
Auditing Seattle Public Defense Services

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Press

- **Is This Really the Best Defense?** Nickels' critics wonder if defendants have suffered since the mayor put public-defense contracts out to bid. By Nina Shipiro, *WEEKLY* January 30, 2008
- **Public Defender Caseloads.** By Phyllis Fleter, *KUOW – Public Radio* September 10, 2007
- **Defensive,** By Erica C. Barnett *STRANGER* August 29, 2007
- **Municipal Court: Helping indigents** *SEATTLE POST-INTELLIGENCER* Editorial Board August 17, 2007
- **On the Defensive** Audit Blasts City's Public-Defender Program, By Erica C. Barnett, *STRANGER* August 15, 2007
- **Public defender handling too many cases, city reports,** By Sharon Plan Chan, *SEATTLE TIMES* August 7, 2007

Purpose of Presentation

- Background
- Scope: 19 issues
- Tools and Analysis Used
- Examples
- Aftermath of Audit

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Background

- The City Seattle provides public defense services to indigent defendants accused of committing misdemeanor crimes.
- The City's 2007 budget for the Indigent Defense Program is approximately \$5 million.
- Seattle's public defense system had been highly regarded as a model at the State and national level.
- 2005 changes to the program prompted concerns from the legal community and City Councilmembers.

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Purpose of Audit

- The purpose of audit was to determine whether the “quality” of Public Defense was impacted by 2005 changes to program. Changes included:
 - Number of public defense agencies
 - Eliminated King County
- Reasons for changes
- Challenge
 - Defining and measuring the “quality” of public defense

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Scope: 19 Issues to analyze

- Attorney Caseload
- Attorney-Client Contacts
- Client Complaint Process
- Attorney Experience
- Supervision
- Training
- Performance Evaluations
- Investigator Use
- Interpreter Use
- Continuances
- Case Processing Time
- Dispositions
- Jail Population/Length of Stay
- Appeals
- Motions
- Probation Revocation Hearings
- Trail Data
- ABA's 10 Principles
- Contracts Comparisions

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Tools and Analysis Used

- Attorney caseload data
- Reviewed agency's client files
- In-custody pretrial defendant survey
- WA Bar Association on-line membership data
- Verified continuing legal education credits
- interpreter scheduling calendar
- continuances requested by Defense, Prosecutor
- Time from case open to case closed
- Case disposition statistics for defendant favorable outcomes
- Average daily jail population and length of jail stay
- % Change in appeals, jury trials

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EXAMPLES OF ANALYSIS

- Caseload
- Size of Secondary Agency
- Attorney-Client Contacts
- Client Complaint Process

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Public Defense Attorney Caseloads

■ Analysis:

- Determine whether public defense attorneys are adhering to Council adopted caseload standard (380 year/attorney).

■ Findings:

- OPM not counting caseload correctly.
- One third of the Primary Defender attorneys in 2005 and 2006 exceeded the City's 380 caseload standard.

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Caseload Analysis Sample

**Caseload Calculations for Three ACA Attorneys
and Results of Analysis of ACA Attorneys Exceeding City Caseload Standards**

Attorney (1)	Cases open before 2005 closed in 2005 (2)	Open in 2005 closed in 2005 (3)	Open in 2005 closed by 7/31/06** (4)	Cases closed in 2005 (2+3)	Cases opened and/or closed in 2005 (2+4+5)	Cases opened and/or closed in 2005 (2+4+5) Adjusted **	Caseload standard	% Over Standard
A	44	363	117	407	524	435	380	14%
B	79	357	100	436	536	445	380	17%
Number of ACA Attorneys over 380 cases					15	8		16% average over standard

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Defense Attorney Caseloads

Recommendations

- OPM should make public defense agencies adhere to the 380 caseload standard by conducting compliance reviews
- OPM should count the number of cases assigned/and or open in a given year a better indication of workload than closed cases or assess the amount of time attorneys spend on cases.

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Caseload: Larger Secondary Agency

- Analysis: Determine the number of times an attorney is required to be in multiple court rooms at the same time.

**TDA Attorney's SMC Court Room Assignments
July 31-August 7, 2006**

Time of Day	Three or more Court Rooms	Two Court Rooms	Zero to one Court Rooms
Morning	9	0	1
Afternoon	3	3	4
Total	12	3	5

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Caseload: Secondary Agency

- Finding: Out of 20 possible occurrences Attorney had to be at multiple court rooms 15 times.
- Recommendation: Have a larger secondary provider.

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Attorney-Client Contacts

Analysis: Determine Compliance with Attorney-Client Contract Requirements

Sample Case File Review

Case #	Defendant's Name	In/Out of Custody	Date File Opened	Date of Contact (after arraign.)	Days to Contact	Who Contacted	Method	Met 24 hour require	Met 5 day require
1111	A	In	8/11/05	8/14/05	3	Attorney	Person	yes	yes
2222	B	In	10/27/05	11/7/05	11	Attorney	Person	yes	no

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Attorney Client Contacts

■ Findings

- Agencies were not meeting contract requirements.
- Previous audits only looked at sample of 10 cases.
- Contact requirements were being met with letters.
- Arrestment was considered contact.

■ Recommendations

- Need to document contacts.
- Expand number of cases to review in audit.
- Attorney contacts should be in person.
- Determine when clock starts ticking.
- Conduct survey of public defense clients

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■ Client Complaint Process

Findings:

- Defendants were not notified whom they could call if they had concerns about their attorneys.
- Public defense agencies were not required to report all defendant complaints to OPM.

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Complaint Process

Analysis: Determine whether there is a complaint process in place where defendants can raise issues about their public defense attorneys.

Types of Complaints Reported By ACA Supervisor

Type of Complaint	Number
Attorney did not call back	15
Client wanted update/feedback from attorney	2
Inexperienced attorney	1
No confidence in attorney	1
Attorney missed date	1
Other contact issue	1
Attorney did not follow procedure	1
Not applicable	9
Total	31

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Client Complaint Process

Recommendations:

- OPM should work with SMC to provide clear information to defendants regarding who they can call if they have concerns about their public defense attorney.
- OPM and SMC should provide information about the City's public defense agencies on the City's InWeb and PAN web sites.
- The City's Primary and Secondary Public Defenders should have web sites for their organizations that are linked to the City's web site and include information about what to do if a defendant has an issue with a Seattle public defense attorney.

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Aftermath of Audit

- Executive Concurred 28 of 36 Recommendations
- Council Passed an Ordinance Adopting Recommendations regarding
 - Caseload – based on open cases
 - Having a larger secondary agency.
- Council extended existing contract to allow for a less political selection process by inserting itself in the process (which had been dominated by the mayor)
- Lots of news coverage: Seattle Times, Seattle PI, Weekly, Stranger, KUOW – Public Radio