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## Indigent Defense Services in Large Counties, 1999

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Court-appointed legal representation for indigent criminal defendants plays a critical role in the Nation's criminal justice system. In 1999 an estimated \$1.2 billion was spent by indigent criminal defense programs that primarily handled felony cases at the trial level in the 100 most populous counties. These programs received approximately 4.2 million cases.

The Bureau of Justice Statistics, with funding from the Bureau of Justice Assistance, conducted the National Survey of Indigent Defense Systems (NSIDS) in 1999-2000. The survey represents the first systematic study of indigent criminal defense services since the 1980's.<sup>1</sup>

In the 50 counties with comparable data, 1982 expenditures totaled about \$464 million when adjusted for inflation. In 1999 these same 50 counties spent approximately \$877 million on indigent criminal defense services, an increase of 47% from 1982.

This report details the methods by which indigent criminal defense is delivered in the Nation's 100 most populous counties. It also compares

<sup>1</sup>*National Criminal Defense Systems Study*, BJS, September 1986, NCJ 94702, and *Criminal Defense for the Poor, 1986*, BJS Bulletin, September 1988, NCJ 112919.

### Highlights

#### Operating expenditures and cases handled by indigent criminal defense programs in the Nation's 100 most populous counties, 1999

Expenditures and cases (in thousands)	Total	Type of indigent defense service		
		Public defender <sup>a</sup>	Assigned counsel <sup>b</sup>	Contract
Number of counties	100	90	89	42
Total expenditures	\$1,205,136	\$880,920	\$247,204	\$70,012
Median per county	6,941	5,689	2,450	517
Total cases	4,174	3,413	618	143
Median per county	24	20	4	2
Number of programs	314	123	126	65

<sup>a</sup>Expenditure and caseload data include the contract public defender programs in Multnomah County, OR. Caseload data not included for the 4 large counties in Maryland.

<sup>b</sup>Expenditure and caseload data were not available for assigned counsel programs in 19 counties.

- An estimated \$1.2 billion was spent on indigent criminal defense in the Nation's 100 most populous counties during 1999, with about 73% spent by public defender programs, 21% by assigned counsel programs, and about 6% on awarded contracts.
- Indigent criminal defense expenditures in the largest 100 counties comprised 3% of all local criminal justice expenditures and 16% of judicial expenditures in these counties.
- County governments provided 60% and State governments 25% of total funding used by indigent criminal defense service providers.
- Indigent criminal defense providers in the 100 most populous counties received an estimated 4.2 million cases in 1999.
- Public defenders handled about 82% of these 4.2 million cases, assigned counsel attorneys 15%, and contract attorneys about 3%.
- Over 12,700 individuals were employed by public defender programs in the largest 100 counties in 1999. Half of the 123 public defender programs had 33 or more assistant public defenders.
- In 1999, over 30,700 attorneys received appointments through assigned counsel programs to represent indigent defendants. Half of the 126 assigned counsel programs had 109 or more appointments.
- Over 1,000 contracts for indigent defense services were administered in the top 100 counties during 1999.

populous counties. It also compares the operating expenditures, staffing, and caseloads of the different types of indigent defense services used in these counties.<sup>2</sup>

The indigent defense programs examined in this report primarily handled felony criminal cases at the trial level. Some of these programs also had responsibility for misdemeanor, juvenile, civil, and appellate cases. The study was not designed to include programs that exclusively handled misdemeanor, juvenile, civil, or appellate cases.

State governments exclusively funded indigent defense services in 21 States. About a quarter of the largest 100 counties were in the States that totally funded indigent defense services. This report does not provide State-level data.<sup>3</sup>

## Background

### *The legal mandate*

The sixth amendment to the U.S. Constitution establishes the right to counsel in Federal criminal prosecution. Through a series of landmark cases, the U.S. Supreme Court extended the right to counsel for indigent defendants to State criminal prosecution. In 1963 the Court held in *Gideon v. Wainwright* that indigent persons facing felony charges must be provided with legal counsel.<sup>4</sup> Nine years later in *Argersinger v. Hamlin* the Court extended a defendant's right to counsel to all criminal prosecutions, felony or misdemeanor, that carry a sentence of imprisonment.<sup>5</sup>

<sup>2</sup>For information on the characteristics of the defense counsel received by defendants see *Defense Counsel in Criminal Cases*, BJS Special Report, November 2000, NCJ 179023.

<sup>3</sup>For more information on statewide systems see *Improving Criminal Justice Systems Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense*, Office of Justice Programs, March 2000, NCJ 181344, and *National Criminal Defense Systems Study*, BJS, September 1986, NCJ 94702, table 19.

<sup>4</sup>*Gideon v. Wainwright* 372 U.S. 335 (1963).

<sup>5</sup>*Argersinger v. Hamlin* 407 U.S. 25 (1972).

### *Types of indigent defense services*

Although the U.S. Supreme Court has mandated States and localities to provide counsel for indigents accused of crimes, the implementation of how such services are to be provided has not been specified. As a consequence, States and localities have devised various systems, rules for organizing, and funding mechanisms for indigent defense services.

Three primary ways of providing indigent defense services have emerged throughout the Nation. States and localities use these methods of delivering indigent defense services either singly or in combination. The following categories are used to help describe indigent criminal defense services in this report. Local programs may use different terminology.

**Public defender** — A salaried staff of full-time or part-time attorneys that render criminal indigent defense services through a public or private nonprofit organization, or as direct government paid employees.

