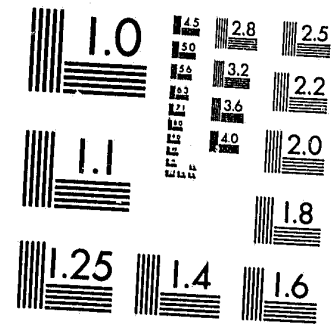


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MAXIMIZING PUBLIC DEFENDER RESOURCES

MANAGEMENT REPORT

July 1983

Abt Associates Criminal Defense Group

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TABLE OF CONTENTS

	Page
Chapter 1: INTRODUCTION	1
1.1 Statement of the Problem	2
1.2 Methodology	4
1.2.1 Literature Review and Potential Site Identification	4
1.2.2 Telephone Survey	5
1.2.3 Preliminary Site Visits	7
1.2.4 Final Site Visits	8
1.3 Organization of the Report	9
1.4 Conclusion	11
Chapter 2: PUBLIC DEFENDER SERVICE DELIVERY	12
2.1 Introduction	12
2.2 Public Defense Services	13
2.3 Early Representation	15
2.4 Professional Staffing Patterns	21
2.4.1 Vertical Representation	21
2.4.2 Specialization	22
2.4.3 Team Management	23
2.5 The Role of Legal Assistants	29
2.6 Summary and Conclusions	36
Chapter 3: PERSONNEL MANAGEMENT	39
3.1 Introduction	39
3.2 Recruitment and Selection	39
3.3 Attracting and Retaining Staff	41
3.4 Training and Development	45
3.5 Supervision and Performance Appraisal	51
3.5.1 Supervision	51
3.5.2 Standards of Representation and Performance Appraisal	52
3.6 Summary and Conclusions	58
Chapter 4: MANAGING PUBLIC DEFENDER RESOURCES	60
4.1 Introduction	60
4.2 National Standards/Legal Requirements	61
4.3 Methods of Limiting Caseload	65
4.3.1 Litigation-Based Methods	65
4.3.2 Legislative-Based Methods	65
4.3.3 Administrative Methods	66
4.3.4 Survey of Caseload/Workload Standards Among Public Defender Agencies	67
4.4 Summary and Conclusions	71

	Page
Chapter 5: CASELOAD CONTROL: STANDARDS AND THE BUDGET PROCESS.	73
5.1 Introduction	73
5.2 The Metropolitan Public Defender of Multnomah County, Portland, Oregon	73
5.2.1 Background.	73
5.2.2 Caseload/Workload Standards	75
5.2.3 Application of Caseload/Workload Standards to the Budget.	76
5.2.4 Application of Caseload/Workload Standards to Program Operation	78
5.3 The Public Defender for the 15th Judicial District, West Palm Beach, Florida	78
5.3.1 Background.	78
5.3.2 The SRI International Report.	79
5.3.3 Development of Caseload/Workload Standards.	81
5.3.4 Application of Caseload/Workload Standards to the Budget.	82
5.3.5 Specific Issues Relating to the Florida Funding Program	89
5.4 The State Public Defender Program of Colorado.	90
5.4.1 Background.	90
5.4.2 Caseload/Workload Standards	91
5.4.3 Application of Caseload/Workload Standards to the Budget.	91
5.4.4 Case Overload Provisions.	92
5.5 The Vermont Office of the Defender General	93
5.6 Conclusions.	93
Chapter 6: ADMINISTERING THE PUBLIC DEFENDER PROGRAM.	94
6.1 Introduction	94
6.2 Program Status	96
6.3 Program Organization	99
6.3.1 Multi-Office Organization	99
6.3.2 The Administrative Officer.	102
6.3.3 Secretarial Support Staff	104
6.4 Office Equipment	107
6.4.1 Word Processing Equipment	107
6.4.2 Video Equipment	109
6.4.3 Computers	111
6.4.4 Other Advanced Equipment.	116
6.5 Management Information System.	117
6.5.1 Management Information System Applications.	117
6.5.2 System Design	119
6.5.3 Data Collection and Statistical Reporting	122
6.6 Summary and Conclusions.	126
Chapter 7: CONCLUSION	129

	Page
APPENDICES	
Appendix A: LITERATURE REVIEW BIBLIOGRAPHY.	139
Appendix B: COLORADO STATE PUBLIC DEFENDER ANNUAL CONFERENCE 1982: AGENDA	150
Appendix C: HENNEPIN COUNTY (MINNEAPOLIS, MINNESOTA) PUBLIC DEFENDER: DAILY TIME RECORD.	153
Appendix D: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: CLOSED CASE SUMMARY SHEET	155
Appendix E: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: PRINTOUT OF CASE DATA RECORDS IN COMPUTER PROGRAM	157
Appendix F: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: CLOSING SHEET CODES FOR OUTCOME AND TYPE OF CONVICTION.	159
Appendix G: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: ATTORNEYS' MONTHLY SUMMARY OF CASES CLOSED.	161
Appendix H: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: ATTORNEYS' DAILY DOCKET SHEET	163
Appendix I: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: DAILY JOURNAL	165
Appendix J: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: MONTHLY STATISTICAL REPORTING PROCESS	167
Appendix K: METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON: AUGUST 1982 STATISTICAL REPORTS	170
Appendix L: COLORADO STATE PUBLIC DEFENDER: REGIONAL OFFICE INDIVIDUAL ATTORNEY WORKLOAD SHEETS	176
Appendix M: COLORADO STATE PUBLIC DEFENDER: REGIONAL OFFICE MONTHLY SUMMARY SHEET	180
Appendix N: COLORADO STATE PUBLIC DEFENDER: QUARTERLY CASE REPORTING FORM BY FELONY EQUIVALENTS.	182

LIST OF TABLES

Table 1.1 FINAL SITE VISITS

Table 2.1 LEGAL SERVICES PROVIDED IN SAMPLE SITES

Table 3.1 SAMPLE PUBLIC DEFENDER SALARIES FROM SELECTED SITES

Table 4.1 OVERVIEW OF CASELOAD STANDARDS

Table 5.1 1982 PROJECTED BUDGET FOR THE METROPOLITAN PUBLIC DEFENDER
of MULTNOMAH COUNTY

Table 5.2 HISTORY OF BUDGET AND UNITS OF WORK (MULTNOMAH COUNTY)

Table 5.3 PUBLIC DEFENDERS FUNDS GENERATED FOR TRIAL UNITS
BASED ON 1979-80 CASELOAD (FLORIDA)

Table 5.4 PUBLIC DEFENDERS FUNDS REQUESTED FOR APPELLATE UNITS
BASED ON 1979-80 CASELOAD (FLORIDA)

Table 5.5 PUBLIC DEFENDERS ADJUSTED APPROPRIATIONS 1980-81
(FLORIDA)

Chapter 1

INTRODUCTION

Since 1979, a specialized group within Abt Associates has devoted their time to the area of indigent criminal defense. The work began with the establishment of the Criminal Defense Technical Assistance Project funded by LEAA. Direct on-site technical assistance was provided in 32 states and the work performed included the development of legislation, cost and budget analysis, development of staffing and implementation plans for statewide public defender programs, and full-scale program evaluations.

In addition to the work performed on the technical assistance contract, the Criminal Defense Group (CDG) at Abt Associates has performed work in the area of indigent criminal defense under a number of other contracts funded by the federal government as well as state and local government. During the course of work on these various contracts, a common theme emerged from discussions with public defender administrators. The question heard repeatedly was, "How can we provide quality services when our funding does not keep pace with our expanding caseload?" This question was raised most frequently by public defenders operating medium-sized programs with between five and 20 attorneys. There are an estimated 400 public defender offices within this range throughout the country.

The present project was designed in response to this expressed concern. It addresses the problem of how public defender administrators may maximize their existing resources given increased caseloads and limited funds. The over-all goal of this project was to identify practical and effective means for improving the ways in which public defender offices manage their daily workload, allocate their limited resources, and plan for future workload demands. More specifically, our objectives were:

- to assist public defender agencies to assess their workload in order to improve overall efficiency, budgetary planning, and case management;
- to describe a range of "successful" or "innovative" approaches to service delivery, staff management, training, and overall administration; and
- to produce a document that is useful, practical and readable, and which will encourage replication among the 400 public defender programs around the country.

omit

- toward what end?

The research for this study was conducted in four phases. It started with a review of the existing literature in the field of workload measurement and workload management within the criminal justice system. This was followed by a comprehensive review of available program information, yielding a list of public defender agencies that were thought to be developing promising techniques to deal with their expanding caseloads. Third, a telephone survey was conducted in order to narrow the list to the most promising programs. Finally, on-site visits were conducted at 12 programs, followed later by extended visits to four of the 12 which were identified in the preliminary stages as having instituted innovative management practices that were both worthy of further study and capable of replication in other public defender offices.

The balance of this chapter discusses the problems associated with managing a public defender office in greater detail and describes the specific objectives of this study. It then elaborates upon the methodology used throughout the research effort and presents a brief explanation of the organization of this report. The chapter concludes with a brief set of caveats regarding the study findings.

1.1 Statement of the Problem

In the last five years, public defender agencies have suffered increasingly from the triple bind of rising costs, decreasing revenues, and increasing workloads. This has led to a concern over how to improve management so as to compete more effectively for scarce resources and how best to allocate these resources for the most efficient provision of quality services. Most public defenders have been hampered in their attempts to address these concerns by a general lack of experience with the fundamental skills and practices associated with efficient workload management and resource allocation. Furthermore, when innovative and effective management techniques have been developed, there has been no vehicle for disseminating information about their success to other defender offices which could benefit from the knowledge.

Traditionally, lawyers are not trained as managers and administrators. Law schools studiously focus on the substance and theory of law and typically avoid the practical management and business concerns associated with the day-to-day practice of law. It is not surprising, therefore, that most public defender agencies are managed by lawyers who have little management

education or experience. The lack of a national program or institute designed to train public defenders in management skills further contributes to the problem. Thus, the art of public defender management can best be described as in a nascent state. Some advances in workload management have been made in isolated jurisdictions scattered around the country, but there are many more programs suffering from workload problems where staff are unclear on how to begin to solve these problems.

Work overload in a public defender's office often has serious negative consequences. For example, overload can result in an increase in post-conviction petitions alleging ineffective assistance of counsel, high turnover rates (and therefore more inexperienced legal staff) or low staff morale which may lead to inadequate preparation and representation.

In the last 20 years, the criminal justice system has begun to address the need for management practices designed to maximize limited resources. Early efforts to derive caseload standards, used primarily for projecting staffing requirements, focused only on the courts. These consisted of simple numerical guidelines indicating the optimum or required number of cases to be handled over a given period of time. These were usually articulated in terms of cases pending or disposed. Over time, however, the methods employed have become somewhat more sophisticated, encompassing more comprehensive measures of workload. In contrast to caseload measures, workload measures take into account the time required to perform various functions. Workload measurement encompasses not only the time required to perform legal functions, but also time spent on non-legal activities (e.g., waiting in court). Typically, each of the various functions is assigned a "work unit" value and the standards are articulated in terms of the number of work units that should be performed over a given period of time.

Accompanying this increase in sophistication came expansion of caseload/workload measurement techniques to other segments of the criminal justice system. Prosecutors' offices were the first to adopt the new methods, aided in part by the introduction of management information systems such as PROMIS.* More recently, these management techniques have spread to defense services, albeit in a very limited way.

*Prosecutor's Management Information System, developed in 1976 by The Institute for Law and Social Research (INSLAW; Washington, D.C.) under contract with the United States Law Enforcement Assistance Administration (LEAA).

Experience teaches that weighted caseload formulae, complex procedures for monitoring caseload, and complicated data collection and maintenance processes are often too sophisticated for use in the typical defender agency. Nonetheless, some public defenders have devised innovative solutions to management problems. In most cases, these successful approaches to workload management concentrate on more effective and efficient methods of allocating a program's resources to improve both the quality and the quantity of the services provided. This project has attempted to identify these practices and to report them in such a way that public defenders around the country will be able to replicate those practices that meet their local requirements.

1.2 Methodology

1.2.1 Literature Review and Potential Site Identification

The literature review phase of the research effort consisted of two primary tasks. First, a review of the relevant literature describing workload measures and workload management was conducted. In order to develop an understanding of the issues involved in the maximization of public defender resources, literature in the following three substantive areas was reviewed:

- criminal justice systems' management, especially workload management, in the courts, prosecutors' offices, and public defender agencies;
- traditional work measurement methodologies, especially as applied to the private sector and office management; and
- workload/caseload management in other public service fields and in government.

Appendix A contains the resulting bibliography.

The greatest amount of attention was focused on literature dealing with criminal justice system management. Literature on traditional work measurement methodologies covers a broad range of techniques from measuring micro-components of a physical task to measuring overall effectiveness in fulfilling system objectives.* While instructive, these methodologies tend to stress techniques that are more sophisticated than necessary or feasible

* This latter technique is usually referred to as performance measurement.

for application to public defender offices. Literature dealing with caseload/workload management in government and the public service sector was also informative, and yet offered few techniques with any promise for direct use in public defense.

Second, during the initial phase, project staff systematically collected information in an effort to identify the public defender offices around the country which were managing their workload in effective and/or innovative ways. The sources of this information were:

- Abt Criminal Defense Group library files;
- literature pertaining to public defense from the National Criminal Justice Research Service (NCJRS) and the National Legal Aid and Defender Association (NLADA); and
- knowledgeable individuals in the field interviewed over the phone, on site during other CDG research projects, at the NLADA national convention, and through correspondence.

The mandate for this initial effort was to identify a large sample of effectively managed public defender offices using a loose and subjective notion of "effective management." The task at this stage was to create a sub-universe from which to select study sites, and the criteria were designed to be over-inclusive rather than under-inclusive. Thus, sites were included at this stage merely on the basis of a recommendation from an expert in the field of indigent defense or some other reliable source.

After consultation with the Government Project Monitor, a list of 43 potential sites in 29 states was prepared. In the next phase of research, each of these sites was contacted individually by phone in order to narrow down the subset of potential jurisdictions for on-site observations.

1.2.2 Telephone Survey

The site selection telephone survey provided a broad perspective on current practices and standards with regard to budget, structure, and operations. In addition, the survey allowed project staff to focus on how defender offices address workload measurement and the range of approaches and problems pertaining to workload management. The site selection telephone survey also helped to determine which sites had an adequate interest, capacity, and willingness to participate successfully in the research effort. The

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when first mentioned
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*Do we need
to know this?*

telephone survey was intended to provide both qualitative and quantitative information about each program sufficient to select those sites most appropriate for further investigation.

The site selection criteria in this phase of the research included a mix of programmatic and subjective indicators. Inclusion in the list of sites for further consideration was based on the cumulative assessment of each site on all indicators. The indicators, not necessarily in order of importance, were as follows:

1. Management information system--whether the site systematically collected information pertaining to caseload or workload and the comprehensiveness of the data that were collected.
2. Uses made of the management information system--the extent to which the caseload or workload information was analyzed and used in making management decisions pertaining to resource allocation.
3. Receptivity to on-site assessment--whether program leadership were amenable to project staff visiting the program for several days to observe operations and procedures.
4. Sensitivity to workload management--whether program leadership valued workload management and assigned personnel the task of monitoring and adjusting workload.
5. Support equipment--whether the program made use of such equipment as word processors, computers, or other mechanical aids for management.
6. Management approach to workload--what methods were used in managing workload/caseload. For example, vertical and horizontal representation, team defense, group assignment, specialty units, etc.
7. Demographic conditions--whether the program served an urban or rural area or both, and whether the program was in a densely or sparsely populated area.
8. Support staff--whether (and how) the program used paralegals, law students, community volunteers, etc.
9. Replicability--whether program factors listed in 1-8 above were replicable in other jurisdictions, or whether there were conditions (political, economic, legal, or environmental) which vitiated replicability.
10. Distinctive features--whether there were any distinctive features not identified under the preceding headings which argued for or against inclusion in the list of sites for further study.

The information collected through the telephone survey enabled the project staff to divide the 43 sites into two categories: 1) those which

were either inappropriate or less desirable for further examination; and 2) those which appeared to merit on-site investigation.

In all, 18 jurisdictions in 13 states were placed in the latter group. Each of these 18 sites had characteristics which merited further study. Several of these sites were similar in some respects, however. For example, the list included multiple statewide programs, similar programs in the same states, and programs of similar size and population in more than one state. In conjunction with the Government Project Monitor, the list was narrowed to 12 sites for purposes of preliminary on-site investigation.

1.2.3 Preliminary Site Visits

Twelve sites were selected to represent the variation among public defender agencies around the country. A preliminary site visit was made to each of the 12 sites by senior members of the CDG staff to investigate the site's appropriateness for selection as one of the final sites. Although the telephone interviews yielded much useful information, the preliminary site visits enabled research staff to analyze firsthand each program's management style and procedures. Furthermore, it was possible to assess the receptivity of key program decision-makers and staff to an in-depth study of their activities.

The 12 preliminary site visits yielded detailed descriptive baseline information on the following key topics in each jurisdiction:

- type of system;
- caseload/workload measures or standards;
- type of court system and its effect on caseload;
- staffing patterns and ratios;
- training program;
- management information system;
- fiscal accounting system; and
- legislative/organizational history.

To increase the potential replicability of the management techniques documented, a conscious decision was made to exclude certain types of programs from the final list of sites. For example, federal defender programs, appellate defender programs, the largest metropolitan agencies, the smallest rural

programs, and more than one program in a given state were all excluded from the final sample. On the basis of these criteria and the preliminary site visits, four sites were selected for comprehensive on-site observation.

1.2.4 Final Site Visits

The four sites chosen for further investigation were:

Table 1.1

Final Site Visits

Site	Program Jurisdiction	Population (1980 Census)	FY 82 Total Funding
1. Denver, CO	Statewide	2,888,834	\$5,859,069
2. Minneapolis, MN	Hennepin County	915,613	4,167,366
3. Portland, OR	Multi-county: Multnomah, Washington	808,041	2,160,732
4. West Palm Beach, FL	Palm Beach County	573,125	2,515,719

The sites selected provide a range of program types including a state-wide system, a multi-county program, and two single-county agencies. The sites are geographically dispersed including programs in the Western, Mid-western, Northwestern, and Southeastern regions of the United States. The population served by these programs range from approximately 600,000 to 3,000,000 persons. The sites chosen also serve a mix of urban and rural populations. All of the chosen sites can be characterized as falling within the medium range with regard to both size and funding. These programs represent neither the largest nor the best-funded in the country. Each of these programs had been identified as incorporating successful approaches to management of case-load and workload allocation. It was also determined that these practices

were subject to replication in jurisdictions of similar size or those facing similar problems.

Prior to initiating field investigation in each site, all extant materials pertinent to the host site were reviewed, and a summary of the defense services for that site was prepared. The material reviewed at this stage included: 1) the CDG file for the host site jurisdiction which included all pre-existing reports and survey findings as well as any correspondence, and 2) the summary reports from the telephone survey and preliminary site visits described above.

Based on the review of site materials, a schedule of interviews, a site protocol, and a listing of data sources were developed. Much of the preliminary work of identifying key persons to interview had already been accomplished in the telephone survey and preliminary site visits. However, for purposes of final site observation, the sample of respondents was expanded to include actors throughout the criminal justice system in addition to the leadership and staff of the public defender office. Thus, interviews were scheduled with personnel from law enforcement, probation, corrections, courts, community crime prevention groups, and social service agencies, where appropriate.

Prior to arrival on site, a detailed pre-site outline was developed listing all the major issues to be pursued. After completion of the site investigation, project staff prepared summaries of the workload management and resource allocation practices for each site. Several meetings were held by the research teams to discuss their observations and to devise a means of presenting the study's findings that would be accessible to public defender administrators who are responsible for maximizing resources and to government officials and/or legislators to whom they are ultimately accountable for the cost and quality of indigent defense services. This report represents the synthesis of the information collected during the course of the study.

1.3 Organization of the Report

The organization of this report reflects a broad distinction between approaches to workload management and practices aimed at maximizing resources. To the extent that this is an arbitrary distinction, the techniques presented

as examples of how to accomplish one of these interrelated goals may also contribute to the realization of the other. Most of the examples described in this report were obtained through work on the final four sites. Where it serves to clarify a concept or to provide an alternative perspective on a particular issue, examples are also drawn from the sites examined during preliminary site visits.

Chapter 2 deals with the direct delivery of public defender services to the indigent. It includes a review of the scope of services rendered, as well as various approaches to delivering legal services, specifically early representation and attorney staffing patterns. Examples of different types of attorney staffing patterns are analyzed, such as vertical representation, specialization and team defense. This chapter also discusses the role of legal assistants in the delivery of public defense. In all sections of Chapter 2, emphasis is placed on management practices that represent an efficient allocation of resources, while also guaranteeing the highest possible quality of the services rendered.

Chapter 3 focuses on personnel management practices. Issues such as recruitment, selection, and hiring are discussed as well as training and development of various members of the staff. This chapter also discusses issues of salary as well as problems relating to staff supervision and performance review.

Because the development of caseload/workload standards is fundamental to any management scheme, Chapter 4 is devoted to a discussion of the various national standards that currently exist, as well as a brief discussion of the ethical considerations that public defender attorneys face when they reach their maximum caseload. Finally, there is a general discussion of the available methods for public defender agencies to deal with case overload problems.

Chapter 5 describes the development of caseload/workload standards in four sample jurisdictions--the state of Florida, the state of Colorado, Portland, Oregon, and the state of Vermont. These procedures are set forth in some detail since they may be very helpful to other public defender agencies seeking to improve their own caseload management.

Chapter 6 describes practices and procedures developed by program administrators to deal with the administration of a public defender

Findings of each chapter would be a more interesting & useful approach here

program. Initially, the importance of a program's status relative to the government bureaucracy and its relationship with the funding source are discussed. Organizational issues affecting program administration are also reviewed, including centralization of the administrative functions of a multi-office agency, the use of administrative officers, and the structure of support staff services. The advantages of the acquisition and use of advanced equipment are also analyzed in this chapter, leading to a lengthy discussion of the applications and requirements of a public defender management information system.

Finally, Chapter 7 provides a brief summary of the overall findings and conclusions of the report. As is the case throughout the report, this chapter emphasizes the benefits of innovative practices in terms of the efficiency and effectiveness of workload management and resource allocation.

1.4 Conclusion

Note to the Reader

Before proceeding to the body of this report discussing the major findings of the study, it is important to take note of a few caveats regarding the objectives of the study and the nature of the research. This report does not attempt to present a model system for managing public defender workload. The variations within defender offices and among jurisdictions are too significant to allow for such a standardized approach. Furthermore, the reference to specific management practices observed in particular jurisdictions is not meant to suggest that these public defender agencies are necessarily the "best" in the country. At no point in time during the course of this research were any of the selected sites formally evaluated with respect to overall performance, and no attempt was made to create a national ranking of public defender organizations. The quality of program services was naturally taken into account, but this was only one of the long list of criteria (enumerated above) taken into consideration in the course of choosing sample sites. These factors should be taken into account throughout the reading of this report.

Chapter 1
Chapter 2

PUBLIC DEFENDER SERVICE DELIVERY

Introduction

Public defender programs must operate with finite, often shrinking, resources. Obviously, there will never be sufficient resources for defenders to provide all of the services which may be desirable. Yet it is possible to provide quality services with limited resources. Indeed, the accomplishments of several programs studied illustrate that significant improvements in trial service delivery can be realized through better management of existing resources. This chapter ^{presents an overview of services provided by public and} analyzes innovative methods of using personnel resources to provide trial services, ~~identified in the source of this study.~~

One such method that has attracted attention in recent years is to provide representation within 48 hours after arrest, thereby increasing the likelihood that cases will be resolved early. This can save valuable attorney time which can then be expended on more complex cases. The choice of early representation as the subject of a National Institute of Justice field test in 1982-1983 is evidence of the widespread interest in the potential benefits of management efforts in this area. The complete results of the experiment are not yet available; however, a description of the experience of one of the test sites is included in the section on early representation.

In addition to paying attention to the timing of legal services, some programs have discovered that the effective organization of the professional legal staff is another way of maximizing the use of attorney time. The third section of this chapter explores three different professional staffing patterns, namely:

- the use of vertical representation, whereby a lawyer is assigned to a case when it comes into the office and remains responsible for it through disposition;
- the designation of special units to provide representation in particular types of cases; and
- the grouping of attorneys into teams, which can result in the provision of consistently high quality representation in all courts served by the program, and can play a significant role in the in-service training of less-experienced lawyers in the office.

Finally, several programs have recognized that certain types of legal services can be performed by non-attorney legal assistants. For example, initial interviewing, investigation, contacting clients and witnesses, and identifying diversion alternatives are among the functions that can be performed by legal assistants. This chapter discusses the ways in which this type of staff utilization increases the cost-effectiveness of a program's services and saves attorneys' time, enabling them to devote more time to their existing clients and to handle a greater number of cases.

Before exploring these issues in greater depth, the following section reviews the type of services which public defenders are mandated to provide. It also describes the level of services offered by the sample programs included in this study.

Public Defense Services

The right of indigent criminal defendants to representation by counsel was firmly embedded in the Sixth Amendment of the United States Constitution. This right was extended to proceedings in the state courts in the decision of the U.S. Supreme Court in Powell v. Alabama, 287 U.S. 45 (1932). In Powell, the Sixth Amendment right to counsel was made applicable to the states through the due process clause of the Fourteenth Amendment, though it was still limited only to capital cases. Gideon v. Wainwright, 372 U.S. 335 (1963), was the landmark case extending the right to counsel to all felony cases in state proceedings. In Argersinger v. Hamlin, 407 U.S. 25 (1972), the court further extended the right to counsel to misdemeanor cases in which the defendant may receive a sentence of imprisonment.

The Court has also determined in a long series of decisions that the right to counsel is not limited to the criminal trial process. This right has been extended to include critical stages prior to trials such as arraignment, preliminary hearing, and the entry of a plea. After conviction, the right to counsel has been declared to extend to sentencing and appeal.

Juveniles were also accorded the right to counsel by the Court in In re Gault, 387 U.S. 1 (1967), when it held that Fourteenth Amendment due process protections must be extended to all juveniles threatened with delinquency proceedings. Other decisions have resulted in providing juveniles with many of the rights accorded to adults accused of similar conduct.

(refer here to more in-depth references)

Finally, the right to counsel has been asserted in non-criminal matters where an individual faces some form of incarceration or other form of deprivation of his or her freedom. While the U.S. Supreme Court has not acted on the right to counsel in mental commitment cases, most states provide this right. By federal statute, the right to counsel has been extended to extradition proceedings. Finally, the U.S. Supreme Court has established a limited right to counsel in prison disciplinary proceedings.

In all of these decisions, how these services are provided is left to the discretion of policymakers in each jurisdiction. The majority of indigent defense services are organized and funded on a county-by-county basis. In some cases, indigent defense programs serve a multi-county region or a judicial district. Approximately fifteen states have established statewide responsibility for the funding and provision of indigent representation. Each responsible jurisdiction--county, judicial district, or state--has the discretion to choose its own method of meeting constitutional requirements. There are essentially three modes of providing representation in use around the nation: 1) assigned counsel, 2) public defender, or 3) contract systems. This report concentrates solely on public defender programs, although many of the service delivery issues discussed in this chapter will be of interest to assigned counsel or contract attorneys.

While some jurisdictions choose to delegate the responsibility for representation to one organization, many others divide those responsibilities among several separate programs. Thus, in any group of so-called public defender programs, for example, one may handle only those cases that arise in municipal court, another those that arise in family court, a third only felonies; a fourth only appeals, a fifth may handle a combination of case types, and so on. The actual type of services provided by a public defender program will have an impact on the management issues that arise in their delivery. For example, a program serving only one court will have a different set of problems than will an agency serving a number of different courts spread throughout a jurisdiction. Likewise, a program that handles appeals and other post-conviction matters will have resource needs distinct from those of public defenders that do not handle cases at that stage in the criminal justice process.

Table 2.1 gives an overview of the services provided by public defender programs in each of the four sites studied in-depth in this research effort. All of the programs handle felonies and misdemeanors, while three out of the four provide services in juvenile cases, municipal code violations, and appeals. Only one program provides representation in mental health cases. Each program also provides additional services in various types of proceedings, such as extradition. These differences in types of legal services provided should be kept in mind throughout the discussion of delivery methods that follow in this chapter, particularly where replication of a particular program's procedures is contemplated.

Table 2.1 also provides basic information indicating the size of these programs, specifically budget and staffing information, plus population figures, since this too can be an important factor determining the best method of delivering services to indigent clients. The programs examined are not the best funded in the country, nor do they serve the nation's largest communities where more resources are naturally available. Rather, these programs may be characterized as medium-sized programs which have strong community roots, and which appear to have adopted cost-efficient and cost-effective service delivery methods. Although several programs not included in Table 2.1 are cited as examples throughout this chapter, this overview of the sites studied in the greatest depth gives an idea of the range of programs for which the management approaches discussed here may be particularly beneficial.

2.3 Early Representation

Early representation may be defined as entry into the case by the defender (or defense counsel generally) within twenty-four hours of arrest. Often, entry by the public defender is prior to actual court-appointment and in some instances may precede the determination of indigency for the client. Its purpose is to avoid the problems created by waiting until the first court appearance before assigning the lawyer. Such belated appointments often occur too late to protect the defendant's rights, because:

- The defendant has made a statement to the police admitting guilt in the absence of counsel, or has been asked to participate in a line-up where he or she was identified as the perpetrator of the crime;

Table 2.1

LEGAL SERVICES PROVIDED IN SAMPLE SITES

Program/ Jurisdiction	Population Served	FY 82 budget (in millions)	Felony	Misde- Meanor	Juvenile	Municipal Code Violations	Appeals	Mental Health	Other
Colorado State Public Defender	2,888,834	\$5.8	X	X	X		X		X
Hennepin County Office of the Public Defender (Minneapolis, Minnesota)	915,613	\$4.2	X	X	X	X	X		X
West Palm Beach Public Defender (Palm Beach County, Florida)	573,125	\$2.5	X	X	X	X	X	X	X
Metropolitan Public Defender (Portland, Oregon; Multnomah & Washington Counties)	808,041	\$2.2*	X	X		X (traffic)		X	X

*Figures are representative of MPD prior to the addition of a third county, Clackamas, to its jurisdiction.

- Witnesses available for the defendant when arrested are lost during the time between arrest and appointment of counsel;
- The defendant languishes in jail because of an inability to meet the terms of bail, resulting in a loss of his or her job;
- Alternatives to prosecution, like restitution, go unexplored;
- Alternatives to incarceration, such as drug abuse treatment, also go unexplored.

In addition, belated representation by defense counsel can also place the defendant at a disadvantage vis a vis the prosecutor, which can adversely affect later proceedings.

For the purposes of this study, early representation may also be seen as an aid in the effective allocation of resources. While early representation in all cases may be costly in the short run, involving a lawyer in a case at the earliest possible moment enhances the opportunities for quick resolution of the case. By timely and complete investigation of the facts, the defender may identify legal flaws which lead to dismissal of the case, a decision to engage in plea negotiation, or the suggestion of an alternative to prosecution. In short, early representation facilitates case screening and allows lawyers to concentrate on more difficult cases. Naturally, the ability to screen out cases serves the purpose of extending available defender resources and the efficient use of a lawyer's time.

In the course of the pre-site visits, three programs were found which provide early representation: The Franklin County Public Defender, Columbus, Ohio; the Wisconsin State Public Defender; and the Office of the Public Defender for the Fifteenth Judicial Circuit, West Palm Beach, Florida. It is helpful to consider how all three programs have attempted to develop early representation capabilities.

For the Franklin County Public Defender, provision of early representation services is an attempt to extend the program's limited resources as far as possible. The public defender interviews many newly arrested and incarcerated defendants the morning after arrest, prior to the first court appearance. In that interview, the public defender obtains information about the defendant's indigency, the relevant facts of the case, and potential bail.

He or she also advises the defendant about what will happen during the first court appearance. If an investigation is required, the vital information is forwarded to the investigators following this meeting. All of the information obtained at this initial interview is supplemented at a later time.

This procedure is not the norm for the public defender, because the vast majority of cases are assigned at the first court appearance, where the public defender usually meets the client for the first time. Early representation is reserved for the defendant facing serious felony charges. Nevertheless, it is a recognition that the earlier the defendant receives representation, the better the defendant's chances are of being successful in court. To the extent that certain cases are screened out at this early stage, it also serves to maximize the limited resources available to the Franklin County Public Defender.

The Wisconsin State Public Defender provides statewide representation for indigent defendants in all criminal cases. As part of its statutory authority, the State Public Defender is mandated to screen all potential cases for indigency and to provide the earliest possible representation. The public defender presently has twenty-eight offices in forty-six counties ranging from one or two attorney operations which cover several counties, to large urban offices with more than forty attorneys. Early representation services naturally vary considerably among these distinct jurisdictions. In rural areas, the public defender telephones distant jails to see if anyone has been recently arrested who might qualify for defender services. If someone is incarcerated, the defender travels to see the prospective client. In urban areas, jail checks are conducted each morning, sometimes by a staff lawyer, but more often by an investigator or a support staff person. At that time, indigency information and a thumbnail sketch of the facts are obtained.

As a result of early entry in the case, when the defendant appears in court for the first time the public defender is prepared to speak to the issue of bail and often can provide the court with facts that support imposition of a reasonable bail or release on personal recognizance. In addition, in those instances where the case requires immediate investigation or some other action, the defender is capable of providing such services.

The defender is able to bring many cases to early conclusion, by dismissal or a plea bargain, because of entry shortly after arrest. All of these factors combine to extend available defender resources. The problem, however, is that while the legislation creating the program appears to mandate the provision of early representation services, the defender's budget does not provide sufficient resources to make the early representation services available consistently throughout the state. The urban offices, due to the crush of the caseload, often are able only to screen for indigency and to obtain limited facts about the case. The public defender agrees that more could be done, especially since consistent early representation might ultimately aid in reducing caseload pressures.

The West Palm Beach, Florida Public Defender is participating in a study funded by the National Institute of Justice (NIJ) along with defenders in Memphis, Tennessee and Passaic, New Jersey, to examine the impact of early representation services. This site is testing the question of what improvements can be measured in the provision of defense services through an organized effort to provide counsel at the earliest possible moment in the course of prosecution for a felony.

The test design, which serves as the basis for this experiment in West Palm Beach, established three goals:

- The service goal--To establish management policies which broaden the range of services provided the clients of the public defender program, improve the timing of the delivery of those services, and encourage early legal actions in cases accepted for representation by the program;
- The attorney-client relationship goal--To improve the attorney-client relationship by establishing early client contact and early factual investigation, so that counsel may provide the client with competent legal advice in determining appropriate legal actions and remedies;
- The criminal justice system goal--To improve the efficiency, effectiveness, and cooperation of the various components of the criminal justice system by speeding the process by which cases are brought to disposition.

