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LEGAL AID IN CRIMINAL CASES

Martin V. Callagy

In 1937 the author was employed by the Voluntary Defenders Committee (The Legal Aid Society) of New York City. In that connection he tried cases in all the criminal courts of the City. He resigned to accept appointment as Principal Attorney of the Public Service Commission of the State of New York. In April, 1942, he was appointed Assistant Corporation Counsel. In 1945 the Mayor appointed him Justice of the Domestic Relations Court of the City of New York. Thereafter he became attorney in charge of the Criminal Branch of the Legal Aid Society, and in 1947, Attorney in Chief of the Society.—EDITOR.

This article is a report prepared for the Survey of the Legal Profession.

The Survey is securing much of its material by asking competent persons to write reports in connection with various parts and aspects of the whole study.

Reports are released for publication in legal periodicals, law reviews, magazines and other media as soon as they have been approved by the Survey Council's Committee on Publications.

Thus the information contained in Survey reports is given promptly to the bar and to the public. Such publication also affords opportunities for criticisms, corrections, and suggestions.

When this Survey has been completed, the Council plans to issue a final comprehensive report containing its findings, conclusions, and recommendations.

FOREWORD

The committee presenting this report was charged with the responsibility of surveying the availability of counsel for the defense of indigent persons accused of crime.¹ It was also directed to make recommendations.

1. The committee included:

MARTIN V. CALLAGY, Chairman, former Justice of the Domestic Relations Court of the City of New York. He was graduated from the University of Notre Dame in 1928 and from the Georgetown University Law School in 1932. Thereafter he became associated as a member of the legal staff of the Criminal Courts Branch of The Legal Aid Society, engaging in the trial of cases in all Criminal Courts of New York County. After association with the Public Service Commission of the State of New York and the Corporation Counsel's Office of the City of New York, he became Attorney in Charge of the Criminal Courts Branch of The Legal Aid Society and in 1947 Attorney-in-Chief of The Legal Aid Society, which position he held until his resignation in 1950. He is the author of several articles on Legal Aid in both criminal and civil law.

WILBUR G. HOLLINGSWORTH has been Chief Counsel of the Voluntary Defenders Committee in Boston since June 1, 1935, and has handled more than 10,000 cases during his tenure. This includes every type of criminal case. His entire time since 1935 has been devoted to the criminal law.

RICHARD H. KEATINGE was graduated from the University of California (Berkeley) B.A. in 1939, Harvard University M.A. 1941 and from the Georgetown University Law School in 1944. He is a member of the Bar of the States of California and New York and also of the District of Columbia, and is presently National Secretary of the American Bar Association's Junior Bar Conference. Now engaged in private practice in Los Angeles. Mr. Keatinge was Vice-Chairman of the Junior Bar Conference Committee on aid to the small litigant during the years 1947 and 1948, and was a member of the Los Angeles Bar Association's Committee on Inferior Criminal Courts during the year 1948-1949.

FRANCIS T. MCCURRIE on March 1, 1945, was appointed Public Defender of Cook County, Illinois, by appointment of the judges of the Circuit, Superior and Criminal Courts. Prior to that time he had been a member of the State's Attorney's staff of Cook County, engaged in the investigation and trial of every type of criminal case. Later he became First Assistant State's Attorney. For a number of years he has been an active member of the Chicago Bar Association, serving on many of its most important committees.

HERMAN I. POLLOCK, Defender in the Philadelphia Voluntary Defender Association, Philadelphia; was appointed to this position in 1942. In addition to his full-time work in

With the completion of the task as directed, this report was prepared by the Committee of Experts at a meeting held in Chicago in November, 1949. The report has four parts: (1) The information collected; (2) Findings; (3) Recommendations; and (4) Appendices.

INFORMATION COLLECTED

PART I—CHAPTER 1

METHODS

A. CONFERENCES

In 1948 the Committee held several sessions in the City of New York, where it discussed the scope of the work and the methods by which to implement it. At these conferences views were exchanged on the several subjects about which study would be required in order to achieve worthwhile results. These conferences emphasized immediately existing deficiencies in the methods of implementing the constitutional guarantee of the right to the aid of counsel to those accused of crime, when the accused are unable to provide their own lawyers. These deficiencies included the absence of counsel altogether, shortcomings existing and inherent in present methods whereby counsel are provided, specific illustrations of prejudice to defendants because of the lack of adequate representation, and the remedies that in some areas of the country were being attempted. Noteworthy among the remedies was the effort of several of the States to institute a system of appointing statewide public defenders, the accelerated interest of bar associations in the general problem, and the attempt to enact Federal legislation to provide public defenders for the representation of the indigent in the several Federal courts in the United States.

the criminal courts, Mr. Pollock is a member of the Committee on Criminal Justice and Law Enforcement of the Philadelphia Bar Association, a member of the Advisory Council, Penal Affairs Committee of the Pennsylvania Citizens Association of Pennsylvania and a member of the Medico-Legal Committee, Pennsylvania Bar Association. He holds a similar position in the Philadelphia Bar Association. He is also a member of the Advisory Committee, Family Division, Health and Welfare Council of Philadelphia, and is the author of "The Voluntary Defender as Counsel for the Defense," published in the April 1949 Journal of the American Judicature Society.

EMERY A. BROWNELL has been fully engaged in Legal Aid work in all its phases since 1925, following his admission to the Bar of the State of New York. From 1927 to 1947 he was Executive Attorney of the Rochester, New York, Legal Aid Office, and since 1940 has been the full-time executive for the National Legal Aid Association (until 1949 the National Association of Legal Aid Organizations). He is Consultant on Legal Aid for the Survey of the Legal Profession.

THOMAS R. ROBINSON in 1917 engaged in general practice. Since 1929 he has been Public Defender for New Haven County, Connecticut, and previously had been Deputy Coroner for New Haven County and Assistant Corporation Counsel for the City of New Haven.

B. THE QUESTIONNAIRE AND THE PREPARATION OF THIS REPORT

As a result of these conferences, specific assignments requiring research into pertinent phases of criminal practice and procedure were made to the committee members. It was decided that a questionnaire, seeking information from responsible authorities and others qualified as experts in the field of criminal law, was an absolute necessity. Two questionnaires, to be known as "A" and "B" were prepared. The "A" questionnaire was designed to be sent to judges, district attorneys and other public officials engaged in work in the criminal courts. The names of those to whom this questionnaire was forwarded were furnished by State correspondents for the Survey, located throughout the country. These correspondents also suggested other sources of information, which proved to be of considerable assistance. The "B" questionnaire sought slightly different information. It was sent to the very limited number of organized defender offices such as legal aid offices, public and voluntary defenders, and Bar Association groups actually engaged in representing indigent persons accused of crime. A total of six hundred fifty-seven questionnaires were distributed, comprising 619 "A" questionnaires and 38 "B" questionnaires. Of the total number distributed, approximately 285 (266 were used for sampling purposes because of general completeness), or about 45 per cent, were returned answered.

After the answered questionnaires were received, they were divided into geographical areas and submitted for review, tabulation and analysis to members of the Committee, without regard to the particular cities or areas of the country where these members were located. Separate textual reports were prepared for each geographic area. These formed one source of the basic material from which this report is written. To be certain that the individual committee members who originally reviewed the answered questionnaires had accurately interpreted the answers given, the separate textual reports prepared from the questionnaires were reviewed by members of the committee located in the geographic areas from which the questionnaires were received. Every possible attempt was made to assure accuracy.

Genuine interest in the questionnaires, and in the benefit expected to be derived from the Survey, was displayed throughout the country. There were wholesome endorsements received in the hope that local criminal practice and the necessary representation of the indigent would receive stimulation from the findings of this Committee. Likewise, there was displayed a complete frankness on the part of those answering the questionnaires in either decrying present methods and competence

of representation, or in endorsing present methods without, at the same time, precluding suggestions that would make the existing practice better. The questions, for the most part, were answered clearly, concisely and fully, with additional pertinent observations to explain specific answers, when necessary. Great care was also taken in many cases to produce exact information when the answerer's immediate knowledge was limited.

C. FIELD SURVEY

So that there might be first-hand information on the actual operation of organized offices engaged in the representation of the indigent accused of crime, the Committee requested the Survey's Legal Aid Consultant, Emery A. Brownell, to visit all of the public and voluntary defender offices and legal aid bureaus engaged in this work. This was done. Mr. Brownell's reports, made to us periodically, give an accurate appraisal of these offices. His tour gave him a first-hand opportunity in many places to see the conditions under which the criminal courts were operating, with particular concern as to the availability of counsel to represent those in need, and the cooperation of the Bar, or lack of it, in this respect. Through the Survey, also, the Committee received the opinions of responsible authorities engaged in the work of the criminal courts and learned of present efforts to remedy admitted deficiencies.

D. STUDY OF PUBLISHED MATERIAL

The Committee has endeavored to study all of the published literature, with particular attention to *Public Defenders in Criminal Cases*, by Mayer C. Goldman, The Annals of the American Academy of Political & Social Sciences, September 1939, *The Public Defender*, by Charles Mishkin, Journal of Criminal Law and Criminology, Vol. 22, 1931-1932, *The Lance of Justice*, by John McArthur McGuire, and *The Bar and Public Relations*, by John S. Bradway, The Bobbs Merrill Company, 1934.

"*Justice and the Poor*,"² written in 1919, by the present Director of the Survey of the Legal Profession, made an excellent beginning for the reading of the Committee. The work, written a quarter of a century ago, must be credited, in large measure, with inculcating an early appreciation for the need of criminal representation in this country, and with the steady growth in this direction during the past years.