**Assigned counsel** — The appointment from a list of private bar members who accept cases on a judge-by-judge, court-by-court, or case-by-case basis. This may include an administrative component and a set of rules and guidelines governing the appointment and processing of cases handled by the private bar members.

**Contract** — Non-salaried individual private attorneys, bar associations, law firms, consortiums or groups of attorneys, or nonprofit corporations that contract with a funding source to provide court-appointed representation in a jurisdiction. This does not include public defender programs primarily funded by an awarded contract.

### **Indigent criminal defense in the Nation's 100 largest counties**

Among the Nation's 100 largest counties, public defender programs including those primarily funded by an awarded contract operated in every county except eight. Assigned counsel programs were available in 89 counties and contract programs in 42 (table 1). In most counties (95) more than one type of indigent criminal defense services was available (see appendix table).

### *County operating expenditures and funding sources*

During 1999 the Nation's 100 most populous counties spent an estimated \$1.2 billion to deliver indigent criminal defense.<sup>6</sup> Half of these counties reported nearly \$7 million or more in operating expenditures (table 2).

<sup>6</sup>In 1990 all States and U.S. localities spent \$1.3 billion (unadjusted for inflation) on criminal and civil public defense. See *Indigent Defense*, BJS Selected Findings, February 1996, NCJ 158909.

### **The Nation's 100 largest counties**

- Of the approximately 3,100 counties or independent cities, the most populous 100 counties comprised 42% of the 1999 U.S. population.<sup>a</sup>
- Of the 36 million Americans that lived below the poverty level in 1995, 44% resided in the Nation's largest 100 counties.<sup>b</sup>
- A majority of all arrests for Part I crimes (52%) and violent crimes (55%) during 1997 occurred in the largest 100 counties.<sup>c</sup>

<sup>a</sup>1999 population estimates for the United States and for each county came from Census Bureau websites, <http://www.census.gov/population/www/estimates/countyestimates.html> and <http://www.census.gov/population/www/estimates/ustpop.html>.

<sup>b</sup>The latest poverty estimates came from the Census Bureau website <http://www.census.gov/hhes/www/saife/stcty/estimate.html>.

<sup>c</sup>Arrests by county were taken from U.S. Department of Justice, Federal Bureau of Investigation. *Uniform Crime Reporting Program Data [United States]: County-Level Detailed Arrest and Offense Data, 1997 [computer file]*. ICPSR, ed. Ann Arbor, MI: Inter-university Consortium for Political and Social Research. Arrest data by county were not available for four counties in Florida and the District of Columbia.

**Table 1. Types of indigent criminal defense services in the Nation's 100 largest counties, 1999**

Type of indigent defense services	Number of counties
Total	100
Public defender	90
Assigned counsel	89
Contract	42*

Note: Detail may not sum to total because a county may have 1 or more service types available.

\*Includes 2 counties with public defender programs primarily funded by awarded contract.

County governments funded all of the indigent defense services in 24 counties and 75% or more of those services in another 25.

State governments also were an important source of funding, providing 100%

**State court prosecutor budgets and indigent criminal defense expenditures**

Prosecutorial budget information for 81 of the counties surveyed in NSIDS was available from the BJS 1996 National Survey of Prosecutors (NSP). In 1999 these 81 counties spent \$1.1 billion on indigent criminal defense services. When adjusted for inflation, State court prosecutors' offices in these same counties reported estimated budgets totaling \$1.9 billion.\*

\*Some categories of expenses are typically borne by indigent defense but not necessarily by local prosecution agencies, thus hindering direct comparisons (e.g., expenditures of prosecutors' offices may not include investigative resources provided by law enforcement agencies, forensic laboratory work or expert witnesses, office space or technology, and training). These data assume no programmatic increases and an inflation rate of 6.2% between 1996 and 1999 for prosecution budgets.

NSIDS 1999 survey question: What amount out of [total operating expenditures] was spent to provide different types of criminal defense services [public defender, assigned counsel, and contract program]?

NSP 1996 survey question: What was the total budget of the office for prosecutorial functions in 1996?

For more information about prosecutors in State courts, see *Prosecutors in State Courts, 1996*, BJS Bulletin, July 1998, NCJ 170092.

of indigent criminal defense expenditures in 8 counties and 75% or more in 23 counties. Three counties were funded primarily through city governments and one — the District of Columbia — entirely through the Federal Government.

Total operating expenditures of 100 largest counties (in thousands) \$1,205,136

Percent of total expenditures provided by —	100 %
State	25.3
County	59.8
City	9.0
Federal	2.5
Other	3.4

Note: County governments provided 60% and State governments 25% of total funding used by indigent criminal defense providers. The remaining 15% was provided by city governments (9%), the Federal Government (3%), and other sources of funding (3%).

*County staffing, attorney appointments, and contracts*

In counties with public defender programs, over 12,700 staff members were employed during 1999. The median per county was 92 staff members. Assistant public defenders made up about half of all public

**Table 2. Operating expenditures for delivering indigent criminal defense in the Nation's 100 largest counties, 1999**

Operating expenditures (in thousands)	Top 100 counties
Total	\$1,205,136
Median	6,941
Minimum	1,700
Maximum	129,556
Number of counties all funded by: <sup>a</sup>	
State	8
County	24
Federal	1
Other	1
Number of counties primarily funded by: <sup>b</sup>	
State	23
County	25
City	3
Mixed funding source	15

Note: Expenditures data were not available for assigned counsel programs in 19 counties.

