

Appendix D
Policies & Benchmarks for Defender Offices

Goal I, Objective 1:

Representation should be available beginning at the time the individual is arrested or requested to participate in an investigation that has focused on him or her as a likely suspect, or feels him/herself to be the subject of an investigation, or at the request of someone acting in his or her behalf.

Function	Management Issue: AVAILABILITY/IMMEDIACY
Planning	Indicators: a. The Defender Office seeks to improve time of entry through law reform, litigation and/or change in scope of contract (if availability is formally restricted). b. Written policies exist concerning representation at: arrest; line-ups; interrogations; preliminary hearings; walk-ins; information dissemination; and, continuity of representation. c. Written and/or known procedures exist for implementing the policies.
Organization	Indicators: a. Positions are defined and designated within the office organizational structure to ensure defender availability.
Administration	Indicators: a. Someone has been delegated responsibility to ensure representation at: arrest; line-ups; interrogations; preliminary hearings; walk-ins; and, information dissemination. b. Activities of attorneys and support staff are observed and reviewed as they pertain to availability. c. Authority is delegated to individual attorneys to represent potential clients.
Control	Indicators: a. Staff is aware of procedures that make defenders available. b. Feedback is requested from all clients as to when they were initially represented. c. Statistics are maintained and periodically reviewed, updated and circulated to staff. d. Policies and procedures are periodically reviewed, updated and circulated to staff. e. Feedback is requested from clients as to the accessibility of the defender office. f. Jail checks are taken to ascertain if any individual desiring representation is overlooked. g. Local private attorneys are polled to determine when their client contacts them. h. Information regarding public transportation services is available at the defender office. i. Attorneys are available 24 hours a day. j. Answering services routes calls to appropriate attorney after normal working hours. k. Working hours of attorneys make it convenient for working people to visit the office (i.e., evening hours once a week).

Goal I, Objective 2:

Representation should be provided to any individual who is eligible and desires representation.

Function	Management Issue: ELIGIBILITY
Planning	Indicators: a. Written policies exist concerning eligibility and partial eligibility. b. Written and/or informal procedures exist on the following: fair and equitable assessment of eligibility; recommendation of private attorneys to ineligible individuals; redress for individuals declared to be ineligible; implementation policies of partial eligibility (recoupment); provide representation until private counsel assumes responsibility for ineligible individuals.
Organization	Indicators: a. Positions are defined and designated within the office's organizational structure to ensure that eligibility criteria are met and procedures followed.
Administration	Indicators: a. Activities of attorneys and support staff are observed and reviewed as they pertain to eligibility. b. Authority is delegated to individual staff members to ensure: eligibility criteria are followed; clients are provided redress from adverse decision; c. Ineligible clients are assisted in finding counsel.
Control	Indicators: a. Feedback is requested from individuals as to fairness or eligibility requirements. b. Office staff is questioned for its awareness of eligibility criteria. c. Policy statements are reviewed periodically for comprehensiveness, clarity and precision. d. Statistics are maintained for: individuals found to be ineligible; individuals who switch from private attorney to defender and defender to private attorney. e. Some "ineligible" cases are reviewed and discussed with the relevant staff member to ascertain the equity of the procedures. f. Recoupment collections are periodically reviewed.

Goal I, Objective 3:

Representation should be available throughout all criminal and related proceedings at which an individual is faced with the possible deprivation of liberty or continued detention.

Function	Management Issue: SCOPE
Planning	Indicators: a. If the office is restricted from representing clients at all trial level proceedings there are efforts toward law reform or changes in scope of contract. b. Written and/or known policies exist concerning representation at: felony level; misdemeanor level; juvenile proceedings; mental health proceedings; diversion proceedings; disciplinary proceedings; institutional grievances; parole proceedings; extradition proceedings. c. Written or informal procedures exist for implementing these policies.
Organization	Indicators: a. Positions are defined and designated within the office's organizational structure to provide free scope of representation.
Administration	Indicators: a. Someone has been delegated responsibility of ensuring that scope procedures are followed. b. Activities of attorneys and support staff are observed and reviewed as they pertain to scope. c. Authority is further delegated to individual attorneys to represent clients throughout the trial level proceedings.
Control	Indicators: a. Policies are reviewed on a periodic basis to ensure that they comply with the latest Supreme Court decisions. b. Policies and procedures are reviewed for comprehensiveness, clarity and precision. c. Office personnel are aware of the policies. d. Individuals who appear in court without counsel are interviewed to make sure they do not desire counsel. e. Implementation of procedures is observed and reviewed on a periodic basis. f. Defender office responds to client complaints.

