REQUEST FOR PROPOSAL
TO CONDUCT
AN EVALUATION OF
INDIGENT DEFENSE SERVICES
IN SEATTLE AND KING COUNTY,
WASHINGTON
REQUEST FOR PROPOSAL

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AN EVALUATION OF

INDIGENT DEFENSE SERVICES

IN SEATTLE AND KING COUNTY,

WASHINGTON

DATE DUE

CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT

The American University

2139 Wisconsin Avenue, N.W.

Washington, D.C. 20007

(202) 686-3800

Law Enforcement Assistance Administration Contract Number: J-LEAA-043-72
NOTICE TO THE READER

There is a September 30, 1974 contract deadline for completion of all technical assistance assignments conducted under the auspices of The American University Criminal Courts Technical Assistance Project. Consequently, assignment reports received after August 20, 1974, cannot be edited by the project staff prior to their transmittal to the client agencies, as is our usual procedure. The present report is one of those for which our time schedule did not permit editing. We apologize for any inconvenience this may cause.

Joseph A. Trotter, Jr.
Director
Criminal Courts Technical Assistance Project
FOREWORD

This request for Proposal was developed pursuant to a technical assistance request from the Seattle-King County Public Defender Association.

The Association, a private non-profit corporation, was established in 1969 as a component of the Seattle Model Cities Program (SMCP) plan, and since that time has provided representation for indigent defendants in both Seattle and King County courts under contracts with the respective governmental bodies. Appointed counsel systems for indigent representation are also operating in the two jurisdictions.

The evaluation contemplated by the present RFP was generated by two considerations: First, the Association's interest in determining (a) how its organization, management and operations measure up to defense standards delineated in the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, and (b) its goals and priorities for the next several years. Secondly, to aid them in making critical funding decisions at the end of the current funding cycle, the city and county government had need of an independent analysis of the quality, efficiency and cost of the various indigent defense programs.

The consultants selected to develop an RFP which would reflect these objectives--William R. Higham, the Public Defender of Contra-Costa County, California; and Professor Addison M. Bowman, of the Georgetown University Law Center, Washington, D.C.--have both had extensive experience in the operation and evaluation of indigent defense programs. In addition, to preparing the RFP presented here, both consultants will assist Seattle-King County and Defender Association officials in evaluating responses to the RFP under the auspices of the Technical Assistance Project.
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I. INSTRUCTIONS TO OFFERORS

Each proposal submitted in response to this request should reflect the offeror's understanding of the function and goals of the Seattle-King County Public Defender Association (hereinafter Defender Association), and should specify fully the offeror's background, resources and competence to accomplish an evaluative study of this nature. The proposal should contain the names and relevant biographical data of the members of the proposed evaluation team, and should specify in detail the methodology to be employed in the evaluation.

The proposal should contain a detailed cost estimate broken down into categories of personnel costs, travel, lodging, outside consultants, materials, and fixed fee or profits. The total amount available for this evaluation is $18,000. Methods of payment will be the subject of further discussion between individual offerors and the ________________.

The ____________ receives the right to award this contract, irrespective of the dollar amount of the bid, to the offeror whose proposal seems most likely to accomplish the objectives of the evaluation.

The proposal should contain a timetable which contemplates completion and submission of a preliminary draft of the evaluative report on or before November 4, 1974, and submission of the final report by December 1, 1974. Proposals should be submitted to the Public Defender, 623 Second Avenue, Seattle, Washington 98104.
II. BACKGROUND OF THE DEFENDER ASSOCIATION OF SEATTLE-KING COUNTY, WASHINGTON

(A) History of the Defender Association

The Defender Association (also referred to as the Seattle-King County Public Defender) was created in 1969 as part of the 1968 stated goals and program of the City of Seattle's Model City Program (SMCP). It was organized as a non-profit corporation (for charitable, scientific, working and educational purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of the United States with Washington State articles of incorporation being filed on June 9, 1969). It commenced operations in October, 1969, with a staff of five persons and a budget of $235,000.

The governing body of the Defender Association consists of a Board of Directors of twelve persons: two appointed by the Mayor of Seattle, two by the Court Executive, four by the bar association, and four from the community-at-large.

