$234 per case. The average per judicare case cost was \$225. If the caseload in the criminal Defence Office were increased one case per lawyer per month, the average public defence case cost would drop to \$223 or

effectively the same average cost as a judicare case. An increase in four cases per lawyer per month would decrease the average case cost for a public defence case to \$192, thirty-three dollars below the average judicare cost.

Small decreases in caseloads can also make a small operation less efficient. A decrease in the public defence counsel's caseload of one case per month per lawyer would increase the average case costs to \$249 per month. Similarly a decrease of four cases per month per lawyer would increase average case costs to \$306. If there were many public defence offices, the costs to Legal Aid across the offices should stabilize, but the costs computed for individual offices would vary. Given the potential variability in average case costs at a local level, the small (\$9) difference between judicare and public defence case costs in Burnaby should not be considered too significant.

For a public defence office in most British Columbia municipalities to remain cost efficient, at a local level of analysis, caseloads would have to be maintained.

#### 8.2 Costs for Estimated Changes in the Tariff.

There was an increase (of around 8%) in the tariff during 1980 and another revision of the tariff occurred in 1981. Table 8.2.1 contains projections of costs for judicare and public defence modes of delivering legal aid with revisions to the tariff. The figures in the table are projections of costs with a tariff increases by 38% (the actual average increase) in 1981 and with the and with the tariff remaining stable for three years, and salary and fixed costs increasing at an annual rate of 18%.

As can be seen from the table, the relative costs of the two modes of delivering legal aid shift under tariff increases and projected increases in fixed costs. In the year following a 38% increase in the tariff, the public defence mode has a lower, by about \$60, projected case cost. In the years following that, if the tariff is not increased again, the judicare mode regains its cost advantage.

TABLE 8.2.1  
Projected Costs Under Tariff Revisions

	1980	Increased (4%) 1981	Increased (38%) 1981	1982	Tariff 1983
Burnaby-Judicare					
Tariff Costs & Disbursements	202.36*	210.45	290.42	290.42	290.42
Support Costs					
With interview of client		23.00	27.14	32.02	37.79
Without interview of client		16.17	19.08	22.51	26.57
Total					
With interview		233.45	317.56	322.44	328.21
Without interview		226.62	309.30	312.93	316.99
Burnaby-Public Defence					
With interview		234.65	276.89	326.73	385.54
Without interview		227.62	268.59	316.93	373.99

\*The current 1980 figure reflects part of the 8% increase. The average expected payment under the tariff is projected to be about 4% above the yearly average for 1980.

### 8.3 Alternative Costs Based on Tariff Changes.

The costing estimates which have been described so far compared costs to Legal Aid for a public defence mode and a judicare mode of delivering legal aid. The costs to Legal Aid are salary and office expenses in a public defence mode and referral costs, with some limited central office expenses, in a judicare mode. It is possible to compare judicare and public defence costs by comparing tariff equivalent billings for public defenders with actual judicare billings. This type of costing analysis has some appeal, but also serious logical problems. The problems will be described, and then the tariff comparisons will be made. The comparisons must be viewed in light of the general problems.

During the course of the evaluation, staff in the Public Defence Office filled in regular judicare tariff billing forms after the completion of a case. While staff counsel were not paid under the tariff, equivalent charges were computed and submitted. The tariff equivalent billing was \$111.05, without disbursements, for calendar year 1980. During the same period judicare counsel's payments averaged \$190.40 without disbursements. The average tariff equivalent billing was lower than the average cost to the Legal Services Society computing from salary and office expenses.

It would be tempting to assume that, if the cases handled by public defence counsel were referred to private counsel, the cost to the Legal Services Society would be reduced by the difference between the average cost calculated by salary and office expenses and the tariff equivalent billing. There is, however, no indication that cases currently handled by public defence counsel would be handled the same way by judicare counsel.

It was, in fact, one of the major goals of this evaluation to determine if similar cases were handled in a similar manner. The report on the relative effectiveness of

the two modes of delivering legal aid (Report II) contains details of this analysis, but generally differences were found in how cases were handled. A major difference was a higher rate of taking cases to trial amongst judicare counsel. The higher trial rate produced higher billings. It is probable that, if the public defence counsel's cases had been referred to judicare counsel, there would have been more trials and that the average billing for these additional cases would have been close to the average billing of the cases that were already handled by judicare counsel.