In designing this study of early representation, NIJ indicated that it hoped to answer the following questions:

- What are the best methods of establishing early client contact?
- How does the question of eligibility determination affect early defense services for the indigent, and what is the best method for early eligibility screening?

- Does early case screening facilitate early assessment of the incoming caseload in terms of determining individual client needs?
- Does early investigation of the facts of a criminal case have an impact on ultimate case disposition?
- Does early representation have an impact on the release of the client from pretrial custody?
- Are early representation cases better prepared for trial?
- Does early representation encourage diversion and/or plea negotiation?
- Does early representation have an impact on the ultimate disposition of the case?

The public defender handles approximately 3,600 non-capital felony cases per year in West Palm Beach. The circuit court is divided into five felony divisions and the office is organized into teams which are assigned to each felony division. When a defendant is arrested and held in custody, he or she must be presented to the county court for bail determination within twenty-four hours of arrest. It is at this court appearance that the public defender may or may not be appointed to represent the defendant. In the usual case, nothing happens thereafter for twenty-one days, while the prosecutor determines whether or not to issue formal charges against the defendant. In many instances, the defendant remains incarcerated. If the prosecutor fails to bring charges within the twenty-one days, the defendant may request an adversary probable cause hearing. Clearly, the early representation experiment could have a significant impact on this three-week hiatus in the proceedings.

The test design calls for the participating sites to divide a minimum of 1,200 cases into test and control groups, so that the effects of early representation can be measured. West Palm Beach has met this requirement by designating two courts as test groups and the other three as control groups, and it is anticipated that approximately 1,440 test cases and 2,160 control cases will result. The public defender contacts test case defendants within ten hours of arrest, and begins providing legal services immediately. For the control group, lawyer assignment occurs at the first court appearance and the cases proceed as they did prior to initiation of the experiment.

The public defender has received funds to hire additional staff for the experiment. The office assigns two lawyers, an investigator, and a

secretary to each court. The public defender used the funds to hire two additional attorneys, an additional investigator, a paralegal, and a secretary for each test court division. In addition, the public defender hired a data collection specialist so that data regarding the test and control cases could be collected.

It should be noted that the public defender obtained the cooperation and assistance of the courts and the prosecutor in order to develop this test program. Indeed, the prosecutor and the courts responded enthusiastically to the proposed experiment, mainly because it was anticipated that court services would improve dramatically as a result of the early representation program. It is too early to state that the experiment has been successful in either bringing about more effective representation or maximizing resources. The experiment continued with data collection through the end of March 1983, and evaluation results are not anticipated until the end of the year. Nevertheless, according to interviews with participants, nearly all agree that the experiment has had considerable impact on the administration of justice and has improved attorney services for the test defendants. The defender stated further that if early representation services were available in all five courts, many cases would be dismissed before the twenty-one day time period elapsed, which would have the effect of extending defender resources considerably.

2.4 Professional Staffing Patterns

2.4.1 Vertical Representation

Each program visited by project staff employed some form of vertical representation, whereby a lawyer is assigned a case when it first comes into the public defender office and handles all aspects of the case through disposition. Indigent defense practitioners and researchers in the field generally agree that vertical representation is preferable to the delivery of legal services in a horizontal fashion, i.e., with several different attorneys handling the successive stages of a case. Vertical representation is considered preferable primarily because it more closely resembles the type of representation which clients receive when they retain a private lawyer.

Vertical representation is capable of varied applications, depending upon the community served by the defender, the resources available for representation, and the size of the caseload. For example, several defenders may be involved in the early stages of the representation, and only when the case gets close to adversary proceedings does a single lawyer assume the responsibility for the case. This type of representation, however, may do little to alleviate the defendant's concerns about how the case is proceeding during its earliest stages.

Vertical representation may pose significant resource problems for defenders. It requires larger legal staff resources for a defender to provide single lawyer coverage on each case. Although the anticipated benefits are better representation, quicker case dismissals and resolution, and increased responsibility for each case, each program studied has developed its own method of insuring vertical representation.

2.4.2 Specialization

Traditionally, most defender offices make assignments based upon seniority and interest, to divisions that provide services in felony, misdemeanor, and juvenile courts. Thus, lawyer resources are concentrated on specific courts and types of cases. There are advantages to such an approach, especially since the most experienced lawyers typically end up in the felony division of the defender office. Such cases tend to be more difficult, and it is usually in felony cases that the most interesting and complex issues are raised.

Specialization can be an efficient method of organizing attorneys' services, especially where caseloads are large. In addition, in many jurisdictions there may be several points of origin of public defender cases (usually arraignment courts or jails) which are physically distant from one another. This can make it impossible for individual attorneys to travel from one courthouse to another to pick up different types of cases. In situations such as these, attorney specialization can help solve logistical problems faced by a public defender responding to court appointments. Furthermore, a program divided into specialized units provides a natural path for new

attorneys to follow in developing their skills and advancing their own careers. Finally, in cases where specialized skills are required for an adequate defense, such as mental commitment or death penalty cases, attorney specialization may be necessary to provide the most effective representation.

On the other hand, many defenders have found that there can be serious drawbacks to this kind of arrangement. Problems can arise because some lawyers feel excluded from the felony cases, and assignment to another division may be viewed as punishment. Most importantly, the most experienced and seasoned lawyers are often not assigned to juvenile or misdemeanor cases, where there is also a need for experienced trial lawyers. Many defenders, as well as prosecutors and judges, feel that the quality of justice in the so-called "lower courts" can be adversely affected by this type of organization. Moreover, cases may not be handled as effectively or efficiently as in the higher courts, thus causing a log jam in those courts. The Metropolitan Public Defender in Portland, Oregon has devised a solution to this problem by assigning the most experienced attorneys to the misdemeanor section every three or four years for a period of four months. This rotation of assignments helps to reduce the stigma often attached to misdemeanor representation. It may also improve the quality of representation, not only by having experienced attorneys appear in the so-called "lower court," but also by providing an opportunity for new attorneys to work closely with veterans.

2.4.3 Team Management

Several programs have divided their attorneys into teams which are not assigned exclusively to one court or to one type of case. Rather, the teams may be assigned cases on a rotation basis, so that each team obtains an equal number of cases from all courts served by their unit. The rationale behind this method of assignment is to spread the talent of the office into all courts, and to make certain that the best available lawyer is assigned to those cases which require the lawyer's talents. Under this method of assignment, inexperienced lawyers are teamed with experienced lawyers so that the latter can assist in planning how to dispose of cases effectively and efficiently.

During pre-site selection visits, three programs were identified which employ some variation of this method: the Clark County Public Defender in Las Vegas, Nevada; the Metropolitan County Public Defender in Portland, Oregon; and the Hennepin County Public Defender in Minneapolis, Minnesota.

In the mid-1970's, the county court system served by the Clark County Public Defender was so clogged with cases that it was common to find delays in the prosecution of criminal cases that exceeded a year between arraignment and trial. To counter this problem, which was widely recognized as choking the entire justice system, the courts sought assistance from the LEAA Court Delay Reduction Program, which provided funding and technical assistance in developing programs to reduce delay in processing cases. As a result of this initiative, a "track and team" system of management was adopted by the courts, the prosecutor, and the public defender. Over a period of approximately two years, the time it took to bring a criminal case to completion was significantly reduced.

The prosecutor, the public defender and the courts continue to employ this method of managing workload. All misdemeanor and felony cases originate with the filing of a complaint by the prosecutor, and are first heard in the justice court where probable cause is determined and bail is set. The track and team system consists of the assignment of groups of three or four attorneys to each justice court on a permanent basis. New cases are brought before each of the justice courts on a rotating basis, and thus each team rotates intake responsibilities. There are four justice courts which regularly receive new cases, and there are five public defender teams. The fifth team rotates with the other teams and also covers the juvenile court.

Once a case assignment is made to a lawyer on the team, that lawyer is responsible for all further proceedings. Misdemeanor cases remain within the justice court's jurisdiction, but felony cases are heard only through the probable cause stage and then are bound over to the district court for further proceedings. The attorney assigned to the case follows that case through all further proceedings, as does the prosecutor. According to the defender, this track approach to representation has facilitated case resolution.

The track and team system also spreads the caseload evenly among the staff attorneys. Although it would appear that assigning the same defense attorneys and prosecutors to a particular court could lead to a less aggressive and less adversarial approach to litigation, the public defender asserted that this was not the case. The office maintains an extremely high rate of dismissals, which is credited to the track and team approach. In his opinion, close working relationships with the court and the prosecutor lead to a realistic analysis of a case's strengths and weaknesses, and, therefore, less time is wasted litigating needless issues. This allows staff attorneys to concentrate on those cases where litigation is necessary and insures a vigorous defense. In his opinion, this method of organization makes the office much more efficient in the use of resources.

In conjunction with the standards for case intake set by the Metropolitan Public Defender of Portland, Oregon to control the amount of workload (see Chapter 5), the program is organized so that trial teams are utilized to provide quality legal services. In addition, the public defender has developed a Major Case Committee, which determines the number of cases that require a substantial commitment of staff resources and reviews which attorneys may appropriately handle those cases.

Trial attorneys in Portland are divided into three-member teams. Each team consists of one senior, one mid-level, and one inexperienced attorney, enabling junior attorneys to benefit from the expertise of their more senior colleagues. The attorneys on each team are expected to meet and review their cases at least once every three weeks, so that they are familiar with each others' cases and can cover for one another when necessary. All team attorneys also benefit from being able to anticipate their assignments, because they pick up cases in designated arraignment courts on pre-ordained days of the week. The attorneys are able to exercise considerable control over their schedules because the members of each group decide how to divide up the cases among them. For example, an attorney on one team could pick up eleven new cases in District Court A and then receive no further assignments for two weeks. Attorneys on another team might divide up the cases evenly over the entire three-week period. Attorneys can also trade cases on the basis of experience or because of scheduling problems. The regular schedule

allows attorneys to have one week in every three week cycle during which they are not responsible for picking up new cases. This procedure provides attorneys the time necessary to handle trials and any other pending business.

Each team, however, is comprised of more than staff attorneys. The MPD has taken steps to provide each attorney with paralegal and investigator support, so that each case can be properly and adequately prepared. Each attorney has the assistance of a trial assistant and one-half of an investigator's time. The trial assistant (TA) positions within these teams are especially significant. They combine the functions traditionally assigned to paralegals and social service workers. Section 2.5 which follows contains a detailed discussion of the role of trial assistants in legal service delivery in the Portland program.

In addition to the other methods of caseload limitation, the program has established a maximum number of active major cases that may be handled at any one time in each of the counties served. This practice is deemed necessary because such cases represent a serious drain on program resources. In Multnomah County, the program will handle up to six major cases at a time and will refuse to accept any more beyond that number. The Major Case Committee is charged with the responsibility of certifying cases for inclusion in this category. All murder cases are automatically assigned and other serious and/or complex cases are reviewed for designation as major cases. The committee can also decertify cases where appropriate. The committee is responsible, in addition, for determining which attorneys are eligible for assignment to major cases. This determination is based on several factors, including the attorney's: 1) experience and competence, 2) pending caseload, 3) place in rotation and, 4) vacation schedule. The committee is chaired by MPD's chief assistant and consists of a member from each of the program's sections (i.e., felony, misdemeanor, etc.).

These two innovations, the team concept and the Major Case Committee, have enabled the Metropolitan Public Defender to utilize staff resources in an efficient manner. Staff attorneys are able to handle a large caseload without being overwhelmed and to devote the time necessary to insure effective representation of each client.

Another highly innovative program policy was found in the Hennepin County Public Defender, Minneapolis, Minnesota. Although the Hennepin County Public Defender claims that management is essentially laissez-faire in nature, a significant degree of structure exists within the program. During visits to the office, project staff observed several creative efforts which appear to provide the defender with control over both the size of caseloads and the quality of representation.

The Hennepin County office is structured along divisional lines; all of the staff attorneys fall under the Legal Division. Several years ago the Legal Division implemented a team concept, in which teams of six attorneys were created, with each team under the supervision of a senior attorney. Senior attorneys report to the chief public defender through the chief deputy public defender.

The team concept was established to replace assignment along separate court division lines, i.e., juvenile, misdemeanor, and felony courts. The reasons for the reorganization were:

- to reduce the size of the units and make supervision more meaningful;
- to reduce the perceived stigma associated with assignment to "low priority" courts;
- to increase the "spillover" of trial and other legal strategies from one court to another; and
- to increase the flexible use of staff when case volume soared temporarily in one court area.

Each team is expected to provide representation on a rotating basis in the juvenile, misdemeanor, and felony courts served by the office. The teams rotate on a weekly basis from court to court. Within the teams, arraignment days (the point of actual case intake) are rotated from member to member. Once an attorney accepts a case at arraignment, it is that attorney's responsibility until the case is disposed. The team leaders work closely with team members and have wide discretion in shaping policies for their individual team. For example, several teams have devised a "rule of 8," which in effect makes clear that no attorney will be expected to accept more than eight new cases on a given arraignment day. The balance are distributed by

the team leader. Similarly, another team has a "two court rule" which allows attorneys to drop from their regular rotation one of the three assignment courts. While the program lacks the resources to conduct regular training sessions, the team leader is available to assist members on individual cases and team members generally help each other out. In addition, should a major police initiative (e.g., a drug bust or "sting" operation) suddenly flood a court with cases, the caseload can be spread throughout all of the teams equally.

Beyond these general parameters, it is important to note that the program has not devised formal guidelines or quotas for case intake. Instead, each team is able to develop its own guidelines, and although there have been no instances of shifting cases from one team to another (beyond the overload situation described above), it is possible for team members to shift cases within the teams, so that the caseload remains as evenly distributed as possible.

The team size of six trial attorneys and one supervisory attorney is considered ideal. New attorneys are rapidly assimilated into the team and weekly team meetings are held so that scheduling can be arranged and team members' questions extensively covered. Furthermore, the size of the team has shown itself adaptable to vacation and sick-leave absences of attorneys. With the small teams, colleagues tend to have greater familiarity with each others' cases and can cover for one another without great difficulty.

A vital aspect of the team structure is the role of the senior attorney. The senior attorney was originally conceived of as a policymaker, manager, trainer, supervisor and co-counsel who would carry a reduced caseload. In practice, however, senior attorneys have reacted to their titles and special stipends by taking on not only more cases, but also cases that are of greater complexity.

After this team system was devised, the Hennepin County Public Defender discovered a problem which had the potential to make it less effective than anticipated. One benefit of the former specialized system had been that each court received the concentrated attention of an experienced group of lawyers who could readily respond to a wide variety of issues surfacing in that court. Under the team concept, fewer system-wide issues are likely to be identified and confronted. For example, one team may not notice that a problem is occurring regularly, as subsequent and repeated

instances are likely to be dealt with by other teams. Even if an issue is spotted, it is difficult for one team to allocate the resources to tackle it.

To rectify this problem, the program has established a Research Appeals and Training (RAT) Team of six attorneys, which is charged with responsibility not only for appealing cases and training, but also for assisting in developing "impact litigation." When an issue arises that is of importance to all public defense attorneys, such as a dispute over jail conditions or consistently excessive bail-setting in a particular court, but no team has a case with which to pursue resolution of the problem, the RAT Team will pursue special litigation challenges against the responsible agency or individual. It also provides important back-up to the other teams by assisting with research and preparing motions in complex cases. As a result, the RAT Team is able to bridge the gap which is created by teams which do not specialize in one type of case, and thus allows the office to vigorously pursue issues of systemic importance.

The major advantage of the court rotational arrangement is that attorneys continue to gain experience in all types of cases. This has proven to be especially advantageous in juvenile cases, where there are great pressures to treat cases as a social worker instead of as an advocate. More cases are now tried in the juvenile court, and the quality of representation has improved significantly. Even when attorneys are called upon to fill in for each other, experience is not sacrificed. Finally, to the degree that specialities do emerge, they can be utilized on a case specific basis.

2.5 The Role of Legal Assistants

Public defender programs can increase the efficiency of their services not only through the use of effective attorney staffing patterns, but also through the use of non-attorney legal assistants to perform services typically provided by attorneys. This practice has been identified as a particularly promising method of maximizing personnel resources in a public defender office.

Legal assistants can perform many of the functions typically carried out by attorneys. In analyzing an attorney's typical functions, it becomes apparent that while many activities require an attorney's review or supervi-

sion, only a few require an attorney's direct involvement. Thus, legal assistants can effectively handle activities such as:

- establishing initial contact with a client;
- screening for eligibility;
- conducting the factual investigation;
- handling the mechanics of file preparation; and
- preparing the sentencing report.

The goals of using legal assistants in a public defender setting are:

- to achieve economic efficiency;
- to improve the resolution of cases;
- to increase attorney satisfaction;
- to increase client satisfaction; and
- to promote broad agency objectives within the criminal justice system and the general community.

It is the working assumption of this section that the primary justification for using legal assistants in place of more expensive attorneys is the achievement of economic efficiencies, though the other factors are no less important. The cost savings which are reported to accrue as a result of this practice are difficult to demonstrate. Programs which make extensive use of legal assistants, such as the Portland, Oregon Metropolitan Public Defender, report that their attorneys are able to handle a heavier caseload with the aid of legal assistants. Thus, at least in terms of attorneys' salaries, the programs are getting more for their money. These savings, naturally, are offset by the costs (if any) of obtaining the services of legal assistants. The public defender in Santa Barbara County, California attributes the cost-efficiency of his office relative to others in the state in part to the emphasis placed on increasing the use of support personnel (specifically secretaries, investigators, and law clerks) so that attorneys can be more effective.*

* Report from Glen Mowrer, Public Defender of Santa Barbara County, California to the Santa Barbara Board of Supervisors in re "Santa Barbara Public Defender Office Cost Comparisons," dated November 4, 1981.

Essentially there are three different types of functions that are fulfilled by legal assistants in those agencies utilizing their services. These are:

- 1) paralegal activities;
- 2) factual investigations; and
- 3) social service functions.

Paralegal activities typically include the written preparation of briefs, specific pleadings, discovery documents, or motions. Paralegal activities may also include doing legal research for staff attorneys and maintaining contact with the courts, clients and witnesses.

In some jurisdictions, legal assistants may also be authorized to handle actual court appearances, such as arraignments or trials for minor charges, such as lesser misdemeanors or traffic violations. In the Miami, Florida Public Defender Office, experienced legal interns can serve as co-counsel and, in less serious cases, as first-chair counsel. While this provides obvious advantages for law students, the effects on the program in terms of cost savings, and on the client in terms of quality of representation, are less clear. Although statutory authority exists for law students to provide direct representation in Franklin County (Columbus), Ohio, the public defender and judges have opposed that use to date. However, with caseload increasing while the number of staff positions has remained constant, the public defender feels that necessity will eventually dictate direct representation by law students. Before such programs become more widespread, additional research is required to identify the constitutional/legal limitations on direct representation by law students. Also, empirical information is needed to assess the financial impact of such services on the public defender program and to determine whether or not they result in any diminution of the quality of representation accorded to program clients.

Investigative activities include interviewing the client, witnesses, the victim, and any other relevant parties who can provide insight into the facts of the case. In addition an investigator is often expected to maintain up-to-date information on expert witnesses and to obtain their services where necessary for the defense of a client.

Finally, the social service activities carried out by legal assistants in public defender offices can include aiding the jailed defendant to obtain pre-trial release, providing referrals to appropriate social service and/or community agencies to obtain needed services (such as counseling, housing information, and medical help), and preparing sentencing reports on alternatives to incarceration.

In many public defender settings, legal assistants serve as a general resource for attorneys. Requests for legal support usually are initiated by attorneys, and the work is assigned to the first available person in the pool. In some cases, assignments may also be made on the basis of expertise. Variations on this organizational approach include the assignment of legal assistants, especially investigators, to a specific courtroom through which the attorneys rotate. In addition, legal assistants may be assigned to a particular unit of specialized staff attorneys. Typical examples are researchers assigned to appellate units, social workers to mental health units, and investigators to felony units. The advantages of pooling legal assistants include evenness of workload distribution, flexibility of task assignment, and ease of supervision. However, the limited opportunity for legal assistants to work directly with attorneys may hinder their ability to develop working rapport and an understanding of the expectations of individual staff members. Also, important insights into the clients and their cases that legal assistants often have to offer may be overlooked.

Another means of integrating legal assistants into the public defender office is to assign individuals to particular attorneys or groups of attorneys. This team organization offers a particularly effective approach to legal assistant intervention in a defender setting, especially where the defender office utilizes a vertical approach to representation, since it maximizes opportunities for early case involvement. Because they work as a team, the attorney and legal assistant(s) can keep each other informed of major legal, investigative, and social service developments as the case proceeds. In addition, the communication and close working relationship fostered by the team approach can help to diminish attorneys' reluctance to share responsibility for the case with legal assistants and increase attorney willingness to consider their suggestions on case strategy.

To be effective, however, the team approach requires greater numerical parity between legal assistant staff and attorneys than other arrangements. This approach has cost implications which need to be considered and may involve a budgeting decision beyond the control of the defender director and staff attorneys. It also involves a substantial modification of traditional case handling procedures and thus may require greater commitment and cooperation on the part of attorneys for successful implementation.

As the examples which follow illustrate, certain types of legal assistants fulfilling different functions may be more easily organized in pools or assigned to teams. For a related discussion of the advantages and disadvantages of each of these organization models for secretarial support staff, see Chapter 6, Section 6.3.3.

Legal assistant functions may be fulfilled by three different types of staff:

- 1) part-time student interns (law students and/or candidates for masters in social work);
- 2) full-time professional staff; and/or
- 3) community volunteers.*

Traditionally, programs with legal assistants have taken advantage of the availability of interested students at local law schools or universities. This practice is mutually beneficial--students gain useful job experience and often receive credit towards their degree, while the public defender office is able to provide essential services to its clients at little or no cost. The Columbus, Ohio Public Defender employs both part-time law clerks who are individually assigned to the program's specialized representation units, and social work students who are available to attorneys on a pooled basis. Management appears to be happy with the students' services and other staff are strongly supportive of continuing the student intern program.

One drawback to the use of student interns is the amount of training and supervision they must receive in order to be effective compared to the short duration of their employment in the public defender office, usually averaging between three and six months. Some public defenders interviewed opposed the use of student interns on the grounds that the expenditure of

* It is important to note that, in smaller public defender offices, secretarial support staff may also perform some legal assistant activities.

resources on continually training and supervising new groups of students was not offset by the services rendered. The question of the efficiency of student intern programs has important resource allocation implications. Unfortunately, there is insufficient empirical data to determine whether or not the advantages outweigh the disadvantages.

Many of the disadvantages of using student interns as legal assistants can be avoided by relying instead on full-time professional staff. The public defender in Portland, Oregon has made the most extensive use of the services of professional legal assistants. In Portland, as noted earlier, one trial assistant and one half of one investigator's time is assigned to each individual attorney. This attorney/support staff ratio is unique to the Portland program. To our knowledge, no other public defender office in the country provides such extensive legal support services on an individual basis to its attorneys and, thus, to its clients.

The trial assistant (TA) positions within these teams are especially significant. TAs perform the functions traditionally assigned to paralegals and social service workers, and are typically responsible for:

- conducting the initial client interview to obtain crucial background information and to ascertain the facts of the case;
- maintaining client contact, including notification of all necessary court appearances;
- calendaring all court appearances and appointments;
- facilitating communication between the attorney and the team investigator out in the field;
- taking notes at trial in special circumstances, such as voir dire and during cross examination by the team attorney;
- identifying appropriate social service agencies and/or resources in the community that can deal with a client's personal, social and emotional problems and may have an impact on the ultimate disposition of the case. Referrals can also be made for medical, educational, rehabilitative and welfare services as needed; and
- at time of sentencing, providing an alternatives report to the court outlining the client's participation and involvement with social service and rehabilitative programs and using background information to help explain the client's involvement in the criminal justice system.

The members of each team decide for themselves who will perform each of these roles, taking into account the interests and experience of the individual attorney and trial assistant.

Staff and management of the Portland program believe that the use of trial assistants results in a more comprehensive personal knowledge of the client and the possibility of identifying more subtle legal issues that would be useful in their defense. The identification of alternative dispositions is considered the raison d'etre of the trial assistants' position in the office. This aspect of the TA function is also the most highly visible in the criminal justice system, and is looked upon very favorably. Judges in Portland are reported to be pleased with the increased professionalization that the alternative reports lend to the sentencing process, in addition to feeling that TA involvement enables the system to function more smoothly in general. The TAs themselves feel that their role within the team allows attorneys to provide better representation to a greater number of clients than would otherwise be possible. One staff member reported that an attorney could handle a caseload as much as 25 percent larger with the help of legal assistants.

Nevertheless, the coordination of TA and investigative functions has raised some problems, and this has led the program to experiment with combining these functions in one paralegal staff member teamed with an attorney. The jury is still out on this experiment, but the preliminary indications are that it works well in the special unit where it is being tested. The two-person team is perceived to be a more workable unit by those involved in the experiment: the paralegal has a more comprehensive view of the case, and the attorney has more contact with the client and the system. Nonetheless, these are subjective assessments, and it is also reported that some critical TA functions suffer from the consolidation of roles.

The use of community volunteers to perform the functions of a legal assistant appears to be extremely limited in public defender offices. The West Palm Beach Public Defender Office is one of the few that does use community volunteers in its social services section. The activities of the volunteers are supervised by a full-time staff person. The volunteer program is unique in that it uses retired citizens (a significant resource pool in that region of the country) to assist attorneys at court appearances, to maintain client contacts, and to gather background information on clients. In addition, the office Ex-Offender Employment/Assistance Program is augmented by the services of ex-offenders who are themselves graduates of the program.

2.6 Summary and Conclusions

The 1980s pose an important challenge for most public defender organizations. Financial resources are limited, often shrinking, yet demands for their services are steadily increasing. Faced with this situation, managers of public defender offices must find creative new ways of ensuring that adequate services can be made available to all eligible indigents. Some public defenders have already begun to address this problem and have instituted innovative methods of organizing and using their personnel resources in order to maximize both the effectiveness and the efficiency of program operations.

One method of increasing efficiency discussed in this chapter is early representation. Through the involvement of public defender attorneys soon after the arrest of indigent defendants many cases can be quickly resolved. While an early representation program may be costly in the short run, the long term advantages appear to offset the initial expense. Attorneys are able to spend more time on serious, complicated cases, and both the public defender and criminal justice system as a whole benefit from avoiding costly and time-consuming court proceedings in cases where they are unnecessary.

Attorney staffing patterns can also have significant impact on the quality of representation and the ability to serve a greater number of indigent clients. Vertical representation, or representation by a single attorney throughout the course of a case, has been identified by both practitioners and researchers in the field as the best method of providing an attorney's service to indigents. As opposed to horizontal representation, where several different attorneys may handle different stages of a case from arraignment to disposition, vertical representation more closely resembles the services that a client would receive from private retained counsel.

Some public defender offices have divided attorneys into specialized units handling felony, misdemeanor, juvenile, or other types of cases. Attorney specialization is particularly efficient when caseloads are high, when cases must be picked up in several distant locations, and/or where unique skills are required for adequate representation, such as in mental commitment or death penalty cases. The existence of special units within an office also provides a natural career development path for new attorneys as they acquire more advanced skills.

One problem with this type of specialized structure is that it can lead to the identification of units that lend higher status to the attorneys assigned to them, drawing attorneys away from the perhaps less glamorous, but equally important units dealing with less complex cases. This can also result in few experienced attorneys representing clients in the so-called lower courts, i.e., those handling municipal, misdemeanor and less serious felony cases. One way of addressing these problems is to rotate attorney assignments so that experienced attorneys handle matters in the lower courts on a regular basis. This can improve the general quality of representation, increase the opportunities for less experienced attorneys to learn through observation, and improve the morale of all staff attorneys.

Organization of staff attorneys into teams can also lead to efficient and effective representation, as was observed in a few of the programs studied. Attorneys of different levels of experience can be grouped together, resulting in a valuable opportunity for in-service training of less-experienced attorneys. Since team members will be more familiar with each others' cases and can fill in for one another if necessary, the team concept can also help avoid problems caused by an attorney's absence because of illness or vacation. In addition, if assignments are made to the team (and not to the individual attorneys), team members can have much more control over their personal workload by deciding among themselves how to allocate incoming cases. Finally, regular meetings of the team members provide an opportunity for attorneys to get feedback on defense strategies and may result in a higher quality of representation.

In addition to manipulating attorney staffing patterns, some public defender programs have found that it is cost-effective to use legal assistants for many of the tasks typically performed by attorneys. There are many tasks--such as conducting initial interviews, maintaining contact with clients, investigating the facts of the case, identifying pre-trial diversion and sentencing alternatives, and scheduling court appearances--that can be accomplished by legal assistants under the supervision of attorneys, at a cost savings to the program. It is reported that the use of legal assistants enables staff attorneys to provide higher quality representation to a greater number of clients.

These legal assistant activities fall into three general categories: 1) paralegal, 2) investigative, and 3) social services. Traditionally, programs have depended on part-time student interns (law students and MSW candidates), whose services can be obtained at little or no cost, to perform the tasks of legal assistants. One drawback to a student intern program is the cost of training and supervising a new group of interns every three to six months. Some public defenders have avoided this problem by hiring full-time professional legal assistants. Also, a few programs make use of community volunteers as legal assistants, but their usefulness is dependent upon the skills they bring to the position, the amount of time donated, and the amount of training and supervision required to perform assigned tasks. Clearly, it would be difficult to use volunteers to perform complex paralegal tasks; however, they may be useful in providing more administrative and clerical support for attorneys.

Chapter 3
PERSONNEL MANAGEMENT

3.1 Introduction

This chapter describes a number of personnel management practices which may enhance the efficiency and quality of services provided by public defenders. The chapter addresses such issues as recruiting, selection, training, supervision and attorney appraisal. It is difficult to measure the cost benefits for each of the practices discussed, but the public defenders using them report that they help reduce staff turnover, and can lead to improved workload management, employee satisfaction, and increased staff collaboration.

Since much has been written on many of these subjects, it is not the intent of this chapter to discuss them in great detail.* Rather, the following sections highlight a few practices that were found to be of particular value in the course of site visits and related project activities.

3.2 Recruitment and Selection

Perhaps the most important part of a public defender administrator's job is the ability to recruit and hire enthusiastic, competent personnel. The National Study Commission dealt with the topic of recruitment and selection by stating that:

- Defender offices should actively recruit the best qualified attorneys available for staff positions by advertising on the local, state, and national levels, and by formulating and promulgating hiring criteria and policies. Recruiting should include special efforts to employ attorney candidates from minority groups which are substantially represented in the defender office's client populations.
- A national referral and placement service should be instituted in order to facilitate nationwide defender recruitment and placement.

*See Appendix A, Literature Review Bibliography. See also: Public Defender Programs: A Bibliography, National Institute of Law Enforcement and Criminal Justice, June 1978; Guide to Establishing a Defender System, National Institute of Law Enforcement and Criminal Justice, May 1978; Criminal Defense Training Handbook, Laura Studen, Criminal Defense Technical Assistance Project, Abt Associates Inc., 1981.

- Defender staff attorney appointments should be made by the defender director, and should be based upon merit, entirely free of political and other irrelevant factors. Upon appointment, staff attorneys should be required to make a time commitment of from two to five years to defender work.
- Defender office investigative staff should be systematically recruited, selected and supervised to ensure that the investigative function is properly discharged.*

Finding competent attorneys and support staff appropriate for indigent defense work can reduce turnover problems, increase the level of office productivity, and enhance job satisfaction. The recruitment/hiring process raises two basic issues:

1. What is the best method of recruiting qualified applicants?
2. How is the selection process best carried out?

In well-known public defender organizations, the majority of applications come via unsolicited resumes. Public defender agencies can help generate interest in their program by establishing clinical intern programs, advertise in local newspapers or through campus placement offices, and/or conduct locally-sponsored "job fairs." In addition, a few public defender offices conduct nationwide recruitment campaigns through the distribution of brochures and other informational materials.

Ideally, the recruitment process should involve office staff in all phases, from interviewing to the hiring decision. Wide participation of staff in recruitment can have a positive effect on staff attitudes toward the organization.

A few public defender programs conduct on-site interviews throughout the country. A good example of both recruiting and selection practices can be found in the West Palm Beach defender office. Staff of the program feel that the reputation of the program along with its location in southern Florida help in attracting qualified personnel. Since the program is interested in hiring some new staff attorneys from law schools outside Florida, they publicize the program through written materials that are sent to most

*National Legal Aid and Defender Association, Guidelines for Legal Defense Systems in the United States, Report of the National Study Commission on Defense Services (Washington, D.C.: NLADA, 1976), p. 455.

law schools in the country. Key staff administrators visit Washington, D.C., New York City and Boston on an annual basis in order to screen applicants. They look for students with prior law school clinical experience and who will finish in the top 25 percent of their class academically.

Unsolicited resumes are not prescreened since staff feel that resumes do not provide sufficient data to judge whether or not an applicant is appropriate. Consequently, all resumes are responded to in a timely fashion and all candidates are offered a personal interview. The program is not able to reimburse the students for their travel expenses, however.

The interview is conducted individually and focuses on qualities such as respect for the adversary system, ability to work well with prosecutors and law enforcement personnel, and a high degree of professionalism. In the West Palm Beach office, a Community Advisory Committee has been established to help with the recruiting process. Members of the local community meet with minority applicants in an effort to inform them about the community they will be working in. This volunteer group has played a significant role in the recruiting and hiring of minority applicants.

The West Palm Beach public defender office also recruits senior level attorneys both within the state and throughout the country. They are hesitant, however, to contact experienced attorneys in other public defender offices in Florida since that policy might alienate another public defender. Senior attorney positions are advertised through the State Public Defender's Coordination Office and if resumes are received through this method it is understood that interviews can be conducted without disturbing the relationships among other public defenders in the state.

3.3 Attracting and Retaining Staff

There are obviously a number of factors that affect a program's ability to hire and retain competent staff. They include: working environment, compatibility with existing staff, opportunity for advancement, and competitive salary.

The issue involving salary is one that should be examined both at the starting level and at the experienced attorney level. Public defenders report that, although their starting salaries are low compared to those offered by private law firms, clerkship and other public agencies, they are

able to recruit qualified applicants because the attorneys are socially motivated and/or desirous of getting early trial experience.

In the West Palm Beach public defender's office the starting salary is \$16,500 and increases to \$18,000 when new attorneys officially become members of the bar. The public defender reports that more than half the law students who are offered staff positions accept.

