

**The Provision of the Right to Counsel  
in Caddo Parish, Louisiana  
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**Louisiana State University, Shreveport**

Bernadette Jones Palombo, Ph.D.  
Associate Professor of Criminal Justice

Jeff Sadow, Ph.D.  
Associate Professor of Political Science

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## Executive Summary

**This study examines the provision of the constitutional right to counsel afforded to poor people in criminal cases in Caddo Parish, Louisiana.** The assessment is divided into two sections. Section 1 is an independent fiscal parity analysis of the District Attorney's Office and the Public Defender's Office. Section 2 is an assessment of public defender performance.

### Major Findings:

- 1) Despite national American Bar Association standards calling for adequate funding of indigent defense services and resource parity between indigent defense services and the prosecuting attorney's office, resources for the Public Defender's Office pale significantly to those of the District Attorney's Office in Caddo Parish on *every* financial indicator. The total financial resources available to the prosecution is three times greater than the total financial resources available for defender services -- even after adjustments were made for disparate workload considerations. And, the financial disparity is growing over time. While the District Attorney's resources grew nearly 22% from 1999 to 2002 (from \$3,862,000 to \$4,703,000), the Public Defender's resources decreased 13% (from \$1,939,000 to \$1,681,000) over the same time period -- and this from a 1999 level where the District Attorney received about twice the funding as the Public Defender.
- 2) Inadequate and imbalanced funding forces public defenders to carry caseloads far in excess of the standards set by the Louisiana Indigent Defense Assistance Board ("LIDAB"). To meet the LIDAB standards the public defender staff would need to be increased from 12 attorneys to 20 attorneys. National standards call for six investigators and six social workers to be employed to support an attorney staff of that size. The office currently has no social workers and functions with just four investigators. The inadequate staffing precludes public defense attorneys from meeting clients promptly and providing effective representation.
- 3) The failure to promptly meet with clients costs taxpayers of Caddo Parish money. A full 70% of inmates of the Parish jail are pre-trial detainees. The Commander of Caddo Correctional Center ("CCC") attributes this problem to the lengthy detention of pre-trial detainees represented by the Public Defender's Office. According to this Commander, this problem represents an additional administrative and financial burden on CCC, and he suggests that this problem could be resolved with speedier indigent defense representation. He estimates that Caddo Parish residents must bear the financial burden of six months additional pre-trial detention on average per inmate at an approximate annual cost of one half million dollars.
- 4) Adding to the economic burden of the Parish, 65% of the indigent defense clients had full-time jobs at the time of their arrests and detention. When public defenders do not interview clients early, they cannot help assess the likelihood that a client poses a risk either to the public safety or to flee court obligations. Public defenders with heavy caseloads cannot advocate for the client to get out of jail pending trial so that they can remain gainfully employed -- contributing to the Parish's tax base instead of being housed at tax payer's expense.

5) People of color are disproportionately represented by public defense attorneys and therefore are disproportionately affected by the failure of the system to adequately protect their state and federal constitutional right to counsel.

6) Inadequate public defender funding and staffing increases the likelihood that indigent clients receive poor outcomes. Disposition data from the District Attorney's database reveals that defendants represented by public defenders were less likely to have their charges rejected or dismissed, were more likely to plead guilty to charges, were less likely to have other outcomes such as diversion, and were less likely to go to trial, than defendants represented by private attorneys.

## **Introduction**

The American criminal justice system is rooted in the basic premise that every person stands equal before the law and has the right to a fair day in court before an impartial jury of their peers. In 1963, the United States Supreme Court established a constitutional right to counsel in criminal prosecutions that may result in a loss of liberty, declaring that our “noble ideals” of justice “cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.”<sup>1</sup>

Nationwide there is great concern that the spirit and intent of this landmark Supreme Court decision are not being fulfilled at the state level, including such organizations as the American Bar Association (“ABA”), the National Association of Criminal Defense Lawyers (“NACDL”), the National Legal Aid & Defender Association (“NLADA”), and the American Civil Liberties Union (“ACLU”).<sup>2</sup> In Louisiana, a recent report commissioned by NACDL and researched by NLADA found that “Louisiana has constructed a disparate system that fosters systemic ineffective assistance of counsel due primarily to inadequate funding and a lack of independence from undue political interference.”<sup>3</sup>

The conclusion of the NLADA study is especially troubling given the fact that the right to counsel is not just a federal right, but is also a basic tenet of the Louisiana Constitution.<sup>4</sup> This sentiment is echoed in two separate examinations of indigent defense services, in East Baton Rouge<sup>5</sup> and Calcasieu parishes,<sup>6</sup> both of which concluded that those public defense delivery systems were incapable of providing effective assistance of counsel.

The purpose of this study is to examine the provision of indigent defense services in Caddo Parish. Issues addressed in this research report include: parity of resources between the

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<sup>1</sup>See *Gideon v. Wainwright*, 372 U.S. 335 (1963).

<sup>2</sup>NACDL is actively litigating the failure of indigent defense systems in Michigan and Pennsylvania, and have commissioned studies in Virginia and Louisiana. See <http://www.nacdl.org/public.nsf/DefenseUpdates/Index?OpenDocument> (last accessed June 2004); The ABA held a series of hearings in 2003 to document the extent to which states meet their constitutional obligation to provide meaningful and effective representation to poor people accused of crimes. See <http://www.abanet.org/legalservices/sclaid/defender/projects.html> (last accessed June 2004); The ACLU is actively litigating the issues surrounding the rights guaranteed to criminal suspects and defendants in Montana and Washington, among others. See <http://www.aclu.org/CriminalJustice/CriminalJusticeMain.cfm> (last accessed June 2004); NLADA has noted deficiencies in indigent defense systems in California, Nevada, Pennsylvania, and Louisiana. See <http://www.nlada.org> (last accessed June 2004).

<sup>3</sup>NLADA, *In Defense of Public Access to Justice: An Assessment of Trial-Level Indigent Defense Services in Louisiana 40 Years after Gideon*, p. 19; see <http://www.nacdl.org> and <http://www.nlada.org> (last accessed March 2004).

<sup>4</sup>See Art. 1, §13 of the Louisiana Constitution of 1974.