Costs to the Legal Services Society would probably not have been reduced if all cases had been referred to private counsel. Average tariff equivalent billings for public defence counsel cannot be directly compared to actual tariff billing by judicare counsel. Since cases were handled differently by the two groups of lawyers, their billings were naturally different. The relevant comparison is the actual cost to the Legal Services Society under the two modes of delivering legal aid.

#### 8.4 Staff/Judicare Costs in Other Offices.

The Burnaby Criminal Defence Office is the only full-time public defence office in British Columbia. Criminal legal aid cases were, however, handled by staff counsel in other legal aid offices around the province. In Burnaby, cases were referred to private counsel when it was determined that workloads were too heavy or conflicts of interest between co-accused clients arose. The cases handled by judicare counsel and public defence counsel were directly comparable. In other offices, criminal cases handled by staff counsel and referred to private counsel may not be comparable. Staff counsel may have selectively retained certain types of cases. With this caution, the average payments to judicare counsel for criminal cases and tariff equivalent billings are presented in Table 8.4.1. Only those locations which have a substantial staff criminal caseload were included in the table.

As can be seen from the figures, the tariff equivalent billing for staff cases is uniformly lower than the judicare billings. Provincially, the difference is about \$85.00. Different court procedures were used by staff and private counsel. If the Legal Services Society had referred out all criminal cases, the total tariff equivalent billing would

TABLE 8.4.1

Staff Counsel and Judicare Counsel  
Tariff Billings\* - 1980

	Judicare Cases		Staff Cases	
	Billing	Number	Billing	Number
Province	\$191.53	18,185	106.22	2,076
Campbell River	205.02	232	88.63	308
Nanaimo	146.27	501	105.32	99
Burnaby	190.40	366	111.05	494
Chilliwack	169.70	582	114.11	132
Williams Lake	168.86	879	118.20	128
Kamloops	171.32	347	118.38	120
Prince George	157.65	1,063	103.54	154
Prince Rupert	190.54	300	131.47	183

\*Only those locations which have about 100 or more staff criminal cases were included in the table



have been \$220,513. If these cases were handled similarly to actual judicare cases the actual tariff billing would have been \$397,616.28 or \$177,104 more than the tariff equivalent billing.

### 8.5 Criminal Justice System Costs.

The cost projections previously discussed examined costs to the Legal Services Society, and therefore to the provincial and federal government, for the delivery of criminal legal aid representational services. Costs of delivering criminal legal aid are not limited to Legal Service Society costs. For criminal cases there are associated court system costs and correctional system costs. If there are processing and outcome differences for the two modes of delivering legal aid, there will be associated differences in criminal justice system costs.

#### 8.5.1 Court Costs.

Court Services within British Columbia did not collect court costs in a manner which made it possible to directly calculate court system costs for the two modes of delivering legal aid. Some estimates were possible and are presented in the following section.

#### 8.5.2 Number of Appearances.

For the life of the experimental project, January, 1979 to December 1980, Burnaby Provincial Court handled 4,523 pretrial appearances, 3,486 for trial appearances and 559 post trial appearances or a total of 8,568 appearances. In Vancouver there were 33,318 pretrial appearances, 20,460 for trial appearances and 3,069 post trial appearances or 56,847 appearances in all. Court costs, excluding judiciary, Crown and occupancy costs, for the same period were \$927,734 in Burnaby and \$5,499,206.

Proportional time breakdowns for the different types of appearances were not known or made available for estimates. Without these proportions cost estimates simple cost per appearance estimates were made. Total costs were divided by total number of appearances. In Burnaby the average cost per appearance (total costs/number of appearances) was \$108.28. In Vancouver the cost was \$96.74. Costs for salaries for judges and Crown counsel would, of course, increase these costs if they were included. In Burnaby and Vancouver the number of court appearances for judicare and public defence counsel clients were similar. Most cases had a first appearance, fix date appearance and trial date

appearance. The Effectiveness Analysis (Report II) compares the processing of public defence and judicare cases in depth. Generally there were few differences in timing of appearances. Most dispositions were made on the day trial was scheduled. Guilty pleas, stays were primarily entered on trial date. Few adjournments occurred in either judicare or public defender cases.