The non-competitiveness of public defender salaries appears to pose the greatest problem after the second or third year. In April of 1982, CDG conducted a brief telephone survey, augmented by other related work products, in an effort to record public defender salaries around the country. Table 3.1 presents the results of this effort.

As can be seen, the range of salaries is broad both within a particular program and among programs of similar size and budget. The most serious problem reported is the low salaries available for experienced litigators. They range from a high of \$60,000 in Alameda County, California to \$25,000 in Louisville, Kentucky and \$19,500 in Cincinnati, Ohio. In many cases these salaries are substantially below those of other public positions such as assistant attorney general, assistant prosecutor, and assistant city counsel. Some states have had success in bringing public defender salaries up to a level comparable to those in the prosecutor's office. This was accomplished by the public defender agency in Massachusetts in 1981.

The Metropolitan Public Defender in Portland, Oregon has dealt with the salary problem by developing a merit increase system. While all staff are employed on a grade and step scale basis, merit raises are available every six months on the basis of \$100 per month for attorneys and \$50 per month for support staff. Because of a serious problem with turnover in support staff positions, in July 1982 the program instituted a policy of doubling the pay increase to \$100/month at 18 months of employment, the point at which the data indicated that many staff members were choosing to resign. There is also some support within the office for implementing a similar type of balloon increase in staff attorneys' salaries in order to retain the more skilled attorneys for a longer period of time.

Table 3.1

SAMPLE PUBLIC DEFENDER SALARIES FROM SELECTED SITES

Jurisdiction	Chief P.D.	Average Staff Attorney
AK: Anchorage	\$53,000	\$40,000 (27,000-48,000)
AR: Little Rock	29,700	19,200
CA: Alameda Co.	53,220-64,692*	22,800 (starting)
CA: Contra Costa	44,064-53,568*	40,836 (maximum)
CA: El Centro	33,000	28,000
CA: Sacramento	66,804	28,000 (starting--up to 60,000)
CO: Denver	41,500	(20,000-31,000)
CT: Hartford	41,626	28,000 (23,600-40,442)
DE: Statewide	28,000 (PT)	35,000 (starting 15,000)
FL: Ft. Lauderdale	44,547	22,884
FL: St. Petersburg	44,547	21,000
FL: West Palm Beach	43,995	19,500 (15,000 starting)
ID: Blaine Co.	20,000 (+5K expens.)	not available
IL: Cook Co.	55,000-65,000*	24,000
IN: Indianapolis	35,000	00,000-25,000
IA: Polk Co.	47,000	30,000
KY: Louisville	31,000	14,250-25,000
LA: Baton Rouge	32,500	20,000
MD: Statewide	50,300	20,993-24,484
MN: Hennepin Co.	62,000	25,000-43,000
MO: St. Louis City	29,500	18,500 (17,500-23,000)
NB: Omaha	41,000	20,000-24,000
NH: Statewide	30,000	18,500
NM: Statewide	36,000	16,000-22,000
NV: Statewide	30,859	26,375
NC: Fayetteville	42,000	23,000

Table 3.1 continued

Jurisdiction	Chief P.D.	Average Staff Attorney
OH: Cincinnati	\$36,400	\$15,600-19,500
Puerto Rico	N.A.	19,000
RI: Statewide	36,400-41,800	29,300-38,300
SC: Darlington	15,600 (PT)	not available
SC: Horry Co.	32,000	18,000
SC: Richland	38,000	14,000-24,890
SD: Pennington Co.	25,000	14,500-18,000
UT: St. Lake City	40,000	18,000-30,000
VT: Montpelier	37,500	not available
WV: Statewide	35,000	19,000 (14,000-25,000)
WI: Statewide	45,000	21,000-27,000
WY: Statewide	43,128	19,578 (13,447-29,772)

*Step salary scale used in these jurisdictions.

There are also a number of reasons unrelated to salary issues which explain why experienced staff leave a public defender program. Among the more prevalent are the following:

- Many staff experience "burn-out" from the day-to-day pressures of representing indigent defendants in a frequently non-sympathetic system;
- Private practice can be alluring since it offers a degree of independence as well as the opportunity to demand large fees once the attorney has become an experienced criminal trial practitioner;
- Some programs are unable to reduce caseload levels to a manageable proportion; and
- Some programs are unable to secure sufficient funds for investigation, expert witnesses, social services, and paralegals, leading to attorney work overload and/or the inability to provide adequate representation.

Some public defender programs are beginning to find ways to cope with the problem of staff retention. In Hennepin County, Minnesota, the public defender has had a program which allows a prosecutor and a public defender to trade positions for up to nine months. One or two attorneys from each office change positions annually. The public defender feels that this program is a useful developmental tool for both the defender and the prosecutor. It allows attorneys to gain a different perspective about the criminal justice system, aids in the development of their lawyering skills, and reduces burn-out. It is a no-cost program and requires only that both agencies agree to cooperate.

3.4 Training and Development

In an organizational setting like that of a public defender, the primary beneficiary of a training program must be the organization itself. The effort to increase knowledge, enhance skills, and influence attitudes must have a demonstratable and unequivocal payback to the organization. Generally, the objectives of the organization and individual training participants will coincide in a defender office, where the goals of training are to provide:

1. initial orientation and training to optimize the development of new employees to a level of full caseload competence; and
2. ongoing training to sustain the knowledge, skills, and attitudes of experienced staff in order to minimize unwanted resignations and burn-out.

The need for training is a fundamental concern of any administration. Because the above training goals are also integral administration goals, there are close inter-relationships between training decisions and other agency decisions regarding resource allocations. Logically, the establishment of a policy on training requires planning that spans recruitment, orientation, training and career development. Thus, the need for training and the content of the training program will be shaped by a network of other agency decisions regarding:

- salary levels;
- the availability of support services;
- controls on workload; and
- a scheme for individual job advancement.

It is certainly evident that highly competitive salaries can minimize the need for initial training if those salaries allow for recruitment of experienced trial attorneys. Similarly, the presence of plentiful support services, supervisors, and low caseloads may counteract the absence of a formal training program and low salaries. Unfortunately, most public defender programs do not have sufficient resources to provide adequate supervision or support or to keep caseloads low.

Despite the numerous ways in which training touches every facet of defender office organization, it is surprising how many defender offices operate with no recognizable training component. In large part the absence of training programs is due to the clearly identifiable costs of establishing a training program and the difficulty of assigning comparable hard dollar values to the benefits of having training. Some public defenders simply do not attempt to develop comprehensive training programs because they view them as too costly given the other demands on the program. Identifying a dollar benefit to training should be attempted and can be developed by a two-step process.

1. Determine the cost and time investment necessary to bring an inexperienced attorney up to full caseload competence in functional areas, e.g., juvenile, mental health, appellate and felony. Determine the cost of training in each of these areas and the resulting decrease in time.
2. Begin to chart the various turnover rates for different personnel positions. If turnover occurs on the average of every 2 1/2 years in the felony unit and it takes 2 years for a felony attorney to develop the necessary skills without training and 18 months with training, there is a measurable benefit which can be defined in dollar terms in having a training program.

Training is best described as a formal learning process. Distinction should be made between the different approaches to training:

1. formal training programs with curricula and established structures;
2. formalized ad-hoc training involving supervision, co-counsel systematic rotations in assignment; and
3. surrogates for training which include informal supervision, distribution and availability of high quality library services.

A comprehensive training program usually includes a combination of these approaches, organized in a logical and complementary fashion.

Probably the most effective means of addressing the need for a comprehensive training plan is the designation of a training director. Given the complexity and importance to the training question, designating even a part-time training director will greatly advance any training effort. If a part-time position is created there must be a concomitant reduction in that person's other obligations or caseload. Too often programs create the position of training director and still require that attorney to carry a full caseload. Sometimes none of the staff desires to assume this position and someone is chosen by default. The person designated as training director must have sufficient time to perform the job, be committed to the assignment and have the necessary skills to perform appropriate tasks.

The training director's major activities will include a needs assessment, curriculum design, and selection of training techniques. Of equal importance will be the training director's ability to identify and use existing training resources. Existing training resources may range from video equipment at a nearby college, to curriculum packages from another

state, to collaboration with another defender office or the local bar association in building a special program.

The Metropolitan Public Defender in Portland, Oregon created a part-time training director position in 1978, and upgraded it to a full-time position in 1982. The training director is responsible for coordinating the law-related training of all staff, and is available for consultation with attorneys. The training director also observes trials handled by new attorneys, is in charge of the law student research projects, and is responsible for the administration of the office library. The ongoing training projects which the training director coordinates are:

- Weekly brown bag luncheons where topics of general interest (often suggested by the staff) are discussed;
- Monthly training sessions with speakers addressing a specific theme. A recent series of sessions have dealt with the successive stages of a trial. These sessions are often video-taped for later use;
- A mock court held bi-annually for new admittees to the bar. These proceedings are also video-taped; and
- Funding for some staff members to attend the annual conference of the Oregon Criminal Defense Lawyer's Association (OCDLA).

One of the important goals of an in-service training program for defender attorneys is to keep them abreast of developments in criminal law, criminal procedure, and the forensic sciences. Training for other staff members should also be provided. Although there are many methods of training delivery, the most common are conferences, seminars and short courses.

The conference, usually a one or two-day gathering, has become popular because it allows a group to focus sharply on a specialized topic in a limited time. The conference format must depend on the group, the subject and the goals sought. There may be large general sessions or small discussion groups. The major argument for the use of a conference center is the residential feature. The group is housed together, eats together and engages in common recreation in addition to attending scheduled sessions. There is every opportunity for informal discussion and the availability of all staff both day and evenings and gives an immersion quality to the experience. Another asset is the non-traditional learning atmosphere of a conference center. The negative features to be considered are cost and time. The

residential program involves the expenses of lodging and meals as well as travel and trainers, and it removes staff completely from their job for the duration of the training conference.

An excellent example of the conference approach to training is the Annual Colorado State Public Defender Conference. Particularly in a state-wide system, it is important to disseminate acquired expertise and information throughout the system. The conference creates an opportunity for interaction between the state administrative office and each individual staff member in the system and addresses the training needs of the four major staff divisions--regional chiefs/senior attorneys, junior attorneys, investigator/paralegals and secretaries. At the 1982 conference, attended by our research staff, senior attorneys and regional chief public defenders had an opportunity to discuss strategies in death penalty cases, courtroom techniques and also to share ideas on minimizing the drain on their resources in capital cases. For staff attorneys the conference was a chance to accumulate CLE credit and to work on various legal procedures, such as motion practice, post-conviction motions and extradition, the trial attorney's role after conviction, jury instruction, and original proceedings (see Appendix B for a sample agenda). Investigators used role playing techniques to enhance communication tools for gathering information during field interviews. Finally, secretaries benefitted from the opportunity to share ideas on how to streamline and unify statistical gathering methods and office procedures.

The seminar format used in Colorado combines formal presentation with group discussion in a meeting or series of meetings. This type of training session can also be successfully applied outside the large conference setting. The short course is another common type of training format. It can meet weekly for a few months or can run all day for a four or five-day stretch.

A definite plan of orientation to the job and to the organization is critical. The orientation of newly-recruited staff members generally involves introduction to basic policies and procedures, most of which relate to personnel issues but which will also involve practices and rules which have become customary in an office. The need for consistency, comprehensiveness, detail and ease in introducing basic policies and procedures makes these concerns well suited to written form. Defender offices visited by the

study team provide a variety of orientation and initial training programs for new staff attorneys.

Ideally, defender hiring practices should be coordinated to facilitate an entry-level training program where newly hired attorneys are not assigned to regular office duties. It is absolutely essential that new attorneys be closely supervised and integrated into the system slowly. Experience has indicated that the first six to 12 months are critical. Every effort should be made not to assign complex or serious felony cases until the attorney has developed the necessary skills and experience.

In West Palm Beach most new attorneys are sent to the National College of Criminal Defense summer session and then are assigned to work with a senior appellate attorney in the Appellate Division for six months. Next there is a brief clerkship in the Felony Division concentrating on motion practice and learning the ropes, followed by an assignment to the County Court Division for misdemeanors for approximately six months. Finally, a new attorney is assigned to a Felony Division after approximately 12 to 18 months.

In Portland, all new attorneys start out in the main office in Multnomah County, in the misdemeanor section. The head of each attorney's section is primarily responsible for developing a training schedule for each new member of that section, though the plan must be approved by the training director. The training method for new attorneys varies according to the organization and needs of the section. All plans, however, must include a review of basic legal issues, trial practice, trial strategy, and an orientation regarding the local criminal justice system and the key actors in that system. In addition, a part-time training position for trial assistants (TA's) was created in July 1982 because the number of TA positions was increasing dramatically and new hires were assigned a full caseload without appropriate training. Under the new system, TA's are introduced to office procedure, the courts, interviewing techniques, the role of the TA as an integral part of the team, and procedures for identifying alternative dispositions for clients of the office.

Manuals, both general and specific, have been developed for each of the training programs in Portland by the training director and the section heads. These are tied to the program's library of video tapes and audio cassettes. The library consists of a standard package of prepared tapes

(e.g., Younger on evidence), tapes of the Oregon Criminal Defense Lawyer's Association training sessions conducted throughout the year, and video tapes prepared in-house (e.g., interviewing, felony overview, preliminary hearings, and previous training sessions on specific topics). The goal of the training program in Portland is to provide a general introduction and on-going training for all staff. In addition, the program is designed to provide for systematic oversight as well as personnel evaluation.

Great strides have been made by public defenders over the past few years in regard to training. This section addresses briefly the role and specific types of training that are currently being provided by the sites visited. For a more thorough discussion attention should be directed to the source material identified in the first footnote in this chapter.

3.5 Supervision and Performance Appraisal

One of the positive characteristics of the four sample public defender programs was the ability to retain experienced staff and to involve these lawyers in the supervision and training of new attorneys. One of the most important resources that a program can have are highly skilled attorneys who can supervise others and at the same time handle the more serious and complex cases. However, the supervisor must be provided with methods to assess the performance of staff attorneys in order to determine the effectiveness of the supervision and training. As was stated in Chapter 1, it was not the purpose of this study to conduct an evaluation of any of the sites visited. However, during the course of the study, several useful methods designed to assess the quality of representation of staff attorneys were observed. Some of these methods are spelled out in the sections which follow.*

3.5.1 Supervision

The nature of supervision has a variety of interpretations, but generally refers to the responsibility and authority of individuals to plan, direct, coordinate and appraise the work activities of others. Generally, this position is referred to as a middle management position and typically

*For a detailed discussion on program evaluation see: How Does Your Defender Office Rate: Self-Evaluation Manual for Public Defender Offices, National Institute of Law Enforcement and Criminal Justice, October 1977.

in public defender offices it is that of the more experienced senior attorneys. As in recruitment and hiring, the relationship between maximizing public defender resources and supervision needs emphasis. In terms of direct supervision, the goal should be to develop experienced, highly skilled staff attorneys. An experienced attorney can evaluate a case far more quickly than an inexperienced attorney. The result is that the experienced attorney can handle many more cases than the new attorney. Furthermore, the experienced attorney needs only a small portion of the time of a supervisor if the on-going supervision and training has been successful.

In the Hennepin County program, a vital aspect of the team structure involves the role of the senior attorney. This position was originally conceived of as a policymaker, manager, trainer, supervisor and co-counsel who would carry a reduced caseload. In practice, however, these attorneys not only carry a substantial caseload, but also handle the more complex and difficult cases.

Supervision also plays another significant role in the public defender setting. As new attorneys begin to become experienced there is a danger that their continued professional development may become neglected simply because they no longer need to be watched carefully on every case they handle. Lack of supervision at this point, however, can seriously affect performance. The federal defender office in San Diego, although small in scale, has a heavy emphasis on supervision. Both the public defender and the deputy public defender carry reduced caseloads, with the purpose of taking on cases whenever overload situations occur among the eight staff attorneys. Performance and workload are constantly under review in the office. Because the two administrators are the most experienced trial lawyers in the office, their direct involvement with the staff attorneys results in the attorneys attaining a high level of achievement within a reasonably short period of time.

3.5.2 Standards of Representation and Performance Appraisal

Most public defenders agree that it is important to develop a set of standards for the handling of cases to insure that quality representation will be provided to the program's clients. In some programs the standards are somewhat informal although carefully monitored. Some programs have adopted caseload standards developed by the National Advisory Commission as

discussed in Chapter 4. In the following discussion, the steps taken by several public defenders to develop a more complete set of guidelines are presented. These guidelines are not meant to set forth specific criteria for quality representation, but are intended to foster a sense of what is expected of staff attorneys in the delivery of criminal defense services.

On August 31, 1978, the Colorado State Public Defender promulgated certain "rules of thumb" for the delivery of services by the public defender offices throughout the State. These rules were designed to enhance the professionalism of the program and to make certain that clients knew what services would be provided by staff attorneys in the program. The state public defender also indicated that these rules would form the basis for attorney evaluations. These rules are currently utilized by the program:

What follows are the rules of thumb for our trial attorneys. These rules are designed to make our clients feel better about being represented by the public defender and to make them more comfortable with the court system. They are also to be used as a basis for evaluating attorneys and to give attorneys prior notice of the minimum standards which we consider reasonable under most circumstances. Obviously, there may be times in the life of a public defender during which these rules cannot possibly be met. However, we consider them reasonable, and they should be met the vast majority of the time.

1. Immediate contact in major cases. In all Class 1 and 2 felonies, the defender should develop an early warning system which allows him to have personal contact with the client within hours after the crime.
2. Initial contact in other cases. In all other cases, the trial lawyer should have a client interview within 72 hours from the time the case is assigned to his criminal division.
3. Appointment days. When the defender is not in trial, he should try to set aside one-half day each week during which his secretary is authorized to make appointments with clients without approval of the attorney. This will avoid the situation which prevails in some offices where the client must have actual telephone contact with the attorney before he can even set down an appointment.
4. Telephone calls. When an attorney is not in trial, he should attempt to answer all of his telephone calls before leaving the office.
 - (a) Calls from other public defenders should be answered on an urgent basis.
 - (b) Calls from other attorneys should also be answered on a priority basis.

5. Telephone calls--in court. When the attorney is on trial, he should answer all of his telephone calls every other day.
6. Client visits. When a client takes the trouble to come into the office while the attorney is present, the attorney should see that person if only to explain why he cannot confer with the person at length on that given day.
7. Felony client contacts. The lawyer should have a meaningful out-of-court contact with each client at least once every three weeks.
8. Keeping the secretaries informed. The secretaries' appointment books should conform to the attorneys' every morning. In addition, when the attorney leaves the office, he should inform the secretary where he is going and when he should return.
9. Cooperation with fellow defenders. Each attorney should make every effort to cover for other defenders in the office during an emergency period. This is especially true for felony deputies who are called upon to cover lower courts.
10. Avoiding last-minute emergencies. The attorney should attempt to anticipate work well ahead of time so he can avoid giving emergency work to his secretary and investigator at the last minute.
11. Keeping good files. The notes on the front of each file should be complete and up to date, and notes inside the file on important hearings and interviews should be complete and readable. Each attorney's files should be kept in one place and in alphabetical order, and no files should be kept outside of the office except for work overnight.*

These "rules of thumb" provide a handy guideline for the busy public defender staff attorney and set the framework for professional relationships with clients, other attorneys and the courts. They also establish a basis for evaluation of staff attorney performance, as well as office performance. The informal standards assist in deriving an effective use of staff resources, simply because the staff know precisely what is expected of them. As a result, staff attorneys devote their energies to their clients and cases as expected by the program. This enables the defender program to better anticipate resource needs and provides a better justification for fulfilling those needs.

*Interoffice memorandum dated August 31, 1978 from the central Office of the Public Defender to all regional offices in Colorado.

The Hennepin County Public Defender has adopted a threefold approach to monitoring the quality of representation. First, the disposition of cases are examined routinely through spot checks of individual case files. The chief defender also makes a point of speaking with representatives of the prosecutor and the judiciary on a regular basis in order to find out about attorney performance. Second, the defender has routine performance reviews with all staff members, in which the results of cases are examined and suggestions are made for improvement. The performance review is also a part of the annual salary review for all staff. Third, the chief defender has promulgated standards articulating office policy for case assignment, use of office support staff and specialized units for plea bargaining and disposition of cases. The standards address specific kinds of case situations occurring in the felony, misdemeanor and juvenile courts. While the standards are still experimental and subject to modification it is useful to cite one example:

FIRST-TIME OFFENSES: PRESUMPTIVE PROBATION

1. In all cases in which a single felony is alleged, in which the client would be exposed to a presumptive sentence of probation, and in which the client's criminal history score is zero, a lawyer will normally recommend taking the case to trial.
2. A negotiated plea should be recommended only if any of the following five results would obtain:
 - a. The plea of guilty is to a misdemeanor offense;
 - b. The case is assigned to the miscellaneous calendar for dismissal (including 158.18 for dismissal);
 - c. The case is assigned to deNovo;
 - d. The case is dismissed outright; or
 - e. Probation without workhouse time.
3. All other plea agreements on such cases will be entered into only after review by the lawyer's supervisor.
4. Any such case shall be referred to the Dispositional Advisor unit for possible assistance.

The standards are recognized as a method of defining the parameters of attorney discretion in plea bargaining. They are also seen as a method of developing a greater willingness to try cases. Since the defender has determined that, as an absolute minimum, each attorney should try at least nine cases per year, these standards have caused the number of trials for many

attorneys to exceed the minimum. This method of encouraging attorney performance enables the defenders to justify resource needs and allocation.

A more difficult area of ensuring quality representation is in the appointment of private counsel to represent the indigent. Primarily, the difficulty is the development of guidelines which are not seen as the rigid imposition of rules on the private bar by a state or county funded organization. The Ohio Public Defender Association has established guidelines which appear to balance the need for standards with the traditional freedom felt by private attorneys to act on behalf of their clients. These guidelines are as follows:

Qualifications for Assigned Counsel and Public Defenders

- A. Any attorney including public defenders and assistant public defenders who fail to meet the following minimum qualifications shall not be assigned to represent an indigent person in a criminal case.
 1. Where the defendant is charged with murder, aggravated murder and aggravated murder with specifications.
 - a. trial counsel or co-counsel in one prior murder trial; or
 - b. trial counsel in two first degree felony trials; or
 - c. trial counsel in ten or more jury trials.
 2. Where the defendant is charged with first, second or third degree felony.
 - a. trial counsel in two or more first, second or third degree felony trials at least one of which was a jury trial; or
 - b. trial counsel in any four jury trials at least one of which was a criminal jury trial in a first, second or third degree felony trial; or
 - c. trial counsel in any two criminal trials and
 - (i) co-counsel in at least one criminal jury trial; or
 - (ii) trial counsel or co-counsel in two jury trials.
 3. Where defendant is charged with a fourth degree felony.
 - a. trial counsel or co-counsel in at least one jury trial; or
 - b. completion of a training program certified by the local bar association, the court in which the case is being tried or the State Public Defender Commission.
 4. All other cases for which assigned counsel is required by current constitutional interpretations.
 - a. trial counsel or co-counsel in one trial tried to verdict; or
 - b. completion of a training program certified by the local bar association, the court in which the case is being tried or the State Public Defender Commission.

- B. Assignments should be distributed as widely as possible among the members of the bar who meet the qualifications for assignment.
- C. The respective courts and county and joint county public defender commissions shall be free to adopt local rules requiring qualifications in addition to the minimum standards established by this regulation.

By establishing guidelines by which the public defender can monitor the performance of appointed private counsel, the level of quality can be raised throughout the bar. Establishing identical appointment criteria for private counsel and public defenders insures fairness in the selection of counsel and provides a fair basis by which to gauge the quality of representation for all attorneys. Hopefully, more jurisdictions will adopt similar guidelines for public defenders and the private bar.

For internal evaluation the Vermont Defender General uses the lawyer equivalency caseload formula (discussed in Chapter 5) in conjunction with two other measures, based on closed case data, both of which address the issue of quality. The primary evaluation technique is applied equally to public defender, contract, and conflict attorneys. Described as a simple test, the defender general regularly reviews data on how many of a particular lawyer's clients went to jail for: 1) misdemeanors; 2) misdemeanors originally charged as felonies; and 3) felonies. The second test examines the attorney's use of discovery and the number of cases tried. The significance of discovery is that in Vermont, many cases are resolved through a formal deposition procedure. The depositions require a substantial allocation of attorney and support staff resources. The practice in Vermont is acknowledged to be one in which the majority of the case effort is devoted to preparation, investigation and deposition. Typically all witnesses in a felony case are deposed, and approximately 30 percent of all misdemeanor cases involve depositions. Although Vermont is admittedly a small jurisdiction in which the appraisal of attorney skills can be accomplished on the basis of personal knowledge, the three tests (Lawyer Equivalency; jailed defendants; deposition/trials) comprise a useful monitoring technique of service quality.

3.6 Summary and Conclusions

The personnel management practices reviewed in this chapter relate, in part, to the recruitment and selection of necessary staff and the ability to attract and retain competent individuals. In addition, the central importance of training, supervision, and performance appraisal to the management of a public defender office is discussed.

It is difficult to assess the financial benefits of efforts in each of these areas, but the public defenders using them report that they increase employee satisfaction, help reduce the rate of staff turnover, and can lead to improved workload management. The net effect of successful personnel management practices in public defender agencies appears to be a higher quality of representation accorded to indigent clients.

Recruiting, especially of attorneys, should be conducted on as wide a basis as possible. Where feasible, a nationwide search will yield a pool of applicants with the best qualifications. Short of that option, the availability of staff positions should be publicized in surrounding states where potential applicants might reside. Public defenders can generate interest in their program by establishing clinical intern programs, distributing brochures to campus placement offices, to name two key recruiting methods. Whatever method is used, the involvement of present program staff in all phases of the process of recruiting and selection is recommended.

There are a number of factors which affect the ability of public defender programs to attract the kind of staff that they need. The same factors affect the ability to retain staff once they have been hired. One of the most significant of these factors is salary. Unfortunately, salaries of public defender staff are typically below market rate, although they vary considerably around the country. Offering salaries on par with the prosecutor's office can increase a program's chances of attracting qualified applicants. The availability of merit pay increases, especially at the point where many staff members choose to leave, can improve employee satisfaction and reduce turnover. Another factor adversely affecting a program's ability to attract and retain competent staff, especially attorneys, is burnout. This can result from the day-to-day pressures of representing indigents, unmanageable caseloads, and lack of support services. One unique method of

providing a change of pace to attorneys is to arrange a defender/prosecutor exchange program. Other approaches to reducing workload and increasing the use of support staff are discussed throughout the report.

The training of public defender staff is essential to the effectiveness and efficiency of its services. A comprehensive training program should be designed to provide both initial orientation and training of new staff and ongoing training to continue to develop the skills of existing staff. There are several approaches to training: 1) formal training programs, such as conferences, seminars and short courses; 2) formalized ad hoc training methods, such as supervision and co-counsel; and 3) training surrogates, such as the availability of legal library services. Designation of a full-time, or part-time, training director is the best method of developing a comprehensive training plan for the entire office.

Staff supervision and performance appraisal procedures should be associated with the training program in a public defender office. With direct supervision by an experienced attorney, a young attorney can gain advanced skills at a much more rapid pace. A supervisor will also be able to assess the performance of the attorneys with whom they work, according to guidelines outlining program expectations for quality representation by its staff attorneys.

4.1 Introduction

Prior to the U.S. Supreme Court's decision in Gideon v. Wainwright in 1963, there were only a handful of public defender offices in operation throughout the country. These offices were established either because lawyers and leading laymen felt that these services would be helpful to those in need of defense services or as a response to state legislation mandating the right to counsel at the state level. Where they did exist, public defender organizations were relatively small in size, and most staff attorneys were employed on a part-time basis.

This situation changed after Gideon. The court in Gideon required the appointment of counsel in "all serious cases," although the meaning of this language was not spelled out with precision. Some states interpreted the words to require counsel in only serious felonies, other states for all felonies, and a few states for all cases in which a jail or prison sentence might be imposed. The obvious result was to place a very high burden of caseload on existing public defenders and the creation of many new public defender programs.

From 1964 through 1973 when the U.S. Supreme Court decided Argersinger v. Hamlin, most public defenders found themselves increasingly swamped with cases and insufficiently funded to hire the necessary staff to manage the caseload. Matters grew even worse after the Argersinger decision, since public defender agencies were now required to represent all criminal defendants who faced a jail or prison sentence. The problem did not end there, however. Many additional factors have developed to add substantially to the problem. They include:

- an increase in the crime rate;
- changes in the economic picture resulting in increased claims of indigency;
- changes in statutes, case law, or court rules in individual states that increase the types of cases or proceedings for which counsel was requested;
- changes in public or office policy requiring the performance of additional tasks, e.g., preparation of sentencing reports, diversion recommendations, indigency screening, and appellate review;

- changes in prosecutorial practices such as the institution of career criminal prosecution programs;
- the loss of support staff positions or other adverse alterations in staffing patterns;
- changes in the method of case disposition or the stage at which cases are disposed, e.g., increase in trials, more frequent use of juries, fewer dismissals, less plea bargaining at early stages of the case;
- changes in the types of cases handled, e.g., more robberies and fewer burglaries or more homicides and fewer misdemeanors, etc.;
- a reduction in court processing time or other increases in court efficiency; and,
- changes in statutes or court rules mandating procedural alterations such as speedier trial or mandating preliminary hearings for certain classes of offenses.

In the decade following Gideon it is fair to say that public defenders were required to represent each defendant for whom the court had made an appointment. The result was a period of time when public defender caseloads were overwhelming and the question of "effective representation" was stretched to the limit.

In the middle seventies and into the eighties, public defenders began to develop methods to control their caseloads. These methods are spelled out in this chapter along with a discussion of national caseload standards. Information is also provided regarding the state-of-the-art of caseload standards and workload measures.

4.2 National Standards/Legal Requirements

The beginning point for our discussion is the requirement of legal representation as set out by the American Bar Association and other national organizations. Canon 6 of the American Bar Association (ABA) Model Code of Professional Responsibility states that, "All lawyers should represent a client competently." The disciplinary rules established by the ABA provide insight into what is meant by "competently." Rule 6-101 states:

A Lawyer shall not:

1. handle a legal matter of which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it;

2. handle a legal matter without preparation adequate to the circumstances; or
3. neglect a legal matter entrusted to him.*

While the model ABA code does not govern the ethical standards of lawyers practicing law in the various states, it has carried considerable weight when the professional code of conduct has been developed in each state. In fact, a number of states have modeled their code around the ABA rules.

In response to the rising crime rate and change in constitutional requirements within the criminal justice system in the last decade, the ABA has also taken a leadership role in developing a set of standards and goals for each component of the criminal justice system. These may be found in the ABA's 1979 publication, Standards Relating to the Administration of Criminal Justice. The four-volume work has already been revised and updated. Two of its chapters address the subject of indigent defense. Chapter 4 is devoted to the prosecution and defense functions, and Chapter 5 is concerned with the provision of defense services.

Standard 4-1.2 of Chapter 4 deals with the ethical considerations regarding the defense lawyer. It states:

A lawyer should not accept more employment than the lawyer can discharge within the spirit of the constitutional mandate for speedy trial and the limits of the lawyer's capacity to give each client effective representation.**

Chapter 5 provides a blueprint and set of standards for delivering defense services. It spells out in some detail the requirements for both public defenders and privately appointed counsel in meeting their constitutional and ethical requirements. Standard 5-4.3 provides:

Neither defender organizations nor assigned counsel should accept workloads which, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations. Whenever defender organizations or assigned counsel determine, in the exercise of their best professional judgement, that the acceptance of additional cases or continued representation in previously accepted cases will lead to the furnishing of

*American Bar Association Model Code of Professional Responsibility, Disciplinary Rule 6-101.

**American Bar Association Standards Relating to the Administration of Criminal Justice, Prosecution and Defense Function (1979).

representation lacking in quality or the breach of professional obligations, the defender organization or assigned counsel must take such steps as may be appropriate to reduce their pending or projected workload.

While these statements, guidelines, and standards are extremely important, they do not provide detailed guidance as to what is an excessive workload or what lawyers should do when they have reached the workload limit. More specific detail can be found by examining the work of two national bodies who have attempted to deal with the problem: the National Study Commission on Defense Services and the National Advisory Commission on Criminal Justice Standards and Goals.

Under a grant from the U.S. Department of Justice, a two-year study was undertaken by the National Legal Aid and Defender Association through the National Study Commission which resulted in the publication in 1976 of the Guidelines for Legal Defense Systems in the United States. Chapter 5 of that report addresses the maximum criminal caseload for a defense attorney. Section 5.1 states:

- (a) In order to achieve the prime objective of effective assistance of counsel to all defender clients, which cannot be accomplished by even the ablest, most industrious attorneys in the face of excessive workloads, every defender system should establish maximum caseloads for individual attorneys in the system.
- (b) Caseloads should reflect national standards and guidelines. The determination by the defender office as to whether or not the workloads of defenders in the office are excessive should take into consideration the following factors:
 1. objective statistical data;
 2. factors related to local practice; and
 3. an evaluation and comparison of the workload of experienced, competent, private defense practitioners.*

Section 5.3 which deals with the elimination of excessive caseloads is also instructive. It states:

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

*National Legal Aid and Defender Association, Guidelines for Legal Defense Systems in the United States, Report of the National Study Commission on Defense Services (Washington, D.C.: NLADA, 1976), p. 411.

- (b) Whenever the Defender Director, in light of the system's established workload standards, determines that the assumption of additional cases by the system might reasonably result in inadequate representation for some or all of the system's clients, the defender system should decline any additional cases until the situation is altered.
- (c) When faced with an excessive caseload the defender system should diligently pursue all reasonable means of alleviating the problem including:
 1. declining additional cases and, as appropriate, seeking leave of court to withdraw from cases already assigned;
 2. actively seeking the support of the judiciary, the defender commission, the private bar, and the community in the resolution of the caseload problem;
 3. seeking evaluative measures from the appropriate national organization as a means of independent documentation of the problem;
 4. hiring assigned counsel to handle the additional cases; and
 5. initiating legal causes of action.
- (d) An individual staff attorney has the duty not to accept more clients than he can effectively handle and should keep the Defender Director advised of his workload in order to prevent an excessive workload situation. If such a situation arises, the staff attorney should inform the court and his client of his resulting inability to render effective assistance of counsel.*

The only national source that has attempted to quantify a maximum caseload is the National Advisory Commission, which published its standards in 1973. In that report standard 13.12 on Courts states:

The caseload of a public defender office should not exceed the following: felonies per attorney per year: not more than 150; misdemeanors (excluding traffic) per attorney per year: not more than 400; juvenile court cases per attorney per year: not more than 200; Mental Health Act cases per attorney per year: not more than 200; and appeals per attorney per year: not more than 25.**

*Ibid., p. 413.