<sup>5</sup>The Spangenberg Group, *A Study of the Operation of the Indigent Defense System in the 19<sup>th</sup> Judicial District East Baton Rouge Parish, Louisiana* (1992).

<sup>6</sup>Kurth, Michael M., Ph.D. and Daryl V. Burckel, DBA & CPA, *Defending the Indigent in Southwest Louisiana* (unpublished report, July 2003).

Public Defender's Office ("PDO") and the District Attorney's Office ("DAO"); PDO caseloads; adequacy of indigent client contact; adequacy of PDO investigation resources; and the sufficiency of PDO resources for trial-related expenses, such as expert witnesses.

Research data for this report was collected and analyzed over a period of eleven months, between March 2003 and February 2004. The financial parity section was researched and written by Jeffrey D. Sadow, Ph.D., Associate Professor of Political Science at Louisiana State University in Shreveport.<sup>7</sup> Dr. Sadow's analysis is derived primarily from interviews with representatives from both the DAO and the PDO, as well as from public financial records from both offices.<sup>8</sup> Dr. Bernadette Jones Palombo, Associate Professor of Criminal Justice, researched and wrote the section on attorney performance.<sup>9</sup> Her research findings addressed in this report include the results of surveys of indigent pre-trial detainees, Caddo Correctional Center attorney/investigator jail visitation records for 2002, and computerized criminal case records furnished by the Caddo Parish DAO.

### **Section I: Financial Parity Assessment of Public Defender and District Attorney**

In the landmark U.S. Supreme Court decision extending the right to counsel to misdemeanor cases involving potential incarceration, Chief Justice Warren Burger stated: "society's goal should be 'that the system for providing the counsel and facilities for the defense should be as good as the system which society provides for the prosecution.'"<sup>10</sup> This concept of parity, according to a 1999 U.S. Department of Justice Report, includes "all related resource allocations, including support, investigative and expert services, physical facilities such as a law library, computers and proximity to the courthouse, as well as institutional issues such as access to federal grant programs and student loan forgiveness options."<sup>11</sup>

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<sup>7</sup>Dr. Sadow received his Bachelor of Arts in public administration and political science from the University of Oklahoma, his M.B.A. (concentrating in management information systems and finance) from the Owen Graduate School of Management, Vanderbilt University, and his Ph.D. in political science from the University of New Orleans. Among other subjects, Dr. Sadow has taught research methods, public policy evaluation, and nonprofit administration.

<sup>8</sup>Data for this section of the report rely on the annual reports (1999 through 2002) of the PDO and DAO, and from Alan Golden, Chief Counsel of the PDO.

<sup>9</sup>Dr. Palombo is an Associate Professor of Criminal Justice at Louisiana State University in Shreveport and has been the criminal justice program coordinator there since 1995. She received her Bachelor of Arts degree in Political Studies in 1985 from Pitzer College of the Claremont Colleges, California, her Master of Arts degree in Criminal Justice in 1991 and her Doctorate of Philosophy in Political Science in 1993 both from the Center for Politics and Economics at the Claremont Graduate University, California. Her academic areas of concentration include Criminal Justice, Criminology and Research Methodology. She teaches in the areas of research methodology (in criminal justice/criminology and in non-profit organizations), criminological theory, gangs, juvenile delinquency, sex crimes and white-collar crime.

<sup>10</sup>*Argersinger v. Hamlin*, 407 U.S. 25, 43 (1972) (C.J. Burger, concurring).

<sup>11</sup>U.S. Department of Justice, *Improving Criminal Justice* (1999).

Toward this goal, the ABA explicitly calls for resource parity between PDO's and DAO's in its national standards.<sup>12</sup> True parity can only exist when PDO's and DAO's share similar funds, including reserves, proportional to their respective caseloads.

**Major Finding # 1:**

**After adjustments for disparate workloads, the Caddo Parish Public Defender's Office is, on every financial indicator, significantly lacking in resources compared to those of the Caddo Parish District Attorney's Office.**

Funding for indigent defense services in Louisiana comes from three main sources.<sup>13</sup> First, a \$35 court charge is assessed to all convicted defendants in the jurisdiction.<sup>14</sup> Second, the Louisiana Indigent Defense Assistance Board ("LIDAB") provides grant monies to jurisdictions in an effort to bring relatively resource-poor jurisdictions more resources through its District Assistance Fund ("DAF"). Third, some indigent clients of the Public Defender provide reimbursement for assistance at the rate of \$40 per case.<sup>15</sup> In addition, indigent defense agencies may rely upon reserve funds accumulated in prior years to offset projected expenditure overruns in relation to revenue projection shortfalls.

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<sup>12</sup>See Principle 8 of the ABA's *The Ten Principles of a Public Defense System*, <http://www.abanet.org/legalservices/downloads/sclaid/indigentdefense/tenprinciplesbooklet.pdf> (last accessed June 2004); see also *In Defense of Public Access to Justice*, supra n. 3 at 52.

<sup>13</sup>The data presented here and throughout this section are drawn from the annual reports produced by the Public Defender and District Attorney, as summarized in Table 1.

<sup>14</sup>See generally LSA-R.S. 15:146.

<sup>15</sup>See LSA-R.S. 15:147A(D).