A typical three appearance case had an associated court system costs of \$325 in Burnaby and \$290 in Vancouver. The cost would be greater if judge and Crown salaries were included. Even without these salaries, court system costs exceeded Legal Service Society per case costs. If either mode of delivering legal aid, judicare or public defender, reduced the number of court appearances there would be cost savings within the court system.

More public defence cases ended in guilty pleas than judicare cases, though often on trial date. In some court systems this pattern might produce savings. A proportion of all cases which are scheduled for trial do not actually result in a trial. If a court over schedules cases on a particular day for trial in the expectation that a certain proportion of cases will not go to trial, then non-trial dispositions on trial date use less court resources than trials. If the court does not over-schedule, then trials which are scheduled but end with a stay, guilty plea or with the client failing to appear, require similar court resources (court space and scheduled court time) to cases which end in trial.

Throughout the province some courts schedule in expectation of some cases "collapsing", some do not. In a broader public defence system, if the higher guilty plea rate persisted, there would be court system savings in some courts.

#### 8.5.3 Correctional System Costs.

A major difference between the judicare and public defence mode of delivering legal aid was the sentences received by clients. Public defender clients received fewer sentences to jail than judicare clients (see Effectiveness Analysis, Report II) the differential sentencing pattern has great impact on correctional system costs. Jail is expensive. Small changes in the proportion of people being sentenced to jail can have large, aggregate cost implications. Considering cost alone, and not the effectiveness of the sentence in reducing criminal behavior, a defence system which produces fewer jail sentences is less

expensive than a system which produces more jail sentences.

In Burnaby about 60% of legal aid clients, both judicare and public defender, received a guilty outcome in single charge cases. Of those clients with guilty outcomes, about ten percent more judicare clients were sentenced to jail than defender clients. Single charge cases made up about 50% of the total number of cases. Over all cases, single and multiple charge, 5% more judicare clients were sentenced to jail.

In multiple charge cases there were no real differences in the number of clients who would be expected to receive terms of incarceration. The major difference between the two modes, in terms of proportion of clients ultimately incarcerated, came in single charge cases. This difference was about 10%. The average jail sentence for judicare clients was 4.3 months (see Effectiveness Analysis, Report II). The impact of the small percentage difference on correctional costs is great.

British Columbia maintains open, closed and community correctional facilities. Each type of institution, as well as each individual institution, has a different per diem cost. To estimate the associated criminal justice system costs, a provincial average for institutions most likely to receive criminal legal aid clients sentenced to jail was calculated for fiscal year 1979/80. The technical appendix contains the correctional systems data and projection technique used to calculate an expected per diem cost. The average per diem cost was just under \$50 per day (\$49.50). In single charge cases the average jail term was 4.3 months. The monthly cost of incarceration was, therefore, \$1507. This monthly cost is obviously greater now. With a 12% increase in costs for the next fiscal year the cost should be \$1688 per month per inmate.

For 1000 clients, handled by judicare and public defence counsel, 50 more judicare clients would be expected to be sent to jail. With the average term found in Burnaby, 4.3 months, the judicare mode would cost about \$324,000 for every 1000 cases. Across the province there are around 17,000 criminal legal aid cases a year. If the differential sentencing pattern, about 5% more judicare clients being sent to jail, the cost difference for a judicare mode could be over \$5,508,000 in 1979/80 dollars or \$6,169,640 in 1980/81.

Projecting conservatively, if the differential incarceration rate were reduced to 3%, the differential cost would be \$194,000. Using average costing methods, the differential cost would be \$200,000. Conservative estimates should be used since average costing has limitations.

Correctional cost data was not available to perform non-aggregate analysis. If correctional facilities have ample bed space, some marginal changes in incarceration rates can be handled at a lower cost. At some point, however, slack in the system would be eliminated and new facilities needed. Marginal costs increase greatly at that point. While these projections were based on aggregate data, they do point out the dramatic cost implications of small changes in incarceration rates. The cost impact of differential defence effectiveness is major.