**National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, Courts (Washington, D.C., 1973), p. 186.

4.3 Methods of Limiting Caseload

Through both the research conducted under the present grant and through the ongoing work of Abt Associates' Criminal Defense Group, three distinct methods for limiting case intake have been documented. They include litigation-based methods, legislative-based methods and administrative methods. Each is described in the sections which follow.

4.3.1 Litigation-Based Methods

During the past several years public defenders in a few jurisdictions have engaged in litigation in an effort to limit their caseload and to meet acceptable standards for "the effective assistance of counsel." In most cases, litigation-based remedies have been undertaken only as a last resort and only when all other methods have been exhausted. Public defenders have been reluctant to bring suit against the very judges who are making the appointments for obvious reasons. They are also aware in some cases that judges may be equally frustrated and discouraged by the dilemma of too few dollars for too many cases.

Where litigation-based remedies have been used, they have consisted primarily of Writs of Prohibition and/or Mandamus seeking to prevent the trial judge from making new appointments or referring such new cases to members of the private bar. Other methods have included declaratory judgments, injunctive relief, or federal court lawsuits.

It is not the purpose of this study to detail the specific types of litigation attempted. Those interested in more detail on the overall subject should refer to the monograph: Perspectives Relating to Case Overload in Defender Offices: Developing Strategies for Resolving Workload Problems and Controlling Caseloads, Albert-Goldberg, Hartman, Brandt, Singer and O'Brien, published by Abt Associates in 1981. The authors of this monograph also conclude that litigation should be used only after all other remedies have been exhausted.

4.3.2 Legislative-Based Methods

There has been a slow but steady trend in this country towards state funding of indigent defense systems. At the present time, twenty-three states do in fact fund the entire system. In eight other states, the state

provides a substantial portion of the funding. Another six states are presently considering state funding.

For those public defenders who practice in a jurisdiction that is state funded, legislative remedies should be examined. In the long run, legislative-based remedies provide the most realistic and long-term solution for excessive workloads. Among the methods that have proven effective are:

- provisions requiring public defender salaries to be on par with those of the district attorney;
- increased fees for members of the private bar who are appointed in indigent defense cases;
- the establishment of caseload limitations for each public defender office;
- provisions specifically permitting judges to appoint members of the private bar when the public defender has reached the maximum level of cases;
- specific authority for releasing public defenders from handling certain types of cases such as mental commitments, probation and parole revocation, or appeals.

It is absolutely essential that public defender administrators become adept at developing internal management and information systems to support budgetary requests, a legislative appeal or any other approach to workload management. This topic is discussed in some detail in Chapter 6, Administering the Public Defender Program.

4.3.3 Administrative Methods

The third approach to caseload control can be accomplished through administrative action. This should be the starting point and in most cases precede any legislative- or litigation-based remedy. Administrative action involves meeting, formally or informally, with the funding authority, members of the private bar, and judges in the court where representative is provided, among others. Many public defender programs have been successful in achieving one or more of the following results:

- negotiating a fixed number of cases to be handled over a specific period of time;
- convincing the appointing authority to appoint members of the private bar when the public defender has reached the maximum number of cases;
- developing an informal relationship with the private bar permitting the public defender to refer cases whenever necessary;

- developing a plan with the funding authority that ties the budget request to caseload levels; and
- working out a plan with the court and/or the funding authority whereby the public defender will not be appointed in certain types of cases or in certain courts within the public defender's overall jurisdiction.

In some cases it will be necessary to mobilize the support of various groups and individuals in the community to help to reinforce the approach to the funding authority. This could include groups such as board members, judges, the local bar association, state officials, law school professors and the community-at-large. It bears repeating, however, that any administrative plan must be based upon reliable caseload statistics and a realistic budget.

4.3.4 Survey of Caseload/Workload Standards Among Public Defender Agencies

Over the past four years Abt Associates' Criminal Defense Group has had the opportunity to conduct a number of studies of public defender agencies throughout the country. In addition, CDG files include reports, evaluations and research results on many more agencies. A review of the available information indicates that many public defender agencies have no caseload standards or workload measures. Some continue to handle every case assigned to them, with the result that staff attorneys may be required to process over 600 cases per year. Other public defenders report that their system of caseload control is largely informal, with the chief public defender keeping a general eye on caseload levels and making decisions on his/her best judgment.

Two years ago, Abt Associates conducted a telephone survey as part of a Test Design on Early Representation for the National Institute of Justice. One of the questions addressed in the survey was whether the agency had formal or informal caseload standards to control the intake of cases. Table 4.1 provides a summary of the responses to this question.

While extensive data on the caseload standards of these 22 public defender programs were not collected, the responses are representative of public defender organizations around the country. Clearly, the state of the art is extremely low. Where standards do exist, many appear to be informal and based upon guesswork of the chief public defender. The survey results confirm observations made by Abt Associates' staff during visits to public defender organizations conducted in the course of prior studies.

TABLE 4.1

OVERVIEW OF CASELOAD STANDARDS	
City/County/State	Caseload Standards
1. County Defender Office San Joaquin County, California	Supervising attorney monitors caseloads. Standards based on budget, estimate 25-30 per attorney.
2. Charleston County Public Defender Charleston, South Carolina	None. Estimate 50 open cases per attorney.
3. Onondaga County Public Defender Syracuse, New York	None. Estimate 330 cases (only misdemeanor and appeals) per attorney per year.
4. First Judicial District Shreveport, Louisiana	None. If caseload excessive, request appointment of private attorney. Estimate 90-110 per attorney.
5. Ninth Judicial District California	Cases distributed evenly by number, estimate 55 per attorney.
6. Lake County Public Defender Gary, Indiana	Informal rotation to evenly distribute cases, estimated 20-30 per attorney.
7. Stark County Public Defender Canton, Ohio	None. Considered a political issue and generally resisted. Estimated 400 cases per attorney per year.
8. Peoria County Public Defender Peoria, Illinois	None. Judgment call by Chief Public Defender.
9. Ventura County Public Defender California	None. Estimate 10-12 cases open per attorney.
10. Tulsa County Public Defender Tulsa, Oklahoma	None. Distributed evenly.
11. Grand Rapids Public Defender Michigan	Attempt to maintain NLADA standards.
12. Massachusetts Defenders Committee Massachusetts	None. Estimate 40-60 cases open per attorney.
13. East Baton Rouge Parish Louisiana	None. Estimate 40 cases per attorney per month.
14. 15th Judicial District West Palm Beach, Florida	None. Estimate 35-50 open cases per attorney.

Table 4.1 (cont.)

City/County/State	Caseload Standards
15. Polk County Public Defender Des Moines, Iowa	None. Each attorney sets own limits and looks to the court for relief from assignment. Estimate 15 cases per month per attorney.
16. Summit County Legal Defense Akron, Ohio	None. Estimate higher than NLADA standards.
17. Spokane County Public Defender Spokane, Washington	None. Estimate about 40 cases per month per attorney.
18. Clark County Public Defender Nevada	None. Estimate about 40-50 cases per attorney.
19. Arlen County Public Defender Indiana	Case assignment done each month on number of cases and case type, estimate 2 new assignments per attorney per week.
20. Honolulu Public Defender Hawaii	None. Budget Office will not accept NLADA standards and will be doing own management analysis to determine office standards.
21. Douglas County Public Defender Omaha, Nebraska	None. Estimate 120-130 cases per attorney per year.
22. Dauphin County Public Defender Pennsylvania	None.

The early stages of research under this grant identified a few public defenders who have developed more formal caseload and workload measures. Their approaches to this problem are summarized briefly below.

The public defender of Sacramento County, California regulates caseload according to two criteria: 1) the total number of pending cases; and 2) the number of new assignments per week. The felony intake section limits its workload to: 40 pending cases for an experienced attorney, with 45 pending cases in brief peak periods; and, for less experienced lawyers, a maximum of 30 pending cases per attorney, with 35 pending cases during brief peak periods. Both are allowed a maximum of 12 new assignments per week. For the felony trial section, maximum caseload is limited to 25 with 4 new assignments weekly. In addition, the guidelines stipulate that there must be at least a one-week interval between trials to guarantee effective representation.

The New Jersey Public Defender combines a "profile of an average staff attorney" with a work unit time study analysis to produce an estimate of how time was spent and includes the package in the regular budget submission. Forecasts of additional staffing requirements are simply extrapolated from these estimates. Time data utilized are generally based on estimates of major activities such as trials, hearings, and number of court appearances.*

In Los Angeles County, California a project was undertaken in 1979 to develop case weights for both defense and prosecution.** A cross-sectional research design was employed and data were gathered from the attorneys on a daily time sheet, from court dockets, and from the Los Angeles PROMIS system. Criminal cases were then categorized according to two dimensions: 1) offense

*National Study Commission on Defense Services, Guidelines for Legal Defense Systems in the United States (Washington, D.C.: National Legal Aid and Defender Association, 1976), p. 411.

**For detailed descriptions of the methodology in implementing a caseweight method of case/workload forecasting see: 1) Dorworth, et al, Operating a Defender Office: Participants Handbook (Washington, D.C.: Office of Development, Testing, and Dissemination, U.S. Department of Justice, 1978); and 2) Albert-Goldberg, et al., Perspectives Relating to Case Overload in Defender Offices: Developing Strategies for Resolving Workload Problems and Controlling Caseloads (Cambridge, MA: Abt Associates Inc., 1981).

charged (15 offenses), and 2) type of disposition (9 types). Case weights based on time spent per offense per category of disposition were calculated for use in estimating future resource needs based on predicted caseload and also for use in allocating funds according to those needs.*

The state of Connecticut commissioned the development of a caseload evaluation system in 1978.** The system developed was a two-phased manual system which monitors caseload characteristics in varying levels of detail. The "routine" part of the system reports on performance indicators monthly and is intended to highlight trends within an office and between offices of similar size. The "detailed analysis" part of the system provided in-depth information on the caseload to identify causes of trends within an office, action which might improve performance, and the effects of action taken to correct adverse trends.*** This unique system was designed to forego the establishment of arbitrary standards or unwieldy caseweights. However, the multi-phase system involved so many process steps, forms, levels of data collection, and so much time and effort that the chief defender admitted it had never been fully implemented. This situation points out an important consideration in developing workload management systems for public defender offices: the system must be carefully tailored to the specific needs and limitations of a particular office. A system which gathers superfluous data and costs more to set up and maintain than it saves is not maximizing resources, but is instead contributing to greater system inefficiency.

4.4 Summary and Conclusions

There are three methods that can be used to provide a solution to excessive caseload: the litigation-based method, the legislative method and the administrative method. Litigation is a short-term remedy which may solve the immediate overload problem, but does not establish a mechanism for controlling caseloads in the long term:

*Institute for Law and Social Research, Case Weights for the Prosecution and Defense of Felony Cases in Los Angeles County, Executive Summary, p. 3.

**Touche Ross and Co., Development of Caseload Evaluation System for the Connecticut Public Defender Services Commission (1978).

***Ibid., p. III-1.

From the review of the experience of Oregon, Solano County, California, Colorado, and Florida, it would appear that seeking judicial remedies can lead to successful results. On the other hand, our earlier review of the case law could lead one to the conclusion that, although the courts are charged with the responsibilities of protecting the right to counsel, there exists a degree of reluctance to force the keepers of the purse strings to fund adequate programs. Perhaps the reluctance is due to the sensitive nature of the manner in which public defenders are utilized by government. More likely, though, it is the result of the failure of the indigent defense agency to develop the case for increased funding completely.

In short, "crisis" remedies have their place. They are, however, no substitute for developing budget requests which clearly set forth the needs and reasons thereof. More importantly, it is essential that such budget requests be supported by those involved in the appropriation process.*

To generate such meaningful budget requests, incorporating caseload/workload units, programs must have access to accurate and reliable data regarding their services and operations. With this type of information in hand, public defenders can use the more effective administrative and/or legislative methods to begin to solve their caseload problems. The following chapter spells out in detail the manner in which four of the public defender programs studied under this grant were able to establish workload management systems in this manner.

*Albert-Goldberg et al., Perspectives Relating to Case Overload in Defender Offices, p. 31.

Chapter 5

CASELOAD CONTROL: STANDARDS AND THE BUDGET PROCESS

5.1 Introduction

Through the course of research in the indigent defense field over the past four years, CDG staff have repeatedly heard a common theme from public defenders around the country: "We are hopelessly overburdened with cases and the funding authority completely refuses to deal with the issue." Because this problem was observed to be so serious and so widespread, this research effort was designed in part to begin to provide solutions to the problem. Thus, project staff looked carefully at the ways in which public defenders observed or interviewed were addressing caseload problems. Among the twelve programs studied, four significant approaches to caseload control through the use of standards were discovered. These four approaches share several important characteristics:

- each is directly tied into the budget request;
- each has been able to mobilize community support;
- each has developed a sound management information system;
- each has developed a statistical reporting procedure whereby the funding source feels that they are receiving reliable data; and
- each program is well-administered from the top.

The four programs selected for discussion in this chapter are the Metropolitan Public Defender of Multnomah County (Portland), Oregon, the Public Defender for the state of Colorado, the Public Defender of West Palm Beach, Florida, and the Vermont Defender General. A detailed description of the methods of caseload control used in these four programs follows.

5.2 The Metropolitan Public Defender of Multnomah County, Portland, Oregon

5.2.1 Background

The state of Oregon has a de-centralized indigent defense system organized on a county basis. Until January 1, 1983, the counties were providing all but a small amount of the total funding for these services. On that date, the state took over the total funding. The variety of programs currently in operation include county public defenders, multi-county public defenders, contract programs, and assigned counsel programs.

The Metropolitan Public Defender of Portland, Oregon provides most of the defense services for Multnomah County. It also operates in Washington and Clackamas Counties in offices that are for the most part independently run from the Portland office.* The Metropolitan Public Defender Office started as a private non-profit corporation in the City Municipal Court in July 1971. By January 1972, the office had expanded from two to five attorneys and was handling felony matters in the District and Circuit Courts of Multnomah County. By 1982, the office employed 27 attorneys and a large support staff, all of whom were located on several floors in a downtown office building several blocks from the courthouse. The annual budget is close to two million dollars.

The Public Defender handles a large volume of cases in the District and Circuit Courts. A substantial number of additional cases are handled on an independent appointment basis by a panel of qualified private defense attorneys. These cases include conflicts with the public defender, as well as cases in which the public defender has reached its maximum caseload under contract with the county. Most of the indigent juvenile work in the county is handled by contract through a private law firm. The majority of indigent defense work in traffic court is contracted out to a private non-profit organization called the Urban Indian Center.

The public defender's caseload centers around felony, misdemeanor and civil commitment matters in the local courts. As of 1982, the office had assigned 16 of its attorneys and their support staff to felony matters, seven attorneys and support staff to misdemeanors, and one attorney to civil commitment matters. The other three attorneys serve in administrative or supervisory positions.

Various aspects of the Portland program's operation are discussed elsewhere in this report. The purpose of this chapter is to provide detail on its caseload standards and the manner in which they have been tied to an annual funding cycle. The method is basically quite simple and subject to replication in many other jurisdictions.

*For purposes of this report what follows relates solely to the Portland office.

5.2.2 Caseload/Workload Standards

The program's workload standards are based upon units of work.

A value is assigned to each of several case categories as follows:

Felony	2 units of work
Misdemeanor	1 unit of work
Probation Revocation	1 unit of work
Juvenile	1 unit of work
Civil Commitment	1 unit of work
Traffic Case	.6 units of work

The assignment of a value for each type of case began several years ago and has been refined based upon the experience of the program over this period. The present values are reported to be working extremely well and have not been changed for two years. Caseload standards are tied to the various units of work. Based upon several years of experience, the program has determined that one full-time attorney, supported by two full-time support staff, can handle 400 units of work in a given year.

The next step in the process is to use the workload standards to develop a budget that can be negotiated with the funding authority. The budget ultimately reflects both a total dollar figure and a total number of units. For example, in fiscal year 1982, the Metropolitan Public Defender contracted with Multnomah County for 9,000 units of work at \$200 per unit for a total of \$1,800,732. The units of work included: 3,130 felonies and 2,740 misdemeanors. The public defender did not contract for any civil commitment cases in 1982.

These figures were arrived at through careful planning and an emphasis on the program's experience in the budget process over time. The specific process for 1982 included the following steps:

1. The director received from each of the courts where the public defender operates the total number of cases by case type for which indigent defense appointments were made in the previous year.
2. The director then met with representatives of the prosecutor's office, police officials, judges, court personnel and other knowledgeable parties to estimate the expected increase in appointed cases by case type for the following year. This process has proven extremely accurate over the years due to the collective experience of these criminal justice experts and the defender director. On the average, over the past several years, the overall indigent caseload has increased about ten percent per year.

3. Once the projected total indigent caseload was developed for the coming year, the percentage of these cases which would be handled by the public defender was estimated. For example, based upon the experience of prior years, the Director estimated that the public defender would handle about 70 percent of all the indigent felony appointments for FY 1982, and 60 percent of the misdemeanor appointments. Only a small percentage of traffic cases was predicted.
4. Once the overall projected caseload had been estimated, it was necessary to multiply the total number of cases in each case type by the value of a unit of work previously set forth: 2 units for a felony and 1 unit for a misdemeanor.

The final step was to develop a unit cost by a careful examination of all projected costs for the program in 1982.

5.2.3 Application of Caseload/Workload Standards to the Budget

Once the number of units was established, the number of staff necessary to provide representation was projected simply by applying the 400 units of work to one full-time attorney assisted by two full-time support staff. Personnel costs can easily be determined at this point since all staff receive salaries based upon a detailed plan of grade and step scales. Fringe benefits such as FICA, federal and state withholding are fixed by law; others such as health benefits and life insurance premiums can be estimated based upon prior experience. Overall the total fringe benefit package runs between nine and ten percent. Certain non-personnel costs such as rent are fixed by contract. Others, including travel and telephone, can be estimated based upon prior experience.

Table 5.1 summarizes the results of these cost projections for 1982 by line item for the Multnomah and Washington County offices, as well as the overall costs of administration. When the final budget for the Multnomah County portion of the program was negotiated, the program agreed to accept 3130 felony cases and 2240 misdemeanor cases which it was agreed would include a small number of traffic offenses.

Table 5.1
1982 PROJECTED BUDGET FOR THE METROPOLITAN
PUBLIC DEFENDER OF MULTNOMAH COUNTY

	Multnomah	Washington Administration	Total	Percent	
Salaries	\$1,267,132	\$ 313,926	\$ 141,050	\$1,722,108	77%
Fringe	115,489	26,248	16,131	157,868	7%
Rent	132,391	21,913	19,436	173,740	8%
Supplies	74,456	21,202	8,228	103,886	5%
Travel	28,345	6,000	325	34,670	2%
Case Expense	13,450	450	--	13,900	1%
Professional Services Administration	169,469	50,261	208,869	--	--
Total Cost	\$1,800,732	\$440,000		\$2,240,732	

Contract Units	9,000	2,200	--	11,200
Cost Per Unit	\$200	\$200	--	\$200
Number of Staff	82	18.5	8	108.5

Over a six-year period, the annual average increase in the budget has been less than ten percent per year. Table 5.2 sets out these budget figures for 1976 through 1982.

Table 5.2
HISTORY OF BUDGET AND UNITS OF WORK

UNITS OF WORK	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
Total Units	4,900	4,900	4,740	5,000	5,800	7,000	9,000
Actual Units	5,795	5,435	5,406	5,369	6,186	7,332	--
Total Cost	\$555,615	\$699,615	\$761,000	\$820,270	\$985,886	\$1,287,075	\$1,800,732
Cost Per Unit	\$ 122	\$ 143	\$ 161	\$ 164	\$ 170	\$ 184	\$ 200

An analysis of Table 5.2 indicates that each year the program has in fact handled more cases than it contracted for. This is because the public defender, as a condition of operating under the unit method, has informally agreed with the county to accept up to eight percent more cases than specified in the contract figure. He believes that his office can provide effective representation at the higher load and considers it a reasonable trade-off for operating under the unit method.

5.2.4 Application of Caseload/Workload Standards to Program Operation

Since the Portland office has established an annual limit on the total number of appointments it will accept, the public defender has taken steps to assure that appointments are accepted throughout the year. Weekly quotas have been set for the number of felony cases accepted at arraignment as follows:

District Court A:	11 cases
District Court B:	11 cases
Circuit Court:	12 cases

Felony attorneys are divided into three attorney groups each and the groups are rotated so that they spend three weeks in each of the three arraignment locations. Once the quota is reached, the public defender is not required to receive additional cases for the balance of the week. The result is that in an average week, the public defender receives appointments on four of the five working days.

The overall system for caseload control and budget management is fairly routine now that the program has used this method for several years. It allows the public defender to predict the total volume of cases to be accepted from week to week and for the entire year. It is a method that can be replicated in other urban areas, and requires simply the adoption of workload standards and a reasonable projection of caseload and costs based upon prior experience.

5.3 The Public Defender for the 15th Judicial District, West Palm Beach, Florida

5.3.1 Background

Florida by statute has a regional public defender system organized around each of the 20 judicial circuits. The 20 public defenders are publicly elected in a system that is unique in the country. The vast majority of funding for public defenders is provided by the state since by statute no county or municipality can appropriate or contribute funds to the operation of the office of the public defender except to pay the salary of an assistant public defender whose sole function is to represent indigents charged with local law violations. The statute does, however, require that, "the public defenders shall be provided by the counties within their judicial

circuits with such office space, utilities, telephone services, and custodial services as may be necessary for the proper and efficient functioning of the offices. The office space and utilities to be provided by the counties shall not be less than the standards for space allotment promulgated by the Department of General Services. The counties shall not provide less of these services than were provided in the previous fiscal year.** The counties are also required to pay for the cost of private bar appointments in public defender conflict and case overload matters.

The shift from county to state funding took place in 1973. For the next several years, each of the 20 public defenders prepared separate budgets without consulting with each other. The result was a substantial disparity of funding for offices of similar size and caseload. In 1978, the Department of Administration of the State of Florida entered into a contract with SRI International to study, "the development of a consistent approach to resource allocation for state attorneys and public defenders and the determination of the data necessary to accomplish such an approach to funding."** The impetus for the study came both from the state legislature which was concerned about the need to develop a uniform workload formula for each circuit and from the 20 public defenders who felt that in the long run they would all benefit from a process that would result in uniform funding of similar programs.

Much of the information in the next section was obtained during our visit to West Palm Beach. That information was supplemented by data received through the Public Defender's Coordination Office. The caseload workload standards that follow are applicable to all public defender programs in Florida.

5.3.2 The SRI International Report

SRI conducted a five month study in 1978 of both the state attorneys' offices and the public defenders' offices. Among the major findings of the 1978 report were the following:

*Florida Revised Statute 27.54 (2,3).

**Allocation of Resources for State Attorneys and Public Defenders of the State of Florida, SRI International, November 1978.

- That circuit to circuit comparisons of public defender offices indicated a lack of norms and apparent inequities;
- That years of lawyer experience as well as salary discrepancies existed in many offices;
- That caseload disparity ranged from fewer than 200 cases per attorney in one office to more than 600 in another; and
- That there was wide variation with respect to the number of citizens, judges, arrests, and law enforcement officers per attorney in the public defender's offices. For example, the number of citizens served by each assistant public defender ranged from approximately 6,000 per attorney in one circuit to nearly 33,000 per attorney in another circuit.*

SRI concluded that there appeared to be no direct relationship between actual office workload and the amount of funding received by each office. One of the reasons suggested for this imbalance was the lack of reliable workload data. SRI concluded that the implementation of a consistent workload data collection system was absolutely necessary, and its adoption would provide the legislature with a sound basis for its annual appropriation.

Since the SRI report played such a critical role in the development of the Florida caseload/workload formula, it is important to review the more significant recommendations of that report:

- Appropriations should, at a minimum, result in circuit to circuit equality with respect to workload per attorney;
- State attorney and public defender resource allocation formulas should be based primarily on office workload, while recognizing the need for controlled flexibility;
- Statewide norms, as were currently in practice for workload, staff mix, etc., should be adopted as the standards on which to base future appropriations;
- The attorney unit should be the basic work unit for the public defender's office;
- An increase of approximately ten percent over the level of funding necessary to achieve equity should be provided. "Hold-harmless" and phase-in strategies should be used to ease the impact of a workload-based, equity approach to funding;
- Specific responsibility should be assigned for auditing the accuracy and timeliness of workload data and also for evaluating the new funding system;

*Ibid., p. 46.

- The state should provide all required services and assume all costs currently assessed to the counties; and,
- Action should be initiated by the public defenders to reduce and limit the number of part-time attorneys who had become the rule, rather than the exception. Further, that consideration should be given to the increased use of paralegals and other interns to perform some duties currently undertaken by staff attorneys.*

5.3.3 Development of Caseload/Workload Standards

The SRI report became the blueprint for substantial change in Florida resulting in the adoption of a workload funding formula. With the knowledge that the new formula should be based upon an attorney unit, it was left to the Florida public defenders to develop credible and practical caseload standards for the system statewide.

As far back as 1974 the Florida public defenders had developed caseload standards based originally on the NAC standards and revised to reflect actual experience in Florida. In addition, the Governor's Commission on Criminal Justice Standards and Goals in Florida had developed their own standards. The three sets of standards, which were all based upon the annual caseload of a full-time attorney, were as follows:

National Advisory Commission Standards

Felonies	150
Misdemeanors	400
Juvenile and Mental Health	200
Appeals	25

Florida Public Defender Association Standards

Felonies-Capital	8
Felonies-Non-capital	200
Misdemeanors	400
Juvenile and Mental Health	250
Appeals-Capital	5
Appeals-Non-capital	50

Governor's Commission on Criminal Justice Standards and Goals

Felonies	100
Misdemeanors	400
Juvenile and Mental Health	200
Appeals	50

*Ibid., p. 49.

Because the Florida public defenders believed that their own standards were workable and had survived the test of time, they were adopted for the first funding phase, 1981-83. The Florida Public Defender Association has revised these estimates in their 1983-85 funding request.* The new recommended caseload standards are as follows:

Capital felonies	5
Non-capital felonies	200
Misdemeanors	400
County to Circuit Court Appeals	50
Juvenile/Mental Health	250
Capital Appeals	4
Non-Capital Appeals	50

Based upon statewide norms, which admittedly did not involve a comprehensive task analysis, the SRI report recommended a work unit that would include the following:

1. full-time staff attorney
- .27 full-time equivalent investigator
- .59 full-time equivalent secretary

In their 1981-83 budget request the state public defenders modified the unit somewhat and developed a second unit for appeals. The attorney units were designated as follows:

Attorney Unit - Trial Area

Assistant Public Defender (full-time)
1/2 Secretary
1/3 Investigator
1/4 Clerical-Typist

Attorney Unit - Appellate Area

Assistant Public Defender (full-time)
1 Secretary (full-time)
1/4 Clerical-Typist

5.3.4 Application of Caseload/Workload Standards to the Budget

Once the make-up of the attorney units had been decided upon, the public defenders assigned uniform salary levels to each of the positions for the 1981-1983 submission as follows:

*Both the Florida Public Defender Association and the Florida Public Defenders Coordination Office have played a significant role in the development of the caseload/workload standards.

Attorney Unit - Trial Area

Assistant Public Defender (full-time)	\$18,500
1/2 Secretary	4,792
1/3 Investigator	4,983
1/4 Clerical-Typist	1,963
	<u>\$30,238</u>

Attorney Unit - Appellate Area

Assistant Public Defender (full-time)	\$18,500
1 Secretary (full-time)	9,584
1/4 Clerical-Typist	1,963
	<u>\$30,047</u>

The salary for the assistant public defender was agreed upon by all circuits and was intended to keep pace with current inflation, to provide a competitive salary level, and to insure competent representation.

In 1982, the Public Defenders Association was required to prepare a 1983-85 budget and proposed the following attorney unit costs based upon the first three years of program experience:

Attorney Unit - Trial Area

Assistant Public Defender (full-time)	\$25,000
1/3 Investigator	6,119
1/2 Legal Secretary II	7,725
1/4 Legal Secretary I	3,618
1/8 Administrative Assistant	2,295
	<u>\$44,757</u>

The addition of the administrative assistant was a recognition that administrative staff costs need to be tied more directly to operating staff costs and no longer can be figured separately.

Once the salary levels were arrived at, fringe benefits were determined by applying life insurance at \$510 per full-time employee, state retirement expense at 9.1 percent and FICA at 6.65 percent resulting in the following expenses:

Attorney Unit - Trial Area

Retirement	\$ 2,752
FICA	2,011
Insurance (2.083 FTE)	1,062
Total Fringe Benefits:	<u>\$ 5,825</u>

Attorney Unit - Appellate Area

Retirement	\$ 2,734
FICA	1,998
Insurance (2.253 FTE)	1,148
Total Fringe Benefits:	<u>\$ 5,880</u>

Three items were added to complete the total attorney unit budget, consisting of all other expenses that were not required to be appropriated by the county. The first related to general expenses such as postage, office supplies, duplication, etc. This expense formula was arrived at by dividing the July 1, 1979 budget expense by the budget salaries, including career service salary increases and benefits which amounted to 7.71 percent. The second expense category was designed to provide part-time services during periods of vacation time for full-time staff. The category Other Personnel Services (OPS) was developed for this purpose. The final category consisted of expenses related to the employment of new personnel. These consist primarily of the cost of acquiring additional office equipment.

After all expenses were added, the total budget for each of the two attorney units was as follows:

Attorney Unit - Trial Area

Salaries

Assistant Public Defender (full-time)	\$ 18,500
1/2 Secretary	4,792
1/3 Investigator	4,983
1/4 Clerical-Typist	1,963
Total Salaries:	<u>\$ 30,238</u>

Fringe Benefits

Retirement	\$ 2,752
FICA	2,011
Insurance (2.083 FTE)	1,062
Total Fringe Benefits:	<u>\$ 5,825</u>

Other Expenses

General Expenses	\$ 2,780
OPS	589
Equipment	2,995
Total Expenses:	<u>\$ 6,364</u>

Total Trial Attorney Unit Cost: \$ 42,427

Attorney Unit - Appellate Area

Salaries

Assistant Public Defender (full-time)	\$ 18,500
Secretary	9,584
1/4 Clerical-Typist	<u>1,963</u>
	\$ 30,047

Fringe Benefits

Retirement	\$ 2,734
FICA	1,998
Insurance (2.083 FTE)	<u>1,148</u>
Total Fringe Benefits:	\$ 5,825

Other Expenses

General Expenses	\$ 2,770
OPS	584
Equipment	<u>3,683</u>
Total Expenses:	\$ 7,037

Total Appellate Attorney Unit Cost: \$ 42,964

Once the total unit cost was arrived at, the next step was to apply the caseload standards to the unit cost. To do this, the public defenders took their fiscal 1980 caseload by type of case, determined the number of units required, and multiplied that by the total cost of the trial attorney and appellate attorney units. Table 5.3 sets forth the the calculations for each of the 20 public defender circuits used to estimate fiscal year 1981 costs. An analysis of Table 5.3 shows that the total cost of the new trial attorneys was determined based on caseload of the previous year. Table 5.4 provides similar calculations of the funds required for additional attorneys to handle appellate cases on a regional basis.

Table 5.5 sets forth the final adjusted figures for fiscal 1981. Column 1 shows the total appropriation for each circuit prior to adjustment. These totals were arrived at by applying the caseload figures for each office for the 1980 fiscal year divided by the total attorney unit cost. Columns 2-10 relate to various adjustments worked out by the public defenders to meet necessary costs due to inflation and for other specific purposes. The total adjusted appropriations set forth in column 11 are in fact the funds received by each office for fiscal year 1981.

