

# Community Oriented Defense: Stronger Public Defenders

Melanca Clark and Emily Savner

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*At New York University School of Law*

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## About the Authors

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# Community Oriented Defense: Stronger Public Defenders

## Table of Contents

Executive Summary	7
Introduction	11
<b>The Ten Principles of Community Oriented Defense</b>	
<hr/>	
Principle 1: Create a Client-Centered Practice	19
Principle 2: Meet Client Needs	23
Principle 3: Partner with the Community	27
Principle 4: Fix Systematic Problems	31
Principle 5: Educate the Public	35
Principle 6: Collaborate	39
Principle 7: Address Civil Legal Needs	43
Principle 8: Pursue a Multidisciplinary Approach	48
Principle 9: Seek Necessary Support	52
Principle 10: Engage with Fellow COD Members	56
Appendix: COD Network Membership List	60

EXECUTIVE SUMMARY

More people travel through America's criminal justice system than any other justice system in the industrialized world. And these people are overwhelmingly from low-income, African-American and Latino communities. Yet there is scarce funding available for local indigent defense systems, and legislators face little pressure to provide the necessary support for this unpopular constituency.

Public disinvestment in social services has left growing segments of the population ill-equipped to address economic, emotional, physical and mental health problems that can precipitate contact with the criminal justice system when left unaddressed. As a result of these and other deficiencies, many indigent Americans are caught in a cycle of continuous encounters with the criminal and juvenile justice systems.

The Brennan Center founded the Community Oriented Defender (COD) Network to support defenders and their allies who seek more effective ways to carry out the defense function. Our goal is to enable defense counsel to engage community based institutions in order to reduce unnecessary contact between individuals and the criminal justice system.

Through national convenings, newsletters, informational forums and targeted reform projects, the COD Network pulls together innovative defender programs and helps replicate best practices and reform strategies. Begun as a small coalition of defender programs in 2003, the COD Network today includes over 50 defender programs. The COD vision of engagement with community based institutions has a proven track record, and although the challenges remain real, the COD model is gaining influence.

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The Brennan Center, in partnership with leaders of the COD movement, developed the Ten Principles of Community Oriented Defense. These distill the three overarching advocacy strategies of the movement—whole client representation, community engagement, systemic reform—into ten concrete goals. We have provided a blueprint defender programs can use to reduce unnecessary contact between individuals and the criminal justice system, strengthen defender programs and improve policies that affect client communities.

In this report, we present each of the COD Ten Principles in the context of profiles of defender programs that are putting the various Principles into action. Those cited are but a few of the many defender programs incorporating the COD Ten Principles today and represent just some of the many creative ways we hope defender programs will begin to integrate these Principles into their own work.

# The Ten Principles of Community Oriented Defense

## Principle 1 Create a Client-Centered Practice

*We aspire to employ a diverse group of attorneys, investigators, social workers and other advocates who respect their clients' wishes and goals, and work together to ensure that the dignity of every client is honored.*

The *Neighborhood Defender Service of Harlem* (NDS) organized *DefensaNDS*, a team of all-Spanish-speaking advocates, to deliver effective representation to the program's burgeoning Spanish-speaking client population. (see page 19)

## Principle 2 Meet Clients' Needs

*We seek to promote the life success of every client by: identifying educational gaps, mental health issues, addiction, and other needs, and linking clients with resources, opportunities, and services to meet those needs.*

Through its *Defender Community Advocacy Program* (DCAP), the *Rhode Island Office of the Public Defender* helps clients with addiction and mental health problems by sending a social worker to arraignment (along with the attorney) to identify treatment needs and to advocate for care. The result: healthier clients, better case outcomes and more productive relationships with judges and prosecutors. (see page 23)

## Principle 3 Partner with the Community

*We seek to maintain a local presence in the communities we serve and to form relationships with community members, community based organizations, and community institutions (e.g., courts, schools, government, health care providers and employers) to improve case and life outcomes for clients and to strengthen families and communities.*

The *BMAGIC* and *Mo' MAGIC* programs of the *San Francisco Public Defender's* office address the root causes of youth contact with the criminal justice system by partnering with community organizations to deliver enhanced services for at-risk youth. These programs have a permanent, visible presence in the communities they serve, and they have enabled the Public Defender's office to expand its role in the community from courtroom advocate to fully-engaged community partner. (see page 27)

## Principle 4 Fix Systemic Problems

*We aspire to change policies that harm clients, families and communities (e.g., policing practices that produce racial and ethnic disparities in arrest rates).*

The *Racial Disparity Project of The Defender Association* in Washington operates the *Law Enforcement Assisted Diversion Program* (LEAD), a pre-booking diversion program, based in the community, that steers individuals accused of low-level drug crimes out of the criminal justice system and into treatment, reducing the number of minority youth caught up in the system. (see page 31)

## Principle 5 Educate the Public

*We seek to describe the human impact of the criminal justice system to policymakers, journalists, and others so that the public can better appreciate the cost to individuals, communities, and the nation of "tough on crime" policies.*

The *Louisiana Justice Coalition* engages in sustained public education campaigns that have contributed to a comprehensive overhaul of Louisiana's indigent defense system and continuing improvements to the delivery of indigent defense services in the state. (see page 35)

## **Principle 6 Collaborate**

*We aim to create partnerships with likely and unlikely allies, including prosecutors, victims, faith-based organizations, and national and state based legal aid organizations to share ideas, promote change, and support mutual efforts.*

Los Angeles' Homeless Alternatives to Living on the Street program, also known as the *HALO program*, is a multi-pronged, collaborative effort between the Los Angeles City Attorney's Office and the *Los Angeles County Public Defender's Office* aimed at diverting non-violent homeless or near-homeless individuals with mental illness or addiction from jail and into treatment programs. (see page 39)

## **Principle 7 Address Civil Legal Needs**

*We seek to promote access to civil legal services to resolve clients' legal concerns in such areas as housing, immigration, family court, and public benefits, occasioned by involvement with the criminal justice system.*

Cognizant that "collateral consequences" flowing from a criminal conviction can be as severe (if not more severe) than a prison sentence, and aware that they can lead clients into a cycle of involvement with the criminal justice system, *The Bronx Defenders* has established a *Civil Action Practice*, providing legal representation to resolve a broad range of clients' civil legal problems. (see page 43)

## **Principle 8 Pursue a Multidisciplinary Approach**

*We aspire to engage not only lawyers, but also social workers, counselors, medical practitioners, investigators and others to address the needs of clients, their families and communities.*

With delinquency attorneys, education attorneys, social service advocates, a psychologist

and a community liaison, the *Youth Advocacy Department (YAD)*, in Massachusetts, relies on a team approach to get young clients not just "problem-free outcomes," but positive developmental outcomes and the achievement of real world goals. (see page 48)

## **Principle 9 Seek Necessary Support**

*We seek essential funding, professionally approved workload limits, and other resources and structures sufficient to enable the COD model to succeed.*

The *North Carolina Office of Indigent Defense Services' (IDS) Systems Evaluation Project*—a data-driven performance measurement system—will enable IDS to gauge the quality and cost-effectiveness of its services. IDS can rely on the data to make the case for greater support for programs that continue to prove their worth. (see page 52)

## **Principle 10 Engage with Fellow COD Members**

*We are dedicated to sharing ideas, research and models to help advance the COD movement locally and nationally in order to maximize its benefits for clients, families and communities.*

Being an engaged member of the Community Oriented Defender Network means developing and sharing creative problem-solving strategies for breaking the cycle of arrest and incarceration that have turned courthouse entrances into revolving doors. There are myriad possibilities for engagement. (see page 56)

# INTRODUCTION

The Brennan Center for Justice created the Community Oriented Defender (COD) Network in 2003 in honor of the 40<sup>th</sup> anniversary of the U.S. Supreme Court's decision in *Gideon v. Wainwright*, securing the right to counsel in criminal cases.<sup>1</sup>

The idea was to support a movement predicated on the theory that provision of indigent defense should include attempts to break the continuing cycle of individuals' encounters with the criminal and juvenile justice systems.

Today the COD Network includes over 50 agencies committed to answering the needs—beyond the individual case—of each criminal defendant. This includes systemic reform of failing criminal justice policies, and enlistment of community members and institutions in problem-solving ventures.

As a result of tough-on-crime policies—especially increased penalties for non-violent drug offenses (a trend that gained momentum in the 1980s)—America processes more individuals through its criminal justice system than nearly any other industrialized country in the world. A staggering one in 31 adults in the United States is under the supervision of the criminal justice system, and one in 100 is held in jail or prison.<sup>2</sup> An overwhelmingly disproportionate number of these individuals are from low-income, African-American and Latino communities.<sup>3</sup>

Public disinvestment in social services has left growing segments of the population ill-equipped to address economic, emotional, physical and mental health problems that, when left unaddressed, can precipitate contact with the criminal justice system.<sup>4</sup> Individuals in criminal proceedings face a host of problems beyond the criminal matter itself. And often, defenders see the same clients, particularly those who suffer from severe addiction and mental illness.

Funding for local defense systems has been anemic, in part because legislators face little pressure to support an unpopular constituency.<sup>5</sup> And, while state and local law enforcement and prosecution functions receive funding from the federal government, there is no equivalent support for indigent defense systems. The resulting increase in arrests and prosecutions exacerbates the burden on defenders.<sup>6</sup>

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<sup>1</sup>372 U.S. 335 (1963).

<sup>2</sup> THE PEW CENTER ON THE STATES, ONE IN 31, THE LONG REACH OF AMERICAN CORRECTIONS 7 (2009), available at [http://www.pewcenteronthestates.org/uploadedFiles/PSPP\\_1in31\\_report\\_FINAL\\_WEB\\_3-26-09.pdf](http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf); THE PEW CENTER ON THE STATES, ONE IN 100: BEHIND BARS IN AMERICA 5 (2008), available at [http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS\\_Prison08\\_FINAL\\_2-1-1\\_FORWEB.pdf](http://www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf).

<sup>3</sup> *Id.* at 7. See generally MARC MAUER & RYAN S. KING, THE SENTENCING PROJECT, UNEVEN JUSTICE: STATE RATES OF INCARCERATION BY RACE AND ETHNICITY (2007), available at [http://www.sentencingproject.org/doc/publications/rd\\_stateratesofincbyraceandethnicity.pdf](http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf) (detailing disparities in the rates of incarceration of Whites, African Americans and Latinos).

<sup>4</sup> See Cait Clarke, *Problem Solving Defenders in the Community: Expanding the Conceptual and Institutional Boundaries of Providing Counsel to the Poor*, 14 GEO. J. LEGAL ETHICS 401, 425 (2001).

<sup>5</sup> See Mark H. Moore, Michael P. Judge, Carlos J. Martinez, and Leonard Noisette, 'The Best Defense is No Offense': Preventing Crime Through Effective Public Defense, 29 N.Y.U. REV. L. & SOC. CHANGE 57 (2004) (describing public ambivalence, and at times antipathy, toward public defenders).

<sup>6</sup> For example, of the \$3.4 billion that the Obama Administration has proposed in federal funding for state, local and tribal law assistance programs in the FY 2011 budget, less than 0.1% would be directed specifically to indigent defense. U.S. DEPT. OF JUSTICE, FY 2011 BUDGET REQUEST: RESTORE CONFIDENCE IN OUR MARKETS, PROTECT THE FEDERAL FISC, AND DEFEND THE INTERESTS OF THE UNITED STATES 5 (2010), available at <http://www.justice.gov/jmd/2011factsheets/pdf/defend-interests-unitedstates.pdf>. See also Rebecca Marcus, *Racism in Our Courts*:

Defenders commonly operate without sufficient training and support and labor under caseloads that routinely exceed national standards. Lack of oversight mechanisms, independent oversight boards, and the use of low bid contracts, further contribute to the failure in many jurisdictions to provide adequate representation.<sup>7</sup> The American Bar Association's Ten Principles of a Public Defense Delivery System, which define minimum objective standards necessary for effective representation, are, to date, rarely met in communities across the country. These standards include independence of the defense function, case load standards, consistent eligibility standards, and adequate supervision, resources and training for defenders.<sup>8</sup>

Against the backdrop of a system in crisis, the COD movement has gained traction as innovative defenders seek more effective ways to carry out the defense function on multiple fronts.

**Whole Client Representation:** In response to high recidivism rates, community oriented defenders embrace a “holistic model” of defense services, choosing to focus not only on case resolution, but also on helping clients address the problems that may have led to their arrest. These defenders recognize that contact with the criminal justice system offers a rare moment in which to resolve an individual's critical needs, including those beyond the immediate realm of the legal system. By taking advantage of the defender's unique relationship as a counselor to the defendant, defenders can link clients to services for addiction, mental illness and unemployment, thereby promoting life success. The impact is significant, personally, for the client, but also for judges and prosecutors, who are better able to perceive the accused as more than the crime of which she or he is accused, and who subsequently may adjust decisions on sentencing and bail to promote success.<sup>9</sup>

**Policy Advocacy/ Systemic Reform:** While zealously representing individuals, defenders increasingly recognize opportunities to fix systemic problems that harm clients, families and communities. Defenders see, on a daily basis, how policy choices play out in clients' lives and are well positioned both to hold government officials accountable for failed policies and to help de-

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*The Underfunding of Public Defenders and Its Disproportionate Impact Upon Racial Minorities*, 22 HASTINGS CONST. L.Q. 219 (1994) (describing systemic underfunding of public defender programs).