During its existence (and as of the present time) the Defender Association has undertaken representation of or assistance to the following categories of clients and the rendition of the following services:

(1) By Contract with SMCP/City of Seattle

(a) All City Jail Detainees regarding assistance, line-up, Miranda, or other pre-arrainment legal and social assistance.

(b) Actual Counseling and Representation of those of the foregoing who are indigent.

(c) Indigent Persons Facing Seattle Municipal Court Proceedings who may receive jail time.

(2)
(d) Persons Requesting Appellate or Judicial Review from disabilities suffered as result of proceedings described in (c) above.

(e) Public Information and Education regarding the Defender project and judicial process.

(f) Assistance of Clients and Others Assisted in obtaining social and health sources and additional legal services.

(g) Record Keeping Appropriate to documentation of workload

(h) Broad Law Reform Activities (other than through legislative advocacy.)

(2) By Contract with King County, Washington

(a) Eligible County Jail Detainees (or persons in other places of detention, needing advice of line-up, miranda, and or other pre-arraignment legal or social assistance.

(b) Persons Assigned by the King County Administrator of Public Defense for representation, usually on felony matters and probation.

(c) Persons Prosecuted in (b) Above in Appellate Proceedings

(d) Public Information and Education regarding the Public Defender Program and Judicial Process.

(e) Investigation, Study and Compilation of Reports on Future Law Reform

(f) Referral of Clients and Others Assisted for health, social and or additional legal sources.

(g) Criminal, Legal, Educational Programs for Assigned Counsel

In addition, by contract with King County, eligible persons facing juvenile court proceedings, parole revocations or mental commitment proceedings are the responsibility of the Defender Association.
The offices of the Defender Association are located at Second and Cherry Street, Seattle, Washington.

(B) Current Budget and Workload of the Defender Association

(1) Budgetary Data as of June 30, 1974

The City of Seattle (and SMCP) operate on the basis of a fiscal year ending June 30; Defender Association contracts with them have embraced this as a contract year. However, since SMCP is in a phase-out period, the current contract covers the period July 1, 1974-December 31, 1974. King County budgets on the basis of calendar years; its contracts reflect this fact.

Based on the foregoing, the constructive "budget year" ending June 30, 1974 for the Defender Association shows the following expenditures breakdown:

Fiscal Year 1973-74

Total Cost by Line Item for City Misdemeanor, County Programs and Counseling Program

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$738,290</td>
</tr>
<tr>
<td>Fringe Benefits</td>
<td>103,024</td>
</tr>
<tr>
<td>Contract Services</td>
<td>600</td>
</tr>
<tr>
<td>Travel (local &amp; Out of Town)</td>
<td>10,160</td>
</tr>
<tr>
<td>Office Supplies</td>
<td>17,990</td>
</tr>
<tr>
<td>Printing, Library</td>
<td>11,733</td>
</tr>
<tr>
<td>Postage</td>
<td>1,686</td>
</tr>
<tr>
<td>Rent</td>
<td>33,552</td>
</tr>
<tr>
<td>Utilities</td>
<td>26,045</td>
</tr>
<tr>
<td>Equipment Rental</td>
<td>9,301</td>
</tr>
<tr>
<td>Repairs &amp; Maintenance</td>
<td>676</td>
</tr>
</tbody>
</table>
Pre-sentence Counseling  2,000
Equipment            4,066
Miscellaneous (DSHS, Appellate Court etc.)  25,000
Insurance            2,551
P/C Evaluation       8,500
Total                $1,000,000

(2) Workload

The Defender Association has adopted a standard of not more than 150 new felony cases per year per attorney and of not more than 400 misdemeanors per year per attorney.

The contract ending December 31, 1974, with King County anticipates a case-load (intake rate) of 1,500 new felony cases for 1974, for a total cost of $232 per felony case.