<sup>a</sup>County received 100% funding from source.  
<sup>b</sup>County received 75% to 99.9% funding from source.

**Local government criminal justice expenditures**

• Local criminal justice expenditures in the United States were estimated at over \$65 billion in 1999. More than half (58%) of these expenditures occurred in the largest 100 counties.

• Indigent criminal defense expenditures in the largest 100 counties comprised 3% of all local criminal justice expenditures and 16% of judicial expenditures in these counties.

1997 direct expenditures by local governments in 1999 dollars<sup>a</sup> (in thousands)

	Entire United States	Largest 100 counties
Total	\$65,467,412	\$38,209,104
Police <sup>b</sup>	\$40,255,402	\$23,333,254
Judicial <sup>c</sup>	\$12,800,309	\$7,521,505
Corrections <sup>d</sup>	\$12,411,701	\$7,354,346

Note: 1997 expenditure data are adjusted for inflation and presented in 1999 dollars. Total expenditure includes police, judicial, and corrections expenditures. Total U.S. police expenditures are based on reporting of 20,104 government units; U.S. judicial expenditures on 13,633 government units; and U.S. corrections expenditures on 3,365 government units. Total police expenditures for 100 largest counties are based on reporting of 97 counties; judicial expenditures on 97 counties; and corrections expenditures on 91 counties. Data were not adjusted for nonresponse.

<sup>a</sup>Expenditures include all funds spent by county and city governments but exclude intergovernmental expenditures.

<sup>b</sup>Police expenditures include State police, local police, and county sheriff.

<sup>c</sup>Judicial expenditures include criminal and civil public defense, prosecutor, and court expenditures.

<sup>d</sup>Correction expenditures include jail, prison, probation, and parole expenditures.

Source: U.S. Bureau of the Census, 1997 Census of Local Governments.

**Table 3. Staffing, appointments, and contracts in the Nation's 100 largest counties, 1999**

	Number of staff, appointments, and contracts in 100 counties		
	Total	Median	Mean
Public defender staffing <sup>a</sup>			
Total	12,791	92	141
Assistant public defenders	6,364	45	70
Investigators	1,267	10	14
Support staff	2,789	19	31
Assigned counsel private attorney appointments <sup>b</sup>	30,751	210	439
Contracts administered <sup>c</sup>	1,054	6	25

<sup>a</sup>Includes data for 90 counties with public defender programs and contract public defender programs in Multnomah County, OR.  
<sup>b</sup>Does not include data for assigned counsel programs in 19 counties.  
<sup>c</sup>Includes data for 42 counties with contract attorney programs.

defender staff, averaging about 70 per county. In addition, half of the counties had 10 or more investigators and 19 or more support staff (table 3).

An estimated 30,751 attorneys were appointed to represent indigent criminal defendants in counties that delivered criminal indigent defense all or in part through assigned counsel services. In half of the 70 counties that provided data, assigned counsel programs appointed 210 or more attorneys.

Among the 42 counties with contract services, 1,054 contracts were administered in 1999. Half of these 42 counties administered 6 or more contracts.

*County caseloads*

In 1999 indigent criminal defense programs in the 100 largest counties received 4.2 million cases (see *Methodology*, page 6). Half of these counties handled an estimated 23,873 or more cases. The average number of cases per county was 43,480 (table 4).

**Table 4. Caseload for indigent criminal defense services in the Nation's 100 largest counties, 1999**

Type of case	Number of cases in 100 counties		
	Total	Median	Mean
Total	4,174,079	23,872	43,480
Criminal <sup>a</sup>	3,357,336	20,273	34,972
Juvenile related <sup>b</sup>	381,178	2,752	3,971
Civil <sup>c</sup>	87,258	359	909
Other <sup>d</sup>	344,678	17	3,590

Note: Caseload information is based on 96 counties. Caseload data were not available for assigned counsel programs in 19 counties. Data were not provided and could not be estimated for the four most populous counties in Maryland.

<sup>a</sup>Includes felony capital, felony noncapital, misdemeanors that carry a jail sentence, ordinance infractions, appeals, probation revocations, and parole revocations.

<sup>b</sup>Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in adult criminal court, juvenile status offense, and juvenile transfer hearings.

<sup>c</sup>Includes mental commitment, State post-conviction habeas corpus, and Federal habeas corpus.

<sup>d</sup>Includes juvenile dependency, abuse and neglect, paternity, guardianship, contempt, traffic, special proceedings, and other case types.

Half of the counties received 20,273 or more criminal cases during 1999. The average county in the largest 100 handled nearly 35,000 indigent criminal cases, nearly 4,000 juvenile cases, about 909 civil cases, and 3,590 other types of indigent criminal cases (juvenile dependency, abuse and neglect, and contempt cases).

**Public defender, assigned counsel, and contract programs in the Nation's 100 largest counties**

Over 300 indigent criminal defense programs were identified in the Nation's 100 largest counties. About 40% were assigned counsel programs, 39% public defender programs, and 21% contract attorney programs (table 5).

About 52% of all the identified indigent criminal defense programs indicated that all their funding came from the county government, 11% all from state government, 4% all from city government, and 33% from mixed sources (not shown in a table).

*Public defender program expenditures*

Public defender programs spent an estimated \$881 million, or about 73% of the \$1.2 billion expended on criminal indigent defense in the largest 100 counties. Half of the 123 public defender programs spent \$4.5 million or more to provide services.