<sup>7</sup> See generally, THE CONSTITUTION PROJECT, NATIONAL RIGHT TO COUNSEL COMMITTEE, JUSTICE DENIED: AMERICA'S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL (2009); AMERICAN BAR ASSOCIATION, GIDEON'S BROKEN PROMISE: AMERICA'S CONTINUING QUEST FOR EQUAL JUSTICE (2004); NATIONAL LEGAL AID & DEFENDER ASSOCIATION, A RACE TO THE BOTTOM, SPEED AND SAVINGS OVER DUE PROCESS: A CONSTITUTIONAL CRISIS (2008); NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC., ASSEMBLY LINE JUSTICE: MISSISSIPPI'S INDIGENT DEFENSE CRISIS (2003).

<sup>8</sup> In contrast to the ABA Principles, the COD Ten Principles define goals for individual defender programs, and describe an approach to practice that engages community based institutions in comprehensive efforts to break the cycle of events that leads individuals into encounters with criminal justice systems.

<sup>9</sup> Because judges routinely consider post-offense rehabilitation as a factor in sentencing, public defenders can indirectly but powerfully advocate for their clients by assisting them in finding support and services in their communities. Bruce J. Winick, *Redefining the Role of the Criminal Defense Lawyer at Plea Bargaining and Sentencing: A Therapeutic Jurisprudence/ Preventive Law Model*, 5 PSYCHOL. PUB. POL'Y & L. 1034 (1999), available at <http://psycnet.apa.org/journals/law/5/4/1034.pdf>. See, e.g. Cait Clarke & James Neuhard, *Making the Case: Therapeutic Jurisprudence and Problem Solving Practices Positively Impact Clients, Justice Systems and Communities They Serve*, 17 ST. THOMAS L. REV. 781 (2005) (describing the positive impact of comprehensive services on client outcomes. Michigan's Washtenaw County enjoyed the lowest prison commitment rate among Michigan's largest counties, due in part to the community oriented defender office there); MICHELE

wise new solutions to enduring problems. To address problems that include over-criminalization, racial and ethnic disparities in the criminal justice system and low-quality legal representation, defenders are pressing for reform in a variety of settings, including the courts, legislatures and public forums.<sup>10</sup>

**Community Engagement:** Finally, community oriented defenders are developing ties with residents, groups, social service providers and others community based institutions. These relationships can facilitate supports for clients, thus improving defenders' ability to provide whole client representation, and can help to build grassroots coalitions willing to speak out against police and prosecution practices that harm residents, thus helping to achieve policy reform. And they can galvanize support for high-quality defender programs. Community oriented defenders recognize that while the interests of their clients and the community will not be aligned in every instance, the community has a stake in reducing crime through successful defender programs that address clients needs holistically and that provide high-quality defense services.

**The Ten Principles of Community Oriented Defense** distill these three overarching advocacy strategies into ten concrete goals. The Brennan Center, with the assistance of the COD Advisory Group,<sup>11</sup> developed the COD Ten Principles as a way to articulate the values and standards of participants in the Network, to inspire and challenge defenders to embrace the model and to make the case to criminal and juvenile justice system stakeholders (and to the general public, as well) that these aspirations and strategies are worthy of support. However, the avenues for advocacy and client representation defined by these Principles are also merely means toward higher ends and a better future: reducing unnecessary contact between individuals and the criminal justice system, making more robust our society's provision of defense services to those charged with crimes, and fixing policies that undercut the lives of individuals and the stability of our communities.

The COD model is an ambitious one that sparks the obvious question: "How, given the limited resources available to most defense systems, and the dire fiscal realities now facing the state and local budgets that fund them, can we expect defenders to do anything but attempt to manage overwhelming case dockets?"

The challenges are real. The *status quo*, however, is failing communities and defender programs alike. As an initial matter, defender organizations that build relationships and develop allies in the community can do a better job for clients and will also be better situated to insist on more robust support for the defense function.

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SVIRIDOFF, ET AL., VERA INSTITUTE OF JUSTICE RESEARCH DEPARTMENT, DEVELOPING AND IMPLEMENTING A COMMUNITY-BASED DEFENSE SERVICE: PILOT OPERATIONS OF THE NEIGHBORHOOD DEFENDER SERVICE OF HARLEM (1991), available at <http://www.vera.org/content/developing-and-implementing-community-based-defense-service-pilot-operations-neighborhood-de> (finding that the community based Neighborhood Defender Service of Harlem had fewer cases result in incarceration, and shorter terms of incarceration, as compared to similar cases tried by other attorneys. The Neighborhood Defender Service attributed this difference to the additional information that it was able to present to prosecutors and judges, based in part on working on cases earlier and knowing clients and the community better).

<sup>10</sup> See Kim Taylor-Thompson, *Effective Assistance: Reconceiving the Role of the Chief Public Defender*, 2 J. INST. STUD. LEGAL ETHICS 199 (1999), available at [brennan.3cdn.net/14b62eda6e832a4345\\_5um6ibxtb.pdf](http://brennan.3cdn.net/14b62eda6e832a4345_5um6ibxtb.pdf) (calling for chief public defenders to act as public advocates for indigent defense and, more broadly, for the communities in which they serve).

America can no longer afford its appetite for mass incarceration or the resulting, and particularly pernicious, effects on low-income African-American and Latino communities. As several cash-strapped states take drastic measures to reduce their prison populations in the face of budget crises,<sup>12</sup> and federal legislators consider sweeping examination and overhaul of the nation's criminal justice system,<sup>13</sup> the COD model provides an answer to the question, "What works better?"

Problem-solving approaches that create better chances of success for clients, as evidenced by a growing body of research documenting reductions in incarceration and recidivism rates as a result of defender interventions, can result in substantial costs savings for communities.<sup>14</sup> The current economic crisis thus adds new urgency to the need to support the COD model.

The impact of the COD model cannot be measured solely in potential dollars saved. By honoring the dignity of individuals, and tackling the systemic problems that entangle overwhelming numbers of minorities and the poor in the cycle of arrest and incarceration, the COD approach can help to make the criminal justice system more fair, and thereby fosters greater respect for the system.

Reimagining the role of the traditional defender can inspire stakeholders and the public to secure the promise of *Gideon*, both by investing in stronger defender programs and by holding defenders accountable to higher standards of practice.<sup>15</sup>

While support is not as robust as it could be, many of the defenders profiled in this report have received funding from private and public sources interested in investing in a model they recognize will provide real social and economic dividends over time.

At the federal level, the government is approaching indigent defense with a new level of seriousness.<sup>16</sup> This past year, the Department of Justice announced the creation of an Access to Justice Initiative, with a specific mandate to work collaboratively with courts, the defense bar and others in the criminal justice system to improve the quality of indigent defense services. In March, the Department of Justice

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<sup>11</sup> The Community Oriented Advisory Group includes Edwin Burnette, Vice President—Defender Legal Services, National Legal Aid & Defender Association, former Cook County Public Defender, Lisa Daugaard, Deputy Director, The Defender Association, Supervisor, Racial Disparity Project, Defender Association of Seattle, Joshua Dohan, Director, Youth Advocacy Department of the Committee for Public Counsel Services, Heather Horton Hall, Administrator, Louisiana Justice Coalition, former Director of the Louisiana Justice Coalition, Rick Jones, Executive Director, Neighborhood Defender Service of Harlem, William (Bill) Leahy, Chief Counsel, Committee for Public Counsel Services, Robin Steinberg, Founding Director, The Bronx Defenders, John Stuart, Minnesota State Public Defender.

<sup>12</sup> See Monica Davey, *Safety is an Issue as Budget Cuts Free Prisoners*, N.Y. TIMES, Mar. 4, 2010 at A1.

<sup>13</sup> See, e.g., National Criminal Justice Commission Act of 2009, S.714, 111<sup>th</sup> Cong. (2009) (a bill that would establish the National Criminal Justice Commission to undertake a comprehensive review of the criminal justice system"); Criminal Justice Reinvestment Act of 2010, S. 2772 111<sup>th</sup> Cong. (2010) (a bill that would establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety).

<sup>14</sup> See e.g., Christopher Stone, *Lessons of Neighborhood Focused Public Defense*, National Institute of Justice, Crime and Place: Plenary Papers of the 1997 Conference on Criminal Justice Research and Evaluation, 98-99 (1998) (finding that the Neighborhood Defender Services of Harlem saved the state approximately \$10 million in reduced prison bed-days, more than twice the NDS budget at the time); Letter From Rhode Island Chief Defender John Hardiman to R.I. House Speaker William J. Murphy (May 9, 2006) (describing cost savings from the Rhode Island Public Defender arraignment intervention program); see also DR. GERARD "ROD" BARBER & DR. RAMONA STONE,

announced a substantial grant to COD member The Bronx Defenders to create a Center for Holistic Defense, in collaboration with The Center for Court Innovation and John Jay College of Criminal Justice, that will provide technical assistance and guidance for public defender offices seeking to adopt a more holistic model of representation.<sup>17</sup>

Finally, as lawyers for the criminally accused bring the COD Ten Principles into action in communities and courts across the country, stakeholders in those jurisdictions may begin to reconceptualize what the right to counsel should look like. Is this plausible? The short answer is yes. In March, the Supreme Court ruled, in *Padilla v. Kentucky*, that the Sixth amendment guarantee of effective representation includes a right of a defendant to be informed of the “collateral consequence” of deportation when agreeing to a criminal plea.<sup>18</sup> The case illustrates the observation that “courts will more readily perceive the rushed and cursory services provided by overburdened defenders as violating the Sixth Amendment if they understand the increasingly complex role of defenders.”<sup>19</sup> Community Oriented Defenders are embracing this new role because they appreciate the complex lives of their clients, as well as the complexities of representing clients within a flawed justice system.

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KENT SCHOOL OF SOCIAL WORK, UNIVERSITY OF LOUISVILLE, SOCIAL WORK PILOT PROJECT REPORT, KENTUCKY DEPARTMENT OF PUBLIC ADVOCACY (Jan. 2008), available at [http://dpa.ky.gov/NR/rdonlyres/369E42F6-ECFF-4E51-ACC6-99F609A511D3/0/SW\\_Pilot\\_Report.pdf](http://dpa.ky.gov/NR/rdonlyres/369E42F6-ECFF-4E51-ACC6-99F609A511D3/0/SW_Pilot_Report.pdf) (identifying reduced substance abuse and recidivism among clients as a result of social worker involvement in criminal cases); Georgia Justice Project, About Georgia Justice Project, <http://www.gjp.org/about> (last visited July 2, 2010) (reporting that the recidivism rate for Georgia Justice Project clients is only 18%, as compared to national average of 60%).

<sup>15</sup> See CHRISTOPHER MULLER, BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW, THE CASE FOR COMMUNITY DEFENSE IN NEW ORLEANS (2006), available at [www.brennancenter.org/content/resource/the\\_case\\_for\\_community\\_defense\\_in\\_new\\_orleans](http://www.brennancenter.org/content/resource/the_case_for_community_defense_in_new_orleans) (advocating for a community oriented mission for New Orleans public defenders in part to respond to community frustration at poor and unresponsive representation).

<sup>16</sup> See Eric Holder, U.S. Attorney General, U.S. Dep’t of Justice, Remarks at the Brennan Legacy Awards Dinner (Nov. 16, 2009), available at [http://www.brennancenter.org/content/resource/attorney\\_general\\_eric\\_holder\\_on\\_indigent\\_defense\\_reform/](http://www.brennancenter.org/content/resource/attorney_general_eric_holder_on_indigent_defense_reform/) (“At the Department of Justice, I have convened an internal working group to help me identify ways we can do our part in this effort. I’ve instructed them to leave no stone unturned in identifying potential funding sources, legislative initiatives, and other ways we can work with our state and local partners to establish effective public defense systems.”); Laurie Robinson, Assistant Attorney General Office of Justice Programs, U.S. Dep’t of Justice, Remarks at the American Bar Association National Public Defender Symposium Dinner (May 20, 2010), available at [http://ojp.usdoj.gov/newsroom/speeches/2010/10\\_0520lrobinson.htm](http://ojp.usdoj.gov/newsroom/speeches/2010/10_0520lrobinson.htm) (“The Attorney General has made a pledge to bolster the public defense bar, and we are following through...”); Laurence Tribe, Senior Counselor for Access to Justice Initiative, U.S. Dep’t of Justice, Remarks at the National Institute Of Justice Annual Crime And Research Conference (Jun 14, 2010) (“The truth is that, as a nation, we face nothing short of a justice “crisis” . . . The situation we face is unconscionable. It’s why the President and Attorney General created the Access to Justice Initiative that I lead. And it’s why we will not rest until we have made measurable and sustainable progress.”).

<sup>17</sup> See The Bronx Defenders, *The Center for Holistic Defense*, at <http://www.bronxdefenders.org/our-work/center-holistic-defense>, for further information on this exciting project; see also Katie Crutchfield, New Center Provides Training in Holistic Defense, NCJA JUST. BULL. (National Criminal Justice Association, Washington D.C.), Apr. 2010, available at <http://www.bronxdefenders.org/sites/default/files/NCJA%20Justice%20Bulletin%20re%20Center%20for%20Holistic%20Defense.pdf> (“The Center for Holistic Defense is a resource center for public defender offices, individual practitioners, policymakers, and other stakeholders. Through a combination of online learning materials and live technical assistance, the Center provides public defenders with the nuts-and-bolts support they need to translate the theory of holistic defense into practice.”).

<sup>18</sup> See *Padilla v. Kentucky*, 559 U.S. ---, 130 S Ct 1473, 1484 (2010) (“It is quintessentially the duty of counsel to provide her client with available advice about an issue like deportation and the failure to do so ‘clearly satisfies the

The COD Ten Principles embody the COD Network’s vision of how to move beyond traditional case-specific representation. Based on the COD Network’s eight-year track record, we are confident that the COD Ten Principles—including their embrace of whole client representation, community engagement and systemic reform—will enable defenders to represent clients more effectively, build stronger programs and obtain practical solutions to public policy challenges.