Table 5.3

PUBLIC DEFENDERS
FUNDS GENERATED FOR TRIAL UNITS
BASED ON 1979-80 CASELOAD

Cir.	COL. 1 CAPITAL FELONIES 8/Atty/Yr		COL. 2 NON-CAPITAL FELONIES 200/Atty/Yr		COL. 3 MISDEMEANORS (INCLUDING TRAFFIC) 400/Atty/Yr		COL. 4 JUVENILES 250/Atty/Yr		COL. 5 MENTAL HEALTH 250/Atty/Yr		COL. 6 TOTAL TRIAL CASELOAD	COL. 7 TOTAL NUMBER OF TRIAL ATTORNEYS GENERATED BY STANDARD	COL. 8 CURRENT FUNDED TRIAL ATTORNEYS	COL. 9 ADDITIONAL TRIAL ATTORNEYS GENERATED BY STANDARD	COL. 10 COST OF ADDITIONAL TRIAL ATTORNEYS @ \$42,427/Atty	Cir.
	CASES	ATTY	CASES	ATTY	CASES	ATTY	CASES	ATTY	CASES	ATTY						
1st	11	1.38	2,263	11.31	2,383	5.96	787	3.15	458	1.83	5,902	23.63	20.13	3.50	148,495	1st
2nd	10	1.25	975	4.88	1,405	3.51	396	1.58	437	1.74	3,223	12.96	12.78	0.18	7,637	2nd
3rd	5	0.63	913	4.57	636	1.59	588	2.35	6	0.02	2,148	9.16	8.04	1.12	47,518	3rd
4th	17	2.12	4,356	21.78	5,910	11.77	2,344	9.38	235	0.94	12,862	48.99	36.80	12.19	517,185	4th
5th	23	2.87	1,711	8.70	1,627	4.07	651	2.60	24	0.10	4,066	18.34	13.02	5.32	225,712	5th
6th	40	5.00	4,705	23.52	8,950	22.37	4,522	18.08	344	1.38	18,561	70.35	27.02	43.33	1,838,362	6th
7th	23	2.87	1,856	9.28	4,365	10.91	548	2.19	182	0.73	6,974	25.98	18.96	7.00	296,989	7th
8th	13	1.62	1,474	7.37	1,692	4.23	876	3.50	215	0.86	4,270	17.58	16.62	0.96	40,730	8th
9th	18	2.25	2,467	12.33	1,965	4.91	1,132	4.53	108	0.43	5,690	24.45	23.00	1.45	61,519	9th
10th	6	0.75	1,551	7.76	1,277	3.19	754	3.02	22	0.09	3,610	14.81	16.05	(1.24)	H.H.	10th
11th	112	14.00	5,030	25.15	6,446	16.12	6,803	27.21	292	1.17	18,683	83.65	71.50	12.15	515,488	11th
12th	3	0.38	1,409	7.05	1,271	3.18	764	3.06	411	1.64	3,858	15.31	11.69	3.62	153,586	12th
13th	13	1.62	3,370	16.85	3,686	9.22	5,481	21.92	227	0.91	12,777	50.52	33.75	16.77	711,501	13th
14th	7	0.88	1,104	5.52	1,292	3.23	534	2.14	0	0.00	2,937	11.77	9.24	2.53	107,340	14th
15th	22	2.75	2,760	13.80	3,413	8.53	1,104	4.42	139	0.56	7,438	30.06	18.36	11.70	496,396	15th
16th	3	0.38	1,244	6.22	1,627	4.07	224	0.90	0	0.00	3,098	11.57	8.48	3.09	131,099	16th
17th	55	6.88	2,700	13.50	2,079	5.20	2,015	8.06	1,050	4.20	7,899	37.84	35.60	2.24	95,036	17th
18th	3	0.38	1,560	7.80	1,101	2.75	490	1.96	52	0.21	3,206	13.10	10.70	2.40	101,825	18th
19th	11	1.37	1,428	7.14	1,835	4.59	647	2.59	71	0.28	3,992	15.97	11.30	4.67	198,134	19th
20th	14	1.75	1,024	5.12	2,620	6.55	665	2.66	35	0.14	4,358	16.22	15.62	0.60	25,456	20th
	409	51.13	43,930	219.65	55,580	138.95	31,325	125.30	4,308	17.23	135,552	552.26	418.68	134.82	5,720,008	

98

CASELOAD STANDARDS
ADOPTED BY PUBLIC DEFENDER ASSOCIATION
CASES PER ATTORNEY PER YEAR:
8 - CAPITAL FELONIES
200 - NON-CAPITAL FELONIES
400 - MISDEMEANORS
250 - JUVENILE, MENTAL HEALTH

PREPARED BY:
FLORIDA PUBLIC DEFENDERS COORDINATION OFFICE

CONTINUED

1 OF 3

Table 5.4

PUBLIC DEFENDERS
FUNDS REQUESTED FOR APPELLATE UNITS
BASED ON 1979-80 CASELOAD

Cir.	COL. 1 CAPITAL APPEALS		COL. 2 NON-CAPITAL APPEALS		COL. 3 TOTAL APPELLATE CASELOAD	COL. 4 TOTAL NUMBER OF APPELLATE ATTORNEYS GENERATED BY STANDARD	COL. 5 CURRENT FUNDED APPELLATE ATTORNEYS	COL. 6 ADDITIONAL APPELLATE ATTORNEYS GENERATED BY STANDARD	COL. 7 COST OF ADDITIONAL APPELLATE ATTORNEYS @ \$42,964/ATTY	Cir.
	CASES	ATTY	CASES	ATTY						
2nd	5	1.00	445	8.90	450	9.90	5.76	4.14	177,871	2nd
7th	8	1.60	401	8.02	409	9.62	5.00	4.62	198,494	7th
10th	0	-0-	687	13.74	687	13.74	13.02	.72	30,934	10th
11th	4	0.80	452	9.04	456	9.84	9.48	.36	15,467	11th
15th	10	2.00	523	10.46	533	12.46	16.04	H.H.	H.H.	15th
	27	5.40	2,508	50.16	2,535	55.56	49.30	9.84	422,766	

CASELOAD STANDARDS
ADOPTED BY PUBLIC DEFENDER ASSOCIATION
CASES PER ATTORNEY PER YEAR:
5 - CAPITAL APPEALS
50 - NON-CAPITAL APPEALS

PREPARED BY:
FLORIDA PUBLIC DEFENDERS COORDINATION OFFICE

Table 5.5

PUBLIC DEFENDERS
ADJUSTED APPROPRIATIONS
1980-81

	COL. 1	COL. 2	COL. 3	COL. 4	COL. 5	COL. 6	COL. 7	COL. 8	COL. 9	COL. 10	COL. 11	
Cir.	1980-81 LUMP SUM APPROP.	SALARY INCREASES FOR P.D.	SALARY INCREASES FOR A.P.D.	SALARY INCREASES FOR CAREER SERVICE	HEALTH INSURANCE	PER DIEM	ADDITIONAL SALARY FOR P.D.	ADDITIONAL SALARY FOR A.P.D.	PRICE LEVEL INCREASE FOR UTILITIES	ADJUSTED UNEMPLOYMENT COMP. TAX	TOTAL ADJUSTED APPROPRIATIONS	Cir.
1st	960,501	5,783	53,917	47,102	2,204	2,702	420	10,610	198		1,083,437	1st
2nd	885,337	5,783	41,564	39,437	1,763	892	420	8,390	1,389	950	985,925	2nd
3rd	419,839	5,783	20,671	14,944	1,212	1,910	420	4,590			469,369	3rd
4th	1,629,339	5,783	72,824	83,382	2,865	4,467	420	14,080	129	369	1,813,658	4th
5th	689,246	5,783	23,260	24,613	1,763	2,468	420	5,010			752,563	5th
6th	1,297,701	5,783	81,645	57,179	3,526	4,903	420	15,900			1,467,057	6th
7th	1,074,239	5,783	60,540	37,524	1,322	1,755	420	11,900	739		1,194,222	7th
8th	712,921	5,784	33,635	30,133	882	3,403	420	6,440			793,618	8th
9th	1,042,200	5,784	67,951	33,770	2,204	669	420	13,190			1,166,188	9th
10th	1,128,359	5,784	54,765	47,791	2,865	3,022	420	10,720			1,253,726	10th
11th	3,609,595	5,784	178,569	137,392	4,849	7,735	420	33,530		520	3,978,394	11th
12th	705,075	5,784	45,254	27,827	882	1,959	420	9,100			796,301	12th
13th	1,587,903	5,784	60,758	92,597	-0-	-0-	420	11,850		176	1,759,448	13th
14th	586,453	5,784	29,934	18,153	1,631	732	420	6,260			649,367	14th
15th	1,283,938	5,784	66,568	39,361	2,204	2,276	420	12,860	524		1,413,935	15th
16th	489,114	5,783	15,909	26,972	882	2,188	420	3,690		1,615	546,573	16th
17th	1,512,392	5,783	100,819	54,224	1,102	2,990	420	19,090			1,696,820	17th
18th	688,426	5,783	54,094	24,058	2,204	3,827	420	10,580			789,393	18th
19th	480,101	5,783	21,605	21,322	1,322	1,212	420	4,760	739		537,264	19th
20th	740,375	5,783	29,863	39,982	1,984	2,147	420	6,240			826,794	20th
	21,523,054	115,668	1,114,145	897,764	37,666	51,257	8,400	218,790	3,718	3,590	23,974,052	

After the formula was fully developed it was obvious to the public defenders that they could not achieve full funding in one year. The answer was to prepare a three-year, phased-in budget for fiscal 1981-83. In 1982, the budget was once again revised for the period through fiscal 1985.

5.3.5 Specific Issues Relating to the Florida Funding Program

The process of achieving full funding in Florida has been a long and difficult one. While it has not yet been fully accomplished, substantial progress has clearly been made. This section describes several major questions and issues that have arisen throughout the four year effort. Problems that have arisen include the following:

- The formula is based upon prior year caseload figures. Since the caseload in Florida increases at an annual rate of about ten percent, attorney caseloads average about 110 percent above the caseload standards.
- No provision was made initially for certain types of work such as first appearance, habeas corpus, clemency board hearings, probation violation hearings, etc. Some adjustments for these "special proceedings" have been made in the formula, but the problem has not yet been totally resolved.
- As initially drafted, the formula made no provision for administrative services such as auditing, accounting, bookkeeping, etc. Several attempts have been made by the public defenders to build in this cost without success. The most recent approach would add 1/8 of the time of an administrator to the trial attorney unit cost. The public defenders are optimistic that this approach will be successful next year.

It is important to point out that once the funding formula is arrived at and the annual appropriation set, there is substantial discretion in how these funds are applied in each of the 20 offices. For example, if a specific program is funded for 42 trial attorney units, it does not mean that they must maintain a trial attorney staff of 42. Within broad limits they may hire any mix of staff they choose. Each public defender also has the discretion to transfer up to five percent of any appropriated item to any other cost category.

One other significant development has been the creation of a Caseload Statistical Reporting system that sets forth a detailed description of how and when to count a case. This system has been approved statewide and the

resulting case data are audited quarterly by a state agency in each of the twenty offices. This auditing procedure has proved to be extremely important since the legislature now feels that it has an accurate case system that reports reliable data.

The impact of the funding formula in Florida is dramatic. In six years, the aggregate state expenditure for public defenders has more than tripled. In the past three years it has doubled. Part of the increase has been absorbed by expanding caseload and new state requirements for representation. But much of the increase has been applied to improving the quality of representation in Florida.

The progress that has been made is a tribute to the Florida public defenders, the Coordination Office, and both the Governor's Office and the Legislature. The process has brought the individual public defender's much closer together and they are now capable of functioning as a unit for important purposes; it has provided the governor and the legislature with a statistical system that is reliable and can be audited; it has made the whole budgeting process far simpler; it has put an end to inequities in funding; and it has substantially improved the quality of representation. It deserves careful consideration by all public defenders who must maximize their resources and yet provide quality representation.

5.4 The State Public Defender Program of Colorado

5.4.1 Background

The Colorado State Public Defender was created in 1970 and currently provides primary defense services throughout the state in felony, misdemeanor, juvenile and civil commitment cases. It is a wholly state-funded agency of the Judicial Department of state government, governed by a five-member Defender Commission appointed by the Colorado Supreme Court. An individual judge in Colorado also has the authority to appoint a private attorney when necessary and to award reasonable compensation and reimbursement for expenses.

The Colorado Public Defender in fiscal year 1981-82 employed a staff of 187, 108 of whom were attorneys located in 19 regional offices throughout the state. The budgets for the three-year period ending in FY 82 were as follows:

Fiscal year 1979-80	\$3,555,102
1980-81	4,299,924
1981-82	5,614,949

The budget request for FY 1982-83 was \$6,913,516.

5.4.2 Caseload/Workload Standards

The public defender's annual budget is based upon caseload/workload standards approved by the state legislature. The standards are measured by full-time felony equivalents, as follows:

Felony	1.0 felony equivalent
Misdemeanor	.375 felony equivalent
Juvenile	.75 felony equivalent
Miscellaneous	.375 felony equivalent
Felony Appeal	6.0 felony equivalent
Juvenile Appeal	6.0 felony equivalent
Misdemeanor Appeal	1.0 felony equivalent

The proposed caseload standards in Colorado were based upon 156 felony equivalents per full-time attorney per year. However, during the appropriation process, the legislature established an operating level of 173 felony equivalents per full-time staff attorney.

5.4.3 Application of Caseload/Workload Standards to the Budget

Unlike Florida, Colorado does not attempt to build a total attorney unit cost. All items other than attorneys' salaries are figured separately. For fiscal year 1984, trial attorney salaries are set at \$20,000 per full-time attorney. The cost for trial attorneys is established by dividing the prior year's caseload based upon felony equivalents by 173 cases per attorney. The result is the total number of attorneys authorized for the fiscal year.

Secretaries are budgeted at \$10,884 per year and authorized at a ratio of one for every 3.5 attorneys. Investigator/paralegal positions are budgeted at \$14,592 per year and authorized at the same ratio as secretaries. Overhead for capital outlay is budgeted at \$8,000 to \$10,000 per attorney position, while basic operating costs are projected at \$10.82 per projected case.

5.4.4 Case Overload Provisions

A second key feature of the public defender budget in Colorado is their case overload contract. For many years, the Colorado State Public Defender was permitted to refuse cases. Referrals to the private bar were made when the caseload had reached what was considered to be a maximum load. Second, appointments were also made in rural areas where the public defender was not available. Third, additional appointments from the private bar were also made in public defender conflict cases. The result of these policies was that private attorney costs began to spiral, as the figures for the years 1977-1981 indicate:

1977	\$ 723,400
1978	1,191,700
1979	1,458,000
1980	2,174,000
1981	2,878,500

As the private bar costs continued to increase, a study was conducted comparing the cost per case for the public defender and the private bar. These data revealed that the private bar cost per case was 2 1/2 times that of the public defender.

Consequently, in 1982 a new line item category was created in the judicial budget to deal with this problem. The sum of \$154,149 was allocated to the public defender to handle overload cases. The basic agreement barred the public defender from declaring overload. In return the new funds could be used either for additional staff or for contracts with the private bar to handle these cases. The effect of this agreement was in essence to place a cap on all non-conflict cases. The plan has proved to be most effective from both the public defender's standpoint and that of the state.

The caseload formula and overload contract seem to be working well in Colorado. The state has been able to place a cap on its expenses and the public defender is far better able to provide quality representation than it was before the adoption of these procedures. Because it is not as complex as the Florida formula, the Colorado plan may be a more practical tool for public defenders in smaller and less sophisticated jurisdictions.

5.5 The Vermont Office of the Defender General

The fourth program examined that has devised a caseload/workload method is the Vermont Defender General program. Vermont has devised a "Lawyer Equivalency Caseload" to justify its budget request. Given this formula, the public defender is able to calculate the number of lawyers necessary to provide quality service throughout the state. The formula starts with the NAC standards: 150 felonies per lawyer per year; 400 misdemeanors; 200 juvenile; 200 mental health, and 25 appeals. The defender then factors in certain important variables to reach a realistic caseload. Those variables are as follows:

- the number of clients added from the prior year,
- the percentage of serious felonies,
- the amount of travel involved in serving a particular configuration of courts;
- the stance of the prosecutor in a given area in relation to bail, pleas, discovery, sentencing, etc., and
- the nature of the judiciary and other court personnel in a given area.

The defender general feels that the lawyer equivalency formula has been an important tool that works effectively in the presentation of program financial needs to the state.

5.6 Conclusions

In summary, much is to be learned from these experiences in Portland, Oregon, Florida, Colorado, and Vermont. To achieve similar results in other jurisdictions, public defenders must make a firm commitment to the development of a strong management information system. Reliable data must be collected and realistic caseload standards adopted. The findings of this research lead to the conclusion that, while other policies and procedures spelled out in this report are important in maximizing program resources, none can compare in importance to the development of caseload standards tied to the budgeting process. The experiences of these four programs clearly justify this conclusion.

Chapter 6

ADMINISTERING THE PUBLIC DEFENDER PROGRAM

6.1 Introduction

The manner in which a public defender office is administered can significantly contribute to the maximization of resources available to the agency. Administrative responsibilities can be divided into two main categories: 1) internal operations and 2) external relations. Administration of the internal operations of a public defender office involves organizing office staff and functions, arranging for clerical support services, securing the necessary office equipment, and maintaining a management information system, among other things. Handling the external relations of a public defender office includes building support for the program within the justice system, the legislature, the board of county commissioners, and the state. It also involves communication with the press and the public. Most importantly, a program must be accountable to its funding authority, a function which is dependent upon the availability of reliable information regarding the level of services provided and the cost of those services. Effective communication on all levels, among staff and with outside agencies, necessitates the clear articulation of the program's goals and the policies chosen to achieve them.

The external administrative functions of a public defender office, especially the use of program data to provide the funding source with a persuasive budget justification package, were explored in detail in Chapter 4, Managing Financial Resources. Chapter 5 presented, in addition, three examples of the development and use of workload standards in this process. Thus, this chapter concentrates primarily on the internal administrative functions of a public defender office.

The nature of the administrative functions performed in a public defender office is determined in part by the agency's status vis-a-vis its funding authority. A program's status has implications for its administrative efficiency and funding stability. The first section of this chapter examines the advantages and disadvantages of integration with versus independence from the local or state government bureaucracy. Examples of both integration and independence are provided and should prove instructive to those programs

presently being developed or restructured, and should be of general interest to practitioners in the field.

The organizational structure of a public defender agency also has implications for its administrative efficiency, and several organizational issues are discussed in the second section of this chapter. For multi-office agencies, the major structural issue is whether administrative functions should be centralized and carried out by a main office or decentralized and performed by each individual branch office. The designation of personnel with primary responsibility for oversight of program administration is another important structural consideration for agencies of all sizes. Because public defenders are generally not trained in the field of office management--which requires skills in accounting, purchasing, and supervision of support staff--the use of administrative officers has proven beneficial in several programs studied. In addition, the organization of secretarial support staff affects the efficiency of their services and the ability to supervise their activities. The examples included in this section provide interesting insight into some of the factors which determine the most appropriate structure for secretarial staff in individual programs.

The office equipment available for use by all staff members--secretaries, attorneys and managers alike--also has significant impact on the efficiency of a public defender program's operations. The third section of this chapter outlines the basic equipment required in any office, and examines the benefits of acquiring advanced equipment such as word processors, video machines, and computers.

The collection, maintenance and analysis of program data is a fundamental aspect of the administration of a public defender agency. The existence of a management information system (MIS) that provides accurate and reliable data about program operations is critical to the manager's ability to identify resource allocation problems that require attention, and to perform all other internal and external administrative functions efficiently. The final section of this chapter is devoted to an in-depth discussion of the applications of management information systems in a public defender organization, including examples of two distinct approaches to the collection and statistical analysis of program data. In this section, extensive exhibits are used to aid public defenders in designing an MIS appropriate to their own program needs and capabilities.

6.2 Program Status

The level of integration of a public defender program into the local or state government bureaucracy has significant consequences for the use and allocation of program resources. The issues involved in attaching a program to or separating it from the government can best be understood by examining two programs on opposite ends of the spectrum--the Hennepin County (Minneapolis), Minnesota Public Defender which is a fully-integrated county agency, and the Metropolitan Public Defender in Portland, Oregon which is a private, not-for-profit organization.

In Hennepin County, Minnesota the public defender functions as a county department. This status is reported to provide greater security and safety for the continuation of the program. The public defender employs a full-time administrative officer to act as a liaison with the county and to insure compliance with county procedures and regulations. This officer oversees all accounting, auditing, budgeting, and planning for the agency, and works in conjunction with county officials. This close working relationship provides both parties with advance warning of any problems that might arise. The administrative officer maintains all personnel records; the county, however, is responsible for processing the payroll and other program paperwork.

In fulfillment of county government requirements, all staff attorneys fill out daily time sheets (Appendix C). While not presently utilized for internal management purposes, these records could potentially provide information on office operations useful in the planning and budgeting process, as well as in performance measurement and workload allocation. Without such a county mandate, few public defender offices around the country have been successful in requiring their attorneys to account for their time on an hourly basis.

The interaction between county and public defender agency officials in Hennepin County enhances the program's credibility through regular communication and a better understanding of program goals and policies, and increases support within the bureaucracy for continued funding of program operations. Integration into the government bureaucracy can also decrease the administrative burden on the public defender by assigning many responsibilities to the local officials already performing routine tasks such as accounting and payroll processing. Possible disadvantages of the public defender's status

as a county department include constraints on independent decision-making and lack of control over workload, especially with regard to establishing reasonable limits. In addition, while the program may enjoy increased credibility within the bureaucracy, there is a danger that clients may perceive that a public defender so closely identified with the "system" will not act as a strong advocate for their interests. Finally, the chief public defender in most programs that are part of county or state government is appointed by the county commissioners or the governor and serves at their will. The obvious danger is that the chief public defender will be replaced if a political conflict arises with the appointing authority.

The Metropolitan Public Defender based in Portland, Oregon is a private, non-profit corporation which contracts annually with Multnomah, Washington, and Clackamas counties to provide indigent defense services. There are several structural and financial advantages enjoyed by MPD as a result of this status. One of the more significant benefits is the program's ability to control its workload through the contract. This control enables the program to guarantee a high level of competence in its representation of indigent clients. Independence from local and state government has also exempted the program from civil service regulations for the hiring and firing of staff, and has enabled the program to fund a legislative liaison to represent the interests of the criminal defense community and to provide essential information on legislative initiatives that affect indigent defense programs.

The program benefits financially from independent authority to set up its budget and spend its money. As a result of its private, non-profit status, the program enjoys personal (e.g., FICA) and real property tax exemptions. Though program personnel are not eligible for any government retirement system, 40 percent of the employees contribute to a common tax shelter annuity fund that has a competitive rate of return with no penalty for early withdrawal.

Perhaps the most significant advantage of MPD's status is its ability to manage its financial resources in a unique and innovative fashion, specifically the maintenance of a so-called "sinking fund." Established in 1972 by the MPD Board of Directors, the stated purpose of the sinking fund is to pay for the costs of continuing representation in outstanding cases in the event of a program shutdown. It was initially set up with money allocated

for the replacement of depreciating capital stock and now also includes vacation monies and any surplus from contract funds remaining at the end of the contract period. The ability to retain unspent funds is an important aspect of the flexibility inherent in Portland's independence, for a county agency would have to return any such surplus to the general fund. On-going expenses, such as pay raises, cannot be paid from the fund balance. The interest from investment in high-yield, short-term instruments, however, has been used to fund an excellent training program (including the purchase of video equipment) and to develop a sophisticated computerized management information system. The available fund balance for the last three years has been as follows:

<u>Fiscal Year</u>	<u>Sinking Fund Balance</u>
1979-80	\$367,000
1980-81	351,000
1981-82	325,000

Private, non-profit status appears to provide a public defender agency with greater control over its workload and its finances. Some public defenders feel that clients may perceive that a private agency is better able than a county agency to represent their interests objectively and aggressively. In addition, a private public defender agency is more readily able to participate in the political process when issues affecting the indigent defense community are being debated. However, as a non-governmental entity, the public defender usually does not have the same stature as the district attorney within the criminal justice system. Thus, while independent public defenders may be more free to speak out, they may not speak with the same authority as their adversaries. Among the other disadvantages of agency autonomy is the increased uncertainty of funding in times of financial austerity. A non-profit corporation providing indigent defense services depends on an annual contract and, no matter how secure a program may appear, there is always the possibility that they will be underbid. The private agency also may not be able to use existing governmental resources such as computer services or personnel, as can a government agency.

Each of the above programs--Hennepin County, Minnesota and Portland, Oregon--functions well within its present status relative to the government bureaucracy. Programs in other jurisdictions will have to examine their own

circumstances to determine what type of status is most feasible. Identifying what level of integration is most appropriate in a particular jurisdiction is a function of the demographic characteristics of the locale, the political and economic climate, and the workings of the criminal justice system in that area as well as the administrative skills and qualifications of the public defender office staff. For example, in a less populous region of the country where a public defender often serves several counties, a private, non-profit corporation may be the best option. Likewise, where a program serves a single, heavily-populated region an integrated agency might be considered more appropriate. Furthermore, the local government may require that a program be integrated into the bureaucracy in order to insure their ability to oversee its operations. It is also important to note that the success of any independent organization is dependent upon the existence of a chief public defender who has strong management skills and is savvy enough politically to build and maintain support for the program. Finally, it must be recognized that the status of an agency within the government or criminal justice system may well be beyond the control of program management and thus not easily susceptible to change.

6.3 Program Organization

The organization of a public defender program can have a significant impact on how efficiently it is administered. The administrative functions of a multi-office program can be centralized in a main office, or they can be decentralized and spread out among the various branch offices. In all public defender programs, the organization of personnel and their responsibilities can also increase the efficiency of program operations. This section discusses the merits of centralization, the use of program administrative officers, and alternative methods of organizing secretarial support staff.

6.3.1 Multi-Office Organization

This research effort identified a variety of organizational models in use in multi-office agencies around the country. For example, the Colorado State Public Defender is a statewide program which is administered by a central office. The Metropolitan Public Defender in Portland, Oregon is an

example of a regional organization administered by a main office. The Vermont Office of the Defender General, also a statewide agency, operates on a more decentralized and informal basis. Finally, the Florida public defender program represents a unique blend of decentralized local control over the administration of individual offices and statewide oversight. A review of the organization of each of these programs provides insight into the range of administrative options available to multi-office public defender agencies.

The Colorado Office of the Public Defender is an independent agency under the Judicial Department in the state of Colorado. The state office, located in Denver, does not try cases but is the central administrative component responsible for all the regional offices around the state. The state public defender stresses communication between regional offices and the central office as being integral to resolving problems and maintaining consistent goals and policies. The state office does all the hiring in hopes of monitoring the quality of personnel within the system and provides all training for the state in conjunction with the state appellate office (also located in Denver). All the accounting functions are handled in this office, which pays all bills, purchases all capital equipment, and monitors all budgets. The regional offices have essentially no budgetary accountability other than giving the state office verification for payment of bills. In addition, the central office is responsible for aggregating the state's caseload statistics.

The Metropolitan Public Defender (MPD), based in Portland, Oregon, serves a three-county region encompassing Multnomah, Washington, and Clackamas counties. MPD contracts individually with each of the counties to provide representation in a certain number of cases, based on a specified number of work units. (See Chapter 5 above for a detailed description of MPD's work unit system.) The Portland office handles all accounting, keeps all personnel records, and processes the payroll for each of the offices. The downtown office also conducts the initial stages of recruiting new employees, including placing ads, screening resumes, and holding initial interviews, although the ultimate hiring decisions are reserved for the head of each branch office. All new attorneys start in the Portland office, where they go through a comprehensive training program and gain initial trial experience before being assigned to a branch office. Attorneys in the Portland office can be made available to represent clients of one of the other offices in cases

that are sensitive or complex, such as those involving a confrontation with a local law enforcement agency. The public defender believes that the regional approach encourages the cross-fertilization of ideas and reduces attrition due to burnout by enabling him to transfer attorneys between offices for a change in working conditions.

In general, the use of a centralized administrative component provides consistency in administrative practices across the state or region. It also increases efficiency by lodging basic accounting, recordkeeping, and other routine administrative functions in a single office, thereby avoiding duplication of effort. Also, centralized administration enables branch offices to concentrate their resources solely on the provision of legal services to their indigent clients.

Other programs employ a more decentralized approach to the administration of their various offices. Indigent representation is provided in Vermont through a complicated network of divisions and small offices across the sparsely populated, largely rural state. At the trial level, there are seven defender offices and four contract public defense locations. The Montpelier Office of the Defender General (ODG) houses a general administrative component, as well as the appellate, correctional, and post-adjudication programs. While still a statewide program with central responsibility for administration, the Vermont public defender delegates greater administrative responsibility to its outlying offices than does the Colorado statewide public defender. The individual offices are typically one- and two-attorney operations, with the exception of Burlington, which has four attorneys. Each office has a secretary who is designated office manager and assumes responsibility for ensuring communication between that local office and the main office. The head office handles some general administrative tasks, and local offices are required to follow a small number of specific procedures, most of which relate to data collection and obtaining prior approval for special expenditures. Aside from these requirements, each office has considerable flexibility regarding case assignment, court assignment, caseload management, and attorney supervision. Thus, the head office in Vermont is not involved in the day-to-day administration of the local offices.

The delivery of indigent defense services in Florida is governed by a state statute creating 20 circuit-based (multi-county) public defender programs. The chief public defender for each program is popularly elected.

The principal source of funds for the 20 programs comes from an annual appropriation of the state legislature. The law further requires that each county contribute funds for specific costs such as rent, utilities, and telephone, as well as fees and expenses for private bar representation in conflict and overload cases.

In the Florida public defender system, administration is almost totally under the control of the counties. Some measure of central oversight is maintained through the Florida Public Defenders Coordination Office, which develops and disburses all program budgets according to a formula described in detail above (see Chapter 5). This system preserves the tradition of local control over the operations of individual public defender offices, while guaranteeing consistency in the allocation of resources to the 20 programs across the state.

Each of these four jurisdictions--Colorado, Portland, Vermont, and Florida--is organized differently. Their administration is more or less centralized, depending upon the social, political, and economic circumstances in each of the jurisdictions covered. Yet, despite the range of administrative options exemplified in the above programs, it is important to note that each program maintains some element of central control over the allocation of resources to agency operations. Housing at least some of the administrative functions in a central office appears to increase the efficiency of public defender agency operations in multi-office programs.

6.3.2 The Administrative Officer

Because chief public defenders are generally chosen for their excellence as litigators, not for their management experience, some programs have found it beneficial to employ an administrative officer to oversee general office operations. Hiring a qualified administrator enables the chief public defender to concentrate on managing the delivery of legal services to the agency's clients. While the designation of a full-time administrative position may not be feasible in the smallest public defender offices, many programs could benefit from practices similar to those used in the Hennepin County (Minneapolis), Minnesota and the Columbus, Ohio offices, both of which have full-time administrators.

The Hennepin County defender office consists of two basic divisions: a Legal Division to which all 56 attorneys are assigned and an Administrative Division. The Administrative Division is under the general supervision of the office's administrator and consists of three sections: the Clerical, Investigative, and Dispositional Alternatives Unit. The office administrator occupies a full-time professional position, serving as liaison to the county bureaucracy and manager of the office. As liaison to the county departments in charge of accounting, personnel, budget and planning, and internal audit, the administrator makes a conscious effort to comply with all requirements, to improve communication with the county, and to build support for the program. As office manager, the administrator establishes policies in areas such as outside employment and enforces administrative payroll requirements that staff attorneys keep detailed hourly records on individual cases. The office administrator also determines how support staff are allocated within the office.

The Columbus, Ohio defender office, which has 39 attorneys, also has a full-time administrative manager. This person is responsible for all aspects of daily office management, including supervision of secretarial staff and oversight of all ordering and purchasing for the office. The administrative manager is also charged with maintaining personnel records and handling public relations with the courts, the various facets of the judicial system, the press, and the public. In addition, the manager assigns clients to attorneys and obtains continuances, withdrawals, and substitutions.

There are many potential advantages of having an employee responsible for overseeing and coordinating a public defender office's administration. Primarily, the efficiency of the operations of the office can increase dramatically when they are under constant supervision by an individual experienced in office management. Furthermore, the quality of the services to clients may also increase as a result of the smoother overall functioning of the office and the ability of the chief public defender to concentrate more time and energy on supervising the legal aspects of the operation. This system allocates tasks to personnel on the basis of their expertise, and thus maximizes the utilization of their skills. Though both of the jurisdictions described above are large enough to support full-time personnel in charge of office administration, the benefits of such a system can be enjoyed in smaller programs by establishing a part-time position. The key to

improving the efficiency of the program and the maximization of available resources is to centralize responsibility for administrative functions with an employee who is experienced in the various aspects of office management, including accounting, purchasing, personnel and payroll, and supervision of secretarial staff.

6.3.3 Secretarial Support Staff

The significance of the contribution of secretarial support staff to the operation of a public defender office is often vastly underrated. Secretaries perform several vital functions, such as: handling incoming calls, receiving visitors, typing, recording of data, contacting clients, and making appointments. In some offices, secretaries are responsible for screening potential clients and maintaining the docket for attorneys. The skills required to perform these and other secretarial tasks range from clerical abilities to advanced knowledge of legal procedures. Since the workload tends to be erratic, secretarial staff must often perform under pressure; thus, it is important to pay attention to the allocation of resources to these tasks. Are secretaries assigned tasks in the most efficient manner? Is there adequate supervision to ensure that secretaries do not experience significant down-time when they do not have enough to do? Are they satisfied with the structure and salary of their jobs so that turnover is infrequent? Are other employees satisfied with the procedures for obtaining secretarial assistance, and with the quality of the work? In the press to provide indigent representation, these and other critical questions may be overlooked by program administrators. In order to guarantee that the operations of the entire office are as smooth and efficient as possible, the supervision of secretarial resources should be handled by the person responsible for overall office administration, wherever possible.

There are two main approaches to organizing the secretarial staff in a public defender office. The first is to establish a pool of secretaries that serves as a general resource for all other employees. This approach is used by the Portland, Oregon Metropolitan Public Defender. The second approach is to assign secretaries exclusively to one or more attorneys in the agency, creating a team consisting of attorneys and support staff. This system has recently been instituted in the Hennepin County (Minneapolis)

Public Defender Office. Each of these organizational models is reported to have certain benefits and problems.

In Portland, Oregon the secretarial staff at MPD is pooled as a general resource. There are a total of 14 secretarial positions; one of these positions is a secretarial supervisor, while another is an executive/administrative secretary. The rest of the secretaries rotate working the front desk where four secretaries at a time handle both reception and incoming calls. It is reported that there are effectively eight secretaries available at any one time to do production typing for the attorneys and other program employees. The secretarial supervisor estimates that 30-40 percent of the secretaries' workload comes from attorneys; 30 percent from investigators; 20 percent from trial assistants; 15 percent from transcribing court proceedings; and another 5 percent consists of compiling and inputting statistical information into the computerized MIS.

According to the secretarial supervisor in Portland, pooling secretarial staff has several advantages, the most important being the increased ability to make maximum use of the secretaries' time. Because employees differ greatly in the amount of paperwork they generate, the general resource approach guarantees that one secretary will not be overburdened while another has little or nothing to do. Another benefit of the pooled approach is that no one secretary is forced to deal continuously with a difficult work situation, which can lead to resentment and lack of satisfaction, nor is there unhealthy competition among secretaries for the best assignments. According to the supervisor, a pooled organization also facilitates supervision and avoids the problems that typically arise when a secretary is absent for a period of time. All of these advantages of pooling support staff are reported to maintain secretaries' satisfaction at a reasonably high level, and thus to reduce the rate of turnover in these positions. Possible disadvantages of the pooled approach include lack of integration into program operations and lack of commitment to individual lawyers or other staff.

Not all offices have experienced success with the pooled approach, however. In the Hennepin County public defender office in Minneapolis, Minnesota secretaries have recently been switched from a pooled system to one of assignment to a specific team of attorneys. Because staff attorneys in Hennepin are divided into trial teams consisting of six attorneys each,

assignment of one secretary to each of the trial teams was chosen as a natural organizational framework for support staff. The clerical supervisor reports that the change in the system has resulted in a reduction in the rate of turnover in the secretarial positions. In part, the turnover problem reflected the inability of the public defender office to offer salaries commensurate with those available in the private sector, a situation in which most public defender agencies find themselves. Though no salary increase was instituted, the team assignments apparently have increased job satisfaction sufficiently to convince more secretaries to remain in their positions for a longer period of time.

One factor affecting the most efficient organization of secretarial services is the nature of the workload and the number of people who must be served. If, as in Portland, there is considerable variety in the tasks that must be performed and a large percentage of the work is done for non-attorney personnel, then the pool approach may be the most efficient. If the secretaries' workload is less varied because some tasks are routinely handled by a special unit, as in Hennepin county where briefs are produced by the so-called "RAT team," and most of the work is generated by attorneys, then the team assignment approach may be more efficient. Staff members of both programs also reported that personality was another factor affecting the choice of the most appropriate method of organizing secretarial staff.

A final factor which may dictate the mode of providing support services is cost. The conventional wisdom is that assigning secretaries to attorneys requires more secretaries than when their skills are pooled. This belief seemed to be borne out by the observations of the research team in their visits to various offices around the country. The clerical supervisor in Hennepin County tacitly recognized this fact in stating that the present ratio of one secretary to six attorneys was not optimal, and that a ratio of 1:3 or 1:4 would be preferable. Naturally, such an increase in the size of the support staff would have serious cost implications for the program as a whole. The supervisor in Portland also agreed that more secretaries would be needed if they were assigned to attorneys. Thus, pooling of secretaries, where feasible in terms of the nature of the workload and personality, may be the least expensive of the two alternatives.