Goal I, Objective 4:

Representation should be available until all reasonable avenues of relief are exhausted.

Function	Management Issue: DURATION
Planning	Indicators: a. The defender office is making efforts in law reform, litigation, and/or change in scope of contract to ensure proper post-trial representation if it is restricted. b. Written and/or known policies exist concerning: appeal; parole proceedings; and, probation hearings. c. Written and/or known procedures exist for implementing these policies.
Organization	Indicators: a. Positions are defined and designated within the office's organizational structure to ensure continuity of representation.
Administration	Indicators: a. Someone has been delegated responsibility to oversee post-trial representation. b. Activities of attorneys and support staff are observed and reviewed as they pertain to duration. c. Authority is delegated to individual attorneys to represent their clients in post-trial proceedings.
Control	Indicators: a. Defenders are aware of duration policies and procedures. b. Policies and procedures are reviewed and updated on a periodic basis. c. Client mail is reviewed to ascertain what post-trial representation is requested. d. Statistics are maintained and reviewed as to types of numbers of post-trial proceedings with and without representation; also, number of appeals filed on conviction. e. Familiarity of defenders with parole and probation staff and procedures is reviewed. f. Cases not appealed are reviewed for potential reconsideration.

Goal II, Objective 1A:

Representation on behalf of clients should be competent.

Function	Management Issue: CASEFLOW MANGEMENT
Planning	Indicators: a. Policies exist for case flow management. b. Policies exist concerning: caseload limitations; and, plea-bargaining. c. Written or known procedures exist for: case assignment; case scheduling; establishment of case file; establishment of filing and indexing system; materials to be maintained in the case file; maintenance of a correspondence file; updating case file information; documentation of case preparation; establishment of a tickler system; maintenance of appointments via calendaring; closing case files; retention of closed cases; filing of motions; and, limitation of number of open cases per attorney.
Organization	Indicators: a. Positions are defined and designated within the office's organizational structure to manage the flow management of cases.
Administration	Indicators: a. Someone has been delegated the responsibility to ensure that casework is handled competently. b. Activities of attorneys and support staff are observed and reviewed as they relate to case flow management. c. Authority is delegated to individuals to follow case management procedures.
Control	Indicators: a. Case status reports are maintained so that caseload of staff can be reviewed for disparities among staff and excessiveness of caseload. b. An individual to ensure filing procedures are followed reviews closed cases. c. Staff meetings are held to discuss new developments in criminal law and current problem cases. d. Case results are compared to those of private attorneys as to: dispositions; sentences; duration; and, bail. e. Office staff is questioned as to knowledge of case flow policies and procedures. f. Policies and procedures are periodically reviewed and updated. g. Feedback from office personnel is encouraged concerning improvements in case flow process.

Goal II, Objective 1B:

Representation on behalf of clients should be competent.

Function	Management Issue: USE OF RESOURCES IN CASE PREPARATION
Planning	Indicators: a. Policies exist for use of resources in case preparation. b. Written and/or known procedures exist for: library acquisition and use; information retrieval; investigation of cases; calling expert witnesses; interviewing clients and witnesses; space allocation; equipment usage; attorney time records; and caseload limitations.
Organization	Indicators: a. Positions are defined and designated within the office's organizational structure to ensure competent case preparation.
Administration	Indicators: a. Someone has been delegated the responsibility to ensure that cases are prepared competently and caseload is limited when necessary. b. Activities of attorneys and support staff are observed and reviewed as they relate to case preparation. c. Authority is delegated to individuals to follow case preparation procedures.
Control	Indicators: a. Private rooms are used to interview clients and witnesses. b. Interviewing techniques are reviewed and improved. c. Investigative techniques are reviewed and improved. d. The office is professional in appearance and well maintained. e. Computers and all other necessary office equipment are modern. f. A file of expert witnesses is maintained and kept current. g. Time records are maintained and used to determine caseload limitations. h. The office policies and procedures are periodically reviewed and updated. i. Feedback from office personnel is encouraged concerning improvements in use of office resources.

Goal II, Objective 2:

Representation on behalf of clients should be zealous.