2. JUSTICE AND THE POOR, REGINALD HEBER SMITH, Carnegie Foundation for Advancement of Teaching, 1919.

In the belief that adequate protection is the right of every individual accused of crime, "*Justice and the Poor*" sets forth a most acceptable standard for the present report and properly frames the concept of equal justice that must be preserved and strengthened at all costs. At page 111 it defines "adequate protection" as meaning "adequate representation, so that if our criminal procedure, as it stands, is to be found sufficient, it must be on the ground that it does provide proper representation to the poor."

Other material examined by the Committee included a compilation of existing statutes in the States making provision for the assignment of counsel to those unable financially to provide counsel of their own choosing.³

CHAPTER 2

THE EXTENT OF THE REPRESENTATION AVAILABLE TO THE INDIGENT ACCUSED OF CRIME

A. THE QUESTIONNAIRES

No other source gives a clearer view of present conditions than the answered questionnaires. It is apparent at once that for the most part it is impossible to find uniformity in practice on any subject relating to the assignment of counsel, his availability or the source from which he is or should be provided. There is not even uniformity among the authorities as to the stage in the criminal proceedings at which the assistance should be given; whether the best method of providing representation is assignment from among counsel present in the court room, from among those on an individual jurist's panel who are subject to call, and who have signified their willingness to help, whether the service should be supplied pursuant to state law providing for the assignment and compensation of counsel, or, on the other hand, should be provided by organized defender offices, such as the legal aid bureau, the public defender or the voluntary defender.⁴

While in all areas the need for counsel is recognized, whether on the basis of principle or efficiency, there are so many instances in the

3. See Appendix A.

4. This lack of uniformity is apparent in answers from 257 districts to the question respecting the stage of the criminal process at which representation is provided. Of these 11 percent reported "... prior to preliminary hearing ..."; 29 percent, "at preliminary hearing ... or first arraignment"; approximately 50 percent replied, "at formal arraignment (or indictment) after preliminary hearing." In about 7 percent of districts representation is not provided until trial, and in 3 percent at other stages.

There is small agreement on what system should be favored. Ten percent of 266 districts reporting favor legal provision for appointment by the court; 15 percent favor the Public Defender; 6 percent, private voluntary legal aid; 13 percent, assignment by the trial judge; only one percent prefer Bar Association responsibility; 33 percent did not answer the question and 22 percent of respondents to the questionnaire expressed no preference.

separate States where no provision whatsoever is made for representation in serious criminal cases as to warrant the conclusion that *there is no adequate country-wide legal representation for poor persons accused of crime.*⁵ The questionnaires disclose the fact that of the total who answered, 118 stated that in their experience, defendants accused of felonies were not represented (a few stated that a minor number were unrepresented), and 175 stated that the same was true of defendants charged with misdemeanors. In some localities representation is limited to cases involving murder or to felony cases where the defendant, if convicted, might be a second offender. Some answers explain that the number of cases in which the court informs the defendant at the bar of his rights is small; that an assignment would depend on whether the seriousness of the charge, or the age and experience of the defendant, clearly show a need for help; and finally, that providing assistance should depend on the amount of punishment a particular crime may carry.

5. It is impossible to estimate the number of poor persons in relation to the total of those arrested, who need or are entitled to legal aid. However, these figures from the Uniform Crime Reports, published by the Federal Bureau of Investigation of the United States Department of Justice, Washington, D. C., in The Annual Bulletin of 1950, Volume 21, No. 2, may suggest the extent of the need.

A. The number of arrests, all ages, in 1950 in the United States was 793,671. This covered felonies, misdemeanors and offenses.

B. In 359 cities with over 25,000 population, representing a total population of 48,622,808, there were 458,468 larcenies, 190,885 burglaries; 6,061 cases of rape, 30,425 cases of robberies.

C. In the rural area offenses reported by 1,566 sheriffs, 97 village officers and 11 state police districts, covering a total population of 34,617,887, the total crimes reported were 184,415. These comprised either felonies or misdemeanors.

D. In a total of 2,069 cities, representing a population of 67,465,803, the total offenses listed in 1950 were 1,040,249, comprising felonies and misdemeanors. These are broken down as follows:

New England States, comprising Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont:

127 cities	population 5,347,887	54,031 offenses
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Middle Atlantic States, comprising New Jersey, New York, Pennsylvania:

465 cities	population 11,840,608	97,827 offenses
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East North Central States, comprising Illinois, Indiana, Michigan, Ohio and Wisconsin:

507 cities	population 18,150,008	268,932 offenses
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West North Central States, comprising Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota:

243 cities	population 5,984,221	82,590 offenses
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South Atlantic States, comprising Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia:

206 cities	population 7,170,962	133,844 offenses
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East South Central States, comprising Alabama, Kentucky, Mississippi, Tennessee:

83 cities	population 2,998,617	45,179 offenses
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West South Central States, comprising Arkansas, Louisiana, Oklahoma, Texas:

130 cities	population 5,684,665	104,287 offenses
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Mountain States, comprising Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming:

100 cities	population 1,910,544	46,361 offenses
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Pacific States, comprising California, Oregon, Washington:

208 cities	population 8,378,291	207,198 offenses
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Many communities, particularly those comprising larger cities, are careful to provide counsel in every instance where serious crime is charged, but there is no general country-wide attempt to provide representation in innumerable serious cases where it should be made available. However, it is not possible to say whether the judges individually fully avail themselves of the opportunities offered by the Bar, by the statutes of the State or by organized defender groups, from which sources counsel could be provided to represent the indigent. In the opinion of able observers, a few judges make no attempt whatsoever to do so. That the need for correction is pressing may be concluded also from the actual figures submitted. In some areas, as shown by the answers to one of the questions, as many as 50 percent of cases involving felonies are unrepresented while those involving misdemeanors, whether following indictment or not, reach a much higher percentage. (See Appendix B.)

The lack of representation has its source sometimes in unintended complacency, and sometimes in an entirely unsympathetic attitude on the part of responsible authorities. It may stem from a judge's personal belief that he is the best qualified to make sure that all of the defendant's rights will be fully protected, an attitude which is a denial of the protection that the Constitution intended.

Quite apart from the absence of representation is the question whether the representation provided is adequate. Inadequate or incompetent representation—and it exists—may be worse than no representation, since it may result in speedy conviction of the defendant, rather than in preventing his conviction. In the areas examined, 109 stated that the representation as now given was adequate, while 26 indicated that it was inadequate; another smaller group said that it was adequate only in part. Forty-four did not answer the question.

This information refers to the assignment of private counsel and not to the limited number of organized defense groups such as legal aid, public defender, or voluntary groups sponsored by local bar associations. Of legal aid and public defender assistance, the great majority who were able to give opinions through experience with the work of these offices were universal in their commendation, even though recognizing that for most a limitation of budget or staff was a definite handicap to providing more coverage in the courts.

Even where representation is said to be "adequate" there are other factors to consider which tend to limit that conclusion. For example, if the fees provided under an assignment system are not commensurate

with counsel's effort, obviously the best available representation cannot be expected. There were many complaints concerning provisions for payment of fees, and many indications that the adequacy, or inadequacy, of the fees was very often the measure of the adequacy or inadequacy of counsel.

Many other facts support the opinion that under present assignment methods, the representation provided is far from adequate. The emphasis placed on the availability for assignments of younger members of the Bar, "to give them experience," leaves considerable doubt as to the general adequacy of this system. However admirable this method can be, it can only be as good as the supervision of older attorneys can make it. In most instances, this supervision does not exist.

The adequacy of protection provided defendants through assignment of counsel also may be questioned because of certain practices of the courts themselves—practices beyond the control of the most talented attorney. Thus an attorney on assignment may, with absolute good faith and as soon as convenient, interview his client, only to find that the delay in the assignment actually prejudiced a perfectly good defense. The variation in the stages of the criminal proceeding when counsel is provided is indicated in footnote 4 above.

Again, carelessness or indifference in guaranteeing adherence to the rules which promise the defendants free and prompt communication with relatives or friends, and suitable adjournments for the purpose of providing counsel, causes delay and inconvenience that may result in incalculable harm. In the latter regard it is true that the majority of instances indicate that care is taken to provide such safeguards, but there are sufficient answers in the negative to make it necessary that this be included as one of the factors which unquestionably limits the adequacy of the representation.

Much more important is the co-operation, or lack of it, on the part of public authorities in supplying investigatory facilities where the defendant's own resources fail. The answers to our questionnaires disclose a wide difference of opinion as to whether such service should be supplied defendants.

The answers reviewed above point up the major failings and inadequacies in the system which should have immediate attention. Other answers of more than passing interest call for brief comment. There is much disagreement as to how to determine whether counsel should be assigned. Many feel that only the defendant's own resources should be considered, while an equal number are of the opinion that a defendant's immediate family should be expected to help financially and

provide counsel. Some are of the opinion that even distant relatives should be required to come forward to help, and that until all such possible sources of help are exhausted, nothing should be done for the defendant. Throughout the country, there is little interest in representation for those extradited from one State to another. Generally, from what can be ascertained, if any representation at all is provided in such cases, it is not adequate.

The few defender offices, legal aid societies and other organized groups engaged in criminal representation, present the view that their service should be extended to the widest variety of criminal cases. These offices without qualification declare that the obligations imposed by the Constitution of the United States with regard to representation for the indigent accused of crime are not being fulfilled. Most of these offices, having excellent opportunity for direct observation, state categorically that apart from their own staffs, there are many times no attorneys available to the court for the purpose of assignment in criminal cases. They add a related complaint, that the determination as to whether counsel should be assigned is too often based on tests largely arbitrary and unrealistic in nature. They support also a conclusion reached heretofore, that oftentimes assignments are not made soon enough and that frequently practitioners insufficiently experienced in the criminal field are assigned.