**A few notes on the COD Ten Principles and Illustrations:**

In this report we profile defenders whose work exemplifies the COD Ten Principles. These are but a few of the many programs that incorporate the COD Ten Principles into daily practice.

We acknowledge that although we have provided one illustration of a defender practice or program for each of the Principles, the subject work can, in many instances, also illustrate one or more of the remaining Principles. While the COD Principles articulate ten specific goals, they are not mutually exclusive and are rather mutually supportive.

Finally, the illustrations are not intended to define an exclusive approach for COD involvement; instead, our hope is for the illustrations to inspire and challenge defenders to engage with the COD Ten Principles, make them their own and encourage other criminal and juvenile justice system stakeholders (and the general public, as well) to support the COD model.

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first prong of the *Strickland* analysis.”) (citation omitted).

<sup>19</sup> Adele Bernhard, *Take Courage: What the Courts Can Do to Improve the Delivery of Criminal Defense Service*, 63 U. PITT. L. REV. 293 (2002).



TEN PRINCIPLES OF  
COMMUNITY ORIENTED DEFENSE

## Principle 1: Create a Client-Centered Practice

*We aspire to employ a diverse group of attorneys, investigators, social workers and other advocates who respect their clients' wishes and goals, and who work together to ensure that the dignity of every client is honored.*

For many criminal defense practitioners, the mark of a successful lawyer is one who wins at trial. Zealous advocacy in court is a critical component of effective representation, but increasingly, defenders are rethinking their role and taking time to understand, and respond to, their clients' extra-legal needs. As a result, these defenders have a much better opportunity to identify what might have brought a client to their door, and what may bring him or her to return, both from an individual perspective, and as a result of institutional forces. Addressing a client's unique concerns—from finding the client a drug or mental health treatment program, negotiating a plea that will avoid deportation consequences, or initiating a police brutality action—encourages open communication and builds trust, which is essential to effective advocacy, both inside and outside the courtroom.

Defenders take different approaches to fulfilling this principle. The Society of Counsel Representing Accused People in King County, Washington, has a former client on their board to ensure that the client perspective is part of management decisions. The Marin County, California Public Defender's office is working to create a new case management system so clients can access helpful case and service information online and so the office can track the use of different resources.

### **The Neighborhood Defender Service of Harlem (NDS)**

With 20 attorneys providing defender legal services in New York County north of 96<sup>th</sup> Street, the Neighborhood Defender Service of Harlem (NDS) is one of the pioneers of the

client and community oriented defender models. As Rick Jones, executive director of the office has stated, "Our work focuses on clients and their families, and not judges and their courts." Founded in 1990, the office is located in Harlem, in the heart of the community where the office's clients reside. The NDS staff actively engages with the community, primarily through outreach and education programs that inform the community, and particularly youth, about their legal rights and responsibilities in interactions with the police and prosecutors. The Harlem location and open-door policy help encourage clients to request assistance from NDS before arraignment—a strategy that permits NDS to perform timely and complete investigations without having to rely on discovery from police. NDS also deploys a team defense model, where a team of dedicated attorneys, investigators and social workers collectively engage with clients, defending the legal case, reviewing alternatives to incarceration and connecting clients with education support programs and mental health and drug treatment placements, as necessary.

### **The DefensaNDS Model**

Since 2000, the Latino population in many parts of Harlem has increased by over 25%. The growth in population is reflected in the NDS client base, which has grown from approximately 15% Spanish speakers to over 40%, many of whom are monolingual. Having only one or two people on a defense team with the ability to communicate with a Spanish-speaking client and his or her family constrained the effectiveness of the NDS team-based model of representation. Staff members began to notice that clients and their families were having trouble understanding the legal process in which they were involved, often requesting, with some frustration, to speak with *someone* in the office who spoke Spanish. These attorneys and social workers suggested a new approach to representing Spanish-speak-

ing clients: create a team of all-Spanish-speaking advocates. As NDS director Rick Jones points out, what eventually became DefensaNDS was not a “top-down” decision; rather, it came about organically, based on the staff’s perceptions of the needs of their clients.

Given that NDS already based its practice on a team representation model, integrating DefensaNDS into the organization’s practice was a no-brainer. NDS had an attorney, case manager, investigator and social worker fluent in Spanish. Organizing these professionals into a defense team was not difficult and did not change NDS’s approach to team-based representation. Although NDS is fortunate to have secured funding from the City of New York to create and maintain staff positions for the DefensaNDS project, it also was not an inherently expensive proposition given NDS’s longstanding emphasis on recruiting bi-lingual staff.

When a client comes to NDS, whether through an assignment from the court, as a walk-in or through a referral, he or she speaks to a Spanish-speaking case manager who handles communication between members of the team and also liaises with the court. This case manager works with the attorney who handles the case, the investigator who goes into the community to talk to witnesses, and the social worker who helps secure treatment programs or other alternatives to incarceration, all of whom speak Spanish, as well.

As any lawyer can attest, a lack of trust between advocate and client can be one of the greatest obstacles to effective representation. A language barrier only increases the difficulty. Worse yet, recent increases in immigration enforcement leave many non-citizen Spanish speakers apprehensive about interacting with anyone with a connection to the government. Team members of DefensaNDS recognize these obstacles and work to place clients and families at greater ease.

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Belinda\* is a Spanish-speaking immigrant from the Dominican Republic, mother of two teenage children who worked in the kitchen of a Harlem restaurant. One evening, after an altercation with a coworker, she was arrested and charged with assault. Her case was assigned to a public defender. Uncertain of her immigration status and fearful for the fate of her two children should she go to jail, she was anxious as she sat in the courtroom. But her anxiety eased slightly upon meeting her attorney: he spoke fluent Spanish, and told her that she would be defended by a team of trained, Spanish-speaking professionals. “Still,” she thought, “isn’t this a government attorney? Surely if I talk to him, he will relay everything I say to immigration officials.” So she remained tight-lipped through the meeting. The next day, the attorney appeared at her door with a woman he introduced as an “investigadora.” She also spoke Spanish, and told Belinda that she was there to help. With her son watching skeptically, Belinda answered their questions, but told them little of the altercation or of her past. After several minutes, her son touched her shoulder and whispered in her ear. “Mom,” he said in Spanish, “they’re on our side. We can trust them.” She relaxed, and began to tell her story.

\*Based on client’s story. Belinda is not client’s real name.

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“Our work focuses on clients and their families, and not judges and their courts.”

Rick Jones, Executive Director,  
Neighborhood Defender Service of Harlem

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The DefensaNDS approach also helps develop the support for clients that can play a critical role in case outcomes. Spanish-speaking investigators can more freely interview and obtain relevant information from Spanish-speaking witnesses. And the ability of DefensaNDS to better communicate and develop relationships with a client’s family, where appropriate, can help ensure that the client is best equipped, with the assistance and support of family members, to deal with the crisis and aftermath of being arrested and charged.

In addition to Spanish-speaking advocates, DefensaNDS also offers access to a dedicated immigration attorney, currently funded by the Equal Justice Works Fellowship program. The immigration attorney allows DefensaNDS to advise every non-citizen client about the collateral consequences of conviction, whether or not the client is the subject of an immigration court proceeding. Many clients find that immigration consequences far outweigh anything that may happen in a criminal proceeding. The open communication and trust engendered by the DefensaNDS model ensures that relevant facts come to light; this in turn helps preclude a seemingly favorable criminal disposition from having devastating collateral consequences.

The project’s success has spurred community-based organizations such as Northern Manhattan Coalition for Immigrant Rights and Alianza Americana to refer their Spanish-speaking clients to NDS, which helps NDS obtain cases early in the process. To date, fully 50% of DefensaNDS’s clients come to NDS through this informal referral process, with the remainder coming through court assignments and as walk-ins.

As DefensaNDS team member Yalitza Serrano-Collado points out, “without the language ability and cultural sensitivity that the DefensaNDS team brings to the table, a lot of the cases would just be done robotically and we wouldn’t get a real sense of the client’s concerns.” The ability of DefensaNDS to listen to and address those concerns makes the representation more effective and can help clients disentangle themselves from repeated contact with the criminal justice system.

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## Related Materials

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## Principle 2: Meet Clients' Needs

*We seek to promote the life success of every client by: identifying educational gaps, mental health issues, addiction, and other needs, and linking clients with resources, opportunities, and services to meet those needs.*

Numerous COD offices work to link clients with services and opportunities that can help them break the cycle of arrest and incarceration. The Office of the Appellate Defender in New York assists clients with pre-release and reintegration issues by providing assistance with housing, medical and mental health needs, employment and job training, drug and alcohol rehabilitation and obtaining government benefits. The Neighborhood Defenders—Northwest in Baltimore and other defender agencies run expungement clinics that help relieve the collateral consequences of arrest or convictions for minor crimes that can have a devastating impact on a client's ability to secure a job, access credit and find a place to live. Defenders in the Minnesota Public Defender's office have partnered with a car dealership to get jobs for juvenile clients that help them raise money for restitution fines. And with the help of dedicated staff known as "Life Skills Advocates," the New Jersey Office of the Public Defender operates its Community Assistance Program, which matches clients to a tailored set of services, job opportunities, education and training, housing, and health treatment programs to help clients meet their specific needs and create plans of action that could allow first-time, non-violent offenders to obtain probation as an alternative to incarceration.

### **The Rhode Island Office of the Public Defender**

The Rhode Island Office of the Public Defender is a state agency that represents indigent defendants throughout Rhode Island through its main office in Providence and three field offices. A staff of approximately 50 attorneys, investigators, social workers, interpreters and intake and administrative staff handle misde-

meanors and felonies through appeal, as well as juvenile and parental rights cases. Most of the agency's clients come from the greater Providence and Newport areas.

### **The Defender Community Advocacy Program Model (DCAP)**

Early in his career as a public defender, it was plain to John Hardiman that many indigent defendants with addiction or mental health problems were held in jail for weeks or months for low-level crimes when what they really needed was treatment. As a result, many found themselves back in prison soon after leaving. After becoming Chief Defender of the state of Rhode Island in 2000, Hardiman created the Defender Community Advocacy Program (DCAP) in 2003. The program helps keep defendants out of the criminal justice system by diverting them into treatment programs at the earliest possible stage in the judicial process: arraignment. Because of their addiction and/or mental health issues—often accompanied by a lack of stable employment and shelter—these defendants are those most likely to be detained by the court prior to the adjudication of their case.

By linking clients with a treatment program instead of jail time, DCAP affords clients an opportunity to address root problems that often lead to arrest. "Clients are not well-served by getting out after a few weeks in jail if they wind up back in the courtroom a month or two later for the same offense," Hardiman reports, and Kerri Mowbray, chief social worker in the office, agrees. "Jail is a terrible place for people with mental problems," she says. "We get them the help that they need, and judges and prosecutors appreciate that." With treatment, as opposed to imprisonment, individuals are much less likely to return to harmful behaviors that result in arrest.

DCAP and its clients receive top priority within the department: DCAP is staffed by five of

the office's most senior attorneys, along with five social workers, each of whom devote one day a week to DCAP. They work to maintain three interlocking features that make the program successful: courtroom intervention, relationships with community service providers, and documentation of program outcomes.

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“Clients are not well-served by getting out after a few weeks in jail if they wind up back in the courtroom a month or two later for another offense.”

John Hardiman, Chief Public Defender,  
Rhode Island Office of the Public Defender

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### Courtroom Intervention

Each day, prior to the day's arraignments, the DCAP social worker meets with prisoners arrested the night before and who have not yet posted bond. The social worker takes down financial and family information while looking for telltale signs of substance dependence or mental illness. With this information, the social worker can assess which individuals are financially eligible for a public defender and which are in need of substance abuse or mental health treatment and are interested in such services.

While the social worker tries to locate treatment programs that have space for the individuals in need, at the courthouse, the attorney discusses with the client whether or not to take a plea. If the client is interested in a plea and in entering a treatment program as an alternative to sentencing, the social worker and the attorney present a treatment plan to the prosecutor. According to Mowbray, the prosecutors generally are receptive to the proposal. “They know we're trained to do this, and they give us a lot of respect,” she reports. With the prosecutor on board, all three—defender, prosecutor and social worker—present the plea and treatment program as a package to the judge. Once the judge agrees to the plan, which he or she does in the majority of

cases, the client is released and the sentence is stayed pending completion of the prescribed treatment plan.

### Strong Relationships with Treatment Providers

In order to convince prosecutors and judges to release individuals into treatment programs, the best option for so many defendants, the Public Defender's office has worked to establish relationships with reputable treatment programs that are ready and willing to accept DCAP clients into treatment. This relationship building was not without challenges, given day-to-day caseloads, but Hardiman made it a personal priority, meeting with local service organizations and assuring them of DCAP's commitment to finding meaningful and appropriate treatment options for the defender agency's clients. The office also has relied on the outreach efforts of a dedicated Community Liaison tasked with cultivating relationships with social service providers, other support programs and places of employment that are willing to accept employees with criminal records.

### Tracking Outcomes

DCAP attorneys track their successes, which has helped build the case for increased funding for this and other innovative programs. The tracking process is “low-tech” and relies on keeping a record of DCAP clients' charges and ultimate disposition information. With the aid of a Microsoft Excel sheet, DCAP is able to estimate jail time avoided and money saved to the system by comparing the dispositions of DCAP and non-DCAP defendants with the same charges. Estimates are conservative, and take into account differences in sentencing practices among judges. Based on these estimates, DCAP saved the state \$9.7 million dollars in additional prison costs in 2007, an estimated \$7.7 million in 2008 and an estimated \$6.2 million in 2009.