**Table 1****Data Used for Fiscal Analysis**

<u>Year</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Court costs for PDO (\$ thousands)	<u>1228</u>	<u>1236</u>	<u>1207</u>	<u>1166</u>
LIDAB grants for PDO (\$ thousands)	<u>501</u>	<u>154</u>	<u>473</u>	<u>490</u>
Reimbursements for PDO (\$ thousands)	<u>34</u>	<u>35</u>	<u>22</u>	<u>13</u>
Total PDO Revenues (\$ thousands)	<u>1763</u>	<u>1425</u>	<u>1702</u>	<u>1669</u>
Total PDO Expenses (\$ thousands)	<u>1933</u>	<u>1901</u>	<u>1717</u>	<u>1681</u>
Balance for PDO (\$ thousands)	<u>-170</u>	<u>-476</u>	<u>-15</u>	<u>-12</u>
Begin PDO reserve amount (\$ thousands)	<u>903</u>	<u>735</u>	<u>258</u>	<u>243</u>
End PDO reserve amount (\$ thousands)	<u>735</u>	<u>258</u>	<u>243</u>	<u>232</u>
Total DA expenses (\$ thousands)	<u>3862</u>	<u>4075</u>	<u>4166</u>	<u>4703</u>
DA minus PDO expenses (\$ thousands)	<u>1929</u>	<u>2174</u>	<u>2449</u>	<u>3022</u>
Expense Ratio (\$/\$)	<u>2.0</u>	<u>2.1</u>	<u>2.4</u>	<u>2.8</u>
End DA reserve amount (\$ thousands)	<u>1836</u>	<u>1997</u>	<u>2060</u>	<u>1574</u>
DA minus PDO reserve amount (\$ thousands)	<u>1101</u>	<u>1739</u>	<u>1817</u>	<u>1342</u>
Reserve Ratio (\$/\$)	<u>2.5</u>	<u>7.7</u>	<u>8.5</u>	<u>6.8</u>
Personnel expense DA (\$ thousands)	<u>2859</u>	<u>3042</u>	<u>3234</u>	<u>3493</u>
Personnel expense PDO (\$ thousands)	<u>1318</u>	<u>1364</u>	<u>1215</u>	<u>1179</u>
DA minus PDO personnel expense (\$ thousands)	<u>1541</u>	<u>1678</u>	<u>2019</u>	<u>2314</u>
Personnel Ratio (\$/\$)	<u>2.2</u>	<u>2.2</u>	<u>2.7</u>	<u>3.0</u>

As shown in Table 1, the funding mechanism for indigent defense relies mainly upon assessed court costs (\$35 per guilty plea/verdict).<sup>16</sup> Such reliance is inherently flawed. The collection of the \$35 court cost is not guaranteed in that assessed defendants do not always pay them. Thus, while there is a theoretical correlation between resources and demand – more defendants should mean proportionate resources – in reality, the resources do not meet the demand.<sup>17</sup>

The system is also flawed in that the court cost and reimbursement components depend upon the activities of law enforcement. Crime rates and vigilance of law enforcement agencies directly affect the number of cases eventually to be prosecuted. At lower levels, this can create difficulties because of invariant costs that must be paid regardless of caseload, such as rent, utility costs, supplies and equipment expenditures, staffing levels, etc., leaving fewer resources that may be allocated to the actual (variable) costs of defense. As case numbers rise, however, because the funding mechanism is both variable and, in practice, imperfect, there is not a corresponding rise in the level of revenue available per case.

Expenses are the best indicator of resources available because they track well the resources available to each agency, in the form of revenues to perform their tasks. The balance of reserve funds can also be used as an indicator of resources available. Both the DAO and the

<sup>16</sup>Assessed costs typically represent a minimum of 70% of total revenues. In 2001, such costs accounted for more than 86% of total revenues.

<sup>17</sup>Chief Defender Alan Golden advises that past efforts at improving collection by this office have not been cost effective.

PDO must prepare budgets from anticipated revenues; if actual expenses exceed revenues, then the agency must use up reserve fund assets built up in years where the opposite was true.<sup>18</sup> Consistent “deficit spending”<sup>19</sup> (which becomes more likely as caseloads decline because of the fixed-cost problem discussed above) erodes reserve funds such that current levels of per case spending (regardless of whether they are deemed adequate to provide prosecution or defense) cannot be maintained.

A final factor considered in comparing resource availability is in understanding the different caseloads that the District Attorney and Public Defender have. According to the NLADA report referenced above, a rough estimate of cases that a Public Defender’s office will have to handle is about 80% of felony cases brought to the DAO.<sup>20</sup> That is, roughly 80% of defendants in felony cases are represented by the Public Defender. Data over the past two years in the First Judicial District confirms this estimate (the relevant figure being about 81%).

While some District Attorney resources are spent on misdemeanor cases, which equal almost as many open cases as felony cases, it is a very small fraction of total resources. The Public Defender’s Office handles mainly felony cases.<sup>21</sup> Thus, parity in resources between the two agencies would occur at a ratio of 5:4 dollars spent by the District Attorney relative to dollars spent by the Public Defender (or 80%). This ratio would apply as well to the reserve funds.

The authors have compiled a series of graphs (Figures 1-4, below) to show the disparity of resources between the PDO and the DAO and how that disparity has grown over time. Figure 1 shows a comparison of PDO and DAO expenditures:

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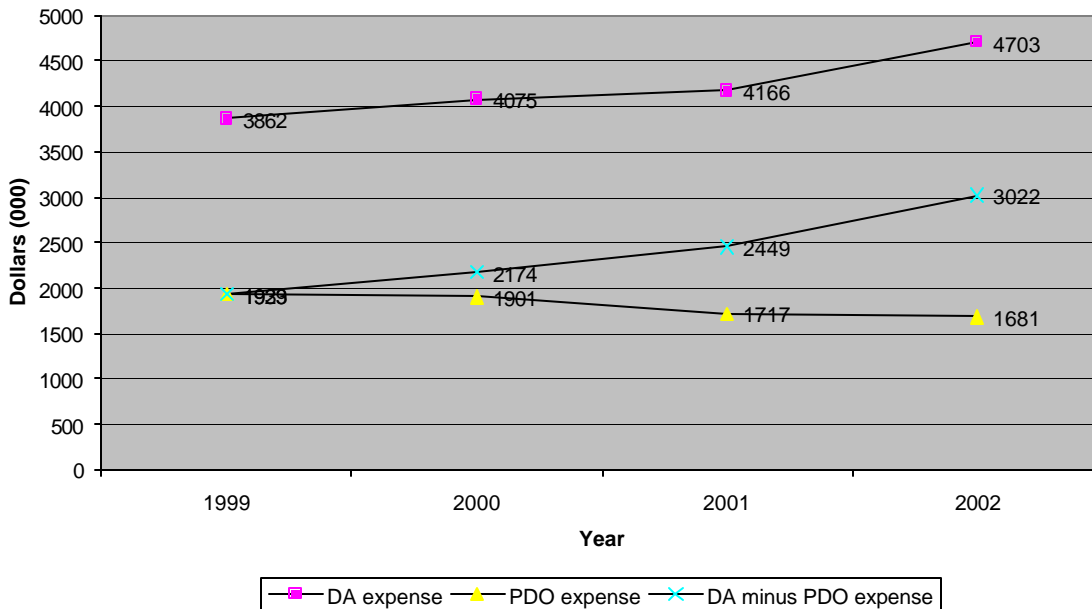
<sup>18</sup>Typically, government agencies relying on formulaic funding that is dependent upon a cyclical activity establish reserve funds because the demands placed upon them vary widely while at the same time they must meet certain fixed costs, as explained above. A stable funding system would have approximately equal and alternating periods of surpluses and deficits. An unstable system would allow many consecutive and growing periods of deficit spending.