#### 8.5.4 Other Costs.

Institutional system costs are not the only criminal justice system costs which should be considered. Probation costs and income from fines should also be considered. Judicare clients receive probation, community work or restitution sentences less frequently than public defence clients. Twenty-four percent of public defence clients received probation, community work or restitution, primarily probation. Only 13.9% of judicare clients were given terms of probation, community work or restitution. Probation supervision costs were not available, but estimates were calculated by dividing probation total costs for fiscal year 1979/80 by the number of case month and investigations (see technical appendix for calculations). As a rough estimate one month of probation costs about \$75. This is lower than monthly imprisonment costs (\$1507 to \$1688). The higher probation costs for public defence clients reduces the difference in criminal justice system costs somewhat. For 1000 clients, 12% more public defender clients would be expected to receive terms of probation. With average probation terms of 6 months, the public defender mode would cost \$45,000 more. With 12 month average terms the public defender system would cost \$90,000. These differences are small compared to higher correctional systems costs for judicare defence.

#### 8.5.5 Summary.

The difference in cost to the Legal Service Society (and therefore to the provincial and federal government) for two modes of delivering legal aid is not great. The potential difference in cost to the correctional system is, however, great. The lower rate of incarceration for clients of public defence counsel produced lower correctional costs. These cost savings were somewhat offset by additional probation system costs under the public defence mode, but the major cost advantage lies with the public defender system.

## 9. Conclusion

Under the experimental structure in Burnaby, the average costs per case for public defender cases was marginally higher than for judicare cases in Burnaby, but less than judicare cases in Vancouver. Judicare costs in Burnaby were \$225 per case, when eligibility assessment included an interview. Costs in Vancouver were \$264 per case with an eligibility interview. Burnaby public defence average case costs were \$235 with an eligibility interview. Judicare costs in Burnaby were \$218 per case, when eligibility assessment did not include an interview. Costs in Vancouver were \$253 per case without an eligibility interview. Burnaby public defence average case costs were \$228 without an eligibility interview.

Analysis was also performed to project costs under increased tariffs and under projected staff salary increases. Generally the staff model of delivering legal aid was found to be cost competitive with the judicare mode under expected tariff increases for one to two years after an increased tariff of 38%. In the third year following the tariff increase the judicare mode regained its cost advantage.

The primary cost advantage in the public defence mode came from criminal justice system costs. Burnaby Public Defence counsel clients were sentenced to jail less frequently than judicare clients. Because of the system expense of imprisonment, the public defence mode was overall less costly than the judicare mode. Public defender operations, because they may produce differential outcomes for clients, have the potential of reducing correctional costs. It was projected that the correctional institutional savings might be as large as \$200,000 for every 1000 simple legal aid cases handled by public defence counsel rather than judicare counsel.

## Appendix A

Services in the Burnaby Criminal Defence Office and the Vancouver Regional Office were classified into four functional categories:

- Application Management
- Case Management
- Case Administration
- Office Management

These functional categories and the activities included in them are described in detail in this Appendix. The Appendix also contains tables indicating the staff who perform the described activities in Burnaby and Vancouver, as well as an indication who usually performs the activities in a private practice.

### 1. Application Management.

The services or activities placed in this category include all aspects of providing information about the availability of legal services, as well as taking, processing and reviewing applications for legal aid. All activities which involve the criminal legal aid application up to the time when the case/client is referred to a lawyer are considered part of the general application management function. Different staff (e.g., secretaries, lawyers, articling students, and paralegals) provided different specific services organized around this function. Specific activities which are considered part of application management, and the staff who performed them are detailed in Table 1.1.