Recidivism data has been harder to track, but anecdotal stories collected by the Rhode Is-

land Office of the Public Defender are also helping to persuade public officials that the innovative work of the office is paying dividends.

The Rhode Island Office of the Public Defender's vigilance in tracking DCAP case outcomes has served the program well. At DCAP's inception in 2003, the program handled only arraignments for misdemeanors and felonies in the Providence County courthouse. Since then, the program has expanded to neighboring Kent County. In 2007, in light of the program's documented success, the state budget director agreed to provide funds for a permanent attorney to divert defendants with mental health and addiction issues to treatment programs in the court that handles technical violations (i.e. violations of parole or probation terms caused by failed drug tests, failure to appear in court and other violations). Most recently, the office received a 2009 Byrne Grant to place a social worker in the technical violations courtroom full-time.

DCAP's success has caused attorneys throughout the defender agency, including those that were initially resistant, to reevaluate their role in their clients' lives and the advocacy tools available to help them assist their clients.

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**Letter From Rhode Island Chief Public Defender John Hardiman to R.I. House Speaker William J. Murphy on the success of the Defender Community Advocacy Program:**

May 9, 2006

“The true value of this work is the human facet of what all this innovative hard work has done in touching the lives of real people. . . . Our clients have been able to get on their feet. They have reunited with their families and they have stayed sober. They receive the appropriate medication and monitoring for their mental health problems. They have gained employment, housing, and gone back to school and are making positive contributions to society.

“Public safety has been enhanced, the result of this legal public service intervention could well mean that a potential victim won't be victimized in the future due to this approach.

“The Public Defender DCAP program undoubtedly has saved the State as well as cities and towns thousands, if not several million dollars in that less people are going to jail and those who do go to jail are going for much less a period of time. . . .”

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## Related Materials

About Minnesota Public Defense, State of Minnesota Board of Public Defense, <http://www.pubdef.state.mn.us/>.

Cait Clarke & James Neuhard, *Making the Case: Therapeutic Jurisprudence and Problem Solving Practices Positively Impact Clients, Justice Systems and Communities They Serve*, 17 ST. THOMAS L. REV. 781 (2005).

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Press Release, New Jersey Office of the Public Defender, Public Defender Yvonne Smith Segars Launches Statewide Community Assistant Program (Nov. 10, 2004), available at <http://www.thedefenders.nj.gov/news/p041010a.htm>.

## Principle 3: Partner with the Community

*We seek to maintain a local presence in the communities we serve, and to form relationships with community members, community based organizations, and community institutions (e.g., courts, schools, government, health care providers and employers) to improve case outcomes and life outcomes for clients and to strengthen families and communities.*

Strong relationships with community partners allow defenders to develop assets and allies that can be tremendous resources for clients. The Pinellas and Pasco County Public Defender's Office in Florida, for example, links defendants to treatment providers in the community and partners with the County Sheriff to help divert homeless defendants from jail. The Office of the Public Defender in Maryland hosts "family outreach nights," for the families of incarcerated individuals, where information is provided about resources available to assist their loved ones in making the transition from jail back to their communities. The Legal Rights Center of Minneapolis has engaged in partnerships with the public schools, a women's prison, the child protective agency and the police department to enable methods of reconciliation that avoid court intervention. The benefits of partnership for defender and community organizations flow both ways. Defenders can provide community education, give voice to community needs and concerns, help develop crime prevention strategies that do not rely exclusively on arrest and incarceration, and join forces to reform laws or policies that are negatively impacting a community.

### The San Francisco Public Defender

The San Francisco Public Defender's office, with over 90 attorneys and 70 support staff, represents indigent defendants across the city. In addition to traditional investigative and trial services, the Defender's office offers a range of innovative programs to its clients.

The services provided by the office's Reentry Unit enable clients to steer clear of crime and the criminal justice system, while also helping those who have been through the system to reintegrate into the community. Two specific community-partnership programs are housed in the Reentry Unit: the Bayview Hunters Point Mobilization for Adolescent Growth in Our Communities (BMAGIC), and Mo' MAGIC, an extension of the program in the Fillmore neighborhood. These two programs, which maintain a visible presence in the communities they serve, have enabled the San Francisco Public Defender to expand its role from traditional courtroom advocate to fully-involved community partner.

### The Community Partnership Model

The two MAGIC programs of the Defender's office are innovative examples of what can happen when a defender fully commits to community partnership. MAGIC's overarching objective is to reduce juvenile contact with the criminal justice system by empowering community organizations to solve systemic problems.

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"If you want to solve community problems, you have to get the community involved."

Jeff Adachi, Public Defender of the City and County of San Francisco

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As Jeff Adachi, San Francisco's Chief Public Defender, and the only publicly elected defender in California, explains it, the MAGIC programs grew out of a report on urban crime published by the Department of Justice in the early 2000s. Geared toward law enforcement, the report recommended enlisting community feedback as a means of reducing crime. Heeding the recommendation, Adachi gathered community groups in Bayview Hunters Point, one of San Francisco's poorest areas

(and also one that added more youth clients to the Public Defender’s docket than any other), and asked them what resources they needed to reduce youth crime.

The community group’s reply? Create a defender-led initiative to coordinate programs within the community that provide positive, enrichment opportunities for young people.

The Public Defender’s office took up this challenge in 2004, founding BMAGIC to help the community communicate its needs to local service providers. Each year, BMAGIC takes a comprehensive survey of the resources available for youths in the Bayview Hunters Point neighborhood, counting everything from podiums and chalkboards to meeting rooms and event spaces. BMAGIC identifies and connects youth-related organizations to the particular resources these organizations need, enabling them to provide better services for at-risk children and for young people leaving prison. BMAGIC also publishes summer guides and community calendars to increase enrollment in the programming of various community organizations. The program goes beyond just resource matching; recently, BMAGIC facilitated a conversation between community organizations and parents about an appropriate code of conduct for youths participating in community programs. Says Yvette Robles, BMAGIC’s director, “BMAGIC is more grassroots than government” because “it empowers the community to help itself rather than administering external solutions.”



Photos from BMagic 2010 Book Fair.

Mo’MAGIC has similar origins—a meeting of community organizations with the Chief Defender in San Francisco’s Fillmore neighborhood in 2006. “Before Mo’MAGIC, the program people would say, ‘these are the programs we’re offering: take it or leave it,’” Mo’MAGIC’s director, Sheryl Davis, says, “and the community wouldn’t show up because it wasn’t what they needed.”

Today, Mo’MAGIC hosts weekly meetings with representatives from schools, community organizations, the District Supervisor’s office, the Mayor’s Office, the police department, neighborhood associations and members of the public to discuss how to make the community a safer

and more enriching place for youth to grow. Mo’MAGIC has also helped bring more government resources into the Fillmore community: in 2008, Mo’MAGIC coordinated a joint grant proposal from service providers in the neighborhood that won the community a significant grant from the City Council. “As a result of that investment in services for young people, we saw a decrease in crime,” observes Davis.

Both MAGIC programs also participate in the Defender’s flagship initiative, the “Back to School Celebration,” an event staffed and funded by community members through which MAGIC donates 5,000 backpacks stocked with school supplies to local children.

The MAGIC programs operate on a common belief that the community holds the keys to its own improvement. As Adachi says, “if you want to solve community problems, you have to get the community involved.”

### **The MAGIC Programs’ Relationship with the San Francisco Public Defender**

The two MAGIC programs are administered by the San Francisco Public Defender, which funds the programs’ staff. The programs’ budgets are otherwise comprised solely of charitable contributions obtained through the fundraising efforts of the MAGIC program directors. Each program has one full-time director and one part time staff member.

Monthly meetings between the MAGIC directors, the Chief Defender and the head of the Reentry Unit, Simin Shamji, enable the MAGIC programs to keep attorneys apprised of developments in the neighborhoods and provide the attorneys with information that can be essential to client representation. According to Shamji, who practiced as a trial lawyer for many years at the San Francisco Public Defender’s office before moving into programmatic work, “We are the attorneys’ ears on the ground.” If police in a particular community start to engage in abusive police practices, subjecting neighborhood residents

to excessive “stop and frisks,” for example, the MAGIC programs can convey that information to lawyers for use in case strategy. They also have a wealth of information about treatment options in the community, which lawyers use to craft more favorable dispositions for their clients.

Moreover, the MAGIC programs, along with other programs within the Reentry Unit—for example, Clean Slate, a program that helps community members clean up their records—have produced valuable public support for the defense function and for the entire Public Defender organization. Like public defenders programs across the country, the San Francisco Public Defender has found its budget under increasing pressure in the difficult economic climate. In recent years, when the City Board of Supervisors has threatened to cut funding, the Board has been rebuked repeatedly by angry protesters set on defending the Public Defender. These protestors are often community members connected to the office through the community-based, MAGIC and Clean Slate programs. As Shamji describes, “We have the support because we’re out in the community, reaching out and helping people.” No doubt due partly from the vocal community support for the office, the Defender’s office has suffered fewer cuts to its funding, even as the City of San Francisco has slashed the budgets of other agencies.

The MAGIC programs have been able to marshal effectively the resources of the community they serve to better meet the needs of young people, which has paid dividends not only for the youth involved in the programs, but for the Defender’s office and the community at large.

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## Related Materials

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Homeless Outreach, Public Defender of the  
Sixth Judicial Circuit, [www.wearethehope.org/homeless\\_outreach.htm](http://www.wearethehope.org/homeless_outreach.htm) (describing the "Homeless Outreach Program" of the Pinellas and Pasco counties' public defender office).

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## Principle 4: Fix Systemic Problems

*We aspire to change policies that harm clients, families and communities (e.g., policing practices that produce racial and ethnic disparities in arrest rates).*

Defenders have a unique perspective from which to tackle the systemic problems that affect the communities in which their clients live. Their unique vantage point allows them to testify as experts in state and local legislatures, work with elected officials to craft legislation, and help communities construct and demand better policies from lawmakers, police and prosecutors. For example, the Committee for Public Counsel Services, the statewide public defender in Massachusetts, with the assistance of the Brennan Center helped develop legislation, pending in the State Senate, to improve the collection, review and monitoring of data on race as a factor in law enforcement traffic stops. The Legal Aid Society in New York City has filed a lawsuit against the City's Police Department challenging as illegal the routine subjection of New York City Housing Authority residents and their visitors to stops and arrests as a means of enforcing trespass laws.

### **The Racial Disparity Project of The Defender Association (Seattle, WA)**

The Defender Association, the oldest public defender agency for Seattle and King County, has approximately 80 attorneys representing clients in felony, misdemeanor, juvenile, family advocacy and civil commitment cases. In 1998, committed attorneys from the Defender Association, concerned by what they saw as structural racial bias in the criminal justice system, came together to develop a project that would

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#### **From the News:**

“The consolidation of 19 drug cases in King County Superior Court yesterday is expected to turn a magnifying glass on the Seattle Police Department’s ‘buy-bust’ procedures and whether officers use racial profiling when they make drug buys and arrests. Although King County prosecutors protested, Judge Michael Spearman agreed to consolidate the cases. The decision is a first step toward possible dismissal of the charges against the men, who are represented by 12 public defenders. ‘There are common issues of law and fact that bring these cases together,’ public defender Marvin Lee told the court. . . . Public defender Lisa Daugaard pointed to Police Department drug-arrest data showing that, in 1999, 57 percent of drug arrests and 79 percent of buy-bust arrests -- in which an undercover officer buys drugs and then arrests the seller -- involved African Americans. Only 8.3 percent of Seattle residents are African Americans. ‘It can’t be true that drug crimes are limited to African Americans,’ Daugaard said.”

Excerpted from: Nancy Bartley, *Ruling Turns Heat on Police*, SEATTLE TIMES, May 25, 2001, available at <http://community.seattletimes.nwsourc.com/archive/?date=20010525&slug=busted25m>.

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catalyze stakeholders to address racial disparities. Small, private grants from several sources culminated in a major grant from the Department of Justice to establish the Racial Disparity Project (RDP). Although the Project has varied in size and budget since its creation, it currently is staffed by one part-time attorney supervisor, a full-time organizer, a public health expert, a specialist on peer counseling and leadership development and one part-time attorney funded through an OSI Soros fellowship.

## The Model

The Racial Disparity Project works from a simple premise: complacency is not an option when it comes to the overwhelming racial and ethnic disparities endemic to the criminal justice system. The project uses a variety of tools, including community organizing, policy advocacy and individual and impact litigation, to achieve systemic reform.

At its start, defenders in the Racial Disparity Project invited members of the community to a series of meetings to discuss and identify the law enforcement and prosecution practices that were of greatest concern to the community. Through those discussions, a reform agenda was created.

## The “Drive to Survive Campaign”

An initial project addressed the Seattle Police department’s practice of impounding the cars of drivers charged with driving without a license. Because license suspensions were often the result of an inability to pay traffic tickets, which were disproportionately received by people of color, the policy disproportionately impacted poor and minority drivers. The RDP represented individuals who challenged the impoundment of their vehicles and coordinated a client-led effort, called the “Drive to Survive Campaign,” to end the practice of impounding vehicles because of a suspended license that was the result of unpaid tickets.

After several years of concerted effort, the Seattle City Council revised the impoundment ordinance as the Drive to Survive Campaign had requested.

## Racially Disparate Drug Enforcement Practices

With the assistance of researchers at Harvard University and the University of Washington, the RDP next examined whether the Seattle Police Department’s approach to drug enforcement was contributing to racial disparities in arrest rates. The research demonstrated that blacks were over 21 times more likely to be arrested for selling serious drugs than were whites, despite the fact that whites were the majority of sellers and users of these drugs in the city. A series of interviews with law enforcement officers and other data revealed that there was no compelling justification for this pattern of arrests. The RDP brought a series of selective enforcement motions to dismiss felony charges against black defendants charged with delivering small amounts of narcotics, alleging that the department’s drug enforcement practices violated equal protection and the regulations implementing Title VI.