Eighty percent or more of the public defender programs indicated their expenditures included funding for expert, investigator, interpreter, and transcript services. Public defender programs were more likely than either assigned counsel or contract programs to have expenditures for interpreters and transcript services. Fifty percent of the public defender programs reported funding for social services, over twice the percentage for assigned counsel (21%) and contract programs (19%) (table 6).

*Assigned counsel program expenditures*

In 1999 assigned counsel programs in the largest 100 counties spent an estimated \$247 million to provide indigent criminal defense. The median amount expended by the 126 assigned counsel programs for which data were obtained was \$538,000. Expenditures for expert and investigative services were reported by 80% or more of the

**Table 5. Types of indigent criminal defense programs in the Nation's 100 largest counties, 1999**

Type of indigent defense programs	Number
Total programs	314
Public defender <sup>a</sup>	123
Assigned counsel <sup>b</sup>	126
Contract	65

Note: Several of the returned surveys contained information for more than one program and the respondent was not able to break out the information for the individual programs. Consequently, the number of identified programs is an underestimate of the actual number criminal indigent defense programs in the Nation's 100 largest counties.

<sup>a</sup>Twenty-nine of the 123 programs indicated that they were primarily funded by an awarded contract.

<sup>b</sup>Data do not include assigned counsel programs in 19 counties.

assigned counsel programs, for interpreter and transcript services by 60% or more, and expenditures for social services by 21%.

### Contract program expenditures

Contracts awarded to provide indigent criminal defense services in the largest 100 counties totaled an estimated \$77 million in 1999. Half of the 65 contract programs expended \$319,000 or more. Eighty-one percent of the contract programs reported that the contract they administered did not have funds for social services. Expenditures for interpreter (54%) and transcript services (51%) were reported by more than half of the contract programs. Most of the contract programs reported funding for expert (85%) and investigator services (96%).

### Program caseload

Indigent criminal defense programs in the most populous 100 counties received an estimated 4.2 million cases in 1999 (table 7). About 80% of the cases were criminal cases that included felony capital or death penalty cases, felony non-capital cases,

**Table 6. Estimated total operating expenditures and services in programs that provide indigent criminal defense in the Nation's 100 largest counties, 1999**

Operating expenditures	Total programs	Type of program		
		Public defender	Assigned counsel	Contract
Number of programs	314	123	126	65
Operating expenditures (in thousands)				
Total	\$1,205,136	\$880,920	\$247,204	\$77,012
Median	1,500	4,536	538	319
Mean	3,850	7,221	1,962	1,185
Minimum	<1	100	<1	8
Maximum	94,400	94,400	13,143	9,000
Percent of programs where operating expenditures include:				
Expert services	81.1%	84.6%	83.3%	84.6%
Investigator services	92.9	95.9	90.5	95.4
Interpreter services	70.2	80.5	68.3	53.8
Transcript services	65.1	81.3	60.3	50.8
Social services	34.0	49.6	21.4	18.5

Note: Data were not available for assigned counsel programs in 19 counties. Total expenditure information was estimated for 47 of the 123 public defender programs, 54 of the 126 assigned counsel programs and 24 of the 65 contract programs. Funding for expert services were estimated for 12 public defender programs, 41 assigned counsel programs, and 14 contract programs. Funding for investigator services was estimated for 12 public defender programs, 40 assigned counsel programs, and 14 contract programs. Funding for interpreter services was estimated for 14 public defender programs, 40 assigned counsel programs, and 14 contract programs. Funding for transcript services was estimated for 12 public defender programs, 41 assigned counsel programs, and 14 contract programs. Funding for social services was estimated for 14 public defender programs, 44 assigned counsel programs, and 16 contract programs. Detail may not sum to total due to rounding. Data rounded to nearest thousand. In Orange County, CA, expenditure information for the public defender conflict and specialty programs is included in the expenditure information provided by the primary public defender program.

**Table 7. Estimated number of cases received by 314 identified indigent criminal defense programs in the Nation's 100 largest counties, 1999**

Type of case	Total programs			Public defender			Assigned counsel			Contract		
	Total	Median	Mean	Total	Median	Mean	Total	Median	Mean	Total	Median	Mean
Number of programs	314			123			126			65		
Total cases	4,174,079	2,351	13,508	3,412,487	13,654	28,919	618,465	1,072	4,908	143,127	993	2,202
Criminal <sup>a</sup>	3,357,336	1,564	10,865	2,742,567	12,504	23,242	522,988	1,007	4,151	91,781	500	1,412
Juvenile related <sup>b</sup>	381,178	5	1,234	277,995	1,188	2,356	61,381	0	487	41,802	0	643
Civil <sup>c</sup>	87,258	0	283	78,343	12	664	6,755	0	54	2,160	0	33
Other <sup>d</sup>	344,678	0	1,115	313,579	0	2,657	24,012	0	191	7,087	0	109