TABLE 1.1

## Activity by Legal Aid Staff

	BURNABY	VANCOUVER
APPLICATION MANAGEMENT		
Preliminary Screening		
Communications	S	S
Application related	S	S
Non-application related	S	S
Office reception	S	S
Other screening activities	S	S
Application Intake		
Office reception	S,SA	S,SA
Consultation with client	S,SA	S,SA
Communications	S,SA	S,SA
Other intake activities	S,SA	S,SA
Other evaluation activities	S,SA	S,SA
Eligibility Assessment		
Eligibility interview	S,P	S,SL,AS,P
Office reception	S	S
Consultation with client	P	S,SL,AS,P
Application related	P	S,SL,AS,P
Non-application related	P	S,SL,AS,P
Review	P	S,SL,AS,P
Communications	S,P	S,SL,AS,P
Application related	S,P	S,SL,AS,P
Non-application related	P	S,SL,AS,P
Other eligibility activities	S	S
Eligibility without interview	S	S
Review	S	S
Communications (phone calls, etc)	S	S
Other assessment activities	S	S

SL = Staff Lawyer      P = Paralegal      S = Secretary  
AS = Articling Student      SA = Salvation Army

2. Preliminary Screening.

Preliminary screening includes a set of activities which centre around determining whether or not a potential client ought to make an application for criminal legal aid. The services directly involved are:

- Communications;
- Office reception activities;
- Other preliminary screening activities.

Communications involves answering phone enquiries about legal aid. When an enquiry results in the actual completion of an application form, it is considered application-related. On the other hand, when an enquiry results in a referral to another social services agency, or another legal services agency and not in the completion of an application form, the enquiry is considered non-application-related.

Office reception involves answering enquiries and attending to individuals who walk into the Legal Aid Office.

Other preliminary screening activity is a general category covering various tasks which occasionally occur when screening applicants.

In both Vancouver and Burnaby, preliminary screening activities are performed by secretaries. In Vancouver, these activities are largely performed by a full-time switchboard operator, a full-time receptionist, and the office floater.

### 2.1 Application Intake.

Application intake activities include all activities actually involved in the taking of an application. The tasks involved include:

- Office reception;
- Consultation with an applicant;
- Other application intake activities.

Office reception covers activities related to receiving applicants in the office.

Consultation activities involve answering questions either over the phone, in writing, or asked in person, about the application, and any communications necessary to set up appointments for an interview.

In both the Vancouver and Burnaby Legal Aid Offices all application intake activities are performed by secretaries. As noted above, in Burnaby these tasks are primarily performed by one full-time secretary (and one half-time secretary during in part of the study period). In Vancouver, these activities are performed by the full-time receptionist and the switchboard operator. In both Burnaby and Vancouver duty counsel, staff counsel and paralegals occasionally take applications, but it is not a regular part of their jobs.

Salvation Army members also perform application intake activities. For some cases, applications for criminal legal aid are made at the Salvation Army Corrections Service Office; otherwise the applications are made at Burnaby and Vancouver Provincial courthouses or jail cells. When applications are made at Salvation Army Offices the associated tasks include office reception, communications, and consultation with the applicant. When applications are taken in the courthouse or jail, office reception obviously does not occur.

### 2.2 Eligibility Assessment.

The group of activities classified under the heading of eligibility assessment include all activities associated with the assessment of the applicants' qualification for legal aid. Assessments are made with and without interviews of applicants.

Eligibility assessment with interview is the primary method for handling all applications made directly to Legal Aid Offices or staff of the Legal Services Society (whether in the office itself, or in the courthouse). Assessment tasks include: office reception; consultation with the applicant; application review; and communications with applicants.

Office reception involves receiving the applicant and directing him/her to the interviewer.

There were two types of consultation activities included in the analysis: application-related and non-application-related. An applicant declared ineligible for criminal legal aid may receive some legal services, ranging from information or advice, to having a stay/withdrawal secured for him, at the discretion of the interviewer. Such activities are considered to be application related and were included in the cost analysis. Non-application-related consultation refers to any activity or service which the interviewer might perform for an applicant who is considered ineligible for criminal legal aid which is not related to the legal problem which brought the applicant into the office.

Application-related consultation refers to the activities performed during the interview for an applicant who is determined to be ineligible for criminal legal aid.

The category-other eligibility assessment activities includes tasks such as investigation required to determine eligibility and consultation with other interviewers.

