MANAGEMENT AND OPERATIONAL REVIEW
OF THE
MONTGOMERY COUNTY PUBLIC DEFENDER OFFICE:
MONTGOMERY COUNTY, OHIO
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March 2000
[Final Report]

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Nancy Albert-Goldberg, Esq.
Caroline S. Cooper, Esq.
Honorable Legrome D. Davis
Louise Greene
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EXECUTIVE SUMMARY

Management and Operational Review of the Office of the Public Defender
Montgomery County, Ohio

Summary

This evaluative report is the product of a request by the Montgomery County Public Defender Commission and the Montgomery County Board of Commissioners for a review of the management, operations and costs of the Montgomery County Office of the Public Defender. The review was conducted by the Justice Programs Office of American University, in Washington, D.C., through a team of seven persons, each of whom has at least twenty years' experience in the field of criminal justice or defender systems. One member of the Evaluation Team is a sitting judge, six are attorneys, and one is a law office administrator. Most of these individuals have broad national-level experience in the areas of policy-setting, technical assistance and evaluation. Their resumes appear in Appendix A.

The evaluators were not requested to and, therefore, did not assess the quality of representation provided by the court-appointed counsel system in Montgomery County, nor did they evaluate the system whereby that program is administered. This report contains only descriptive and general information with regard to that system.

Members of the Evaluation team made a total of four trips to Montgomery County between July and September, 1999, gathering data, observing Public Defender Office operations and reviewing its case files, and conducting over 100 interviews with county officials, Public Defender Commission members, judges, court clerks and administrators, public defenders, private attorneys, pretrial release department personnel, probation administrators, sheriff's department and jail personnel, and representatives of the community at large. (See Appendix B). No formal interviews were able to be scheduled with representatives of the Montgomery County Prosecuting Attorney's Office.

At the end of October 1999, an essentially complete “Review Draft” of this report was sent to Montgomery County Administration, the Public Defender Commission and the Public Defender Office management with the a request that it be reviewed and commented upon with respect to its completeness and accuracy. By mid-December, comments were received from the Chief Public Defender and the County Administration, as well as from line staff in the Public Defender Office and other commentators who had read a copy of the review draft. During December and January, the team members completed their final work on this report, refining the review draft and adding a chapter on implementation priorities. Also during this two -month period, several initial or follow-up interviews by telephone were conducted by team members with Montgomery County justice system representatives to clarify and validate findings and preliminary conclusions or in response to specific requests for interviews communicated to the American University project office. This final report of the Management and Operational Review of the Montgomery County, Ohio, Public Defender Office was delivered to the County Commissioners, the Public Defender Commission and the Office of the Public Defender in March 2000.

The Evaluation Team recognizes that there have been changes in the leadership of the Public
Defender Office since the field work portion of this study was completed and the review draft of this report submitted to the commissioning parties. These changes are not discussed in this report. References herein to the Chief Public Defender and the office leadership, as well as to the performance of the office, relate to the staffing and operations of the office as they existed on December 1, 1999.

The evaluators arrived at their findings and recommendations through reliance on: (1) statistics and data generated by both themselves and by Montgomery County officials, particularly staff of the County Office of Management and Budget, the Court Operations Department of the Court of Common Pleas, the Juvenile Court, the Sheriff’s Department, and the Office of the Public Defender; (2) Ohio state laws and the Administrative Code, and regulations established by the Ohio Public Defender Commission; (3) national standards established by organizations such as the American Bar Association, the National Legal Aid and Defender Association, and policy-making groups commissioned by the U.S. Department of Justice; (4) the perceptions and experience of the individuals interviewed; (5) the experience of numerous defender systems in other jurisdictions throughout the country; and (6) observations made by the Evaluation Team members.

The Evaluation Team found that, overall, the Public Defender Office attorneys enjoy a reputation among judges and private lawyers for dedication and good trial skills, and this reputation stems from the fact that the office has retained many well-experienced criminal law practitioners for a number of years. High praise also was given to the work of the office’s mitigation specialist in providing assistance to attorneys and helpful information to the court with regard to sentencing in individual cases.

The evaluators also found that while routinely disseminated court management reports showed that the percentage of overall Common Pleas Court felony cases handled by the Public Defender Office has been decreasing over the past two-three years, the office is actually handling the highest percentage of the County’s indigent felony cases than at any time in the last four years. The figures are as follows: first five months of 1999: 41.5%; all of 1998: 36%; all of 1997: 31% and all of 1996: 32%. Interestingly, the defender office’s current 41.5% proportion of indigent felony defendants compares favorably with the 40% of indigent felons that the Montgomery County Public Defender was handling at the time of a national study of the County indigent defense system conducted in 1983.

In addition, the raw numbers of felonies currently handled by the defender office has risen. For the first five months of 1999, the Public Defender Office handled 621 felonies as compared to 576 in the same time period of 1998. Similar significant increases were evident in juvenile cases and misdemeanor cases handled by the office.

In light of the fact that the defender office is handling more cases than in recent memory, the Evaluation Team analyzed the caseload levels of each division of the Public Defender Office and compared them to national caseload standards for defender offices. The team’s finding was that the office’s caseloads exceed national standards in every division, with those of the Juvenile Division and the Outlying Courts misdemeanors unit being the most excessive. As a result, the team recommends that personnel be added to the Public Defender’s budget for more attorneys, paralegals, secretaries and investigators.
The team also recommends the addition of MSW or equivalent social workers to assist the Juvenile Division attorneys and other public defenders in screening client applicants, identifying their social problems and the appropriate community resources, and placing them in appropriate treatment facilities. The need to maintain some courthouse space for client interviews after the move of the defender office to the Reibold Building and to provide additional funding for the employment of outside experts is also addressed in the team's recommendations.

The team also identified the need for and various methods of improving the accountability and effectiveness of defender office staff. The related recommendations endorse the County's apparent commitment to fund modernization of the office's automation and emphasize the need for increased capabilities in the areas of word processing, research, management information, access to client status information, and communications both within and outside the office.

Other major recommendations include: (1) the addition or reorganization of staffing and procedures to permit the office to begin representation at earlier stages of the criminal case process in order to close the perceived gap between arrest and commencement of meaningful representation; (2) taking a more proactive advocacy role in securing pretrial release for clients; (3) establishment of a training director position within the office, whose duties would include the establishment of a brief and motion bank, conducting training needs assessments for all categories and levels of staff, and organizing responsive training programs for staff; (4) implementing various methods of tracking the caseloads, attendance and time of defender personnel; (5) reducing the workloads of supervisors to enable them to provide more guidance to newly hired personnel and oversight of all experience levels of staff; (6) elimination of the caseloads of the Chief and Deputy Public Defenders to enable them to devote full-time to administration; (7) expanding the appellate division to enable it to handle misdemeanor appeals; and (8) implementing changes in both the style and substance of management operations and the supervision of defender personnel.

The additional computerization, training, brief bank and management information capability recommended will aid the defender office in becoming more cost-effective. The addition of more support staff would also aid in cost-effectiveness, as certain tasks could be delegated to individuals at lower salary levels.

The costs of providing defender services were analyzed and compared to the costs of providing legal assistance through court-appointed counsel. These analyses are somewhat preliminary due to the unavailability of detailed annual caseload statistics and the complexity of the scope of matters handled by the defender office. Nevertheless, the Evaluation Team can report with a fair degree of certainty that the Public Defender Office provides representation in a more cost-effective manner than the appointed counsel system.

One of the reasons for the cost-effectiveness of the defender approach is the elimination of certain repetitive tasks otherwise provided by court staff, judges, and county fiscal management.
personnel relating to contacting lawyers, approving their voucher payments, cutting checks, entering data when each payment is made, etc. Another reason is the economies of scale whereby functions are specialized within the defender office. Finally, since the defender office provides assistance to court-appointed counsel by handling preliminary hearings and offering investigative assistance in appointed counsel cases, some of its budgetary allotment actually goes to support the assigned counsel component of the indigent defense system.

The Evaluation Team believes that the Public Defender Office could do a better job with regard to: (1) communicating its mission to the community at large; (2) providing information to and receiving information from members of the judiciary; (3) communicating and effectively collaborating with the County Public Defender Commission; and (4) establishing and maintaining an operational atmosphere of teamwork, accountability, and motivation among all divisions, categories and experience levels of office staff. A variety of suggestions for improving these interactions are included in the team’s recommendations.

Finally, the Evaluation Team finds that, as the number and complexity of cases handled by the Public Defender Office has increased dramatically over the past twenty years or more, so, too, has the office’s need for structure, organization, and increased day-to-day supervision. Moreover, the public scandals related to the removal of the last two heads of the office have left deep divisions between current management and many of the veteran staff and also between the office and the community it serves. Further, the current office leadership’s lack of managerial experience and expertise have contributed to a pervasive morale problem in the office. In addition, the director’s tenuous appointment status has encouraged an atmosphere of instability.

The evaluators applaud the current administration for taking some preliminary steps in focusing on the office’s administrative needs and structure, as well as its relationship to the community. Much more needs to be done, however. Hopefully, this report will provide the Public Defender Commission and the management team of the office with some tools and goals for further development of organizational leadership and capacity enhancement. American University is willing to provide a brief period of implementation assistance, including in-house management workshops and team-building exercises with managers and line staff, to help achieve these goals.

**Recommendations**

**Commencement of Representation, Pretrial Release Objectives, and Attorney Accessibility**

1. The Public Defender Office should comply with Ohio laws and national standards requiring provision of counsel at the earliest possible stage of proceedings.

2. Additional staffing is needed for the Public Defender Office to provide representation at the earliest possible stage in adult, juvenile delinquency and CSB matters. In the event that additional staffing cannot be provided to achieve this goal, it is recommended that the
Public Defender Office reduce its caseloads by referring a greater number of cases to the appointed counsel system in order to be able to provide earlier representation within existing staff resources. The need for either staff augmentation or caseload relief is greatest in the juvenile division of the office.

3. Defender office senior management should immediately commence planning with the Circuit Court leadership and the Prosecuting Attorney’s Office to implement a plan to achieve meaningful attorney representation at the initial arraignment stage of the criminal case process.

4. The Public Defender Office should develop a duty day system whereby each day a lawyer is on call in the office to respond to queries (telephonic and in person) from the public. The lawyers could be assigned randomly and the rotation schedule should include every lawyer in the office.

5. In implementing the duty day system, the Public Defender Office must provide training to its lawyers on how to deal with the public and should provide the lawyers with a duty day manual containing appropriate information regarding community referrals and resources.

6. Prospective clients should be able to phone the Public Defender Office and receive emergency advice from a lawyer, even if it is not the attorney who will eventually handle the case.

7. The responsibilities of the Public Defender Office should include jail checks to determine whether there are eligible persons in jail needing to consult with an attorney. Therefore, the duties of the public defender’s eligibility intake workers at jail facilities should be expanded to include providing eligible persons with information regarding contacting the defender office for early consultation.

8. Notices should be posted in all courts and detention facilities providing the telephone number to be used in contacting the Public Defender Office, along with a notification that the defendant is not to speak to anyone before contacting his or her lawyer.

9. Continue to maintain, and to enhance as opportunities and needs dictate, free telephone access to the Public Defender Office by defender clients at the jail and workhouse.

10. The Public Defender Office should establish long-range goals, strategies and policies geared towards minimizing pretrial detention.

11. In appropriate cases, a written motion for bond should be filed and consideration given to appealing meritorious motions which have been denied.

12. Should the appellate staff of the County Public Defender Office be insufficient to prosecute such appeals, consideration should be given to referring those cases to the Ohio Public
Defender Office for review and appeal. In addition, the Chief Public Defender should work with the Ohio Public Defender to assure that defender practices and procedures operate to appropriately protect the Constitutional guarantee of reasonable bail.

13. The Public Defender Office should confer with County budget administrators and other agencies to work toward the common goal of minimizing the costs of pretrial incarceration.

14. The Public Defender Office should be provided with sufficient office space at the main courthouse to enable attorneys to prepare for trials and prepare witnesses, and to enable clients out on bail or members of their families to meet with their public defenders at an early stage of the proceedings. Similarly, public defenders should have office space available in outlying court locations as needed.

15. The Public Defender Office should investigate and consider the establishment of a community branch office in a neighborhood where a substantial number of its clients reside.

**Staffing Levels and Caseloads**

16. An up-to-date Organizational Chart depicting the functional organization of the office and specifying the number and names of incumbents in authorized supervisory and line staff positions for each division of the office should be prepared immediately and distributed to staff. Position descriptions for every category of staff member should also be developed and similarly distributed or included in the Office Manual.

17. The Chief Public Defender, in consultation with the Public Defender Commission and the office’s management team, should comply with the requirement of the Ohio Administrative Code to establish minimum and maximum workload figures for the office’s attorneys and support staff.

18. The Chief Public Defender and Deputy Defender should carry no caseloads, or take only occasional, special-interest cases, as responsibility for caseloads detracts from the important task of concentrating on administrative and policy matters. Other supervisors should carry no more than one/half of a caseload.

19. Current caseload levels, the imperative of early case intervention, the need to reduce or eliminate the caseload responsibilities of senior management staff, and multiple court locations in Montgomery County combine to indicate that the Public Defender Office’s attorney staff complement should be augmented as follows over the foreseeable future, if the office is to be in compliance with national caseload standards promulgated by the National Advisory Commission on Criminal Justice Standards and Goals and representational standards promulgated by the American Bar Association and the National Legal Aid and Defender Association.
(a) At least one additional attorney should be added to the Felony Division.

(b) At least two additional misdemeanor attorneys should be added to serve the outlying courts.

misdemeanor and juvenile cases.

20. A full-time Training Director should be added to the staff and placed in the Appellate Division. (See recommendations below for specific duties of this position and elements of the office training program).

21. The Public Defender Office should add the position of Office Manager to perform a variety of administrative tasks, including overseeing the upgrading of the office’s management information system, and to supervise the clerical staff. In the long run, the goal should be to retain an individual with business administration experience to fill this position.

22. At least three additional legal secretaries are needed to improve the ratio of secretaries to attorneys in the secretarial pools.

23. Defender office management should review the adequacy of the current system of part-time clerical and administrative support for the Chief Public Defender and the Deputy Public Defender.

24. A systems analyst or other computer professional should be hired to provide computer training for defender staff and help to maintain the system.

25. Two additional paralegals should be retained to assist in the Juvenile Division.

26. Two additional field investigators should be investigator should be hired immediately to assist attorneys handling juvenile delinquency and CSB cases; and as soon as possible after its offices have been consolidated in the Reibold Building, the Public Defender Office should consider whether one of its eligibility intake workers could be relieved of her current duties and reassigned as a field investigator. The latter person or one of the new hires should be assigned in support of the criminal divisions of the office.

27. Four social workers with MSW or master’s level degrees in related fields should be hired, one for each of the following divisions: felony, misdemeanor, juvenile delinquency, and juvenile CSB or dependency, abuse and neglect. These social workers should be used to screen defender clients for problems such as drug addiction and alcoholism, make referrals to appropriate community resources, assist in conducting investigations relating to child placement, assist the attorneys and mitigation specialist in preparing sentencing plans, and
help to marshal witnesses and experts to provide testimony at sentencing hearings.

28. The Public Defender Office should consider creating the position of Internship Coordinator. This person would be responsible for the recruitment, supervision, and, in conjunction with division supervisors, the training of college and graduate students for assistance in routine investigations, intake activities, social work support activities, and the preparation of community resources guides for office attorneys and clients.

Investigation Capabilities and Utilization

29. The Public Defender Office should make greater use of staff investigators in order to improve performance and make more cost-effective use of its attorney staff resources.

30. The Public Defender Office should provide mandatory training to its attorney and investigative staff in the proper utilization of investigators.

31. Supervisors should actively encourage greater use of the Investigative Request Form by staff attorneys, and the investigative staff should be required to maintain cumulative, up-to-date records of investigative requests and activities and to prepare regular reports to the managers and line staff thereon.

32. In addition to increasing the investigative support of the office as urged in the recommendations related to staffing levels, Public Defender Office management should study the situation with respect to the investigative needs and use patterns of the various office divisions and the appointed counsel attorneys and prepare a plan for achieving, over the mid-term, an investigator/attorney ratio that meets the needs of the office.

33. The Public Defender Office should encourage and facilitate the attendance of its investigative staff at outside training seminars in order to promote their professional development and to provide them with exposure to how other public defender offices pursue the goal of team-building among investigative and legal staffs.

34. The Chief Investigator should be in charge of training and supervising only investigative staff and not clerical staff.

Case Handling

35. The public defender management should analyze the current attorney deployment pattern (as well as analyze various potential augmented staffing levels) to determine whether changes can be made from a zone, or horizontal, method of providing representation to a vertical system that provides continuity of representation for each defendant, with a single attorney handling all stages of the case. In the interim, a system should be developed whereby the preliminary hearing attorney communicates directly with the felony attorney for each defendant and transfers the case file accordingly.
36. The public defender management should re-evaluate the current practice of rotating attorneys between felony and misdemeanor dockets in order to better provide felony clients with more effective representation and to provide misdemeanor clients with continuity of representation. As part of this assessment, the office management team should consider the desirability, from both client service and morale perspectives, of forming a Major Felonies Trial Team, consisting of volunteer attorneys from among the office's senior experienced and effective staff attorneys.

37. Attorneys should make much greater use of Preliminary Hearings than is presently the situation, in order to maximize the potential benefits to the client of such hearings with respect to the ultimate resolution of the case by obtaining early and perhaps otherwise unavailable discovery and locating-in witnesses to specific versions of events.

38. An office-wide policy to resist and counter pressures to waive clients' rights to secure hearings and sentencing alternatives in return for "favors" should be developed and adopted to solve such problems without affecting the interests of defender clients. This policy and related techniques and procedures should be incorporated into attorney in-service training.

39. Attorneys need to adopt and practice a much higher and consistent quality of case file maintenance, reinforced by training and periodic supervisory review, in order to permit accurate evaluation of representational performance and to enable other attorneys to stand-in if the regular attorney is absent for any reason. Proper file maintenance practices may also facilitate the adoption of a "team lawyering" concept in case handling among attorneys within the various divisions, enabling the office to cope more efficiently with its workload.

40. Greater use than is presently the situation should be made of investigation and social services resources within the office, and of external expert witnesses, in case development and disposition and sentencing hearings.

41. Attorneys should conclude their cases with the completion of a Case Closing Form. This form should contain summary information on the development and conclusion of the case (see Appendix D for an example) that is valuable for office management, statistical reporting, planning, and training purposes.

Office Technology and Litigation Support Resources

42. The Public Defender Office should have adequate library and CD-ROM research facilities, access to Lexis or WestLaw for new court decisions, up-to-date desktop computers with word-processing software, terminals with access to all court case records and detention facilities, servers and software for management information systems, and appropriate e-mail capability and internet access. It is the team's understanding that most, if not all, of these capabilities will be made available to the defender office in conjunction with its move to the Reibold Building.
43. The County and the Public Defender Office should consider the advantages of establishing a website for the Public Defender Office to facilitate communicating its role in the criminal justice system to the community at large.

44. The defender office budget should include sufficient funds to permit retention in appropriate situations of expert consultants in the areas of ballistics, chemical analysis, fingerprint identification, polygraph, psychologist and psychiatrist services, and the like.

Compensation, Promotions and Performance Evaluations

45. The Public Defender Office should work to secure respectable salary levels for its employees that are consistent with the levels of those in the Prosecutor's Office and sufficient to attract and retain qualified personnel who wish to pursue a career in criminal justice. Said salary levels should take into consideration the importance to the community of the role played by the Public Defender Office in counseling those involved in the criminal justice system, reducing recidivism, and ensuring that the public perceives the criminal justice system as fair and impartial.

46. Promotions and salary increases should be based upon merit and longevity.

47. Public defender management, in cooperation with the union, should devise a system for merit promotions and salary increases.

48. Biannual personnel performance evaluations should be conducted for each employee and the results of said evaluations should be discussed directly with the staff member.

49. Said evaluations should form the basis for decisions regarding promotion and merit salary increases.

50. Defender office management should devise a means for communicating to staff the fairness and objectivity of the process whereby promotions and salary increases are awarded.

Management-Staff Relations

51. Public defender management should implement policies and practices designed to reinforce a sense of accountability and professionalism among attorneys and support staff, including the following:

(a) A system of daily attendance sheets of the sign in/sign out type, combined with an office In/Out Board (to indicate whereabouts during specific times of the day when a staff member is not at his or her office work station), should be implemented for all categories of staff to provide accurate documentation of time and attendance for both management and audit purposes.

(b) Supervisors should conduct random reviews of case files to assure that they accurately reflect the work done on a case, reflect conscientious and competent attention to the case by the attorney, and are complete and current enough to permit another attorney who may be called
upon to stand in for the assigned attorney in a proceeding on the case to effectively do so.

(c) Staff attorneys should be required to contact a supervisor in the event of inability to cover a court call and it should be the supervisor's responsibility to arrange for appropriate coverage of the absent staff member's duties on such occasions.

(d) Supervisors, in addition to conducting periodic case file reviews and biannual evaluations for attorneys of all experience levels, should conduct periodic courtroom observations of attorney performance and demeanor and solicit feedback on their performance from the judges to whose courtrooms the attorneys are assigned. The results of these observations and feedback should be candidly discussed privately with the line attorneys to promote long-term improvement or continued excellence in performance by the attorneys.

52. Public Defender Office management should devise and implement an effective means for resolving personal and professional differences among members of the office that, if left unaddressed, would tend to undermine office morale and dilute the effectiveness of the office.

53. Affirmative efforts should be made to constantly improve office morale and forge a unified team approach to effectively serving Public Defender Office clients.

54. Every effort should be made on the part of management to communicate the fairness and impartiality of personnel decisions.

55. Management should communicate and practice approaches to interacting with defender office staff in a manner that indicates support and consideration.

56. The Public Defender Office should consider the use of an outside team-building consultant to assist in improving communication within the office.

Training and Research

57. The Public Defender Office should seek funding for the position of Training Director, whose responsibilities would include: planning and organizing training sessions for new hires, experienced staff members, and supervisors, including both attorneys and support staff; establishing and maintaining a research, brief and motion bank (see below); preparing a case outline reference book of helpful cases that could be cited in various motions; editing an office newsletter that should include, in addition to office news, summaries of U.S. Supreme Court, federal and Ohio criminal case decisions, as well as articles relating to techniques in criminal defense; maintaining records of staff attendance at state and national training seminars and encouraging staff participation in such external training opportunities; and promoting participation by members of the private bar in office training activities, both as faculty and trainees.

58. The Public Defender Office should develop a training program for new attorneys that includes lectures regarding case handling procedures, demonstrations, and trial practice. Attendance at
such training sessions should be mandatory for all new attorneys who have not had significant trial practice experience, and failure to attend such sessions without a valid excuse should be grounds for disciplinary action. Attorneys of all experience levels should have training opportunities in substantive law topics, as well as specialized and advanced trial practice topics, as assignments and interests dictate.

59. The Public Defender Office and/or its separate departments should have regular and frequent training sessions/meetings to discuss case handling tips and strategies regarding system-wide issues.

60. A formal mentoring program for new attorneys should be established in the office, whereby new attorneys are “assigned” to experienced attorneys for a period of time for consultation on procedural, case management, professional development and practice issues.

61. The Public Defender Office should have monthly training sessions where one senior staff member or outside speaker gives a presentation. Some of these sessions may be addressed to the entire staff and some of these sessions may be held separately for specific departments, e.g., felonies, misdemeanors, delinquency, abuse and neglect, etc. Attendance at such sessions should be mandatory.

62. The Public Defender Office should establish a research, brief and motion bank consisting of successful briefs, motions, and memoranda of law on various topics in support of such motions, drawing from materials prepared by office staff and other sources. These research materials should be categorized and placed on computer diskettes stored in a central, accessible location and monitored by a member of the clerical staff. When feasible, this material should be available on the office computer network.

Judicial and Inter-agency Relations

63. The Chief Public Defender should meet periodically with members of the judiciary to share information regarding the Public Defender Office’s legislative mandates, eligibility guidelines, and office procedures and initiatives in order to enhance the development of a common understanding and consensus regarding the functioning and performance of the Public Defender Office and its representatives.

64. Public Defender Office supervisors, including the Chief Public Defender, should be seen by the judiciary to take an active interest in the competence, performance, efficiency and work habits of the office’s line attorneys, at all levels of experience. This can be manifested by, among other practices, periodic courtroom observations and regular solicitation of feedback from individual judges about Public Defender Office coverage in their courts.

65. The Public Defender should provide the judiciary with an up-to-date organizational table listing the names and telephone numbers of supervisors so that they can contact the supervisors when there is a problem in their courtrooms.
66. Public defender management should investigate whether or not public defenders routinely waive preliminary hearings in exchange for bail reductions or prompt discovery and, if merited, engage in judicial and inter-agency advocacy to change any official condoning or facilitation of such pressures.

Community Relations

67. The Public Defender Office should be a visible member of the criminal justice community and the community at large. This role can be accomplished by participating in community forums, bar association committees, interdisciplinary criminal justice system committees, public addresses, and written communications such as a newsletter posted on a web site. A significant amount of this involvement has been evident over the past two years, particularly by the office leadership and a small group of attorneys, but broader participation in a wider variety of such activities by members of the staff and management is needed.

68. The Public Defender Office should routinely promulgate information to the public regarding its goals and role in the community. Two recent initiatives of the office—development of a brochure for public dissemination after the office's move to the Reibold Building and arrangements made by the Chief Defender to contribute a regular column to a popular community newspaper—are good examples of such measures, and should be expanded upon.

69. The Public Defender Office should consider the establishment of an informal Community Advisory Board consisting of representatives of diverse community groups to meet on a periodic basis for the purpose of discussing issues of concern to the community and communicating the role and activities of the Public Defender Office.

Public Defender Commission Relations

70. The Chief Public Defender should communicate informally with members of the County Public Defender Commission on a frequent basis regarding the operation and direction of the Public Defender Office.

71. The Chief Public Defender should seek the support and assistance of the Public Defender Commission on issues relating to the effective performance of the office, including, inter alia, support and advice regarding budgetary requests.

72. The Public Defender Office should provide the Commission with copies of quarterly and annual statistical reports, budget requests, and other information regarding the operation of the office.

73. The Public Defender Office should report regularly to the Commission regarding its efforts with respect to community relations and outreach.

Indigent Defense System Policy Issues

74. In light of current workload levels and staffing needs, the Public Defender Office should not be
required to implement any recoupment program without new funding and staff earmarked for that purpose.

75. In light of the fact that the Public Defender Office is more cost-effective in the representation of indigent criminal cases, the Court, the County and the Public Defender Commission should consider increasing the share of indigent cases handled by the Public Defender and add to the Public Defender Office adequate staff and resources to represent these additional clients.

76. The Public Defender Commission, after a thorough review of this report and recommendations, but as soon as practicable, should appoint the Public Defender of Montgomery County to a term of years sufficient to consider and implement the recommendations in this report and to develop and carry out a strategic plan to achieve the improvement goals reflected therein.

**Implementation Priorities**

The evaluators understand that, even assuming consensus about them among the County, the Public Defender Commission and the office leadership, it is neither feasible nor desirable to implement all of the recommendations related to management and service delivery in the Montgomery County Public Defender Office simultaneously. This is not only because of budgetary considerations, but because sequential implementation of some of the recommendations are necessary, and also because assessment of the impact of early management and operational changes may suggest modification one or more of the pending recommendations. Following is a summary of the discussion of implementation priorities contained in Chapter VII of the report:

1. Establish management control of the office and reinforce a culture of accountability and professionalism. - Immediately.

2. Provide for the exigent staffing needs of the office, and especially of the Juvenile Division. This will require the augmentation of staff as follows: four line attorneys (one trial attorney each for the juvenile, felony, and outlying courts divisions, and an appellate attorney to support the juvenile division); a full-time training director; four support staff (a social worker, a field investigator and a paralegal to support the juvenile division, and an office manager); and conversion of one of the intake positions to field investigation, if practicable. - Immediately to six months.

3. Develop and enact a plan for the phased implementation of other recommendations, following MIS-assisted analysis of the workload levels, staff deployment and improved office management and case-handling practices. - Implementation timetable unspecified, but certainly over the next two-three budget cycles.
I. INTRODUCTION

Study Objectives and Methodology.