After the RDP won several preliminary discovery orders that were upheld on interlocutory appeal, the litigation eventually was resolved with dismissal or reduction of charges against all of the defendants. The legal battle was hard fought and took eight years to wend its way to completion. The RDP learned valuable lessons about the benefits and limits of litigation. While RDP’s clients received relief through the motions, there was not a perceptible change in police department practices and the reaction of law enforcement to the litigation was quite defensive. However, it appeared that police commanders were open to the idea that the status quo approach to drug enforcement was ineffective and should be reconsidered for reasons apart from race. In 2008, rather than recommence the selective enforcement litigation, the RDP began to work in partnership with the King County

Prosecutor's Office, the King County Sheriff and the Seattle Police Department to develop a community-based diversion from jail and prosecution for low-level drug crimes.

### **The Law Enforcement Assisted Diversion Program**

The RDP is now working, in collaboration with the King County Prosecutor and Sheriff's Offices and the Seattle Police Department, and with the support of other local elected officials, to implement a pre-booking diversion program, known as the Law Enforcement Assisted Diversion Program or "LEAD." Through LEAD, police officers will direct many low-level drug offenders for whom probable cause exists for an arrest, into community-based treatment programs instead of arrest, charge and prosecution. As Lisa Daugaard, supervisor of the RDP points out, "We changed our tactics from trying to change police deployment patterns...to trying to reduce the harm of those deployments. Now, once the police arrive, something good, as opposed to bad, is supposed to happen." The program relies on

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"We changed our tactics from trying to change police deployment patterns... to trying to reduce the harm of those deployments. Now, once the police arrive, something good, as opposed to bad, is supposed to happen."

Lisa Daugaard,  
Deputy Director, The Defender Association  
Supervisor, Racial Disparity Project

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two central elements: 1) complete buy-in and extensive training of participating police officers, and 2) immediate access to needed services for program participants. The program will have a community advisory board to allow for input and assessment from leaders in public safety, advocacy groups, members of criminal justice agencies and service providers, and will also adhere to rigorous evaluation criteria.

Similar intervention programs have been operating in Seattle since 2006, albeit without the direct diversion component offered by LEAD. These model programs, which the RDP helped to design and secure funding for, emphasize immediate access to services and peer counseling for individuals identified by outreach workers as being at high risk for drug-related arrests. A 2009 evaluation of a community-based pilot program in Rainier Beach demonstrated significant reductions in criminal justice involvement for participants who completed the program. There were also qualitative improvements in participant-measured connections to family and commitment to self-improvement.

The Defender Association is providing technical support and project management for the LEAD program, and is assisting in efforts to get the program funded and implemented in the Belltown neighborhood in Seattle and King County's Skyway community.

The LEAD program is one defender organization's response to the failed law enforcement policies that do little to curb drug addiction and stem violence, but do much to contribute to racial disparities in the criminal justice system.

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## Principle 5: Educate the Public

*We seek to describe the human impact of the criminal justice system to policymakers, journalists, and others so that the public can better appreciate the cost to individuals, communities, and the nation of “tough on crime” policies.*

Committed defenders and their allies, who perceive, first-hand, the impact of deficiencies in the criminal and juvenile justice system on clients, families and communities, play an essential role in educating the public about the need for responses to crime more productive than harsher sentences and more prisons, as well as the need for greater investment in public defender services. For example, the Miami-Dade Public Defender’s office created the Juvenile Justice CPR (Charting a Path to Redemption) to help educate the Miami-Dade community about the need to reduce the harmful effects on children processed through the juvenile court system; the Center for Community Alternatives in New York, in addition to its programmatic work, engages in public education campaigns to demonstrate the connection between alternatives to incarceration and public safety. Public education and media campaigns like these give voice to the concerns of marginalized communities and help the public understand that overcriminalization and other counterproductive crime prevention policies bear a human and social cost.

### The Louisiana Justice Coalition

Founded in 2004 to complement pre-existing litigation and legislative campaigns to reform the state’s delivery of indigent services, the Louisiana Justice Coalition’s (LJC) mission is to “protect the constitutional right to counsel and ensure the respect and dignity of each practitioner and every client by improving the delivery of public defense services and creating a receptive climate for positive change.”

LJC, a non-profit organization, operates on several fronts to achieve its mission: 1) public

education—to raise awareness of the importance of the right to counsel, and the resources and structures needed to ensure that right, 2) the facilitation of dialogue—to build relationships between stakeholders to advance the goal of achieving a high functioning public defense system in Louisiana, and 3) research—to inform policy discussions and support advocacy efforts around principles-based reform. LJC also has a close relationship with the Louisiana Public Defender Board, and provides technical support to the Board and defender offices around the state to support innovative projects.

Comprising LJC is a coalition of 14 member organizations that include the state bar association, criminal and juvenile justice advocacy organizations, civil rights groups, good-government agencies and the state’s largest inter-faith community group. For the majority of the broad-based coalition’s existence, day-to-day operations have been managed by one full-time director and one part-time community outreach coordinator.

### Model for Reform

One of LJC’s signal achievements is helping build the momentum for an overhaul of the delivery of indigent defense services in Louisiana. In the wake of the devastation of Hurricanes Katrina and Rita, Louisiana’s indigent defense system, beleaguered well before the storms, was decimated. At the time, the state public defender system was comprised of 41 local boards funded primarily by locally generated revenue, typically court fees. This patchwork system, reliant on unstable and conflict-laden funding sources, left defenders across the state under resourced and overburdened, with inconsistent and frequently inadequate supervision, and thus often incapable of providing adequate representation to indigent clients.

LJC played a pivotal role in educating the public around the need for reform. LJC built consensus among diverse stakeholders that reform efforts must be predicated upon the implementation of the *American Bar Association's (ABA) Ten Principles of a Public Defender Delivery System*. The *ABA Ten Principles* set forth minimum, objective standards necessary for the delivery of effective representation, including independence of the defense function, case load standards, consistent eligibility standards as well as adequate supervision, resources and training for defenders.

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“One of the most significant ways that LJC supported the reform effort was to make it impossible for stakeholders to believe that the public defense system was broken only in New Orleans. By keeping public attention on public defense throughout the state, LJC effectively promoted the ABA Ten Principles as the best foundation of statutory reform—to start fixing the broken system in every district.”

Heather Hall, Administrator, Louisiana Justice Coalition

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LJC created pamphlets and other public education materials and sent members to speak in churches, community centers and other venues to describe the impact on individuals of inadequate legal representation. They also created “report cards” assessing the delivery of criminal and juvenile indigent representation across the state, as measured against national standards. They also released a nationally conducted public opinion poll of Louisiana voters, demonstrating broad awareness of disparate access to justice between a defendant represented by a public defender and one represented by retained counsel, as well as public support for reforms recommended by the ABA. All told, over the span of two years, LJC was responsible for the placement of over 50 editorials and op-eds in 38 newspapers throughout the state, including opinion pieces by judges, private counsel and public defenders, calling for the protection of the constitutional right to counsel and the need to address the deficiencies in the delivery of indigent defense services in Louisiana.

As the National Legal Aid & Defender Association Research Director, David Carroll, points out, “LJC was tremendously successful in helping shape the public debate, primarily because they delivered a clear and simple message that the ABA national standards were the necessary foundation for reform.” Remarketing on the historically antagonist relationship in Louisiana between the private bar and public defenders, Carroll adds, “By focusing on the promotion of the ABA standards as the core issue, without getting hung up on the particular manner in which the state should implement those standards, LJC was able to corral traditionally warring factions behind a unified message of reform.”

Then LJC Director (now Administrator), Heather H. Hall, recalls, “One of the most significant ways that LJC supported the reform effort was to make it impossible for stakeholders to believe that the public defense system was broken only in New Orleans. By keeping public attention on

public defense throughout the state, LJC effectively promoted the ABA Ten Principles as the best foundation of statutory reform—to start fixing the broken system in every district.”

The efforts of LJC, along with many other committed advocates, culminated in the passage of a comprehensive Louisiana Public Defender Act by the State Legislature in 2007. The Act replaced the myriad local public defense boards with a single, independent, 15-member Louisiana Public Defender Board that would oversee the delivery of services across the state and hold defender offices accountable for delivering effective public defense services. The Act also boosted the State’s funding of public defense services from just \$7 million in 2004 to \$28 million in 2007-2008.



## Promoting the Community Oriented Defense Model

Getting comprehensive indigent defense legislation passed has been merely been the first step on the road to reform. Since the passage of the Act, LJC has worked collaboratively with the Louisiana Public Defender Board, as well as individual public defender offices to further strengthen indigent defense services through the promotion of the community oriented defender model. As explained in the Brennan Center’s 2006 report, *The Case for Community Oriented Defense in New Orleans*, the COD model, with its focus on addressing some of the

most exigent problems experienced by clients, as well as advocating for criminal justice policies that reduce the excessive flow of criminal cases in the courts, is the “best option” for overhauling a state justice system with the dubious distinction of having one of the highest rates of incarceration in the nation.

In 2008, LJC and the Louisiana Public Defender Board, with the help of doctoral students from Louisiana State University, and a small grant from the Baton Rouge Area Foundation, created an assessment instrument and protocol to capture a holistic picture of incarcerated individuals and the needs contributing to their involvement in the criminal justice system. This so-called “legal needs assessment,” which measures demographic information, educational background/literacy, employment, residence, substance abuse, mental and physical health, criminal charge and criminal history, was envisioned initially as a way to assess and justify the value of a social worker in the Baton Rouge Public Defender Office.

However, because the Calcasieu Public Defender’s Office in Lake Charles happened to be scheduled to do their annual sweep of the jails—to ensure that no prisoner had fallen through the cracks—the legal needs assessment was first deployed in Calcasieu jail and prison facilities. The assessment, which was administered in partnership with the Calcasieu Public Defender’s office, and was supported with a supplemental grant from the National Association of Criminal Defense Lawyers, revealed—among other findings—that 26% of the Public Defender’s office clients had a diagnosed mental illness and 55% desired drug or alcohol treatment. It also revealed that 60% of the clients had not finished high school and that 16% had been in the foster care system as children. The assessment put a human face on the clients, and highlighted the gaps in social services that, if filled, could help reduce client involvement in the criminal justice system. It also helped to make the case that the Calcasieu Public Defender’s office, which provides reentry and other holistic services to its clients when able, is a necessary asset for clients seek-

ing solutions to enduring problems. Relying on the data collected in the legal needs assessment, the Calcasieu Public Defender's office, which has one of the highest defender case loads in the state, was able to better inform legislators of the potential impact of threatened budget cuts to its services.

The legal needs assessment subsequently has been deployed by LJC and the Louisiana Public Defender Board in Natchitoches, East Baton Rouge, Plaquemines and Caddo parishes, in partnership with the public defender offices in those jurisdictions. In Natchitoches, the assessment led to the revelation of a systematic failure to appoint counsel in misdemeanor cases, as well as the incarceration of defendants for failure to pay court fees and fines. In Caddo, the assessment, and related LJC report, *Slipping Through the Cracks, A Profile of Incarcerated Adults at Caddo's Criminal Justice Center*, have bolstered support for the Caddo's Community Defense Project. Similarly, the East Baton Rouge legal needs assessment has increased public support for the East Baton Rouge expungement clinic.

Through these and other efforts, LJC has made sure that the public debate in Louisiana about indigent defense reform is informed by a picture of the on-the-ground impact of the state's failure to provide an accountable and well-resourced defender system, as well as the significant role defenders can play in the development of policies that improve the functioning and outcomes of the criminal justice system as a whole.

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## Principle 6: Collaborate

*We aim to create partnerships with likely and unlikely allies, including prosecutors, victims, faith-based organizations, and national and state based legal aid organizations to share ideas, promote change, and support mutual efforts.*

Community defenders recognize that collaboration with community members, community-based organizations, schools, health care providers, and a broad range of other service providers and institutional players can produce a variety of opportunities for clients—opportunities far less likely to be available when representation is provided exclusively through a traditional defense model. Defenders in Orange County, California, for example, are working with prosecutors to reexamine the cases of those defendants who might have been wrongly accused. And in Cook County, Illinois, defenders have partnered with the courts to open a Veterans Court to provide specialized services to a needy population.

### **The Los Angeles County Public Defender's Office**

The Los Angeles County Public Defender's Office, with over 40 branch offices, more than 700 attorneys, and 300 investigators, paralegals, psychiatric social workers, and support staff, is one of the largest defender agencies in the country. In addition to defending indigent defendants in criminal cases, the Public Defender's Office also represents youth in juvenile delinquency proceedings, individuals involuntarily detained in medical facilities in civil mental health proceedings, as well as individuals subject to contempt proceedings for violation of court orders, including child support and child visitation or custody orders.

### **The Homeless Alternatives to Living on the Street (HALO) Program Model**

Los Angeles' Homeless Alternatives to Living on the Street Program, or "HALO," is a multi-pronged, collaborative effort developed in response to the cycle of arrest, incarceration and addiction for the mentally ill and homeless in a downtown Los Angeles neighborhood, aptly named "Skid Row," who routinely are arrested for "status crimes" (such as public intoxication and loitering). The program grew out of a 2006 Los Angeles Police Department "Safer Cities" Initiative, which initially involved crackdowns on quality-of-life crimes. When the crackdowns came under criticism from homeless advocates, the Los Angeles City Attorney's Office, then charged with implementing designated components of the program, turned to the Public Defender's Office to attempt a new approach.