<sup>19</sup>The term “deficit spending” is used as a placeholder to denote the experience of an agencies using reserve fund revenue to augment other funding resources. No public agency is allowed under Louisiana law to actually spend beyond their limitations.

<sup>20</sup>*See In Defense of Public Access to Justice*, supra n. 3, n. 118 at 35.

<sup>21</sup>Misdemeanor cases are assigned to attorneys outside of the Public Defender’s Office. They also represent roughly 80% of total such filed cases.

**Figure 1**  
**Expenditures, 1999-2002**

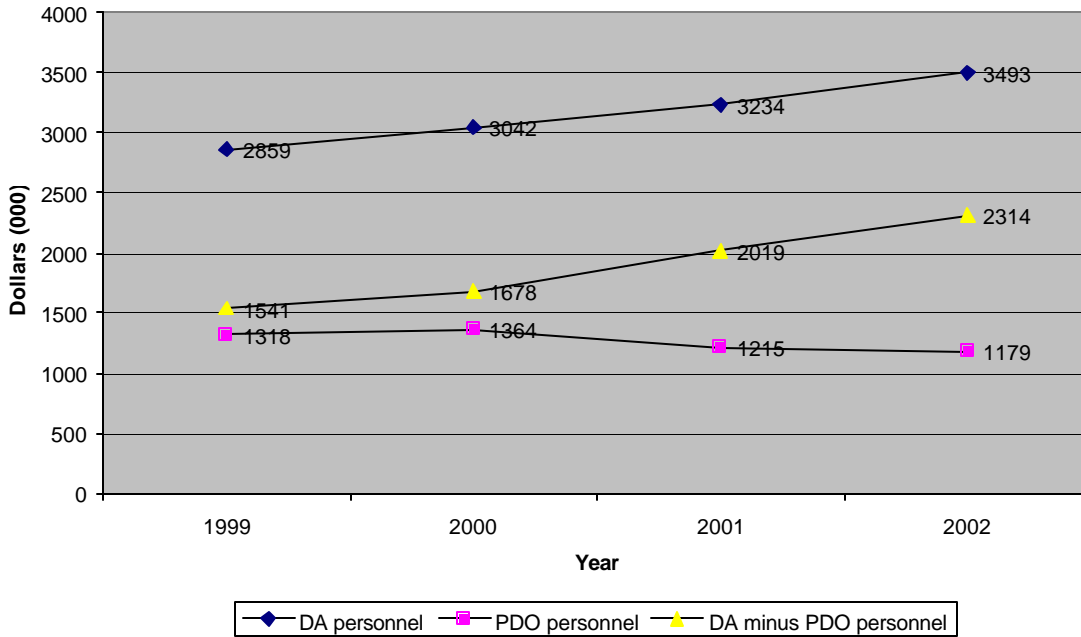


The 1999 expenditures by the PDO were nearly half of the DAO's, meaning the data points appear on top of each other in the above figure. While the DAO's resources have grown nearly 22% over this period, the PDO's have decreased 13% – and this from a 1999 level where the DAO received nearly twice the funding of the PDO. The middle line shows the increasing gap over this period, approximately 56%.<sup>22</sup>

Figure 2 shows the expenditure trends over this time period for the largest area of expense: personnel. The greatest effort in criminal prosecution or defense comes in the hours spent by attorneys and their support staff in analyzing and preparing cases:

<sup>22</sup>The 1999 expenditures by the PDO were nearly half of the DAO's, meaning the data points for this and the difference between the two on this chart appear on top of each other.

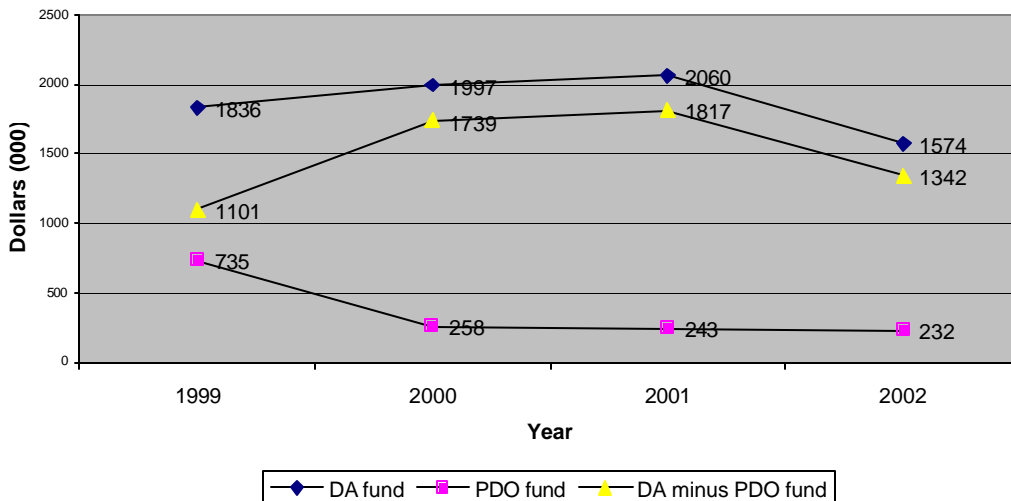
**Figure 2**  
**Personnel costs, 1999-2002**



Not surprisingly, the same pattern occurs here as in Figure 1. DAO personnel expenditures increased 22% while the Public Defender’s *decreased* almost 12%. The gap between personnel resources increased substantially, 50% over the three year period.