This report is the result of a request by Montgomery County, Ohio, for a review of the management and operations of the Office of the Montgomery County Public Defender. The work was conducted pursuant to a contract between American University, the Montgomery County Public Defender Commission, and the Board of Commissioners of Montgomery County.

American University selected a team of seven evaluators to review the operations of the Office. The experience and backgrounds of the evaluators are contained in their resumes, which are attached to this report as Appendix A. The Director of American University’s Justice Programs Office planned the operational and management review and participated in the evaluation.

Members of the Evaluation Team made a total of four visits to Montgomery County between July and December 1999. During these visits, the team collected data and interviewed officials from the County’s administration as well as members of the judiciary and court administration staff, the Public Defender Office staff and management, the Public Defender Commission, probation and pretrial services staff, the Sheriff’s Office senior management and jail supervisors, members of the bar engaged in both retained and court-appointed criminal defense and family law representation, and representatives of the community at large. The team was not successful in its efforts to schedule an interview with the Montgomery County Prosecuting Attorney and representatives of his staff.

The Evaluation Team also devoted a substantial amount of on-site time to examining Public Defender Office procedures, courtroom observations, and reviewing a sampling of defender case files; and a substantial amount of off-site time reviewing statistics and documentary information provided by the court and county offices and the Public Defender Office.

Events Leading to Request for Evaluation.

Several events preceded the County’s request for a formal evaluation of the Office of the Public Defender. One event was the recent appointment of several new members to the Public Defender Commission who, upon their appointment, sought direction in clarification of their roles as Commissioners and in the identification of objective criteria for evaluating the performance and functioning of the Public Defender Office. The Public Defender Commission asked the County Board for assistance in the form of contracting for an independent, outside evaluation of the Public Defender Office’s current management and operations. The evaluation was also expected to include a set of recommendations to enhance the functioning of the Public Defender Office.
An additional series of events contributing to this evaluation was the terminations of the prior Director of the Public Defender Office and, subsequently, of the Acting Director who succeeded him. Both terminations took place against the background of public scandal. The current Director has held office under successive short-term appointments by the Commission since August 1995, but is currently serving without an appointment for a term of years.

The Evaluation Team recognizes the critical nature of the issues facing Montgomery County and the Public Defender Commission, and has striven to provide its members' best judgment as to the means of ensuring that the County and its citizens will have a public defender system in which it can take pride and which will best serve the citizens of the County.

II. MONTGOMERY COUNTY CRIMINAL ADJUDICATION SYSTEM

Located in Southwestern Ohio, Montgomery County has a land mass of 465 square miles and is the fourth most populous county in the state. Its largest city, Dayton, comprises about a third of the county's population.

Although the County is approximately 16% African-American, the City of Dayton is about 47% African-American. Close to 70% of the Public Defender Office's clients are African-American, a number highly disproportionate to the County's population.

A. The Courts

All adult misdemeanor and felony cases in Montgomery County originate in the lower courts. There are five lower courts supported by their respective local governments: Dayton Municipal Court, Kettering Municipal Court, Vandalia Municipal Court, Miamisburg Municipal Court, and Oakwood Municipal Court. Two additional lower courts, First District Court and Second District Court, are located in unincorporated areas, and therefore come under the County's budget and jurisdiction. The judges in the District Courts serve on a part-time basis and have their own private law practices. For example, District I has 3 part-time judges.

Misdemeanor cases are heard from start to finish in the lower courts. In felony cases, there is an initial arraignment in the lower courts. All preliminary hearings are also heard in the lower courts.

In felony cases, once there is an indictment or the case is bound over after a finding of probable cause, the case is transferred to the felony court, which is the Court of Common Pleas of Montgomery County, for trial. Approximately 80% of the county's felony caseload consists of cases where the accused is financially unable to retain a private lawyer, and therefore requires the appointment of counsel. The Court of Common Pleas houses eleven (11) felony courtrooms.

Juvenile cases are heard in the Montgomery County Juvenile Courts which are housed in two separate locations in Dayton. The court's judicial complement consists of two judges and twelve magistrates. Cases heard include juvenile delinquency matters as well as dependency, abuse and neglect.
Juvenile Court also has jurisdiction over cases involving child custody, visitation, child support enforcement, and parentage. Cases involving contempt for failure to pay child support may be heard in the juvenile or adult courts, depending upon how the issue arose.

B. The Caseloads

The caseloads in the Montgomery County felony courts have increased over the past two years after declining in 1997. In 1996, the Montgomery County Court of Common Pleas processed 3,809 cases. In 1997, the number dipped to 3,285. However, in 1998, the number climbed to 3,786. Preliminary figures for 1999 indicate that the number of criminal cases coming through the Court of Common Pleas has continued to rise.

Without further study, it is difficult to determine the factors responsible for the increase in felony court cases. One of the factors noted by system participants in interviews with the evaluators was the prosecution’s decision to charge crimes not charged in prior years, e.g., “residue” cases involving the chemical residue of drugs in drug paraphernalia. These cases consume a substantial amount of time of courts, prosecution, and the Public Defender Office – resources which were not required in previous years.

In 1997, the juvenile courts processed 10,275 delinquency matters and 1,618 abuse, dependency and neglect referrals.

C. Pretrial Release

There are seven pretrial release options used in the county: Release on Own Recognizance (ROR); Conditional Release to Pretrial Services (COR); Conditional Release plus home arrest; surety (bail bondsman); COR plus a payment of cash; pledge of property; and 10% bond through the court.

The Court of Common Pleas employs a Pretrial Services Department which screens pretrial detainees and makes recommendations on pretrial release to the judges.

The County still uses bail bondsmen as sureties in serious felony cases unless the court orders otherwise. Ten percent bond through the court is used only in less serious cases. It may be noted that the American Bar Association, in its Pretrial Release Standards, Standard 10-5.5, urged that, “Compensated sureties should be abolished.”

The Pretrial Services Department estimated that 50% of all persons charged with felonies in Montgomery County are detained pending disposition of their cases. In 1989, there was a lawsuit challenging jail overcrowding and other conditions of confinement. As a result, the County added a wing to its jail and hired a corrections consultant who makes periodic trips to inspect the jails.

Despite adding a wing to the jail, there are times when the jail's double bunks are full, and the excess detainees are shipped to Dayton's city workhouse. This results in an extra expense to Montgomery County, which must reimburse the City of Dayton for housing individuals charged with
offenses prosecuted in the county courts. The Dayton Municipal Court has been somewhat uncooperative in allowing its pretrial misdemeanants to be screened for pretrial release and supervision, and this further compounds the drain on the County's resources.

D. Office of the Prosecuting Attorney

The Montgomery County Prosecutor's Office employs approximately 90 assistant prosecutors. In addition, there are 11 supervisors. In all, the Prosecutor's Office is staffed by 192 full-time and nine part-time employees.

The office has a number of divisions, including: appeals, consumer fraud, criminal, aggravated murder, violent crimes, fraud and economic crimes, welfare theft, victim/witness, victims of crimes, violence against women, juvenile delinquency, child protection, child abuse, child support enforcement, and civil. The civil division has a staff of 12 full-time employees.

The total 1998 budget for the Prosecutor's Office was over $10 million. The Prosecuting Attorney and his staff are located in a suite of offices on the fifth floor of the Court of Common Pleas.

E. Criminal Defense System

Montgomery County's criminal defense scheme consists of a rather small private criminal bar, which handles retained and court-appointed cases, and an organized, County-funded Public Defender Office. Data on the comparative percentages of the judicial system criminal case workload handled by each category of counsel is available only on felony cases. In 1998, retained counsel handled 23% of the cases disposed in Common Pleas Court; court-appointed counsel handled 37% of the disposed cases; and the Public Defender Office handled 40% of the cases. In 1997, the respective percentages were 21%, 30% and 48%.

The Public Defender Office handles all indigent misdemeanors except conflict cases in the lower courts throughout the county and shares the indigent felony and juvenile caseloads with court-appointed counsel. The Public Defender Office has 40 attorneys and 23 support staff. There are 150 private attorneys on the court-appointed counsel list maintained by the Court Operations Department. The budget of the Public Defender Office in 1998 was approximately $3.2 million; appointed counsel payments during that same year were approximately $1.7 million. In 1998, the County received reimbursement from the state for approximately 42% of the annual costs of the appointed counsel system and approximately 46% of the cost of the Public Defender Office. The following two chapters describe Montgomery County's indigent defense scheme in more detail.

III. MONTGOMERY COUNTY INDIGENT DEFENSE SYSTEM

A. Historical Background

In the early 1970's, the Model Cities Program provided seed money for a program that
provided lawyers for the poor in both civil and criminal cases. This program predated the establishment of the Montgomery County Public Defender Office. Prior to the Model Cities Program, Montgomery County relied exclusively upon the services of court appointed counsel for its indigent defense needs.

In 1968, Congress established the Law Enforcement Assistance Administration (LEAA). LEAA distributed federal funds earmarked for improvements in the criminal justice system through State Planning Agencies in each state of the union.

In the aftermath of the U.S. Supreme Court's 1972 decision in Argersinger v. Hamlin, counties throughout the country that had previously relied on court-appointed counsel to assist indigent felony defendants recognized the need for organized defender systems to provide counsel for thousands of individuals charged with jailable misdemeanors.

In 1973, LEAA published the report of the National Advisory Commission on Criminal Justice Standards and Goals (NAC). The specific standards and goals enunciated in the report were designed to aid the State Planning Agencies in establishing plans and priorities for the expenditure of the LEAA monies. One of the Standards promulgated in the NAC's report read as follows:

Services of a full-time public defender organization, and a coordinated assigned counsel system involving substantial participation of the private bar, should be available to indigents accused of crime. Cases should be divided between the public defender and assigned counsel in a manner that will encourage significant participation by the private bar in the criminal justice system.

In an effort to comply with the new directives, the LEAA State Planning Agency for Ohio contacted the National Legal Aid and Defender Association (NLADA) and requested that NLADA conduct a feasibility study and plan for the establishment of a public defender system in the State of Ohio.

Prior to 1976, Ohio had no state statute whatsoever relating to public defenders. The law that led to the present system was drafted and shepherded through the Ohio State legislature by leaders of Ohio's criminal justice community, including the Honorable John Kessler, who was at that time a practicing attorney.

In January, 1976, the legislature enacted a statute establishing a statewide organized defender system headed by a state public defender commission and a state public defender with a central office in Columbus.

The Ohio statute offered four options to counties for providing defense services to the indigent accused: (1) contracting with the Ohio State Defender or nonprofit organizations to provide defense services; (2) establishing a county public defender system; (3) establishing a joint county public defender system whereby two or more counties share defender services; and (4) use of an assigned counsel system. Counties were also authorized to use a combination of those models.
The new law provided a sweetener to encourage the establishment of county public defender offices throughout the state. The State would finance a major share of the cost of the County Public Defender Office by reimbursing half of the county's indigent defense expenditures.

Montgomery County elected to form a Public Defender Office combined with an assigned counsel system. The objective was to have each of the two systems handle a substantial number of the county's indigent defense cases. The functions of the parallel systems are, to some extent, intertwined as described in section C.3.a., below.

B. Financing for the Indigent Defense System

As previously mentioned, the costs of counsel for misdemeanor cases originating in the incorporated areas of the county are borne by the five separate municipal governments. According to the State's administrative code, county public defender commissions may contract with municipalities to provide legal representation of indigent persons charged with violations of municipal ordinances. (See Ohio Rev. Code, Chapter 120, sec. 120-1-09) In fact, the Montgomery County Public Defender has entered into contracts with each of the municipalities in the county to provide indigent defense services. The County bears the cost of misdemeanor representation in the two unincorporated districts.

The costs of providing public defender and appointed counsel services in felonies and juvenile matters are borne by the County. Assigned counsel fees are paid not from the Court of Common Pleas budget, but directly from County revenues.

Pursuant to statute, the State of Ohio, through the Office of the Ohio Public Defender, reimburses the county for up to 50% of assigned counsel and public defender costs. (See Sections 120.33 and 120.35 of the Ohio Revised Code and the "Standards and Guidelines for Appointed Counsel Reimbursement" and "County Public Defender Office Reimbursement Standards" promulgated by the Ohio Public Defender.)

The annual percentage of state reimbursement depends upon the competing indigent defense expenses of the various counties and the amount of state appropriations. Currently, county reimbursements are provided for approximately 46% of indigent defense expenditures.

C. The Public Defender System

1. Role of the Ohio Public Defender

The relationship between the state agency and the county public defenders is primarily a fiscal one. The state agency has established guidelines for reimbursement of appointed counsel systems and public defender offices, determination of client eligibility, and maximum fee schedules for appointed counsel. In accordance with state law and administrative rules, the Ohio Public Defender provides each county with a set of poverty guidelines, income eligibility application forms, and instructions in how to apply the guidelines.
However, beyond these financial criteria, the state agency has not promulgated any standards for the operation of defender offices. The state appears to defer to the counties with regard to internal office operations.

The Ohio Public Defender Office does take an active role in assisting county public defender offices to take full advantage of the state reimbursement program, and provides on-site technical assistance to counties experiencing budget shortfalls. Also, upon request from a county public defender, the Ohio Public Defender will provide representation for appeals. The state agency also handles post-conviction cases statewide.

2. Role of the County Public Defender Commission

Unlike the state agency, the County Public Defender Commission has direct powers over the County Public Defender office. Pursuant to Ohio Rev. Code, sec. 120.14, it appoints the Chief Public Defender and may remove him or her for good cause. The Commission determines the qualifications and size of the defender office staff and the facilities and resources needed to maintain and operate the office.

The Public Defender Commission has several responsibilities to the County Board of Commissioners: (a) recommending the Public Defender Office's annual operating budget; (b) making annual reports; and (c) making monthly cost and case data reports for the purpose of securing State reimbursement. These roles help to ensure both that the County's indigent defendants are adequately served and that the County receives the maximum allowable reimbursements from the State.

The Public Defender Commission is vested with the authority to enter into contracts with municipalities to provide legal representation in ordinance cases.

Finally, the Commission has special duties to insure that the Public Defender Office complies with standards and reporting requirements established by the Ohio Public Defender Commission, the State Public Defender, and state statutes and other laws relating to county public defenders. For example, the Commission has the responsibility of insuring that the County Public Defender complies with statutory provisions relating to public defender duties and determines the circumstances under which local public defenders must provide representation (Ohio Rev. Code, secs. 120.15 and 120.16).

3. Relationship to the Assigned Counsel System

a. Relative caseloads of the two systems

Various reports were reviewed to assess the absolute numbers of cases handled by the Public Defender Office as well as the relative percentages of indigent felony cases handled by the public defender and assigned counsel systems. A comparison of the relative percentages of indigent felony cases handled by the Public Defender Office versus court-appointed counsel over a three-year time period shows that public defenders handled a larger portion in 1998 (36%) than in either of the two prior years (32% in 1996 and 31% in 1997). Accordingly, the percentage of indigent felony cases handled by court-appointed lawyers declined in 1998 (63%) over 1996 (69%) and 1997 (69%).
A recent court administrator’s report shows that the Public Defender Office’s total felony caseload increased during the first part of 1999 over the same time period in 1998. To be specific, during the first five months of 1999, the Public Defender's Office handled 621 felony cases versus only 576 felonies in the first five months of 1998. (See tabular reports, "Comparison of Cases Accepted by Appointed Counsel, 1998-1999" and "Comparison of Cases Accepted by Public Defender’s Office, 1998-1999, " in Appendix F).

The relative proportions of the County’s total indigent caseload handled by the Public Defender Office and assigned counsel for calendar year 1999 can only be roughly approximated at this time, since the most recent report received by the evaluators covers less than half of the year. During the first five months of 1999, the public defender’s proportion of the indigent caseload decreased from the proportion in a comparable period in early 1998. Assigned counsel handled 620 Common Pleas cases during the first five months of 1998, and 877 for the same time period in 1999. Therefore, the percentage of indigent felony cases handled by public defenders declined from 48.2% in the first part of 1998 to 41.5% in the first part of 1999. During that time period, the Common Pleas Court’s indigent criminal caseload increased to 1,498 cases in the beginning of 1999, from only 1,196 indigent cases for the same time span in 1998. Of course, when the final figures are available for calendar year 1999, these percentages may change.

It should be noted that, when the totals from all of calendar year 1998 were tallied, public defenders handled only 36% of the indigent felonies and not 48% as the ’98 partial year’s figures would indicate. Therefore, the 1999 partial year’s tally of 41.5% would represent an increase in the portion of indigent felonies handled by the public defenders if the ratios were to remain constant for the rest of the year. Should this pattern continue for the balance of 1999, the public defender’s portion of the felony court caseload would be the largest than at any time in the past four years. Pending final figures for 1999, it can only be said at this time that the public defenders handled a higher percentage of the indigent felonies in 1998 than in either of the two prior years.

At this point, it is not possible to determine whether there is a definite uptrend or downtrend in the relative proportions of indigent felony cases handled by the parallel indigent defense systems. It can be said that the rough percentages of about 40% for the public defenders and 60% for assigned counsel have not changed appreciably since early 1980’s, when Montgomery County was visited by a research team from the National Defender Institute.

b. Sharing of services

Except in cases involving obvious conflicts of interest, the public defender office is responsible for representation of all indigent felony defendants at the lower court stage. Defendants are screened for financial eligibility by the defender office's intake workers. Defender office attorneys provide representation to all indigent defendants at the preliminary hearing stage.

Later, a portion of these defendants will be assigned out by the court administrator’s office to appointed counsel. This process results in a lack of continuity for those defendants who are assigned out, as the public defender’s case file will not be given to the court-appointed lawyer. In cases
where a plea agreement was offered at the lower court stage, the court-appointed counsel may not become aware of it.

Another overlap of the parallel systems relates to investigation. Court-appointed counsel will not be reimbursed by the court for hiring private investigators. Should they wish assistance in investigating their indigent cases, they are entitled to utilize the investigative staff of the Public Defender Office.

D. The Assigned Counsel System

Each of the courts has its own separate administrative system for appointing and compensating assigned counsel. For example, court administrators for the Common Pleas Court do not process vouchers for counsel appointed by the Juvenile Court. The evaluators were informed by a Juvenile Court administrator that the Juvenile Court has no statistical system for keeping track of the relative numbers of public defender and assigned counsel appointments. While the County Office of Management and Budget produced a comparative analysis for the years 1993-1995, no firm figures are available for the most recent years.

1. Cost of Assigned Counsel

According to the records of the Court of Common Pleas, a total of $918,239 was paid to court-appointed counsel during calendar year 1998 for the handling of 1,388 felony cases. This amounts to an average of about $662 per case.

The figure of $918,239 for 1998 felony cases represents an increase in assigned counsel costs from the two previous years. The cost of assigned counsel for felony cases was $682,148 in 1997 and only $643,188 in 1996.

Montgomery County paid out a total of $1,708,394 in appointed counsel expenses for 1998. This higher figure includes assigned counsel costs of $718,525 for Juvenile Court cases. Also included are costs such as transcript fees.

It should be noted that the costs for assigned counsel given by the County are the direct costs only. They do not include indirect costs such as the time expended by judges in approving vouchers, the court administrators' time in contacting assigned counsel, reviewing vouchers, or operating the court's attorney fee recoupment program, and the county administrators' time spent in processing vouchers, seeking partial reimbursement from the State of Ohio, or calculating the amounts needed to reimburse the State for the excess of the State's reimbursement due to amounts subsequently received by the County through recoupment.

In 1998, the State of Ohio reimbursed Montgomery County in the amount of $704,875, or 41.6% of the County's direct assigned counsel expense.
2. Recoupment

Ohio's recoupment statute, R.C. 120.05(D), requires that, "if the person represented has, or may reasonably be expected to have, the means to meet some part of the cost of the services rendered to him, he shall reimburse the state public defender in an amount which he reasonably can be expected to pay."

The Public Defender Office does not engage in recoupment from its clients for the cost of its services. However, the Court Operations Department does have a program for recoupment of the cost of assigned counsel.

The Court Operations Department collects full or partial reimbursement from the clients of court-appointed counsel, depending upon their ability to pay. To date, the recoupment program has operated at a net loss to the County, taking account of the costs of administration.

Part of the reason why recoupment has not been profitable is that the County must return a portion of the funds collected from recoupment to the State, since the State has already provided some state funds to pay assigned counsel. Of the $49,479 recouped in calendar year 1998, 41.6% went back to the State Public Defender Office to help defray the state's partial reimbursement of the cost of assigned counsel.

Apart from the statutory basis for recoupment, the rationale for recoupment was explained by a member of the Montgomery County judiciary as follows: In many cases, the defendant may have a good-paying job with a company such as General Motors, but may still feel that he is unable to afford a lawyer for a serious felony. In order to prevent the defendant from being forced to represent himself, the notion that the defendant may repay some of the cost of counsel gives the courts a rationale to appoint counsel even though the defendant is employed.

3. Operation of the Assigned Counsel System

The felony assigned counsel panel is maintained by the Court Operations Department of the Common Pleas Court. The function of maintaining the list of attorneys and contacting them falls to an administrator whose primary job is to supervise the case management specialists who manage the judges' dockets.

This administrator maintains the list of assigned counsel attorneys on a quatro pro spreadsheet. He tracks the number of cases that each attorney has handled during the year, and also keeps track of the number of times that an attorney has refused to accept a case. He goes through the list each year, and sees to it that attorneys who refuse cases repeatedly are eventually purged from the list. Attorneys are rarely, if ever, removed from the assigned counsel list for reasons of inadequate representation. Removal requires approval by the judges.

At the time of the National Defender Institute's Private Lawyer Study in 1983, 212 attorneys, about 1/4 of Montgomery County's private bar, participated in the assigned counsel panel. In
1999, the number of attorneys participating in the assigned counsel panel has dropped to approximately 150 in all. Due to the dwindling number of members of the private bar available to handle court-appointed cases, the County budget staff and the courts may be forced to consider allocating a greater percentage of indigent cases to the Public Defender Office, and increasing staff accordingly, over time.

There are a variety of reasons for the attrition. According to the administrator of the program, some of the attorneys agreed to be on the assigned counsel list only because a judge personally requested it. Another reason, established in the 1983 National Defender Institute study, was that the private bar was upset when the assigned counsel fee schedule was changed from an hourly rate to a flat fee schedule, with hourly rates for special services and fee caps. The private bar at that time indicated that the fees did not even cover their office overhead for the time spent on indigent cases. Finally, according to the assigned counsel administrator, many appointed counsel are "burnt out" by the unpleasant experience of having clients complain to the court about the inadequacy of their representation.

Felonies are classified by state criminal statutes according to seriousness. The assigned counsel panel is stratified accordingly. The most junior attorneys are approved to handle only 3rd, 4th and 5th degree felonies. After one year on the panel, an attorney may file an application to the court's Criminal Practice Committee to be allowed to handle 1st and 2nd degree felonies as well. Approximately 60 attorneys are currently approved to handle all classes of felonies. Only about 12 are approved to handle capital cases, and these attorneys must be certified by the Ohio Supreme Court.

4. Training Requirements for Assigned Counsel

When the assigned counsel panel was first established, panel members were required to attend a two-day seminar. The training requirement has since been reduced to a one-day seminar. The seminar is offered by the Dayton Bar Association, but presented by staff of the Public Defender Office.

5. The Assigned Counsel Voucher Process

Assigned counsel must complete their vouchers within 30 days of disposition and turn them in to the Financial Manager in the Court Operations Department. The steps in the process are as follows:

- the attorney completes a “pay packet” and places it in the in-box at the reception desk of that department. (If an attorney fails to turn the payment request in within 30 days after sentencing, he/she does not get paid, even if the attorney's reason for filing late is that his/her work is not completed because the defendant is still on shock probation.)
- the receptionist takes the voucher package in to the Financial Manager, who checks the computation and makes sure that the request falls within the fee schedule. If it does not, he cuts the fees to correspond appropriately.
- the judge who heard the case must then approve the voucher.
- the voucher then goes back to the Financial Manager for use in compiling statistics, and is sent on to the county's OMB to process for payment.
- OMB enters the case and payment information into the assigned counsel database, using the information to complete "blue sheets" which are sent to the Auditor's Office.
- the Auditor's Office audits the payment, as it does with other payments made by the County.
- the County Auditor certifies the amount to the State Auditor for partial reimbursement to the county.
- the State sends a check to OMB.
- the amount of the state reimbursement is entered into the data base by OMB, to monitor state reimbursement of cases.

The voucher process is a laborious and costly one for the County. However, the process was implemented to ensure that the County maximizes its reimbursement from the State.

IV. OPERATION OF THE PUBLIC DEFENDER OFFICE

A. Overview of the Public Defender System

1. Original Organization of the Public Defender Office

The Montgomery County Public Defender Office was established shortly after the enactment of the Ohio defender legislation in 1976. (See Ohio Rev. Code, Ch. 120.) The first Chief Public Defender for the county was John Kessler, who has since become a Common Pleas Court judge.

In 1983, the National Defender Institute (NDI) selected Montgomery County, Ohio, as one of the sites for a Federal Government-funded research study on the role of private counsel in indigent defense. At the time of the NDI study, the Montgomery County indigent defense system functioned much as it does today.

The NDI report noted that the Public Defender Office handled about 40% of the indigent felonies in the County and all of the indigent misdemeanors except for conflicts cases. Other cases handled by the defender office included juvenile delinquency, parole and probation revocation, extradition, and appeals. The staffing of the defender office was somewhat smaller then, with only 18 full-time attorneys -- slightly less than half of today's office.

In 1983, the initial stages of felony representation were handled much as they are today. The defender office's intake workers screened all arrestees who lacked private counsel for financial eligibility and filled out the appropriate forms, regardless of whether the arrestee would eventually become a defender office client. Defenders handled all preliminary hearings for indigent felony defendants unless the hearings were waived.

The 1983 research team heard complaints made by jail officials, inmates, and assigned counsel about the lag time between arrest and initial interview with a defender attorney, and there was
a complaint that the defenders' policy of waiting so long before interviewing clients resulted in their giving statements to the police.

The NDI report also described another aspect of the office that prevails today -- that the defender office, after the felonies were bound over to the Court of Common Pleas, referred about 60% of the indigent felony cases to the court for assignment of appointed counsel. The defender office also determined which of their cases would be assigned out based on the defender office's caseload and logistics.

The NDI report found both strengths and weaknesses in what it dubbed a "hybrid" indigent defense system. One of the weaknesses was the lack of coordination between the sister indigent defense systems, in that defendants appeared to suffer from lack of continuity when the Public Defender Office represented a defendant at the preliminary hearing stage and failed to pass along file information to court-appointed counsel. Another weakness was the lack of back-up and adequate supporting services for court-appointed counsel such as motion and research banks, advice on case strategy, research assistance, or social services to assess psychological problems of clients.

However, the report found that, on balance, having a defender office in the jurisdiction served to improve the overall performance of representation to indigent defendants in the County, even when representation was provided by appointed counsel. One of the strengths was that, although public defenders entered the case far too late in the game, the entry point for indigent defendants was still earlier than in other jurisdictions that had no public defender system at all. Another strength of the hybrid system was that it provided an overflow valve that helped to alleviate excessive caseloads.

2. Overview of the Current Defender Office

The 1998 budget for the Public Defender Office totaled slightly over $3 million. The office is staffed by 40 full-time attorneys and 23 support staff, two of whom serve on a part-time basis.

Up to and including the period of this review, the public defenders have been housed in two locations. The majority of the staff are located in the windowless basement of the courthouse in Dayton. The attorneys and support staff serving the Juvenile Court and the outlying misdemeanor courts are located in above-ground offices in a separate facility a few blocks away. The entire public defender staff is scheduled to relocate to newly renovated space in the Reibold Building in November, 1999. The new building is less than a mile from the courthouse. In addition, the Chief Public Defender has been promised some space in the courthouse for public defenders to meet with clients and place telephone calls.

One of the strengths of the office is in the experience and longevity of its staff. A number of the attorneys and support staff have been with the program since the 1980's. The attorneys' experience no doubt correlates with the fact that the judges have praised their trial skills and compared them favorably with court-appointed counsel.

Demographically, 8 of the 40 attorneys, or 20%, are minorities and 5 of the 23 support
staff, or 22%, are minorities. Seventeen of the 40 attorneys, or 42.5%, are female, including the Chief Defender.