For the last completed calendar year, the Defender Association had the following intake rate:

**New Cases Opened: 1973**

<table>
<thead>
<tr>
<th>Type of Case</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Cases</td>
<td>1,455</td>
</tr>
<tr>
<td>Misdemeanor Cases</td>
<td>2,901</td>
</tr>
<tr>
<td>Juvenile Cases</td>
<td>915</td>
</tr>
<tr>
<td>Mental Illness Cases</td>
<td>195</td>
</tr>
<tr>
<td>Probation and Parole Cases</td>
<td>72</td>
</tr>
<tr>
<td><strong>Total of New Cases</strong></td>
<td><strong>5,538</strong></td>
</tr>
</tbody>
</table>
(C) Present Organization of the Defender Association

At the present time, with the assistance of the Association's retained consultant, Mr. Eugene Beauregard, the Association is undergoing a reorganization of its internal staffing structure. Therefore, no up-to-date detailed organizational chart is available. However, the following table of personnel indicates the categories into which the staff of the office are broadly separated.
The Defender Association
Personnel - Permanent Staff Positions

ATTORNEYS:

1.0 Chief Attorney
1.0 Senior Felony Attorney
1.0 Assistant Senior Felony Attorney
8.0 Felony Staff Attorneys
1.0 Senior Juvenile Attorney
6.0 Juvenile Staff Attorney
1.0 Senior Mental Commitment Attorney
2.0 Mental Commitment Staff Attorneys
1.0 Senior Misdemeanor Attorney
1.0 Law Reform Attorney
6.0 Misdemeanor Staff Attorneys

29.0 Total Attorneys (Excluding Program Director)

INVESTIGATORS:

1.0 Chief Investigators
3.0 Misdemeanor Investigators
3.0 Felony Investigators
1.0 Juvenile Investigator
8.0 Investigators

ADMINISTRATION:

1.0 Public Defender (Program Director)
1.0 Administrative Assistant
1.0 Accountant
1.0 Accounting Clerk
1.0 Receptionist/Switchboard Operator
5.0 Total Administrative Staff

SECRETARIES:

2.0 Juvenile Secretaries
1.0 Executive Secretary
2.0 Administrative Legal Felony Secretaries
2.0 Word Processing Typists
1.0 Typist/Clerk
1.0 Administrative Legal Mental Commitment Secretary
1.0 Administrative Legal Misdemeanor Secretary
1.0 Administrative Secretary - Pre-sentence counseling
11.0 Total Secretaries

PRE-SENTENCE COUNSELING

1.0 Pre-sentence Counseling Supervisor
5.0 Pre-sentence Counselors
6.0 Total Counselors

59.0 Total Full-Time Permanent Staff Employees
(D) PRIOR EVALUATIONS

The Defender Association was previously evaluated during the period of April 5, 1971, through April 8, 1971, by a team of four evaluators (R.A. Green, Jr., John W. Williams, Jr., C. Paul Jones, and John D. Shullenberger) provided by the National Legal Aid and Defender Association. This (1971) evaluation addressed itself to primarily four aspects of the Defender Association: (1) Internal office operations, (2) Delivery of services, (3) Judicial and Governmental Agency cooperation, and (4) Community awareness and support.

John Darrah, Esq., was Public Defender at that time; the present Public Defender, Phillip H. Ginsberg, Esq., was Chief Trial Attorney then.

A copy of the report of this evaluation is available in the Defender Association offices.

(E) Immediate Context of this Evaluation Request

This evaluation has been requested by Phillip H. Ginsberg, Esq., Public Defender, the Defender Association. The Defender Association, in turn, received a request in the fall of 1973 from the Office of Management and Budget of the City of Seattle that an evaluation be undertaken.

Various factors appear to have stimulated the agreed-upon desirability of the evaluation. These include the following:

(1) The Seattle Model City Program is Being Phased Out of Existence. Since this was the "parent agency" of the Defender Association, some form of cost analysis is required.

(2) The City of Seattle and King County Face Revenue Diminutions During a Time of Record Inflation. Like much of American local government, the two foregoing entities are facing an unparalleled fiscal "crunch". The City and County are seeking to fund their own agencies respectively at 95% and 94% of
1974 levels despite inflation and even though virtually all of such agencies are expected to have an increase in the number of transactions handled.

(3) Questions and Concerns Voiced.

In the light of the foregoing and since it has been close to four years since the last outside evaluation of the Defender Agency was conducted, the following questions and concerns have been anticipated:

(a) The Public Defender, Mr. Ginsberg, has only relatively recently assumed his role as head of the office and is desirous of reviewing all relevant operations and procedures in an effort to provide the highest feasible qualitative level of services to clients of the office in the most economical fashion and with the greatest efficiency possible.