B. THE FIELD SURVEY

1. IN GENERAL

The Field Survey reveals that organized facilities (legal aid offices or public defenders) providing assistance to those who cannot afford counsel exist in only twenty-seven communities in the United States. There are in a variation of forms some scattered volunteer services sponsored through local bar associations. Appendix C contains a list, by States, of the existing organized defender offices, and their operating costs.⁶ In considering this list it will be noted that of the twenty-seven listed, only six are privately operated, and that of these six, two are private charitable corporations.

6. Financial support is furnished as follows: Boston, Mass.—Community Chest; Chicago, Ill.—County Tax Funds; Cincinnati, Ohio—Community Chest; Columbus, Ohio—City Tax Funds; Connecticut (all offices) State Tax Funds; Long Beach, California—City Tax Funds; Los Angeles, Cal.—City Tax Funds; Los Angeles (City) Cal.—County Tax Funds; Memphis, Tenn.—County Tax Funds; New Orleans, La.—Community Chest; New York City, N. Y.—Private Contributions; Oakland, Cal.—County Tax Funds; Oklahoma City, Okla.—County Tax Funds; Omaha, Neb.—County Tax Funds; Philadelphia, Pa.—Community Chest; Pittsburgh, Pa.—Community Chest; Rhode Island—State Tax Funds; St. Louis, Mo.—City Tax Funds; San Francisco, Cal.—City Tax Funds; Tulsa, Okla.—County Tax Funds.

Four of the twenty-seven offices are separate divisions of incorporated legal aid societies. All of the others are public defenders existing either by State or local statutory authority. None of the listed organizations presents uniformity either in structure or in the extent of service. Unlike legal aid offices serving in the field of civil law, no effort has been made to develop necessary uniform statistical information or to establish uniform standards for the conduct of the work. These shortcomings make it almost impossible properly to compare volume of work or cost of operation, essential factors for communities to consider should they wish to establish such services.

2. PUBLIC DEFENDERS

The Illinois and Connecticut statutes, set out at length in Appendix D, illustrate the method by which a typical public defender office is established by law, and the scope of the work of such an office. Statutes in other states are referred to in Appendix A. In addition to those offices established by state law, some counties and cities provide in their charters or by ordinance for the office of county or city public defender; these include Los Angeles, California (Ord. No. 54691, as amend. by Ord. No. 75366); Alameda County, California (Charter, sec. 17, 27); St. Louis, Missouri (Ord. No. 41239, 1938); and Columbus, Ohio (1930 Code, Ch. 3; see also Columbus City Charter of 1914, sec. 12, Appendix D).

These several public defenders are selected by a variety of methods. In San Francisco he is an elected official with power to appoint and remove assistants at his pleasure, subject only to budget limitations. This method of selection is followed also in Nebraska. In both instances the defender's term is four years.

In the California offices, except in San Francisco, the defender is appointed as a result of Civil Service examination. The St. Louis defender is also a Civil Service employee, appointed by the Director of Public Welfare upon recommendation of a committee appointed by the Mayor, which consists of one member each from the approved law schools in the city, one member from the Public Defender Committee of the St. Louis Bar Association, one of the City's aldermen who is a licensed attorney, and one member of the Public Defender Committee of the local Lawyers' Association. Memphis appoints its defender for four years as a result of action of the County Commissioners. He may be removed during his term only for cause. The City Council appoints the Columbus, Ohio defender and he is removable at the pleasure of that body. Elsewhere in the United States the appointment of a de-

fender rests with the judiciary and continues for indefinite periods of time.

The selection of counsel for private defender offices is uniformly made by the organization's governing body. The independence of these men and women to represent any and all indigent persons accused of crime is limited only by the policies of the organization and its ability to provide sufficient staff. The limitation of resources is sometimes very real, particularly when there is a paucity of facilities for case investigation, so important a factor in effective defender service.

3. INVESTIGATION

In the public defender offices of Connecticut allowance for investigation and other services is made for each criminal session by the presiding judge.⁷ In the public Los Angeles and the private New York, Philadelphia, Pittsburgh and New Orleans offices, the investigatory staffs are maintained as a part of these services, and are often supplemented by assistance from probation departments, and, in some cases, by the district attorney's office itself. In Memphis the public defender has the assistance of one full-time investigator, while in Chicago there are three full-time men so engaged. However, there are some defender offices, both public and private, where the attorney is forced to rely on the unskilled, and seldom available help of relatives and friends asked to seek facts and find witnesses. Under the latter circumstances, the disparity between the ability of the accused to prepare the case properly and the ability of the prosecutor in this respect is enormous.

Another important factor affecting the adequacy of the work of organized defender offices and, for that matter, private counsel, is their inability to take appeals in proper cases. In this regard satisfactory conditions are said to exist in Los Angeles, San Francisco, Oakland, Chicago, Boston, New York, Omaha, and Philadelphia, and in Connecticut and Rhode Island. In other cities where organized defender offices operate, there is at present very inadequate machinery for the taking of appeals. This is due, in part, to the absence of provision for the payment or waiver of required court costs, or because of the limited financial resources of the particular office.

4. THE STAFFS

For the most part, the staffs of the organized defender offices are employed on a full-time basis. Table I sets forth the number of full-

7. Allowance amounts to 5 percent of Court's salary for the particular criminal session. Special authorization may give more. Total for fiscal year 1950-1951: \$415.25.

time and part-time attorneys in various defender offices together with the number of investigators engaged by each.

Out of a total of 84 attorneys engaged in the work of these offices, 64 devote full time. Generally, valuable voluntary assistance is lacking, except in the private New York Legal Aid Society and the Philadelphia Voluntary Defenders' Association, where full-time volunteers are available for definite periods of time through the contribution of the city's law firms or by personal application. They are available for representation at preliminary hearings, at trials, or the taking of appeals.

Table I also reveals that only in Philadelphia and Pittsburgh do the number of investigators exceed the number of staff attorneys. In Philadelphia and in other offices some of the investigators are law clerks, assisted by law students. In New York they are required to be members of the Bar eligible for appointment to the staff.

5. COST OF OPERATION AND VOLUME OF WORK

Organized defender services vary sharply in their internal structures. It is therefore difficult to compare their operating costs. Comparison is also difficult when a court's assignment method embraces only major crimes requiring extended trial, in which case the unit cost per case will be high, or where sharp differences exist because of procedural requirements in the several States, some simple and speedy, others complex and cumbersome. Thus, while misdemeanor cases and preliminary hearings in Magistrates' and Justice Courts can be disposed of with dispatch, a felony usually requires considerably more time, entailing longer investigations and conferences, and usually a large number of witnesses when a jury trial is required.

TABLE I
LEGAL AID AND PUBLIC DEFENDER OFFICE STAFFS

PLACE	ATTORNEYS		INVESTIGATORS		OTHER
	FULL-TIME	PART-TIME	FULL-TIME	PART-TIME	FULL-TIME ⁵
CALIFORNIA					
Long Beach	1				1
Los Angeles (City)	12 ¹				3
Los Angeles (County).....	16 ²		2		5
Oakland	4				1
San Francisco	5				1
CONNECTICUT					
Each of 8 counties.....		1			
ILLINOIS					
Chicago	7		3		2

¹ Of these, 4 devote themselves exclusively to civil work.

² Of these 3 devote themselves exclusively to civil work.

LOUISIANA				
New Orleans	1	1 ³	1 ⁴	2
MASSACHUSETTS				
Boston	3			2
MISSOURI				
St. Louis	2			2
NEBRASKA				
Omaha	2			2
NEW YORK				
New York City	9	2		4
OHIO				
Cincinnati		1 ⁴		
Columbus	1			1
OKLAHOMA				
Oklahoma City	1			
Tulsa		2		
PENNSYLVANIA				
Philadelphia	3	5		3
Pittsburgh	1	2		
RHODE ISLAND				
Providence		3 ⁴		1
TENNESSEE				
MEMPHIS	1	1		

³ One-third time.

⁴ One-half time.

⁵ Clerical.

In Appendix C there is shown generally the jurisdiction of the 27 existing voluntary or public defender offices, the number of cases handled by them in 1948 (or the closest tabulated year) and the cost of their operation.

The cost per case, aside from the fact that in a number of these offices considerable service in civil matters is given, ranges from a low of 72c to a maximum of \$60.00. Eliminating from consideration the office in the City of Los Angeles, the Criminal Branches of the New York Legal Aid Society, whose reporting systems differ from the others, and the Cincinnati Legal Aid Society, whose service is confined to one court handling misdemeanors, the lowest unit cost appears to be \$14.76. There are only three organized offices in the United States where the cost per case exceeds \$35.00. Their work is devoted entirely to the defense of serious crimes, including first degree murder, the penalty for which may be death or life imprisonment.

In considering these figures, conclusions therefrom can only be approximate at best because, as has already been stated, of the wide difference in structure and organization of the offices. What may constitute a case in one office may not in another. In some, representation for one defendant on several charges growing out of the same event

may be counted as a single case; in others it may be found that each is classified as a separate case. Duplication may exist also because some defender offices include preliminary hearings as one case, and an additional case when the same defendant is arraigned following indictment. Thus, in one city, for example, it is estimated that in a total of over 5,000 cases reported as handled in one year, approximately 235 were included as cases in which the defendant appeared in both a lower and a higher court.

Subject to this explanation, a total of 93,373 criminal cases were given representation by legal aid offices or those of the public defender during the year 1948, at a total cost of \$511,796.11. Of these total cases the publicly supported offices handled 77,040 (83 percent) cases with combined operating costs of \$376,823.38 (74 percent).