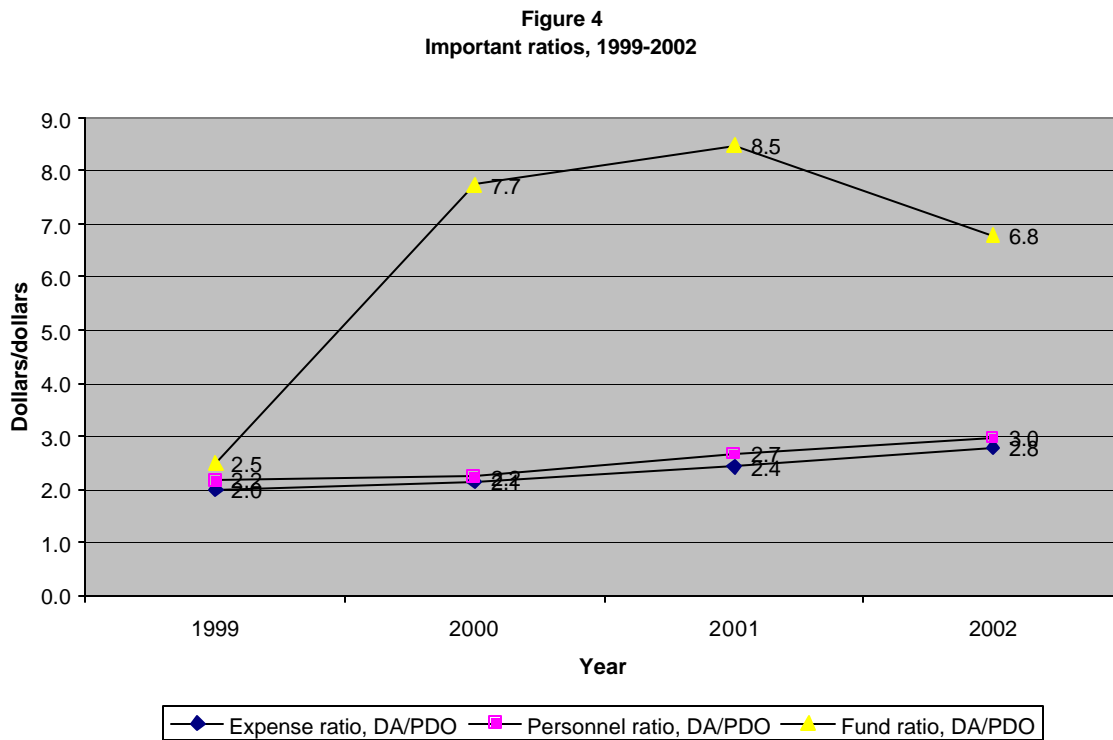
Figure 3 presents reserve funds levels for the 1999-2002 period for each agency. Figure 3 shows data detailing that the relative “deficit spending” level has been increasing to the detriment of the PDO:

**Figure 3**  
**Fund Balances, 1999-2002**



From a comparative perspective, the disparity here is even more pronounced. Starting from a large imbalance, reserves have dropped dangerously low for the PDO (from 38% of annual expenditures to less than 8%). Over the same time span, a small drop has taken place for the DAO. However, its reserve level still is approximately one-third of expenditures. The difference between the two has risen almost 22%.

Figure 4 presents ratios for the DAO compared to PDO on the above three key measures: expense ratios, personnel ratios and fund ratios. Given felony caseloads, equivalency would exist at a ratio of 5:4 or 1.25:1.<sup>23</sup>



At no point over this time span do the ratios reach the desired 1.25:1 -- a ratio that denotes relative parity. Instead, resources are higher consistently for the DAO and never less than 2.0 (in 1999 for total expense ratio).

In summation, the Caddo Parish District Attorney currently outspends the Public Defender by an amount almost triple, or a ratio of nearly 3:1 instead of the 1.25:1 as dictated by the 80% standard. This spending rate for indigent defense has devastated the PDO's reserves which by 2002 had fallen to one-quarter of its 1999 level.

<sup>23</sup>In order to make the graphical presentations understandable, the latter ratio is derived by dividing both terms of the ratio by 4.

Furthermore, the evidence also demonstrates that the DAO has far more resources to call upon in its prosecutions than does the PDO in its defenses.<sup>24</sup> The former enjoys far greater reserves and is increasing its advantage over time in expenditures. Such imbalances could be interpreted as giving prosecutors substantial advantages over indigent defendants. For financial parity to exist in available resources and reserve funds for the PDO relative to the DAO, revenues to support expenses matching approximately 80% of the DAO's expenses must occur. Without such remedial measures, parity cannot be reached and indigent defendants will not be guaranteed even our best effort at justice.

## **Section II: Assessment of Attorney Performance**

### *A. Caseload*

#### **Major Finding # 2:**

#### **Inadequate funding forces public defenders to carry excessive caseloads and to work with inadequate staffing.**

A major issue raised by the previous discussion is the effect of this financial disparity on PDO performance. There are various yardsticks by which the adequacy of defense services may be measured. One such yardstick is the lawyer's caseload.<sup>25</sup> No lawyer who has too many clients, no matter her/his expertise, dedication and/or resources will be able to provide adequate services.<sup>26</sup>

In order to properly assess caseload, it is imperative to understand the figures that represent an acceptable caseload.<sup>27</sup> LIDAB sets maximum caseloads for indigent defense lawyers in the State of Louisiana. LIDAB caseload limits are less stringent than those proposed by the ABA and NLADA.<sup>28</sup> LIDAB caseload limits are demonstrated in Table 2 below:

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<sup>24</sup>The DAO has access to the investigative resources of local law enforcement, state and federal crime labs, and FBI, whereas PDO's must pay for such investigative services out of available resources. *In Defense of Public Access*, supra n. 3 at 53.

<sup>25</sup>*Ten Principles* at Principle 5 (providing that "Defense Counsel's workload is controlled to permit the rendering of quality representation").

<sup>26</sup>It should be noted that excessive caseloads have serious ethical implications, *see* NLADA Study, Appendix J p. 117 et seq.)

<sup>27</sup>This research uses several sources for the data on caseloads. The source for this research is from the staff members themselves, provided to the researcher at the beginning of this study early in 2003. Since the Caddo PDO maintains caseload information, their data is reflected in Table 3, entitled "2003 Caddo Parish Caseloads for In-house Attorneys."