Eligibility review activities refer to the actual process of deciding whether an applicant is or is not eligible for criminal legal aid. Communications, as in consultation with the applicant, are divided into two types: 1) any phone calls or letters made during the course of eligibility assessment about the application itself, the application investigation or the applicant regarding his/her application; 2) any phone calls or letters which are made or written for the applicant when he/she is determined to be ineligible for legal aid.

Eligibility assessment without interview is the method used to handle applications forwarded to the Burnaby and Vancouver Legal Aid Offices by the Salvation Army and other volunteers. There is no interview for forwarded applications. Applications are reviewed and eligibility determined without an interview. The applicant is informed of the review outcome by telephone and by letter.

In Burnaby eligibility assessment which includes an interview, is performed by the paralegal and full-time and part-time secretaries. The secretaries in Burnaby also perform office reception and application-related communications, while the paralegal conducts application interviews/consultations, the review process, non-application-related communications and any other eligibility assessment activities.

In Vancouver, eligibility assessment activities which include an interview are performed by a secretary who also serves as receptionist; application-related communications are performed by a secretary who operates the switchboard and by other secretaries. Consultation with the applicant (interview), both application-related and non-application-related, the actual application review, non-application-related communications and other eligibility assessment activities are performed by a secretary, a paralegal, staff lawyers and articling students.

Eligibility assessment activities, as noted above, which do not include an interview (applications taken by Salvation Army or social service agencies) are performed by secretaries in Vancouver and in Burnaby.

### 2.3 Case Management.

Case management includes two distinct sub-groupings of activities, both involving cases. Throughout the evaluation study a case has been defined as a cluster of related changes or informations/indictments against one client. Case management consists of case referral administration activities and staff case administration activities.

Case referral administration involves referring a case to a member of the private bar, once the client's application for legal aid has been approved. Staff case administration includes tasks performed in connection with the maintenance of the staff lawyers' case files.

Table 2.3.1 provides a detailed outline of the specific activities and the type of staff who perform them.

### 2.4 Administration Case Referral.

Case referral administration involves assigning cases to judicare defence lawyers, once the criminal legal aid application is approved. Tasks involve the actual assignment of cases to lawyers, and communications with lawyers and clients (usually phone calls and follow-up letters) filing and other referral activities. In both Burnaby and Vancouver one secretary administers the referral process.

### 2.5 Case Administration.

Case administration involves opening case files, maintaining case files, closing files.

Opening a case file involves communicating with clients by phone and/or letter, notifying lawyers of case assignment, and opening office files for each case. The maintenance of a case file, once it is open, includes an assortment of tasks such as filing, typing, client communications, and office reception activities. For example, typing and filing required for file maintenance include the typing and filing of any legal documents, particulars of a case and witnesses' statements.

TABLE 2.3.1  
Activity by Staff Counsel

	BURNABY	VANCOUVER
CASE MANAGEMENT		
Administration: Case referral		
Assignment of cases	S	S
Communications with lawyers, clients	S	S
Filing	S	S
Other referral administration	S	S
Case Administration		
Opening files	S	S
File maintenance	S,SL,P	S,SA
Filing	S	S
Typing	S	S
Communications	S,SL,P	S,SL,AS
Office reception	S	S
Other maintenance activities	S,SL,P	S,SL,AS
Closing files	S,SL	S,SL,AS
Evaluation related activities	S,SL,P	S,SL,AS

SL = Staff Lawyer      P = Paralegal      S = Secretary  
AS = Articling Student      SA = Salvation Army

Communication activities include phone calls or letters to witnesses, the client Crown counsel, and other members of the court, and lawyers acting for the co-accused. Office reception activities involves receiving and directing witnesses and clients to lawyers' offices.

Closing files involves the completion of necessary forms; such as the billing form, and the transmittal of the forms to the proper office. Case administration of evaluation-related activities involves completion of evaluation forms. The cost of evaluation activities is subtracted from total costs in average cost computations.

In the Burnaby and Vancouver Legal Aid Offices, the tasks involved in opening files are performed by secretaries. File maintenance is performed by various of staff members. Filing and typing related to case file maintenance, and related office reception tasks are performed by secretaries.