C. THE OPINIONS OF THE COMMITTEE

The deficiencies set forth in the section of the report dealing with the answered questionnaires are, by and large, the daily experience of the individual members of this Committee. To them the importance of representation and adequate representation needs no emphasis. Coming as they do from larger cities where the volume of cases is large, the exertion of all their office resources is imperative to cover as wide an area as possible and to give representation to the greatest majority. For the remaining defendants, it is no surprise to find judges in difficulty when attempting to find counsel adequate to the assignment and with sufficient time for the task. In fact, under present conditions, the absence of representation as shown by the percentages means simply that the courts do not have available sufficient attorneys for the job, particularly when three out of every five defendants in most cities cannot afford counsel of their own choosing.

Random selection of attorneys for assignment from among private counsel awaiting their call on the calendar, or a selection from among members of the Bar who give full time to their own criminal practice, can at the very best cover only a fraction of the need. Selection by judges of attorneys engaged in practice unrelated to criminal law may perhaps be considered only token representation at best and sometimes worse than none.

Under such circumstances where an organized defender office operates in only one area of a large city, what coverage is there for the rest? This situation is not uncommon. Again, in Los Angeles, the City Public Defender is limited by the volume of business to representing defendants in custody. It is a rule of thumb that if a defendant can

afford the premium on his bond for release on bail, he can also afford to employ counsel. This approach is not satisfactory but is rather a rule of necessity. The delay in securing counsel is as much an obstruction to the proper administration of criminal justice as would be the absence of a judge, since delay in securing representation prejudices the innocent and delays early disposition for the guilty. The latter situation bespeaks the numerous efforts of the guilty to advance their own cases on the calendars, regardless of full protection of their rights. This is particularly unfortunate for the multiple offender, whose earlier offense may be magnified in error as a felony when, in fact, it is not. For the second offender, also, inadequate representation in an earlier case may itself have been a reason for subsequent disrespect of the law and for those who administer it. Letters from prisoners seeking review of convictions or sentences are eloquent reminders of this point.

However conscientious judges and prosecuting authorities may be in their quest for justice and in protecting the rights of defendants, the experienced defender knows that only a prompt and full discussion with the accused is the safe procedure and best for proper administration of the law. From the point of view of the judge and the prosecutor, it is obvious that, when there is a shortage of available counsel, only the most serious cases can wait the arrival of representation if a calendar breakdown is to be prevented. Cases less serious in nature must be advanced for trial regardless—yet these cases may entail long prison sentences.

Those engaged in the defense of the accused know that adequate representation becomes itself a factor in the control of crime. Realistic discussion of the plight of a guilty defendant, not from the viewpoint of morals but from the calculated requirements of the law, is as important to the community as the judge, the prosecutors and the police.

The competent defender knows that there are two approaches to defense: one which in honesty, with dignity and realism, confronts the client with his situation and the requirements and safeguards that the law prescribes; and the other the antithesis of the first, which, if practiced in the criminal courts, does more to injure the cause of justice and the rights of defendants and, what is more tragic, engenders a willful disregard for constituted authority and for the rights of others, which is the heart and core of crime. Adequate representation must include adequate time to advise a defendant of his rights and prepare his defense. The alert and efficient organized defender, having the full confidence of his client, commands a respect that others in the field

of criminal law may never achieve. The accused quickly senses ability, understands counsel's fairness and appreciates painstaking investigation and the keeping of engagements. By these qualities the prisoner develops a respect for the law and for the process of criminal justice which has no counterpart in all the volumes that are written with respect to the cause and prevention of crime. On the other hand, consider the defendant who sees his assigned counsel for only a few fleeting minutes, or whose counsel permits the development in him of a sense of persecution by the State, or the counsel who assumes an attitude of continuously attempting to impress his untutored client with the importance and ability of his counsel, or one whose belligerency within the court room provokes embarrassment. In such circumstances a greater disservice cannot be imagined, particularly since it is the client whose years are to be spent in restrained detention. All of these unwholesome features of criminal practice, the representatives of the organized defender offices see daily in the courts of this country, and while perhaps many of these shortcomings are unintentional, nevertheless they do exist and should be eliminated.

One other extremely important experience of the members of this Committee involves again the investigation of statements of the accused in connection with his case. It is felt often that some men and women are placed in the machinery of the criminal judicial process, who, although they may eventually be dismissed, should never have had the experience, had the public authorities in the first instance made a proper investigation. The background for this criticism epitomizes the whole theory of criminal justice: that it is justice and not prosecution that is the ultimate aim.

D. OTHER SOURCES

A survey of statutes in all of the States, relating to existing provisions for the assignment of counsel in criminal cases, was prepared by members of the Harvard Legal Aid Bureau and students of the Harvard Law School, under the supervision of Wilbur G. Hollingsworth, a member of this Committee. Appendix A sets forth in detail the situation in this regard, with citations.

It is noteworthy that of the forty-eight States, statutory provisions for the assignment of counsel in at least fifteen States limit such assignment to cases involving felonies or to capital cases only. Of the forty-eight States, only twenty-five appear to give unlimited coverage in all criminal cases. In the latter category, however, is one instance where full coverage is limited to cases where the punishment is more than

three years. In twenty States the assignment is mandatory; however, in some it is mandatory unless the defendant objects to the assignment of counsel. In others it is mandatory only if the defendant requests the appointment of counsel.

The remaining States, as can be seen in Appendix A, make the test a request by the defendant or the court's discretion; or where a public defender exists, the assignment is made exclusively to that office. These citations support our earlier conclusion showing a most unsatisfactory variation in the States or when counsel are assigned in criminal cases as compared with when they should be assigned if a defendant is to receive full protection. For example, five of the state statutes make provision for assignment after indictment. Twelve make the assignment before the arraignment, which presumably must mean before the arraignment following arrest and initial hearing. In ten States the statutes do not fix the time at which the assignment shall be made, and in several the appointment is not made until trial or just before.

Appendix A is also significant in its disclosure concerning fees to assigned counsel. Most significant is the fact that in eleven States no provision is made for compensating assigned counsel. Others limit compensation to capital cases and make no compensatory provisions in other types of cases. In states where compensation is provided in all types of cases, the adequacy of the amounts should be judged by the common experience of the reader, with due weight given to the obvious fact that the proper handling of any case may take several days of actual work before final disposition.

PART II—FINDINGS

In view of the obvious deficiencies disclosed by this report, it is necessary in contrast to outline a proper standard for criminal representation. Whether or not constitutional provisions demand or their spirit intends that there should be representation for all defendants in criminal cases, this Committee unanimously agrees that there should be representation in serious criminal cases, whether involving felonies or misdemeanors, and that this representation should be adequate and competent.

Representation should be provided at the earliest possible moment, not only following arrest but, in proper instances, before arrest. An adequate system should provide the widest freedom to make examination and investigation and have the fullest sympathy of the prosecuting authorities for the objects a defender seeks to obtain. Nothing should

be reduced to the point that the outcome at any stage of the criminal proceeding becomes a gamble.

The competency of the representation includes competency in advice, in the knowledge of criminal procedure, in the ability to understand human relationships, and an insight into everyday living that can separate sham from truth. Competency means, as well, adequate examination at preliminary hearing, astuteness in discovering inaccuracy and faulty memory, in recognizing over-use of imagination and downright dishonesty. Competency should also include a full understanding of trial technique, of cross-examination and presentation before a jury. These concepts combined with a wide knowledge of the law and a freedom to present respectfully objections of counsel's views, all add up to what competent and adequate representation should be.

On the part of the courts and those public authorities within whose jurisdiction falls the appointment of counsel, representation, as we have said, should be afforded at the earliest possible moment. While in many of the States of the Union there is provision giving the power to appoint counsel, nevertheless we find that existent variations and limitations emphasize the following defects in the present method of management:

1. Many States make provision applying only to defendants charged with the most serious crimes, leaving entirely unaided the greater proportion who are defendants charged with crimes of lesser degree, although often carrying as much punishment. In this regard it is not the belief of the Committee that every offense, such as vagrancy, intoxication or minor violations of local ordinances should be provided with representation. To claim such a standard would be an absurdity. Within the application of a reasonable rule, however, representation should be given in all cases of felonies and misdemeanors.
2. In the statutes of many States assignments are made only after indictment and, in too many instances, at the time the prosecutor is asking for trial.
3. The great majority of the States offer totally inadequate compensation for the services of assigned counsel. Payments of \$5.00 in some instances and \$100 in the most serious cases reflect favorably on the members of the Bar. Although grossly underpaid, its members are nevertheless willing to give their best efforts in the interest of justice. Worse indeed is the fact that many States make no provision for fees and in several States the higher courts have determined that the State is not obliged to pay a fee.
4. Many States with the provisions for the assignment of counsel do so only on request by the defendant. Some of the decisions of some States hold that if a defendant, regardless of the reason, does not request counsel, that fact has no effect on the validity of the trial or sentence.
5. As a rule inexperienced counsel are appointed although exceptions may be found in assignments in homicide and other serious felonies. This may be ascribed to the following reasons:
 - a. A community's outstanding lawyers, because of the pressure of other business, are seldom seen in the criminal courts, so that often the courts are forced to select young attorneys seeking general experience.

- b. The assignment of attorneys who depend for their livelihood solely on criminal practice and who when assigned usually must dispose of the assigned case as quickly as possible, in order to devote fullest attention to the fee-paying defendant.
- c. Arbitrary selection of attorneys' names from bar registries or from those present in the court room sometimes results in the appointment of an attorney in a serious case who may have no criminal experience.

PART III—RECOMMENDATIONS

A. GENERAL

1. An extension of statutory and other means of implementing the constitutional guarantee of equality before the law, by providing to every accused person unable through lack of means to procure such service, adequate representation by competent counsel at all stages of the criminal proceeding.

2. Assure this defense in the larger communities at least, by setting up a system of qualified, paid defenders, with adequate staff and facilities for investigation, under arrangements which will insure complete freedom to exercise the highest degree of loyalty to their clients consistent with their obligations as members of the Bar.