<sup>28</sup>For example, the ABA and NLADA limits provide that the felony caseload of a public defender should not exceed more than 150 per attorney per year. Furthermore, these national standards are based on work done on *any* felony case handled during the year and not just those opened during the year in question. To the extent that there are any cases that are continued from previous years (which cannot be determined accurately at this point in time) the attorney's caseloads are even greater than portrayed in Table 3. *See* Standard 13.12 of NLADA's *Standards for the Defense*, [http://www.nlada.org/Defender/Defender\\_Standards/Standards\\_For\\_The\\_Defense](http://www.nlada.org/Defender/Defender_Standards/Standards_For_The_Defense) (last accessed June 2004); Principle 5 of ABA's *Ten Principles*; *In Defense of Public Access*, supra n. 3 at 36

**Table 2 - LIDAB Standards**

<u>Type of Case</u>	<u>Maximum Caseload</u>
Capital	3-5
Automatic Life Sentence	15-25
Other Felonies	150-200
Misdemeanors	400-450
Traffic	400-450
Juvenile	200-250
Mental Health	200-250
Other trial cases	200-250
Capital Appeals	3-5
Non-capital felony appeals	40-50

A comparison of LIDAB caseload standard to the caseloads of the PDO provides an initial assessment of the adequacy of defense services. Table 3 shows the PDO caseloads for Caddo Parish for the early part of 2003.

**Table 3: 2003 Caddo Parish Caseloads for In-house Attorneys**

<b>Lawyer</b>	<b>Admin</b>	<b>Capital</b>	<b>Life</b>	<b>Other Felony</b>
1. Alan Golden	Director	5	3	
2. Kurt Goins		4	6	2
3. David McClatchey		3	6	4
4. Ricky Swift			31	38
5. Michelle Brown			30	48
6. Mary Harried			30	19
7. Mary Jackson	Sect. 1			411
8. Kammi Whatley	Sect. 2			412
9. Jerry Kircus	Sect. 3			437
10. Michael Bowers	Sect. 4			338

11. Michael Vergis	Sect. 5			426
12. Stuart Harville	Sect. 6			419

Table 3 indicates that the PDO Director has five capital cases, in addition to three life cases that do not include the possibility of the death penalty. According to LIDAB standards, such a caseload requires the attention of 1.2 full-time equivalency attorneys (“FTE”). Yet, Alan Golden also has his duties as Director/Administrator of the Agency. Moreover, at the beginning of 2003, the Caddo Parish PDO was currently assigned a total of 12 capital cases handled by Golden and two additional attorneys, 106 with a mandatory life sentence which are primarily handled by two attorneys, and 2,554 other felony cases which are primarily handled by six attorneys.

On average, this 2003 caseload in the Caddo Parish PDO is more than twice the LIDAB standard. To meet minimum LIDAB standards, capital case attorneys should not be handling additional life or other felony cases; the staff of attorneys who handle life cases should be expanded from three to four not handling other felony cases; and, the staff of six full time attorneys who handle all other felony cases needs to be expanded to a total of twelve attorneys, an addition of one attorney for each criminal court section.<sup>29</sup>

Moreover, the number and type of support staff (investigators, social workers, paralegals, legal secretaries, and office managers) needs to be substantially increased.<sup>30</sup> National standards promulgated by the ABA and NLADA require adequate support staff. The Guidelines for Legal Defense Systems in the United States issued by the National Study Commission on Defense Services direct that “defender offices should employ investigators with criminal investigation training and experience. A minimum of one investigator should be employed for every three staff attorneys in an office.”<sup>31</sup> The Guidelines further prescribe precise numeric ratios of attorneys to non-attorney staff:<sup>32</sup>

<sup>29</sup>In the beginning of 2004, the attorney staff has been expanded to include two additional full time and one part time public defense attorney. The preliminary caseload figures continue to show caseloads above the LIDAB standard. See Appendix 2 for these preliminary caseload figures provided by the Public Defender.

<sup>30</sup>“Investigators, for example, have specialized experience and training to make them more effective than attorneys at critical case-preparation tasks such as finding and interviewing witnesses, assessing crimes scenes, and gathering and evaluating evidence – tasks that would otherwise have to be conducted, at greater cost, by an attorney. Similarly, social workers have the training and experience to assist attorneys in fulfilling their ethical obligations with respect to sentencing, by assessing the client’s deficiencies and needs (e.g., mental illness, substance abuse, domestic problems, educational or job-skills deficits), relating them to available community-based services and resources, and preparing a dispositional plan meeting the requirements and expectations of the court, the prosecutor and the law. Such services have multiple advantages: as with investigators, social workers are not only better trained to perform these tasks than attorneys, but more cost-effective; preparation of an effective community-based sentencing plan reduces reliance on jail, and its attendant costs; defense-based social workers are, by virtue of the relationship of trust engendered by the attorney-client relationship, more likely to obtain candid information upon which to predicate an effective dispositional plan; and the completion of an appropriate community-based sentencing plan can restore the client to a productive life, reduce the risk of future crime, and increase public safety.” See NLADA, *Evaluation of the Public Defender’s Office in Clark County, NV* (Las Vegas, 2003).

<sup>31</sup>National Study Commission on Defense Services, *Guidelines for Legal Defense Systems in the United States* 4.1 (1976).

<sup>32</sup>*Id.* Numeric guidelines for professional business management staff are not in the National Study Commission guidelines, but the Commission commented that “professional business management staff should be employed by defender offices to provide



One full time Legal Assistant for every four FTE attorneys  
One full time Social Service Caseworker for every 450 Felony Cases  
One full time Social Service Caseworker for every 600 Juvenile Cases  
One full time Social Service Caseworker for every 1200 Misdemeanor Cases  
One full time Investigator for every 450 Felony Cases  
One full time Investigator for every 600 Juvenile Cases  
One full time Investigator for every 1200 Misdemeanor Cases

By these standards, the Caddo Parish Public Defender's Office should have six investigators and six social workers on staff. It currently has four investigators and no social workers. This heavy caseload does not only mean that its staff is over-worked, and that the staff needs to be doubled, but that the clients of the PDO also continue to bear the burden of receiving inadequate assistance of defense counsel.