There are six managerial positions in the office. These include: (1) Chief Public Defender, (2) Deputy Defender, who also supervises the felony attorneys, (3) supervisor, Dayton misdemeanor attorneys, (4) supervisor, juvenile delinquency and outlying court misdemeanors, (5) supervisor, juvenile abuse, neglect, and dependency cases, and (6) support staff supervisor (supervision over secretaries, paralegals, investigators, and the mitigation specialist). None of the supervisory positions are held by minority members; two are females.

The current Chief Public Defender added some of these supervisory positions approximately two years ago. By so doing, she not only helped to establish the rudiments of a career ladder, but also delineated clear-cut departments and provided the potential for monitoring performance levels.

Another innovation instituted in the Public Defender Office is an entry level training program for new attorneys. While the substance of the training program will be discussed in a later section, it should be noted that this is a step in the right direction. The office also follows a liberal policy with regard to allowing staff members to attend outside seminars. This policy helps to enhance the level of performance in the office.

B. Determination of Financial Eligibility for Defender Services

1. Eligibility Criteria and Procedures

Criteria for determination of eligibility are mandated by: a) state statute (Ohio Rev. Code, see. 120.15), b) the Ohio Public Defender Commission Standards of Indigency contained in the Administrative Code (sec. 120-1-03), and c) the County Public Defender Reimbursement Standards of the Ohio Public Defender.

According to state statute, eligibility for legal assistance is to be determined by the County Public Defender, subject to review by the court. In determining eligibility, the defender office is required to use the "Financial Disclosure/Affidavit of Indigency" form supplied by the State unless the county submits its own form to the Ohio Public Defender Commission for review and approval. The State's form is used by the Court Operations Department for court-appointed counsel.

The Montgomery County Public Defender Office in each case employs one of two financial disclosure forms: a short "Intake Referral Form" or a longer "Financial Inquiry" form that more or less resembles the State's prescribed form. The Ohio Public Defender Commission approved the County Public Defender's "request for variance" to use the two forms in mid-1996. In conjunction with these forms, the Montgomery County Public Defender Office employs its own Affidavit of Indigency signed by each defendant, plus the "Ohio Public Defender Indigent Client Guidelines" which are based on the poverty income guidelines of the U.S. Dept. of Health and Human Services (HHS).
The Ohio Public Defender's household income guidelines are applied by the Montgomery County Public Defender as follows. If the household's funds are either less than or between 125% and 187.5% of the HHS guidelines, the person will be provided with representation. These rates are as prescribed by the Ohio Administrative Code (sec. 120-1-03(B)).

It is important to note the critical test for determining eligibility. This test is prescribed by the Ohio Administrative Code (sec. 120-1-03(A) and recently reiterated by the Ohio State Public Defender office, to wit: "The pivotal issue in determining indigency is not whether the accused ought to be able to employ counsel, but whether the accused is in fact, able to do so." In other words, if an accused technically falls outside the HHS guidelines, but is unable to produce a sufficient retainer or to find an attorney willing to agree to affordable installment payments, the State Public Defender Commission has determined that representation should nevertheless be provided to that individual by the County.

In the Montgomery County Public Defender Office, the initial determination of client eligibility is made by the intake eligibility screeners who are classified for budgetary purposes as "investigators," but whose investigatory function is limited to determining eligibility and having arrestees fill out the intake forms. Of the six slots classified in the office's budget as "investigators," four individuals are dedicated to the administrative function of eligibility screening and intake. Two of these individuals perform eligibility screening in the jails and two perform this function at the office's two sites for individuals on bail.

At least one instance was reported to the Evaluation Team when a judge complained about the public defender's agreement to represent a defendant after, unbeknownst to the Public Defender Office, the judge had already declared the defendant to be ineligible. This indicates a need for better communication and consensus between the public defender office and one or more courts within the County.

The Ohio statute and regulations are consistent with national standards. For example, the National Advisory Commission on Criminal Justice Standards and Goals (NAC), Chapter 13, Standard 13.2, recommended that:

1. Counsel should not be denied to any person merely because his friends or relatives have resources adequate to retain counsel or because he has posted, or is capable of posting, bond.
2. Whether a private attorney would be interested in representing the defendant in his present economic circumstances should be considered.
3. The fact that an accused on bail has been able to continue employment following his arrest should not be determinative of his ability to employ private counsel.

Similarly, the American Bar Association's Standards for Criminal Justice: Providing Defense Services, Standard 5-7.1, recommended as follows:
Counsel should be provided to persons who are financially unable to obtain adequate representation without substantial hardship. Counsel should not be denied because of a person's ability to pay part of the cost of representation, because friends or relatives have resources to retain counsel, or because bond has been or can be posted.

The National Study Commission on Defense Services would have approved of the procedure prescribed by the Ohio Legislature for making the eligibility determination. The NSC suggested that:

The financial eligibility of a person for publicly provided representation should be made initially by the public defender office or assigned counsel program subject to review by a court upon a finding of ineligibility at the request of such person...

In sum, the Evaluation Team finds that the system employed in Montgomery County for determining client eligibility meets national standards.

**RECOMMENDATION:**

The Public Defender should meet with members of the judiciary to share information regarding the Public Defender Office's legislative mandates, eligibility guidelines, and office procedures in order to ensure a common understanding and consensus regarding eligibility determinations.

2. **Recoupment**

The Ohio Administrative Code (sec. 120-1-05) states that the Ohio Public Defender Commission supports the development of recoupment and partial payment programs for marginally indigent defendants. However, the Code also cautions that, "any such programs should not jeopardize the quality of defense provided or act to deny representation to qualified defendants."

The Evaluation Team has ascertained, from meeting with Court Operations staff, that the recoupment program employed to recover funds from the clients of court appointed counsel has, to date, operated at a net loss to the County. This result relates in part to the fact that the County, which receives up to 50% reimbursement from the State for the cost of court-appointed counsel, must also return to the State a proportionate amount of any funds recouped. (For additional discussion of this topic, see Chapter III.D.2. above.)

The Public Defender Office does not currently employ a program for recouping monies from their clients. In mid-1996, the Ohio State Public Defender office gave a preliminary go-ahead for the Montgomery Public Defender Office to use an "up-front contribution plan" for individuals falling between 125% and 187.5% of the HHS poverty guidelines whereby those individuals would pay $20 as an up-front contribution.
Given the court's experience with recouping funds from appointed counsel clients, it is difficult to see how it would benefit the county if the scarce resources currently allocated to the Public Defender Office were diverted to implementing a full-fledged recoupment program. Requiring the Public Defender Office to perform additional duties, such as recoupment, without providing additional staffing might jeopardize the quality of defense provided.

RECOMMENDATION:

The Public Defender Office should not be required to implement any recoupment program without new funding and staff earmarked for that purpose.

C. Scope of Services and When Representation is Provided

1. Scope of Services Required by Law

County Public Defenders are mandated under the Ohio defender law (Ohio Rev. Code, sec. 120.16) to provide legal representation to indigent adults and juveniles charged with violating state statutes involving a potential loss of liberty. In addition, County Public Defenders are authorized to provide representation to adults and juveniles charged with municipal ordinances if the municipalities pay for the service by entering into contracts with the County Public Defender Commission.

The County Public Defender is required to provide representation "at every stage of the proceedings following arrest, detention, service of summons, or indictment." (Ohio Rev. Code, sec. 120.16(B)). Furthermore, information regarding the right to legal representation must be provided to arrestees "immediately upon arrest, when brought before a magistrate, or when formally charged, whichever occurs first." (Ohio Rev. Code, see. 120.16(F)).

While representation for pretrial and trial level proceedings is mandated by state statute, public defenders are given the option of deciding whether or not to provide representation in parole and probation revocation matters.

In addition, County Public Defenders are to provide representation in appeals and post-conviction proceedings when they are satisfied that the case has arguable merit. If the County Public Defender decides that the interests of justice require it, he or she may request the Ohio Public Defender to handle an appeal or post-conviction matter.

2. Scope of Services and Initial Provision of Counsel in the Montgomery County Public Defender Office

Currently, as mandated by state statute, the Montgomery County Public Defender Office provides representation to adults and juveniles charged with violating the state's criminal laws. In addition, the County Public Defender Commission has entered into contracts with municipalities to
provide representation to indigents accused of ordinances involving a possibility of incarceration. Accordingly, in 1998, the Public Defender Office provided representation for 16,013 cases in the following courts: Dayton Municipal Court, Kettering Municipal Court, Miamisburg Municipal Court, Montgomery County District I Court, Montgomery County District II Court, Oakwood Municipal Court, and Vandalia Municipal Court.

In 1994, a civil unit was added to the juvenile division of the Public Defender Office to provide representation in cases of dependency, neglect, abuse, custody, and non-support contempt. The felony division handles non-support contempt charges arising out of the Court of Common Pleas' domestic relations department.

In addition, the Public Defender Office provides representation for parole and probation revocations, extraditions, post-conviction motions, and appeals. One assistant public defender devotes full-time to handling adult felony appeals. The juvenile division's attorneys most often handle their own appeals.

With regard to how and when the Public Defender Office initially enters a case, the process is as follows. The law requires that an individual be arraigned in court within 72 hours of arrest. For example, a defendant arrested at 4:00 p.m. on Saturday in the City of Dayton would be brought to the "barrel" for initial arraignment on Monday. This applies to all arrestees, whether they are charged with felonies or misdemeanors.

No factual interview with these individuals is conducted by a public defender attorney either prior to arraignment or at the time of the arraignment, except, possibly, for some facts relating to bail. The attorney sees, but does not interview, the defendant. At the arraignment, the judge will assign the indigent cases to the Public Defender Office.

Next, the paperwork is brought back to the Public Defender Office, and later that day or the next morning, the secretaries get a list of which judge the defendant has been assigned to and checks to see which of the defender attorneys serves that judge's courtroom.

The public defender assigned to a given judge will receive the file on Tuesday or Wednesday, and would interview an incarcerated defendant in jail on Wednesday, Thursday, or, possibly, Friday. In sum, it is unlikely that an individual who has been arrested and detained in jail would have an opportunity to speak to a public defender sooner than 5 or 6 days after arrest.

The reported gap of at least five to six days between arrest and initial public defender interview was consistent among attorneys interviewed by the Evaluation Team, whether they were assigned to courts in Dayton or outlying local courts. This gap assumes that the lawyers in fact follow the prescribed office policy of interviewing office clients within 48 hours of assignment. If the attorney is too busy to get to the jail, the gap may be longer. A review of visitation records of approximately 40 Public Defender Office clients detained at the jail following their arrest indicated that they were routinely initially visited by their defender office attorneys within two to six days following their arrest.
Persons are not advised of their right to contact the public defender office when they are brought to jail. None of the public defender attorneys interviewed indicated that a newly arrested individual had ever phoned from the jail and talked to a public defender prior to court appointment.

On the plus side, the evaluators were informed that a new initiative was instituted recently whereby defendants in Dayton are given a card at arraignment with the Public Defender Office's telephone number and are allowed to phone the defender office and ask, "Who's my lawyer?"

Detainees at both the jail and the workhouse can make toll-free telephone calls to the Public Defender Office. As a matter of convenience, however, it was reported by both corrections staff and defender attorneys that the inmates appear to prefer having a friend or family member call the defender office for the inmate while he or she is on the line.

Management of the Public Defender Office was interviewed by the Evaluation Team and asked to identify the weaknesses of the office. The time gap between arrest and initial factual interview was not cited by office management as one of the deficiencies.

However, when the judiciary was interviewed, the response was different. One of the outlying local court judges observed that a need exists for the Public Defender Office to staff arraignments in the lower court. This judge complained about the need to accept un counselled pleas at arraignment, which he does not like, but does out of necessity. Although these pleas are for probation, in many instances, six to eight months later, the defendant is charged with violating probation and faces possible jail time. In the judge's view, these defendants need counsel early in the process so that they might realistically assess the possibility of jail time.

This judge also sees the need for immediate access to public defenders at arraignment for defendants expressing a desire for a trial. Currently, he refers these cases to the defender office for an indigency determination. The judge estimates that he sends 20 to 30 cases to the defender office for indigency determinations every week, and 5 to 10 of these do not return to court. He finds this delay and inefficiency difficult to understand. Moreover, the failures to appear at subsequent court hearings invariably result in greater inconvenience and disruption to the defendant's life when apprehension ultimately occurs.

This judge is not aware of any recent requests made to the defender office to provide staffing at these lower court arraignments. According to this judge's understanding, the Public Defender Office's decision not to staff these courts was made years ago, and no subsequent requests have been made. This judge recommended that the public defender have a dedicated telephone line installed in the jail.

Another outlying court judge indicated a desire to see the public defenders attend the arraignments and speak to defendants prior to arraignment. However, the judge did not feel that their staffing levels would permit these activities. This judge also would like to see the public defenders interview potential clients for representation prior to the initial appearance. Like the first judge, this respondent accepts un counselled pleas, and once attempted to proactively contact the defender office...
when an uncounseled defendant wanted to plead guilty, but was stymied by the fact that the new staff member as yet had no telephone.

To further compound matters, a group of Dayton Municipal Court judges observed that four to five of the assistant public defenders routinely fail to interview in-custody defendants. This matter, and issues related to quality of representation, such as conducting preliminary hearings and motion practice, will be discussed in a later section of this report.

Members of the faith community also expressed concerns about the length of time the accused had to wait before seeing their public defenders. One instance, which the team was not able to track down, was recounted wherein a parishioner was unable to see the public defender until four months after his arrest despite his telephone calls to the lawyer assigned to represent him.

As part of the evaluation process, the Evaluation Team reviewed a sampling of the public defender office's internal case files. This was not designed to be a scientific case sampling, but merely a means of obtaining a sense of how cases are handled in the office. One indicator that struck the evaluators was the fact that defendants were making incriminating statements to the police before the public defender ever received the file.

Without a means for arrestees to contact the defender's office prior to court appointment, it is impossible to meet the requirements of the U.S. Supreme Court's decision in Miranda v. Arizona. This inability ensures that there will be uncounseled confessions prior to the public defender's receiving the case.

This delay can be very deleterious to the outcome of a case and may result in ineffective assistance of counsel. It may result in perishable evidence being lost, witnesses being compromised or forgetting key details, loss of employment by the accused, and even unfounded confessions.

In juvenile cases, decisions are made at the initial appearance that may determine the outcome of the case before an attorney ever sees the client. This fact was stressed by a Juvenile Court official, who decried the fact that public defenders are not present at pretrial conferences, review of detention, and other matters that occur before the formal detention hearing. He cited some horror stories about situations that could have been avoided by earlier interventions by the attorneys.

The lack of early entry may correlate with the inability of many pretrial detainees to be released pending trial. Because public defenders are not there helping defendants to get out of jail, it is possible that some defendants might plead guilty to an offense they did not commit or to a prosecutor's overcharge just to keep their jobs or remain out of jail.

Finally, it should not be overlooked that early contact with the Public Defender Office may have an impact on a defendant's rehabilitation and may help to lower the rate of recidivism. By entering the case at an early stage, the defender office may be able to refer the defendant to alcohol, drug or vocational counseling programs prior to trial. By the time of sentencing, the defender office's mitigation specialist may be able to report the defendant's progress to the court, which could influence the
defendant's sentence and the defendant's future ability to obey the law.

In sum, the general practice of waiting at least five or six days to conduct any factual interview with individuals arrested for a crime is inconsistent with state law requiring county public defenders at every stage of the proceedings following arrest and to provide information regarding the right to legal representation to arrestees "immediately upon arrest, when brought before a magistrate, or when formally charged, whichever occurs first." (Ohio Rev. Code, sec. 120.16(F)).

3. National Standards Regarding Commencement of Representation

The current approach of the public defender agency with regard to initial case entry is out of step with national standards. The National Study Commission on Defense Services ("Guidelines for Legal Defense Systems in the United States", NLADA, Guideline 1.2) recommended that: "Effective representation should be provided for every eligible person as soon as: (a) The person is arrested or detained, or (b) The person reasonably believes that a process will commence which might result in a loss of liberty or the imposition of a legal disability of a criminal or punitive nature, whichever occurs earliest."

This view was supported by the National Advisory Commission on Criminal Justice Standards and Goals (NAC, Courts, Standard 13.1), which urged that public representation be made available "beginning at the time the individual either is arrested or is requested to participate in an investigation that has focused upon him as a likely suspect."

Similarly, the American Bar Association's Standards for Criminal Justice (Providing Defense Services, Standard 5-6.1) state that: "Upon request, counsel should be provided to persons who have not been charged or taken into custody but who are in need of legal representation arising from criminal proceedings. Counsel should be provided to the accused as soon as feasible and, in any event, after custody begins, at appearance before a committing magistrate, or when formal charges are filed, whichever occurs earliest. The authorities should promptly notify the defender... whenever the person in custody requests counsel or is without counsel."

In sum, the Public Defender Office is far from compliance with national standards with regard to providing representation at the earliest stages of the proceedings.

RECOMMENDATIONS:

1. The Public Defender Office should comply with Ohio laws and national standards requiring provision of counsel at the earliest possible stage of a case.

2. Additional staffing is needed for the Public Defender Office to provide representation at the earliest possible stage in both adult and juvenile delinquency and CSB matters. In the event that additional staffing cannot be provided, it is recommended that the public defender office reduce its caseloads by referring a greater number of cases to the appointed counsel system.

3. The Public Defender Office should develop a duty day system whereby each day a
lawyer is on call in the office to respond to queries (telephonic and in person) from the public. The lawyers could be assigned randomly and could include every lawyer in the office.

4. In implementing the duty day system, the Public Defender Office should provide training to its lawyers on how to deal with the public and should provide the lawyers with a duty day manual containing appropriate information regarding community referrals and resources.

5. Prospective clients should be able to phone the Public Defender Office and receive emergency legal advice from a lawyer, even if it is not the attorney who will eventually handle the case.

6. The responsibilities of the Public Defender Office should include jail checks to determine whether there are eligible persons in jail needing to consult with an attorney. Therefore, the duties of the public defender's eligibility intake workers at jail facilities should be expanded to include providing eligible persons with information regarding contacting the public defender office for early consultation.

7. Notices should be posted in all courts and detention facilities providing the telephone number to be used in contacting the public defender office, along with a notification that the defendant is not to speak to anyone before contacting his lawyer.

8. Continue to maintain, and to enhance as opportunities and needs dictate, the free access to free telephone contact with the defender office by inmates of both the jail and the workhouse.

9. The Public Defender Office should be provided with sufficient office space at the main courthouse to enable clients released on bail or members of their families to meet with their public defenders at an early stage of the proceedings. Similarly, public defenders should have office space available in outlying courts as needed.

4. Assistance in Obtaining Pretrial Release

One of the most critical functions of defense counsel at the early stages of representation is assisting an accused in securing release prior to trial. An accused who is out of jail can better assist his lawyer in marshaling facts and witnesses for trial. He can also maintain his employment, support his family, and save taxpayer dollars otherwise spent on incarcerating him and providing public assistance to his dependents.

The American Bar Association has enunciated its recommendations with regard to pretrial release as follows:

Policy favoring release and exceptions to release: The law favors the release of defendants pending determinations of guilt or innocence... Because deprivation of liberty pending trial is harsh and oppressive, subjects persons to economic hardship and psychological hardship, interferes with their ability to defend themselves, and, in many instances,
deprives their families of support, these standards limit the circumstances under which preventive detention may be authorized (ABA Pretrial Release Standards, 1985, Standard 10-1.1).

Montgomery County currently supports not only a county jail but a portion of the Dayton city workhouse, which provides housing for those pretrial detainees charged with state offenses who cannot be housed at the county jail due to insufficient beds.

The Pretrial Services Department of the Montgomery County Court of Common Pleas has estimated that approximately 50% of all persons charged with felonies are detained pending trial and disposition. In addition, public defender attorneys have indicated that a significant number of clients charged with misdemeanors are detained. While it appears that the Pretrial Services Department does a good job for the County, the existence of that department is not a substitute for effective legal advocacy regarding pretrial release.

A number of the Public Defender Office's attorneys reported that they do not make bond motions because the judges rely heavily on the recommendations of the Pretrial Services Department. One misdemeanor attorney reported that she once made an oral bond motion and another misdemeanor attorney reported that she often makes oral requests for bond review.

Although there is some use of oral bond motions, the public defenders do not present written bond motions in court. This fact was verified not only through interviews with public defender attorneys but also through an examination of a number of court files in the Court of Common Pleas. The systematic failure to take a more proactive role in achieving pretrial release may in part account for the overfilling of detention facilities in the County.

That is not to say that the public defenders totally abrogate their responsibilities to assist in securing pretrial release for their clients. Assistance in securing pretrial release is sometimes provided informally by providing new information to Pretrial Services or phoning the bailiff requesting a bond review. The bailiff can then call Pretrial Services and request that they update the information on a client. In some cases, this results in a change in the recommendation by Pretrial Services.

One judge reported that public defenders frequently waive preliminary hearings in exchange for bail reductions in circumstances where the prosecution has a weak case. While this does achieve the goal of assisting clients in pretrial release, it does so at great expense to effective representation. If this is an institutional practice, and the evaluators were advised that it is because of the office's view that the overriding concern in such situations should be the client's desire to obtain prompt pretrial release, the policy should be reviewed by public defender management.

The Public Defender Office plays a dual role in Montgomery County's criminal justice system. On the one hand, it is a public agency, and part of the "system." In that sense, there is an element of the need to be a "team player." On the other hand, the office has an obligation to the citizens of the County, including those citizens charged with crime and their dependents, to safeguard their rights and liberties. In that sense, it plays a stewardship role. Even the appearance of less than vigorous advocacy...
can be deleterious to the community and its perception of the role of the Public Defender Office.

The "Performance Guidelines for Criminal Defense Representation" established by the National Legal Aid and Defender Association recommends that: "The attorney has an obligation to attempt to secure the pretrial release of the client under the conditions most favorable and acceptable to the client." (Guideline 2.1, General Obligations of Counsel Regarding Pretrial Release) Also, see ABA Standards, The Defense Function (3d ed.), Standard 4-3.6.

In sum, the lack of vigorous and early advocacy on the part of the Public Defender Office in securing pretrial release for its clients is inconsistent with national standards and guidelines.

RECOMMENDATIONS:

1. The Public Defender Office should establish long-range goals and proposed policies with respect to assisting defender office clients in avoiding undue pretrial detention.

2. In appropriate cases, a written motion for bond should be filed and consideration given to appealing meritorious motions which have been denied.

3. Should the appellate staff of the county public defender office be insufficient to prosecute such appeals, consideration should be given to referring those cases to the Ohio Public Defender Office for review and appeal. In addition, the Chief Public Defender should work with the Ohio Public Defender to assure that the case law and statute are in line with Constitutional guarantees of reasonable bail.

4. The Public Defender Office should confer with County budget administrators and other agencies to work toward the common goal of minimizing the costs of pretrial incarceration.

5. Public defender management should review the frequency, under current office policy, with which staff attorneys waive preliminary hearings in exchange for bail reductions and the underlying circumstances in such instances. If merited, a new office-wide policy and related guidelines to achieve the goal of pretrial release without adversely affecting the interests of defender clients should be adopted. In addition, the Chief Public Defender should engage in inter-agency consultation and advocacy to change any policies and practices of collateral agencies that induce the high incidence of such waivers.

D. Staffing, Caseloads, and Staff Deployment

1. Attorney Staffing, Supervisory Structure, Workloads, and Salaries

One of the greatest strengths of the Montgomery County Public Defender Office has been its retention of a cadre of dedicated, experienced criminal law specialists. This is particularly valuable in a county that otherwise has a fairly small contingent of attorneys who make criminal law their specialty.
a. Attorney staffing levels and supervisory structure

There are currently 40 full-time attorneys in the office. This includes a Chief Public Defender and a Deputy Public Defender, both of whom now carry partial caseloads, and 38 other full-time/full caseload attorneys who are assigned as follows: 12 in the Felony Division, one of whom handles only contempt cases in the Common Pleas Court Domestic Relations Division; seven in the Dayton Municipal Court Division; 10 in the Outlying Municipal Courts Division; eight in the Juvenile Division, including four who handle delinquency cases and four who handle CSB (Children’s Service Bureau/dependency, neglect and abuse) cases; and one attorney who is assigned strictly to appellate work.

The reported supervisory structure for the attorney staff is as follows: the Deputy Public Defender supervises the felony attorneys; one of the Dayton Municipal Court attorneys is a supervisor; one of the attorneys deployed in the Outlying Courts Division and Juvenile Division (which share the Public Defender Office satellite office) serves as the supervising attorney for both the attorneys who serve the outlying courts and those who handle the delinquency cases in the Juvenile Division; one of the attorneys in the Juvenile Division serves as supervisor of the attorneys handling CSB cases in that division; and the sole appellate attorney position is classified as a supervising attorney.

Unfortunately, the Organizational Table for the defender office presented to the Evaluation Team does not reflect the above-described supervisory structure, and the team received written job descriptions for only the following supervisory positions: Chief Public Defender, Deputy Public Defender, Felony Division Supervisor, Supervising Attorney for Dayton Municipal Court, and Appellate Division Supervisor. The additional supervisory positions do not appear to be described in any written document. (Nor does the job description of the Chief Investigator in his capacity as supervisor of all of the non-attorney staff of the office).

The lack of clarity regarding the supervisory positions is both confusing to the staff (e.g., the fact that a sole appellate attorney is classified as a supervisor), and has been criticized by the judiciary, which has requested that the Public Defender Office provide them with an up-to-date organizational table so that they will know whom to contact when there is a problem in their courtrooms.

Several of the listed supervisory positions were created in the Public Defender Office approximately two years ago by the current Chief Public Defender. Without discounting the need for written position descriptions and mutuality of understanding among incumbents, management and third parties about the responsibilities and performance requirements of the positions, the Evaluation Team applauds this step as a necessary one in an agency which has grown over time. The creation of distinct departments with supervisory positions sets the groundwork for better accountability and performance and creates the rudiments of a career ladder in the office that could potentially aid in retaining qualified and experienced staff.

However, since not all experienced trial attorneys are suited to or desire supervisory responsibilities, the Evaluation Team recommends that the Public Defender Office consider instituting a system of merit salary increases so that supervision is not the only route for retaining qualified staff.
b. Continuity of representation and the rotation system: effect on quality of representation and ability to provide supervision.

The Montgomery County Public Defender Office primarily practices what is known as “horizontal representation” in felony cases. Currently, the misdemeanor attorneys provide representation at felony preliminary hearings in all courts except Dayton. These cases are subsequently handed over to the Felony Division attorneys, and very little, if any, communication takes place between the attorney who handled the lower court proceeding and the felony attorney. As a result, important information regarding plea offers and other matters may be lost, and the attorney-client relationship is adversely affected.

The National Study Commission favors continuity of representation. Standard 5.11 states that, “Defender offices should provide for continuous and uninterrupted representation of eligible clients from initial appearance through sentencing up to, but not including, the appellate and postconviction stages by the same individual attorney. Defender offices should urge changes in court structure and administration to reduce fragmentation and to facilitate continuous representation.”

The lack of continuity of representation is magnified by the policy of rotating attorneys between the felony and misdemeanor dockets on a periodic basis. Due to this rotation, misdemeanor defendants may experience a change of counsel. Another aspect of the rotation system disadvantageous to misdemeanor defendants is that the supervisor for the Dayton Municipal Court attorneys has been assigned to a felony docket part of the time, making it nearly impossible to provide quality supervision of the attorneys handling Dayton Municipal Court cases.

The rotation system in the Montgomery County Public Defender Office, like many other of its management and operational practices, is a legacy of the time when the office was new and its complement of attorneys relatively small and mostly well-experienced. The Chief Defender and staff in those days felt that it would be better for morale and retention rates if experienced trial attorneys were not deployed permanently or for long periods in high-volume, low-profile municipal court assignments. As the office has grown, however, and the cadre of attorneys has become more diverse in experience levels, the rotation system has resulted, as members of the judiciary and private bar have commented to the evaluators, in a serious underutilization of some of its highly experienced and capable attorneys. While the rotation system currently may be good for the morale of some of the younger lawyers, it is obviously not the way to provide the best representation for felony defendants.

One less apparent counterproductive aspect of the office’s traditional rotation policy is that it has obviated serious consideration in recent years of the feasibility of establishing a Major Felony Trials unit in the Public Defender Office. Such a unit, consisting of several of the office’s most experienced and trial-capable attorneys organized in a team concept, would be designed to provide aggressive, well-supported advocacy and litigation services in serious felony cases and pose a counterpoint to a similar unit that exists in the Prosecutor’s Office. The benefits of such a unit are perhaps more evident in its potential impact on the quality of individual client representation, but equally advantageous to the office would be the effects such a unit could have on office morale, training capabilities, staff development, and the office’s reputation in the community. The successful, professional
The performance of such a unit also would provide additional influence for the Public Defender Office in its dealings in the political interagency environment of the county criminal justice system.