(b) The Office of Management and Budget of the City of Seattle has reiterated its commitment both to qualitatively high-level representation and to the continued existence of the Defender Association as an agency of legal defense for the poor which stands separate and divorced from government. However, it wishes to assure itself that, considering the options available to it, it is getting "a quality service for reasonable cost" ... the best quality product for a cost commensurate for what it is paying for ... " (Mr. Walter R. Hundley, Director, Office of Management and Budget, September 12, 1974). In this context, the City is specifically interested in the financial screening process; it wishes to feel confident that the citizens defended by the Defender Association are truly indigent. (See III. (B), (1), below)

In addition, OMB has expressed concern over the accuracies of Defender Association caseload projections. It also feels that, since a "combined system" was originally planned in the city's Municipal Courts (i.e., Defender Association and assigned counsel) but not truly realized, that the system be re-examined. Efficiency is a prime concern, including the matter of numbers of administrative staff.
(c) **King County** representatives have expressed similar concerns to those voiced by the City; in addition, the County wishes to assure itself that the Defender Association is limiting itself to performing those functions for which it has contracted with them and is not devoting county-furnished resources to tasks outside the purview of the contract.
III. STATEMENT OF WORK

(A) Overall Goals.

The contract for this evaluation will be awarded to the offeror whose proposal is best suited to accomplishing the following goals:

(1) Evaluation of the Quality of Criminal Defense Services being provided by the Defender Association with respect to:
   (a) Relevant published standards such as those articulated by the American Bar Association, the National Advisory Commission on Criminal Justice Standards and Goals, and the National Legal Aid and Defender Association;
   (b) Standards of criminal law practice achieved in comparable defender offices in other parts of the country;
   (c) The quality of services rendered to indigent defendants by court-appointed counsel in Seattle and King County.
   (d) The representation provided by retained Counsel in King County.

(2) Articulation of Proposed Standards of Practice for Defender Association Lawyers, and an indication of what additional resources and modification of office arrangements and policies will be necessary to effectuate these standards.

(3) Evaluation of the Internal Efficiency of the Defender Association with the goal in mind of proposing approaches which might reasonably be expected to lead to economies, conservation of resources, improved systems and procedures, and overall enhancement of logistical capability.

(4) Articulation of Proposed Long-Range Goals and Objectives for the Defender Association.

(B) Specific Areas of Inquiry

(1) Indigency Standards and Determinations.
   (a) What should the criteria for a determination of eligibility for defender services in (1) felony cases, (2) misdemeanor cases, (3) juvenile
cases, and (4) mental health cases?

(b) By whom should these determinations be made?

(c) Are there at present variations in the standards being employed by different organizations in King County, and, if so, how should these variations be resolved?

(2) Methods of Delivery of Defense Service.

(a) What is the deal allocation in terms of percentage of indigent cases, between the Defender Association and court-appointed counsel in the King County Superior Court and the Seattle Municipal Court?

(b) Should these percentages vary from felony to misdemeanor to juvenile cases?

(c) How should the appellate function be discharged in King County?

(d) How should the Defender Association be structured to discharge its responsibility to provide quality defense services in the projected number of cases?

(e) How should the appointed counsel system be administered to ensure equality between services rendered by Defender Association lawyers and appointed counsel?

(3) Governing Board.

(a) How should the Defender Association's Board of Directors be selected?

(b) What would be the ideal composition of the Board of Directors?

(c) Should the governing board be given administrative responsibility for the operation of the appointed counsel systems?

(4) Quality of Defense Services.

Evaluate the quality of services being rendered by the defender association and by appointed counsel thru ascertainment of and with respect to:
(a) Available comparative statistics pertaining to guilty plea rates, jury trial rates, acquittal and dismissal rates, and institutional commitment rates.

(b) Time lapse between arrest of defendants and their first contact with an attorney.

(c) Rates of achieving pre-trial release of clients.

(d) Investigation of cases.

(e) Trial performance.

(f) Examination and evaluation of case files of defender and appointed lawyers:

(g) Interview and assessment of attitudes of judges, prosecution personnel, private counsel and clients; and

(h) Observation of in-court performance of defender association and appointed counsel.