Function	Management Issue: COMMUNITY RESOURCES
Planning	Indicators: a. Written policies exist on defender offices obligation to clients. b. Written and/or known procedures exist concerning: dealing with clients' non-legal needs; seeking diversion programs for clients; seeking alternative sentences for clients; maintaining information on community resources; and, processing and resolving client complaints.
Organization	Indicators: a. The organization is structured to provide alternatives to clients.
Administration	Indicators: a. Someone is delegated responsibility to ensure that alternatives are sought. b. Activities of attorneys and support staff are observed and reviewed as they pertain to zealousness.
Control	Indicators: a. Client complaints are investigated and resolved. b. Policies and procedures are periodically reviewed and updated. c. Procedures are familiar to the staff members. d. Attorneys are periodically surveyed as to their use of diversion and alternative sentencing. e. Community resources are sought and utilized. f. Community resources are surveyed as to their feelings of utilization to the defender office. g. Statistics are maintained and reviewed in such areas as: diversion referrals; civil suits; extraordinary writs; Federal Court appearances; and, interlocutory appeals. (All of these should contain original number sought and favorable/unfavorable outcomes).

Goal II, Objective 3 & 4:

(3) Representation on behalf of clients should remain free from political influences;

(4) Representation on behalf of clients should remain free from improper judicial control.

Function	Management Issue: POLITICAL INFLUENCE & JUDICIAL CONTROL
Planning	<p>Indicators:</p> <ul style="list-style-type: none"> a. Office makes efforts toward eliminating improper controls through law or legislative reform, altering scope of contract and/or discussing problem areas with appropriate people. b. Written policies exist within the office concerning: efforts to deal with improper judicial or political controls; and, political affiliations and activities of staff. c. Written and/or known policies exist concerning: reporting attempts of control; existence of any political materials within the office; official backing of any political candidates by staff; case preparation and decisions as they relate to possible influence.
Organization	<p>Indicators:</p> <ul style="list-style-type: none"> a. Positions are defined and designated within an organizational structure to handle improper judicial or political control. b. Structure of the office keeps it insulated from political and judicial pressure.
Administration	<p>Indicators:</p> <ul style="list-style-type: none"> a. Someone is delegated the responsibility to ensure freedom from improper judicial or political control. b. Activities of attorneys and support staff are observed and reviewed as they pertain to control.
Control	<p>Indicators:</p> <ul style="list-style-type: none"> a. Memos are distributed to staff members, encouraging them to report any pressures applied to their case preparation. b. Meetings are arranged with both legislative and judicial people to discuss the proper role of the defender within the criminal justice system. c. Policies on control are circulated within the office periodically and update as needed. d. Advisory Board is used to buffer attempted pressure on office. e. Statistics are maintained on: contempt of court charges and reasons; staff removal and reasons; case shifts between attorneys and reasons; attempts at control. f. Annual report addresses issues of control, when appropriate.

Goal II, Objective 5:

Representation should not be affected by racial, cultural, religious, gender or sexual orientation characteristics.

Function	Management Issue: NON-DISCRIMINATION
Planning	Indicators: a. Written policies exist concerning non-discrimination. b. Written and/or known policies exist concerning representation being provided without regard to racial, cultural, religious, gender or sexual orientation of the client.
Organization	Indicators: a. Positions are defined and designated within an organizational structure to handle considerations of discrimination.
Administration	Indicators: a. Someone is delegated the responsibility to ensure that representation is provided without discrimination. b. Activities of attorneys and support staff are observed and reviewed as they pertain to discrimination.
Control	Indicators: a. Office staff is periodically surveyed to ascertain knowledge of policies dealing with discrimination. b. Statistics are maintained on race and gender on: time interval between arraignment and disposition; bail status; final disposition; final sentence; number and type of motions filed; prior conviction record; original charge; and, final charge. c. Client complaints are investigated and responded to. d. Communication regularly transpires between the defender and community groups with an interest in discrimination.

Goal III, Objective 1:

Defenders should contribute to the knowledge of the community about the adversarial process and the role of defense counsel.

Function	Management Issue: COMMUNITY EDUCATION
Planning	Indicators: a. Written policies exist concerning contributing to community awareness of the defender office and its role in the criminal justice system. b. Written and/or known policies exist concerning: responding to information requests from the community; providing informational pamphlets to the community; membership in community groups; acquainting the defender office with key leaders within the community; maintaining on-going relations with community groups, both friends and enemies; and, creating and maintaining a correspondence file for community contacts.
Organization	Indicators: a. Positions are defined and designated within an organizational structure in relation to contributing to community awareness.
Administration	Indicators: a. Someone is delegated the responsibility for coordinating community education activities. b. Activities of attorneys and support staff are observed and reviewed as they participated in community awareness activities.
Control	Indicators: a. Feedback from community groups requesting information or a speaker is sought and reviewed. b. Key members of the community and criminal justice system know chief Defender. c. Statistics are maintained on: groups sent information; groups office appeared before; media coverage of defender office events; number of office members actively involved in community groups; and, requests for materials. d. Information distributed to the public is reviewed, updated, and reprinted as needed. e. Community groups, both friends and enemies, are routinely contacted to see how interaction can be improved. f. A list of all community groups is maintained in the office. g. Policies and procedures on ensuring community awareness are reviewed and updated periodically.