The defender office leadership reevaluate the practice of rotating attorneys between felony and misdemeanor dockets.

c. Adequacy of staffing levels and supervision

The Ohio Administrative Code, section 120-1-07, provides that: "Each public defender office shall establish a minimum and maximum workload for its attorneys and staff, the goal being high quality criminal defense representation achieved efficiently."

It appears that this State-mandated requirement has not been complied with by this defender office. This shortcoming is related to the overall lack of adequate case management statistics. Management is not aware of the total annual caseloads being handled by its attorneys. Currently, the office keeps track of new cases assigned each month, but maintains no total annual caseload figures.

The establishment of minimum and maximum caseload would facilitate better management and aid management in planning for future budgetary decisions as well as meeting the goal of compliance with the state law's mandate.

It should be noted that computations made in this report are based upon figures from calendar year 1998. Sufficient data is not yet available for calendar year 1999.

In 1998, there were 10 felony attorneys who handled the following cases: approximately 1,590 felonies, 240 post-conviction motions, 112 extradition cases, and 1,271 preliminary hearings.

The National Advisory Commission on Criminal Justice Standards and Goals (NAC Standards) recommended that felony attorneys handle no more than 150 felonies per attorney per year. (Standard 13.12). Since the felony attorneys in Montgomery County handle other matters besides felonies, it is necessary to apply a weight to the other matters in order to compute average caseloads per attorney.

It is estimated that each preliminary hearing handled on behalf of a case later assigned to appointed counsel be counted as 1/10 of a felony case (1,271/10 = 127). Post-conviction motions likewise will be counted as 1/10 of a case (240/10 = 24). Extradition cases will be given a weight of 1/4 of a felony case (112/4 = 28). Therefore, the total of felony-equivalent cases handled by the Public Defender Office in 1998 is 1,590 + 127 + 24 + 28 = 1,769. Since there were 10 full-time attorneys handling these cases, the attorneys handled a caseload of approximately 177 felonies apiece. Based on the 1998 caseload figures and NAC standards, the felony division required 11 or 12 lawyers to adequately handle that year's felony workload.

In 1999, the number of public defender attorneys handling felonies increased from...
10 to 11 (not including the domestic relations attorney). However, the raw number of cases also increased. Therefore, the precise number of felony lawyers needed for the 1999 caseloads is yet undetermined. It can only be guesstimated that at least one additional felony attorney will be needed in the year 2000.

The need for an additional attorney is underscored by the fact that the Deputy Public Defender handled a full caseload of felonies in 1998. Since his caseload was subsequently substantially reduced, and the evaluators recommend elsewhere in this report that both the Chief Defender and the Deputy Defender relinquish their caseloads entirely in order to concentrate on policy and administration tasks, there will need to be more attorney resources to pick up the slack.

The National Study Commission on Defense Services recommended that, "Proper attorney supervision in a defender office requires one full-time supervisor for every 10 staff lawyers, or one part-time lawyer for every five lawyers." (Standard 4.1) According to the Study Commission, the greater the number of newer lawyers, the greater the need for supervisors.

In the Montgomery County defender office, there are a substantial number of newer hires. Many of them have reported to the Evaluation Team how difficult the job has been for them due to lack of input from their superiors, training, and research resources. The newer lawyers who arrived more than a year ago indicated that the only training they received was to follow a senior attorney around for two weeks before they were required to assume their own caseloads.

One of the judges reported that an assistant defender assigned to this judge's felony courtroom had never tried a bench or jury trial or filed a motion to suppress during the entire eight-month period of assignment to this courtroom. Judges have also complained about the behaviors of some of the assistant public defenders in their courtrooms, including suspected alcohol abuse. This is an area where better monitoring and communication by supervisors with judges would be most desirable.

The newer attorneys reported that the only assistance they received on their cases was when they went to a senior attorney and asked for help. There was rarely information on case handling shared on a large scale, and there were never any office-wide informational meetings.

At the present time, none of the supervisors devotes full-time to supervision. Recently, both the Chief Public Defender and the Deputy have reduced their caseloads. The office went from 36 attorneys in 1998 to 40 attorneys in 1999, but the caseloads have also increased.

Public defender management needs to improve its performance with respect to its knowledge of the caseload of the trial assistants. It does not appear that management knows how many cases an attorney carries in his or her active inventory, or the nature of those cases. Moreover, the office has no central oversight system to ensure that an attorney's cases are covered. Only the trial attorney knows what cases he or she has on a particular day, and where they will be heard.

Management does not appear to receive or require sufficient information to determine whether an attorney pleads out his or her entire caseload at the first appearance, or is
stockpiling cases for disposition in the future.

There are various examples of performance that would be improved through better supervision. For example, one judge reported that the defender in this judge's courtroom had conducted only two preliminary hearings in the last year. This judge felt that the defender frequently relinquished the opportunity that the preliminary hearing afforded to receive "free discovery" and the chance to lock the prosecution witnesses into a particular version of events. A second judge reported that there were no preliminary hearings whatsoever handled by the public defenders in this judge's courtroom in the past nine months. A third judge reported that preliminary hearings are conducted in only 5% of felony cases. The Evaluation Team recommends that office management and supervisory staff take steps to remedy this situation through policy-setting, office-wide meetings, and if necessary, interagency advocacy by the Chief Public Defender.

That is not to say that public defender performance is poor overall, but that it is spotty. While some judges reported that public defenders never filed pretrial motions, others commented that they file and litigate more motions than private counsel, and are far more effective than court-appointed counsel. They also noted that the level of preparation varies a great deal between different individuals. Both defender attorneys and judges alike have heaped high praise on the work of the office's mitigation specialist in contributing written sentencing reports. This aspect of the office's support staff will be addressed in the following section of this report.

The sole case management measure in use appears to be the number of cases assigned to each attorney per month. Administration needs a greater range of information to manage properly.

Apart from an improved management information system, which will be addressed in a later chapter, public defender managers should observe their attorneys in court from time to time. Some members of the judiciary have complained that they have never seen a public defender supervisor in court observing his or her assistants.

Judges have complained that the quality of representation provided by the assistant public defenders is uneven. Some file appropriate motions and others do not. The judges indicated that the newer attorneys need training and mentoring.

In order to meet the judges' recommendations, and to have enough time to properly supervise assistant public defenders, the caseloads of the supervisors need to be substantially reduced. To free up some of the time of the supervisors, the additional attorney positions recommended in this section are especially important.

In 1998, there were 17 misdemeanor public defenders assigned to misdemeanors in Dayton and outlying courts. These 17 attorneys handled a combined total of at least 14,949 cases. Some estimates go as high as 15,977 cases.

The NAC Standards recommended that misdemeanor attorneys handle no more
than 400 misdemeanors per attorney per year, excluding traffic. It is estimated that 8,713 of the misdemeanor cases where state offenses and 6,236 were ordinance violations.

Using the NAC Standards, the misdemeanor division attorneys would be seriously overloaded based on handling the 8,713 state offenses alone (8,713 divided by 17 attorneys = 512.5 cases per attorney). The stated workload would require the addition of several more attorneys, based on NAC standards.

Based upon interviews with the attorneys, the Dayton Municipal Court attorneys are finding their caseloads to be somewhat manageable, but the outlying court attorneys appear to be extremely overloaded. This observation was reinforced by one of the outlying judges. It is recommended that at least two additional attorneys be added to serve the outlying misdemeanor courts.

In addition, one assistant public defender should be added to handle appeals arising out of misdemeanor cases. According to one of the judges interviewed, the current practice of requiring assistant public defenders to file their own appeals in misdemeanor matters discourages appeals.

One of the issues addressed in a previous section of this report, the failure of the public defenders to adequately assist their clients in securing pretrial release, is partially due to the fact that the Public Defender Office does not have sufficient staffing to provide representation at the initial felony arraignments in the municipal or circuit courts. For this reason, the judges are forced to rely heavily on Pretrial Release and the court-promulgated bond schedule. By law, the bond must be set within 48 hours of arrest, but, since counsel is not present at the initial arraignment and is not watching the process, no consequences are attached to exceeding the time limits.

The lower court judges have repeatedly reported to the Evaluation Team that they were forced to take uncounseled pleas due to the fact that no public defender was present at the initial arraignment. Judges reported to the Evaluation Team that they would like to see the defenders attend the arraignments and speak to defendants prior to arraignment, but they do not feel that the defender staffing levels would permit these activities. For these reasons, and others enunciated elsewhere in this report, the Evaluation Team recommends additional staffing for the purpose of providing representation to its clients at an earlier stage in the proceedings.

In 1998, there were four juvenile attorneys handling delinquency matters and four handling CSB cases. There were a total of 2,102 cases in Juvenile Court. The NAC, Standard 13.12 recommends that an attorney handle no more than 200 juvenile cases per year. Using that figure, there should be a total of 11 attorneys in the Juvenile Division (2,102/200 = 10.51).

Therefore, according to national standards, the Juvenile Division of the defender office requires three additional attorneys to adequately handle the number of cases to which it is assigned.

Of all divisions of the Public Defender Office, the Juvenile Division appears to be the most understaffed. This perception was confirmed not only by all of the juvenile division attorneys interviewed, but by the Juvenile Court judiciary and staff as well.

Management and Operational Review of the Montgomery County, Ohio, Public Defender Office
Two of the attorneys handling CSB cases indicated that, because they are in court every day, there is no time left for other necessary tasks such as paperwork, subpoenas, discovery, interviews, meetings, and so forth.

One of the reasons for the need to provide additional attorneys for the Juvenile Division arises out of a new statutory scheme, section 2151.484, which speeds the passage of children into adoption. It leads to removal and termination of parental rights more quickly, and produces added pressure for attorneys to enter the case quickly and conduct their work with dispatch.

However, despite the unanimous agreement among interviewees that the Juvenile Division is badly understaffed, the Chief Public Defender, when asked about this problem, indicated that she was completely unaware of it and assumes the staffing to be adequate.

One deficiency pointed out by almost every defender attorney interviewed was the lack of such research tools as a research and motion bank, relevant case decision summaries, and practical advice on case handling. The office should be commended on instituting a new training program for beginning attorneys, but this is just a start.

The office sorely needs a Training Director to begin compiling a set of form motions. Having such motions handy would be a very cost-effective move, as each attorney would not have to reinvent the wheel when commonly used motions are needed.

The judges have reported that some of the younger assistant public defenders overlook the dispositional option of treatment in lieu of conviction. This is a clear training issue.

The Training Director should begin to compile a research bank, organized by topic, of successful memoranda of law prepared by some of the senior attorneys in the office. This would be of great assistance to newer attorneys, and a great time-saver. Funding this position would pay for itself in staff time savings.

RECOMMENDATIONS:

1. In the interests of the long-term viability of the office and the desirability of attracting and retaining experienced and committed staff in both attorney and support categories, the Public Defender Office should consider instituting a system of merit salary increases. In conjunction with this effort, an analysis should be made of comparable salaries in the Prosecutor's Office, and comparable figures should be included in future budget requests to the County for defender office salary authorizations.

2. The Public Defender should provide the judiciary with an up-to-date organizational table listing the names and telephone numbers of supervisors so that they can contact the supervisors when there is a problem in their courtrooms.

Management and Operational Review of the Montgomery County, Ohio, Public Defender Office
3. The public defender management should analyze the staffing pattern to determine whether changes can be made from a zone, or horizontal method of providing representation, to a vertical system that provides continuity of representation for each defendant, with a single attorney handling all stages of the case. In the interim, a system should be developed whereby the preliminary hearing attorney communicates directly with the felony attorney for each defendant and transfers the case file accordingly.

4. The public defender management should reevaluate the current practice of rotating attorneys between felony and misdemeanor dockets in order to better provide felony clients with more effective representation and to provide misdemeanor clients with continuity of representation. As part of this assessment, the office management team should consider the desirability, from the client service and morale perspectives, of establishing a Major Felonies Trial Team consisting of volunteers from among the Office's most experienced and effective staff attorneys.

5. The public defender management should comply with the requirement of the Ohio Administrative Code to establish minimum and maximum workload figures for its attorneys and staff.

6. The Chief Public Defender and Deputy Defender should carry no caseloads, as this practice detracts from the important task of concentrating on administrative and policy matters. Other supervisors should carry no more than one-half of a caseload.

7. At least one additional attorney should be added to the Felony Division.

8. At least two additional misdemeanor attorneys should be added to serve the outlying courts.

9. At least three additional attorneys should be added to the Juvenile Division.

10. At least two additional attorneys are needed to provide representation at adult initial arraignments and staff the duty day.

11. An additional assistant public defender should be hired to handle appeals in misdemeanor and juvenile cases.

12. Defender office senior management should immediately commence planning with the Circuit Court leadership and the Prosecuting Attorney's Office to develop and implement a plan to achieve meaningful attorney representation at the initial arraignment stage of the criminal case process.

13. A full-time training director should be added to the staff. This individual should be placed in the Appellate Division. The training director should be responsible for developing programs to train all categories of defender staff, developing form motions and memoranda of law to create a Research Bank, developing a handbook of Ohio criminal law decisions by topic, and preparing a newsletter to include summaries of recent federal and state cases.
2. Investigation and Investigator/Attorney Ratios

a. Law and current practices

The question of support staff needs for County Public Defenders is addressed generally in the Ohio Administrative Code. Section 120-1-06 provides that:

The supporting staff, facilities and other requirements needed to maintain and operate an office of the public defender shall be sufficient to allow effective representation and shall be substantially equivalent to that provided for other public components of the justice system. In applying this rule, the following criteria shall be governing:

(A) The budget of a public defender shall include:

(5) Supportive services shall include secretarial, investigative, and other services necessary for an adequate defense. These shall include not only those services needed for an effective defense at trial, but also those that are required for effective defense participation in every phase of the process, including determinations on pretrial release, competency to stand trial and disposition following conviction, appeals and post-conviction relief.

Under-staffing of the investigation function and a low level of utilization of investigative services in case preparation combine to make this area one of the weakest links in case handling by the Public Defender Office.

The organizational table for the Montgomery County Public Defender Office shows a staff of six investigators. However, the designation of six investigators is a misnomer, since four of the six investigators conduct no field investigations, but are in fact relegated to the ministerial tasks surrounding eligibility screening and intake. These four eligibility screeners are assigned as follows: one does intake at Dayton jails; one does intake at outlying jails; one does intake for walk-ins at the Public Defender's main office; and one does intake for walk-ins at the Public Defender's satellite office. None of these intake workers conducts any interviews regarding the facts underlying the charges.

This leaves only two field investigators, albeit both well qualified, in the Montgomery County Public Defender Office to serve the investigatory needs of 40 full-time public defenders and all of the assigned counsel appointed by the courts. The current Chief Public Defender and her predecessors have not required periodic reporting by the Investigation Division on the numbers and types of field investigations conducted, but the number of 100-120 investigations per year was estimated by the Chief Investigator.
When asked whether the small number of field investigators presented a problem for the Public Defender Office, the Chief Public Defender responded that it did not, since most of the assistant public defenders preferred to conduct their own investigations. Similarly, the Chief Investigator reported to the team that although he has undertaken several initiatives to inform staff attorneys of the availability and utility of the field investigative resources that do exist in the office, through staff-wide memoranda and informal meetings with individual attorneys, he has not been successful in stimulating a level and quality of investigation requests that the office caseload warrants.

However, when the assistant public defenders were asked about their need for investigators, the response was different. Lawyers in all divisions of the Public Defender Office indicated a need for more field investigators. Attorneys who handle CSB (Children's Service Bureau) cases and juvenile delinquency cases indicated there was a crying need for more support staff, including investigators. It is possible that these responses reflect, in part, assumptions by attorneys handling the criminal caseloads that the two-person field investigation staff would not have sufficient time available to adequately and timely respond to investigation requests if made more frequently, and in the case of the CSB attorneys, assumptions that the types of investigation services their cases need require skills and experience other than the criminal case expertise of the office's field investigators. One thing that is certain is that the current staff level of two field investigators, qualified as they are, could not handle the volume of appropriate investigative work that an office of this size should generate.

The Public Defender Office has an Investigator Request Form, which is a definite plus. However, in practice, the form apparently is rarely used; if used, it rarely finds its way into the case files. In a review of 36 public defender felony case files, the Evaluation Team found evidence in only one of the files that the case had been investigated. This brief examination is not definitive, but does provide some evidence of a lack of adequate investigation being conducted in the Public Defender Office. Several the judges indicated to the team that they did not feel that public defender cases were adequately investigated.

While it may be true that attorneys have a tendency to prefer to conduct their own investigations, this practice is not only not cost-effective, but futile. This is because, as the previous section of this report demonstrated, the attorneys are already overloaded. As a result, it is likely that some cases deserving investigation will not be investigated at all.

In sum, it appears that staff attorneys would use investigative services effectively and more often if there were more field investigators and if the attorneys were better trained and consistently encouraged by supervisors to appropriately utilize such services in case development.

b. Compliance with national standards

As the National Study Commission on Defense Services (NSCDS) has indicated, "criminal investigation is an essential element of criminal defense. Offices lacking adequate investigative staff tend to neglect the investigative function and rely on the state's version of witness statements and other evidence. It is not cost-effective for lawyers to do all of the investigation connected with a case. Moreover, where lawyers conduct investigations, it may be necessary to have an investigator along to
refute charges of impropriety and to have a witness who can testify at trial if necessary." (Guidelines
for Legal Defense Systems: Report of the National Study Commission on Defense Services,
NLADA, 1976, Commentary, p. 340.)

The NSCDS, in its standards, has addressed both the qualifications and staffing
needs for investigative staff in defender offices. With regard to qualifications, the NSCDS
recommended that, "Defender offices should employ investigators with criminal investigation training
and experience." (NSCDS, Standard 4.1)

While criminal investigation experience is a plus, in some cases, former law
enforcement personnel who possess this experience require some retraining in the goals and objectives
relating to the defense function.

With regard to staffing needs, the NSCDS has proposed a ratio of investigators
to attorney staff, to wit: "A minimum of one investigator should be employed for every three staff
attorneys in an office." (NSCDS, Standard 4.1)

To come into full compliance with these standards, the Montgomery County
Public Defender Office would require a complement of 12 or 13 field investigators to serve the 40
public defenders, in addition to investigator staff for assisting assigned counsel.

Realistically, a staff increase of this size may exceed the current budgetary
prospects of the Public Defender Office, and it is unlikely that the increase in utilization level of the
office's field investigation staff that the recommendations of the preceding section of this chapter are
designed to foster will warrant such a large increase in staff in the immediate future. Moreover, the
Public Defender Office would be hard pressed to immediately find enough qualified investigators to fill
this void or to integrate a large number of investigators effectively into its staff.

Some relief in the short-term is warranted, however. Felony and misdemeanor
attorneys have an immediate need for some additional investigative assistance, and both components
of the juvenile division are in dire need of investigator services.

Once the defender offices are consolidated in their new location, it may be
possible to eliminate the function of one of its eligibility intake workers and convert that position to one
of field investigation. This would conserve funds for the County, but the training and experience of the
individuals now serving in that capacity need to be evaluated to determine whether any of them is
capable of fulfilling a true investigatory function.

If the defender office could convert one of the intake workers into a field
investigator and hire just two new investigators, the effective result would be the addition of three field
investigators to that staff component, for a total of five field investigators. This would be a significant
and much-needed enhancement of the office's investigative resources. This staff augmentation could
be supplemented with a pilot program entailing the use of graduate assistants from area colleges to
assist investigative staff with routine investigations and such tasks as collecting police reports, subpoena
services, and other activities which would free up some of the staff members' time for the more specialized field investigation work.

With the most critical staffing needs in this area immediately addressed, and staff training and supervision in the use of investigative resources underway, the office management can undertake an analysis of the use patterns and developing needs of the various divisions and the assigned counsel program for field investigation services and develop an investigator/staff ratio for the office that can be integrated into budgetary planning.

Furthermore, if the Chief Investigator were relieved of his current supervisory responsibility for the entire support staff component of the office (in favor of a newly hired or designated Office Manager, as is recommended elsewhere in this report), duties which consumes a reported 25% of his time, he would be able to devote more time to training and supervision of the Investigation Division staff and to participation in attorney training, as well as have more time for field investigation work. In fact, the Chief Investigator should not be required to supervise non-investigative staff, as this is not an effective use of his expertise.

RECOMMENDATIONS:

1. The Public Defender Office should make greater use of staff investigators in order to improve performance and make more cost-effective use of its attorney staff resources.

2. The Public Defender Office should provide mandatory training to its attorney and investigative staff in the proper utilization of investigators.

3. Supervisors should actively encourage greater use of the Investigative Request Form by staff attorneys, and the investigative staff should be required to maintain cumulative, up-to-date records of investigative requests and activities and to prepare regular reports to the managers and line staff thereon.

4. Two more investigators should be hired immediately for use in assisting attorneys handling juvenile delinquency and CSB cases.

5. As soon as possible after its offices have been consolidated in the Reibold Building, the Public Defender Office should consider whether one of its eligibility intake workers could be relieved of her current duties and reassigned as a field investigator.

6. The Public Defender Office should consider piloting an effort to train and supervise college and graduate students for assistance in routine investigations and for less specialized investigation support tasks.

7. In addition to increasing the field investigation resources of the office, as urged in the preceding three recommendations, Public Defender Office management should study the situation with respect to the investigative needs and use patterns of the various office divisions and the
appointed counsel attorneys and prepare a plan for achieving, over the mid-term, an
investigator/attorney ratio that meets the needs of the office.

8. The Public Defender Office should encourage and facilitate the attendance of its
investigative staff at outside training seminars in order to promote their professional development and
to provide them with exposure to how other public defender offices pursue the goal of team-building
among investigative and legal staffs.

9. The Chief Investigator should be in charge of training and supervising only
investigative staff and not clerical staff.

3. Clerical and other Support Staff

The clerical staff of the defender currently includes 12 full-time and 2 part-time
employees who perform a variety of tasks, including administrative and record-keeping, secretarial,
reception, and paralegal. The clerical staff does not report to a clerical supervisor.

According to the Chief Public Defender, the clerical staff is supervised by the Chief
Investigator. However, when questioned about this, the clerical staff was unaware that they reported
to the Chief Investigator, and believed they were to report to the Chief Public Defender directly.

It is clear that the Chief Investigator could not possibly supervise the secretaries, as he
is only one of two field investigators for the entire staff of 40 attorneys plus appointed counsel, and
theoretically supervises a total of 21 employees as well.

One of the secretaries is responsible for maintaining office statistics and doubles as
secretary to the Deputy Public Defender and another attorney. Another secretary, who is referred to
as Chief Operating Administrator although she is not considered a supervisor, keeps track of when
employees take time off from work, handles accounts payable and payroll functions, and doubles as
secretary to the Chief Public Defender.

Some of the secretaries work in a pool where they are rotated every four months to a
different division of the office. The only secretary who doesn't rotate is the Appellate Secretary, who
works part-time two days per week. The ratio of secretaries to attorneys can vary, depending on where
they are rotated.

Some of the clerical staff serve as receptionists and do not perform the functions of legal
secretaries.

In addition, two of the so-called "clerical" positions are paralegals. One of the paralegals
(Paralegal # 1) interviewed reported that she holds a Paralegal Certificate and a Bachelor's degree. Her
work includes research, preparation of draft motions, dealing with case workers, attending visitations,
and serving subpoenas. She feels that she does more social work than paralegal assignments due to the
fact that, other than the one mitigation specialist, there are no social workers or similarly qualified staff
in the defender office. Paralegal #1 is an African-American.

The second paralegal (Paralegal #2), a former secretary, earns $5,000 more than the first paralegal, but lacks the credentials and training of Paralegal #1. This has resulted in a perception of discrimination by Paralegal #1, and a grievance was filed with regard to this matter. It should be noted that Paralegal #2, while only recently promoted to paralegal duties, served as a secretary in the office for five years, while Paralegal #1 has been with the office for only two years.

The Evaluation Team perceives a problem in the fact that the Chief Operating Administrator performs secretarial duties for the Chief Public Defender while handling extensive duties relating to office administration. The office needs a full-time office administrator whose functions should include supervision of all clerical personnel. Secretarial support for the Chief Public Defender should be vested in a separate full-time position.

The secretary to the Deputy Public Defender should be relieved of responsibilities to a second attorney, as is now the case, because the management and administrative responsibilities of the Deputy Public Defender call for full-time secretarial support for that position as well.

The current ratio of secretaries to attorneys is 1 to 8. This is a burdensome ratio, and a more appropriate allocation would be one secretary for every five attorneys.

There are plans underway in the office to provide computers. The new computers will remain dormant or underutilized if no one is hired to train personnel in how to use them and service them. The existing computer system in the office, such as it is, is serviced by a consultant who is a former policeman. When the system goes down, no one knows what to do. The entire office must wait until the outside person comes in to service it.

The office needs to have someone on staff member who can help at a moment's notice when the system goes down. Otherwise, a shutdown in productivity will occur. Therefore, the Research Team recommends that a systems analyst or other individual having expertise in computer systems be hired by the office.

The Juvenile Division appears to be the most short-changed in terms of support staff, and attorneys there expressed the need for at least two more paralegals and social workers in addition to more attorney staff.

The need for social work staff is most pronounced in the CSB section of the Juvenile Division. One interviewee characterized permanent custody cases in this docket as like death penalty cases are to the criminal justice system. Because of the lack of social workers, the Public Defender Office does not have the ability to refer people to community resources. As a result, temporary custody becomes permanent custody.

Based on all of the interviews conducted by the Evaluation Team, it is recommended that credentialled MSW social workers or individuals with master's level degrees in related fields be
added to the staff of both the adult and juvenile divisions. At least one social worker should be retained in each of the following departments: felony, misdemeanor, juvenile delinquency, and juvenile abuse, neglect, and dependency.

All of the interviewees who spoke to the subject had nothing but praise for the Public Defender Office’s mitigation specialist, a former Probation Officer, who prepares reports for use by attorneys at the sentencing stage. While this individual does not have an MSW, he is degreeed in sociology and psychology and performs a valuable function in the office, providing needed information for use by judges in fulfilling their sentencing function, as well as for attorneys and their clients.

Unfortunately, some of the attorneys in the Public Defender Office appear to be unaware that the office has this resource and do not make use of it. This indicates the need for further staff training and communication.

However, once attorneys become more aware of the value of this function, they will make greater demands on the time of this individual. Therefore, the need for additional social service staff in the defender office will increase as time goes on.

It should be stressed that the social work function in a defender office is of value to the entire community. In addition to assisting the court and the defender attorneys, referral of clients to appropriate community social service facilities at an early stage is the best medicine for combating crime and recidivism.

RECOMMENDATIONS:

1. The Public Defender Office should add the position of Office Manager to perform a variety of administrative tasks, including upgrading the management information system, and to supervise the clerical staff. In the long run, the goal should be to retain an individual with business administration experience to fill this position.

2. At least three additional legal secretaries are needed to lower the ratio of secretaries to attorneys in the secretarial pools.

3. Two of the existing secretaries should have no responsibilities other than working directly for the Chief Public Defender and the Deputy Public Defender.

4. A systems analyst or other computer professional should be hired to provide computer training for defender staff and help to maintain the system.

5. Two additional paralegals should be retained to assist in the Juvenile Division.

6. Four social workers with MSW or master’s level degrees in related fields should be hired, one for each of the following divisions: felony, misdemeanor, juvenile delinquency, and juvenile abuse and neglect. These social workers should be used to screen defender
clients for problems such as drug addiction and alcoholism, make referrals to appropriate community resources, assist in conducting investigations relating to child placement, assist the attorneys and mitigation specialist in preparing sentencing plans, and help to marshal witnesses and experts to provide testimony at sentencing hearings.

E. Facilities, Resources and Technology

1. Office Space

The Montgomery County Public Defender Office is scheduled to move its location from the basement of the courthouse to newly renovated office space in the Reibold Building during November, 1999. The new space, which is less than a mile from the courthouse, will result in a consolidation of the two offices in which the public defender staff are currently housed. The new quarters are very professional in appearance, and the space design is such that the opportunity is presented for much more positive staff dynamics from both functional and managerial perspectives.