Note: Caseload information for programs in the four most populous counties in Maryland was not provided and could not be estimated. Data were not available for assigned counsel programs in 19 counties. The number of total cases was estimated for 50 of the 123 public defender programs, criminal cases for 51, juvenile cases for 53, civil cases for 49, and other cases for 48 programs. The number of total cases was estimated for 63 of the 126 assigned counsel programs, criminal cases for 84, juvenile cases for 85, civil cases for 62, and other cases for 59 programs. The number of total cases was estimated for 31 of the 65 contract programs, criminal cases for 37, juvenile cases for 35, civil cases for 18, and other cases for 17 programs. Detail may not sum to total within program type because some programs only could provide total case information and were not able to break out the information by case category. In most instances, main caseload categories were able to be estimated from the total case information provided. However, for one respondent in Bucks County, PA, and one in Franklin County, OH, the main caseload categories were not able to be estimated from the total case information provided. Respondent programs counted cases in different ways. No attempt was made to standardize case counts. For Marion County, IN, contract caseload information is included with the public defender caseload information. For Pierce County, WA, assigned counsel caseload information is included with the public defender caseload information. For 11 respondents in Harris County, TX, contract caseload information is included with the assigned counsel caseload information. In Orange County, CA, caseload information for the public defender conflict and specialty programs is included in the caseload information provided by the primary public defender program.

<sup>a</sup>Includes felony capital, felony non-capital, misdemeanors that carry a jail sentence, ordinance infraction, appeal, probation, and revocation cases.

<sup>b</sup>Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in adult criminal court, juvenile status offense, and juvenile transfer hearings.

<sup>c</sup>Includes mental commitment, State post-conviction habeas corpus, and Federal habeas corpus.

<sup>d</sup>Includes juvenile dependency, abuse and neglect, paternity, guardianship, contempt, traffic, special proceedings, and other case types.

**Table 8. Public defender program staffing, assigned counsel appointments, and contracts in the Nation's 100 largest counties, 1999**

Type of program	Number of staff, appointments, and contracts		
	Total	Median	Mean
Public defender staffing			
Total	12,791	80	105
Chief public defender <sup>a</sup>	83	1	1
Assistant public defender <sup>b</sup>	6,364	33	52
Supervisory attorneys <sup>c</sup>	681	4	6
Managers <sup>d</sup>	292	1	2
Investigators <sup>e</sup>	1,267	6	10
Social workers	314	1	3
Paralegals	395	1	3
Indigency screeners	64	0	1
Support staff <sup>f</sup>	2,789	14	23
Other	542	0	4
Assigned counsel private attorney appointments	30,751	109	244
Contracts administered	1,054	1	16

Note: Data were not available for assigned counsel programs in 19 counties. There are 123 public defender programs in the top 100 counties, 126 assigned counsel programs, and 65 contract programs. Detail may not sum to total due to rounding. The number of chief public defenders was estimated for 50 public defender programs, assistant public defenders for 50, supervisory attorneys for 51, managers for 52, investigators for 52, social workers for 52, paralegals for 52, indigency screeners for 52, support staff for 51, and other staff for 55 programs. The number of assigned counsel appointments was estimated for 74 assigned counsel programs. The number of contracts administered was estimated for 31 of the contract programs. In Orange County, CA, staffing information for the public defender conflict and specialty programs is included in the staffing information provided by the primary public defender program.

<sup>a</sup>The term chief public defender was not defined on the program survey and may represent different meanings across programs. Some of the public defender programs in the study are located in statewide systems with one statewide chief public defender. In other programs the person in charge is called something other than chief public defender.

<sup>b</sup>Any employee of the public defender program licensed to practice law or who has applied for admission to the bar, and who primarily litigates cases. Excludes attorneys in non-litigating positions.

<sup>c</sup>Attorneys in managerial positions who litigate cases.

<sup>d</sup>Attorneys or non-attorneys in primarily managerial positions who do not litigate cases.

<sup>e</sup>Includes investigators on contract.

<sup>f</sup>Administrative staff, clerical staff, computer personnel, fiscal officers, and training directors.

misdemeanors that carry a jail sentence, ordinance infractions, appeals, probation, and parole revocations. Juvenile-related cases accounted for about 9% of the total. Civil cases such as mental commitment, State post-conviction habeas corpus, and Federal habeas corpus comprised approximately 2% of all cases. An estimated 8% were other types of cases such as juvenile dependency, abuse and neglect, and contempt cases. Half of the 314 identified indigent criminal defense programs received 2,351 or more cases.

*Public defender program caseload*

Public defender programs handled 82% of the 4.2 million cases with indigent defendants. In 1999 public defender programs in the largest 100 counties received over 2.7 million criminal cases, 277,000 juvenile cases, 78,000 civil cases, and 314,000 other types cases.

In terms of their total caseload, public defender programs (9%) were more likely to receive other types of cases than either assigned counsel programs (4%) or contract attorneys (5%). Half of the 123 public defender programs received 12,504 or more criminal cases and 1,188 or more juvenile-related cases.

*Assigned counsel program caseload*

About 618,000 cases were received by assigned counsel programs. Approximately 85% of these cases dealt with criminal matters, 10% with juvenile-related matters, 1% with civil matters, and 4% with other types of matters. The median number of criminal cases handled by assigned counsel programs was 1,007. Half of the assigned counsel programs received no juvenile, civil, or other types of cases during 1999.

*Contract program caseload*

Contract attorneys handled approximately 143,000 cases in 1999, of which almost two-thirds (64%) were criminal cases. As a percentage of their total caseload, contract attorneys were more likely than public defender or assigned counsel programs to receive juvenile cases. Approximately 29% of the caseload received by contract attorneys dealt with juvenile-related cases compared to 10% for assigned counsel programs and 8% for public defender programs.

*Public defender program staffing*

In 1999 public defender programs in the largest 100 counties employed almost 12,800 individuals (table 8). The median total staff size was 80.