6.4 Office Equipment

The availability of certain kinds of office equipment can increase the efficiency of administrative support services and thus also serve to reduce the number of personnel required to operate a defender office. In addition, use of sophisticated equipment can improve the efficiency of other aspects of office operations including legal service delivery and training (see Chapters 2 and 3, respectively, for more detailed information regarding the use of special equipment in these areas).

At a minimum, the standard equipment required for the administration and operation of a public defender office includes:

- modern self-correcting electric typewriters;
- dictaphones for use by attorneys in dictating case notes, briefs, correspondence, etc.
- other recording equipment for use by investigative staff in interviewing witnesses and victims;
- photographic equipment, such as Polaroid cameras, for use by investigators in documenting evidence; and
- copying machines for use by all staff.

Several of the programs observed throughout this research project augmented this standard equipment base with sophisticated equipment--e.g., word processors, video machines, and computers--that reduce the time necessary to perform certain routine tasks. This equipment increases the efficiency of personnel performing tasks such as brief preparation and enhances the effectiveness of activities such as investigation and training.

6.4.1 Word Processing Equipment

The introduction of word processing technology into the public defender office is one of the most fruitful areas for increasing program productivity, assuming that the time saved is put to some other productive use. The application of word processing is particularly cost-efficient in:

- the production and text-editing of lengthy documents that typically go through several stages of drafting;
- printing of standard letters that are sent to multiple addressees; and
- preparation of unique documents that are assembled from pre-recorded, standardized segments.

In addition, more advanced information processing and mathematical packages are available on some models.

There are several different types of word processors presently on the market. These include, in order of increasing sophistication:

- simple memory typewriter units;
- magnetic card and cassette units;
- one-line display units with floppy disks and a high-speed printer; and
- visual display or CRT (cathode ray tube) units with floppy disks, simultaneous input and output and unattended playback capabilities.

The prices of the various types of word processors vary according to their level of sophistication. While the CRT units have the greatest number of applications, many programs may find that the less expensive models are sufficient to fulfill their document production needs. The Portland, Oregon MPD for example, utilizes IBM magnetic card typewriters, enabling the staff to produce form letters more easily, assemble standardized documents, and perform minor text editing tasks.

Programs should be careful not to purchase expensive technology inappropriate to their specific needs. The public defender in Hennepin County reports that the office did acquire early-generation word-processing equipment which was used only minimally and was ultimately transferred to another department. Any agency contemplating the acquisition of a word processor should carefully assess its own needs and match those with a system having the appropriate applications.

The Federal Defenders of San Diego Inc. is one example of a program that has acquired a CRT-type word processor, a Wang model 25 with two work stations. Feasibility studies conducted in 1979 and 1981 by the Management Services Branch, Administrative Office of the U.S. Courts showed that use of a word processor would result in specific time savings for certain discrete defender office functions, and the system was implemented in 1982. The Wang system is used in the preparation of briefs, pre-trial motions, jury instructions, voir dire questions, a monthly newsletter and general correspondence. All word processing systems have the capacity to increase productivity in the production of these and other standard documents. The San Diego system

also has a math-sort software package that enables it to generate statistical reports such as:

- a current break-out of cases by attorney;
- closed case information;
- attorney and investigator time information; and
- defendant and witness cross-checks.

Many systems are available with similar advanced capabilities that can further increase the efficiency of office operations.

6.4.2 Video Equipment

Two programs studied, those in Santa Barbara, California and Hennepin County (Minneapolis), Minnesota, have installed video-phone hook-ups with the local jails. Each of these programs utilizes the equipment for slightly different purposes.

The system in Santa Barbara is designed to provide closed circuit video contact between the public defender office and its clients in the county jail located eight miles away. While it is strict office policy that all initial interviews must be conducted in person at the jail, the video system does appear to have resulted in increased client/attorney contact subsequent to the initial interview.

The \$57,000 Santa Barbara system was funded through an LEAA grant of \$35,000 in conjunction with support from the county board of supervisors and a state grant. The system was developed in 1981 by Court Vision Communications of Thousand Oaks, California, which also provides videotaped depositions and other courtroom materials for attorneys. Access to the jails via the video-phone hook-up is shared by both the public defender office and the county probation office. Initially, Santa Barbara's system was also planned to include video arraignments. This portion of the plan, however, was never implemented due to the opposition of local judges.

Hennepin County has had a videophone link-up with the county jail since December 1980. Unlike Santa Barbara, where the jail is eight miles away, Hennepin's jail is across the street from the court complex that houses the public defender. Despite the jail's proximity, the average round-trip to the jail, exclusive of client interview time, takes slightly more than 30 minutes.

This is due, for the most part, to the time-consuming procedures which are required for attorneys to get access to defendants.

Frequently client interviews are arranged in response to an urgent-sounding note from a jailed defendant that requires only a few-minute response from the attorney. At other times, the attorney needs only to confirm some small factual detail, again requiring only a few minutes. It is for these short interviews that the videophone is particularly effective, though it is also used by investigators and to a greater degree by non-attorney staff working on alternative bail and sentencing plans. From a log maintained on staff usage of the videophone, the Hennepin Public Defender was able to ascertain that communication times were kept short (an average of seven minutes) and the videophone did not substitute for personal visits.

An assessment of the videophone system and its uses conducted in 1982 concluded:

In general, staff members who have used the videophone are satisfied with the system. A substantial portion of staff have not chosen to use the videophone, apparently because of limited opportunities, the sense that the system is impersonal or that issues are too complex for videophone discussion. Attorneys are the most frequent videophone users, with approximately two-thirds having used the equipment at least once. The majority of staff use the equipment only occasionally, while one-quarter of the users make one-half of all videophone calls. Most users report using the videophone as a supplement to, rather than a substitute for, personal contact with the client. The jail personnel were cooperative in use of the equipment, although several staff noted that not all deputies were able to operate the videophone. Time savings, estimated at 30 minutes per contact, and the ability to report frequently to clients were the greatest perceived benefits of the system; the greatest disadvantage was the limited hours of use. However, staff generally believe the videophone is a beneficial instrument which makes them more effective in carrying out their responsibilities.*

While the costs of establishing a videophone hookup with the local jail may be prohibitive for some public defender organizations (especially since the demise of LEAA), it is a unique and innovative method that has shown promise in conserving valuable staff time that would otherwise be wasted travelling back and forth to and from the jail. The systems also have

*Hennepin County Public Defender Videophone Assessment, 1982.

the potential to increase incarcerated clients' access to their attorneys and may reduce the sense of isolation that is often a problem for jailed defendants. Programs considering the development of a videophone system should, however, also recognize the inverse potential for increasing the defendant's sense of isolation and the impersonality of such client/attorney contact, and establish strict guidelines to prevent the elimination of face-to-face client/attorney consultations.

Video equipment can also be useful in other elements of public defender office operations. The Portland, Oregon MPD, for example, uses video equipment extensively in its training program. Chapter 3, Section 3.4 provides additional information on the training application of video equipment in Portland.

6.4.3 Computers

Programs in several jurisdictions around the country have also acquired their own computers or have tied-in with existing local computer facilities. The applications of computers in public defender offices include data collection, storage, and analysis, which will be discussed in detail in the following section on management information systems.

For those programs choosing to automate their management information systems, there are several steps which must be taken in order to decide what type of computer to install. The first thing a program must do is to identify the needs and expectations of the various potential users of the system. This entails identifying the type and level of sophistication of the data to be collected and the style and frequency of reports to be generated. It is important to remember that the needs and expectations of different staff persons may not be consistent or even compatible, and policy decisions will have to be made in an attempt to balance the needs of all potential users. To avoid future problems in the implementation of the system due to staff resistance, as many potential users should be involved in the planning stage as possible.

For the purpose of identifying and prioritizing program requirements for a computer system, the goals and policies of the program must be clearly articulated. Several methods of developing caseload and workload standards and other performance measures have been reviewed elsewhere in this report.

However, the process of articulating a program's goals and policies and communicating them to the relevant parties both within the program staff and outside (e.g., funding sources) is so fundamental to the success of any management scheme that it cannot be emphasized too often.

Having identified the program needs, the next step is to select the appropriate hardware and software to fulfill those requirements. Hardware consists of the computer, terminals, printer, and back-up memory systems. Software consists of the set of programs that direct the computer to read the incoming data, store it, process it, and generate the necessary reports.

There are two alternative methods for choosing a total computer system, including both hardware and software: 1) a program can retain the services of computer consultants, or 2) it can rely on existing staff to research the available options and make a decision as to which system is appropriate. Because the decision must be based on highly technical considerations, the expert advice of a consultant may be required. A program seeking the advice of a consultant should issue a Request For Proposals (RFP), outlining the services required and evaluate incoming bids on a competitive basis. The choice of a consulting firm should be made not only on the basis of cost, but also on the basis of experience and the proposed system features. Care should be taken to choose a firm that understands the operations of public defender offices or law offices in general. In addition, it is essential that a consultant be willing to involve program staff in the planning process and, especially, to train them in the operation and applications of the system. While the services of a computer consultant may be costly up-front, the long-term advantages of having an expertly-designed system, in terms of increased efficiency and utility, may well outweigh the initial expenditure required.

When beginning to plan installation of a computer system, the Portland, Oregon public defender issued an RFP to computer consulting firms. The bids received ranged from \$7,000 to \$25,000, all of which the public defender considered too high. Fortunately, the agency had on staff an individual with two years background in the computer field who was able to take over the task of sifting through the technical specifications of different types of systems and software packages and designing a system appropriate to the agency.

The availability of a skilled staff person was most fortuitous for the Portland program; it is unlikely that many other programs would have a similar staff member. For programs which can neither afford outside consulting services, nor have staff knowledgeable in the computer field, a third option may be available. Many local governments or universities have existing computer departments with experienced staff who could perhaps be consulted at little or no cost.

Hardware Selection

In choosing the hardware for a computer system, a public defender agency has two options:

- 1) mainframe and mini-computer systems; or
- 2) microcomputer systems.

A mainframe computer system is the most versatile and sophisticated option, while also the most costly. Mainframes, together with the required peripherals, e.g., terminals, high speed printers, disk and/or tape drives, and power supplies can cost anywhere from \$100,000 to millions of dollars. Minicomputers generally fall within the range of \$10,000 to \$100,000. Because the needs of virtually no public defender organization are sophisticated enough to utilize the full capabilities of a mainframe or even a minicomputer and the costs are so high, neither would be acquired solely for use by a public defender office. Rather, this option may be chosen where there is an existing large capacity system either in the courts or other local government agencies to which a public defender office can gain access.

Tying into an existing system may be the least costly alternative because the public defender need only acquire additional terminals, as all other capital costs have already been taken care of. The major disadvantage of the tie-in option is that it is more difficult to tailor the system to the specific needs of a public defender office, and there may be competition among users sharing the system for access both to the system and its support staff. While gaining access to an existing system limits the choice of hardware, this may be beneficial to programs that lack the technical expertise to make hardware decisions on their own.

In some jurisdictions, there are rules stipulating that agencies acquiring computer capabilities must tie-in with an existing system. In Hennepin County, Minnesota, for example, the county has a central data

processing unit and does not permit stand-alone microcomputer operations. Each of the three local courts has separate data systems and the public defender office has been able to derive only limited data from those systems. Juvenile court data is particularly difficult to adapt to public defender needs, since the system was designed without any consideration for them.

The second option for programs considering automation is acquisition of a microcomputer system. Microcomputer technology has advanced dramatically in the last decade, enabling users to acquire hardware with sophisticated capabilities for between \$5,000 and \$10,000. Choosing the microcomputer option enables a public defender to tailor the system to specific program needs. However, this choice also entails making numerous technical decisions and selecting appropriate hardware. The basic elements of a microcomputer system are:

- the computer;
- the terminal(s) or viewing screens;
- disc drive(s);
- back-up memory system(s);
- printer; and
- modems, as needed, for expanding the capacity of the system.

In acquiring all of these component parts, buyers have literally thousands of options to choose from. For example, users must decide between numerous brands of computers that are on the market; decide how many terminals are needed; choose between floppy and hard disc systems for both the primary and back-up memories; and determine whether they need letter-quality printing capacity or not, and whether they need the most sophisticated rapid ink-jet printers or slower, less expensive models. In addition, a program must be able to forecast future needs so that it can acquire a system capable of the necessary expansion. Thus, consultation with computer experts may be necessary, especially since the technology in this field is rapidly changing.

If the program has knowledgeable staff, they can make the necessary hardware choices, as was done in Portland, Oregon when the public defender acquired an Apple II microcomputer with floppy disc character storage. The floppy discs have the capacity to store 143,000 characters per disc, and are reported by the statistician to be relatively prone to error. To avoid the problem of losing data should an error occur, the system also has a Corvus

hard disc character memory as a back-up, which has a much greater capacity of 10 million characters per disc. As an additional safeguard, a video recorder is also used as a back-up memory. At present the system has three access terminals, though it is hoped that more can be added as more of the office functions become computerized. The system also has the capacity, with the addition of a modem, to tie the Washington and Clackamas County offices into the computer in Portland via telephone hook-up. Considerable savings were realized by buying the components through a mail order company. This necessitated assembling each component part, including electrical wiring, all of which was done by a single staff member. Clearly, very few programs will have the requisite expertise to exercise this less-expensive, self-assembly option.

Microcomputer systems are adaptable to public defenders of all sizes and appear to be the more popular choice for automation in recent years. Two of the 12 programs visited (Portland and Santa Barbara) already had microcomputer systems, another (Columbus, Ohio) was in the process of implementing a system, while yet another (West Palm Beach, Florida) was considering the acquisition of a microcomputer.

Software Selection

Software is the set of computer programs that, together with any associated programs required to operate the computer, comprise a management information system. These programs direct the computer to read the incoming data, store it, process it, and then produce the necessary reports. All of these functions are usually performed by separate programs which, taken together, are called a software package or system.

The acquisition of the appropriate software is one key to the success of the MIS development process. Because the software is the MIS, getting the wrong software means having a useless management information system. Unfortunately, the selection process is not as simple as finding and obtaining a software package that meets the needs of the department. Software packages are usually designed to operate on specific computer systems and are not readily transferable from one type of computer to another. Hardware and software choices will have to be made simultaneously because the preferred software package may not be compatible with the preferred hardware system.

This may become less of a problem in the future as more independent programmers design and market software compatible with numerous brands of hardware.

Software may be 1) purchased as a complete package, 2) designed completely in-house, or 3) developed as a combination of both pre-packaged systems and individualized programs. For some microcomputer systems, the cost of the software may exceed the cost of the computer because computer programming is labor-intensive. As a consequence, developing in-house software may require as much or more investment in personnel costs as would the purchase of a commercial package. Programs designed in-house have the advantage, however, of being tailored to the specific needs of the individual public defender office. The software used in the Portland system consists of VISICALC; DB Master, a commercial data base manager that has a very large record capacity and a report generator; and programs designed by the office statistician specifically for the program's own use.

Software requires an ongoing support system to maintain its operation. Except with the simplest of programs "glitches" or "bugs" may occasionally develop. Problems can occur because of unanticipated applications of the system, overload as a result of increased use, or interference from other operating programs. It is necessary, therefore, to have programming support available for maintenance and/or modification of a system's software.

A computerized management information system can provide significant benefits to a public defender office, and acquisition of computer capabilities should be given serious consideration by all public defenders. As the preceding discussion indicates, obtaining a computer system is a complicated process. Public defenders must be careful to assess their data requirements adequately in order to make appropriate hardware and software choices. The help of outside consultants should be sought, if necessary. It should be recognized, however, that automation may not be feasible for all programs at the present time. Section 6.5 below on management information systems discusses the relative advantages and disadvantages of manual and computerized systems in the public defender setting, along with data collection and reporting requirements.

6.4.4 Other Advanced Equipment

The public defender agency in Columbus, Ohio places particular emphasis on its felony investigative unit and has acquired the most up-to-date

technology to enhance the units' effectiveness. It includes sophisticated photographic equipment and an on-site darkroom; video camera and projection equipment; and polygraph equipment, with associated training in its use. In addition, investigators have the equipment necessary to be wired for sound.

The Portland, Oregon MPD has a dictation system that is directly tied into the office phones. This system is reported to facilitate the expeditious production of dictated documents, especially letters and investigative reports.

6.5 Management Information System

Throughout this report, numerous management approaches to maximizing the use of limited resources have been identified. The development by public defender agencies of management approaches to common problems, and their ultimate success or failure, is dependent upon the availability of accurate, reliable information regarding office operations. Only with the appropriate relevant data at hand can informed management decisions be made to address particular resource allocation problems.

Many jurisdictions under the pressure of fiscal restraints now require detailed accounting of public defender program needs as a justification for regular budget requests. This creates an additional, vital need for accurate and reliable program data.

The management information system (MIS) is a tool to provide the necessary information in an appropriate format so that managers are able to make informed decisions and provide required statistics for budget justification purposes. A well-structured MIS is crucial to the efficient and effective operation of a public defender organization. Unfortunately, some public defender agencies do not collect even the most rudimentary data on the number and type of cases handled by their attorneys, much less recognize the important management applications of program data.

6.5.1 Management Information System Applications

A management information system is the primary tool for resource management in a public defender office. The data collected can be used in several different ways, both to improve a program's internal functioning and its external relations. The primary applications of a management information system are:

- case tracking through the criminal justice process from assignment to disposition;
- ongoing caseload/workload monitoring and allocation;
- performance evaluation;
- planning and forecasting;
- budget development and justification; and
- development of an effective defense strategy.

Programs may use data primarily to fulfill one of these functions, or they may use the data for a combination of functions.

Case tracking is one of the simplest functions of an MIS. Through the maintenance of up-to-date files on the status of cases, program managers can easily determine what aspects of the case have already been handled and what remains to be done on individual cases.

One of the most important applications of an MIS, from a resource allocation perspective, is the monitoring of caseload or workload. This knowledge can be used to assign new cases appropriately, ensuring that the workload is equitably distributed among individual attorneys, special teams, or units. A program can also use overall workload data to indicate when an agency overload problem exists in support, for example, of a motion to refuse further appointments of the public defender by the courts.

Data providing information on individual, unit, and agency workloads also enables public defender managers to evaluate performance on each of the three levels. Performance evaluation is a key element in maintaining operations at a level that is both efficient and effective.

The same data that shows current levels of service delivery can be used for the purpose of planning and forecasting. Especially if historical trend data are available, a program can make reasonable caseload projections for the coming year. These projections also enable managers to forecast staffing and other resource needs in the future.

The projections made in the process of planning and forecasting are also an essential element of developing a budget request. In recent years, funding authorities faced with numerous requests for a limited pool of funds have become more strict in requiring well-documented justifications for particular requests. Thus, the availability of an MIS may be crucial to the continued funding (and, therefore, existence) of a public defender program.

Finally, an MIS can provide information invaluable in the process of developing an effective defense for a particular client. For example, attorneys may be able to obtain data showing what types of motions are typically brought in certain types of cases, or dispositional data may reveal consistent behavior on the part of a certain judge in deciding particular types of cases, information which could be useful in preparing to argue a similar case before that judge. One public defender attorney in Portland, Oregon used sentencing data provided by the program's MIS to reduce a client's sentence by convincing the judge that the crime for which the individual was convicted consistently received stricter penalties than all other cases in its class of felonies.

The combination of MIS applications that a program identifies as appropriate to fulfill its internal and external data requirements will also be important in deciding upon system design specifications and data collection and report generation needs. The following sections discuss design issues such as the relative advantages and disadvantages of a manual versus a computerized MIS, basic data collection requirements for inputting information into the system, and standard types of statistical reports that can be generated.

6.5.2 System Design

The design of a management information system is determined by the planned applications of the system, the relative costs of design options, and user needs and capabilities. The importance of the user's perspective is often overlooked in the course of planning an MIS, sometimes with disastrous results.

Users at all levels--everyone from the persons expected to provide the raw data to those involved in the highest level of analysis and review--should be involved in the design phase of developing a public defender MIS. An exemplary data collection form will be of no use if the information it seeks to collect is not available in the requested format and/or the staff expected to provide the data are otherwise unable or unwilling to do so. Final implementation of the system can also be accomplished more smoothly if staff members do not feel that additional responsibilities are being imposed upon them by program management without their consent. Convincing attorneys

to fill out forms that do not directly relate to in-court representation has always been a problem for defender management. It is therefore important to point out the benefits to be gained by staff attorneys at the earliest possible time.

The involvement of staff in planning an MIS can also help avoid the problem of designing an inappropriately complex system. One public defender agency encountered during a previous research effort spent a considerable sum of money hiring an outside consultant in the accounting field to design a sophisticated manual workload monitoring system. The resulting product consisted of so many different data collection forms and complex levels of statistical analysis that the program has never fully implemented the system. Greater staff involvement in the planning process might have steered the system designers away from the development of this unworkable MIS.

There is no standard style and format for a public defender MIS; however, two prototypes have been developed by the National Legal Aid and Defender Association (NLADA). The Attorney Management Information and Casefile User Support System (AMICUS) is a manual system providing standard forms and procedures designed to help manage office personnel, prepare budgets, detect case overloads, analyze attorney performance, and monitor judicial decisionmaking.* NLADA also offers a computerized Defender Management Information System (DMIS) which collects data on all key stages of processing a case through the criminal justice system. A formula for determining caseload weighting factors is included in this system.**

While these two prototypes can provide invaluable guidance to a program seeking to establish an MIS, it is critical that the standard format be tailored to the program's unique reporting requirements. Because each public defender's office has its own information needs and individualized approach to case monitoring, most programs that systematically collect caseload and other operational data have designed their own system.

*National Legal Aid and Defender Association, The AMICUS System for Defender Office Management, Volume I, (Washington, D.C.: NLADA, 1981).

**National Legal Aid and Defender Association, Defender Management Information Systems Feasibility Study, Volume I (Washington, D.C.: NLADA, 1979).

Manual versus Computerized Systems

A major design issue that must be addressed in developing an MIS is whether it should be manual or computerized. A manual system can provide the necessary information at a much lower initial cost than an automated system. The most significant savings for a manual system are realized through avoiding the initial capital expenditure for computer hardware, plus the costs of software development or acquisition, and other start-up costs. It is interesting to note that NLADA began their MIS effort with the computerized DMIS program. They shifted their focus to the manual (AMICUS) method only after they determined that few public defender programs in the country could afford to install the DMIS system. Nevertheless, a manual system is labor-intensive. The cost of personnel to support the system over the long term may offset some of these initial savings.

Manual systems may be appropriate for many types of public defender organizations. The public defender's office in West Palm Beach, Florida operates entirely on a manual system, as does the statewide office of the Defender General in Vermont. Hennepin County, Minnesota also has a manual MIS, although it is augmented with access to the court's computer system for tracking active cases. Since the Hennepin County Public Defender cannot input data into the court's system, the manual system provides the data most critical to management of the program. These three programs vary widely in terms of demographic characteristics, office size and other key traits. Yet, in each of these agencies, the manual system provides the data necessary for a fairly sophisticated level of analysis and review.

Because a manual MIS is more easily and less expensively altered than an automated system, a program may benefit from first developing a manual MIS prior to obtaining a computer. In this way, many data collection and system design issues can be resolved at minimal cost, and personnel can have the opportunity to become accustomed to the system's reporting requirements. The Metropolitan Public Defender in Portland, Oregon operated on a manual system for several years prior to implementation of a computerized MIS. As a result, program officials report that there was little opposition to the introduction of the new system. In one of the branch offices, however, there was no tradition of providing data on closed cases, as had existed in the main office, and there was considerable opposition to the introduction of the

computerized MIS. Because the staff were not familiar with the requirements and applications of an MIS, this branch office has also not made full use of the statistical reporting capabilities of the system.

The major limitation of a manual MIS is the inability to rapidly process large quantities of data and generate complex statistical analyses. These processes require more labor and take more time with a manual system than with a computerized system. Also, the manipulation of data to meet different information needs may involve duplication of effort, especially if several types of reports are being compiled. The same data may have to be entered by several different staff members on several different forms, which increases both the labor costs and the time required to prepare statistical information for review.

Though a manual system can meet the needs of many public defender offices, still others can benefit greatly from the use of a computerized system, provided that funds are available to install the system. Particularly in larger offices handling a high volume of cases, the initial costs of automation may be more than offset by the labor required to collect, process, and analyze the data manually. Also, in offices of any size where reporting requirements (e.g., to the courts or to a funding authority) necessitate the rapid production of complex statistical information, a computerized MIS may be the most effective means of fulfilling those requirements. The options available to programs automating their MIS, their advantages and disadvantages, plus examples of programs using computer technology, are reviewed in detail in Section 6.4.3, above.

6.5.3 Data Collection and Statistical Reporting

The types of data collected and reports generated by a program will be determined by the unique applications of its MIS and the system design, consistent with internal and external reporting requirements. Therefore, this section does not attempt to provide a comprehensive listing of data elements or reporting modes. Rather, in this section examples are provided of two approaches to data collection and reporting, each of which emphasizes different data elements, concentrates on collecting data at different stages of case processing, and is susceptible to different types of statistical analysis.

The Portland, Oregon MPD, as noted above, has a computerized management information system. The automated system provides extensive data storage and analysis capabilities; thus, MPD collects a wealth of data on each individual case handled by the agency. When a case is closed, the attorney fills out a form providing detailed information on the following aspects of the case:

- client demographic data;
- charge type;
- staff assigned to the case;
- judge(s) dealing with the case;
- disposition;
- sentencing; and
- diversionary plans.

Examination of the closed case summary form (see Appendix D) reveals the level of detail at which data is collected in the Portland office. Appendices E and F show the records in the MIS program corresponding to the data elements on the closing sheet and the codes used to indicate the case outcome and type of conviction, respectively. This system provides the Portland program with monthly caseload statistics on dispositions by type of case. Monthly attorney caseload statistics are generated for closed cases by disposition. Detailed case summaries are also available, including all charges, sentencing information, opening and closing dates, and deciding judge for each client (see Appendix G). Data are also provided on the number of open cases and work performed during the month on those cases. Program administrators review this information in order to monitor the caseload in the office and to identify potential problems in workload management; individual attorneys use it to keep track of their own progress. The information is not used to make competitive comparisons between attorneys.

On a daily basis the MIS provides an individualized docket sheet for each attorney's court appearances which includes information on the judge and the type of procedure (Appendix H) and an office journal which provides information on upcoming proceedings including client name, address and telephone number, charge(s), date and type of proceeding, and the attorney and TA's handling the case (Appendix I). At present, a complete history of every case handled by the office is being entered into the system. These data record type of case, name of the judge, demographic information on the client, case outcome and alternatives ordered. When this project is complete,

additional terminals will be added so that TA's and attorneys will be able to access the files to determine, for instance, if a conflict exists. Because of the detailed information recorded in the MIS, the system can also generate special reports on topics such as the sentencing patterns of specific judges and client demographics yielding a picture of the program's typical client.

These statistics are summarized on a monthly basis. Appendix J shows the process by which monthly statistical summaries are generated. Appendix K provides a sample set of statistical summaries for the month of August, 1982. Despite the fact that these reports contain extensive information requiring numerous calculations, they can be all be produced in just two days on the program's microcomputer. At the end of the year, the monthly statistics are aggregated and included in the program's annual report.

The Colorado Statewide Public Defender has a manual MIS. Rather than focusing on individual cases as is done in Portland, the Colorado program focuses on gathering monthly workload data from each individual attorney by charge type (i.e., juvenile, misdemeanor, felony). Appendix L provides sample individual attorney workload sheets, which collect the following data by type of case:

- number of cases pending at the beginning of the month;
- number of cases added;
- number of cases closed (plus closed with partial services provided and transferred out); and
- number of cases pending at the end of the month.

These statistics are then summarized by charge type to provide a monthly summary sheet for each regional office (Appendix M). In Colorado, all caseload statistics are converted into felony equivalents,* thus case summaries for each regional office are converted into total felony equivalent summaries on a monthly basis and aggregated quarterly (Appendix N).

Over the years, the Colorado program has also collected information monthly on the dispositions of cases by type of case for each regional office, including:

- pre-trial results (no adjudication, plea adjudication, and sentence);

*See Chapter 5 above for a detailed discussion of how felony equivalents are derived in Colorado.

- trial results (no adjudication, adjudication, and sentence);
- miscellaneous proceedings and their dispositions (e.g., probation and parole revocations, change of custody hearings, etc.);
- appeals;
- partial services closings (e.g., public defender withdrawal, defendant fails to appear); and
- caseload summary (similar to data collected in Appendices L and M).

The data were also entered monthly onto summary sheets; aggregate statistics were prepared quarterly and yearly by type of case and by total felony equivalents.

These data are used by the central office primarily for a regular review of the workload in regional offices. When an overload problem is identified, the central office may decide to move an attorney temporarily into that office from another regional office, or to contract with the private bar within that region to handle the additional cases. These statistics are also used in preparation of the program's annual budget (see Chapter 5 for a detailed discussion of the budget development process in Colorado). In the past, program data was used in the preparation of an annual report; however, this has not been done since 1975.

The management information systems in these two public defender organizations--Portland and Colorado--provide examples of the types of data that a program may want to collect and the ways in which that information may be analyzed and reported. These examples are not necessarily comprehensive; other public defenders may find that different methods are more appropriate to their needs.

In summary, an MIS is fundamental to a program's ability to monitor its own internal operations, and is essential to the process of developing a reasonable projection of budgetary needs and justifying those needs to an external funding authority. Major design questions that must be decided on the basis of planned applications of the system and program capabilities include:

- whether the system should be manual or automated;
- what type of data to collect;
- when (and how often) to collect data;
- what types of statistical reports are required; and
- when (and how often) such reports should be generated.

6.6 Summary and Conclusions

Resource allocation issues arise not only in the provision of legal services, but also in the administration of a public defender office. The status of an organization within the relevant government bureaucracy (local or state) affects its relationship with the funding authority. The first section of this chapter looks at two programs: 1) Portland, Oregon Metropolitan Public Defender, a private, non-profit corporation; and 2) Hennepin County, Minnesota Public Defender, a fully-integrated county agency. The independence of the Portland program enables it to manage its financial resources in unique and beneficial ways. The ability to carry over program funds from year to year and maintain them in short-term, high-interest-bearing accounts has provided the program with funds to automate its MIS and to provide an advanced training program for its employees. Hennepin County, on the other hand, benefits from integration into the county bureaucracy in that the county handles some of its personnel, payroll, and accounting functions. The program has a close relationship with other county agencies and the courts, which provides greater financial stability and also provides advance warning of problems within the system that may have an effect on the program's operations.

The second section of this chapter reviews program organizational issues, including the question of centralization versus decentralization of the administrative responsibilities of a multi-office program. In examining the organization of four such programs--Colorado (statewide), Portland, Oregon (multi-county), Vermont (statewide) and Florida (county-based with state oversight)--it appears that centralization is preferable because it minimizes duplication of effort, although it may not always be logistically or politically feasible.

Another organizational issue involves use of administrative and support staff. Designation of one or more administrative officers is presented as the most efficient way of ensuring that the administrative responsibilities of an office are fulfilled by someone who is both capable and willing to carry out those functions. The additional issue of how best to organize the provision of secretarial support services--i.e., whether to assign secretaries to individual attorneys or to create a pool for all to draw upon--is also discussed. Analysis of the programs in Portland, Oregon,

which pools its secretarial staff, and Hennepin County which assigns them individually to teams of attorneys, reveals that both methods have distinct advantages and disadvantages. Portland reports that pooling distributes the workload more equitably and avoids destructive competition. Hennepin County reports that specific assignments have reduced dissension and increased job satisfaction. Both programs assert that turnover is reduced as a result of their organizational structure. There does appear to be a consensus indicating that individual assignments require a greater number of secretaries than pooling to provide support to the same number of attorneys.

Section 3 reviews the equipment needs of a public defender office. This section concludes that, in addition to the basic equipment required, certain types of advanced equipment (especially word processors, video equipment and computers) can significantly increase the administrative productivity of a program while also serving to enhance other aspects of its operations, such as legal service delivery and training.

Finally, this chapter provides an extensive discussion of the importance of design issues involved in developing a public defender management information system. The relative benefits and drawbacks of a manual versus a computerized MIS are reviewed. Essentially, a manual system can do everything an automated system can, however, it cannot do it as efficiently as a computer. The initial start-up costs of a manual system are low compared to the expense of acquiring computer hardware and software. Over the long term, however, a manual system is labor intensive, and initial savings may be offset by the cost of personnel to support the system. Large programs that must process a high volume of data, or programs of any size that must be able to provide sophisticated statistical analyses in a short time, would benefit the most from the development of a computerized MIS.

Data collection and statistical reporting techniques are illustrated by the procedures adopted by the Portland, Oregon Metropolitan Public Defender and the Colorado State Public Defender. Each of these agencies has chosen to collect program data in different forms, to collect it at different stages of case processing, and to analyze and report the data in very different ways. These examples give evidence of the central importance of tailoring a program's system design to its planned applications and to its unique capabilities. Careful design of an individualized MIS, including extensive

staff involvement in planning, will avoid the problems of developing a system inconsistent with program requirements, or logistically impossible to implement because of staff or other resource limitations.

Chapter 7
CONCLUSION

Most public defender organizations around the country currently share a common dilemma: they are experiencing ever-increasing demands for their services, which must be provided on a limited, often shrinking, budget. Not only has the scope of mandated services for indigent defendants expanded dramatically since the Supreme Court handed down its 1963 decision in Gideon v. Wainwright, but the rising crime rate and continuing recession have also contributed to an increase in the number of defendants eligible for representation by a public defender. In addition, many states and localities have experienced financial difficulties in the last decade due to the sluggish economy. The need for legislators and county commissioners to prioritize demands for funds and to develop conservative budgets has often left public defenders with appropriations much smaller than requested. As a result, to provide adequate, effective representation in the 1980s, public defenders must be both skilled litigators and experienced managers. Only through careful attention to the allocation of resources throughout an agency can a public defender ensure that available resources are put to their maximum efficient use and that clients receive quality representation.

Unfortunately, the standard legal education does not include any introduction to the techniques of managing a law office. Furthermore, public defenders are typically chosen for that position because they have proven themselves as excellent litigators, not as skilled managers. Thus, many public defenders are faced with crucial resource allocation decisions that they are ill-equipped to make.

This research effort was designed in response to the public defenders' need for practical, proven methods of maximizing resources. Through a comprehensive literature review, telephone survey, and two rounds of site visits to selected sites, project staff were able to identify and document management techniques already in use in several jurisdictions that show promise for increasing the effectiveness and efficiency of a public defender agency.