This move is consistent with national standards. The National Study Commission on Defense Services recommended, in part, that:

Local defender offices should be located near the appropriate courthouses, but never in such proximity that the defender office becomes identified with the judicial and law enforcement components of the criminal justice system. Defender offices should maintain interview and waiting rooms in the courthouse.

Regional, metropolitan and single county defenders should establish branch offices wherever operational efficiency, defender access to courts, or clients' access to defenders would be significantly enhanced thereby. (NAC Standard 2.7)

This standard includes a provision for defender offices to have interview and waiting rooms located in the courthouse in addition to their out-of-courthouse facilities.

During interviews with Evaluation Team members, some judges expressed concerns about the likelihood that, if defendants were required to walk from court to the Reibold Building facilities in order to see the public defender for eligibility screening, they might fail to appear on their next court date. These considerations make having some space for the defenders to meet clients in the courthouse particularly important. Therefore, the Evaluation Team recommends that the Montgomery County public defenders be accommodated within the courthouse with some space for client eligibility screening, interviews, and telephone facilities.
2. **Resources and Technology**

Just as a carpenter requires the proper tools to perform his work in a cost-effective manner, public defenders lacking the proper tools consume valuable time and money unnecessarily. Public defenders require access to information about their clients and the laws, the ability to produce often-used motions without "reinventing the wheel," and so forth. An extensive discussion of non-personnel needs in defender offices is contained in Chapter 16 of the *Report of the National Study Commission on Defense Services*, "Guidelines for Legal Defense Systems in the United States," which is available from the National Legal Aid and Defender Association, in Washington, D.C. This chapter may be useful in the budget planning process. In addition to the text of this Chapter, the lengthy Standard 3.4 and its commentary provide a nice check-list and overview regarding non-personnel needs.

Some of the features complained of in the course of interviews by the evaluators include insufficient library and computer facilities for defender staff. For example, even though currently located in the courthouse, the defender staff have no direct access to the court clerk's "Crawford" computer system to access case status information on their felony clients. It seems odd that public defenders have no access to this public information when any member of the public can do so by coming to one of the terminals in the courthouse. One of the Common Pleas Court Operations staff noted to evaluators that public defenders were telephoning him in order to ask for information on the status of their cases.

The situation regarding misdemeanor clients is even more difficult. Defender attorneys must physically travel to each circuit and consume the small space reserved for court clerks in order to pore through the courts' computers to determine whether their cases remain on active status.

In the case of both felony and misdemeanor clients, providing defenders with computer systems, software and any passwords necessary to access status information via computer would save the County's great expense in attorney time and would render them more efficient. It is the evaluators' understanding that the Public Defender Office already has access via computer to detention facilities. It is our hope that this access will continue and be extended to any detention facilities where it does not already exist.

With regard to word processing needs, some of the defender staff have resorted to bringing their own computers to the office from home for the purpose of preparing motions and memoranda due to the lack of sufficient computer facilities in the office. Lack of word-processing equipment to save attorney and secretarial time is another major time waster.

Attorneys and paralegals in the defender office also require access to legal research, such as Lexis or Westlaw, in order to facilitate preparation of legal memoranda and to cite relevant precedents in court arguments.

The Montgomery County Public Defender Office has submitted a proposal to the County Commissioners for new computers and related equipment. Funding this proposal would go a long way toward curing some of the existing management information deficiencies in the office.
The proposal to provide the office with a CD-ROM research software would save money by allowing most research to be conducted off-line rather than by direct connection to Lexis. The proposal to provide new desktop computers would greatly improve the efficiency of the office.

The proposal also includes a request for a server to be used for case management. Management information a very important need in the defender office. It is a tool useful for a variety of tasks: ensuring that all cases are covered, monitoring attorney workloads, budgetary planning, caseload reporting, supervising staff, etc. The following section of this report relating to internal office management addresses management information systems and recommends that the Public Defender Office consult with the National Legal Aid and Defender Association to secure an up-to-date system for managing defender information.

The section on internal management also addresses the need for an in-house newsletter on recent court decisions and the need for wider dissemination of information on job openings in the Public Defender Office. Both of these functions would be facilitated by having e-mail and Internet capabilities in the defender office. The Evaluation Team therefore recommends that e-mail and Internet access capability be included in the defender office's budget.

One of the greatest problems noted in this report is the lack of early communication between the defender office and its prospective clients. It is hoped that someday in the not too distant future, pretrial detainees will be able to contact the Public Defender Office through e-mail, and the defender office will be able to identify problems requiring immediate attention while conserving costly staff time. In the long run, this will reduce the time needed to man the telephones, and will also save on the cost of telephone line service.

Another aspect of the Public Defender Office that has led to outside criticism is its seeming inaccessibility to members of the community who contact the office to inquire into its policies. The faith community in particular has commented on the lack of public information about the defender office. They also felt that the leadership of the office has little or no sensitivity to African-American youth. One community member informed a Evaluation Team interviewer that when she telephoned the office to inquire about eligibility guideline policies, she was asked, "Why do you want to know?"

Establishing a web-site for the Public Defender Office would provide the community with a means of obtaining general information about the office's policies and procedures and how it perceives its role in the community. Such a web-site would go a long way toward improving community-defender office relations. The feasibility of maintaining a community-based branch office located in a neighborhood in which a substantial number of the office's clients reside should also be considered.

Finally, in addition to support staff, such as investigators, paralegals, and social service personnel addressed in the preceding section, the public defender needs adequate budget resources to retain outside experts. The public defender should never take at face value the State's evidence regarding ballistics tests, drug tests, or psychological evaluations, but should be able to verify those tests by retaining its own experts to conduct testing and testify in court. Their own independent tests may prove
that their clients were not the "shooters," that the supposed "cocaine" was really Pillsbury flour, and that
the accused has the I.Q. of a four-year old.

In conducting the Delphi study of costs per case, which is discussed in this report’s cost
analysis chapter, defender attorneys handling juvenile cases reported that they did not use experts as
much as they thought they needed to because of budgetary limitations. Yet, in terms of society’s interest
in controlling crime, if we save costs on assisting children when they first come to the attention of the
Juvenile Court, it will eventually cost society far more in human lives and later incarceration in mental
hospitals and prisons.

In a review of 36 defender office case files, the Evaluation Team did not find a single case
where defenders used an outside independent expert, although we understand that independent
psychological examinations are sometimes performed. There are two aspects to this problem: (1) the
need to educate the attorneys regarding the utility of employing these experts; and (2) having the
budgetary resources to do so. The first is not the subject of this chapter. The second, providing an
adequate budget allotment to enable defenders to retain appropriate testing and testimony, is highly
recommended.

RECOMMENDATIONS:

1. The Public Defender Office should be located in an office facility near the
courthouse and also be provided with waiting room and interview space within the courthouse. The
office should also have office space in outlying court locations as needed.

2. The Public Defender Office should have adequate library and CD-ROM research
facilities, access to Lexis or WestLaw for new court decisions, up-to-date desktop computers with
word-processing software, terminals with access to all court case records and detention facilities,
servers and software for management information systems, and appropriate e-mail capability and
internet access.

3. The County and the Public Defender Office should consider the advantages of
establishing a web-site for the defender office to facilitate communicating its role in the criminal
justice system to the community at large.

4. The defender office budget should include sufficient funds for expert consultants in
the areas of ballistics, chemical analysis, fingerprint identification, polygraph, psychological and
psychiatric assessments, and the like.

F. Defender Office Management

The current Chief Public Defender took office in 1995. She should be congratulated for
implementing an expansion of the office’s supervisory structure, albeit a tentative one. In addition, she
has initiated a training program for new hires and has begun to reach out to the community to inform
them of the public defender’s role.
She has recognized the need for more management training in the office, and has attended several out-of-state national management training seminars sponsored by the Department of Justice and NLADA, bringing with her other defender supervisors. She has indicated her intention to eventually institute a policy and procedures manual for the office, and a preliminary draft of such a manual has been prepared.

It should also be noted that the current director took over management of the office at a time when there was general disheartenment in the office about the circumstances under which the previous director and his assistant, who had become acting director, were both terminated.

The current director and her deputy are still attempting to cope with the implications of the legal culture fostered under the previous leadership of the office that defender attorneys are "independent contractors" not requiring (or, in the opinion of some staff, not subject to) monitoring and supervision of their legal services for the office.

1. Management-Staff Relations

The Montgomery County Public Defender Office has essentially two levels of management: (a) the Chief Public Defender and Deputy Defender, who control the policy and operations of the office; and (b) the supervisors who head the various divisions and exercise a far lesser degree of influence over the functioning of the office.

In addition to the top management and supervisors, there is an employees' union which exercises a certain amount of control over office policies under the terms of its contract. As in any labor-management situation, the existence of a union adds to the tensions about interpretation of office policy.

When the term "management" is referred to in this section, it should be interpreted as referring to top management, i.e., the Chief and Deputy. The supervisors who are not top management will be referred to as "supervisors."

From interviews with numerous members of the defender office staff, it is clear that there are severe tensions in the office between management and some staff.

The top management does have some admirers in the office who support its policies and believe that the office is moving in the right direction. One senior attorney indicated that the new management structure is far more "hands-on" with the younger lawyers than had been the case with the previous director and acting director. Another attorney stated that the additional level of supervision provided is good.

But the voices of dissent from some other quarters are so overwhelming that the other voices are nearly drowned out. Problems between labor and management arising from unionization and erosion of attorney independence under the office's more structured environment in recent years are undoubtedly factors contributing to these tensions in the office. Also problematic is the perception by
some staff that the director and deputy are arbitrary and even capricious in exercising their management authority.

Management needs to deal with these perceptions by assistant public defenders and attempt to change the office culture to one of cooperation, civility, reinforcing positive achievements, and ensuring that discipline is meted out fairly and in accordance with written policies and procedures.

The morale in the public defender's satellite office appeared to be significantly better. Staff members in that office described the supervisors as supportive, helpful, and friendly. While complaining about excessive caseloads and lack of adequate support staff and computer facilities, they reported their pleasure at working in such a good environment, segregated by a matter of blocks from the main office. How much of this relatively higher degree of workplace satisfaction is attributable to the above-ground offices at the satellite office, and its distance from the scrutiny of senior managers, is difficult to estimate.


It is clear to the Evaluation Team that at least one of the roots of the dissension in the office is the lack of a Policies and Procedures Manual. The lack of such a manual has resulted in complaints from staff members that discipline was imposed for breaches of rules that are nowhere in existence or not well communicated.

To be sure, when the current administration took office, no such manual existed, and this situation had prevailed since the establishment of the defender office in 1976. Moreover, promulgating such a manual at this time is complicated by the existence of a Union Contract, which contains some of its own procedures, and the fact that the Union will have to approve the Manual.

As mentioned above, the Evaluation Team applauds the management for attempting to draft such a manual, and urges that a discussion draft be circulated among employees for comments at the earliest possible time.

The Evaluation Team has received a Second Draft of the manual, and notes several areas needing improvement. The most striking is the lack of a policy regarding employee recruitment. The only provision required by the union contract is that notices of openings be posted on office bulletin boards.

a. Recruitment

The Evaluation Team recommends that recruitment be far more proactive than it is today. Too many of the assistant public defenders reported being hired because of acquaintance with current or former top management. Members of the minority community have complained about lack of diversity in the office, which has resulted in some recent minority hiring. None of the current supervisors are currently minority members, and one of the existing minority attorneys was demoted from supervisory status by the current director.

It is recommended that whenever there is an opening in the office, whether it be for
a beginning or a supervisory position, advertisements be placed in the newspapers and on computer bulletin boards, and that notices be posted in area law schools and sent to bar associations including minority bar associations, in addition to the Public Defender Office bulletin boards. An effort should be made to recruit the highest quality personnel and to promote diversity in employment.

b. Full-time attorneys.

Ohio laws do not require that public defenders serve on a full-time basis, and they are therefore permitted private practice. However, the attorneys in the Montgomery County Public Defender office are employed with full-time salaries and are expected to put in a full work week in the office.

Under state law, public defenders are not permitted to accept the case of a defendant who was previously classified as an indigent client of the office but subsequently is determined to have the means to retain counsel.

The Union Contract, Art. 17, section 4, provides that, "An employee shall not be compensated for time spent to pursue non-job-related legal action...as attorney...." Presumably, this policy would require the attorney to inform the office administration to dock him or her for any office time expended on private cases.

The Evaluation Team finds it troubling that some members of the attorney staff and management are reported to have a spotty record with regard to attendance. It is not known whether these absences are related to personal problems, recreation, or private practice, but a clear-cut policy on private practice may be of some assistance in curtailing the problem.

Currently, office policy allows defenders to handle civil matters. However, there is no clear policy in the Public Defender Office regarding whether or not public defenders are allowed to handle private criminal cases.

The union filed a grievance in 1997 challenging the perceived office policy against handling criminal cases. The grievance has never been resolved, and the precise office policy on the parameters of private practice remains unclear despite a request by the County Public Defender Commission for a clarification of this issue.

At a February, 1997, Public Defender Commission meeting, the Chief Public Defender, when asked for clarification, responded that there has never been a written policy on private practice, but that, "It is the sort of thing that supplements income." The Public Defender agreed to submit a written policy to the Commission, but as far as we know, none has yet been submitted.

The National Study Commission on Defense Services, Standard 2.9, recommended that, "Defender Directors and staff attorneys should be full-time employees, prohibited from engaging in private practice." Similarly, the American Bar Association's Standards for Criminal Justice, "Providing Defense Services," Standard 54.2 states that, "Defense organizations should be staffed with full-time attorneys. All such attorneys should be prohibited from engaging in private practice." Inasmuch as
national standards prohibit all outside practice by public defenders, the Evaluation Team recommends that this policy be adopted by the Montgomery County Public Defender, in concert with a review and possible modification of the salary structure of the office.

c. Performance evaluations

Currently, the Public Defender Office does not conduct performance evaluations. Public Defender Office managers have recognized the need for such evaluations and have included a proposed policy in the draft manual. The manual would require biannual performance evaluations to be conducted for each employee.

The Evaluation Team recommends that the proposed policy be implemented and that these performance evaluations be placed in each employee’s file and shared with each employee.

d. Workload standards

As noted previously, the Ohio Administrative Code requires the office to establish minimum and maximum workloads for its attorneys and staff.

The draft of the policies manual suggests that an attorney who believes his/her caseload exceeds reasonable levels may request an adjustment. However, this policy is rather vague and does not appear to meet the State's requirement.

The Evaluation Team recommends that defender office management take this matter under consideration and work with staff to develop and promulgate such a policy, keeping in mind the national caseload standards of the NAC.

e. Time-keeping and In/Out policy

Currently, it is the understanding of the evaluators that the public defender maintains no sign-in sheet, in/out board, or time sheets on any of its employees. This presents a problem when an attorney fails to appear in court, as no one knows where the individual is. It also presents problems in developing office statistics and providing adequate management.

The evaluators applaud the "In/Out Board" provision contained in the proposed draft office manual. In addition, it is recommended that all persons should sign an office in/out time sheet on a daily basis. This will provide accurate information on sick days, vacation days, training days, etc. If a question arises about an employee's whereabouts on a given day, the time sheet provides a signed record. This is the practice in a number of jurisdictions, and is particularly relevant to whether an attorney should be compensated on a day when he or she was engaging in private practice.

The Chief Public Defender should also consider requiring the maintenance of time records by attorneys. Such records are useful in computing "comp time," may be helpful in preparation of budget proposals, and is a means of achieving greater accountability. Some interviewees reported that defenders had been criticized outside the office for being seen on golf courses and in pubs during regular...
business hours. As noted above, the office currently does not employ any sign-in sheets, time records, or even an in-out board. It may be that these attorneys are actually devoting at least 40 hours a week or more to their public defender work, but there is no way to ascertain this.

If an attorney works 12 hours in a given day and feels he or she is entitled to take part of another day off, this might be accomplished by establishing a system of "comp" time. But this can only be accomplished by requiring lawyers to sign in and out every day. Failure to properly account for time on the job could result in impressions of "ghost payrolling" or other accusations in the future, such as the accusation that private law practices are taking priority over effective representation of defender clients.

f. Retention of staff

The most valuable resource of the Montgomery County Public Defender Office is in a number of its experienced and well-qualified attorney and support staff members. These need to be treasured, supported, and retained if at all possible.

Efforts should be made to increase staff salaries commensurate with those in the prosecution office, and consideration should be given to a system of merit increases. It is our understanding that such a system may be included in the next union contract.

In addition, assistant public defenders should not be terminated without a hearing, whether that protection derives from a union contract or the employee policy and procedures manual. It is absolutely essential that the sanctioning and reward authority of managers and supervisors be perceived as being fairly and consistently exercised.

g. Use of support staff

Attorneys should be required to complete written requests for assistance by investigators and social service employees. Such paperwork helps the support staff member to understand the nature of the request and also aids in caseload management.

h. File maintenance.

A sample of 36 case files was reviewed by the Evaluation Team. The overall impression received is that file maintenance is poor. It is clearly not a priority of staff or management. No effort appears to have been made to enforce minimal standards of file maintenance.

It is difficult, and often impossible, to ascertain from inspecting the office files whether the attorney developed any theory regarding case strategy, whether any motions were filed or whether investigations were conducted. There is a space for listing pretrial motions filed on the outside front cover, but in no case was that filled out, even if there was a motion found inside the file. In some cases, it was not possible to know the nature of the charge, the method of disposition, the sentence, the attorney handling the case, or when the case was opened or closed.
The inside front cover of the files has space for a “docket-type” chronological listing of court appearances and events, but this often is not filled out or is incomplete.

The lack of adequate case file maintenance presents several problems for the Public Defender Office. In the event that an attorney is sick or out of the office for some reason, another attorney would be unable to competently handle the case. Better files would assist clerical staff in its record-keeping with regard to counting open and closed cases. Office management would be better able to supervise attorneys by reviewing their files.

Public Defender Office management should design a Case Closing Form to be used at the conclusion of each defender office case, which form should be used for a variety of purposes:

- to assist defender office staff in developing appropriate case handling theories and corresponding strategies;
- to identify system-wide practices by outside agencies that adversely affect the due process interests of defender clients;
- to identify office-wide needs, such as the need to make defender staff more aware of available resources;
- to aid defender office management in determining whether additional staff are needed to effectively represent clients;
- to identify training needs of defender office staff; and
- to facilitate communication between defender office management and other staff members.

The evaluators strongly encourage Public Defender Office leaders and managers to make proper file maintenance a priority, and to enforce it by periodic random file reviews. Sample forms related to file management are included in Appendix D.

i. Management information

Adequate management information is essential for supervision, budgetary planning, and filing reports with the appropriate agencies. Such a system requires at least the following components: (1) a master calendar listing the status of each case; (2) a master card listing basic information such as client’s name, charge, attorney, judge, next court date, etc.; (3) a case file containing charging information, client information, case diary listing court dates and what transpired on those dates; and (4) a closing form listing such information as case disposition and sentence. The NLADA Amicus System contains sample copies of most of these forms.

The defender office has requested new computer equipment, which could be used to computerize the basic management information system described above. Any MIS software purchased by the defender office should contain those four components. For example, when a case is opened, identifying data would be typed into the “mastercard” on the computer, and then sorted out so that the new case appears on a master calendar, in the attorney’s caseload, on the office appointment list, etc. as the case goes through the system. Lawyers should fill out “update” forms notifying the appropriate secretary of the next continuance date or disposition of the case. This includes the method of disposition.
(plea, bench or jury trial, diversion, etc.) so that by the end of the calendar year, disposition information is available on every case. The system would also be able to report on the number of cases to which each lawyer was assigned, how many of a lawyer's cases were closed in that year, and the numbers of pleas, trials, etc. conducted by each lawyer. The system also would be able to report the number of cases by type of charge, and the number of days from assignment to disposition and sentencing.

The importance of the "master calendar" cannot be overemphasized. In combination with the entire management information system, it is the tool that allows management to be informed as to exactly where every case and every lawyer is or should be on a daily basis. It enables supervisors to know what cases must be covered when someone is on vacation, and would provide evaluators with better information on both quality and quantity of work performed by an assistant public defender. It would also assist the County Commissioners by providing data to support the office's budget and staffing requests.

The Evaluation Team has attached to this report some other sample forms to assist the management in performing this function. (See Appendix C)

j. Case jacket filing system.

The Montgomery County Public Defender Office currently employs an alphabetical system for filing case jackets. These files are kept together by calendar year. It is recommended that the office consider changing to a numerical case filing system which makes it easier to file and retrieve case files.

k. Supervisory responsibilities

The lack of clarity in the defender office regarding whether staff attorneys are independent contractors or subject to the supervision and authority of supervisors needs to be addressed. According to the NSCDS, page 337, "the supervisor directly responsible for a group of lawyers should have the final authority in the handling of individual cases."

One of the most important ways to measure the performance of the attorneys is for supervisors to observe their performance in the courtroom. The supervisors should also schedule meetings with judges to obtain their feedback on the performance of staff assistants. Afterwards, these comments should be discussed in private meetings between staff attorneys and supervisors in order to effect long-range improvement in performance. This would also aid in identifying areas that could later be added to the curriculum of in-house training programs.

1. Case handling

In order to assess the effectiveness of case handling by the defender office attorneys, the Evaluation Team relied on three main sources of information: direct interviews with more than half of the office's attorney complement, part of which interviews were devoted to questions about case handling practices; a review by several team members of 36 case files chosen at random from among cases closed in 1998 and weighted heavily in favor of serious felony cases; and interviews with
judges from all levels of courts in the County.

The case file review tended, generally, to validate the information gleaned from attorney interviews with respect to such things as limited use of investigators, bond reduction and other pretrial motions, and the use of expert witnesses. None of the case files examined had a notation on the attorney’s theory of the case or case strategy; none evidenced the use of an independent expert witness; in only one case did it appear that an investigator was used or the case investigated; and in only five of the cases was there any clear indication that any witnesses were interviewed. Only about 20% of the case files reflected diligent and energetic representation efforts, and very few more than that proportion gave evidence that a backup attorney or supervisor could have picked up the file while it was still active and obtained a sense of the litigation potential of the case.

Ten percent (4) of the cases reviewed were disposed of by bench or jury trial, which compares favorably with the 5% statewide combined trial disposition rate for felonies. None of the trials appear to have resulted in acquittals, but on the plus side, no matter what the method of disposition, defendants rarely were sentenced to more than six months of jail time. In only about seven cases (18%) did it appear that the defendants were sentenced to significant periods of incarceration.

Some of the conclusions about practice patterns resulting from the case file review appear to be borne out in judicial interviews. One Common Pleas judge referred to the quality of representation provided by defender attorneys as uneven -- some attorneys were quite good and others were questionable. This judge pointed out that all of the younger lawyers need training and mentoring. This judge also noted that some of the younger defenders overlook the dispositional alternative of treatment in lieu of conviction, a clear training issue.

An outlying court judge noted that only two preliminary hearings were conducted in this court during the past year, and that by failing to conduct preliminary hearings, the defender frequently relinquished the opportunity for free discovery and the chance to lock the prosecution witnesses into a particular version of events.

This judge’s observation may be linked to observations made by several of the defenders that they were pressured into waiving preliminary hearings by the prosecution, for the following reason. Because of the mandatory sentencing guidelines, once a felony case is bound over to the Common Pleas Court, the defendant is facing a harsher sentence. The prosecution offers the defense a sweetener by giving the defense a discovery packet in lower court in exchange for a waiver of the preliminary hearing. If this, in fact, is a normal practice, it is a systemic problem that needs to be addressed by public defender management, and a possible appellate court challenge to the practice should be considered.

Another judge praised the defenders for filing appropriate motions, but noted that the use of expert witnesses is quite limited - but a failure not limited to public defender attorneys. This judge felt that defenders lacked a formal training program and could not recall any courtroom observation of public defender attorneys by supervisors. The latter comment was echoed by a number of judges interviewed by the team.
Five of the judges interviewed complimented the public defender lawyers for being more effective at the sentencing stage than other attorneys. Part of the reason for this appears to be the work of the office's mitigation specialist. Another reason is that defenders appear to be more familiar with dispositional alternatives than other parties and present clear sentencing options to the court which tend to be tailored to the court's sentencing preferences.

Other judges noted that the attorneys in their courtrooms were experienced and competent in every respect and that the older lawyers tended to try more cases than the younger lawyers. The existence of a cadre of experienced, competent lawyers in the Public Defender Office was almost universally commented on by both judges and senior members of the private bar whom the team interviewed. Several interviewees suggested that this office resource could be effectively organized into a major crimes unit similar to one in the prosecutor's office, to the benefit of the office's clients and the overall systemic impact of the office.

A Juvenile Court judge observed that there is no evidence of supervision or training of juvenile court defenders, that their case loads are too high and compare unfavorably with the case loads of the prosecutors, that they occasionally miss legal issues, and that they need additional resources.

Finally, there are the comments of some additional lower court judges: (a) only about 5% of all felony cases have preliminary hearings, and there should be more; (b) defenders frequently waive preliminary hearings in exchange for bail reduction support from the prosecutors; (c) some lawyers have appeared in court with alcohol on their breath; (d) four or five defenders frequently fail to speak to in-custody defendants, but the remaining defenders always do so; (e) most defenders display a more civil professional demeanor in court than they used to; (f) the motions practice of the defender office is excellent and has improved recently; (g) sometimes lawyers fail to appear in court, and there appears to be no method for the defender office management to track them down.

The latter comment is related to an almost universal desire expressed by the judges at all levels of court to be better informed about the organization, administration and policies of the Public Defender Office.

Based on the foregoing case file reviews and judicial interviews, the Evaluation Team has concluded that the Public Defender Office should implement systemic approaches to case handling that advocate pretrial release in appropriate cases, such as frequent filing of written bond motions (although the team is aware of the responsiveness of the pretrial services staff to orally communicated changes in circumstances that, when validated, will result in a prompt recommendation to the court for a defendant's immediate pretrial release). The defender attorneys must resist efforts to deny defender office clients their due process rights to assert appropriate claims, pretrial motions, or defenses, or to take advantage of available alternatives to incarceration.

m. Communications between management and attorneys

Public Defender Office management should determine and implement an effective approach to communicating to defender office staff the long-range goals, policies, and corresponding
case-handling procedures designed for the office.

Public Defender Office management should involve defender office staff in the process of setting goals and practices for the office by soliciting their input through email, suggestion forms, establishing a procedure for reporting on adverse outside influences on case handling, office meetings, informal discussions, committee work, and other appropriate means.

3. Training

The Public Defender Office management is to be congratulated for initiating a training program for new attorneys. It should be augmented as soon as possible. Staff members have recommended that it include more demonstrations and tips by experienced lawyers rather than focusing on critiquing the trial skills of the new attorneys. Staff members have also requested substantive topics, including DUI and Fourth Amendment motion practice.

In designing a suitable training program, it would be useful for management to do a "needs assessment" to determine the areas in which staff require further development. The defender training program and needs assessment should extend to all categories of personnel, and not be limited to attorneys alone.

The "Blue Ribbon Advisory Committee on Indigent Defense Services," NLADA, 1996, recommended the following:

Management training has been under-emphasized in the defender community ... In addition to instruction in such traditional areas as recruitment, training, personnel evaluation, utilization of personnel, budgeting, computerized case management, and statistics, management training should include some of the formalized techniques of modern project management.

Other training needs include: specialized legal training ... on the defense of drugs and violent crime cases. Training ... in dealing with specialized areas of the law such as mental health, juvenile laws, domestic violence, and substance abuse and treatment. Training of non-legal staff to identify diversion and other programs in the community. Training in the use of modern technology such as interactive video, Cable TV, CD-Roms and other types of readily "exportable" programs, sharing brief banks, criminal practice manuals, and other materials via floppy disks, the internet, and other modes of electronic communications.

An overall approach to training is outlined in the recommendations below.

4. Research Assistance to Defender Attorneys

Almost every public defender attorney interviewed expressed the need for an office research and brief bank where they can access successful motions and memoranda done by other
attorneys in the office. This material needs to be collected, organized, and made available in a central location so that it is accessible to all attorneys. The establishment of such a brief bank would result in great cost savings in that it would eliminate the time spent in performing repetitive tasks.

The need to retain a training director and the role of that person in assuring proper research support to the office attorneys was addressed in a earlier section of this report.