*B. Analysis of Jail Visitation Records for 2002*

**Major Finding # 3:**

**Excessive caseloads and inadequate PDO staff result in excessive pre-trial detention and at an annual cost of one half million dollars.**

This inadequacy is further supported by the quantitative and qualitative responses of inmate survey data discussed further on in this report. CCC Commander John Sells provided this researcher with jail data on monthly inmate census reports from January 1998 to September 2003. This data clearly indicates that the Correctional Center has been operating at above inmate capacity for 2001, 2002 and 2003. This in-house data shows that with a capacity of 1,070, and 70% of inmates representing pre-trial detainees, the center has been operating on average 15 inmates over capacity.

In a conversation with this researcher, the Commander attributed this problem to the lengthy detention of indigent pre-trial detainees represented by the PDO. According to the Commander, this problem represents an additional administrative and financial burden on CCC, and he suggested that this problem could be resolved by more adequate and speedier indigent defense representation. Assessment of the monthly inmate report data provided to this researcher supports the axiom that "Justice delayed is justice denied,"<sup>33</sup> and tax-paying residents of Caddo

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expertise in budget development and financial management, personnel administration, purchasing, data processing, statistics, record-keeping and information systems, facilities management and other administrative services if senior legal management are expending at least one person-year of effort for these functions or where administrative and business management functions are not being performed effectively and on a timely basis."

<sup>33</sup>English jurist William Gladstone lamented more than a century ago about the delay of justice, a problem many believe still exists today . . . in that "the accused incurs costs because of pre-trial restrictions on freedom, loss of income" and case delays produce backlogs which "wasted court resources, needlessly increase lawyer fees, and create confusion and conflict in allocating judges' time." American Bar Association of State Trial Judges, *Standards Relating to Court Delay Reduction*, 5 (Chicago, 1984).

Parish must bear the financial burden of six months additional pre-trial detention on average per inmate at an approximate annual cost of one half million dollars.

Jail visitation records for January through December of 2002 were reviewed and assessed to determine the extent of client contact by both the attorneys and investigators of the PDO representing primarily pre-trial inmates. Data from daily record logs for the 2002 year were categorized into visits by private attorneys, visits by public defense attorneys, and visits by conflict attorneys (hired by the PDO in cases involving multiple indigent defendants, for example) to determine if there were significant differences in the amount of time in individual visits spent with the inmate client.<sup>34</sup> In those visits where the attorneys spent time meeting with multiple clients, an average amount of time needed to be calculated from the total amount of time recorded in the visitation log.

A statistical measure known as the One-way Analysis of Variance (“ANOVA”) was used to measure differences between group averages or means to answer the question: “Were the number of minutes spent by private defense attorneys, public defense attorneys and conflict attorneys with their clients different from each other?” Analyses of the results shows that statistically, a significant difference exists between the average number of minutes each type of defense attorney spent with a client in 2002. Private defense attorneys spent an average of 44 minutes per client, the public defense attorney spent an average of 24 minutes per client, and appointed conflict attorneys spent an average of 31 minutes per client.

**Table 4**

**Multiple Comparisons**

Dependent Variable: TIME  
Scheffe

(I) TYPE	(J) TYPE	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
public defender	private	-19.20*	1.019	.000	-21.70	-16.71
	conflict	-6.85*	2.149	.006	-12.12	-1.59
private	public defender	19.20*	1.019	.000	16.71	21.70
	conflict	12.35*	2.139	.000	7.11	17.59
conflict	public defender	6.85*	2.149	.006	1.59	12.12
	private	-12.35*	2.139	.000	-17.59	-7.11

\*. The mean difference is significant at the .05 level.

Upon determining that differences exist among the means, a post hoc range test and pairwise multiple comparisons can determine which means differ. A Scheffe statistical test was performed for simultaneous pairwise comparisons using the F sampling distribution. These

<sup>34</sup>Professor Palombo verified the validity of this categorization of these attorneys with the Office Manager of the Caddo Parish Public Defenders Office on several occasions. Appendix 3 provides this listing of conflict and/or public defense attorneys.

findings show that generally on average, private defense attorneys spend more time with each of their clients, the conflict attorneys spend the next highest amount of time, and the average public defense attorney spends the least amount of time visiting inmate clients at CCC. Figure 5, below, illustrates these differences:

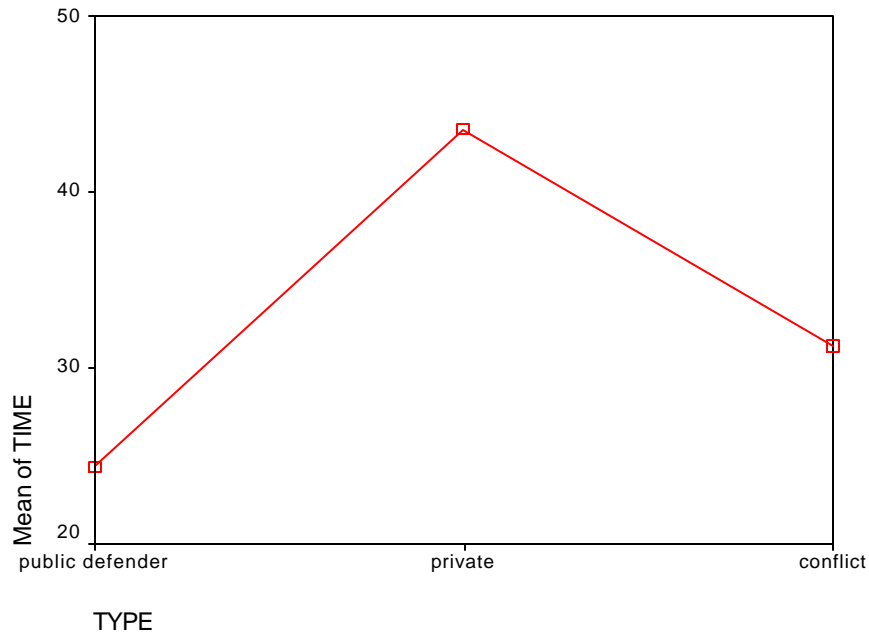


Figure 5 - Differences in Average Time Spent with Client by Type of Attorney

A major limitation of this data is that there is no way to assess the quality of client visits. Having said that, it should be noted that the jail visitation records did show that public defense attorneys visited a substantially higher number of clients per visit than did the private defense attorneys – indicating that each client gets substantially less “attorney time” than when represented by a private attorney. The records also show that a larger percentage of the public defense attorney visits were made in the evenings, and on Saturdays and Sundays than were the private attorney visits – suggesting that workload considerations keep them in court for most of the work week.<sup>35</sup> In the inmate survey discussion to follow, comments by client’s inmates themselves suggest that much of this time spent by public defense attorneys with the inmates consisted of filling out forms and discussing possible plea agreements.