The sites which were studied were chosen on the basis of numerous criteria, including availability and utilization of an MIS, management approach to workload control, use of support staff, demographic diversity and

replicability of the relevant management techniques. To facilitate replicability, one of the most important of these criteria, the smallest, the largest, the poorest, and the best-funded programs in the country were excluded from the sample. The programs that were chosen fall within the medium range with regard to both budget and size. They were chosen because they make use of innovative management practices, not because they were deemed the "best" in the country. While quality of representation was taken into account throughout the study, no program was subjected to a comprehensive evaluation, nor was there any attempt to rank programs nationally.

The management practices described in this report fall into five general categories: (1) public defender service delivery, (2) personnel management, (3) managing public defender resources, (4) caseload control, using program standards and the budget process and (5) administering the public defender program.

Public defender agencies around the country provide representation in a broad range of cases, from traffic violations to capital felonies. These services are mandated by the U.S. Constitution, Supreme Court decisions, and federal and state statutes. Chapter 2 provides an overview of these services and/or management approaches to providing representation to indigents that appear to result in greater efficiency and improved quality.

One method of increasing efficiency discussed in Chapter 2 is early representation. Through the involvement of public defender attorneys soon after the arrest of indigent defendants many cases can be quickly resolved. While an early representation program may be costly in the short run, the long term advantages appear to offset the initial expense. Attorneys are able to spend more time on serious, complicated cases, and both the public defender and criminal justice system as a whole benefit from avoiding unnecessary costly and time-consuming court proceedings.

Attorney staffing patterns can also have significant impact on the quality of representation and the ability to serve a greater number of indigent clients. Vertical representation, i.e., representation by a single attorney throughout the course of a case, has been identified by both practitioners and researchers in the field as the preferred method of providing an attorney's service to indigents. As opposed to horizontal representation, where several different attorneys may handle different stages of a case from

arraignment to disposition, vertical representation more closely resembles the services that a client would receive from private retained counsel.

Some public defender offices divide attorneys into specialized units handling felony, misdemeanor, juvenile, or other types of cases. Attorney specialization can be particularly efficient when caseloads are high, when cases must be picked up in several distant locations, and/or where unique skills are required for adequate representation, such as in mental commitment or death penalty cases. The existence of special units within an office also provides a natural career development path for new attorneys as they acquire more advanced skills.

One problem with this type of specialized structure is that it can result in few experienced attorneys representing clients in the so-called lower courts, i.e., those handling municipal, misdemeanor and less serious felony cases. One way of addressing this problem is to rotate attorney assignments so that experienced attorneys handle matters in the lower courts on a regular basis. This can improve the general quality of representation, increase the opportunities for less experienced attorneys to learn through observation, and improve the morale of all staff attorneys.

Organization of staff attorneys into teams is another method of improving the delivery of defender services, as was observed in a few of the programs studied. Attorneys of different levels of experience can be grouped together, resulting in a valuable opportunity for in-service training of less-experienced attorneys. The team concept can also help avoid problems caused by an attorney's absence because of illness or vacation, since team members are more familiar with each others' cases and can fill in for one another if necessary. In addition, team members can have much more control over their personal workload by deciding among themselves how to allocate incoming cases assigned to the team. Finally, regular meetings of the team members provide an opportunity for attorneys to get feedback on defense strategies and may result in a higher quality of representation.

Some public defender programs have found that it is cost-effective to use legal assistants for many of the tasks typically performed by attorneys. There are many tasks--such as conducting initial interviews, maintaining contact with clients, investigating the facts of the case, identifying pre-trial diversion and sentencing alternatives, and scheduling court appearances--that can be accomplished by legal assistants under the

supervision of attorneys, at a cost savings to the program. These activities fall into three general categories: (1) paralegal, (2) investigative, and (3) social services. It is reported that the use of legal assistants, whether student interns, full-time professionals, or community volunteers, enables staff attorneys to provide higher quality representation to a greater number of clients.

The personnel management practices reviewed in Chapter 3 include the recruitment and selection of necessary staff, the ability to attract and retain competent individuals, training, supervision, and performance appraisal of a public defender staff. Although it is difficult to assess the financial benefits in each of these areas, the public defenders using them report that they increase employee satisfaction, help reduce the rate of staff turnover, and lead to improved workload management. The net effect of successful personnel management practices in public defender agencies appears to be a higher quality of representation accorded to indigent clients.

Public defenders can identify a pool of qualified, interested applicants for open positions in their program by establishing clinical intern programs, participating in locally-sponsored job fairs, and distributing brochures to campus placement offices, to name a few key recruiting methods. Recruiting, especially of attorneys, should be conducted on as wide a basis as possible. Whatever method is used, the involvement of present program staff in all phases of the process of recruiting and selection is recommended.

There are a number of factors which affect the ability of public defender programs to attract the kind of staff that they need, and to retain staff once they have been hired. One of the most significant of these factors is salary. Unfortunately, salaries of public defender staff are typically below market rate, although they vary considerably around the country. Several defender offices have discovered that offering salaries on par with the prosecutor's office increases their chances of attracting and retaining qualified applicants. The availability of merit pay increases, especially at the point where many staff members choose to leave, can improve employee satisfaction and reduce turnover. Burnout is another factor adversely affecting a program's ability to attract and retain competent staff, especially attorneys. This can result from the day-to-day pressures of representing indigents, unmanageable caseloads, and lack of support services. One unique

method of providing a change of pace to attorneys is to arrange a defender/prosecutor exchange program.

Every public defender program should establish a comprehensive training plan, designed to provide both (1) initial orientation and training of new staff and (2) ongoing training to continue to develop the skills of existing staff in a public defender organization. Such a plan can involve the use of:

- formal training programs, such as conferences, seminars and short courses;
- formalized ad hoc training methods, such as supervision and co-counsel;
- training surrogates, such as the availability of legal library services. Designation of a full-time, or part-time, training director is the best method of developing a comprehensive training plan for the entire office.

Staff supervision and performance appraisal procedures should be associated with the training program. Direct supervision by an experienced attorney facilitates the rapid acquisition of advanced skills by young attorneys. A supervisor is also able to assess the performance of the attorneys with whom they work, according to guidelines outlining program expectations for quality representation by its staff attorneys.

One of the most promising approaches to managing public defender resources is the limitation of services provided through the use of caseload/workload standards. Chapter 4 reviews existing national standards, most of which loosely define the legal requirements of "effective" or "competent" representation and recommend actions that public defenders should take when caseloads become "excessive." Only the 1973 National Advisory Commission has attempted to devise specific numerical guidelines defining a reasonable caseload for public defenders.

There are three methods of limiting caseload available to public defenders: (1) litigation, (2) legislation, and (3) administration. Litigation should be used only as a last resort when all other attempts to alleviate an overloaded office have failed. It is a short-term solution which does little to alter the situation causing the problem, and can alienate key actors in the criminal justice system whose support is important to the continuation of the public defender program.

Adopting legislation specifying caseload limits can provide a long-term solution to the problems causing the public defender in a state-funded program to receive too many appointments. The drafting and passage of legislation is a lengthy and politically complex process, however, and may require considerable time and effort on the part of the public defender. Furthermore, once a particular standard becomes statute, it is difficult to make alterations according to changing circumstances.

Administrative remedies are the most effective in establishing caseload/workload limits. By meeting with the funding authority, members of the private bar and/or judges, a public defender may be able to negotiate a solution to the overload situation. For example,

- Arrangements may be made to refer cases to the private bar when necessary;
- The funding authority may agree to limit the caseload to a certain fixed level, either through the budget request or a contract; or
- The courts and funding authority may agree not to appoint the public defender in certain types of cases or certain courts.

Such remedies should be explored before resorting to legislative- or litigation-based remedies.

Previous research has shown that most programs do little to control their workload; however, a few public defender organizations around the country use caseload/workload standards to manage their activities. The most successful approach observed was the tying of caseload/workload standards to the budget process. Chapter 5 provides four examples of programs that use this approach to controlling their workload.

The Metropolitan Public Defender in Portland, Oregon is one such program that has successfully controlled its workload through contracting to provide a certain number of work units annually. Each type of case handled by the program is assigned a work unit value; attorneys are assumed to be able to handle a fixed number of work units with the aid of support staff. The contract includes a total dollar figure, a total number of units, and a cost per unit. These figures are all arrived at by calculating the cost of the staff required to handle a certain number of work units, and other expenses associated with program operation.

The Florida Public Defender system, consisting of 20 independent offices, also uses caseload standards in developing its biannual budget, which is based on attorney units. Attorney units consist of an attorney and the necessary support staff in both the trial and appellate areas. The cost of these personnel is added to fringe benefits and other benefits to provide a total attorney unit cost. Using the previous year's caseload figures and program workload standards, the public defender offices calculate the total number of required attorney units. Multiplying this figure by the total unit cost yields a projection of the costs of program operations for the purpose of presenting a budget to the state.

The Colorado State Public Defender uses a felony equivalent formula to derive a budget request that reflects a certain fixed workload per attorney. Using fixed ratios of support staff to attorneys, fixed salary levels, and a fixed overhead cost per case, the program is able to forecast its expenses for the coming year. The public defender budget in Colorado also includes a special allocation to cover the costs of providing representation in overload cases, either by hiring additional staff or contracting with the private bar.

Finally, the Office of the Defender General in Vermont also uses caseload standards in the budget development process, in conjunction with a "lawyer equivalency" caseload formula. Taking into account, in addition, the distinct demographic characteristics of the various regions of the state the office is able to project staffing and financial requirements for the coming year.

Resource allocation issues arise not only in the budget development process and the delivery of legal services, but also in the administration of a public defender office. Chapter 6 explores, first, how the status of an organization within the relevant government bureaucracy (local or state) affects its relationship with the funding authority. The first section of this chapter looks at two programs: 1) Portland, Oregon Metropolitan Public Defender, a private, non-profit corporation; and 2) Hennepin County, Minnesota Public Defender, a fully-integrated county agency. The independence of the Portland program enables it to manage its financial resources in unique and beneficial way. For example, the ability to carry over program funds from year to year and maintain them in short-term, high-interest-bearing accounts has provided the program with funds to automate its MIS and

to provide an advanced training program for its employees. Hennepin County, on the other hand, benefits from integration into the county bureaucracy in that the county handles some of its personnel, payroll, and accounting functions. The program has a close relationship with other county agencies and the courts, which provides greater financial stability and also provides advance warning of problems within the system that may have an effect on the program's operations. Each of these models has benefits and drawbacks. The choice of which is more appropriate for a particular jurisdiction will depend upon the demographic characteristics of the area, the political and economic climate, the workings of the local criminal justice system, and the political and administrative skills of the public defender.

Chapter 6 also reviews program organizational issues, including the question of centralization versus decentralization of the administrative responsibilities of a multi-office program. In examining the organization of four such programs--Colorado (statewide), Portland, Oregon (multi-county), Vermont (statewide) and Florida (county-based with state oversight)--it appears that centralization is preferable because it minimizes duplication of effort, although it may not always be logistically or politically feasible.

Another organizational issue involves use of administrative and support staff. Designation of one or more administrative officers was observed to be the most efficient way of ensuring that the administrative responsibilities of an office are fulfilled by someone who is both capable and willing to carry out those functions. Analysis of the experiences of the programs in Portland, Oregon, which pools its secretarial staff, and Hennepin County which assigns them individually to teams of attorneys, reveals that both methods of organizing the provision of support services have distinct advantages and disadvantages. Portland reports that pooling distributes the workload more equitably and avoids destructive competition; Hennepin County reports that specific assignments have reduced dissension and increased job satisfaction. Both programs assert that turnover is reduced as a result of their organizational structure. There is insufficient empirical information to recommend one model over the other; however, there does appear to be a consensus indicating that individual assignments require a greater number of secretaries than pooling to provide support to the same number of attorneys. This indicates that individual assignments may be the more costly of the two options for organizing secretarial support staff.

Chapter 6 also reviews the equipment needs of a public defender office. This section concludes that, in addition to the basic equipment required, certain types of advanced equipment (especially word processors, video equipment and computers) can significantly increase the administrative productivity of a program while also serving to enhance other aspects of its operations, such as legal service delivery and training.

Chapter 6 provides an extensive discussion of the importance of design issues involved in developing a public defender management information system, especially the relative benefits and drawbacks of a manual versus a computerized MIS. Essentially, a manual system can do everything an automated system can, but not as quickly and efficiently. The initial start-up costs of a manual system are low compared to the expense of acquiring computer hardware and software; however, a manual system is labor intensive, and initial savings may be offset by the cost of personnel to support the system over time. Programs that would benefit the most from the development of a computerized MIS include large programs that must process a high volume of data, or programs of any size that must be able to provide sophisticated statistical analyses in a short time.

Finally, data collection and statistical reporting techniques associated with an MIS are illustrated by the procedures adopted by the Portland, Oregon Metropolitan Public Defender and the Colorado State Public Defender. Each of these agencies collects program data in different forms, collects it at different stages of case processing, and analyzes and reports the data in very different ways. Other public defenders should find these two distinct approaches instructive in developing or redesigning an MIS to fit their own needs. These examples give evidence of the central importance of tailoring the system's design to its planned applications and to the program's unique capabilities. Careful design of an individualized MIS, including extensive staff involvement in planning, will avoid the problems of developing a system inconsistent with program requirements, or logistically impossible to implement because of staff or other resource limitations.

The management practices discussed in this report do not constitute a comprehensive plan for the management of a public defender office, because programs vary too greatly from one jurisdiction to the next to make such a plan feasible. Rather, these techniques have been identified as showing potential for increasing the effectiveness and efficiency of the average

public defender program. They were chosen for detailed description and analysis because they represent useful examples of ways of addressing the common resource allocation problems shared by many public defenders in the 1980s.

The art of public defender management is relatively unsophisticated, yet public defenders face many pressing problems associated with increasing caseloads and shrinking budgets. The information contained in this report should aid public defenders in choosing the appropriate paths to follow in attempting to solve their resource allocation problems and seeking to maximize the use of the resources available to them.

Appendix A
LITERATURE REVIEW BIBLIOGRAPHY

SELECTED RESOURCES

COURTS

Federal Judicial Center, Research Division. Appellate Court Caseweights Project (June 1977). This study concludes that case weighting is irrelevant to appellate courts and identifies the need for uniform definitions and court statistics for the evaluation of caseweights to progress.

Gillespie, Robert W. Judicial Productivity and Court Delay: An Exploratory Analysis of the Federal District Courts, Visiting Fellowship Program Report. Washington, D.C.: National Institute of Justice, 1977. The purpose of this project was to formulate a measure of court output based upon case weights that could be uniformly applied to each of the United States District Courts and could be used to analyze the causes of differential performance among the courts. The determinants of court productivity are ascertained by dividing service products into output service (case termination) and service inputs (physical plant and a variety of specialized personnel to produce court service).

Institute for Court Management. The Justice System Journal, A Management Review 4(2), Winter 1978. This issue examines policy and management issues of civil case management by judges and their staff. Despite the assertion of control by judges over speed, direction and substantive preparation of cases, the issues, benefits and results of judicial case management are little known. Articles conclude that speed and level of staffing influence management less than control exerted by the court over its calendar.

Institute for Law and Social Research. Guide to Court Scheduling, 1. A Framework for Criminal and Civil Court (1976). This work presents a model and guide based on the findings of a comprehensive research project involving visits to 30 carefully selected courts. Brief descriptions of scheduling techniques and data applications provide a broad range of information on effective management alternatives.

Lawson, Harry O. and Gletne, Barbara J. Fiscal Administration in State-Funded Courts. A publication of the National Center for State Courts (1981). Fiscal rules and oversight procedures are laid out for those state-funded court systems that are delegated administrative responsibility for court-appointed counsel. A model set of rules is briefly outlined which suggests key items necessary for informed management decisions.

Lawson, Harry O. and Gletne, Barbara J. Workload Measures in the Court. National Center for State Courts, Publication No. R0051 (1980). This book includes a comprehensive summary of the applications and limitations of workload measures in judicial systems and the history of workload measurement in the public and private sectors. Summarizes the methodologies and their budget applications, the state of the art and suggested application of measures in the courts, and planning and forecasting of personnel needs. Also includes a glossary of terms, and an annotated bibliography.

SELECTED RESOURCES (continued)

COURTS (continued)

Mason, Anthony K. Improving Productivity in the Courts: A Primer for Clerks of Court. Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1978. This document summarizes significant scientific research on productivity. The fundamental industrial engineering techniques used for work sampling, time study, developing standard data and facilities planning are described and applied in the justice setting of a clerk's office. Checklists for specific operations analysis are used extensively.

National Center for State Courts, National Court Statistics Project. State Court Caseload Statistics: The State of the Art (August 1978). A comprehensive report on historical and contemporary national attempts to collect and report state-level caseload statistics. Its purpose is to add perspective and focus to problems of data collection and reporting. Recommendations are made regarding type of caseload information to be collected for the purposes of management control, planning, and sharing technology.

Newbourn, Davis W., et al. Managing the Pace of Justice, An Evaluation of LEAA's Court Delay-Reduction Programs. Washington, D.C.: National Institute of Justice, 1981. In the four sites studied, researchers integrated brief commentaries on the role of indigent defense in alleviating backlog, raising questions on horizontal representation and variations between retained and appointed counsel.

PROSECUTION

Institute for Law and Social Research, Management Overview of PROMIS. INSLAW Briefing Paper #1, Washington, D.C., 1976. One of a series of 21 briefing papers, this article is designed for non-technical audiences, to explain the underlying concepts of management and organization inherent in the Prosecutor's Management Information System (PROMIS). PROMIS is outlined as a system which manages data that rates defendants at screening for seriousness of case; data that operates to ensure smooth scheduling of court events; data that reveals consistency in the exercise of prosecutive discretion; and data for planning and evaluation. The briefing papers are designed to assist local prosecutors in evaluating and implementing PROMIS.

Jacoby, Joan E., Performance Measurement for Prosecution and Public Defense: Phase I. Washington, D.C.: Bureau of Social Science Research, Inc., August 30, 1980 (final draft). A functional analysis of a performance measurement in prosecution and defense services, with the emphasis on prosecution. Develops a theory of performance measurement based on identifying key decision-making points or process steps and determining the discretionary authority of the responsible party. Applies this theory to the statistical applications of performance measures based on agency needs.

SELECTED RESOURCES (continued)

PROSECUTION (continued)

Jones, J.B., "Research Note on Caseloads, Plea Bargaining, and the Operation of the Criminal Justice System," Justice System Journal 5(1), Fall 1979, pp. 88-96. A statistical model to assess the correlation between a prosecutor's reported rate of plea bargaining and the average caseload per prosecutor is discussed. Data for testing the model were obtained from a mail questionnaire sent to prosecutors and public defenders in Illinois. The survey related primarily to respondents' plea bargaining practices. Results of the test demonstrated that caseload had a minimal effect on plea bargaining.

DEFENSE

Albert-Goldberg, Nancy; Hartman, Marshall J.; Brandt, Ronald; Singer, Shelvin; O'Brien, William J.; Perspectives Relating to Case Overload in Defender Offices: Developing Strategies for Resolving Workload Problems and Controlling Caseloads. Cambridge, MA: Abt Associates Inc., Criminal Defense Technical Assistance Project, 1981. This monograph provides a review of the remedies available to public defenders (and private attorneys) in dealing with workload problems: standard-setting and other internal management practices, litigation-based remedies, legislative initiatives, workload projection and use of the program budget, appendices include copies of critical litigation around the nation, workload forecasting materials, and model data collection forms.

American Bar Association. Providing Defense Services, American Bar Association Standards Relating to the Administration of Criminal Justice. 2nd Edition, Tentative Draft (Fall 1978). General normative standard suggesting that defender office ascertain workload levels necessary to ensure quality of representation.

Battle, Jackson B. "Comparison of Public Defenders and Private Attorneys' Relationship with the Prosecution in the City of Denver." Note, 50 Denver Law Journal 101 (1973). This article compares types of counsel and describes such management methods as "zone defense," or workload determined by assignment of attorneys to courtrooms. As assignment of cases proceeds from the court's scheduling of cases to individual courtrooms, a characteristic of this system is that a defender has no control over his caseload. Close working relationships between defenders and prosecutors are suggested as enhancing plea bargain options not available to the private bar.

Development of a Caseload Evaluation System for the Connecticut Public Defender Services Commission. Touche-Ross and Company (1978). A comprehensive description of the existing system with recommendations for implementation of a proposed caseload evaluation system. Conclusion, based on data gathered from selected sites nationally, is that few caseload limits in defender offices are based upon quantifiable data. For Connecticut, authors devised a scheme to quantify caseload factors.

SELECTED RESOURCES (continued)

DEFENSE (continued)

Dorworth, B.E.; Benner, L.A.; Goldberg, N.A.; Hartman, M.J.; Jacobson, H.S.; and McFadden, B.E. Operating a Defender Office: Trainer's Handbook. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1979. Workshop handbook includes specific instruction concerning handling workload analysis and forecasting future staff needs; developing and maintaining data-keeping instruments for case management; and presenting, justifying, and lobbying for the budget. Monitoring, controlling, and retrieving information for budget requests is discussed. The handbook also covers a performance appraisal system.

Eisenberg, Howard B. Standards and Evaluation Design for Appellate Defender Office. National Legal Aid and Defender Association (1980). The text and Appendix A, Standards for Appellate Defender Offices, include specific case weighting and staffing ratios which reduce case activity to work units. Nine discrete examples of work units are defined by the standard.

Jacobson, H.S. Forecasting: Caseload, Workload, Costs--A Primer for Defenders. The proposed forecasting method utilizes a weighting system with a moving average and exponential smoothing that requires public defender office commitment to organizing an information system that reflects the work each office performs in terms of various tasks and the time intervals involved.

Ligda, P. "Defender Workloads: The Numbers Game." NLADA Briefcase 34 (1), October 1976, pp. 23-25. Report on a study undertaken in response to proposals to adopt workload standards for individual attorneys in defenders' offices. Estimates and computation methods of other defenders' offices are discussed. The study defined resources in terms of work hours by each deputy defender in Solano County as a means of testing estimates on workload capacity.

"Managing Public Defense: Issues, Strategy and Technology." Decision Sciences--Theory and Practice: A Decade of Progress. Houston, Texas: Southwest American Institute for Decision Sciences Proceedings, 10th Annual Conference, March 14-17, 1979. This article presents the thesis that quantitative methods can support and provide the structure for essentially qualitative public legal defense services. A simple methodology is proposed that can be implemented to determine costs of assigned counsel and public defender systems for planning and comparison purposes.

Missouri Public Defender Commission. Missouri's Public Defender and Appointed Counsel Programs: Annual Statistical Report, July 1, 1978-June 30, 1979. Jefferson City, Missouri: 1979. A summary of pertinent cost and caseload information reported by public defenders and attorneys for the state of Missouri participating in the appointed counsel program from July 1, 1978, through June 30, 1979.

SELECTED RESOURCES (continued)

DEFENSE (continued)

National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts, Courts. Washington, D.C., 1973. The task force is the only national standard-setting body to specify maximum caseload tolerances for defender offices using numerical caseload limits for categories of representation (i.e., felony, misdemeanor, juvenile and mental health). The commentary suggests approaches to calculating maximum workload levels for individual offices.

National Legal Aid and Defender Association, Defender Management Information Systems Feasibility Study. Washington, D.C., 1979. This package provides all the information necessary for the implementation of DMIS by a public defender office in the following volumes: Volume I: Executive Summary; Volume II: Information Requirements; Volume III: Data Processing Considerations; Volume IV: Management Analysis and Recommendations.

National Legal Aid and Defender Association, Guidelines for Legal Defense Systems in the United States, Report of the National Study Commission on Defense Services. Washington, D.C., 1976. These standards synthesize findings regarding workload found in the literature and in interviews with defender directors. Suggests strategies to determine workload specifically and to resolve workload problems.

National Legal Aid and Defender Association, Standards and Evaluation Design for Appellate Defender Offices (1980). Based on standards developed by advisory panel of experts, the self-evaluation format contains sections on caseload, case weighting and staffing ratios, internal case assignment, and management information systems.

"Public Defender Representation in Pennsylvania, A Project of the Court Administrator of Pennsylvania" (1974). This study is the result of a statewide mail survey followed by field visits to each of the 61 public defender offices in the state. No reliable measures of either the quality or quantity of services provided could be captured in the study. Philadelphia's system of "horizontal representation" is described, detailing some of the implications of assigning cases by stage of representation.

Rose, William J., and Spangenberg, Robert L. Action Plan for Legal Services, Part 2: Report on Criminal Defense Services to the Poor in Massachusetts. Sponsored by the Boston Bar Association (1978). An analysis of indigent criminal defense services in Massachusetts as measured against national standards.

Taylor, Jean G.; Stanley, Thomas P.; de Florid, Barbara J.; Seekamp, Lynne N. "An Analysis of Defense Counsel in the Processing of Felony Defendants in San Diego, California." Denver Law Journal 49, 1972, p. 233. Primarily an "outcomes" evaluation comparing dispositional differences between different criminal defense types--retained counsel, appointed counsel in individual private practice, and appointed counsel in private

SELECTED RESOURCES (continued)

DEFENSE (continued)

non-profit group practice. Numerous variables considered led to basic findings indicating only slight variations in performance by type of defense counsel. Factors considered and analysis methodology used may be of value in isolating key data to be collected for management planning.

Wice, P.B., and Suwak, P. "Current Realities of Public Defender Programs: A National Survey and Analysis." Criminal Law Bulletin 10(2), March 1974, pp. 161-183. A brief analysis of programs in nine urban areas as to their caseloads, capability, and effectiveness. Public defender programs in St. Louis, Detroit, Chicago, San Francisco, Oakland, Washington, D.C., Philadelphia, Baltimore and Los Angeles are compared using the institutional and procedural variables of budget, size of legal staff, staff experience and number of investigators. Other variables include nature of the indigency determination process, jurisdictional differences, time and content of the initial client-attorney meeting, and the relationship between the prosecutor and the public defender. The authors suggest that institutional resources, public defender caseload, investigator caseload and per case expenditure are the most significant factors in determining program effectiveness. "Horizontal" representation is mentioned.

Defense/Prosecution

Case Weights for the Prosecution and Defense of Felony Cases in Los Angeles County: Executive Summary. Washington, D.C.: Institute for Law and Social Research, December 1979. Provides a general methodology suitable for determining costs of legal services anywhere; also provides sample of development of case weights on two dimensions only: offense type and method of disposition. Includes a summary of attorney activities illustrating non-case-related expenditure of attorney person-hours. Discusses the application of the report's findings for improved criminal justice administration.

Lymon, Theodore R.; Connor, William T.; Leeds, Diane; and DeCaro, Barbara M.; Allocation of Resources for State Attorneys and Public Defenders of the State of Florida. Menlo Park, CA: SRI International, November 1978. A comprehensive study of resource allocation and funding issues related to Florida's 20 state attorneys and 20 public defenders. Conclusions and recommendations support the creation of a workload-based funding formula instead of a surrogate-based formula in which funding decisions are made on the basis of population in a circuit or annual case per attorney. The objective of this study is to lay the foundation necessary to achieve circuit to circuit equity with respect to workload per attorney.

SELECTED RESOURCES (continued)

Defense/Prosecution (continued)

Mitchell, Barbara B.; Durkin, Mary; Salokar, William; State Attorney-Public Defender Workload Project. Tallahassee, FL: Office of State Courts Administrator, Florida Supreme Court, January 1981. This report identifies and describes the variations in case processing within the state attorney and public defender offices and distills patterns from these variations. Also identifies variables which affect workload and budgeting.

Office of the State Courts Administrator, Florida, State Attorney-Public Defender Workload Project, Descriptive Information and Circuit Profiles, 1981. Comprehensive documentation of the difficulties in developing uniform case-based data to generate workload measures. Case processing procedures are reviewed in 20 state attorney and public defender offices covering juvenile, misdemeanor, and felony case type.

RELATED FIELDS

Government

Hayes, Frederick, Productivity in Local Government. Lexington, MA: Lexington Books, 1977. This work provides a discussion of the relationship between productivity and GNP, measurement strategies and limitations in local government. Includes eight case studies in urban centers across the nation. Final section lists associations and foundations that sponsor and/or conduct research in the field of local productivity.

Hartry, Harry P, "The Status of Productivity Measurement in the Public Sector," in Public Administration Review. Washington, D.C.: American Society for Public Administration, 1978. This status report deals first with what productivity measurement is, then presents a viewpoint on the status of productivity in government in the U.S., and briefly examines the likely prospects for the future, including consideration of facilitating and inhibiting factors.

Klutznick, Philip M. Improving Productivity in State and Local Government. Statement on national policy by Research and Policy Committee of the Committee for Economic Development, 1976. This work summarizes the history of attention to productivity in federal, state and local government. A discussion of the rationale behind productivity enhancement and methods of implementation is included.

Probation/Corrections

Smith, Charles P. Project Star, Role Training Program: Caseworker, Correctional Worker. California: American Justice Institute, 1974. Utility for workload study, limited to identifying how essential information is retained, communicated and translated in support of case activities and for achievement of stated goals.

ADDITIONAL RESOURCES

COURTS

Berkson, Larry C.; Hays, Steven W.; and Carbon, Susan J. (Eds.), Managing the State Courts. St. Paul: West Publishing Company, 1977.

Blumstein, A., "Management Science to Aid the Manager: An Example from the Criminal Justice System." Sloan Management Review 15 (Fall 1973).

Broder, Josef M., "Measuring Administrative Performance in Michigan Limited Jurisdiction District Courts." Justice System Journal, Vol. 5, No. 1 (Fall 1979).

Burnham, R.W., Decisionmaking in the Criminal Justice System: Reviews and Essays (D.M. Gottfredson, Ed.). Rockville, Maryland: National Institute of Mental Health, 1975.

California Judicial Council Annual Report. Weighted Caseloads (In Courts of Appeal), 1967: 184-87.

California Judicial Council Annual Report. Weighted Caseloads (In Superior Courts), 1969: 140-45.

Doane, David P., "The Effect of Case Weights on Perceived Court Workload." Justice System Journal 2:270.

Federal Judicial Center, Research Division, District Court Caseload Forecasting: An Executive Summary. Washington, D.C.: 1975.

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U.S. Department of Justice, LEAA, NILECJ, ODTD., "Managing the Pressure of Inflation in Criminal Justice." Manual and Participants Handbook. National Criminal Justice Executive Training Program.

Arthur Young and Company, Weighted Caseload Study. Prepared for the Administrative Office of the Courts, Commonwealth of Kentucky (October 1976).

PROSECUTION

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Jacoby, J.E. and Mellon, L.R., Policy Analysis for Prosecution. Washington, D.C.: Bureau of Social Science Research, 1979.

ADDITIONAL RESOURCES (continued)

PROSECUTION (continued)

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Mellon, Leonard R., "Technical Assistance Visit to the Commonwealth Attorney's Office--Bowling Green--Report, November 20-21, 1980." Washington, D.C.: Bureau of Social Science Research, 1980.

Ratledge, E.C., "A Conceptual Framework for Allocating Resources in the Prosecutor's Office." Paper presented at the 1980 Annual Meeting of the American Society of Public Administration, San Francisco, CA, April 13-16, 1980.

DEFENSE

National Center for Defense Management, Montana: Statewide Systems Development Study, December 1976.

National Center for Defense Management, System Development Study of Indigent Defense Services for Blackhawk County, Iowa, April 1976.

WORK MEASUREMENT

Grillo, Elmer V., and Berg, Charles, Jr. Work Measurement in the Office: A Guide to Office Cost Control. New York: McGraw-Hill, 1959.

Hutchinson, John G. Managing a Fair Day's Work: An Analysis of Work Standards. Ann Arbor: Bureau of Industrial Relations, 1963.

Smith, George L., Jr. Work Measurement: A Systems Approach. Columbus, Ohio: Grid Publishing, 1978.

Thompson, Donald D. "Work Measurement," Vol. XI, No. 1. Municipal Finance 40(26), August 1967.

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Wildavsky, Aaron. The Politics of the Budgetary Process, 2nd Ed. Boston: Little Brown, 1974.

ADDITIONAL RESOURCES (continued)

RELATED FIELDS

Government

Bureau of the Budget, Measuring Productivity of Federal Government Organization.
Washington, D.C.: Government Printing Office, 1964.

General Accounting Office, Government Productivity: Vol. I: Productivity Trend
and Current Measures; Vol. II: Case Studies. Washington, D.C.: July 1976.

Hartry and Fiske, Improving Productivity and Productivity Measurement in Local
Government. Washington, D.C.: U.S. Government Printing Office, 1972.

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McLaughlin, Curtis P. "Productivity and Human Services," Health Care
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Appendix B

COLORADO STATE PUBLIC DEFENDER ANNUAL CONFERENCE 1982: AGENDA

A G E N D A

Monday, September 27, 1982

9:00 - 10:00 a.m. Registration
Coffee, tea, Sanka, Danish

10:00 - 10:15 a.m. Welcome Address
Legal Status Update Dave Eisner

10:15 - Noon Motion Drafting
and Practice Duane Montano
Montano & Encinias

Death Penalty Seminar
Greg Walta, Craig
Truman, Dave Eisner

Noon - 1:30 p.m. Lunch on your own

1:30 - 5:00 p.m. Death Penalty Seminar

1:30 - 2:30 p.m. Post Conviction Motions
and Extradition Bob Witek, Harvey
Palefsky, Mike Heher,
Margaret O'Leary

1:30 - 2:30 p.m. D.U.I. Update Steve Jacobsen

2:30 - 2:50 p.m. Beverage Break

3:00 - 5:00 p.m. Trauma, Crime, and the
Affirmative Defense: Viet
Nam Vets and the Law Justin Schulz, Ph.D.

Tuesday, September 28, 1982

8:30 - 9:00 a.m. Coffee, tea, Sanka, Danish

9:00 - 11:30 a.m. Secretaries' Meeting

Death Penalty Seminar

9:00 - 11:30 a.m. Investigators and Paralegals:
The Art of Interviewing and
Gathering Information Bryan D. Munroe

9:00 - 11:30 a.m. ALL ATTORNEYS:

1. Trial Lawyers' Role After
Conviction:

Advising the Client/Perfect-
ing Appeal

Jury Instructions

Original Proceedings Terri Brake

2. The Elusive Trial Victories:
Care and Preservation of
Reversible Error

Techniques in Obtaining
Challenge for Cause

Linda Hotes

3. Destruction of Evidence and
the "Good Faith" Exception

Tom Van Cleave

Noon - 2:00 p.m.

Luncheon Buffet

Al Lipson
Evans & Lipson

Luncheon Speaker

2:00 - 4:00 p.m.

Secretaries' Meeting
(Continued)

Death Penalty Seminar

Investigators and Paralegals
(Continued)

ALL ATTORNEYS:

1. Collateral Attacks on Prior
Convictions

Barbara Blackman

2. Introduction of Mental State
Evidence

Jim England
Gerald Piper

3. Similar Transactions - Use
by Prosecution and Defense

Elizabeth Joyce
Debbie Waldbaum

8:00 - ??