RECOMMENDATIONS:

1. Promotions and Salary: The Public Defender Office should work to secure respectable salary levels for its employees that are consistent with the levels of those in the Prosecutor's Office and that will attract and help retain qualified personnel who wish to pursue a career in criminal justice. Said salary levels should take into consideration the importance to the community of the role played by the public defender office in counseling those involved in the criminal justice system, reducing recidivism, and ensuring that the public perceives the criminal justice system as fair and impartial.

   (a) Promotions and salary increases should be based upon merit and longevity.

   (b) Public defender management, in cooperation with the union, should devise a system for merit promotions and salary increases.

   (c) Biannual personnel performance evaluations should be conducted for each employee and the results of said evaluations should be communicated to him or her directly.

   (d) Said evaluations should form the basis for decisions regarding promotion and merit salary increases.

   (e) Defender office management should devise a means for communicating to staff the fairness and objectivity of the process whereby promotions and salary increases are awarded.

2. Management-Staff Relationships: Public Defender Office Management should devise and implement an effective means for resolving personal and professional differences among members of the office that, if left untended, would tend to undermine office morale and dilute the effectiveness of the office.

   (a) Affirmative efforts should be made to constantly improve office morale and forge a unified team approach to effectively serving Public Defender Office clients.

   (b) Every effort should be made on the part of Management to communicate the fairness and impartiality of personnel decisions.

   (c) Management should communicate and practice approaches to interacting with defender office staff in a manner that indicates support and consideration.

   (d) The Public Defender Office should consider the use of an outside team-building
consultant to assist in improving communication within the office.

3. **Training and Research Support:**

   (a) The Public Defender Office should seek funding for a Training Director whose responsibilities would include: planning and organizing training sessions for new hires, experienced staff members, and supervisors, including both attorneys and support staff; establishing and maintaining a research, brief and motion bank (see below); preparing a case outline reference book of helpful cases that could be cited in various motions; editing an office newsletter that should include, in addition to office news, summaries of U.S. Supreme Court, federal and Ohio criminal case decisions, as well as articles relating to techniques in criminal defense; maintaining records of staff attendance at state and national training seminars and encouraging staff participation in such external training opportunities; and promoting participation by members of the private bar in office training activities, both as faculty and trainees.

   (b) The Public Defender Office should develop a training program for new attorneys that includes lectures regarding case handling procedures, demonstrations, and trial practice. Attendance at such training sessions should be mandatory for all new attorneys who have not had significant trial practice experience, and failure to attend such sessions without a valid excuse should be grounds for disciplinary action.

   (c) The Public Defender Office and/or its separate departments should have brief weekly training sessions/meetings to discuss case handling tips and strategize regarding system-wide issues.

   (d) The Public Defender Office should have monthly training sessions where one senior staff member or outside speaker gives a presentation. Some of these sessions may be addressed to the entire staff, and some of these sessions may be held separately for specific departments, e.g., felonies, misdemeanors, delinquency, abuse and neglect, etc. Attendance at such sessions should be mandatory.

   (e) The Public Defender Office should establish a research, brief and motion bank consisting of successful briefs and motions and memoranda of law on various topics in support of such motions, drawing from materials prepared by office staff and other sources. Said research should be categorized and placed on computer diskettes stored in a central, accessible location and monitored by a member of the clerical staff. When feasible, said research should be available on the office computer network.

5. **Systemic Approaches to Case Handling:** The Public Defender Office should devise an office-wide strategy to assist public defenders in coping with outside pressures to waive the rights of defender office clients to secure hearings and sentencing alternatives in exchange for "favors."
III. EXTERNAL RELATIONSHIPS

A. The Community at Large

National standards reflect the importance of cooperation with other criminal justice entities and of gaining the support of the community. According to the report of the Blue Ribbon Advisory Committee on Indigent Defense Services (NLADA, 1996),

The defender office does not exist in a vacuum. It is part of a larger geopolitical community, a criminal justice system in a particular county or state, and a court work group. To survive and to offer better service to its clients, it must interact with all these communities and groups.... Exemplary models of interdisciplinary cooperation include county criminal justice committees, committees to address jail overcrowding, boards of halfway houses, substance abuse centers, mental health hospitals, juvenile homes directors must be encouraged to be involved in these committees on a policy level, rather than reacting later to a policy set by these bodies which may be detrimental to the interests of the indigent accused.

To the extent that the Public Defender and her staff have reached out and become active in various boards and community groups and with the Bar Associations, they are to be commended. However, these efforts should be intensified to reach the goals described by the NLADA Blue Ribbon Committee.

Some of the following approaches for reaching out to the community should be considered by the Public Defender:

- Create a public speaking bureau where public defender volunteers would be available to speak to schools, community groups, etc., regarding the criminal justice system in general and the public defender office in particular.

- Develop a brochure describing the mission and functions of the office, responsibilities of various key personnel, and providing names and phone numbers of people to contact. Such a brochure could be disseminated at detention facilities, and to defender staff members, the judiciary, and the public.

- Develop relationships and collaborations with like-minded organizations such as the ACLU, the faith community, bar associations, crime prevention organizations, and the NAACP.

- Create an aggressive voice for the office on criminal justice issues through the print, radio, and television media. The Chief Public Defender’s recent
initiative to write a weekly column on criminal justice issues for a community newspaper is a noteworthy example of this recommendation.

- Consider establishing a special or impact litigation division to handle systemic criminal justice issues. This division would work in collaboration with the appellate division.

- Develop a strong relationship with the local law school and university communities through the creation of externships, internships, volunteer opportunities, and part-time employment.

- Develop strong relationships with the Ohio State Public Defender Commission and the National Legal Aid and Defender Association.

B. The County Public Defender Commission

In addition to working with the larger community, the defender office has a special relationship with and responsibility toward the Montgomery County Public Defender Commission. The details of that relationship are delineated by state statute, and are spelled out elsewhere in this report. One of the most significant factors in the operation of the office under the current Chief Defender is the more “hands-on” approach of the County Public Defender Commission towards the conduct of the office than apparently was the case over the preceding 20 years of the office’s existence. For virtually all of that period, the office had only two Chief Public Defenders, and the pattern of their interaction with the extant Public Defender Commission members was, by all accounts, much less intensive than is practiced by the members of the current Commission.

For her part, the Chief Defender, a long-time employee of the office, has known only the pattern of the relationship with the Commission of her predecessors. While cognizant of her accountability to the Commission and desirous of maintaining an appropriate and positive relationship with its members, she has had to adjust to the tenor of the new relationship while dealing with compelling operational issues relating to the staffing, unionization, and legal services delivery requirements of the office.

This qualitative change in the nature of the relationship between Commission and Chief Defender has taken some getting used to by both sides. The evaluators could see manifestations of that uneasiness in such things as: the candor of the Commission members about their need to have more knowledge of the operational and management standards applicable to defender agency operations in general; the documentation relating to requests by the Commission to the Chief Defender for operational information and the sometimes lengthy delays in response time to those inquiries; the succession of short-term appointments and re-appointments of the current Chief Defender; and other observations.

The Evaluation Team hopes that this operational and management review is successful in providing both the Commission and the Chief Defender with an objective and informed mutual frame of reference on both achievements and areas needing improvement in the current defender office environment so that communication and collaboration between the two can be enhanced.
The following recommendations relate to the public defender's relationships with both the community at large and with the Public Defender Commission.

RECOMMENDATIONS:

1. **Community-at-Large:**

   (a) The Public Defender Office should be a visible member of the criminal justice community and the community at large. This role can be accomplished by staff participation in community forums, bar association committees, interdisciplinary criminal justice system committees, public addresses, and written communications, such as a newsletter posted on a website.

   (b) The Public Defender Office should promulgate information to the public regarding its goals and role in the community.

   (c) The Public Defender Office should consider the establishment of an informal Community Advisory Board consisting of representatives of diverse community groups to meet on a periodic basis for the purpose of discussing issues of concern to the community and communicating the role and activities of the Public Defender Office.

   (d) Consideration should be given to the establishment of a community-based branch office of the Public Defender Office that would be located in a neighborhood where a substantial number of the office's clients reside.

2. **Relationship between Chief Public Defender and the Public Defender Commission:**

   (a) The Chief Public Defender should communicate informally with members of the Commission on a frequent basis regarding concerns of the Public Defender Office.

   (b) The Chief Public Defender should seek the support and assistance of the Public Defender Commission on issues relating to the effective performance of the office, including, inter alia, support and advice regarding budgetary requests.

   (c) The Public Defender Office should provide the Commission with copies of quarterly and annual statistical reports, budget requests, and other information regarding the operation of the office.

   (d) The Public Defender Office should report regularly to the Commission regarding its efforts with respect to community relations and outreach.

   (e) The Public Defender Commission, after a thorough review of this report and
recommendations, but as soon as practicable, should appoint the Public Defender of Montgomery County to a term of years sufficient to consider and implement the recommendations in this report and to develop and carry out a strategic plan to achieve the improvement goals reflected therein.

VI. COST ANALYSIS

A. Public Defender Costs In Felony Cases

One method for determining gross cost per case for a public defender office was simply to divide the total budget for the office ($3,111,708 in 1998) by the number of cases it handled in a given year (23,252 in 1998) and announce a gross case cost to the taxpayer. For the Montgomery County Public Defender, that would be $134 per case. However, if one wants to compare case costs with another entity such as the Assigned Counsel program, such a gross figure is not precise enough because it encompasses a range from murder cases to Driving Under the Influence of Alcohol cases, which differ in complexity and amount of time required to handle each case. Therefore, a more accurate method of comparison is to try to compute, for example, the cost of felony cases handled by the Public Defender and felony cases handled by assigned counsel.

Public Defender costs in felony cases in this study were computed two ways. The first involved a more traditional analysis of total felony costs for 1998, utilizing known figures, and the second involved a "Delphi" type survey of key staff members to determine how many hours were actually spent on felony cases. The numbers derived from both these methods were then compared to Assigned Counsel costs for felonies in 1998. In both cases the public defender cost on the average was lower than assigned counsel costs for the comparable period.

Utilizing the Traditional Method, the Public Defender budget for 1998 was $3,111,708. Of that amount, Public Defender attorney salaries amounted to $1,611,884. Dividing that amount by the 36 lawyers comprising the defender staff = an average salary of $44,775 per lawyer.

The balance of the appropriation, $1,499,824, is treated as overhead. Dividing that amount by the 23,252 cases represented by the Public Defender in 1998 = $64.50 overhead per case.

The number of new felony cases handled by the Public Defender in 1998 was 1,607, and there were ten lawyers assigned to handle these felony cases. Therefore, the total salary cost for the ten defender lawyers was $447,750. Dividing that number by 1607 cases gives us a salary cost of $279.00 per case. Then, adding the overhead cost of $64.50 to each case results in an adjusted case cost of $343.50 per felony case for the Public Defender Office.

During the same period, Assigned Counsel were appointed to 1,403 felony cases and were paid $918,239. Dividing the $918,239 by 1403 results in a per case cost of $655.00 per felony case. This indicates a significantly higher cost on the average in felony cases for assigned counsel. In actuality, the disparity is even more than indicated by these figures. The assigned counsel costs do not included salary of judicial or administrative staff to review vouchers, authorize payment, etc.
Moreover, the figures utilized above for the Public Defender do not take into account the shock probation, extradition, and probation revocation appointments. If those are added into the mix, the Public Defender handled 2,076 felony matters in 1998, which would result in a cost per felony case of $280.50. (Salary cost of $447,750 divided by 2076 = $216.00 plus $64.50 overhead = $280.50 adjusted cost per felony case.)

In addition, these figures do not take into account the 2,840 preliminary hearings handled by the Public Defender in 1998. The Assigned Counsel program simply does not represent clients at preliminary hearing, except in the rare case of conflict which is apparent to the Court at the initial appearance of multiple defendants, and assigned counsel is appointed by the Court prior to the preliminary hearing.

In summary, whether the Public Defender Office felony case cost is pegged at $343.50 or $280.50, it is significantly lower than the $655.00 cost for Assigned Counsel to handle a felony case.

B. Misdemeanor Case Costs In Dayton Municipal and Outlying Courts

Misdemeanor defender case costs for the Dayton Municipal Court and the outlying courts in 1998 were computed as follows:

- The Dayton Municipal Court handled 8,567 cases in 1998 with 10 public defenders. Under traditional analysis, the cost per case was calculated at $447,750 in salary costs divided by 8,567 cases = $52.00 per case plus $64.50 for case overhead for a total adjusted defender misdemeanor case cost of $116.50 per case.

- In Vandalia, there were 2,750 cases with three public defenders for a case cost of $113.35. ($134,325 divided by 2,750 cases = $48.85 per case plus $64.50 overhead cost for a total adjusted case cost of $113.35 per case.)

- In Kettering, public defenders handled 1,200 cases for an adjusted case cost of $101.81 ($44,775 divided by 1,200 cases = $37.31 per case plus $64.50 = $101.81).

- In District One, public defenders handled 1,496 cases in 1998 for a case cost of $94.43 ($44,775 defender salary cost divided by 1,496 cases = $29.93 plus $64.50 case overhead cost = $94.43 adjusted cost per case).

- In District Two, public defenders handled 941 cases in 1998 for a case cost of $112.08 ($44,775 divided by 941 cases = $47.58 plus $64.50 = $112.08).
In Miamisburg, public defenders handled 1,023 cases in 1988 for an adjusted case cost of $108.27 ($44,775 divided by 1,023 = $43.77 plus $64.50 per case = $108.27).

It is interesting to note that all of the misdemeanor case costs in Dayton Municipal and the outlying courts were less than the public defenders estimated were necessary to represent misdemeanor clients, when surveyed by the Delphi method see below). It is also important to note that these misdemeanor caseloads are far in excess of the caseload standards of the National Advisory Commission on Criminal Justice Standards and Goals, which recommended a maximum of 400 misdemeanor cases per lawyer per year.

C. Case Cost Comparisons For The Juvenile Court

In 1998 the Public Defender handled a total of 2102 cases in Juvenile Court. Using the traditional analysis, the salary and overhead costs of the eight lawyers assigned there result in a per case cost of $234.50 ($44,775 x 8 = $358,200 divided by 2102 = $170.00 plus $64.50 per case in overhead costs = $234.50).

In contrast, the Assigned Counsel program represented 2,068 cases in Juvenile Court for a total of $719,114, or a per case cost of $347.73. (It is also significant to note that Assigned Counsel costs for the Juvenile Court have risen to $747,574 for the nine and one-half month period up to October 20, 1999 for 2,117 Juvenile matters.) In 1998 the largest number of cases handled by assigned counsel were in the Juvenile Dependency, Neglect, and Abuse Area (1,369 matters for $497,415.00) and in the Delinquency area (413 cases for $131,416.00).

Again, we note that in the Juvenile area, using traditional cost analysis, public defender case costs are significantly less than assigned counsel costs over the same time period.

D. Utilizing the Delphi Survey Method

In order to validate the cost comparison data obtained by the traditional method and to gain further insight into the actual cost of cases by type, the Evaluation Team surveyed a number of assistant public defenders serving in the Common Pleas, Municipal, and Juvenile Courts to determine the average number of attorney hours spent in the representation of felony, misdemeanor and juvenile clients.

Felony Cases- In administering the Delphi survey, a member of the Evaluation Team met with a group of eight experienced lawyers handling felony cases. They were asked to review the steps required in the handling of Burglary, Robbery, Assault, and Drug cases and to determine how many hours was spent on each type of case from assignment to disposition. Case type survey forms were submitted to the group, one at a time. After each person filled in the amount of time necessary to represent these clients on the survey instrument, including preliminary hearing, pre-indictment work, felony arraignment, interviewing the client reviewing discovery, negotiating with the prosecutor, investigation, research, preparation of motions, court hearings, etc. the lawyer totaled the number of hours. He or she then went through the same process for each case type. The totals for each case type
were then recorded and reviewed by the other lawyers participating in the survey.

After viewing the number of hours recorded by their peers, the lawyers were asked if they wished to revise their estimates in view of what other felony lawyers thought. After revisions were made, the number of hours for each case type was averaged for the group and recorded. (Note: This process was utilized by atomic scientists in Los Alamos during the development of the atom bomb in order to reach group consensus on certain issues. It has also been used in public defender offices to determine attorney workload where time records are not normally kept in each case.)

The averages recorded by case type where a plea of guilty was entered were: 2nd Degree felony Burglary: 10.2 hours; Robbery: 14.75 hours; Aggravated Assaults: 13 hours; serious Drug cases: 10.1 hours.

The average preparation time for all these case types was 12 hours. In order to project an average case cost for these felony cases, the method utilized was as follows. The average salary for Public defender staff lawyers was calculated at $44,775. Assuming that staff lawyers work 1820 hours per year, the average hourly salary is $24.60 per hour ($44,775 divided by 1820 hours per annum = $24.60). Multiplying the Delphi time of 12 hours x $24.60 per hour = $295.00. To that salary cost we must add the overhead cost of $64.50 per case (see explanation above), resulting in a per case cost of $359.50 for felony cases.

Of course, cases that went to trial required far more time, adding a minimum of 10 hours to a 2nd degree felony up to a maximum of 50 additional hours, depending on the type of case.

In addition to the trial itself, there is significant preparation time required, and sometimes preparation is made for trials which end in pleas at the last moment. However, numerous trials are not the norm, and most felonies are disposed of by plea bargain. Therefore, we can utilize the number of hours necessary to dispose of the case by plea as typical for computing average cost per case.

It is interesting to compare the cost per case calculated by use of the Delphi system with the case cost calculated by the more traditional method and note the similarity- $359.50 per case through the Delphi system and $343.50 per case through the traditional method.

**Misdemeanor Delphi Study** - With respect to misdemeanors, there were seven experienced lawyers with misdemeanor experience participating. They estimated the time spent in misdemeanor cases. The same process was used. The group average (including misdemeanor cases that went to trial) was 5.2 hours per misdemeanor case. Utilizing our formula, the Delphi cost per case would be $192.50. ($24.60 per hour x 5.2 hours = $128.00 per case plus $64.50 overhead charge = adjusted case cost of $192.50 per misdemeanor case.)

**Juvenile Delphi Study** - With respect to Juvenile Court cases, the same Delphi method was utilized, this time involving seven experienced attorneys of the Defender Juvenile Court staff. The group average for delinquency cases which ended in a plea of guilty was 5.45 hours. Utilizing the same formula we have utilized for felony and misdemeanor cases, the average defender case cost in Juvenile Delinquency cases was computed at $198.50 ($24.60 per hour x 5.45 hours = $134.00 plus $64.50 per
case for overhead = $198.50 adjusted juvenile delinquency case cost.) This compares favorably with the defender juvenile case cost of $234.50 computed in the more traditional manner. (Of course, it is important to note that the $234.50 per case cost includes juvenile delinquency cases which went to trial. For those cases, the respondents to the Delphi Survey estimated that 11.25 hours were required, which would cost $341.25 per case. But again, the most usual disposition in a Juvenile Delinquency case is by plea bargain.)

In contrast, the Assigned Counsel costs for all delinquency cases in 1998 was $318.00 per case. ($131,416.00 divided by 413 cases = $318.00 per case).

In reviewing the data discussed above and in conducting the Delphi study to reach a determination of how much time is actually spent on these cases, several conclusions may be reached. The first is that especially in the misdemeanor and juvenile court areas, the workload for each lawyer far exceed nationally recognized caseload and workload standards of 400 misdemeanor cases per lawyer per year and 200 juvenile delinquency cases per lawyer per year. To the extent that current caseloads exceed national standards, additional staff should be employed until such caseload standards are met. The second conclusion is that the public defender system is more cost-effective than assigned counsel in felonies, misdemeanors and Juvenile Court, and the court should consider increasing the percentage of cases assigned to the defender office, assuming adequate personnel and resources are afforded it to adequately handle the increased caseload.

RECOMMENDATIONS:

1. Additional staff should be allocated to the Public Defender Office to bring the cases represented by assistant public defenders into conformance with national caseload standards as promulgated by the National Advisory Commission on Criminal Justice Standards and Goals.

2. In light of the fact that the Public Defender Office is more cost-effective in the representation of indigent criminal cases than the appointed counsel program, the Court, the County and the Public Defender Commission should consider increasing the share of indigent cases handled by the Public Defender and adding to the Public Defender Office adequate staff and resources to represent these additional clients.

VII. SUGGESTED PRIORITIES FOR IMPLEMENTATION OF RECOMMENDATIONS

The recommendations presented in this report are made with the objective of advising the Public Defender Commission, the Chief Public Defender, and the County Board of Commissioners about what the Evaluation Team believes to be necessary to bring the office to a level of capability and performance consistent with national standards and Constitutional, statutory and case law mandates.

If the cost and effort of commissioning and cooperating in an independent evaluation is to have any benefit for the County and the Public Defender Office, implementation action on the recommendations will be necessary. The Evaluation Team is aware, however, that it is not possible to implement all of the recommendations of this report simultaneously. Some recommendations, of
necessity, cannot be enacted until other mechanisms have been set in place. For example, supervisors cannot be expected to adequately monitor the work and observe the performance of the lawyers under their supervision if the supervisors have full caseloads and are in court at all times. Nor would it be prudent to immediately attempt to implement all of the staffing recommendations before an MIS-assisted analysis is conducted of deployment patterns and case management practices after an initial round of highest priority hiring and assessment of the impact of some of the other management-oriented recommendations.

There is, of course, another factor that significantly impacts the implementation situation. Many of the recommendations go to the "legal culture" of the office and its management environment. These can be implemented without additional resources, for the most part. Some recommendations, however, require the infusion of additional budgetary resources. Coming upon the heels of substantial County expenditures related to the upgrading of the of the Office's facilities and the prospective upgrading of its management information system, and given the reality of competition for limited fiscal resources by other County agencies, both inside and outside of the justice system, budget augmentation for the Public Defender Office will likely be available only over successive budget periods (but including, hopefully, the supplemental budget request window of the current fiscal year). Therefore, the evaluators have attempted in the discussion that follows to provide its sense of the priorities, in terms of timing of recommendation enactment, that may be helpful to the budgeting process.

The discussion of priorities classifies the recommendations contained in the body of this report (and listed and numbered in the Executive Summary) into three phases of recommendation implementation. Only the first stage of implementation has a suggested timetable. This is not because the others are not as important, but to emphasize that these recommendations should be enacted first in order to set the stage for accurate information and effective follow-through of other recommendations. With that caveat, the major recommendations are discussed below under: first stage implementation (immediately to six months, and on-going); second stage implementation; and third stage implementation.

A. First Stage Implementation (immediately to six months, and on-going)

1. The first priority is for the Chief Public Defender to take control of the office. The Chief Defender must insure that each staff member, including both attorneys and support staff, is aware of the goals and mission of the office and performs according to recognized national standards and to those clearly articulated goals and mission statement. Most importantly, the notion of a staff lawyer acting as an "independent contractor" must end. In order to accomplish this, several steps must be taken:

   (1) The Chief Public Defender and Deputy Defender should be relieved of their caseloads in their entirety to allow them to concentrate on the responsibilities of managing the office, assuring the quality of client representation, and contributing to the achievement of fair and efficient administration of justice in the County. The Chief Defender and Deputy Defender must devote full-time to organizing and conducting the functions of planning, supervision, team building to improve morale and performance, judicial and interagency liaison and advocacy on behalf of the office and its
clients, community relations, interaction with the Public Defender Commission, union relations, and other duties related to policy development and administration. They should hold regular meetings of the office’s “Management Team,” which should include, in addition to themselves, the Division Supervisors, the Chief Investigator, the Appellate Attorney, and the Administrative Secretary or Office Manager. The Public Defender and Deputy should use this group as both a sounding board for their ideas and as a resource for ideas from the field. Management Team members should be assigned to committees, augmented where appropriate by line staff, and charged with addressing such issues as early provision of counsel, changes in and files and records maintenance protocols, workload standards development, strategies to increase pretrial release rates, and other issues related to improving the effectiveness of the office’s service delivery.

(2) Division Supervisors should have their caseloads reduced to no more than a 50% level, in order for them to carry out their responsibilities for staff support, mentoring, quality control, and performance evaluation. They must be able to review cases in advance, attend court proceedings to observe the staff lawyers in action, visit with judges to solicit feedback on attorney performance and for information exchange, etc. In addition, the supervisors must utilize the MIS to be aware of what cases each lawyer is handling in a given day, and the disposition of each case handled, to insure equitable assignment of cases. They must also participate meaningfully in the meetings and committee work of the office management team. Job descriptions with performance expectations should be written and promulgated so that the supervisors will know what is expected of them.

(3) The hiring of one additional felony attorney to cover the caseloads of the Chief Defender and Deputy should be a priority hiring, as should that of one new attorney to cover the reduced caseload of the Outlying Courts supervisor and to supplement the existing attorney staff in that high-volume division of the office. The remaining supervisor caseload reductions (Juvenile/CSB, Dayton Municipal Court) should be achieved initially by caseload attrition and an increase in assignments of new cases to the court-appointed counsel program and/or by contract attorneys. This will give the office leadership an opportunity to review current staff assignments and case handling practices, as well as to assess the impact on staff workloads of improved management and new operational efficiencies before committing to the hiring of additional permanent, full-time staff attorneys.

(4) The Policy and Procedures Manual begun by the Public Defender and Deputy should be completed and distributed to all staff. This manual should include the requirement that supervisors will prepare evaluations of all staff under their supervision at least every six months. This evaluation should be both quantitative and qualitative and measured against nationally recognized performance standards. (See, e.g., NLADA “Performance Guidelines for Criminal Defense Representation” [1994]).

(5) The current system of individual responsibility for arranging for coverage of court calls when staff attorneys take vacation or must be out for some other reason must be changed. It should not be the responsibility of the individual lawyer to find someone to cover his call in his absence. This is definitely a management function, and requiring the staff attorney to find his or her own replacement is counterproductive to the notion that the office is being run by management and
not by the individual attorneys. This is a responsibility of the supervisors.

(6) Lack of accountability is a major problem in the office. One of the methods to reinforce a positive management atmosphere and insure accountability is for all personnel to sign an office time sheet on a daily basis. This will provide accurate information on sick days, vacation days, training days, and where the staff member is at any given time, etc. If there is a question about where an employee was on a given day, the time sheet provides a signed record of the status of the employee that day. This is the practice in a number of jurisdictions, and is especially relevant if a staff attorney is in court on a legal matter not related to the office, so that he or she is not paid for that day.

Moreover, if a lawyer or other employee is not coming in to work that day, he or she should call in as early as possible after 9AM so that a replacement can be found if the employee was due in Court. (Ultimately, it was the evaluators’ judgment that being an assistant public defender should be a full time job, and no outside practice, civil or criminal, should be allowed. That issue should be clarified and negotiated as soon as possible to gain maximum cost-effective utilization of staff).

All of these steps - clear mission statements completion and promulgation of the Policy and Procedures Manual, effective supervisors with reduced case loads, regular evaluations, requiring supervisors to find cover for vacation days, sign in sheets, etc. - are designed to insure that the office is run by the Public Defender, utilizing mid-level management, feedback from the staff, and fair and equitable methods to maximize both cost and professional efficiency.

2. Juvenile Court Needs. The body of this report discusses the deficient representational situation that exists in Juvenile Court. Both the volume and complex needs of cases handled there by the defender office attorneys compels attention to the staffing and other resource requirements of that division. Those needs that should be dealt with as stage one priorities are as follows:

(1) At least one additional lawyer to represent juveniles at the Initial Adjudicatory Hearings (IAH) where the child is asked to admit or deny guilt should be assigned or hired as soon as possible. Such admissions should not be made in the absence of counsel in adult criminal court, much less in Juvenile Court. In fact, such a procedure which involves asking a child to admit or deny guilt may be violative of decisions of the United State Supreme Court. (See, e.g. In re Gault, 387 U.S. 1 (1967), where the Court recognized the juvenile's right to the Fifth Amendment privilege against self-incrimination and his Sixth Amendment right to counsel in the Juvenile Court).

(2) At least one social worker and paralegal should be hired immediately and added to the Juvenile Court Division staff to assist in delinquency sentence advocacy and dependency and neglect cases, where placement outside the home may be involved.

(3) One field investigator should be hired immediately for Juvenile Court at this stage to assist the lawyers in the investigation of the more serious cases. An alternative early response to the need for investigative resources in the Juvenile Court Division of the office may be the possibility, after consolidation of the office in the Reibold Building, of converting one of the intake
staff to field investigator duties and assigning that person to support of the Juvenile Court Division attorneys.