One HALO program component is a pre-trial diversion program that helps the homeless who are mentally ill or drug addicted (or both) earn a dismissal of misdemeanor charges by accepting treatment. The pre-trial diversion program, one of three HALO programs on which the City Attorney and Public Defender's Offices collaborate (the others include a mental health court and a citation dismissal program), is dependent on the efforts and resources of a host of players in the criminal justice system.

### **The Public Defender's Office**

At arraignment, the Public Defender's Office makes an initial assessment of whether a defendant may be an appropriate candidate for HALO's pre-trial diversion program. All attorneys are trained to identify individuals that may be referred to the HALO team, which consists of one dedicated attorney and two social workers with expertise in identifying mental health issues. The HALO team researches and discusses treatment options with the defendant. This process includes persuading a defendant that treat-

ment is worthwhile, which can be a challenging task given that jail time for HALO-eligible offenses typically is minimal, while treatment programs can require as much as 45-120 days in a residential facility.

## The City Attorney's Office

Candidates for the program are forwarded to the City Attorney's Office, where the deputy City Attorney with responsibility for the prosecutor office's HALO caseload, conducts his own assessment of potential participants, reviewing case files and police reports, interviewing witnesses and considering potential safety concerns. During this process there is ongoing discussion between the two offices to determine whether a candidate might benefit from treatment and then to find a suitable treatment program for each candidate, be it Alcoholics Anonymous meetings, visits with a psychiatrist or a year-long residential treatment program.

## The Court

The Los Angeles Superior Court, usually in the person of Judge Gregory Dohi, hears HALO cases two days a week. The Judge understands the purpose of the program and respects the views of both the prosecutor and the defender. Defendants must plead not guilty to access the HALO program, a requirement that ensures that any violations of a treatment program do not result in probation violations. The Court calendars court appearances every one to three months for HALO defendants and requires both the public defender and city attorney to attend these "progress reports." If a client does not successfully complete the program, when appropriate, the time in treatment is treated as a credit towards jail time if the client is sentenced. If the client is successful, the case is dismissed.

## Treatment Providers

Service providers play a central role in the HALO program's success. Each provider involved in the

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"A light bulb went on: there are people on the other side who see the same problems we do. It makes sense to work together."

Cheryl Jones, Division Chief, Los Angeles County Public Defender's Office

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program agrees to complete progress reports on each HALO participant and appear in court regularly to report to the judge on participants' work in the program. Judy Curry, the attorney in charge of the HALO docket for the Public Defender's Office, points out that these programs may not "cure" a client, particularly if it is the client's first experience in treatment. That said, "Having the client take the first step is critical," Curry says. "Often the client will find him or herself turning back to the provider as a source of support, even after the HALO program obligations are discharged. As there is no supplemental funding designated for the program, (a request for stimulus funding was recently rejected), the providers also play a critical role in helping clients apply for and obtain the government benefits they need to access the treatment programs, primarily housing subsidies, Supplemental Security Income, transportation vouchers and General Relief benefits.

## Benefits of Collaboration

The successful collaboration of the City Attorney and Public Defender's Offices is built on a shared vision. Says Cheryl Jones of the Public Defender's Office, "A light bulb went on: there are people on the other side who see the same problems we do. It makes sense to work together." This vision is held not only among the leadership of the respective organizations, but among HALO staff. Assistant Supervising City Attorney Songhai Miguda-Armstead says, "This project is really personality driven. It's been essential that both offices assigned staff to the HALO program that were passionate about the population and could see the big picture."

Curry states that the working relationship with her counterpart in the City Attorney's Office, Patrick Shibuya, is "wonderful." Shibuya provides an explanation for the good rapport, "Our focus is on the same thing: the individuals. There's a lot of trust between us." So as to protect that trust, the HALO attorneys from both the Public Defender and City Attorney's Offices do not take a defendant's case beyond the plea stage. If a defendant is ejected from, or is no longer interested in, a HALO treatment program, and chooses to go to trial, the HALO attorneys will pass the case on to other attorneys in their respective offices.

The HALO partnership has allowed both the City Attorney and Public Defender's Offices to achieve mutually reinforcing goals. Prior to HALO's start, neither office had social workers on staff to assess clients and help get them into the right treatment programs. Together, the offices petitioned the county's board of supervisors for funding for social workers and received a grant for two full-time, HALO-dedicated social workers to work out of the Public Defender's Office.

Through this collaboration, the City Attorney has found an essential ally, the counselor to the accused, to help move people out of the cycle of arrest and incarceration, and the Public Defender has found a partner with essential buy-in and political clout to help the office obtain the necessary resources to make the HALO program work for clients.

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### **From the News:**

"Facing a \$530-million budget shortfall, Mayor Antonio Villaraigosa is seeking to cut city payrolls by 10%. *Among the casualties are four positions that are central to the city's tough-love response to the problems on skid row: the three attorneys and a paralegal who lead the effort to divert homeless, nonviolent offenders from the jails to treatment programs.* We understand that the budget gap will force some painful belt-tightening, but eliminating these positions is almost certain to cost the public more than it would save in salaries.

*"Successful diversion programs can yield enormous savings on jail and prison beds. A special mental health court in Santa Clara County reduced incarceration costs by nearly \$21 million in 2005 and the first half of 2006, the county reported, while also getting more people off the streets. Granted, HALO can't work without money for housing, counseling and treatment, some of which comes out of the city's coffers. And the budget gap is so wide that city leaders may have little choice but to cut some programs that confer real, cost-effective benefits. But they need not cut just to cut. They must do their best to keep intact the best models for delivering services, spending tax dollars wisely and laying a foundation for better times."*

Excerpted from: *HALO's Effect*, L.A. TIMES, Apr. 24, 2009, at A32, available at <http://articles.latimes.com/2009/apr/24/opinion/ed-halo24> (emphasis added).

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at A32.

## Principle 7: Address Civil Legal Needs

*We seek to promote access to civil legal services to resolve clients' legal concerns in such areas as housing, immigration, family court, and public benefits, occasioned by involvement with the criminal justice system.*

The impact of a criminal case rarely is confined to a courthouse or jail; often there are collateral consequences, such as the loss of employment, housing, or public assistance. These flow quickly from arrest, even in the absence of a criminal conviction. By providing clients with civil legal assistance in addition to criminal defense services, public defenders are able to help clients address these consequences and minimize broader fallout from a criminal charge. Resolving civil legal problems can often help to reduce pressures that tend to destabilize clients' lives. For instance, Public Defender Services in Washington, D.C. handles juveniles' civil legal problems through a special division that facilitates clients' reentry into communities. In Oneida County, New York, the Civil Division of the Oneida County Public Defender provides civil legal assistance to indigent individuals in Family Court and in Surrogate's Court. And the San Mateo County Public Defender Program has developed a community outreach program that goes into homeless shelters and sets up clinics along with the Legal Aid Society to address both criminal and civil legal issues.

### The Bronx Defenders

The Bronx Defenders office, located in the poorest congressional district in the United States, provides holistic legal and social services (including criminal defense and civil legal services) in the Bronx borough of New York City. The office has more than 75 attorneys and nearly 50 social workers, paralegals, investigators, administrative support staff and community organizers working collaboratively to address the needs of clients in the areas of criminal defense, child welfare and family court proceedings, housing,

unemployment, immigration and barriers to civic participation.

### The Bronx Defenders Civil Action Practice Model

The Civil Action Practice (CAP) is premised on the understanding that the vast majority of people caught in the criminal justice system are there because of deep and interrelated social problems, including poverty, homelessness, unemployment and addiction. Once in the system, these problems are not only exacerbated, but a host of new problems can arise. A person charged in a criminal case may stop fulfilling welfare work requirements because he or she is focused on complying with court-imposed community service requirements. As a consequence, the person may lose government assistance. Even a misdemeanor conviction can put a defendant at risk of losing employment, being evicted, and in some instances, being deported. Cognizant that the so-called "collateral" consequences that flow from an arrest or conviction can be as severe (if not more severe) than a jail sentence, and also aware that the interplay of these consequences can lead a defendant into a cycle of involvement with the criminal justice system, the Bronx Defenders established CAP.

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"To be truly effective, we can't have the practice area separation that has defined legal work for the last two generations."

McGregor Smyth, Managing Attorney,  
Civil Action Practice, The Bronx Defenders

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Initially started in 2000, with just one attorney funded through a Skadden fellowship, CAP has expanded to include 12 attorneys, as well as paralegals (legal advocates) and benefits advisors. The practice now includes roughly 20 individuals who work on a variety of civil legal

issues. As the Bronx Defenders' Founder and Executive Director, Robin Steinberg explains, "when we asked our clients the question, 'what is most important to you?' many described civil legal problems. The criminal case was often the last thing to be mentioned." The office expanded its capacity to handle civil legal issues in response to client priorities.

## Structure

Each staff member of the Bronx Defenders is part of an interdisciplinary team comprising criminal, family defense and civil attorneys, social workers, investigators, legal and parent advocates and support staff. These teams sit together, train together and work together, collaboratively, to identify and address the full needs of their clients. The "practice areas" of Criminal Defense, Family Defense, Civil Action, and Social Work, far from being traditional "divisions," instead provide a background infrastructure to support staff across teams who specialize in similar services. The managing attorneys of each practice area lead and develop the practice, stay current on the law, supervise the development of the people in their practice area and are part of the senior management team of the office. Team Leaders, who are practicing lawyers in criminal, family and/or civil law, supervise each interdisciplinary team and do the day-to-day oversight of the team and the team staff.

Team members who are CAP advocates offer comprehensive civil legal assistance in areas that include housing, employment, benefits, civil rights and immigration. Client need, rather than unilateral organizational restrictions, determine the scope of their work. With the exception of immigration, a highly-specialized area of the law, CAP advocates work interchangeably on each of the civil law areas depending on the needs of clients. (The Bronx Defenders is also the institutional provider representing parents charged in child welfare proceedings in the borough, handling 90% of all such cases in the Bronx. Team members who are Family Defense Practice advocates provide these services, working closely with their CAP,

criminal and social work team members on their clients' often complex problems.)

The Bronx Defenders' clients find their way to CAP team members in several ways. First, the office has created a robust intake sheet for criminal cases that helps flag potential civil legal issues. For example, one question on the intake form asks whether a client has been fingerprinted for a professional license or a public sector job. This information tells attorneys whether the client is likely to face adverse employment consequences as a result of his or her arrest. All criminal attorneys receive training to help them identify when a CAP team member may be needed. The layout of the Bronx Defenders office is an open "bullpen" where staff sit side by side, unobstructed by walls, further encouraging open communication between civil and criminal defense practitioners, which in turn facilitates an assessment of whether CAP intervention is necessary in a particular case.

Potential clients are also able to walk in and request a meeting to address a civil legal need, and many individuals take advantage of the Bronx Defenders' open-door policy. "You'd be surprised what a difference little things can make," says CAP Managing Attorney McGregor Smyth. "Not having wire chairs and bullet proof glass in our lobby helps set people at ease and empowers them to come in and ask for the help they need." While CAP attorneys may not always be able to take on full representation of walk-in clients that don't have a pending criminal case with the office, they do offer advice and instruction on where to go for additional assistance if needed.

## Benefits of the Holistic Defense Model

As Smyth points out, "to be truly effective, we can't have the practice area separation that has defined legal work for the last two generations." The Bronx Defenders' coordinated civil and criminal practice advocacy approach has made representation more effective in three important ways.

## Improved Criminal Case Dispositions

CAP team members' understanding of the full panoply of adverse civil consequences that can be triggered by a criminal charge or conviction allows them to play an advocacy role in criminal bail, plea and sentencing negotiations. If a suggested punishment would result in a particularly harsh result outside of the criminal justice system, the Bronx Defenders advocates can educate judges and prosecutors about that consequence. A judge's sense of fairness and the ultimate disposition of the case may be affected if the judge learns that a defendant's conviction would lead to the loss of a job for somebody who is a primary breadwinner.

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### From the National Criminal Justice Association's Justice Bulletin:

#### *Promising Practices*

#### *New Center Provides Training in Holistic Defense*

*April 2010*

"The Bronx Defenders model of holistic advocacy brings together experts from a variety of disciplines under one roof so clients have in one place where they can go for any issue from a problem with a landlord to dealing with mental illness. This model brings together criminal and civil attorneys, social workers, investigators, parent advocates, and community organizers working together to address all of an individual's needs.

"Before [the U.S. Department of Justice's Bureau of Justice Assistance] provided funding to The Bronx Defenders for the [Center for Holistic Defense], an internal evaluation in 2006 was conducted on 6,000 Bronx Defenders clients.

"The Defender's clients were compared to other clients with similar case dispositions represented by other public defenders, the results of the evaluation showed that clients were overwhelmingly satisfied with the services provided by the defenders, served 20 percent less jail time, and won dismissals and acquittals two times more often. Three-fourths of The Bronx Defender's clients were sentenced to non-jail sentences. Furthermore, case dispositions were also more positive, including less jail time and more alternatives to incarceration, more dismissals and a higher acquittal rate, than dispositions for comparable clients represented by other public defenders in New York City. Additionally, a series of client satisfaction surveys found that the overwhelming majority of their clients were satisfied with the representation they received. The evaluations also revealed that clients value the process deeply and expressed the importance of having their lawyers really listen to their stories and concerns.

"The advocates at The Bronx Defenders combine their skills to win not only better dispositions for each client's case, but better outcomes for the clients' lives. They view their clients not as case numbers, but people with families, jobs, histories and futures."