3. Make provision in the smaller communities to pay attorneys adequate compensation in every case where the indigent defendant is represented by assigned counsel.

B. SPECIFIC RECOMMENDATIONS

A specific form of organization and methods of providing financial support are matters for state or local determination. These depend upon factors such as size of the community, the volume of cases requiring defender service, the applicable procedural laws, and the availability of private and public resources. The development of a wholly adequate and comprehensive nationwide network of organized defender facilities cannot be quickly realized. Toward the achievement of this ultimate objective and in order to meet immediate needs, the Committee makes the following specific recommendations:

1. Steps should be taken in all communities to provide in the widest number of criminal cases, of whatever degree or nature, effective representation to persons unable to employ private attorneys. Excluded only are minor offenses such as general breaches of the peace, vagrancy and traffic violations.

2. Representation should be available and provided as soon as practicable following arrest, and, in proper cases, even before arrest,

whenever needed and requested in order to provide adequate defense in all stages of the criminal proceeding.

3. Pending the establishment of organized facilities as recommended above and particularly in rural areas, the bar associations in co-operation with the courts should devise suitable plans by which competent attorneys with adequate experience in criminal cases are made available for assignment.

4. The only factor determining eligibility for defender service should be his financial inability to employ counsel, eliminating all artificial and arbitrary tests, such as previous criminal record, seriousness of offense, length of sentence.

5. There should be a wider appreciation on the part of the Bench and the Bar of the necessity for counsel in all criminal cases. Lack of appreciation is largely responsible for the failure to provide competent counsel to indigent persons accused of crime. To overcome the lack and to stimulate interest on the part of all lawyers in criminal practice, this Committee particularly recommends:

- a. That Bar Associations do more to assist lawyers in obtaining a greater knowledge of the criminal law.
- b. That emphasis be placed on the importance of criminal law to those presently preparing for the Bar, and that opportunity for observation of criminal practice should be provided in the law school curriculum.
- c. That more facilities for training law students and lawyers in the defense of criminal cases be provided by existing defender organizations in conjunction with law schools and practicing attorneys.

6. Existing organized systems for representation of the indigent accused should be examined to determine whether they meet the standards adopted herein. Where they fail so to do, appropriate corrections should be made. The organized Bar and all agencies interested in the administration of criminal justice, as well as the defender organizations themselves have responsibility to see that this recommendation is pursued.

7. In determining whether a person is financially eligible for representation by an organized agency or group, the personal means of the accused alone should be considered. Any doubtful cases or change of circumstances should be resolved by prompt submission to the Court or to the responsible head of the defender's office.

8. In order that counsel should be available at the earliest possible moment, public authorities, including supervisors of jails and lockups, should be required to see to it that persons are given the right of prompt and free communication with their relatives and attorneys.

9. The courts should adopt a reasonably liberal attitude with respect to requests for adjournment for the purpose of securing counsel of defendant's own choice in situations where there is no indication that the request is merely to delay the proceeding, and the services of the public defender are not engaged.

APPENDIX A

STATUTORY PROVISIONS FOR THE ASSIGNMENT OF COUNSEL IN CRIMINAL CASES

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
ALA.	Capital	Mandatory	After ind.	Attys. not to exceed 2. \$100 max.—\$50 min. No Provision for appeals	Alabama Code (1940) Title 15, Sec. 318 (Amended 1947)
ARIZ.	Felony	Mandatory (Unless D objects.)	Before Arraignment	For each attorney. (No limit on no.) \$100 max.—\$5 min. No provision for appeals	Arizona Ann Code (1939) Sec. 44-904, 905
ARK.	Felony	Request of D.	Before Arraignment	No provision	Arkansas Statutes (1947) Annotated (Official Edition) Sec. 43-1203
CAL.	All, except where a Pub. Def. is elected or appointed	Request of D.	Before Arraignment	Reasonable fees and expenses. Elected or appointed Pub. Def. at will of any county which may establish the office	Penal Code California (1941) Sec. 987, 987 a. Where Pub. Def. <i>not</i> elected or appointed. Deering's Government Code of Cal. (Ch. 13, Secs. 27700-27710
COL.	All	Court's discretion	No provision	Fixed by court	Colorado Statutes Ann. (1935) Chap. 48. Sec. 502 (amended 1937)
CONN.	All	Public Defender	Before Arraignment	Judges make rules and regulations	General Statutes of Connecticut Rev. (1949) Sec. 8796. Amended 1949 by Sec. 559

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
DEL.	Felony	Mandatory (Ct. of Oyer and Terminer) Discretionary (Ct. of Gen. Sessions)	Trial	No provisions	Revised Code of Delaware (1935) (Ct. of Oyer and Terminer) Chap. 114, 4305. Sec. 1, 4306. Sec. 2. (Ct. of General Ses- sions) Chap. 115, 4310. Sec. 1.
FLA.	Capital	Discretion	No provision	\$100 max. Additional \$100 max. for appeal	Florida Statutes (1941) Chap. 909, Sec. 909.21
GA.	All?	Request?	No provision definitely— perhaps arraignment	No provision	Georgia Code (1938) Secs. 1-806; 2-105; 9-601
IDAHO	All	Mandatory	Before Arraignment	Capital—\$50 Felony—\$25 Misdemeanors— \$10	Idaho Code (Ann) (1932) Vol. I Sec. 19-1512 Sec. 19-1513
ILL.	All	Mandatory on request of defendant	Before plea	Public Defender in counties over 35,000. No less than \$100 per yr. No more than State's Atty. Others paid only in capital cases.	Illinois Rev. Stat. (1947) Title 34, Sec. 163 J; 163 C. and 163 G, effective July 1, 1949
IND.	All	Mandatory (Unless Df. waives)	?	Reasonable— Pub. Def. paid \$5000 per year, plus expenses when going out- side county	Burns Indiana Stat. (Ann.) 1933, 1946 Replacement 2-211, 212; 9-1314 (2248), 13-1401, 1404. Constitution Art. 1, Sec. 13
IOWA	All	Request of defendant	Before Arraignment	Capital—\$20 per trial day. Felony—\$20 maximum	Code of Iowa (1946) Vol. II, chap. 775, sec. 775: 4-6
KANSAS	All	Mandatory	Before Arraignment	\$10 per day maximum for services	Kansas Gen. Stat. (1935) Ch. 62, sec. 1304 (1947) (supple- ment)

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
KY.	All	Request of defendant	Before Arraignment	No provision	Kentucky Revised Stat. (1946)— Constitution sec. 11. Sec. 455: 010. Code of practice in criminal cases. Title IV, sec. 51, 1948 Rev.
LA.	All	Request of defendant	Arraignment	No provision	Dart's Louisiana Code of Criminal laws and procedure. Title XIII, Art. 143 (1943)
MAINE	Capital (i.e. crimes punishable by life)	Mandatory	Arraignment	Reasonable	Rev. Stat. of Maine (1944) Chap. 135, sec. 11
MD.	All	Discretion	At any time while case is pending	\$100 maximum	Maryland Ann. Code (1939) Article 26, secs. 7, 8
MASS.	1st degree murder	Mandatory	At or before arraignment	\$1000 maximum	Annot. laws of Massachusetts (1933) Vol. 9 Gen. laws ch. 276, sec. 37A. Gen. laws ch. 277, secs. 47, 55, 56. Sup. ct. rule No. 95
MICH.	All	Discretion	No provision	Reasonable	Michigan Stat. Annot. (1938) Vol. 25, Title 28, Sec. 28. 1253
MINN.	Felony and Gross mis- demeanors	Request	Arraignment	\$25 per day max.—Pub. Def. in counties where population is over 240,000	Minnesota Annot. Laws (1947). Ch. 611, sec. 611.07 as amended laws of 1947. C. 430 Sec. 1. Ch. 611, Sec. 611.13, as amended laws of 1947, Ch. 478, secs. 1, 2.
MISS.	Capital	Mandatory	Before Arraignment	\$50 max. \$25 min.	Mississippi Code (1942) Sec. 2505
MO.	Felony	Mandatory on request of Def.	Before Arraignment	No provision	Missouri Rev. Stat. (1939) Sec. 4003 (1948 Supplement)

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
MONT.	All	Mandatory	After Indictment	Capital—\$100 Felony—\$50 Misdemeanor— \$25	Rev. Code of Montana (1935) Sec. 11886-7 (1939 Revision)
NEB.	Felony	Mandatory	After Indictment	\$100 maximum except in capital cases. Public defender in counties over 200,000 pop.	Nebraska Rev. Stat. (1943) Sec. 29-1803. 1804 (1949 Supplement)
NEV.	All	Mandatory	Arraignment	Capital—\$100 Max. Other crimes—\$50 maximum	Nevada Com- piled laws (1929). Sec. 10:883,11:357, 356
N. H.	All punish- able by 3 yrs. im- prisonment or more	Request	Before Arraignment	Reasonable \$150. Max. (not exceeding 2 counsel)	Rev. laws of New Hampshire (1942) Chap. 428, Secs. 1, 2 and 3
N. J.	All	Mandatory	No provision	Homicide: reasonable. No provision for others	New Jersey Rev. Stat. (1937) Ch. 190, Sec. 3 (1948 Sup- plement)
N. M.	Felony	Mandatory	No provision	\$100 maximum \$25 minimum except homicide— where a large fee is possible	New Mexico Statutes (1941) Sec. 42-1102, 1103
N. Y.	All	Mandatory	Arraignment	Capital: where one counsel— \$1000 Maximum. Where two coun- sels—\$1500 max. No provision for others	New York Code of Criminal Procedure, sec. 308. Laws of 1949, ch. 883, effective July 1, 1949
N. C.	All	Mandatory	No provision	Capital—Court's discretion. No provision for others	Gen. Stat. of North Carolina (1943) Chap. 15, Art. I, sec. 15- 4, 5
N. DAK.	All	Request	No provision	\$15 per day maximum. \$25 max. in county court	Rev. Code of North Dakota (1943) Vol. 3 Sec. 29-0127, 27-0831
OHIO	All	Mandatory	After Indictment	Murder—court's discretion. Manslaughter— \$350 max. Felonies—\$100 maximum	Ohio Code (1936) Sec. 13439-2-3. Vol. 122. Ohio Laws 301, sec. 1, eff. Sept. 12, 1947