Many lawyers who have worked in Juvenile Court feel that it is the most important court in the criminal justice system. It is a place where the lives of children identified to the system may be changed so that they do not go on to a life of crime, but instead become self-sustaining, law abiding citizens. Time must be spent to insure the proper dispositions and placement of these children, and resources allocated there will have a profound impact on these children's lives in the future.

3. The next priority is putting a Management Information System (MIS) in place which will allow the office managers to view a central calendar of all cases so that the management and supervisory personnel know the exact status of each case and when it is in court, an accurate figure on how many cases each of the lawyers is carrying at any given time, the number of cases opened and closed each year by lawyer, the type of case, the nature of the disposition, and how long it takes for each of these cases to go through the system. This is a prerequisite for accurate staffing requests. Although the Evaluation Team noted that the caseload divided by the number of staff lawyers far exceeded national caseload standards, especially in the Dayton Municipal Court and all outlying courts, this information must be reexamined in the light of an efficient MIS in order to get the most accurate figures with respect to implementation of the staffing recommendations and for future staffing requests in the felony, misdemeanor, and juvenile court, to insure fairness in case assignment, and to provide a basis for proper performance review.

4. The Chief Public Defender should take the lead in engaging the County Prosecutor and the judicial leadership in discussions about how to accomplish representation at initial arraignment for defender office clients (or all defendants) with and without staff augmentation and perhaps, at first, on a pilot basis.

5. Hiring or designating a full-time Training Director. A defender office the size of Montgomery County's needs a full-time training director. The Evaluation Team's on-site interviews, observations, and case files review highlighted the need for accelerated development of a comprehensive program of initial and in-service training for all categories of staff, building on the in-house trial skills program that was initiated and is presently coordinated by the Deputy Defender. If, as is recommended, the Deputy Defender is relieved of caseload responsibilities to devote more time to felony division supervision and overall office management, it may be possible for him, with the assistance of a paralegal or law student intern (and perhaps a committee of the Management Team), to flesh out and initiate some new elements of a comprehensive program for the office while this person is being recruited. Establishing this position is a high priority item and goes to the very heart of improving the performance and effectiveness of the office.

6. A Chief Administrative Officer or Office Manager should be designated to supervise the entire clerical staff, thereby relieving the Chief Investigator of that obligation. This would allow for closer supervision and understanding of the needs of the clerical staff, and also would free some of the time of the Chief Investigator, enabling him to focus on his primary mission of supervising and training investigative personnel and educating the lawyers in how to best utilize his
staff. (Note: it is estimated that 25% of the Chief Investigator's time is occupied with non-investigative administrative matters which could be handled by an administrative person). Ideally, an internal candidate can be identified and selected for this position. Additional secretaries should be hired in the near future, but that can wait until the next stage.

7. Appeals. The office needs a second appeals attorney who would concentrate on misdemeanor and juvenile appeals. However, this could be put off to a subsequent stage if paralegals and law students, trained properly, could assist the current sole appellate lawyer in this endeavor.

8. Adequate funds for expert witnesses is a stage one priority, inasmuch as modern criminal practice requires the use of forensic experts in both guilt-innocence and sentencing stages. It is especially critical in the Juvenile Court area, where sufficient funds for forensic experts have been lacking in the past.

B. Second Stage Implementation

1. Investigators and Social Workers – Three additional social workers should be hired during stage two – one each for the felony, misdemeanor, and CSB divisions. This would bring the social work complement of the office to five, including the current mitigation specialist member and the one recommended for stage one period hiring and assignment to Juvenile Court. In addition, if the utilization level of investigative staff has increased in response to attorney training and supervision efforts, two additional investigators should be hired during this second stage of implementation, bringing the field investigator staff of the office to five. This will still leave the office far below the national standard of one investigator for every three trial lawyers, but during stage three, and in successive budget periods, the investigation staff complement should be steadily increased, as needs assessments dictate. This suggestion is cost-effective because cases must be investigated prior to plea or trial. If there is no investigator to do the job, a higher paid lawyer must do it, and probably less efficiently as well.

2. Additional Staff Attorneys – Two additional attorneys should be hired for augmentation of the Juvenile Division and at least one attorney for the Outlying Courts Division during stage two, subject to the review of workload levels and the deployment efficiency of current staff at that time. The team's recommendation for an attorney to handle misdemeanor and juvenile appeals should be re-assessed in light of the performance of paralegals and law students in helping the office's lone appellate attorney handle such cases.

3. Rotation of Attorneys – Although the Evaluation Team felt strongly, as did some members of the judiciary and the private bar, that the practice of rotating the defender attorneys between the felony and misdemeanor divisions, as it is being implemented, must be reviewed, this can be done after the first round of hirings and management reviews have been completed.

C. Third Stage Implementation

1. Salary Negotiations and Parity – The National Standards call for parity
between Prosecutor Office and Public Defender Office personnel, with respect to both lawyers and support staff. Such parity is also essential for morale and the most effective staff performance. This is a matter that may take time, but should be accomplished as soon as practicable.

2. **National Standards** favor continuity of representation, i.e., the same lawyer handles a case throughout the case disposition process. (See, e.g., National Study Commission Standard 5.11 quoted in the report.) However, as the instant report points out, that is not the case in Montgomery County. Determination of the precise manpower and procedures to effectuate this result may require further study, and this can be corrected at a later stage. However, the practice of "vertical representation" with the same lawyer representing a client throughout the proceedings has been recently implemented in other jurisdictions with very favorable results, not only for court efficiency but also in the eyes of clients. (See, e.g., Technical Assistance Report on Oneida County, New York, American University, 1999).

This preliminary implementation plan has not referenced some of the recommendations of the Evaluation Team, and it has placed some into a third phase of implementation. But as stated at the outset, this is not to suggest that they are less important. It is more a question of timing and preparation. However, as many of them do not involve increased personnel, these recommendations should be implemented as soon as practicable.
Appendix A

Resumes of Evaluation Team
NAME: JOSEPH A. TROTTER, JR.

CITIZENSHIP: United States

EDUCATION:
- J.D. Washington College of Law, American University, Washington, D.C., 1972
- B.S.F.S. School of Foreign Service, Georgetown University, Washington, D.C., 1964

LANGUAGES: English

COUNTRIES OF WORK EXPERIENCE: United States, Bermuda, Belgium

EXPERIENCE SUMMARY:

Mr. Trotter is a Research Professor on the faculty of American University's School of Public Affairs and Director of the university's Justice Programs Office. In these capacities he is primarily responsible for the development and implementation of an interdisciplinary program of technical assistance, professional training, and research on criminal justice, judicial administration, and judicial system interagency issues. He developed and has served for more than 20 years as the Principal Investigator/Project Director of the national-scope Courts Technical Assistance Program which American University conducts under cooperative agreements with the Department of Justice and the State Justice Institute. The office provides onsite technical assistance and training services to state and local courts, prosecutor offices, public defenders agencies, departments of correction, and law enforcement agencies. Mr. Trotter specializes in managing change in the justice system environment, judicial system inter-agency and community relations, and judicial and legal professional education standards and practices. He is a graduate of Georgetown University's School of Foreign Service and earned his law degree at the Washington College of Law of American University.

EXPERIENCE RECORD:

Research Professor and Director, Justice Programs Office, The American University School of Public Affairs Washington, D.C., June 1989 – Present.

Directs the Justice Programs Office of the School of Public Affairs at American University. Primarily responsible for the development and implementation of an interdisciplinary program of technical assistance, professional training and research on criminal justice, judicial administration and judicial system interagency issues. Serves as the Principal Investigator/Project Director of the national-scope Courts Technical Assistance Program which The American University conducts under cooperative agreements with the Bureau of Justice Assistance of the U.S. Department of Justice and the State Justice Institute. The office provides on-site professional technical assistance and training services in support of reform and innovation efforts to state and local courts, prosecutor offices, public defender agencies, departments of correction, and law enforcement agencies. He is a Professor on the research faculty of the School of Public Affairs.
Project Director, EMT Group, Inc., Washington, D.C., January 1989 – June 1989. Directed the Washington office of this Sacramento, California-based management consulting firm and served as the Director of the national-scope Adjudication Technical Assistance Project (a court system-oriented technical assistance and training project), which was conducted by EMT under a cooperative agreement with Bureau of Justice Assistance (BJA), U.S. Department of Justice, prior to BJA’s award of the project to The American University.

Consultant, U.S. Department of Justice National Institute of Corrections, Boulder, CO, January 1982 – Present. Serves as consultant for the National Institute of Corrections Jail Center in the area of jail overcrowding, working on-site with local jurisdictions (sheriffs, jail administrators, judges and prosecutors) in determining causes of overcrowding and means to alleviate this problem.

Attorney, Trotter & Cooper, Bethesda, MD, August 1982–1989. Partner in a general practice law firm in the Washington, D.C. area. From 1982-86 also served as an assistant public defender in the Prince George’s County and Montgomery County, Maryland, Circuits. He has taken a leave of absence from his firm to direct the American University Courts Technical Assistance Program.


- **Executive Associate Director**, January 1981 – July 1982 and January 1976 – January 1981. Supervised a multi-project interdisciplinary research staff. Developed curriculum for educational and training endeavors. Represented the Institute, Law School and University in negotiations before federal and state government and private state government and private sector research sponsors. Developed Institute research and publication schedules, budgets, and specific proposals for justice projects, and served as principal investigator for the Criminal Courts Technical Assistance Project of the Institute. Also developed the curriculum for and taught a graduate level seminar on “Critical Issues in Judicial Administration” in the University’s College of Public and International Affairs (1981-1983).

- **Director**, Courts Technical Assistance Project, Washington, D.C., July 1972 – May 1982. Administered a $4 million Department of Justice-funded program to improve functioning of the criminal justice system nationwide through assistance to state courts. Directed a national program staff and expert consultants in research and publication efforts, training and technical assistance for state trial and appellate courts, prosecutors’ offices, defender organizations, and state and local government planning agencies. Provided direct technical assistance and training to criminal justice system
components described above. Planned and implemented national scope studies on the judicial process and intergovernmental relations at the request of the Law Enforcement Assistance Administration. Maintained liaison with federal and state judicial conferences and national court service and professional organizations.

Served as assistant to the Director and supervised and conducted criminal justice research on various Institute projects.

Responsible for program planning, development and documentation of youth-oriented rehabilitation programs receiving federal government support; provided technical assistance to local boards of trade, National Alliance of Business chapters, mayors' offices, civic groups, and criminal justice agencies regarding development and implementation of youthful offender rehabilitation programs.

Served in South Vietnam as a liaison officer between the U.S. Mission and third-county civilian technical advisory teams providing assistance to the South Vietnamese Government.

Responsible for research and writing of public health-oriented foreign area studies; served as liaison for senior analysts to U.S., foreign government, and international organization information sources for socio-economic data on foreign countries, U.S.

Maintained an international reference library of socio-economic information; provided research assistance to staff analysts; conducted independent research; acted as liaison with foreign embassies and other U.S. agencies for information exchange in the social sciences field.

PROFESSIONAL RECOGNITION

Appointed Co-editor of the 1995 revision of the seventh edition of The Improvement of the Administration of Justice, the central publication of the Judicial Administration Division of the American Bar Association (1995-1996).
Member of the Standing Committee on National Standards for Judicial Education of the National Association of State Judicial Educators, 1992 - Present.


Member of various national Advisory Committees dealing with indigent defense services, jail overcrowding, court delay reduction, judicial education, correctional system reform, and court-community relations, 1972 - Present.


Program Chairman, Judicial Administration Division Program, 1983 Annual Meeting of the American Bar Association.

Executive Committee of the JAD Lawyer's Conference, 1982 - 1986.

Distinguished Service Award from the Law Enforcement Assistance Administration, U.S. Department of Justice, for contributions to state court reform, 1982.

Distinguished Service Award from the National Association of State Judicial Educators for contributions to judicial education, 1981.

Knights of Columbus Scholarship to Georgetown University School of Foreign Service, 1960-1964.

PROFESSIONAL MEMBERSHIPS

Maryland Court of Appeals
US Court of Military Appeals
US Courts of Appeals for the 4th, 5th and 11th Circuits
US District Court for the District of Maryland
American Bar Association, Judicial Division
American Judicature Society
National Association of State Judicial Educators
National Association for Court Management
National District Attorneys Association
National Legal Aid and Defender Association

REPRESENTATIVE PUBLICATIONS


Management Audit of the Kalamazoo County Sheriff's Department. Jerry V. Wilson, Nate Caldwell, Joseph A. Trotter, Jr., Esq., Caroline S. Cooper, Esq. Honorable Gary R. Haines, and Honorable James R. Metts. The American University, September 1996.


MARSHALL J. HARTMAN

RESUME

EDUCATION

UNIVERSITY OF CHICAGO (1954) BACH. OF ARTS (B.A.)
SPERTUS COLLEGE (1957) E.H.B. LETTERS (B.H.L)
UNIVERSITY OF CHICAGO LAW (1957) DOCTOR OF LAW (J.D.)
UNIVERSITY COLLEGE COURSES-
NORTHEASTERN UNIVERSITY (1980) CRIME & JUV. DELINQUENCY
U.S. ARMY CAREER OFFICER (1962) THEORY OF GROUP WORK
SCHOOL

PROFESSIONAL EXPERIENCE

DEPUTY DIRECTOR, ILLINOIS CAPITAL RESOURCE CENTER, 1992-
Acts as liaison attorney in post conviction and federal habeas corpus in death penalty cases. Edits newsletter, and assists in conducting training seminars for panel of 125 lawyers.

LAKE COUNTY PUBLIC DEFENDER- 1987-1991
Supervised office of 32 paid personnel, including 19 lawyers and 4 law clerks, 3 criminal investigators, clerical, etc.
Utilized up to 50 volunteer interns per year for research, interview, and statistics. The office received four consecutive national achievement awards from the National Association of Counties from 1988 to 1991 for its intern program, computerized defender management information system, jail interview unit, and bond lawyer project. In 1991, the office received the Clara Shortridge Foltz Award from the American Bar Association Standing Committee on legal aid and indigent defendants and the National Legal Aid and Defender Association for outstanding criminal defense services to the poor. The office represented death penalty cases, felonias, misdemeanors, juvenile, jailable traffic offenses, mental health, etc. As Chief Public Defender, I also acted as lead counsel in several death penalty and murder cases.

ASSOCIATE PROFESSOR OF CRIMINAL JUSTICE (VISITING AND ADJUNCT-UNIVERSITY OF ILLINOIS, 1978-86)
Taught criminal law, criminal procedure, evidence, philosophy of law, sociology of law, police administration, corrections, intro. to criminal justice, and specialized seminars on the Supreme Court, Right to Counsel, and the Bill of Rights in the Criminal Justice Department to both graduate and undergraduate students. Received two SILVER CIRCLE awards from the University for excellence in teaching, 1982 and 1985.

ADJUNCT PROFESSOR OF LAW- ILLINOIS INSTITUTE OF TECHNOLOGY, CHICAGO-KENT COLLEGE OF LAW- 1991-92
Also taught Appellate Practice course, 1972

NATIONAL DEFENDER INSTITUTE (GENERAL COUNSEL AND PROJECT DIRECTOR, 1979-86)

Administered over $1,000,000 in grant funds to perform numerous studies of public defender and assigned counsel systems in the United States and Canada, and establish and monitor model defender circuit programs in Texas, Tennessee, and rural Michigan. Published monographs on caseload overload, and the use of private counsel for indigent defense representation. Also conducted training seminars for defenders and assigned counsel in Arkansas, Hawaii and other states.

EXECUTIVE DIRECTOR, CRIMINAL DEFENSE CONSORTIUM OF COOK COUNTY (1976-78)

Supervised network of seven community model defender offices in high crime, low income neighborhoods in Chicago area, staff of 100 (60 full time-40 part time), including lawyers, social workers, over 100 students from Chicago area law schools. Community Councils were established for each office, involving clients, community leaders, neighborhood agencies etc. Administered 2.5 million dollar grant from LEAA (Dept. of Justice). Independent evaluators found "superior service" provided to clients by project staff.

NATIONAL DIRECTOR OF DEFENDER SERVICES, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, 1970-76,

Established national standards for public defender offices, conducted research, evaluations, and technical assistance in indigent defense systems, testified before U.S. Congress to insure funds for public defenders in LEAA legislation, filed Amicus Briefs in major cases, e.g. Argersinger, Gault, Death penalty cases, etc. Organized state defender associations, published articles and edited defender magazine, supervised over $7 million dollars in Federal grants to defenders in Illinois and for NLADA.


Served in both the felony trial and appellate divisions of the office, helped develop the Appellate Division of the Public Defender office from a staff of 3 lawyers and a secretary to a staff of 22 lawyers and clerical staff as Administrative Director of the Appellate Division. Also acted as first training director for Cook County Public Defender Office and as Administrative Supervisor in the Multiple Defendant Division. Also handled death penalty cases and won three cases in the U. S. Supreme Court.

JUVENILE COURT OF COOK COUNTY, PROBATION OFFICER, ASSISTANT TO PRESIDING JUDGE, HEAD OF LEGAL DEPARTMENT, 1958-63

Acted as guardian ad litem, supervised staff of 11, including lawyers, social workers, and clerical staff as Head of legal department, served as adviser to county in Juvenile Court
legal matters, published numerous articles on Juvenile court. Also acted as hearing officer in detention and preliminary matters.

SUMMARY OF LITIGATION EXPERIENCE
Represented over 1,000 clients at the trial level, primarily in felony and juvenile matters, including six death penalty cases. Acted as chief counsel on appeal in the Richard Speck multiple murder case in the Illinois Supreme and U.S. Supreme Courts, and as research attorney on the trial team. Handled numerous other appellate matters in State Appellate and Supreme Courts, including three victories in the U.S. Supreme Court. Has also filed Amicus Briefs in the U.S. Supreme Court in major landmark cases, such as right to counsel, unanimous jury, juvenile court, constitutionality of death penalty, etc.

AWARDS
Received Reginald Webster Smith Award from the National Legal Aid and Defender Association for providing outstanding legal services to the poor in America, 1978.
Award from American University's Washington College of Law Technical Assistance Project for contributions to State Court Improvement, 1972-78.
Received Silver Circle award for excellence in teaching from University of Illinois at Chicago, 1982, and again in 1985.
Received Morris Wexler Award from Illinois Academy of Criminology for scholarship and service, 1990
Selected as "Lawyer of the Year", Constitutional Rights Foundation, 1990

PUBLICATIONS


"THE PUBLIC DEFENDER IN AMERICA" (chapter 3 in Criminal Defense, McDonald, Sage Press, 1983) (co-author, Nancy Albert-Goldberg)

"THE IMMORALITY OF PLEA BARGAINING" (chapter 4 in Ethics and the Law, Kittrie, Praeger Press, 1979)


SUPREME COURT CRIMINAL CASE REVIEWS, 1980-92, (NLADA Annual Conferences for past twelve years) with co-author Hon. Shelvin Singer. These summaries have been reprinted in various defender publications throughout the country, e.g. California Defender, Spring 1985 Vol. 1, Issue 1, "U.S. Supreme Court Cases, 1983-84" Singer and Hartman.

Numerous articles on Supreme Court, Juvenile Court, Public Defender, and research and technical assistance projects, e.g.:

"Foreword- The Burger Court - 1973 Term", 65 J. of Crim. Law and Criminology, no. 4 (Northwestern University Law School, 1975)

"The Riddle of Eyewitness Identification", 27 NLADA Briefcase No 1 (October 1969)

"A Constitutional Challenge to the Juvenile Court", 30 NLADA Briefcase No 1 (September 1971)

"The Great Debate- Justice Black and the Bill of Rights" 30 NLADA Briefcase, No. 2 (November, 1971)

"Requiem for the American Jury" 30 NLADA Briefcase, No 6 (1972)

"Help for the Indigent Accused: The Effect of Argersinger" (with N. Goldberg) 30 NLADA Briefcase No. 6 (1972)

"The Death of the Warren Court" (with N. Goldberg) 30 NLADA Briefcase (October 1974)

"How to try a case in Juvenile Court" Illinois Bar Journal, December, 1966

"The Juvenile Court" Chicago Lawyer's Court Handbook, Chicago Bar Association (1966)

"Is the Juvenile Court Becoming a Junior Criminal Court ?" Police Law Review, Chicago-Kent College of Law, 1968

"History and Philosophy of the Juvenile Court", Illinois Juvenile Practice, ICLP, 1972

"The End of The Line" The Failure of the Equal Protection Doctrine As It Applies to Indigent Defendants, 1 Alternatives, ABA Consortium on Legal Services and the Public, 1974)

"Can Plea Bargaining Be Eliminated" 59 JUDICATURE No. 1, June-July 1975

"Second Thoughts on Videotaped Trials" 51 Judicature No. 6, December-January 1978

"The Death of the Warren Court- To Leon and Beyond", Trial Magazine, January, 1985


"Should Plea Bargaining Be Abolished", A TV presentation of the ADVOCATES, National Public Television, 1976 (with Dershowitz, and Arlen Specter)


PROFESSIONAL ASSOCIATIONS, BOARDS AND COMMITTEES
President, National Defender Institute
Past President, Illinois Public Defender Association
Past President, Illinois Academy of Criminology
Former member, Board of Directors, National Legal Aid & Defender Association, Audit Committee, By-Laws Committee
Secretary, Founding Committee, Equal Justice Library (co-sponsored by ABA, NLADA, AALS, and Am. Assn of Law Libraries)
Founder and member of Board, Illinois Defender Project
Former member and co-founder, Board of Regents, National College of Criminal Defense
Former Vice-Chair and secretary, Defender Committee, NLADA
Former Chairman, Juvenile Court Committee, Chicago Bar Association
Member, Subcommittee to develop Standards for Monitoring and Evaluation, Standing Committee on Legal Aid and Indigent Defense, American Bar Association (1990)
Advisory Committee, Harlem Neighborhood Defender Program, New York City
Adjudication Advisory Committee, Bureau of Justice Assistance, (by invitation to selected meetings)

GRANTS AND STUDIES
Evaluation of Assigned Counsel (Trac-K) training, New York City, for American University Technical Assistance Project (1991)
Consultant and Lecturer, Executive Training Workshops, "OPERATING A DEFENDER OFFICE", NILECJ, Dept. of Justice, Lectured at 10 regional workshops on Personnel management in a Defender Office. (1980) Also acted as Narrator in a 50 min. videotape on Defender Management, produced by University Research Corp. for the U.S. Justice Dept.
Project Director, Illinois Defender Survey (survey of needs)
Co-Project Director, Illinois Defender Project which became a state agency, the Illinois Appellate Defender Program. (2.5 million dollar grant from LEAA, SPA) (1970)
Consultant, Impact Evaluation of Training Institutions, General Research Corporation for LEAA
Consultant, ROBA Associates for the National Institute of Justice
Supervisor and developer of the following programs while at NLIADA
National Defender Survey, NLIADA
NLIADA Clinical Intern Project, (placing law students in Defender offices throughout America)
National Center for Defense Management Defender Evaluation Project
Indigent Defense Systems Study
National Study Commission on Defense Services
New Mexico Defender Feasibility Study (resulted in statewide defender agency)
Study of Wisconsin Defender System
Ohio Defender Feasibility Study
Evaluation, Massachusetts Defender System
Evaluation, Rochester, New York Defender office
Evaluation, Lake County, Indiana Pauper Attorneys
Alaska Defender Management Study
Evaluation, Defender office, Cincinnati, Ohio
Evaluation, Defender Office, Toledo, Ohio

(In all of the above programs, staff and consultants were
utilized to assist in the work, my task was to organize, select
and train staff, and approve the final product.) REFERENCES

Joseph Trotter, American University Technical Assistance Project,
Washington, D.C. (202-3624183)

Hon. Shelvin Singer, Circuit Court of Cook County, Criminal
Division, Chicago, Illinois (312-8907419)

Nancy Albert-Goldberg, President, National Defender Institute,
Chicago, Illinois (312-2852020)

Theodore A. Gottfried, State Appellate Defender of Illinois,
Springfield, Illinois (217-7827203)

Hon. Fred A. Geiger, former Chief Judge, 19th Judicial Circuit,
Illinois, currently on assignment to the Illinois Appellate
Court, 2nd District, 611 S. Milwaukee Ave. (Suite 12)
Libertyville, Illinois 60048 (708-8163217)

James R. Neuward, State Appellate Defender of Michigan, 1200
Sixth Avenue, 3d Fl. North Tower, Detroit, Michigan 48226
(313)2562914)

PERSONAL DATA

Married to Patricia- 7/30/61
Three children: Ann Laurel, age 23, graduate School of Social
Work, University of Southern California
Judith Miriam, age 21, Jr. University of
Wisconsin, major-social psychology
Daniel Joshua, age 17, Sr. Niles West High School

Address: 6554 N. Spaulding, Lincolnwood, Illinois 60645
Telephone: 708-6763504
VITA

NANCY ALBERT-GOLDBERG
P.O. Box 41-1057
Chicago, Illinois 60641-1057
(312) 286-1331

Education

University of Chicago School of Law. J.D., 1971
University of Chicago College, B.A., Humanities and Languages

Admitted to Practice
Illinois Supreme Court, 1971
U.S. District Court, Northern District of Illinois, 1971

Professional Employment History

Sole practitioner, general practice of law (1988 - present)


Adjunct Professor, IIT Chicago-Kent College of Law (Spring term, 1991)

Adjunct Professor, Northeastern Illinois University, Department of Criminal Justice, (Fall term, 1988).


Adjunct Professor, University of Illinois, Department of Criminal Justice. (Spring quarter, 1987 (taught while at A.G.’s office)).

Associate, Karon, Morrison, and Savikas. Handled major litigation, primarily insurance defense cases, (1985-1986).


Director and researcher, National Defender Institute (NDI). Developed and directed grants and contracts for non-profit criminal justice
research institute. Designed and participated in training seminars, research studies, evaluations, and technical assistance efforts designed to improve quality of legal defense services to indigent defendants and provided training institutes to lawyers engaged in criminal defense work. (1978-1983).

Trial attorney and Director of Training, Criminal Defense Consortium of Cook County, Inc. Handled criminal litigation in Cook County courts for a federally funded private defender agency and designed training programs for attorney and support personnel. This program included a clinical component whereby trial attorneys supervised law students in handling court cases. Federal funds for this program expired in 1978. (1976-1978).

National Legal Aid and Defender Association, an affiliate of the American Bar Association. Began as staff attorney and ultimately served as National Director of Defender Services. Designed and presented public defender training programs, wrote and published extensively, prepared amicus curiae briefs, prepared and presented congressional testimony, and directed research projects relating to the defense function of the criminal justice system while also serving on national boards relating to the criminal justice system. (1971-1976).

Publications


PERSPECTIVES RELATING TO CASE OVERLOAD IN DEFENDER OFFICES. (Abt
FEASIBILITY STUDY OF A DEFENDER SYSTEM IN A 36-COUNTY REGION OF SOUTHEASTERN KENTUCKY (1981), Coauthor.


EVALUATION OF A FOUR-COUNTY PUBLIC DEFENDER PROJECT FOR THE EIGHT B JUDICIAL DISTRICT IN IOWA. (Prepared pursuant to a contract between the South Iowa Area Crime Commission and the National Defender Institute, 1979), Coauthor.


GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES, The Final Report of the National Study Commission on Defense Services (1976), Editor and Project Director. (The report was a 550 page encyclopedic work detailing all of the federal and state legislation and case law relating to the Sixth Amendment right to counsel and the operation of programs providing criminal defense services.)


"Requiem for the American Jury," NLADA BRIEFCASE (1972), Coauthor.


Consultancies and Boards

Judge, Client Counseling Competition among students of several Chicago area law schools. (1986).

Instructor/lecturer to attorney members of Pro Bono Advocates (1985).


Consultant/Reviewer of reports for the National Institute of Law Enforcement and Criminal Justice and its successor agency, the National Institute of Justice, of the U.S. Department of Justice (1975-1984).


Board of Directors, Evanston Community Defender Program (1982-1983).

Member of Advisory Board to Legal Services Corporation's project on development of standards for civil legal aid programs (1982-1983).

Lecturer, Illinois Institute for Continuing Legal Education (IICLE) (1982).
Consultant, Executive Training Workshops. Assisted in design and implementation of ten regional workshops on defender management techniques for a U.S. Department of Justice-sponsored grant to the University Research Corporation (URC) (1978).

Advisory Board, Misdemeanor Court Project, American Judicature Society (1978).
Board of Directors and Defender Committee, National Legal Aid and Defender Association (1977-1981).
Lecturer, North American Judges Association (1975).
Lecturer, National Association of Pretrial Services Agencies (1975).