Approximately 6,400 assistant public defenders were employed by public defender programs and comprised half of all staff employed by these programs. The median number of assistant public defenders was 33. About 4% of all assistant public defenders were employed on a part-time basis.

About a quarter of those employed by public defender programs were support staff. Half of the public defender programs had 14 or more support staff. Public defender programs in the most populous 100 counties employed approximately 1,267 investigators in 1999. Half of the programs had six or more investigators on staff. Staffing of the public defenders programs also included 314 social workers and 395 paralegals.

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### *Assigned counsel private attorney appointments*

Assigned counsel programs appointed an estimated 30,751 private attorneys to represent indigent criminal defendants in 1999. Half of the assigned counsel programs had 109 or more private attorney appointments. The largest number of appointments reported by any program was 1,782 private attorneys.

### *Contracts administered*

Approximately 1,054 contracts were administered by the 65 contract programs. The median number of contracts administered was one. The largest number of contracts administered by one program was 245.

## **Methodology**

### *Respondent selection*

The universe for this study consisted of indigent criminal defense programs that handled felony cases at the trial level in the 100 most populous counties in the United States. These counties were selected with certainty from a list of approximately 3,100 counties and independent cities in the United States ranked according to 1997 intercensal population estimates.

Once the 100 largest counties were selected, the indigent criminal defense programs and county officials in these counties were identified.

### *County and program surveys*

Data were collected through two surveys. The county survey, which consisted of 16 questions, was used to gather expenditure information and to assist in identifying indigent criminal defense programs operating in the county. The program survey was sent to the identified program respondents to collect specific information about expenditures, staffing, caseloads, policies and practices of public defender, assigned counsel, and contract defender programs within the counties, and to identify any additional programs.

The program survey consisted of 141 questions divided into major sections. The 58 questions in Part A asked about program expenditures and other areas such as indigency determination, cost recovery, standards and guidelines, training, and computer resources; the 27 questions in Part B asked for information about public defender programs such as staffing, caseload, and conflicts; the 26 questions in Part C asked for information about assigned counsel programs such as program administration, caseload, and assigned counsel compensation; the 25 questions in Part D asked for information related to contract programs such as contract administration, awards and monitoring, caseload and contract attorney compensation; and the 5 questions in Part E asked for information about additional programs in the county other than the respondent's.

All program respondents were required to complete Parts A and E, and Part B, C, or D according to their program type. Most respondents, therefore, needed to answer only the survey parts that were relevant to their type of program. Both survey instruments are available on the BJS website at <http://www.ojp.usdoj.gov/bjs>.

A review of a compilation of existing information determined that 28 of the most populous 100 counties were entirely funded by State governments and 72 all or in part by county governments.

County surveys were mailed to counties that provided partial or all county funding for indigent criminal defense programs. For counties located in States that totally fund indigent criminal defense services, only a program survey was sent.

### *Data collection and follow-up*

The data collection for the study was conducted by the National Opinion Research Center (NORC). In August 1999, NORC mailed the county and program surveys to identified respondents. For the 28 counties totally State funded, program surveys were sent directly to the State and in a few cases

directly to the program as well. If State agencies could only provide data for the entire State, apportionment was used to produce county-level information. Estimated county-level data were provided by only three States: North Carolina, Virginia, and Wisconsin.

For the remaining 72 counties, both county and program surveys were mailed to appropriate officials. In some instances, multiple mailings were required to different county offices in the same jurisdiction or to multiple offices for the same indigent criminal defense program because different types of cases (non-capital felony, misdemeanors, and juvenile delinquency) were handled by different units or branches of a program. In January to May 2000 the additional indigent criminal defense programs identified by the county or program survey were mailed a program survey. In total 78 county surveys and 345 program surveys were mailed.

After the initial mailing, NORC engaged in extensive follow up to obtain a returned survey from each county and program survey respondent. For the program survey, critical information, included the type of program, expenditures, staffing, and caseload. The follow up process involved phone calls, e-mail communication, re-mailing questionnaires, faxing or re-mailing only the critical items, and sending follow-up letters. Staff of the National Legal Aid and Defender Association and the State coordinators for the study also assisted NORC by providing additional follow up. Both efforts contributed to improving survey response.

Each completed survey in the NSIDS study also required a unique follow up procedure to clarify discrepancies with county-level information, discrepancies and duplication of data in programs within counties, and to retrieve missing critical items. Follow up with survey respondents continued until July 2000. An estimated 5,000 phone calls were logged for non-response follow-up and respondent verification.

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## *Survey response*

Among the 78 county surveys mailed, 4 were determined to be duplicates and 5 were determined to be ineligible, leaving 69 surveys eligible for the study. Of the eligible surveys, 4 were not returned and 65 were completed for a response rate of 94%.

For the program survey, 345 surveys were mailed to either individual indigent criminal defense programs or State agencies for programs located in counties with all State funding. Of the 345 program surveys, 36 were determined to contain duplicate information already provided on another program survey and 48 were determined to be ineligible because the program exclusively handled juvenile-related, misdemeanor, or appellate cases.

Eighteen known programs did not return the program survey. These include one program in each of the following counties: Cook County, IL; Kent, MI; Oakland, MI; Nassau County, NY; Westchester County, NY; Montgomery County, OH; Bexar County, TX; El Paso County, TX; two programs in Erie County, NY; and eight programs in Tarrant County, TX.