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
OKLA.	All	Mandatory	Arraignment	No provision. Large counties have two Public Defenders	Oklahoma Stat. (1941) Title 22, sec. 464.
ORE.	All	Request	Arraignment	Manslaughter or murder up to \$150 for all counsel. Other crimes: \$5 to \$15 per day—max. 2 days	Oregon Code (1943) Sec. 26-804
PENNA.	Murder	Request	At trial	Expenses and reasonable fee up to \$500 for each attorney—maximum of two	Purdens Pennsylvania Stat. Title 19, sec. 784
R. I.	Those referred by Superior Court	Request	No provision	Public Defender	Rhode Island Acts and Resolves of 1941. Chap. 7007. Same of 1942, Chap. 1133
S. C.	Capital	Request	Before trial	No provision	Code of laws of South Carolina (1942). Vol. I, sec. 980
S. DAK.	All	Request	Arraignment	No provision	South Dakota Code of 1939, Vol. 2, sec. 34:3506
TENN.	All	Request	No provision	No provision	William's Tennessee Code Ann. (1934). Vol. 7, sec. 11734
TEXAS	Capital	Mandatory	Arraignment	No provision	Varnon's Texas Stat. (1936) Code of Criminal Procedure. Art. 491, 494
UTAH	All	Mandatory	Arraignment	None	Utah Code Ann. (1943). Vol. 6, Title 105, Ch. 22, Sec. 12
Vt.	?	?	?	No compensation except reasonable in capital and felony cases	Vermont Stat. Rev. of 1947. Secs. 1492, 2394, 2434

STATE	WHAT CRIMES	WHOSE INSTANCE	WHEN ASSIGNED	COMPENSATION FOR ATTORNEYS	CITATION
VA.	?	?	?	\$25 if offense is punishable by death or more than ten years in prison. \$15 max. in discretion of ct. for other felonies Pub. Def. in cities of 100,000—160,000 population	Virginia Code of 1942 Ann. Secs. 3518, 4970 a Rev. by Acts of Assembly in 1946
WASH.	All	Request	Arraignment	\$25 per trial day for each counsel (limit of 2) and \$25 for services preparing for trial or plea-felony cases only	Remington Rev. Stat. of Washington Ann. 1932. Vol. 4, Title 14: Ch. 2, sec. 2095, 2305. Revised in 1941
WEST VA.	Felony	Request	Arraignment	No provision	West Virginia Code of 1943 Ann. sec. 6190, Const. Art. 3. sec. 14
Wis.	All	Discretion	Arraignment	Reasonable—not to exceed \$25 per day for number of days on trial, and \$15 per day for not over 5 days of actual preparation. Appeal: reasonable expenses and services to be allowed by Superior Court	Wisconsin Stat. (1947) Vol. 2, ch. 357, sec. 357.26
Wyo.	All	Request	Before Arraignment	Capital—\$50 Felony—\$25 Misdemeanors—\$15	Wyoming Compiled Stat. 1945 Annot. Sec. 10-805, Sec. 10-806

APPENDIX B

SUMMARY OF ANSWERS TO QUESTION FIVE:
"ARE ANY ACCUSED PERSONS UNREPRESENTED"

(Wherever the answer "yes" occurs in this Appendix together with the comment "rare" it is assumed at lack of representation is rare. "Nearly all" means that "nearly all" were represented. "Almost all" has the same meaning, unless otherwise indicated, and "very few" refers to those who are not represented. The answer "yes" or "no" is limited.)

STATE	LOCALITIES BY No.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		YES	NO	Pct.	YES	NO	Pct.	YES	NO	Pct.	
la.	1	x		10	x		70	x		90	
	2	x		—	x		—	x		—	
	3	x		70	x		80	x		80	
	4	x		1	x		10	x		50	
	5	x		—	x		—	x		—	
	6		x	0	x		1		x	0	
	7	x		—	x		—	x		—	
riz.	1		x	—	x		—		x	—	
	2		x	0	x	x	0		x	0	By themselves on guilty plea. No records on misdemeanor or minor, Counsel in all indigent case
	3		x	—	x		—	x		—	
	4	x		x			—	x		—	
rk.	1	x		—	x		—	x		—	
	2		x	0		x	0		x	0	
	3	x		—	x		—	x		—	
al.	1		x	0		x	0		x	0	
	2	x		—	x		—	x		—	
	3		x	0		x	0		x	0	
	4		x	—	x		.002	x		.002	
	5		x	0		x	0		x	0	
	6	x		*	x		*	x		50	*Rare
	7		x	0	x		80		x	0	
	8		x	0		x	0		x	0	
	9	x		2	x		5	x		6	
	10		x	0		x	0		x	0	
	11	x		—	x		—		x	0	
	12	x		33		x	0		x	0	
	13		x	0	x		—		x	0	
olo.	1		x	—	x		—		x	0	
	2	x		—	x		—		x	0	
onn.	1		x	—		x	—	x		—	
	2		x	—	x		10	x		25	
	3										Not unless Counsel is refused.
	4										Not unless Counsel is refused.
el.	1	x		—	x		—	x		—	
	2		x	0		x	0	x		—	
	3	x		90	x		100	x		100	
a.	1										No records.
	2	x		—	x		—	x		—	
	3	x		25	x		50	x		—	
	4	x		—	x		—	x		—	
	5										Didn't understand question.
	6		x	0		x	0		x	0	
.Z.	1		x	—		x	—		x	—	

DATE	LOCAL- ITIES BY NO.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		Yes	No	Pct.	Yes	No	Pct.	Yes	No	Pct.	
a.	1	x		5	x		20				No records on misdemeanors. No records.
	2										
	3		x	0	x		50	x		—	
	4		x	0	x		20	x		30	
	5	x		90	x		90	x		90	
a.	1	x		65	x		100	x		100	
.	1		x	0	x		60	x		66	
	2		x	0	x		—	x		—	
d.	1		x	0	x*		70	x*		80	*In lower courts.
	2		x	0		x	0		x	0	
	3		x	0	x		—		x	0	
	4		x	0	x		20		x	0	
	5		x	0		x	0	x		—	
	6	x		—	x		—	x		—	
.	1	x		—	x		—	x		—	No counsel in minor case
	2		x	0	x		—	x		—	
	3		x	0		x	0	x		10	
	4		x	0	x		—	x		—	
	5		x	0	x		75		x	0	
	6	x		2		x	0		x	0	
	7	x		33	x		50	x		75	
	8	x		10	x		25	x		—	
an.	1		x	0		x	0	x		—	
	2		x	0	x		90	x		90	
	3		x	0	x		30	x		70	
	4		x	0	x		100	x		100	
	5		x	0		x	0		x	0	
	6		x	0		x	0		x	0	
	7		x	0		x	0		x	0	
	8		x	0	x		10	x		10	
	9		x	0		x	0		x	0	
y.	1	x		33	x		50		x	0	
	2		x	0	x		—	x		—	
	3		x	0	x		25	x		25	
	4		x	0		x	0		x	0	
	5										Discretionary.
i.	1		x	0	x*		—				*Rarely. No record on minor.
	2		x	0	x		50	x		85	
	3	x		—	x		—	x		—	No statistics.
ass.	1	x		70	x		80	x		90	
	2	x		25	x		25	x		25	
	3	x		—	x		—	x		—	*Rarely.
	4	x		1	x		50	x		75	
d.	1	x*		—	x*		—	x		—	*Nearly all.
	2		x	0	x		20	x		60	
	3	x		—	x		—		x	0	
	4	x		5	x		25	x		—	
	5	x		1	x		10	x		10	
	6		x	0	x		50	x		100	
	7		x	0	x		10			—	*No records for minor.
e.	1	x		—		x	—		x	—	

STATE	LOCALITIES BY No.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		Yes	No	Pct.	Yes	No	Pct.	Yes	No	Pct.	
Mich.	1		x	0	x		—	x		—	
	2		x	0		x	0	x		—	
	3		x	0		x	0	x		—	
	4	x		—	x		—	x		—	
	5		x	0	x		—	x		—	
	6	x		20	x		30	x		50	
	7	x		75	x		90	x		95	
	8		x	0		x	0		x	0	
	9		x	0		x	0	x*		—	*No counsel in lower court
Minn.	1	x		—	x		—	x		—	No records available.
	2		x	0		x	0		x	0	
	3		x	0	x		—	x		—	
	4	x		10	x		90	x		95	
	5	x		5			—			—	No other records.
	6	x		10	x		30		x	0	
	7	x		—*	x		—*		x	0	*Rare.
	8	x		.05	x		2			—	No other records.
	9		x	0		x	0		x	0	
Miss.	1	x		60	x		60		x	0	
	2		x	0	x		80	x		95	
	3	x		10	x		10	x		10	
Mo.	1										No answer.
	2		x	0							No other records.
Mont.	1		x	0	x		50	x		90	
	2		x	0	x		—	x		—	
	3	x		2	x		30	x		60	
	4		x	0	x*		—	x*		—	*Almost all.
	5	x		90	x		90	x		95	
Neb.	1		x	0		x	0		x	0	
	2		x	0	x		—		x	0	
	3	x		50			—			—	No other records.
	4	x		—	x		—		x	0	
Nev.	1		x	0	x		—	x		—	
	2	x		93	x		95	x		98	
	3	x		75	x		75	x		90	
N. H.	1										No counsel for misdemeanors or minor.
N. J.	1	x		—	x		—		x	0	
	2		x	0		x	0	x		—	
	3	x		2	x		5	x		10	
	4	x		—	x		—	x		—	
	5		x	0		x	0	x		—	
	6		x	0		x	0		x	0	
	7		x	0		x	0			—	No other records.
	8		x	0		x	0	x		—	
	9		x	0		x	0		x	0	
	10		x	0		x	0		x	0	
N. M.	1		x	0	x		5	x		10	
	2	x		20	x		70	x		85	
	3	x		5	x		50	x		75	
N. Y.	1		x	0		x	0		x	0	
	2		x	0		x	0		x	0	
	3	x		—	x		—	x		—	
	4		x	0		x	0	x		—	
	5		x	0		x	0		x	0	
	6		x	0		x	0		x	0	