Excerpted from Katie Crutchfield, National Criminal Justice Association, *Promising Practices*, Justice Bulletin (Apr. 2010), available at <http://www.bronxdefenders.org/sites/default/files/NCJA%20Justice%20Bulletin%20re%20Center%20for%20Holistic%20Defense.pdf>

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## New Advocacy Tools

Civil proceedings provide often-overlooked discovery opportunities for defenders litigating related criminal cases. Because many of the same factual situations are involved in a criminal proceeding and, for example, an eviction action resulting from the arrest, civil trials offer the opportunity to gather evidence relevant to the criminal trial that might otherwise be off-limits. This is, of course, a double-edged sword, particularly in the Bronx Housing Court, where the Bronx District Attorney's office staffs the Narcotics Eviction Unit, and routinely uses information gleaned in housing court in criminal proceedings. CAP attorneys gather evidence, and interview witnesses in civil cases, and relay that information, when relevant, to the client's criminal attorney. CAP attorneys also ensure that clients avoid prejudicing their criminal case in their civil proceeding.

## Breaking the Cycle of Criminal Entanglement

Comprehensive civil legal advocacy helps clients address the devastating and often unintended civil consequences of entanglement with the criminal justice system. When an arrest or conviction causes a defendant to lose housing, benefits, his or her job, or face daunting obstacles to securing a new one, the crisis can make it all the harder for that individual to start anew and avoid continued contact with the criminal justice system. This is a result that impacts not only the individual, but also his or her family and the larger community. By identifying issues at the outset of a criminal proceeding, CAP advocates are able to address them before they become unmanageable and further destabilize a client's life.

The success of the Bronx Defenders model has led to a grant from the U.S. Department of Justice to create a Center for Holistic Defense. Through the Center, Bronx Defenders will provide technical assistance and serve as a resource to public defender offices seeking to

adopt a more holistic model of representation in jurisdictions around the country.

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## Related Materials

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Robin Steinberg & David Feige, *Cultural Revolution: Transforming the Public Defender's Office*, 29 N.Y.U. REV. L. & SOC. CHANGE 123 (2004).

## Principle 8 : Pursue a Multidisciplinary Approach

*We aspire to engage not only lawyers, but also social workers, counselors, medical practitioners, investigators and others to address the needs of clients, their families and communities.*

Across the country, defenders are enlisting the help of professionals and other experts from outside the legal advocate community to better serve their clients and achieve positive change for the entire community. Defender programs, including those in DeKalb County, Georgia, Middlesex County, Connecticut, and Travis County, Texas, among many others, increasingly are hiring social workers and mental health workers directly into their offices in order to better ensure that their clients' substance abuse, medical, and psychiatric issues will be resolved in the course of representing them in their criminal court proceeding. These interventions have resulted in documented successes. For example, an external evaluation of the Kentucky Department of Public Advocacy's social worker pilot program demonstrated that social worker involvement led to both reduced client substance abuse and lower rates of recidivism. Due to the pilot program's success, the Department has been able to create additional social worker positions in its offices throughout the state to assess clients' needs, develop alternative sentencing plans, and advocate for clients' physical and mental health needs while they are incarcerated. This approach—an explicitly multidisciplinary approach—does a better job of meeting clients' needs and advances the goals of reducing recidivism and promoting re-entry, objectives that are in the larger public interest.

### **The Youth Advocacy Department of the Committee for Public Counsel Services of Massachusetts**

In 1992, the Youth Advocacy Department (YAD), then called the Youth Advocacy Project, was created under the aegis of the Com-

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“What does the public want? Safer, healthier communities and tax dollars spent in a cost-effective manner. They also want to know that lawyers are fighting for their clients. When we bring a multidisciplinary approach to our work, that is what we can provide.”

Joshua Dohan, Director, Youth Advocacy

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mittee for Public Counsel Services, the Massachusetts public defender agency, to serve youthful offenders. YAD's 28 employees, including nine delinquency attorneys, three education attorneys, three social service advocates, a psychologist and a community liaison, provide legal representation for young people in Roxbury and Worcester. The office also oversees training and support for 630 private attorneys handling juvenile cases across the state.

### **The YAD Model**

Consider the following: Randy falls behind in his early school years, part of the cohort of 70% of children of color that exit the 4th grade in Massachusetts public schools not proficient in reading or math. As the years progress and the subject matter gets more difficult, Randy continues to lack the basic skills he needs to participate and advance in class, and he is not equipped to seek out extra help on his own. Instead, Randy feels humiliated, angry, and disinterested. One day, Randy gets angry when a teacher asks him to answer a question, read a passage or perform another task that he simply cannot do. The child, acting out, jumps over his desk knocking over a student on his way out of the classroom. The police are called.

In many cases, children like Randy end up in YAD's offices, failed by their schools and by the other institutions meant to support them.

Josh Dohan, the director of YAD, explains that providing effective advocacy for children charged with delinquency or youth offender offenses requires a team with multiple skills. Advocates need to not only engage the child in his or her own defense, but also resolve the underlying factors prompting the troubling behavior.

As a foundation for its multidisciplinary approach, YAD uses a theory of youth development that is gaining ground among developmental specialists, the “Youth Development Approach.” The theory presumes that adults and institutions can support young people and help them gain success by helping them to develop personal, social and academic skills based on their own capacities, strengths and needs.<sup>20</sup>

By considering the court case as potentially rooted in deeper problems—whether at home or in school, health-related or work-related, social, financial or emotional—the YAD attorneys and staff address the underlying problems in clients’ lives that may be causing problem behavior. With a team that includes attorneys,

social service advocates, education attorneys and psychologists, YAD works to get its young clients not just to “problem-free outcomes,” but also to positive developmental outcomes and achievement of real world goals.

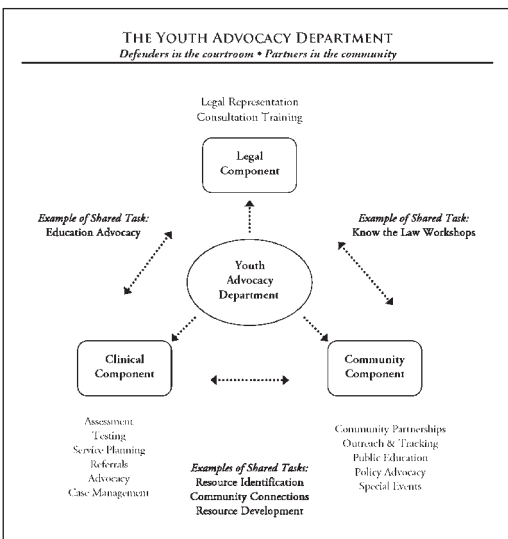
## The YAD Model relies on:

### In-Depth Intake Process

YAD’s commitment to this model begins with the client intake process, which includes an informal screen of the client across five domains: health, safety, relationships, education/work, and community engagement. YAD’s “opening booklet,” or intake form, includes questions that explore the multitude of issues likely relevant to the client’s case; questions on the form range from “what are the client’s best skills/favorite activities?” to “where does the client receive dental care?” YAD staff attorney, Scott Rankin explains, “We are trying to figure out what the kids are missing in each of these domains, seeing where there are gaps. If something jumps out, we would refer them for more specific help.”

### Staff Attorneys

In the first instance, YAD attorneys are experienced criminal defense attorneys. While YAD staff recognize that long term legal success is usually dependent upon long term life success, they also understand that zealous legal advocacy is the cornerstone of the attorney/client relationship. YAD attorneys are chosen because of their experience working with youth. In addition to hands-on experience and trainings throughout the year, an understanding of YAD’s model and its theoretical underpinnings helps guide all delinquency attorneys through their clients’ cases



<sup>20</sup> The Youth Development Approach is defined as: “A simple set of concepts and strategies that help adults better understand and support youth in developing the personal, social, academic and citizenship competencies necessary for adolescence and adult life based on their capacities, strengths, and formative needs” (definition borrowed from The Medical Foundation, BEST Initiative).

and helps them determine when clients may need additional assistance.

YAD attorneys have access to expert help when they need it, and, if issues arise, the whole team can sit down and make a collective a plan to best help the client.

### **Social Service Advocates**

At YAD, one of the three Social Service Advocates (SSA) on staff appears at every arraignment—a client’s first court appearance—along with the delinquency attorney, so that the SSA can meet the client and his or her family and begin to build a relationship. Social Service Advocates help create an open environment for the young person to discuss not only the legal issues they’re facing, but also the other environmental factors that may be affecting them negatively. The SSA is responsible for identifying and connecting the client with the health care, drug counseling, after-school or job readiness programs that he or she may need.

### **Education Law Advocates**

YAD currently employs three privately funded education attorneys through the EdLaw Project, a partnership between YAD and the Children’s Law Center of Massachusetts, Inc. Many clients’ cases, whether directly or indirectly, involve education issues. Clients may not be in the proper class placement, may lack access to the special needs programs they require or may have repeated school discipline problems. If the client’s delinquency attorney recognizes education issues as a problem, he or she will bring in a specialized education attorney to provide quality education advocacy. In addition to participating in clients’ delinquency cases alongside the YAD lawyers, the education lawyers advocate before school administrators for proper school and class placement for their clients and may provide legal representation in other cases proceeding separately from, but having an impact upon, a client’s criminal charges (for instance, mat-

ters related to school discipline or inadequate education while in state custody).

### **Psychologists**

Also on staff, funding permitting, are two state-funded psychologists, who assist the team in a variety of ways. Mental health and adolescent development often factor into juvenile cases. Attorneys may ask psychologists to screen clients for cognitive impairment, learning disabilities, developmental issues, substance abuse, and/or mental health issues. Lawyers may be concerned about the client’s competence to stand trial or whether their mental status may render them “not criminally responsible,” among other legal issues. But lawyers are also looking for assistance in better understanding how to work effectively with their clients and how to help them access the services they need to experience healthy development. The psychologists are often invaluable in preparing a legal defense or an alternative sentencing plan. Even on cases that may be dismissed or where the child is found not guilty, the YAD staff will use its knowledge of the child’s history and needs to connect them to services which will reduce the likelihood of future court involvement. YAD’s psychologists help the staff identify and address emotional and psychological deficits. They also help the staff, and courts, understand and learn how to promote normal adolescent development.

### **Community Outreach Coordinator**

Finally, the YAD offices employ a community outreach coordinator who helps connect youth to activities within the communities, both community service options for clients required to complete it as part of their sentence and out-of-school-time programs to which YAD refers young people. These activities range from cooking classes at a local, non-profit restaurant, to a journalism program run by The Boston Globe, to Project Hip Hop, a program aimed at helping youths develop leadership, organizing and

campaigning skills by working on political issues that affect them.

This office also develops relationships with community organizations to secure support for YAD's clients and coordinates YAD's "Know the Law" initiative, which brings information sessions on relevant topics in the law to youth centers, churches and other organizations.

## The Benefits of a Multidisciplinary Approach

"If the goal of the court is to see kids grow into self-sufficient and law-abiding adults, we need to look at each kid and ask ourselves and the community what we can do to help these kids, our kids, grow into the adults we seek," says Dohan. "If punishment is the only tool we use, we'll miss the boat. And unfair punishment will sink the boat!"

The respected and expert YAD staff, utilizing a multidisciplinary approach, is able to truly get to know their clients, line up after-school activities, help find the appropriate educational setting, engage in aggressive litigation and establish a nurturing adult relationship. As a result, the YAD team is able to walk into the courtroom and say to the judge: "We're all here for the same reason, here's what you need to know about this young person."

Josh Dohan asks, "What does the public want? Safer, healthier communities and tax dollars spent in a cost-effective manner. They also want to know that lawyers are fighting for their clients. When we bring a multidisciplinary approach to our work, that is what we can provide."

## Contact Information

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## Related Materials

Dr. Gerard "Rod" Barber & Dr. Ramona Stone, Kent School of Social Work, University of Louisville, *Social Work Pilot Project Report*, Kentucky Department of Public Advocacy (Jan. 2008), available at [http://dpa.ky.gov/NR/rdonlyres/369E42F6-ECFF-4E51-ACC6-99F609A511D3/0/SW\\_Pilot\\_Report.pdf](http://dpa.ky.gov/NR/rdonlyres/369E42F6-ECFF-4E51-ACC6-99F609A511D3/0/SW_Pilot_Report.pdf).

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## Principle 9 : Seek Necessary Support

*We seek essential financial support, professionally approved workload limits, and other resources and structures sufficient to enable the COD model to succeed.*

Achieving the goals memorialized in the COD principles can require money and time —resources that are often in short supply. It is not inexpensive for defenders to spend time identifying alternatives to confinement, relying on social workers to help solve clients’ problems, building links to community-based institutions, resolving clients’ civil legal problems and achieving policy reforms. And when COD practices are believed by public and private funders to fall outside of the public defender’s “traditional” role, scrutiny can be particularly intense.

But, by demonstrating the value of the COD model with data collection and performance measurement, defender programs can help to ensure that COD programs will continue to have the resources and public support they need to achieve their overarching goals of preventing re-arrest, improving criminal justice policies and practices, and promoting successful outcomes for their clients and community.

Increasingly, defender programs, including the Georgia Justice Project and the Alternative Sentencing and Mitigation Institute, are relying on data-driven, evidence-based methods to prove their programs’ effectiveness. This investment in data collection enables the programs to demonstrate both the value of their work and the remaining deficiencies in the criminal justice system’s provision of equal and fair treatment to all defendants, ideally paving the way for reform.

### North Carolina's Office of Indigent Defense Services

The North Carolina legislature created the Office of Indigent Defense Services (IDS) by state statute in 2000. The office oversees the provision of legal representation to indigent defendants by over 2,000 public defenders, court-appointed and contract counsel. The office also develops training, qualification, and performance standards to govern the provision of legal services to indigent persons and is responsible for determining the most appropriate methods of delivering legal services to indigent persons in each judicial district.