The Maryland State Public Defender Program did not provide any information for their four jurisdictions (Baltimore County, Baltimore City, Montgomery County, and Prince George's County) in this study. Some information for the public defender program (e.g., expenditures and staffing) was taken from statistics available from their website. No information was available for the assigned counsel program. For nine programs in Riverside, CA, expenditures, funding source, and program type was obtained from the county.

In fifteen counties (Hillsborough County, FL; Honolulu County, HI; Jefferson County, KY; Hennepin County, MN; Bergen County, NJ; Essex County, NJ; Hudson County, NJ; Middlesex County, NJ; Monmouth County, NJ; Tulsa County, OK; Multnomah County, OR; Allegheny County, PA; Davidson County, TN; Shelby County, TN; and Salt Lake County, UT) information was received for the public

defender or contract program identified within the county but not for the assigned counsel program.

Of the returned program surveys, 23 contained information either for an entire State or a multi-jurisdictional program. The data in these 23 surveys were apportioned to the individual counties or jurisdictions within the State based on 1990 Census population data. The 23 source surveys were then deleted from the final program data file leaving 220 returned surveys, for a response rate of 92% of the 238 eligible surveys.

Since there is no complete roster of indigent criminal defense providers in the largest 100 counties the actual number of programs is not known.

### *Data used for this report*

All information provided in this report came from data taken from the program surveys. A comparison between expenditure information reported on the county survey and the program survey revealed discrepancies in many counties between the information provided on the two surveys. This discrepancy was due in part to the fact that many programs received more than just county funding. Therefore expenditure data from the program surveys were used because they provided a more accurate accounting of what the programs actually spent in providing indigent criminal defense.

The data for the 18 non-respondents to the program survey were imputed for all critical items, and then added to the program data file.

The final program data file contained 238 surveys records, but accounted for 314 indigent criminal defense programs since some respondents (55 of the 238) provided information for more than one type of program.

On 12 surveys, a juvenile or misdemeanor program was indicated but it could not be determined if these were separate programs or components of larger programs. Due to the ambiguity, these programs were left in the program data file.

While the NSIDS program survey contained many data elements, program type, expenditures, public staffing, assigned counsel attorney appointments, number of contracts administered, and caseload were presented for this report.

NORC was instructed that if a respondent refused to complete the entire survey they should at a minimum try to obtain data from respondents for these critical items. Many program respondents only provided the critical items. Even with targeting these variables, there was still a substantial amount of missing data (see notes on tables 7, 8, and 9). Since most of the critical items were interval level data NORC was able to impute these data through various techniques for missing responses.

### *Caseload data*

The 4.2 million cases received by indigent criminal defense programs in the largest 100 counties is an underestimate of the total number of indigent cases handled in these counties. During the process of compiling the respondent list for the present study, many indigent defense programs that exclusively handled misdemeanor, juvenile-related, or appellate cases were identified but were deemed out of scope for the study.

In addition no caseload data were obtained for the four most populous counties in Maryland and for assigned counsel programs in 19 counties. If the specialized programs and these additional programs had been included, the estimate for the total number of cases received would have been higher.

### *Data imputation for critical items in program survey*

If a program in the most populous 100 counties was known to be missing, NORC logically imputed as much critical information as possible based on information gathered in follow-up telephone calls and questionnaires from related counties and programs.

NORC used several different techniques to impute data for selected



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missing individual survey items (type of program, expenditures, staffing, and caseload). Some items were imputed by hot deck methods in which a value is copied or adapted from a donor case having similar values of related variables. Some items were imputed using a statistical model of relationships among variables. The goal was to create a program data file with complete information on critical items, where the imputed values were plausible given the data relationships among the unimputed data. An indicator variable was added to the file for each critical item. The values of these companion variables indicated whether the critical item was imputed, and if so, by what method. A detailed memorandum describing the imputation process will be archived with the public use dataset.

*Data allocation for surveys completed by state agencies and multi-jurisdiction programs*

Some states operate a single indigent defense program covering most or all counties in the state. If the State agency completed one single program questionnaire for the entire State, NORC allocated the statewide data to the counties in that State by prorating the quantitative variables in proportion to 1990 census population. Multi-county programs for which a single program questionnaire was received were allocated to their respective counties in the same way. BJS staff deleted the State and multi-jurisdictional source surveys from the final program data file to avoid duplication of information.