Communications activities relating to maintenance of a case file are performed by secretaries, staff lawyers and a paralegal, in the Burnaby Criminal Defence Office, and by secretaries, staff lawyers and articling students in the Vancouver Regional Office. The tasks required to close a file are performed by both secretaries and lawyers in both Vancouver and Burnaby. Evaluation-related activities are performed by secretaries, staff lawyers and the paralegal in the Burnaby Office; by secretaries, staff lawyers and the articling student in the Vancouver Office.

#### 2.6 Case Administration: Court Work.

This category includes legal process-related activities performed during the course of a criminal case, primarily court appearances and related lawyer and staff activities. The detailed activities and the types of staff who performed them are outlined in detail in Table 2.6.1. The Table also contains a description of the usual staff who perform these activities in Judicare offices.

TABLE 2.6.1  
Activity by Legal Aid Staff

	BURNABY	VANCOUVER
ADDENDUM: CASE ADMINISTRATION; COURTWORX; SAMPLE LAWYERS		
Duty Counsel (appearances in court prior to lawyer assignment)	SL,P	L
Pretrial Appearances		
First appearance	SL,P,DC	SL,AS,DC
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications: phone calls, letters	SL,P	SL,AS
Bail Hearing		
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications: phone calls and letters	SL,P	SL,AS
30/90 Day Review		
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications: phone calls and letters	SL,P	SL,AS

	BURNABY	VANCOUVER
Competency Hearing		
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal research	SL	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications; phone calls and letters	SL,P	SL,AS
Other Appearances		
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL	SL,AS
Preparation; submissions; examination of witnesses	SL,P	SL,AS
Communications; phone calls and letters	SLP	SL,AS
Preliminary Hearing		
Court appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications: phone calls and letters	SL,P	SL,AS
Trial Appearances		
Court Appearances (including waiting and travel time)	SL,P	SL,AS
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL,P	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications: phone calls and letters	SL,P	SL,AS
Post-Trial Appearances		
Sentencing		
Court appearances (including waiting and travel time)	SL,P	SL,AS



**CONTINUED**

**1 OF 2**

	BURNABY	VANCOUVER
Preparation	SL,P	SL,AS
Consultation with client	SL,P	SL,AS
Legal Research	SL,P	SL,AS
Preparation: submissions; examination of witnesses	SL,P	SL,AS
Communications; phone calls and letters	SL,P	SL,AS
Appeal: Conviction		
Court appearances (including waiting and travel time)	SL	SL
Preparation	SL	SL
Consultation with client	SL	SL
Legal research		
Preparation: submissions; examination of witnesses	SL	SL
Communications: phone calls and letters	SL	SL
Appeal: Sentence		
Court appearances (including and travel time)	SL	SL
Preparation	SL	SL
Consultation with client	SL	SL
Legal research		
Preparation; submissions; examination of witnesses	SL	SL
Communications: phone calls and letters	SL	SL

SL = Staff Lawyer      P = Paralegal      DC = Duty Counsel  
AS = Articling Student      SA = Salvation Army  
S = Secretary

### 3. Case Administration: Court Work.

The term Case administration court work is used to describe activities performed by lawyers during a case. The activities are organized by type of appearance, with all types of appearances represented. Since similar activities are involved with each appearance, the tasks are discussed in full only once and not repeated for each appearance.

#### 3.1 Duty Counsel.

Duty Counsel activities refer to all legal advice given and all appearances made in court for an individual prior to the assignment of counsel. In Burnaby Court, staff lawyers perform duty counsel functions, with the paralegal assisting. In Vancouver Provincial Court duty counsel activities are provided by the private bar for an fee. One staff lawyer also performs provides duty counsel services.

#### 3.2 Pretrial Appearance.

Pretrial appearance activities include all court appearances, and related case preparation. Pretrial appearances specifically include first appearances, bail hearings, bail reviews, thirty or ninety day reviews, competency hearings, preliminary hearings and any additional appearances before trial date. Pretrial appearance activities include court appearances and preparation for court. Court appearance activities include travelling to and from the court and waiting in the courthouse itself.