Disco and Pool Party
Cash Bar

Wednesday, September 29, 1982

9:00 - Noon

Secretaries' Meeting

9:00 - Noon

ALL ATTORNEYS:

1. 9:00 - 10:00 a.m.: Juvenile
Update and Practice

Linda Hotes, Maureen
Cain, Judy Garcia

2. 10:00 - Noon: Ethics

Dave Eisner

9:00 - 10:00 a.m.

Investigators and Paralegals
Meeting with Dave Vela and Dave Eisner

Noon

ADJOURNMENT

Appendix C

HENNEPIN COUNTY (MINNEAPOLIS, MINNESOTA) PUBLIC DEFENDER:
DAILY TIME RECORD

Appendix D
 METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
 CLOSED CASE SUMMARY SHEET

Opened _____

MPD# _____

CLIENT _____ TA _____ ATTY _____

COURTS 1. _____ 3. _____
 2. _____ 4. _____

	1	2	3	4
<input type="checkbox"/> No Show/SW				
<input type="checkbox"/> Sub Atty				
<input type="checkbox"/> Retained Atty				
<input type="checkbox"/> Inactive				
<input type="checkbox"/> Dismissed/Pre. Hrng.				
<input type="checkbox"/> Diversion				
<input type="checkbox"/> Civil Compromise				
<input type="checkbox"/> Plea to Other				
<input type="checkbox"/> Other Dismissal				
<input type="checkbox"/> Jury Not Guilty				
<input type="checkbox"/> Bench Not Guilty				
<input type="checkbox"/> NGI				
<input type="checkbox"/> Guilty plea				
<input type="checkbox"/> No Contest				
<input type="checkbox"/> Stipulation				
<input type="checkbox"/> Bench Guilty				
<input type="checkbox"/> Jury Guilty				

JUDGE _____

<input type="checkbox"/> Guilty to Charge				
<input type="checkbox"/> Guilty to Lesser				
<input type="checkbox"/> Guilty to Misdemeanor				
<input type="checkbox"/> Guilty to Violation				

GUILTY 1. _____ 3. _____
 OF 2. _____ 4. _____

SENTENCING JUDGE _____

Probation Years				
Probation Type				
Restitution				
CAA Fees				
CSW/VCS				
Fine to Pay				
Fine to Suspend				
Jail to Serve				
Jail to Suspend				
CTS				
Work Release				
Pen to Serve				
Pen to Suspend				
Discharge				
PSI Followed				
Misd. Treatment				

CLIENT TRAITS
 (at time of arrest)

Sex _____ Age _____ Race _____
 Employed Y N
 Residence:
 _____ SW _____ North
 _____ SE _____ Out/City
 _____ NW _____ Out/County
 _____ NE _____ Out/State
 _____ Jail/Prison _____ Transient
 Marital Status: _____ Single
 _____ Separated _____ Married
 _____ Divorced _____ Widowed
 Education: -HS HS HS+ GED COL
 Prior Convictions: _____ None
 _____ Juvenile _____ Traffic
 _____ Misdemeanor _____ Felony

ALTERNATIVES/REFERRALS

Program/Advice #1

 Type of Program _____
 Presented to Judge Y N
 Response Favorable Y N
 Program/Advice #2

 Type of Program _____
 Presented to Judge Y N
 Response Favorable Y N

Plea Bargain: _____ Cases Dismissed
 _____ Sentencing Concessions
 _____ Other Cases Not Brought

Appendix E
METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
PRINTOUT OF CASE DATA RECORDS IN COMPUTER PROGRAM

CLOSED JAN 82+ 050382
 2173 RECORDS IN FILE
 REC.LEN.=561 KEY LEN.=11

#	FIELD NAME	PRIM KEY	SEC KEY	READ PROT	FIELD TYPE	LEN
1	PD#	YES	NO	NO	ALPHA	11
2	OFFICE	NO	NO	NO	ALPHA	2
3	CHARGE TYPE	NO	NO	NO	ALPHA	3
4	CHARGE CLASS	NO	NO	NO	ALPHA	1
5	# OF COUNTS	NO	NO	NO	0-255	2
6	CLIENT	NO	NO	NO	ALPHA	30
7	ATTY	NO	YES	NO	ALPHA	20
8	CHARGE	NO	NO	NO	ALPHA	30
9	FIELD	NO	NO	NO	ALPHA	30
10	OPENED	NO	NO	NO	DATE	8
11	CLOSED	NO	NO	NO	DATE	8
12	JUDGE	NO	NO	NO	ALPHA	22
13	OUTCOME	NO	NO	NO	0-255	2
14	TYPE OF CONVICTION	NO	NO	NO	0-255	2
15	GUILTY	NO	NO	NO	ALPHA	28
16	OF	NO	NO	NO	ALPHA	29
17	PLEA BARGAIN	NO	NO	NO	0-255	3
18	SENTENCE	NO	NO	NO	ALPHA	28
19	GOES	NO	NO	NO	ALPHA	28
20	RIGHT	NO	NO	NO	ALPHA	28
21	HERE	NO	NO	NO	ALPHA	28
22	SEX	NO	NO	NO	ALPHA	1
23	AGE	NO	NO	NO	ALPHA	5
24	RACE	NO	NO	NO	ALPHA	1
25	EMPLOYED	NO	NO	NO	Y/N	1
26	RESIDENCE	NO	NO	NO	ALPHA	12
27	MARITAL	NO	NO	NO	ALPHA	9
28	EDUCATION	NO	NO	NO	ALPHA	3
29	FELONY	NO	NO	NO	INTGR	2
30	MISDEMEANOR	NO	NO	NO	0-255	2
31	TRAFFIC	NO	NO	NO	Y/N	1
32	JUVENILE	NO	NO	NO	Y/N	1
33	LEVEL OF ALT. WORK	NO	NO	NO	0-255	1
34	ALT #1	NO	NO	NO	ALPHA	30
35	ALT #1 TYPE	NO	NO	NO	ALPHA	20
36	ALT #2	NO	NO	NO	ALPHA	30
37	ALT #2 TYPE	NO	NO	NO	ALPHA	20
38	AUTO-DATE	NO	NO	NO	TODAY	8
39	PROB YEARS	NO	NO	NO	NUMER	3
40	PROB TYPE	NO	NO	NO	ALPHA	10
41	RESTITUTION	NO	NO	NO	INTGR	5
42	CAA	NO	NO	NO	INTGR	5
43	SERVICE WORK	NO	NO	NO	INTGR	3
44	OTHER	NO	NO	NO	0-255	2
45	FINE TO PAY	NO	NO	NO	INTGR	5
46	FINE TO SUSPEND	NO	NO	NO	INTGR	5
47	JAIL TO SERVE	NO	NO	NO	INTGR	3
48	JAIL TO SUSPEND	NO	NO	NO	INTGR	3
49	CTS	NO	NO	NO	INTGR	3
50	WORK RELEASE	NO	NO	NO	Y/N	1
51	PEN TO SERVE	NO	NO	NO	NUMER	4
52	PEN TO SUSPEND	NO	NO	NO	NUMER	4
53	MISD. TREATMENT	NO	NO	NO	Y/N	1
54	PSI	NO	NO	NO	ALPHA	1
55	CONC. OR CONS. ?	NO	NO	NO	ALPHA	1
56	DISCHARGE	NO	NO	NO	ALPHA	1
57	ALPHA-1	NO	NO	NO	ALPHA	10
58	ALPHA-2	NO	NO	NO	ALPHA	10
59	NUMBER-1	NO	NO	NO	NUMER	5
60	NUMBER-2	NO	NO	NO	NUMER	5

Appendix F

METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
CLOSING SHEET CODES FOR OUTCOME AND TYPE OF CONVICTION

CLOSING SHEET CODES

OUTCOME FIELD
Code

Code	Meaning
1 - -	fugitive complaint withdrawn
2 - -	bench warrant/no show
3 - -	retained attorney
4 - -	conflict/other attorney appointed
5 - -	case dismissed at preliminary hearing
6 - -	case dismissed by diversion
7 - -	case dismissed by civil compromise
8 - -	case dismissed by court
9 - -	case dismissed by plea to other case
10 - -	case dismissed for other reason
11 - -	bench trial not guilty
12 - -	jury trial not guilty
13 - -	NGI
19 - -	guilty to all counts
20 - -	guilty to lesser count or some counts dismissed
23 - -	probation terminated
24 - -	probation continued with same conditions
25 - -	probation continued with new conditions
26 - -	probation revoked
28 - -	fugitive client waived extradition and was picked up
29 - -	fugitive client waived extradition and was recogged
30 - -	fugitive client picked up on Governor's warrant
32 - -	fugitive client not returned - no Governor's warrant
33 - -	fugitive client not returned - case dismissed

TYPE OF CONVICTION
Code

Code	Meaning
14 - -	guilty plea
15 - -	no contest
16 - -	stipulate to judge
17 - -	bench trial
18 - -	jury trial

Appendix G
METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
ATTORNEYS' MONTHLY SUMMARY OF CASES CLOSED

MARCH 82

CASES CLOSED

ATTY: A. HOGUET

CLIENT: PD#: 77-1411F4 OPENED: 12-02-81 CLOSED: 04-13-82
 CHARGE: P/V (ATTEMPTED ASSLT II) PROBATION CONTINUED/NEW COND. 0 JUDGE: R.E. JONES
 GUILTY OF: ATTEMPTED ASSAULT II
 SENTENCE: 6 MO. MCCI WORK RELEASE; WEAPONS; NO ALCOHOL; JOB SEARCH; COUNSELING; NO PROBATION FEE \$20/MONTH

CLIENT: PD#: 77-2713F3 OPENED: 01-25-82 CLOSED: 04-02-82
 CHARGE: P/V (UUMV) PROBATION REVOKED 0 JUDGE:
 GUILTY OF:
 SENTENCE: 60 DAYS MCCF

CLIENT: PD#: 80-2298F2 OPENED: CLOSED: 04-01-82
 CHARGE: P/V (PCS II; DCS II) PROBATION CONTINUED/NEW COND. 0 JUDGE: UNIS
 GUILTY OF:
 SENTENCE: \$100 CAA; 56 HRS VCS

CLIENT: PD#: 81-1562F3 OPENED: 03-10-82 CLOSED: 04-07-82
 CHARGE: P/V (DWS) PROBATION REVOKED 0 JUDGE: STEINBOCK
 GUILTY OF:
 SENTENCE: 180 DAYS WORK RELEASE

CLIENT: PD#: 81-1715F2 OPENED: 12-29-81 CLOSED: 04-01-82
 CHARGE: P/V (FORGERY I) PROBATION CONTINUED/NEW COND. 0 JUDGE: R.P. JONES
 GUILTY OF:
 SENTENCE: NO PASSES OR WORK RELEASE UNLESS P.O. OR COURT RECOMMENDS

CLIENT: PD#: 81-1715F3 OPENED: 03-29-82 CLOSED: 04-30-82
 CHARGE: P/V (FORGERY I) WITHDRAWN 0 JUDGE: R.P. JONES
 GUILTY OF:
 SENTENCE:

CLIENT: PD#: 81-2386F3R OPENED: CLOSED: 04-29-82
 CHARGE: P/V (ATTEMPTED BURG I) PROBATION CONTINUED/NEW COND. 0 JUDGE: R.E. JONES
 GUILTY OF:
 SENTENCE:

CLIENT: PD#: 81-4027F OPENED: CLOSED: 04-13-82
 CHARGE: DWS; VIOLATION BASIC RULE; NO INSURANCE
 GUILTY TO ALL COUNTS STIPULATE TO JUDGE: DOOLEY
 SENTENCE: 5 YRS FORMAL PROBATION; \$25 PROBATION FEE; COMPLETE
NARA

CLIENT: PD#: 81-4378F2 OPENED: 03-10-82 CLOSED: 04-07-82
 CHARGE: P/V (DWS) PROBATION REVOKED 0 JUDGE: STEINBOCK
 GUILTY OF:
 SENTENCE: 180 DAYS W/WORK RELEASE

CLIENT: PD#: 81-4477F OPENED: 11-12-81 CLOSED: 04-23-82
 CHARGE: OMVCO (FEL DWS) DISMISSED/PLEA TO OTHER CASE 0 JUDGE: BEATTY
 GUILTY OF:
 SENTENCE:

CLIENT: PD#: 81-4530F2 OPENED: 03-29-82 CLOSED: 04-06-82
 CHARGE: P/V (FORGERY I) PROBATION REVOKED 0 JUDGE: DALE
 GUILTY OF:
 SENTENCE: 5 YEARS PENITENTIARY

Appendix H
METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
ATTORNEYS' DAILY DOCKET SHEET

DATE: 08-12-81

ATTY: DDEG D. DEGNER

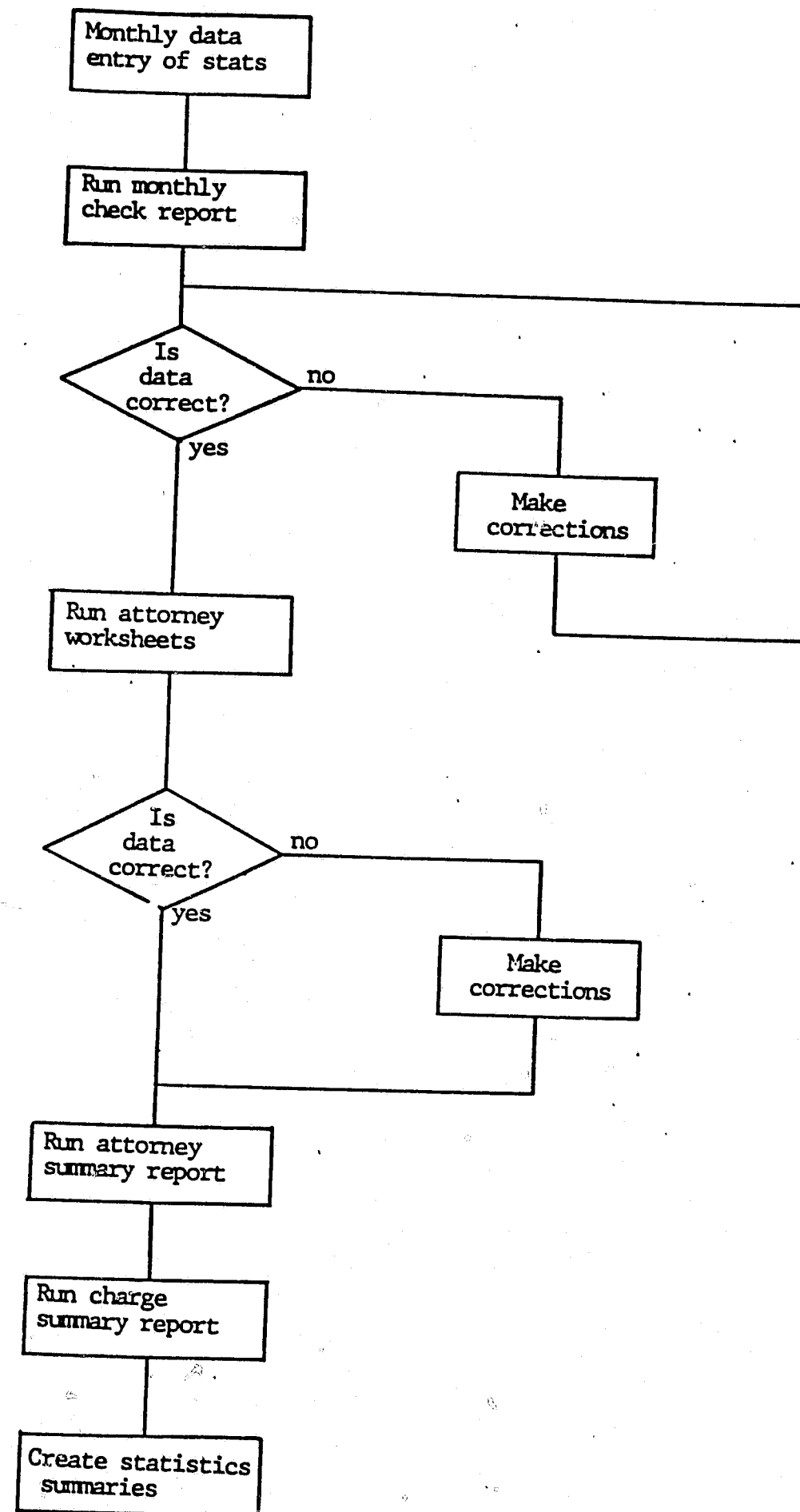
DAILY DOCKET SHEET

PD #	CLIENT NAME	ON FOR	DISPOSITION
81-0001F M	[REDACTED]		P/H
		R.E. JONES 9:30	
81-0002F M	[REDACTED]		PLEA
	DOOLEY	2:00	
81-0003F M	[REDACTED]		SENT
	LENON	11:30	
81-0004F M	[REDACTED]		J/T
	STEINBOCK	9:00	
81-0005M2M	[REDACTED]		P/T
	BERGMAN	10:00	
81-0006T M	[REDACTED]		B/T
	LONDER	2:30	
81-0007F M	[REDACTED]		G/W
	LENON	3:30	

Appendix I
METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
DAILY JOURNAL

CLIENT	MPD #	CHARGE	ON NEXT DAY FOR	DA #	ADDRESS
[REDACTED]	682-3641F		10-14-82 J/T		
ATTY: E. PITCHER		TA: M. HOLGUIN	CIRC #:	PHONE #:	
[REDACTED]	682-3477F		11-09-82 SENT		
ATTY: C. CORRIGAN		TA: M. LONG	CIRC #:	PHONE #:	
[REDACTED]	882-3672M		11-09-82 SENT		
ATTY: L. FITHIAN-BARRETT		TA: C. MARCUS	CIRC #:	PHONE #:	
[REDACTED]	882-0365F2R P/V (ATT DCS II)		10-12-82 STAT 226855		
ATTY: F. STOLLER		TA: J. PAGE	CIRC #: 82-01-33240	PHONE #:	
[REDACTED]	682-3480F		10-13-82 J/T		
ATTY: K. ROGERS		TA: K. ERICKSON	CIRC #:	PHONE #:	
[REDACTED]	882-4194T	DWS	10-26-82 STAT M53825		RT 6, BOX 119
ATTY: D. STARR		TA: P. PASSMORE	CIRC #:	PHONE #: 503-761-7829	HILLSBORO, OREGON
[REDACTED]	882-4195T	DWS	10-26-82 STAT M103494		RT 6, BOX 119
ATTY: D. STARR		TA: P. PASSMORE	CIRC #:	PHONE #: 503-761-7829	HILLSBORO, OREGON
[REDACTED]	882-4196T	FTA	10-26-82 STAT M246038		RT 6, BOX 119
ATTY: D. STARR		TA: P. PASSMORE	CIRC #:	PHONE #: 503-761-7829	HILLSBORO, OREGON
[REDACTED]	882-4197T	DUII/DWS	10-26-82 STAT M210229730		RT 6, BOX 119
ATTY: D. STARR		TA: P. PASSMORE	CIRC #:	PHONE #: 503-761-7829	HILLSBORO, OREGON
[REDACTED]	882-3184M	ASSLT IV X2 (HARASS/DIS CON)	08-30-82 STAT 238733		PO BOX 148
ATTY: J. WILTRAKIS		TA: P. PASSMORE	CIRC #:	PHONE #: 503-637-6345	EAGLE CREEK, ORE 97022
[REDACTED]	882-2488F		10-06-82 SENT		
ATTY: M. SUSSMAN		TA: J. SCHNAB	CIRC #:	PHONE #:	
[REDACTED]	882-1252T	DWS	10-15-82 J/T. 138655		
ATTY: E. SIMON		TA:	CIRC #:	PHONE #:	
[REDACTED]	882-3796F	TAMPERING W/ DRUG RECORDS	10-14-82 PLEA 236490		1635 NE COUCH
ATTY: D. VARNES		TA: K. BROWN	CIRC #: 82-08-36701	PHONE #: 503-253-9321	PORTLAND, OREGON 97232

Appendix J
METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
MONTHLY STATISTICAL REPORTING PROCESS



Monthly data entry of stats -- information for each case handled by the MPD is recorded on case closing sheets, which accompany each file, and are turned in to the statistician when the case is closed. The closing sheets are the input document and are entered into the computer by a rotating staff of secretaries specially trained in data entry.

Run monthly "check" report -- on the first of each month, this report is run to ascertain the accuracy of "key" fields: PD#, charge type, count, and attorney. These fields are important as they are used in sorting.

Is data correct? -- The type of errors detected by the "check" report are data entry errors and are easily remedied.

Run attorney worksheets -- this report provides feedback to our attorneys on their cases closed for a particular month.

Is data correct? -- corrections are noted on the attorney worksheets by each attorney and returned to the statistician, who corrects the data base. A 10-14 day period is usually adequate for the attorneys to check their cases.

Run attorney summary report -- once the attorney worksheets have been returned and corrected, the attorney summary report is run. This is a hardcopy worksheet for quick reference.

Run charge summary report -- this report is similiar to the attorney summary report only that it is by charge in alphabetical order.

Create stat summaries -- these management reports are derived from the charge summaries by totaling the various dispositions and computing percentages.

Appendix K

METROPOLITAN PUBLIC DEFENDER, PORTLAND, OREGON:
AUGUST 1982 STATISTICAL REPORTS

Multnomah COUNTY

TIME PERIOD August 82

	Felony	Misd	Traf.	Inf.	Spec.	PROBATION	Felony	Misd.	Traffic
Bench Warrant	21	29	2	4		Withdrawn	2	1	
Retained Atty	7	4	0			Bench Warrant	1	0	
Conflict	8	3	2			Retained Atty	0	0	
Subtotal	36	36	4	4		Conflict	0	0	
Prelim. Hrng.	26	0	0	1		Subtotal	3	1	
Diversion	0	0	2			Terminated	1	0	
Civil Comp.	9	22	0			Continued Same	10	1	1
Court Dismissed	4	7	0			Subtotal	11	1	1
Plea to Other	45	63	9	9	1	Continued New	20	6	1
Other Dismissal	27	11	5			Revoked	18	5	
Subtotal	111	103	16	10	1	Subtotal	38	12	1
Bench Not Guilty	2	0	0			Total Closed	52	13	2
Jury Not Guilty	5	0	0						
NGI	0	0	0			No Jail	30	9	1
Subtotal	7	0	0			Jail	10	4	1
Guilty Plea	101	102	9	7		CTS	0	0	
No Contest	4	7	0			Prison	12	0	
Stipulate	4	0	0			Total Reincarc.	22	4	1
Bench Guilty	2	2	0						
Jury Guilty	11	2	1	1		Fine	419	200	75
Subtotal	122	113	10	8		CAA	400	0	
Total Closed	276	252	30	22		Restitution	3201	0	
						Total	4020	200	75
No Jail	67	64	6		1	CSW	110	0	
Jail	22	26	1	0					
CTS	3	23	2	0		FUGITIVE			
Prison	30	0	0	0		Withdrawn	1		
Total Reincarc.	55	49	3	0	0	Bench Warrant	0		
						Retained Atty	1		
Fine	4402	3225	150	325		Conflict	1		
CAA	24975	2595	200	0		Subtotal	3		
Restitution	19954	2250	0	0		Waived & Recogged	9		
Total	49331	8067	350	325	0	Waived & Returned	2		
CSW	560	1363	0	64		Subtotal	11		
						No Gov. Warrant	0		
						Dismissed	3		
						Subtotal	14		
						Total Closed	17		

Multnomah COUNTY

CHARGE TYPE Felony

TIME PERIOD August 82

BW	RETAINED	CONFLICT	TOTAL
# %	# %	# %	# %
21 7.6	7 2.5	8 2.9	36 13.0

% of total counts

PRE. HRNG.	DIVERSION	CIVIL COMP.	COURT	PLEA/OTHER	OTHER DISM.	TOTAL
# %	# %	# %	# %	# %	# %	# %
26 10.8	0 0.0	9 3.8	4 1.7	45 18.8	27 11.3	111 46.3

BENCH	JURY	NGI	TOTAL
# %	# %	# %	# %
2 0.8	5 2.1	0 0.0	7 2.9

% of total adjudications

	PLEA	NO CONTEST	STIPULATE	BENCH	JURY	TOTAL
	# %	# %	# %	# %	# %	# %
TO CHARGE	69 28.8	3 1.3	4 1.7	1 0.4	11 4.6	88 36.7
TO LESSER	23 9.6			1 0.4		24 10.0
TO. MISD.	8 3.3	1 0.4				9 3.7
TO. INFRA.	1 0.4					1 0.4
TOTAL	101 42.1	4 1.7	4 1.7	2 0.8	11 4.6	122 50.8

	#	% OF SENTENCED
NO JAIL	67	54.9
JAIL	22	18.0
CTS	3	2.5
PRISON	30	24.6
REINCARC. TOTAL	55	45.1

	#	% OF SENTENCED	AMOUNT
FINE	20	16.4	\$ 4,402
CAA	71	58.2	24,975
RESTITUTION	26	21.3	19,954
TOTAL	117	96.0	49,331
CSW	7	5.7	560

Total number of cases 196 Total Trials 24 Total Pleas 105
 Total number of counts 276 % of adjudications 10.0 % of adjud. 43.8
 Guilty, % of convictions 13.9 % of convictions 86.1

Multnomah COUNTY

CHARGE TYPE Misdemeanor
TIME PERIOD August 82

Non-adjudicated

EW		RETAINED		CONFLICT		TOTAL	
#	%	#	%	#	%	#	%
29	11.5	4	1.6	3	1.2	35	14.3

% of total counts

Dismissed

PRE. HRNG.	DIVERSION	CIVIL COMP.	COURT	PLEA/OTHER	OTHER DISM.	TOTAL
# %	# %	# %	# %	# %	# %	# %
0	0	22 10.2	7 3.2	63 29.2	11 15.1	103 47.7

Not guilty

BENCH		JURY		NGI		TOTAL	
#	%	#	%	#	%	#	%
0		0		0		0	

% of total adjudication

Guilty

	PLEA		NO CONTEST		STIPULATE		BENCH		JURY		TOTAL	
	#	%	#	%	#	%	#	%	#	%	#	%
TO CHARGE	76	35.2	5	2.3			2	0.9	2	0.9	85	39.4
TO LESSER	24	11.1	2	0.9							26	12.0
TO. MISD.												
TO. INFRA.	2	0.9									2	0.9
TOTAL	102	47.2	7	3.2			2	0.9	2	0.9	113	52.3

	#	% OF SENTENCED
NO JAIL	64	56.6
JAIL	26	23.0
CTS	23	20.4
PRISON	0	00.0
REINCARC. TOTAL	49	43.4

	#	% OF SENTENCED	AMOUNT
FINE	22	19.5	3225
CAA	30	26.5	2592
RESTITUTION	9	7.9	2250
TOTAL	61	53.9	8067
CSW	32	28.3	1363

Total number of cases 173 Total Trials 4 Total Pleas 109
 Total number of counts 252 % of adjudications 1.9 % of adjud. 50.5
 Guilty, % of convictions 3.5 % of convictions 96.5

Multnomah COUNTY

CHARGE TYPE Traffic
TIME PERIOD August 82

BW		RETAINED		CONFLICT		TOTAL	
#	%	#	%	#	%	#	%
2	6.7	0		2	6.7	4	13.3

% of total counts

PRE. HRNG.	DIVERSION	CIVIL COMP.	COURT	PLEA/OTHER	OTHER DISM.	TOTAL
# %	# %	# %	# %	# %	# %	# %
0	2 7.7			9 34.6	5 19.2	16 61.5

BENCH		JURY		NGI		TOTAL	
#	%	#	%	#	%	#	%
0		0		0		0	

% of total adjudication

	PLEA		NO CONTEST		STIPULATE		BENCH		JURY		TOTAL	
	#	%	#	%	#	%	#	%	#	%	#	%
TO CHARGE	6	23.1							1	3.8	7	26.9
TO LESSER	3	11.5									3	11.5
TO. MISD.												
TO. INFRA.												
TOTAL	9	34.6							1	3.8	10	38.5

	#	% OF SENTENCED
NO JAIL	6	60.0
JAIL	1	10.0
CTS	2	20.0
PRISON	0	0.0
REINCARC. TOTAL	3	30.0

	#	% OF SENTENCED	AMOUNT
FINE	2	20.0	\$150
CAA	1	10.0	200
RESTITUTION	0	0.0	
TOTAL	3	30.0	350
CSW	0		0

Total number of cases 22 Total Trials 0 Total Pleas 9
 Total number of counts 30 % of adjudications 0 % of adjud. 34.6
 Guilty, % of convictions 0 % of convictions 90.0

Multnomah COUNTY

TIME PERIOD August 82

	Felony #	Probation %	Misdemeanor #	Probation %	Traffic #	Probation %
Dismissed/Withdraw	2	3.8	1	7.7		
Bench Warrant	1	1.9				
Retained Atty	0	0.0				
Conflict	0	0.0				
Sub-total Non-adjud.	3	5.7	1	7.7		
Terminated	1	1.9				
Continued Same	10	19.2	1	7.7	1	50.0
Continued New	20	38.5	6	46.1	1	50.0
Revoked	18	34.6	5	38.5		
Sub-total Adjudicated	49	94.2	12	92.3	2	100.0
Total Closed	52	100.0	13	100.0	2	100.0

	#	% of Resentenced	#	% of Resentenced	#	% of Resentenced
No Jail	30	57.7	9	69.2	1	50.0
Jail	10	19.2	4	30.8	1	50.0
CIS	0	0.0	0		0	
Prison	12	23.1	0		0	
Total Reincarcerated	22	42.3	4	30.8	1	50.0

	#	%	Amount	#	%	Amount	#	%	Amount
Fine	1	1.9	\$419	1	7.7	\$200	1	50.0	\$75
CAA	1	1.9	400	0			0		
Restitution	2	3.8	3201	0			0		
Total	2	3.8	4020	1	7.7	200	1	50.0	75
CSW	2	3.8	110	0			0		

Appendix L

COLORADO STATE PUBLIC DEFENDER: REGIONAL OFFICE
INDIVIDUAL ATTORNEY WORKLOAD SHEETS

REGIONAL OFFICE INDIVIDUAL ATTORNEY JUVENILE WORKLOAD SHEET

DATE	ATTORNEY:	J/FELONY	J/MISDEMEANOR	J/MISCELLANEOUS	APPEALS	O/P	TOTAL	F/E
	Pending 1st/Month...							
	Transfer In.....							
	Cases Added.....							
	Sub Total.....							
	Less Cases Closed...							
	Less Partials.....							
	Transfer Out.....							
177	Pending End/Month...							
DATE	ATTORNEY:	J/FELONY	J/MISDEMEANOR	J/MISCELLANEOUS	APPEALS	O/P	TOTAL	F/E
	Pending 1st/Month...							
	Transfer In.....							
	Cases Added.....							
	Sub Total.....							
	Less Cases Closed...							
	Less Partials.....							
	Transfer Out.....							
	Pending End/Month...							

CONTINUED

2 OF 3

REGIONAL OFFICE INDIVIDUAL ATTORNEY FELONY WORKLOAD SHEET

DATE	ATTORNEY:	1-2	3-5	MISC.	APPEALS	O/P	TOTAL	F/E
	Pending 1st/Month...							
	Transfer In.....							
	Cases Added.....							
	Sub Total.....							
	Less Cases Closed...							
	Less Partial.....							
	Transfer Out.....							
	Pending End/Month...							
DATE	ATTORNEY:	1-2	3-5	MISC.	APPEALS	O/P	TOTAL	F/E
	Pending 1st/Month...							
	Transfer In.....							
	Cases Added.....							
	Sub Total.....							
	Less Cases Closed...							
	Less Partial.....							
	Transfer Out.....							
	Pending End/Month...							

179

Appendix M
COLORADO STATE PUBLIC DEFENDER: REGIONAL OFFICE
MONTHLY SUMMARY SHEET

MONTHLY SUMMARY SHEET

Office: _____ County: _____ For: _____, 198

FELONY CASELOAD SUMMARY:		Felony*	Misc.	Appeals	O.P.	Total	F/E
A.	Cases Pending First of Month.....						
B.	Cases Added in Month.....						
C.	Total Cases in Month.....						
D.	Less Cases Closed by Settlement...						
E.	Less Cases Closed by Trial.....						
F.	Partial Services.....						
G.	Cases Pending End of Month.....						

*Indicate Number of Class 1 and 2 Cases: Pending _____ Added: _____ Closed: _____

MISDEMEANOR CASELOAD SUMMARY:		Misd.	Misc.	Appeals	O.P.	Total	F/E
A.	Cases Pending First of Month.....						
B.	Cases Added in Month.....						
C.	Total Cases in Month.....						
D.	Less Cases Closed by Settlement...						
E.	Less Cases Closed by Trial.....						
F.	Partial Services.....						
G.	Cases Pending End of Month.....						

JUVENILE CASELOAD SUMMARY:		Felony*	Misd.	Misc.	Appeals	O.P.	Total	F/E
A.	Cases Pending First of Month.....							
B.	Cases Added in Month.....							
C.	Total Cases in Month.....							
D.	Less Cases Closed by Settlement...							
E.	Less Cases Closed by Trial.....							
F.	Partial Services.....							
G.	Cases Pending End of Month.....							

*Indicate Number of Class 1 and 2 Cases: Pending: _____ Added: _____ Closed: _____

Appendix N

COLORADO STATE PUBLIC DEFENDER: QUARTERLY CASE
REPORTING FORM BY FELONY EQUIVALENTS

MONTHLY: _____ CASE REPORTING FOR: _____ COUNTY: _____ FY: _____

I. CLOSINGS:		Jan	Feb	Mar	Qtr	YTD	April	May	June	Qtr	YTD
	A. Settlement.....										
	B. Trial.....										
	C. Other Proceedings.....										
	D. Appeals.....										
	E. Original Proceedings.....										
SUBTOTAL.....										
	F. Partial Services.....										
TOTAL.....										
II. F/E CLOSINGS:											
	A. Settlement/Trial.....										
	B. Other Proceedings.....										
	C. Appeals/O.P.....										
TOTAL.....										
III. F/E NEW CASES:											
	A. Pre-Trial/Trial.....										
	B. Other Proceedings.....										
	C. Appeals/O.P.....										
TOTAL.....										
IV. CASE SUMMARY:											
	A. Pending 1st of Month.....										
	B. New Cases Added.....										
	C. Total Cases in Month.....										
	D. Cases Closed.....										
	E. Partial Services.....										
	G. Cases Pending End of Month..										

Indicate Number of Class 1 and 2 Felony Cases: Pending: _____ Added: _____ Closed: _____

END