**Appendix table. Types of indigent criminal defense services in the Nation's 100 largest counties in 1999**

County/State	Total 1999 population	Public defender services	Assigned counsel services	Contract services	County/State	Total 1999 population	Public defender services	Assigned counsel services	Contract services
Los Angeles, CA	9,329,989	■	■	■	Orange, FL	817,206	■	■	■
Cook, IL	5,192,326	■	■	■	Marion, IN	810,946	■	■	■
Harris, TX	3,250,404	■	■	■	Pima, AZ	803,618	■	■	■
Maricopa, AZ	2,861,395	■	■	■	New Haven, CT	793,208	■	■	■
San Diego, CA	2,820,844	■	■	■	Macomb, MI	792,082	■	■	■
Orange, CA	2,760,948	■	■	■	Prince George's, MD	781,781	■	■	■
Kings, NY	2,268,297	■	■	■	Fresno, CA	763,069	■	■	■
Dade, FL	2,175,634	■	■	■	Essex, NJ	747,355	■	■	■
Wayne, MI	2,106,495	■	■	■	San Francisco, CA	746,777	■	■	■
Dallas, TX	2,062,100	■	■	■	Ventura, CA	745,063	■	■	■
Queens, NY	2,000,642	■	■	■	Fulton, GA	744,827	■	■	■
San Bernardino, CA	1,669,934	■	■	■	Worcester, MA	738,629	■	■	■
King, WA	1,664,846	■	■	■	Duval, FL	738,483	■	■	■
Santa Clara, CA	1,647,419	■	■	■	Travis, TX	727,022	■	■	■
New York, NY	1,551,844	■	■	■	Montgomery, PA	724,087	■	■	■
Broward, FL	1,535,468	■	■	■	Baltimore, MD	723,914	■	■	■
Riverside, CA	1,530,653	■	■	■	Middlesex, NJ	717,949	■	■	■
Middlesex, MA	1,426,606	■	■	■	Monroe, NY	712,419	■	■	■
Philadelphia, PA	1,417,601	■	■	■	Essex, MA	704,407	■	■	■
Alameda, CA	1,415,582	■	■	■	San Mateo, CA	702,102	■	■	■
Suffolk, NY	1,383,847	■	■	■	El Paso, TX	701,908	■	■	■
Tarrant, TX <sup>a</sup>	1,382,442	■	■	■	Pierce, WA	688,807	■	■	■
Bexar, TX	1,372,867	■	■	■	Jefferson, KY	672,900	■	■	■
Cuyahoga, OH	1,371,717	■	■	■	Jefferson, AL <sup>b</sup>	657,422	■	■	■
Nassau, NY	1,305,057	■	■	■	Jackson, MO	654,484	■	■	■
Allegheny, PA	1,256,806	■	■	■	Mecklenburg, NC	648,400	■	■	■
Clark, NV	1,217,155	■	■	■	Norfolk, VA	643,580	■	■	■
Bronx, NY	1,194,099	■	■	■	Kern, CA	642,495	■	■	■
Sacramento, CA	1,184,586	■	■	■	Suffolk, MA	641,695	■	■	■
Oakland, MI	1,179,978	■	■	■	Oklahoma, OK	636,539	■	■	■
Hennepin, MN	1,064,419	■	■	■	Multnomah, OR <sup>b</sup>	633,224	■	■	■
Palm Beach, FL	1,049,420	■	■	■	Baltimore City, MD	632,681	■	■	■
Franklin, OH	1,027,821	■	■	■	Lake, IL	617,975	■	■	■
St. Louis, MO	996,181	■	■	■	Monmouth, NJ	611,444	■	■	■
Fairfax, VA	945,717	■	■	■	DeKalb, GA	596,853	■	■	■
Hillsborough, FL	940,484	■	■	■	Snohomish, WA	596,598	■	■	■
Contra Costa, CA	933,141	■	■	■	Bucks, PA	594,047	■	■	■
Erie, NY	925,957	■	■	■	Wake, NC	586,940	■	■	■
Milwaukee, WI	906,248	■	■	■	Cobb, GA	583,541	■	■	■
Westchester, NY	905,572	■	■	■	Providence, RI	574,108	■	■	■
DuPage, IL	892,547	■	■	■	Montgomery, OH	565,866	■	■	■
Pinellas, FL	878,499	■	■	■	San Joaquin, CA	563,183	■	■	■
Shelby, TN	873,000	■	■	■	Hudson, NJ	552,819	■	■	■
Honolulu, HI	864,571	■	■	■	Kent, MI	550,388	■	■	■
Bergen, NJ	857,052	■	■	■	Tulsa, OK	548,296	■	■	■
Montgomery, MD	852,174	■	■	■	Delaware, PA	541,502	■	■	■
Salt Lake, UT	850,243	■	■	■	Summit, OH	537,856	■	■	■
Fairfield, CT	841,334	■	■	■	Davidson, TN	530,050	■	■	■
Hamilton, OH	840,443	■	■	■	Bernalillo, NM	523,472	■	■	■
Hartford, CT	829,671	■	■	■	District of Columbia	519,000	■	■	■

Note: Categories were assembled for illustrative purposes. Local indigent criminal defense providers may use different categories.

<sup>a</sup>The small public defender program identified in Tarrant County during the 1982 BJS study was not located in this 1999 study.

<sup>b</sup>Includes a public defender program primarily funded by an awarded contract.

Source: 1999 population estimates for each county came from the Census Bureau website, <http://www.census.gov/population/www/estimates/countytop.html>.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jan M. Chaiken, Ph.D., is director.

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Carol J. DeFrances and Marika F.X. Litras wrote this report. At BJS Greg W. Steadman provided statistical review; Devon B. Adams, Todd D. Minton, and Donna D. Oliphant provided assistance in compiling the respondent lists; and Steven K. Smith provided overall guidance for the project.

Data collection was performed by the National Opinion Research Center (NORC); Natalie Suter was the project director. At NORC, project staff included Rachel Harter, Angela Herrmann, Irv Horwitz, Kymm Kochanek, Jayan Moolayil, Gloria Rauens, Joanna Small, Hee Choon Shin, Charles Taragon, and Crystal Williams.

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Ellen Goldberg produced and edited this report assisted by Rhonda Keith. Jayne Robinson administered final production.

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This report and others from the Bureau of Justice Statistics, as well as graphical figures and spreadsheets, are available through the Internet —

<http://www.ojp.usdoj.gov/bjs/>