Goal III, Objective 2:

Defenders should seek to improve the criminal justice system and other components therein.

Function	Management Issue: SYSTEMIC IMPROVEMENT
Planning	Indicators: a. The defender office is actively seeking ways of improving the criminal justice system through legal reform, litigation, and/or changing the scope of their contract, where appropriate. b. Written policies exist on the duty of the defender office to promote and work for systemic improvements. c. Written and/or known policies exist concerning: reporting any maltreatment of clients by police or institutions; promoting understanding of defender activities throughout the criminal justice system; each defender staff's role while acting in defender capacity; working with prosecutors and judges to ensure that client's cases are heard and decided in a just manner; promoting reform in the criminal justice system, when needed.
Organization	Indicators: a. Positions are defined and designated within an organizational structure to monitor systemic improvements.
Administration	Indicators: a. Someone is delegated the responsibility to ensure that systemic improvement policies and procedures are followed. b. Activities of attorneys and support staff are observed and reviewed as they pertain to systemic improvements.

<u>Additional Management Issues:</u>	
Personnel, Training, Budgeting & Accounting	
Function	Management Issue: PERSONNEL
Planning	<p>Indicators:</p> <p>a. Written policies and procedures exist for: affirmative action programs; recruitment and selection; qualifications for each position; retention and promotion; termination; salaries and fringe benefits; parity with competing organizations; workload requirements; evaluation criteria; vacation; recoupment procedures; and time records.</p>
Organization	<p>Indicators:</p> <p>a. Each position is described, relationships with other positions described and responsibilities designated within an organizational structure.</p>
Administration	<p>Indicators:</p> <p>a. Someone is delegated the responsibility of handling personnel matters.</p> <p>b. Activities of attorneys and support staff are observed and reviewed according to the evaluation criteria established by the office.</p>
Control	<p>Indicators:</p> <p>a. Policies and procedures are reviewed with staff to ascertain equity and non-discrimination.</p> <p>b. Personnel criteria are periodically reviewed to avoid discrimination: from what sources does the defender office seek new staff members; recruitment of experienced staff is attempted; percentage of minority attorneys in the area is determined (Does this compare to percentage in defender office?); resumes are reviewed to ensure that they were not rejected due to race or gender; promotions are reviewed (what jobs opened? Who received promotion?); and, terminations are periodically reviewed with adequate documentation of good cause.</p> <p>c. Personnel criteria are reviewed to ensure freedom from improper judicial and political control, including: Chief Defender recruitment and selection based on non-partisan committee decision; staff is recruited and selected based on merit; and, retention and promotion is based on merit.</p> <p>d. Personnel are evaluated on a continual basis.</p> <p>e. Personnel manual is reviewed and updated as needed.</p> <p>f. Parity of salary with prosecutor office and private criminal counsel is sought.</p>

Function	Management Issue: TRAINING
Planning	<p>Indicators:</p> <ul style="list-style-type: none"> a. Written policies exist concerning the training of attorney and support staff. b. Written policies and procedures exist on: orientation of all personnel; entry-level training of all personnel; on-going training of all personnel; including private criminal attorneys in training efforts; involving other members of criminal justice to both provide and participate in training; attorney and staff provide training to office and others interested groups; and, distribute summaries of new court decisions which pertain to office.
Organization	<p>Indicators:</p> <ul style="list-style-type: none"> a. Positions are defined and designated within an organizational structure to handle training.
Administration	<p>Indicators:</p> <ul style="list-style-type: none"> a. Someone is delegated the responsibility to ensure training is provided. b. Activities of attorneys and support staff are observed and reviewed as to the provision and participation in training courses. c. Authority is further delegated to other individuals to prepare, provide, and review training courses.
Control	<p>Indicators:</p> <ul style="list-style-type: none"> a. New employees are introduced to staff members and appropriate criminal justice personnel. b. New Employees are given an office manual and have their responsibilities explained. c. Training is provided and procedures “walked through.” d. An experienced person observes new employees closely until they are capable of assuming full responsibility. e. Attorneys are observed in court to determine any areas of weakness. Training is planned around these areas. f. Staff meetings encourage discussion of difficult pending cases. Closed cases are examined to see if next effort could be better. g. Support staff is observed in their roles to determine weak areas. Training is planned around these areas. h. Attorneys are required to prepare a topic of interest and chair a discussion on it. i. External seminars are sought which would be of interest and personnel are sent. j. Possibilities for scholarships to seminars are investigated. k. Personnel records are reviewed to ensure all staff members are being provided training. l. Private criminal attorneys are invited to participate in defender training sessions. m. Members of the criminal justice system are invited to appear before defender training sessions. n. Defenders participate in training other members of criminal justice system. o. Training materials are reviewed and updated. p. Feedback from training sessions is requested as to relevance, length of class, and presentation. q. Training is at least comparable to that provided by the prosecutor’s office.