Case preparation involves consultation with clients, legal research, preparation of submissions, examination of witnesses and any related communications activities either phone call conversations or letters.

First appearance can be made by a lawyer serving a duty counsel, when no lawyer had yet been assigned to the case. For cases which are being handled by staff lawyers from the Burnaby Legal Aid Office a staff lawyer or the paralegal acts the first appearance. For cases which are assigned to Burnaby judicare lawyers, a Burnaby judicare lawyer may act for the client the first appearance if the case is referred before the first appearance. In Vancouver duty counsel or assigned counsel act for the client at the first appearance.

In the Burnaby Legal Aid Office, all aspects of case preparation are performed by staff lawyers, with the assistance of the paralegal, except legal research which is done exclusively by staff counsel.

### 3.3 Trial Appearances.

Trial appearance activities include all court appearances for a trial and related case preparation. Descriptions of these activities and tasks, and details of staff who perform them in each office are identical to that which was described in the Pretrial Appearance section and are not repeated here.

### 3.4 Post Trial Appearances.

These activities include all post trial court appearances and related case preparation. Descriptions of these activities and tasks and details staff who perform them in each office are identical to that which was described in the Pretrial Appearance section and are not repeated here.

### 4. Office Management.

All activities which are related to the actual maintenance of the office and not case work are included in this category. The activities are for the most part, similar to those performed in most legal offices. Table 4.1 provides a detailed outline of the activities involved and the staff who perform the related tasks. The activities categorized as Office Management activities are:

- Budgeting
- Office maintenance
- Personnel management
- Record keeping
- Evaluation activities

#### 4.1 Budgeting.

Budgeting activities involve expenditure planning and estimation of future income and expenses at the office level. In the Burnaby and Vancouver Legal Aid Offices these activities are performed by a staff lawyer.

TABLE 4.1.1  
Activity by Legal Aid Staff

	BURNABY	VANCOUVER
<b>OFFICE MANAGEMENT</b>		
Budgeting	SL	SL
Office Maintenance		
Office accounting: non-case related	S	S
Other office maintenance activities (ordering supplies, banking, office upkeep, library maintenance)	S	S
Personnel Management		
Maintaining duty counsel assignments	SL	SL
Staffing (hiring, firing, promotions, performance interviews)	SL	S,SL
Maintaining lawyer lists (referrals)	S	S
Record Keeping		
Compiling statistics	S	S
General filing: non-case related	S	S
General typing: non-case related	S	S
Office Management: evaluation related activities	S	S

SL = Staff Lawyer      P = Paralegal      S = Secretary  
AS = Articling Student      SA = Salvation Army

#### 4.2 Office Maintenance.

Office maintenance include activities and tasks which are related to the physical operation of the office itself. Non-case-related accounting involves receiving, recording and paying bills and managing petty cash. Other office maintenance activities include ordering supplies, banking, office upkeep (physical maintenance) and library maintenance. Secretaries generally perform office maintenance activities.

#### 4.3 Personnel Management.

Personnel management includes maintaining duty counsel assignments, handling staffing, and maintaining lawyer lists for referral. Maintaining duty counsel assignments involves assigning specific days to individual lawyers to ensure the daily presence of duty counsel in court. Staffing activities includes hiring, firing, promotions, performance evaluations and performance interviews. The maintenance of lawyer referral lists requires updating of an active file of lawyers who accept legal aid referrals.

In Burnaby, the task of maintaining duty counsel assignments is performed by a staff lawyer, while in the Vancouver Legal Aid Office, these activities are performed by both a staff lawyer and a secretary. In both the Burnaby and Vancouver Legal Aid Offices lawyer referral lists are maintained by secretaries.

#### 4.4 Record Keeping.

Record keeping activities include compiling statistics and general non-case related filing and typing. In Burnaby and Vancouver, statistics compilation and general non-case related typing and filing are performed by secretaries.

#### 4.5 Office Management Evaluation Related Activities.

These activities include non-case related tasks which can be linked to the evaluation project. The tasks include keeping activity logs, compiling statistics, typing and filing. In both Legal Aid offices secretaries performed these tasks. The costs of these activities are subtracted for total case costs.

**END**