Law School Activities and Honors
Board of Editors, Law Review
Associate Editor, law school news periodical
American Jurisprudence awards for Torts and Criminal Law
Federal Defender Internship Project
Mandel Legal Aid Clinic

Civic Activities and Honors
Volunteer, Lawyers for the Creative Arts
Volunteer, Pro Bono Advocates for battered spouses
Volunteer, Cook County Legal Assistance Foundation
Board of Directors, Evanston Community Defender Program

References
References and writing samples available on request.
NAME: CAROLINE S. COOPER

CITIZENSHIP: United States

EDUCATION
J.D. Washington College of Law, American University, Washington, D.C.
M.A. History, Howard University, Washington, D.C.
Postgraduate courses in philosophy, French and secondary school
counseling at Trinity College (Hartford, Conn.), University of
Hartford, Univ. of Maryland, Univ. of Virginia, and Univ. of Paris.

LANGUAGES: English

COUNTRIES OF
WORK EXPERIENCE: United States, Bermuda, Belgium, Ireland

EXPERIENCE SUMMARY:
Ms. Cooper is a Research Professor on the faculty of American University's School of Public
Affairs and Associate Director of the university's Justice Programs Office. For a number of
years, she has been involved with the provision of technical assistance and training services to
courts and other adjudication system agencies engaged in judicial improvement efforts. She has
also been a practicing attorney, an assistant public defender, and has written numerous
publications addressing a variety of judicial system issues. Her most recent publications have
addressed topics relating to drug courts, differentiated case management, and strategies courts are
using to manage their drug caseload. Her publications include: Drug Courts: An Overview of
Operational Characteristics and Implementation Issues; Drug Case Management and Treatment
Intervention Strategies in the State and Local Courts (Volumes I and II); BJA Differentiated
Case Management Program Brief; and Guidebook for Implementing a Differentiated Case
Management System. Ms. Cooper is a specialist in judicial system case management practices,
drug courts, juvenile and family law issues and the introduction of innovation in the judicial
system environment.

EXPERIENCE RECORD:

Research Professor and Associate Director, The American University, Justice Programs
Office, School of Public Affairs, Washington D.C., June 1989 - Present.

Undertakes research, training, technical assistance and representational activities to support the
Office's mission to improve the administration of justice. Specific responsibilities for sponsored
research undertaken by American University have included: Coordinator, State Justice Institute
Symposium on the Implementation and Operation of Drug Courts and Follow-up Deliberations,
(1994 to June 1998); Director, U.S. Department of Justice: Bureau of Justice Assistance Drug
Court Resource Center/OJP Drug Court Clearinghouse and Technical Assistance Project. (1994
to present). Responsibilities for these U.S. Department of Justice/State Justice Institute-
sponsored projects include identifying judicial system officials involved in "drug court" activities, documenting local programs, highlighting emerging issues, preparing state of the art "fact sheets" and other publications to address them; planning and conducting both national and local training programs; developing an internet information resource accessible to the public; and other tasks relevant to the management of a major federal technical assistance, training and clearinghouse information project.

- **Deputy Director, Drug Case Management Technical Assistance and Training Project.** (1990 to 1994).
  Responsibilities for these Bureau of Justice Assistance projects have included (1) planning and managing technical assistance requests from state and local courts for assistance to improve judicial system operations generally and better accommodate the impact of drug cases particularly; (2) planning/conducting training programs for judicial system officials on various judicial administration topics; (3) publishing periodic newsletters summarizing state and federal judicial system improvement activities underway; (4) participating as speaker at regional and national conferences of judicial system officials; and (5) preparing periodic analyses of court system needs and impact of technical assistance services provided.

- **Director, Differentiated Case Management/Expedited Drug Case Management Programs.** (1989 to 1990).
  Directed U.S. Dept. of Justice/BJA pilot program to test out application of differentiated case management techniques to criminal and civil caseflow generally and to drug case processing specifically. Responsibilities included (a) working with judges, prosecutors, defense counsel and administrators in the pilot jurisdictions to plan, implement and modify as necessary these pilot programs; (b) planning and conducting periodic training workshops for these officials to support implementation efforts; and (c) providing ongoing technical assistance to each jurisdiction to further and assess implementation results. (June 1989 - December 1992)

**Project Director, EMT Group, Inc., Washington, D.C. January 1986 - June 1989:** 
**Differentiates Case Management Project.** Developed and supported, through technical assistance and training, the implementation of six pilot sites across the country to demonstrate the efficacy of innovative civil and criminal case management policies and techniques designed to reduce backlogs, enhance the capacity of the judicial system to handle its workload, and further the judicial system goals of providing prompt and fair resolution of civil disputes and criminal cases. This project was funded by a Department of Justice/Bureau of Justice Assistance grant that was transferred from EMT to American University in 1989.
Attorney, Trotter and Cooper, Bethesda, MD, 1982 - Present.
Partner in a general practice law firm. Handled all aspects of varied civil (wills, estate administration, dom. rels., commercial matters, etc.), criminal and juvenile law practice. Have taken a leave of absence from the firm since 1989 to devote full-time to responsibilities with American University.


- Director, Court Management Project, 1977-78.
  Conducted national research project to develop prototype manuals for administration of trial court financial, personnel and records functions based on study of local court operations; administered $286,000 contract between the American University and the National Institute of Justice, two major subcontracts and approximately 30 consultant relationships. Other Responsibilities include:
  Research and report writing for University projects dealing with legal and judicial system policy and operations; Supervised compilation and indexing of first national collection of State Judicial Education Materials; Supervised Institute's student intern program.

Research Associate, Court Management Systems, Inc., Washington, D.C., January 1970 - December 1972:
Responsible for management of small court systems consultant firm and for proposal development and research tasks related to judicial system projects.

Research Associate, Committee on the Administration of Justice, Washington, D.C., September - December 1969:
Assisted with research and writing of report series analyzing District of Columbia Courts prior to reorganization.

Adjunct Professor, American University School of Public Affairs, Washington, D.C., 1982-1984.
Faculty, Washington Hebrew Congregation Religious School (Grades 3 and 8),
Washington, D.C., September 1964-May 1973:

MEMBERSHIPS:
American Bar Association, Judicial Administration Division
Montgomery County, Maryland Bar Association
Bar Association of the District of Columbia
LIST OF PUBLICATIONS


Caroline S. Cooper. State Justice Institute National Symposium on Implementation and Operation of Drug Courts:
- Symposium Workbook [includes abstracts, supporting documents and case studies relating to Symposium Agenda]. December 1995


Caroline S. Cooper. Survey of Baltimore City Attorneys re Issues to be Addressed by the Prospective Civil DCM System. August 1994.


Suzanne Allisgro, Beverly Bright, John Chacko, Caroline Cooper, George Gish, David Lawrence, Jim Rutigliano and Linda Torkelsen. "Beyond Delay Reduction: Using Differentiated Case Management". *The Court Manager,* Winter, Spring and Summer, 1993. (three article series)


LEGROME D. DAVIS
1408 One East Penn Square
Philadelphia, PA 19107
215-686-9534

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS (1987 to Present)
- Judge, Court of Common Pleas, Philadelphia County
  - Supervising Judge, Criminal Division.
    - Direct supervisory responsibility for 42 criminal judges, and six hundred and fifty employees. Responsible for
criminal policy and planning, 1992 to present
  - Developed and implemented the Section Calendaring Program, 1992.
  - Designed and implemented the Differentiated Case Management Program which reduced the inventory of cases awaiting trial by 34 percent in 1990.
  - Participated in the design of, and implemented, the Drug Offender Work Program, 1990.
  - Chairman, Pre-Trial Release Guidelines Committee, 1992 to present.
  - Chairman, Case-Flow Management Committee, 1990 to present.
  - Member, Mental-Health Assessments: Oversight Committee, 1991-Present.
  - Member, Board of Judges, Criminal Justice Committee, 1990 to present.
  - Member, Pre-Trial Services Advisory Committee, 1991 to present.
  - Member, Accountability Committee, 1989 to present.
  - Member, Judicial Study Committee, 1988 to present.

TEMPLE UNIVERSITY SCHOOL OF LAW (1988 to present)
- Instructor, Integrated Trial Advocacy Program

AMERICAN UNIVERSITY SCHOOL OF PUBLIC AFFAIRS (1990 to present)
- Provided technical assistance to Eastern United States courts in the
design of criminal case management systems.

BALLARD, SPAHR, ANDREWS & INGERSOLL (1987)
- Trial Attorney, Litigation Department

- Chief, Rape Prosecution Unit
  - Supervised the prosecution of over 500 cases and personally prosecuted significant
- Provided legal advice to the Philadelphia Police Department Sex Crimes Unit.
- Participated in the training of rape counselors and trained all Rape Unit personnel in the specialized area of rape prosecutions and the rights and sensitivities of victims.
- Investigated a series of phone calls threatening the life of a judge. After determining an alleged rape victim was responsible, re-evaluated the facts of the case and found them to be questionable. In the interests of justice, petitioned the Superior and Common Pleas Courts to have the defendant's rape conviction and sentence overturned. The defendant was relieved from serving the remainder of a 7 1/2 to 15 year sentence.

Senior Trial Attorney
- Served as sole counsel in over 70 jury trials and several thousand bench trials while assigned to the Homicide, Career Criminal, Narcotics, Major Trial and Felony-Waiver Units.

Counsel to the Leviticus Project
- Coordinated investigative efforts into fraudulent coal tax shelters
- Worked closely with the Federal Bureau of Investigation in joint investigations
- Served as the Pennsylvania representative to a seven state investigative coalition

EDUCATION
- Rutgers-Camden School of Law, Camden, New Jersey, J.D., 1976
- Princeton University, Princeton, New Jersey, B.A., 1973

PROFESSIONAL ACTIVITIES
- Pennsylvania/Yale Law School Sentencing Workshop, 1993
- Member, Philadelphia Bar Foundation, Apotheker Award Committee, 1990 to present.
- Member, Giving of Self Partnership, 1990 to present.
- Member, Advisory Committee, Jenkins Law Library, 1990 to present.
- Panelist, Bench-Bar Conference, Managing the Drug-Related Caseload, 1990.
RANDOLPH N. STONE

Mandel Legal Aid Clinic
University of Chicago Law School
6020 S. University Ave.
Chicago, IL 60637
(312) 702-9611
773

EMPLOYMENT

1991 - Present  Clinical Professor of Law and Director, Mandel Legal Aid Clinic, UNIVERSITY OF CHICAGO LAW SCHOOL.

1988 - 1991  Public Defender, COOK COUNTY PUBLIC DEFENDER’S OFFICE, Chicago, Illinois. Responsible for leadership, administration and management of $32M budget in 750 person law office representing 200,000 clients per year in cases ranging from traffic to death penalty offenses.

1983 - 1988  Deputy Director and Staff Attorney, PUBLIC DEFENDER SERVICE FOR THE DISTRICT OF COLUMBIA.


1977 - 1980  Clinical Fellow, UNIVERSITY OF CHICAGO LAW SCHOOL.


EDUCATION

Legal Writing Instructor; Teaching Assistant in Criminal Law; President, Black Law Students Association; Ordinance Defense Project.

October 1993
Graduate: UNIVERSITY OF WISCONSIN-MILWAUKEE; Urban Affairs Department, 1972.

Undergraduate: UNIVERSITY OF WISCONSIN-MILWAUKEE; B.A. in Political Science, 1972.

LINCOLN UNIVERSITY, Pennsylvania; 1964-66.

BAR ADMISSIONS


ADDITIONAL TEACHING EXPERIENCE

Lecturer on Law, Trial Advocacy Workshop, HARVARD LAW SCHOOL, 1990-Present.

Section Leader, American Bar Association Litigation Section, LEGAL SERVICES ADVOCACY PROGRAM, Northwestern University Law School, May, 1992.

Faculty, NATIONAL COLLEGE OF CRIMINAL DEFENSE LAWYERS, Mercer Law School, Macon, Georgia, 1991.

Lecturer in Law, UNIVERSITY OF CHICAGO LAW SCHOOL, 1990-91.

Adjunct Professor, IIT CHICAGO-KENT COLLEGE OF LAW, 1990-91.


Faculty, NATIONAL INSTITUTE FOR TRIAL ADVOCACY, Midwest Region, Northwestern University School of Law, 1989-90.

Instructor, Entry Level Attorney Training Program, COOK COUNTY PUBLIC DEFENDER'S OFFICE, 1988-91.

Instructor, Trial Advocacy Program, ILLINOIS STATE APPELLATE DEFENDER'S OFFICE, 1989-90.

Instructor, Trial Advocacy Workshop, HARVARD LAW SCHOOL, 1985-88.
Faculty, Forensic Evidence in a Criminal Case, ILLINOIS INSTITUTE OF CONTINUING LEGAL EDUCATION, 1988.

Faculty, Basic Trial Skills Program, NEW YORK STATE DEFENDERS ASSOCIATION, Defender Institute, 1987, 1991.


PUBLICATIONS


"The Cook County Public Defender's Office: 60 Years of Service," The CBA Record, June 1991.


RELATED ACTIVITIES

Board of Directors: FEDERAL BAR ASSOCIATION, Chicago Chapter.

ILLINOIS SUPREME COURT Special Commission on the Administration of Justice; Rules Subcommittee on Criminal Cases.

American Bar Association, CRIMINAL JUSTICE SECTION: Chair, Council Member, Long-Range Planning Committee, Ad Hoc Committee on Drugs, Race & Racism Committee, Task Force on Indigent Defense; LITIGATION SECTION, Task Force on Children; COMMISSION ON HOMELESSNESS AND POVERTY.

Advisory Boards: ABA project on DRUG NIGHT COURTS, ILLINOIS CAPITAL RESOURCE CENTER, NEIGHBORHOOD DEFENDER SERVICE OF HARLEM and JUVENILE COURT PROJECT, Northwestern University School of Law.

Defender Council, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION.


Board of Visitors, UNIVERSITY OF WISCONSIN LAW SCHOOL.

Board of Overseers, IIT CHICAGO-KENT COLLEGE OF LAW.

Wigmore Chapter, AMERICAN INNS OF COURT.
Advisory Board Member and Evaluator, ABA & JOHN MARSHALL LAW SCHOOL sponsored Criminal Trial Advocacy Competition.

Member, COOK COUNTY BAR ASSOCIATION.

Member, NATIONAL BAR ASSOCIATION.

Board of Managers, CHICAGO BAR ASSOCIATION, 1990-92.


Criminal Justice Section Council, ILLINOIS STATE BAR ASSOCIATION, 1988-92.

Board of Directors, ILLINOIS ATTORNEYS FOR CRIMINAL JUSTICE, 1989-91.

Advisory Board Member, NORTHWESTERN LAW SCHOOL, Short Course for Prosecutors and Criminal Defense Lawyers, 1988-91.

Member, Chicago Council of Lawyers, TASK FORCE ON MANDATORY PRO BONO.

AWARDS

Cornelius F. Stradford Award, presented by Jack O'Malley, Cook County State's Attorney, for commitment to the practice of law and dedication to the African-American community, February, 1993.

Distinguished Alumni Award, University of Wisconsin, Black Law Students Association, October, 1992.


Resolution of the Cook County Board of Commissioners for record of outstanding public service, August 1991.

Commitment to Justice Award, Chicago Council of Lawyers, for outstanding service as Public Defender of Cook County, June 1991.

Monarch Award in Law, Xi Nu Omega Chapter of Alpha Kappa Alpha Sorority, Inc., November 1990.


Fred Hampton Image Award, in recognition of excellence in law, professionalism and as role model, December 1989.

Outstanding service during Community Law Week, Young Lawyers Section of Chicago Bar Association, June 1989.


Ida Platt Award, Cook County Bar Association, in recognition of appointment as the first African-American Public Defender of Cook County, June 1988.


William R. Ming Award, Cook County Bar Association, in recognition of dedication to civil rights and individual liberties in defense of the Pontiac inmates, June 1981.

Alumni of the Year Award, University of Wisconsin Law School, Legal Education Opportunities Program, April 1981.

Law Student of the Year, NAACP, Madison, Wisconsin Chapter, 1975.
SELECTED PUBLIC PRESENTATIONS AND APPEARANCES

Panelist, Law & Society Association, Annual Meeting "Thirty Years After Gideon: Indigent Defense as a New Profession" (5/93); Discussion on criminal justice and the legal system to CYCLE, Cabrini-Green High School scholarship students, (4/93); Moot Court presentation through Streetlaw program to minority high school youth (3/93); ACLU, law student chapter, "Defense Lawyer's Perspective on the Death Penalty (3/93); WBEZ (public radio) on Representing the Indigent in South Africa (2/93); Mellon Literacy Program presentation to Chicago Public High School teachers on the Criminal Justice System, (2/93); WHPE (Radio) on Clinical Legal Education (2/93); "The Drug War: Targeting Minority Population," training program for the Cook County Public Defender's Office, (1/93); Panelist, "Race, Poverty and Habeas Corpus" at the Future of Habeas Corpus Conference, Harvard Law School (1/93); Presenter, "Role of State Funded Public Defender Systems", Johannesburg, South Africa, (10/92); Presenter, "Crime, The Cities and Presidential Commissions", University of Illinois at Chicago, (10/92); Convocation Speaker, "Public Service and Justice", University of Wisconsin Law School (8/92); National Public Radio with Nina Totenberg "Racism and the Criminal Justice System" (6/92); Capital Resource Center Training Program (6/92); PBS MacNeil/Lehrer News Hour "Equal Justice?" (5/92); PBS Listening to America with Bill Moyers, "The War on Drugs" (6/92); Kentucky Bar Association Annual Convention (Race & Gender in the Legal System and Indigent Defense Issues) (6/92); Testimony before Chicago City Council against anti-gang loitering ordinance (5/92); PBS, Chicago Tonight "Race and Jury Verdicts" (5/92); "Representing the Unpopular Client," the Episcopal Center at the University of Chicago (4/92); Keynote speaker, University of Chicago, Black and Hispanic Law Student Associations’ Annual Dinner (4/92); National Conference on the Black Family in America, Louisville, Ky. (3/92); WBEZ (public radio) on Clarence Thomas nomination and Rodney King verdict; Speech to the Pledge of Resistance on relationship of U.S. War efforts to criminal justice system (1/92); National Conference on Substance Abuse and the Courts, National Center for State Courts (11/91); Speech to University of Chicago Law School’s Visiting Committee, (10/91); Keynote Speaker, Criminal Practice Institute, Washington, D.C. (10/91); Town Meeting, Police Brutality and Civilian Review Boards, St. Petersburg, Fla. (7/91); Jenner & Block Summer Law Clerk Program (7/90, 6/91); Hyde Park Career Academy commencement speaker (6/91); National Conference on Sentencing Advocacy (4/91); National Lawyers Guild Regional Convention (4/91); Cook County Public Defender's 60th Anniversary Celebration (11/90); American Bar Association Criminal Justice Section Annual Meeting (8/89, 8/90, 8/91); Operation PUSH National Convention (7/90); Illinois Criminal Justice Information Authority Town Meeting (7/90); WBBM-TV, "Common Ground" (6/90 & 8/90); Illinois State Bar Association, in cooperation with the Northwestern University Medill School of Journalism (6/90); Cook County Court Watchers (6/90); PBS-TV, "Tony Brown’s Journal" (3/90); Public Defender Day at Operation P.U.S.H. (10/89); U.S. House of Representatives, Select Committee on Narcotics Abuse and Control (9/89); National
Association of Blacks in Criminal Justice (7/89); Cook County Bar Association (7/89); Keynote Speaker, LaSalle County Bar Association Annual Meeting (5/89); Legal Club of Chicago (2/89); National Association of Black Women Lawyers Conference, Washington, D.C. (2/89).

MILITARY SERVICE

Louis Greene  
5020 So. Lake Shore Drive, #2007  
Chicago, Illinois 60615  
773.684.8578  

EDUCATION  

Roosevelt University, Chicago, IL, Master’s Degree, 1996  
Roosevelt University, Chicago, IL, Bachelor of Science, 1985  

OTHER PROFESSIONAL DEVELOPMENTS  

Numerous Management Seminars and Workshops  

EMPLOYMENT EXPERIENCE  

1974 - December 1997  
Cook County Public Defender’s Office  
200 West Adams - 9th Floor  
Chicago, IL 60606  

DEPUTY CHIEF OF ADMINISTRATIVE SERVICES  

Responsible for managing the day-to-day operations of human resources, accounts payable, payroll and the supervision of nine support supervisors who supervise a total of 108 employees.  

1998 - Present  
Forest Preserve District of Cook County  
516 N. Harlem  
Oak Park, IL 60303  

PERSONNEL DIRECTOR  

Supervises and directs personnel matters and operations; develops employment policy, coordinates personnel activity and implements policy, and develops training and education.  

AFFILIATIONS  

Member - IPMA, International Personnel Management Association  
Member - ALA, Association of Legal Administrators  
Secretary - NWPCGC, National Women’s Political Caucus of Greater Chicago  
President - The Eighth Ward Women’s Auxiliary  

AWARDS  

Superior Public Service Award, June 1990  
Guardian of Liberty Award, November 1990  
Cook County Public Defender’s Office  
P15ten Year Distinguished Service Award, November 1990  

References Available Upon Request
Appendix B

Persons Interviewed During Site Work in Dayton
Appendix B

Persons Interviewed During Site Work in Dayton

Community Representatives
Don G. Black, Editor, Dayton Weekly News
Reverend Steven W. Camp, Faith United Church of Christ
Jesse Gooding, NAACP, Dayton Chapter
Reverend Earl G. Harris, Greater Allen A.M.E. Church
LaFrancine Lewis, Dayton Urban League
Honorable Walter H. Rice, U.S. District Court/SDO
Jon Vincent, Montgomery County School System

County Officials (General Government)
Deborah A. Feldman, County Administrator
Lynn M. Kremer, Office of Management and Budget

Court System Officials and Staff
Vicki Brady, Juvenile Court
James Dare, Chief, Probation Division
James Drubert, Court Administrator, Common Pleas Court
Louis Fries, Court Administrator, Dayton Municipal Court
John Kolberg, Miamiusburg Municipal Court
William B. Lashley, Fiscal Officer, Court of Common Pleas
Thomas J. Muhleman, Director, Pretrial Services
Sharon Papp, Supervisor, Criminal Div., Clerk's Office
Linda Smith, Juvenile Court
Sandra K. Spence, Director, Court Operations
Grant Wadsworth, Asst. Legal Director, Juvenile Court
Constance Weymeyer, Juvenile Court
David Wolfe, Team Supervisor, Court Operations
Craig Zimmer, Clerk of Courts

Judiciary
Common Pleas Court
Honorable Mary Donovan
Honorable Patrick Foley
Honorable Jeffrey Froelich
Honorable Barbara Gorman, Administrative Judge
Honorable David Gowdown
Honorable John Kessler
Honorable Dennis Langer
Honorable James Manning
Honorable John Petzold
Honorable Adele Riley
Honorable David Sunderland

Juvenile Court Division of Common Pleas Court
Chief Magistrate Denise Martin Cross

Honorable Nick Kurtz
Honorable Michael B. Murphy, Presiding Judge
Magistrate David White

Municipal Courts and County Courts
Honorable Richard J. Bannister, Vandalia Municipal
Honorable Daniel G. Gehres, Dayton Municipal
Honorable James Cannon, Dayton Municipal
Honorable Bill C. Littlejohn, Dayton Municipal
Honorable James L. Manning, County Court - First District
Honorable Alice O. McCallom, Dayton Municipal
Honorable Robert E. Messham, Jr., Miamisburg Municipal
Honorable Larry W. Moore, Kettering Municipal
Honorable James G. Piergies, County Court - First District
Honorable John F. Pickrel, Dayton Municipal
Magistrate Bonnie Beaman Rice, Vandalia Municipal
Honorable Connie S. Price Testerman, County Court - First

Private Bar
Bobby Joe Cox, Esq.
Alvarene Owens, Esq.
John H. Rion, Esq.
Anthony S. VanNoy, Esq.

Public Defender Commission
Robert A. Bostick, Esq., Chairman
Elissa D. Cohen, Esq.
Sharon L. Ovington, Esq.
Grafton S. Payne II
Walter Reynolds, Esq.

Public Defender Office Staff
Dennis L. Bailey, Felony Division
Stacey Benson, Paralegal
Keith J. Brown, Outlying Courts Division
Jodi Butler, Secretary
Karen E. Carter, Felony Division
Christopher R. Conard, Dpty. Pub. Def., Felony Supervisor
Gregory J. Corbin, Juvenile Division
Ramona Daniels, Municipal Court Misdemeanor Division
Glen H. Dewar, Super., Juvenile Div. & Outlying Courts
Elizabeth E. Gorman, Dayton Municipal Court Division
Public Defender Office Staff (cont'd.)
Charles L. Grove, Domestic Relations
Terry R. Hart, District One Court Outlying Division
Cynthia A. Karns, Outlying Courts Division
Lynn G. Koeller, Chief Public Defender
Michael S. Koughan, Outlying Courts Division
Michael V. Lewis, Felony Division
Arvin S. Miller, Appeals
Jared Monroe, Outlying Courts Division
Lynne M. Nowell, Juvenile/CSB Division
Stacey Petit, Secretary
Vicki Reed, Receptionist
Ted W. Rice, Dayton Municipal Court
William Riley, Chief Investigator
Kay M. Rosario, Juvenile/CSB Supervisor
Sheila Sabrowski, Administrative Assistant
Karen M. Sherlock, Common Pleas Court Felony Division
Mark Smith, Mitigation Specialist
Susan F. Souther, Felony Division
Patricia Tannehther, Intake Receptionist
Countess R. Taylor, Dayton Municipal Court
Deborah Webster-Willis, Intake
Brian D. Weaver, Felony Division
James P. Wentzke, Outlying Courts Division
Timothy Young, Supervisor, Dayton Municipal Court Div.

Sheriff's Department
Tony Bell, Deputy Sheriff, Information Systems Coordinator
Lt. Anthony Glander, Jail Supervisor
Honorable Gary R. Haines, Sheriff of Montgomery County
James Johnson, Court Officer
Captain Steve Rigler, Assistant Jail Commander

Other Categories of Interviewees
David Bennett, Montgomery County Corrections Consultant
Asst. Prof. Darryl K. Brown, Univ. of Dayton School of Law
Prof. Kimberly E. O'Leary, Univ. of Dayton School of Law
Prof. Vernellia R. Randall, Univ. of Dayton School of Law
Asst. Prof. Andrea Seielstad, Univ. of Dayton School of Law
John Alge, Deputy Dir., Office of the Ohio Public Defender
Appendix D

Sample Case Handling and Case Closing Forms

1. Intake Interview Form
2. Statement of Assets and Liabilities
3. Retainer and Information Release
4. Custodial Release Interview
5. Court Report, Case Diary and Time Sheet
6. Social Service Request Form
7. Investigation Request Form and Investigative Report Form
8. Felony Case Update Form [completed and copy given to secretary after each court appearance to enter into MIS database]
9. Legal Closing Form
## INTAKE INTERVIEW FORM

**Criminal Defense Consortium of Cook County, Inc.**

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<th>APPEARANCE</th>
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<th>MILITARY RECORD</th>
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<td>Court:</td>
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<th>STATEMENTS</th>
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<th>IDENTIFICATION</th>
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<td>No:</td>
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<tr>
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<tr>
<td>When:</td>
<td></td>
<td>Illegal:</td>
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</table>

**DEFENDANT'S STATEMENT**

(Cont. on other side)

**WITNESSES TO SUBPOENA**

**ATTORNEY**
This was cardboard case opening card developed for the Criminal Defense Consortium of Cook County (CDC). These cards were filed alphabetically each time a defendant became a client of the office. There were 4 copies, with carbons in between; the second and third copies were made out of paper and the first and fourth copies were cardboard. The card file was used to access the chronological case files.

For cases which the office did not keep, a "quick action" card was also filled out.

For cases which the office did keep, the entire packet of forms was used. These forms, which were glued together at the top and had a 1 inch strip of carbon paper at the top, included:

1. Client Interview Form
2. Statement of Assets and Liabilities
3. Court Report, Case Diary, and Time Sheet
4. Social Service Request Form
5. Investigation Request
6. Investigative Report
7. Legal Closing Form

The packet of forms was given to the attorney by the secretary along with one copy of the case opening card.