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“Attorneys are used to meticulously examining the evidence in their trials, but we have not, to date, taken that approach to measure the effectiveness of what we are doing.”

Thomas Maher, Executive Director, North Carolina Office of Indigent Defense Services

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### The IDS Model for Data Collection

With over 2,000 defense attorneys working throughout the state without much centralized control, IDS sought a way to ensure the quality of its services and prove the benefits of those services for clients and their communities. Like most defender agencies, IDS had data, “but not good data,” says IDS Research Director Margaret Gressens. Thus the impetus for IDS’s Systems Evaluation Project arose from the office’s recognition that a more focused microscope should be used to examine the daily activities and the many moving parts of the criminal justice system. Observes IDS’s Executive Director, Thomas Maher, “Attorneys are used to meticulously examining the evidence in their trials, but we have not, to date, taken that approach to measure the ef-

fectiveness of what we are doing. It takes a lot of thought to get it right, and to ask the right questions.”

The Systems Evaluation Project seeks to provide that focused lens, measuring outcomes and practices across counties so that, for the first time, it would be possible to develop best practices, compare mechanisms for the delivery of defense services, track progress, establish benchmarks, outline cost projections, and assess overall system strengths and weaknesses. This evidence-based evaluation approach will allow IDS to determine how well it is accomplishing its mandate to provide quality and cost-effective assistance to indigent defendants.

IDS set out to map its goals for the System Evaluation Project after conducting extensive research and after gathering the views of clients, defenders, judges and prosecutors, as well as the business community, law enforcement and probation officers, through several focus groups. The Project is now in its final stages of completion. The research department at IDS has identified 11 goals, and over 30 related objectives and performance indica-

tors that will measure system independence, preservation of constitutional rights, client service and accountability.

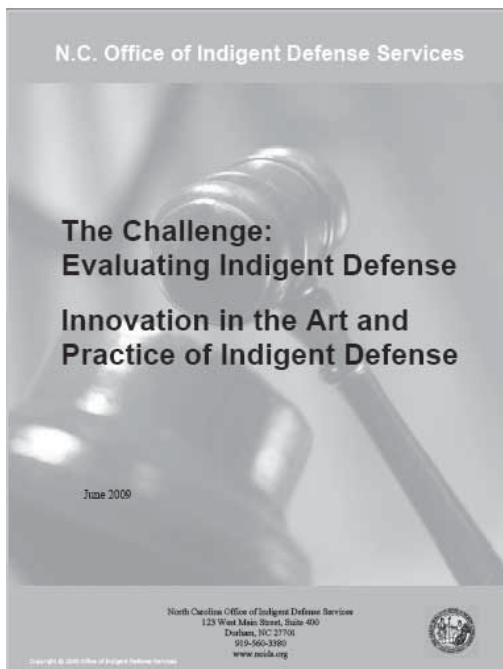
Several of the Systems Evaluation Project goals and objectives are related to the client and community-centered approach to criminal defense embodied in the Ten Principles of Community Oriented Defense. These goals and objectives include: successfully advocating for alternatives to incarceration, making the client aware of collateral consequences of conviction, taking steps to minimize those consequences and disentangling the client from the criminal justice system, measured in part through recidivism rates. The Project also seeks to evaluate the success of IDS at advocating for criminal justice reform and ensuring that members of the community are educated about their legal rights.

## Looking Forward

The measurement system that IDS has developed will not only enable the office to advocate for policy reform and identify best practices, but will also provide lawmakers and IDS with a way to make tough funding decisions more deliberately. Data collected will enable IDS to measure and demonstrate the success of creative, client and community-focused advocacy strategies, potentially leading to increased funding for these services or a reallocation of funding to the work that has proven to be most effective at reducing recidivism and using taxpayer dollars most efficiently. “It is crazy to pour money into indigent defense services without looking at the outcomes,” says Gressens, who along with Daryl Atkinson, has been spearheading the development of the project.

“We all assume these programs work,” says Maher. “In debating with legislature whether to continue funding, we would love to have a well designed study with data to make the case.”

Evidence-based performance measures are likely to impact how IDS provides legal ser-



vices, but beyond that, the data could potentially allow other stakeholders in the justice system, including judges and prosecutors, to evaluate and modify their own practices. Indeed, IDS's data collection has had an impact already: in 2007, after confronting attacks that IDS was wasting taxpayer dollars for their work on capital cases, an IDS study was able to refute those accusations, showing that though overall cost for the provision of indigent defense services in capital cases was rising, IDS was handling these cases very efficiently, that aside from the occasional, high profile case, average, per-case spending was actually quite low, and that IDS' costs for handling these cases were determined primarily by the District Attorneys' decisions on how to charge the

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## **Meet Rebecca: A Case Study in How System Evaluation Can Make a Real Difference\***

### **Scenario 1**

Rebecca, a 20-year-old single mother of two children, is arrested and charged with shoplifting a winter coat (cost \$75) and providing false information to the police. Two days after her arrest, Rebecca appears before a magistrate without counsel. The magistrate sets bond at \$1000, without any background information on Rebecca's ties to the community or her financial resources. Unable to scrape together ten percent of her bond amount in order to secure release through a bail bondsman, Rebecca is forced to wait in jail for two weeks before her next court appearance. In the interim, Rebecca's employer fires her for missing work, she is unable to pay her apartment's rent and her children are placed in the custody of a local social services agency.

### **Scenario 2**

A year before Rebecca's arrest, North Carolina's Office of Indigent Defense Services Systems Evaluation Project (SEP) measures a number of indicators associated with pretrial release in counties across the state. Data reveal that the county where Rebecca lives has both the highest average misdemeanor bond amounts and the highest percentage of clients incarcerated throughout pretrial proceedings, but there is no appreciable difference in the failure to appear rate for defendants. Meanwhile, the county is expending great sums for misdemeanor pretrial incarceration. In addition, the county's defense attorneys typically are not appointed to a case until after the bond hearing, and SEP data reveal that most district court judges rarely grant bond reduction motions.

SEP staff present these findings to local political and criminal justice stakeholders and describe how the trends in this county are resulting in overcrowded jails, wasted taxpayer resources and family disruption. Subsequently, a number of the county's policies are changed: bond amounts are lowered, defense attorney representation at bond hearings is guaranteed, and magistrates are given the benefit of more complete information when making their bond determinations.

By the time Rebecca is arrested, the policy changes are in full effect, allowing Rebecca to get legal representation at her bond hearing as well as a more reasonable bond amount. Rebecca's family is able to post bond and get her released prior to trial; as a result, she keeps her job, her apartment and her children.

\* Excerpted and adapted from a North Carolina Office of Indigent Defense Services brochure – "Systems Evaluation Project, Evaluating Indigent Defense Services."

case. The study also developed recommendations on how IDS and the District Attorney's office could work together to further reduce spending on capital cases.

With data-driven methods, IDS will expand what it knows about the functioning of the criminal justice system to make it work better for clients and the larger community.

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## Related Materials

North Carolina Office of Indigent Defense Services, *The Challenge: Evaluating Indigent Defense Innovation in the Art and Practice of Indigent Defense* (Jun. 2009), available at [www.aoc.state.nc.us/www/ids/Systems%20Evaluation%20Project/News\\_Updates\\_Products/SEP%20Research%20Report%20June%202009%20Full%20Report.pdf](http://www.aoc.state.nc.us/www/ids/Systems%20Evaluation%20Project/News_Updates_Products/SEP%20Research%20Report%20June%202009%20Full%20Report.pdf).

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North Carolina Office of Indigent Defense Services, *The Systems Evaluation Project Evaluating Indigent Defense Services*, available at <http://www.aoc.state.nc.us/www/ids/Systems%20Evaluation%20Project/ProjectBrochure.pdf>.

## Principle 10 : Engage with Fellow COD Members



Clara Hernandez, Public Defender, Paso County; Leonard Noisette, Director of the Criminal Justice Fund, Open Society Institute/U.S. Programs; Yvonne Smith Segars, Public Defender, New Jersey; and Richard Goemann, former Defender Legal Services Director, National Legal Aid & Defender Association, on the “Talking Honestly in Our Offices About Race in the Criminal Justice System” panel at the 2008 COD Network Conference.



John Stuart, Minnesota Public Defender, presents on “Building External Support” at 2008 COD Network Conference



Cait Clark, Equal Justice Works, Melanca Clark, Brennan Center for Justice, and Bryan Stevenson, Equal Justice Initiative, at the 2009 COD Network Conference.

*We are dedicated to sharing ideas, research and models to help advance the COD movement locally and nationally in order to maximize its benefits for clients, families and communities.*

The Brennan Center created the Community Oriented Defender Network in 2003 as a way to honor the fortieth anniversary of *Gideon v. Wainwright* and to support and encourage a movement united by the view that the provision of indigent defense should take on the challenge of breaking the cycle that leads individuals into multiple encounters with the criminal justice system. The COD Network is dedicated to addressing the needs of clients beyond their criminal case, and engaging in systemic reform of failed criminal justice policies, while enlisting the involvement of community members and institutions in these problem-solving approaches.

Being an engaged member of the Community Oriented Defender Network means developing and sharing creative problem-solving strategies for breaking the cycle of arrest and incarceration that have turned courthouse entrances into revolving doors.

Through news updates, annual conferences and open dialogue, COD members keep each other apprised of relevant developments, be they research or strategies for improving practices, new state or federal legislation or litigation successes. The Brennan Center also partners and supports COD Network members engaged in targeted reform projects.

Please contact the Brennan Center to learn more about how your organization can tap into the COD Network.

### Contact Information

The Brennan Center for Justice at NYU School of Law | [www.brennancenter.org](http://www.brennancenter.org)  
161 Avenue of the Americas  
New York, New York 10013  
Phone | 212.998.6730

## Related Materials

Brennan Center for Justice and the National Institute of Law and Equity, *Racial Disparities in Federal Prosecutions*

Brennan Center for Justice, *Taking Public Defense to the Streets*, available at [brennan.3cdn.net/3e336561b5c87c36e4\\_a3m6bo95w.pdf](http://brennan.3cdn.net/3e336561b5c87c36e4_a3m6bo95w.pdf).

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Robin Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. REV. L. & SOC. CHANGE 625 (2006).

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## Appendix: Community Oriented Defender Network Membership List

Alternate Public Defender County of San Diego (California)	Los Angeles County Public Defender's Office (California)
The Bronx Defenders (New York)	Louisiana Justice Coalition
Calcasieu Parish Public Defenders' Office (Louisiana)	Louisiana Public Defender Board
Center for Appellate Litigation (New York)	Maricopa County Public Defender (Arizona)
Center for Community Alternatives (New York)	Maryland Office of the Public Defender, Neighborhood Defenders -NW
Charlottesville-Albemarle Public Defender Office (Virginia)	Minnesota State Public Defender
Clark County Public Defender's Office (Nevada)	Neighborhood Defender Service of Harlem (New York)
Committee for Public Counsel Services (Massachusetts)	Newport News Public Defender (Virginia)
Connecticut Public Defender's Office	North Carolina Office of Indigent Defense Services
Criminal Defense Division / Queens County (New York)	Office of the Appellate Defender (New York)
El Paso County Public Defender's Office (Texas)	Office of the Colorado State Public Defender
Idaho State Appellate Defender	Office of the Public Defender (New Jersey)
KCBA Indigent Defense Program (California)	Orleans Indigent Defender Program (Louisiana)
Kentucky Department of Public Advocacy	Orleans Public Defenders (Louisiana)
Knoxville Tennessee Public Defender's Office	Plaquemines Parish Defender Services Program (Louisiana)
Law Office of the Cook County Public Defender (Illinois)	Pima County Public Defender Office (Arizona)
The Law Offices of the Marin County Public Defender (California)	Public Defender-11 <sup>th</sup> Judicial Circuit (Miami-Dade County, Florida)
The Legal Aid Society (New York)	Public Defender-13 <sup>th</sup> Judicial Circuit (Hillsborough County, Florida)
Legal Rights Center (Minnesota)	Public Defender Service for DC
	Rhode Island Office of the Public Defender

Riverside County Offices of the Public Defender  
(California)

San Diego County Public Defender (California)

San Francisco Public Defender (California)

San Mateo County Private Defender Program  
(California)

Santa Clara County Public Defender's Office  
(California)

Society of Council Representing Accused Persons  
(Washington)

South Carolina Commission on Indigent Defense

State Appellate Defender Office (Michigan)

Washington Defender Association

Washoe County Public Defender's Office  
(Nevada)

Washtenaw County Office of Public Defender  
(Michigan)

Youth Advocacy Department, Committee for  
Public Counsel Services (Massachusetts)

Youth Represent (New York)



# New and Forthcoming Brennan Center Publications

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## **Racial Disparities in Federal Prosecutions**

Brennan Center for Justice & the National Institute on Law and Equity

## **The Hidden Costs of Florida's Criminal Justice Fees**

Rebekah Diller

## **Renewing Democracy After Citizens United**

Susan Liss and Michael Waldman

## **Buying Justice: The Impact of Citizens United on Judicial Elections**

Adam Skaggs

## **Voting Machine Errors**

Larry Norden

## **Small Donor Public Funding: The NYC Experience**

Susan Liss

## **Public Financing in the States**

Susan Liss

## **Domestic Surveillance: New Rules, New Risks**

Emily Berman

## **Voter Registration in a Digital Age**

Christopher Ponoroff, Edited by Wendy Weiser

## **User Fees for Criminal Justice?**

Rebekah Diller

## **The Filibuster: Its Use and Abuse**

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## **Domestic Counter-Terrorism and Radicalization**

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