(a) In what ways could the organization and administration of the Defender Association be improved consistent with the goal of providing high quality defense services as economically as possible?

(b) Is the Defender Association, as currently organized, providing adequate arrangement and supervision of legal and para-legal employees, or should organizational changes be effected?

(c) Is there adequate knowledge and control of staff attorneys, workloads?

(d) Are the 150 felony per year/400 misdemeanor new cases per year per attorney caseload guidelines currently in effect proper, or should they be revised? Should different and/or more sophisticated methods or standards of workload measurement be utilized?
(e) How should the Defender Association go about developing a comprehensive workload management system?

(f) Should the Defender Association consider seeking to "tie into" existing or incipient electronic data processing systems in the area, either for calendar control, workload management and measurement, or both? Is a private survey of this question warranted at this time?

(g) What unit of service should be used as the cost unit? Should contracting practices be re-evaluated in light of cost accounting procedures?

(h) What should be the ratios of administrative-support staff attorney personnel in the Defender Association?

(i) Are the Defender Association's recruiting and hiring practices sound? How could they be improved?

(j) Is the Defender Association's salary structure adequate, in the context of salaries paid in comparable positions (especially in prosecutor's offices) in Seattle and King County?

(k) Is the personnel turnover rate excessive, and if so what steps can be taken to correct the deficiency?

(l) In what ways could the Defender Association's information systems and record keeping be improved?

(m) Are the most up-to-date, economically feasible and appropriate managerial and administrative principles being applied in the operation the office?

(6) Inter-Agency and Inter-Entities Comparison

Are the resources provided by the City of Seattle and King County to the Defender Association disproportionate? Are the resources afforded the Defense Association disproportionate as contrasted with those provided it counterparts in the Office of the Corporation Counsel, the Prosecuting Attorney, and the Attorney General?
(7) **Appointed Counsel System.**

(a) Is the appointed counsel system in King County properly organized, staffed and administered?

(b) Should the appointed counsel system be administered by the Defender Association Board, by an independent board, by the courts, or by local units of government?

(c) How should appointed counsel be selected? How should they be appointed in individual cases?

(d) Are compensation rates for appointed counsel adequate? Should they be revised?

(e) Should the compensation of appointed counsel be done by the courts, by an independent board or organization, or by the Defender Association?

(8) **Training Function.**

(a) Does the Defender Association have an adequate training program for staff attorneys? In what ways could staff training be improved?

(b) Are appointed counsel adequately trained? How should a comprehensive training program for appointed counsel be structured?

(c) Should the training program for appointed counsel be administered by the Defender Association?

(d) Are Defender Association lawyers provided ready access to developments in the law? Specifically:

   (i) Is the defender association library adequate?

   (ii) Do defender association attorney have access to slip opinions of the U.S. Supreme Court, the Washington Supreme Court, and the Washington Court of Appeal?

   (iii) Are developments in the criminal law studied and discussed in a structured way at the defender association?

(e) Is management training utilized for supervisory and/or managerial staff?
If not, should it be, of what should it consist?

(9) Investigative Function.

(a) What is the quality of investigative services rendered by the Defender Association's investigative unit?

(b) Is the investigative unit properly organized and administered?

(c) Is the training program for the investigative unit adequate?

(d) Are the investigative services available to appointed counsel adequate?

(e) Should the Defender Association's investigative unit be staffed to enable it to render services to appointed counsel in Seattle and King County?

(10) Counseling Services and Volunteers.

(a) How are counselors recruited and selected?

(b) How are student and other volunteers recruited and selected?

(c) Is the training program for counselors and volunteers adequate?

(d) Are the efforts of counselors and volunteers adequately integrated in the line function of the Defender Association?

(e) Should the Defender Association's investigative unit be staffed to enable it to render services to appointed counsel in Seattle and King County?

(11) Goals of the Defender Association

(a) What are the goals of the Defender Association?

(b) Are these goals in need of revision? In what way?

(c) Do the contracts which are currently in effect comport with these goals?

(d) What should be the long-range (e.g., five or ten years) goals of the Defender Association?

(e) Should the Defender Association's goals be more fully articulated in its articles of incorporation and by-laws?