DATE	LOCALITIES BY NO.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		YES	NO	PCT.	YES	NO	PCT.	YES	NO	PCT.	
Y. (cont.)	7		x	0		x	0		x	0	
	8		x	0	x		-	x		0	
	9	x		10							No other records.
	10		x	0	x		-	x		-	
	11	x		-	x		-	x		-	
	12	x*		-	x**		-	x		-	*Rarely. **Frequently.
	13		x	0		x	0		x	0	
	14		x	0							No other records.
	15	x		5	x		50	x		99	
C.	1	x		-	x		-	x		-	
	2	x		50	x		95	x		95	
	3	x		3	x		5	x		20	
D.	1		x	0		x	0		x	0	
	2	x		90	x		95	x		99	
	3	x*		90	x*		95	x*		95	*On plea of guilty.
	4	x		-	x		-	x		-	
	5	x		5	x		20	x		30	
	1		x	0		x	0		x	0	
	2		x	0							No other records.
	3	x		10	x		8	x		8	
	4		x	0		x	0		x	0	
	5		x	0		x	0		x	0	
	6	x		-							No other records.
	7	x		5	x		-	x		30	
	8	x		10	x		40	x		40	
la.	1		x	0	x		-	x		-	
	2	x		-	x		-		x	0	
	3		x	0		x	0		x	0	
	4	x		25	x		70	x		70	
	5		x	0	x		100	x		-	
	6		x	0		x	0		x	0	
re.	1	x		60	x		65		x	0	
	2	x		50	x		75		x	0	
	3	x		-	x		-			0	
	4	x		1	x		60	x		95	
	5	x*		-	x		-	x		-	*Negligible number.
nn.	1	x		20	x		30	x		60	
	2		x	0	x		40	x		30	
	3		x	0		x	0		x	0	
	4		x	0		x	0	x		-	
	5	x		-	x		-	x		-	Percent is very low.
	6		x	0		x	0		x	0	
	7		x	0		x	0		x	0	
	8		x	0		x	0		x	0	
	9	x		*	x		.001		x	0	*Too negligible to mention.
	10		x	0		x	0		x	0	
	11		x	0		x	0	x		-	
	12		x	0		x	0	x		-	
I.	1				x		25	x		25	
	2		x	-	x		100	x		100	
	3		x*	-		x*	-		x*	-	*Unless refused.
	4		x*	-	x**		-	x**		-	*Very few.
C.	†										**Slightly higher.
D.	1										No records, usually represented.
	2	x		75	x		90	x		*	*Very seldom represented.
	3	x		-	x		-	x		-	

STATE	LOCALITIES BY NO.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		YES	NO	PCT.	YES	NO	PCT.	YES	NO	PCT.	
N.D. Cont.)	4	x		1	x		75	x		99	
	5	x		75	x		75		x	0	
	6	x		10	x		50	x		75	
	7	x		90	x		90	x		90	
	8	x		50	x		—	x		—	
	9		x	0	x		75	x		75	
Penn.	1		x	0		x	0		x	0	
	2		x	0		x	0		x	0	
	3		x	0		x	0		x	0	
	4		x	0		x	0	x		—	
	5	x		1	x		2		x	0	
	6		x	0	x		*	x		*	*Small percentage.
	7	x		10	x		20	x		25	
	8	x		20	x		10	x		10	
Tex.	1		x	0							No other records.
	2		x	0	x		20		x	0	
	3		x	0	x		50	x		100	
	4		x	0	x		—	x		—	
	5	x		50	x		75	x		90	
Utah	1	x		10	x		20	x		90	
	2		x	0		x	0		x	0	
	3	x		*	x		30	x		60	*Very rare.
	4	x		5	x		30	x		50	
	5		x	0	x		75	x		95	
	6		x	0		x	0		x	0	
	7	x		85	x		95		x	0	
	8	x		25	x		70	x		85	
Va.	1		x	0	x		25	x		—	
	2		x	0	x		10	x		50	
	3		x	0	x		25	x		25	
	4		x	0		x	0		x	0	
	5		x	0	x		—	x		—	
Vt.	1	x		5	x		50				
	2	x*		—	x**		—	x**		—	*Very few. **Substantial number.
	3	x*		—	x*		—	x*		—	*Unable to estimate.
	4	x		1	x		2	x		2	
Virgin Islands	1				x		13				
Wash.	1		x	0	x		—	x		—	
	2	x		90	x		90	x		90	Defendants don't want.
	3	x		40	x		60		x	0	
	4		x	0	x		10	x		15	
	5	x		15	x		50	x		85	
	6		x	0		x	0		x	0	
	7		x	0		x	0		x	0	
	8		x	0	x		100	x		100	
W. Va.	1		x	0		x	0		x	0	Only in very rare cases.
	2		x	0		x	0		x	0	
	3	x		—	x		50		x	0	
	4		x	0	x		75	x		95	
	5	x		50	x		50	x		50	
Wis.	1	x		10	x		50	x		75	
	2	x		—	x		—	x		—	No records to estimate.
Wyo.	1										No answer.
	2	x		50	x		50		x	0	
	3		x	0	x		50	x		75	

STATE	LOCALITIES BY NO.	FELONIES			MISDEMEANORS			MINOR OFFENSES			COMMENTS
		Yes	No	Pct.	Yes	No	Pct.	Yes	No	Pct.	
aska	1		x	0	x		-	x		-	
	2	x		50	x		75	x		90	
	3	x		5	x		90	x		-	
waii	1		x	0	x		-		x	0	
C.	1		x	0		x	0		x	0	
	2	x		-							No other records.
scel-eous	1		x	0	x		*	x		**	*Often. **Usually.
TOTALS	See below										

TOTALS

FELONIES			MISDEMEANORS			MINOR OFFENSES		
Yes	No	No Answer or no records	Yes	No	No Answer or no records	Yes	No	No Answer or no records
118	136	7	162	71	17	154	84	22

TE:

(1) Where no indication was made at all it has been assumed that the answer was no. This is because the question requires an affirmative answer if those who commit the crimes in question are not represented.

(2) As some reports indicated yes or no without giving any percentage no effort has been made to tabulate the percentage column as no true total can be found.

APPENDIX C

ORGANIZED DEFENDER OFFICES

(References are to notes at end of the Appendix)

			OPERATING COST ²	
PLACE	JURISDICTION	No. OF CASES ¹	GROSS	PER CASE
CALIFORNIA				
Long Beach	City-Municipal Court cases; limited service in civil cases	669	\$ 9,875.00	\$14.76
Los Angeles (City) ³	City-Municipal Court cases; limited service in civil cases	65,831	51,725.00 ⁴	.79
Los Angeles (County)	County-Superior Court and certain delinquency cases; limited civil	5,396	116,222.00 ⁴	21.54
Oakland	Alameda County-Criminal offenses in all courts except Federal	997	28,109.00	28.19
San Francisco ⁵	City-Criminal offenses in all courts except Federal. Limited civil	917	35,000.00	38.16
CONNECTICUT				
Fairfield County	County-Felony Cases	100	6,000.00	60.00
Hartford County	County-Felony Cases	No report		
Litchfield County	County-Felony Cases	No report		
Middlesex County	County-Felony Cases	No report		
New Haven County	County-Felony Cases	165	8,979.45 ⁶	54.42
New London County	County-Felony Cases	61	1,820.00	29.83
Tolland County	County-Felony Cases	No report		
Wyndham County	County-Felony Cases	No report		

PLACE	JURISDICTION	NO. OF CASES ¹	OPERATING COST ²	
			GROSS	PER CASE
ILLINOIS Chicago	Cook County—Felony cases on assignment of County	1,155	64,992.00	56.27
LOUISIANA New Orleans	City—All criminal cases except minor offenses in Recorders Court	333	11,034.77	33.14
MASSACHUSETTS Boston	Suffolk County—Cases in District, Superior, Supreme and Federal Courts	667	13,263.53	19.89
MISSOURI St. Louis	City of St. Louis—First offenders in felony cases	687 ⁷	11,900.00	17.32
NEBRASKA Omaha	Douglas County—District Court cases and civil matters to \$100	300	9,740.00	32.46
NEW YORK New York	N. Y. County—General and Special Sessions, Magistrate's and Federal Courts	8,288	52,053.74	6.28
OHIO Cincinnati	City—Misdemeanor and preliminary hearings in felony cases	2,762	2,000.00	.72
Columbus	City—Misdemeanor and preliminary hearing on felonies. Limited civil jurisdiction	315	6,860.93	21.78
OKLAHOMA Oklahoma City	Okla. County—Felony cases, Justice of Peace Courts by assignment	No report		
Tulsa	Tulsa County—Felony cases	121 ⁸	3,600.00	14.88
PENNSYLVANIA Philadelphia	City of Philadelphia—County & U. S. District Court cases	2,494	43,120.69	17.24
Pittsburgh	City of Pittsburgh—Criminal offenses in all courts	789	13,500.00	17.11
RHODE ISLAND Providence	State of R. I.—Superior Court and Juvenile Court. Appeals from District Courts	546	16,500.00	30.22
TENNESSEE Memphis	County of Shelby—Criminal offenses in all courts	780	5,500.00	7.05
TOTALS—		93,373	\$511,796.11	

Average \$5.48 per case

¹ Criminal cases only are reported in this table. In addition to the criminal cases handled, assistance was given on civil matters, chiefly consultation service by the following offices: Los Angeles (City and County), Long Beach, California, Omaha, Nebraska, San Francisco and Columbus, Ohio.