Function	Management Issue: BUDGETING
Planning	<p>Indicators:</p> <ul style="list-style-type: none"> a. The defender office is making efforts to improve budgetary allotments through law reform, litigation, changing scope of contract and/or seeking approval of governing board. b. Written policies exist concerning budget. c. Written budgetary procedures exist on: projecting caseload; projecting of base unit cost; establishing priorities for requested increases; describing expected results; describing services provided, both present and future; fiscal data for each office/location; analyzing data (trend changes, improvements in services, changes in criminal justice system, costs per case, actual cost to estimated cost); accepting or rejecting local politically-based contributions; and, review budget by governing board before submission to funding agency.
Organization	<p>Indicators:</p> <ul style="list-style-type: none"> a. Positions are defined and designated within an organizational structure to handle preparation of budget.
Administration	<p>Indicators:</p> <ul style="list-style-type: none"> a. Someone is delegated the responsibility to ensure budget is properly prepared. b. Activities of budget staff are observed and reviewed to ensure accuracy. c. Input is received from all concerned parties as to budget requirements and priorities. d. Authority is delegated to staff members to prepare budget and to ensure there is backup knowledge in case of illness.
Control	<p>Indicators:</p> <ul style="list-style-type: none"> a. Defender office is expanding its services commensurate with budget appropriations. b. Defender office is providing all requested information for good budget preparation. c. Budget is presented in a clear and interesting manner. d. Federal grants are requested for some "special" programs so that funding agency can see results before approving additional funding. e. An outside accounting agency is asked to review budget for clarity and accuracy. f. Office decisions are made with financial information collected for budget into consideration. g. Budgetary policies and procedures are reviewed and updated on a periodic basis. h. "Backup" budgets are prepared in case initial funding is denied. i. Budget allotments are sufficient to carry out responsibilities of the office. j. Salaries are on parity with the prosecutor's office and other private criminal attorney offices.

Function	Management Issue: ACCOUNTING
Planning	<p>Indicators:</p> <ul style="list-style-type: none"> a. Governing board input is requested on reports produced b. Written policies exist concerning accounting. c. Written procedures exist concerning: financial statements; cash flow reports; budgeting; attorney time reports; case information reports; workload reports; collection of this information; maintenance and preparation of cash receipts, cash disbursements, general journal, payroll, general ledger, and client trust accounts.
Organization	<p>Indicators:</p> <ul style="list-style-type: none"> a. Positions are defined and designated within an organizational structure to handle accounting.
Administration	<p>Indicators:</p> <ul style="list-style-type: none"> a. Someone is delegated the responsibility to ensure accounting procedures are followed. b. Activities of accounting staff are observed and reviewed to ensure accuracy. c. Authority is delegated to other individuals to ensure that each section of accounting is properly prepared and that there is backup knowledge in case of illness.
Control	<p>Indicators:</p> <ul style="list-style-type: none"> a. Outside agency audits office records. b. Attorneys periodically to ensure accuracy review time records and workload reports. c. Allocated figures are reviewed monthly to ensure that office is not over-spending in certain areas. d. Reports are periodically reviewed for accuracy and usefulness. e. Decisions are made based on information reports. f. Requests for accounting information can be provided quickly. g. New reports are designed and circulated to appropriate people to ascertain usefulness. h. An automated data-processing systems person to determine if replacement is appropriate has reviewed accounting procedures. i. Repair contracts are investigated and decided if a money savings based on "normal repair costs." j. Office is on manufacturers' mailing lists for their full line of equipment.