² Rent is included only for the privately supported offices in Boston, Philadelphia and Pittsburgh. Others have rent-free quarters, usually in a court house.

³ The City Public Defender in Los Angeles represents defendants in custody at their arraignments on felony charges in the Los Angeles Municipal Court.

⁴ Figures have been adjusted by deducting the salaries of staff attorneys who are engaged exclusively with civil work.

⁵ The "City and County of San Francisco" is a single governmental unit, with a Municipal Court and a Superior Court.

⁶ Year ending June 30, 1949.

⁷ Year ending March 31, 1949.

⁸ This figure covers the work of only 1 of the 2 part-time Defenders. Cost figure covers both.

APPENDIX D

ILLINOIS PUBLIC DEFENDER

(Rev. Stat. 1949, Ch. 34, p. 1134)

An Act in relation to the office of Public Defender. Approved July 6, 1933. L. 1933, p. 430; title as amended by act approved June 7, 1949. L. 1949, p. —, H.B.No. 237.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

163c. OFFICE OF PUBLIC DEFENDER—ATTORNEY. 1. In each county of this State containing 35,000 or more inhabitants there is created the office of Public Defender and the person to be appointed to such office shall be known as the Public Defender. No person shall be eligible to or hold such office unless he is duly licensed as an attorney and counsellor-at-law in this State. As amended by act approved June 7, 1949. L. 1949, p. —, H.B. No. 237.

163d. APPOINTMENT. 2. As soon as may be after the taking effect of this Act, the judges of the Circuit Court or in the County of Cook, the judges of the Circuit and Superior Courts shall, by a majority vote of the entire number of such judges, appoint to the office of Public Defender a properly qualified person, who shall hold office, his death or resignation not intervening, at the pleasure of the judges competent to appoint; and whenever a vacancy occurs in the office it shall be filled in like manner and the person appointed to fill such vacancy shall have the like tenure of office.

163e. OATH OF OFFICE. 3. The person appointed as Public Defender, before entering on the duties of his office, shall take and subscribe an oath of office in writing before one of the judges competent to appoint, which oath shall be filed in the office of the County Clerk.

163f. DUTIES. 4. The Public Defender, as directed by the court, shall act as attorney and counsellor-at-law, without fee, before any court of record, exercising a general criminal jurisdiction within the county, for all persons who are held in custody or who are charged with the commission of any criminal offense, and who the court finds are unable to employ counsel. Provided however, the Court may, with the consent of the defendant, appoint counsel, other than the public defender, and shall so appoint if the defendant shall so demand, and provided further that such counsel shall serve without any compensation from the County except in capital cases, in such cases he shall be compensated as is provided by law. He shall also, in the case of the conviction of any such person, prosecute any writ of error or other proceeding in review which in his judgment the interests of justice require.

163g. COMPENSATION. 5. The Public Defender shall be paid out of the county treasury as the sole compensation for his services a salary in such amount as shall be fixed by the County Board, but in no event shall such salary be less than \$100 per annum nor exceed the compensation of the State's Attorney of the county. As amended by act approved June 7, 1949. L. 1949, p. —, H.B.No. 237.

163h. ASSISTANTS. 6. The Public Defender shall have power to appoint, in such manner as the judges before mentioned shall direct, such number of assistants, all duly licensed practitioners, as such judges shall deem necessary for the proper discharge of the duties of the office, who shall serve at the pleasure of the Public Defender. He shall, also, in like manner, appoint such number of clerks and other employees as may be necessary for the due transaction of the business of the office. The compensation of such assistants, clerks and employees shall be fixed by the County Board and paid out of the county treasury.

163i. OFFICE QUARTERS—EXPENSES. 7. The County Board shall provide suitable office quarters for the use of the Public Defender, and shall allow each year a reasonable sum for necessary and proper expenses, other than salaries to be paid out of the county treasury.

163j. REPORT. 8. The Public Defender shall keep a record of the services rendered by him and prepare and file monthly with the County Board a written report of such services transmitting a copy of such report to the clerk of the Circuit Court for the judges thereof, or, in the County of Cook to each of the following, namely, the Chief Justice of the Circuit Court, the Chief Justice of the Superior Court and the Chief Justice of the Criminal Court.

**PUBLIC DEFENDER STATUTE (Conn.)
GENERAL STATUTES OF CONNECTICUT**

Revision of 1949—title 65, chapter 429

1930 S.6476

1939 S.1462e Sec. 3796. PUBLIC DEFENDER.

The judges of the superior court shall, at each annual meeting in June, appoint an attorney at law, of at least five years' practice and residence, in each county in the State, except New Haven County in which they shall appoint one such attorney for the New Haven district and one for the Waterbury district, to be public defenders thereof for the ensuing year and shall, from time to time, make rules and regulations necessary for the conduct of such office. Each such public defender shall act as attorney in the defense of any person charged with crime in either the superior court or the court of common pleas in the county for which he shall have been appointed, when such person shall be without funds sufficient to employ counsel for such defense. The public defender may, in accordance with the rules and regulations adopted by the judges of the superior court, act, within the county or district for which he shall have been appointed, as attorney for the defense of any such accused person upon any preliminary hearing before any court in the State or before any committing magistrate. Any vacancy in the office of public defender shall be filled by the Chief Justice until the next annual meeting of the judges of the superior court.

Title 27, chapter 170

Sec. 3615. ALLOWANCE TO PUBLIC DEFENDERS.

1930 S. 2267

1945 S. 559L

At the close of each criminal term or session of the superior court or court of common pleas, the public defender shall file with the clerk an itemized statement of expenses necessarily incurred by him during such term on any such preliminary hearing as provided in section 8795, and the clerk shall allow a reasonable sum for such expenses, which shall be taxed and paid as other expenses in criminal cases in either said superior court or court of common pleas. In addition to the expenses necessarily incurred in the court of common pleas, a reasonable allowance for the services of the public defender rendered in said court shall be made by the presiding judge at the conclusion of the criminal term. The judge presiding at any term or session of the superior court or court of common pleas may, upon application of the public defender for such county, appoint an attorney other than the public defender to represent any person charged with crime in any criminal court in such county, if, in the opinion of such judge, such appointment should be made, and in such case the judge of the court in which such representation was made shall allow a reasonable sum for said services and necessary disbursements in connection therewith, such amount to be paid as are other court expenses.

COLUMBUS CITY CHARTER

1914

Sec. 12. PUBLIC DEFENDER. Council shall have power to appoint a public defender of indigent persons charged with offenses in the municipal courts.

THE COLUMBUS CODE OF 1930

Chapter III.—Public Defender

Sec. 11. OFFICE ESTABLISHED. That there be and hereby is established the office of public defender of indigent persons charged with offenses in the municipal court and free legal adviser of indigent persons.

Sec. 12. DUTIES. That the duties of said public defender and free legal adviser of indigent persons shall be to defend without expense any person who shall be charged with an offense or who shall be cited or charged with a contempt in the municipal court of the

city of Columbus, Ohio, when such persons shall be indigent and unable to employ an attorney for that purpose. It shall be the duty of said officer, upon request, to give advice and counsel to indigent persons concerning any charge or complaint against them or about which they shall seek his advice, and he shall prosecute all appeals or proceedings in error to a higher court or courts on behalf of such persons when, in his opinion, such appeal or proceedings in error will or might reasonably be expected to result in a reversal or modification of the judgment or conviction. Said officer shall devote full time and attention to the duties of his office and shall not solicit or receive from any litigant or person advised any fee whatsoever. Said officer shall also represent any indigent litigants, either plaintiffs or defendants, in the civil branch of the municipal court, who give satisfactory proof of their lack of means to secure private counsel.

Before representing any person in either branch of the municipal court, or before giving free legal advice to any person, said officer shall satisfy himself by proper inquiry that said person is an indigent person and may, whenever the indigency of any such person is in doubt, call upon the division of charities or other recognized investigation agency for a report as to the indigency of such person. Upon objection being made in court to the public defender representing any person the trial court shall determine whether or not such person is indigent and entitled, under the provisions of this chapter, to the services of said public defender.

Sec. 13. RECORDS, REPORTS, VACATIONS, OFFICE HOURS. He shall keep a record of the cases and complaints defended or prosecuted by him as well as all other activities of said office, and shall make a monthly report thereof to the city council.

The public defender and the clerk-stenographer shall each be entitled to two weeks' vacation with pay during each calendar year.

Except when engaged in court, or otherwise in the performance of his duties, the said public defender shall have and keep regular office hours during each business day which shall be from 8:30 o'clock a. m. to 4:30 o'clock p. m., except on Saturday, when such office hours shall be from 8:30 o'clock a. m. to 12:00 o'clock noon.

Sec. 14. QUALIFICATIONS. The said public defender shall be an attorney at law, duly admitted to practice in all courts of record in the state of Ohio at least two years prior to the time of his appointment and shall be an actual and bona fide resident of the city of Columbus for not less than one year preceding his appointment.

Sec. 15. APPOINTMENT. Said public defender shall be appointed by the city council.