Descriptive statistics were generated to determine the number of visits and the length of time spent by both Public Defender’s Office investigators and experts.<sup>36</sup> These results show that visits by investigators and experts represented approximately 1% of all the visits made by the

<sup>35</sup>Of the total of 2,916 visits made by criminal defense attorneys in Caddo Correctional Center in 2002, approximately 48% were made by private defense attorneys (1,420 visits), 44% (1,290 visits) made by public defense attorneys, and 6% were made by conflict attorneys (175 visits). Assessment of visitation records also show that on an average visit to CCC, both private defense attorneys and conflict attorneys visited an average of three clients per visit whereas public defense attorneys visited an average of eight clients per visit.

<sup>36</sup>The names of these investigators and experts were confirmed by the Office Manager of the Caddo Parish Public Defender’s Office.

PDO during the year. Although the PDO investigation staff averaged longer visits to inmates -- averaging 59 minutes per visit -- they were shown to visit inmate offenders on only ten different occasions over the course of the year.

*C. Analysis of Results of Indigent Client Survey*

**Major Finding # 4:**

**Excessive caseloads keep public defenders from properly addressing pre-trial release of defendants, 65% of whom were employed when arrested, further burdening taxpayers.**

**Major Finding # 5:**

**People of color are disproportionately represented by public defense attorneys and therefore are disproportionately affected by the failure of the system to adequately protect their state and federal constitutional right to counsel.**

“Indigent Client Surveys” were administered to a randomly selected group of inmates represented by PDO attorneys and detained in CCC in March of 2003.<sup>37</sup>

Surveys were disseminated to 119 detainees represented by PDO attorneys.<sup>38</sup> The primary purpose for engaging in a random selection of participants was to allow the researcher to be able to generalize study results from this sample of 119 respondents to the larger general pre-trial detainee population in the jail at the time.<sup>39</sup>

Overall, 73% of the respondents to this inmate survey were African American, and 25% were Caucasian. Less than 2% were Hispanic or identified as other. Population data for Caddo Correctional Center with a total of 1,118 inmates shows a breakdown by race with 77% African-

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<sup>37</sup>Subsequent to the administration of this survey, the issue was raised by a newly appointed member of the local Indigent Defense Board as to the questionable value and credibility of pre-trial detainee responses accurately representing the quality of defense services provided by the Public Defender’s Office. Since students from Columbia University School of Law volunteered many hours of their time administering these surveys to the respondents, it is assumed that the responses recorded on these surveys are accurate representations of what the respondents told the student volunteers. As to the “value and credibility” of the respondents’ views, that is an issue that cannot be addressed here. It is assumed that respondents’ perceptions presented here represent what they actually perceive or believe, irrespective of any possible errors in memory recall or reasoning ability.

<sup>38</sup>See Appendix 1.

<sup>39</sup>Coding for these surveys was completed by the primary researcher in August of 2003, and both quantitative and qualitative data analyses were then conducted. As stated, results of this analysis represent pre-detainee perceptions as to the amount and quality of contact public defense attorneys have had with them as well as the extent of investigative work by investigative staff with the PDO. Questions included whether or not inmates attempted to and successfully contacted their public defense attorney, whether they attempted to hire a private lawyer, if they had met with their attorneys prior to or after arraignment, and if they had met with an investigator from the PDO. Information on characteristics of offenders was also collected. Demographic information on the respondents was also collected to get an assessment not only of the characteristics of the respondent sample but also the characteristics of the larger population of detainees represented by the PDO.

American inmates, 22% Caucasian inmates and less than 1% Hispanic and Asian inmates.<sup>40</sup> 2000 Census population data for Caddo Parish shows a racial composition of 44.6% African American, 52.9% Caucasian, 1.5% Hispanic or Latino and less than 1% Asian.<sup>41</sup> This data represent a disparity in pre-trial detainee rates for African Americans in Caddo Parish in relation to their percentage in the overall population.

**Table 5**

**Respondent's race/ethnicity**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid African-American	87	73.1	73.1	73.1
White	30	25.2	25.2	98.3
Hispanic	1	.8	.8	99.2
Other	1	.8	.8	100.0
Total	119	100.0	100.0	

Regarding the amount of education completed by these respondents, approximately 44% of the respondents had received less than a high school education, approximately 38% had completed a high school education, and a little more than 18% had completed at least some college or more. A majority of these respondents (78.2%) had a total of two or fewer prior felony convictions and a majority (79.1%) had two or fewer prior misdemeanor convictions. Also, a majority of respondents, approximately 65%, stated that they were employed in a full time job prior to their arrests.

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<sup>40</sup>Memo from CCC, April 26, 2004.

<sup>41</sup>U. S. Census Bureau, American Factfinder <[http:// factfinder.census.gov/servlet/](http://factfinder.census.gov/servlet/)> (last accessed June 2004).

**Table 6****Educational Level**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid less than high school degree	52	43.7	43.7	43.7
high school degree	45	37.8	37.8	81.5
college	22	18.5	18.5	100.0
Total	119	100.0	100.0	

**Table 7****No. of prior felony convictions**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid 0	37	31.1	31.1	31.1
1	29	24.4	24.4	55.5
2	27	22.7	22.7	78.2
3	14	11.8	11.8	89.9
4	5	4.2	4.2	94.1
5	5	4.2	4.2	98.3
6	1	.8	.8	99.2
10	1	.8	.8	100.0
Total	119	100.0	100.0	

**Table 8****No. of prior misdemeanor convictions**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid 0	78	65.5	65.5	65.5
1	7	5.9	5.9	71.4
2	9	7.6	7.6	79.0
3	7	5.9	5.9	84.9
4	5	4.2	4.2	89.1
5	4	3.4	3.4	92.4
6	1	.8	.8	93.3
10	2	1.7	1.7	95.0
14	1	.8	.8	95.8
15	1	.8	.8	96.6
20	1	.8	.8	97.5
25	3	2.5	2.5	100.0
Total	119	100.0	100.0	

**Table 9**

**Employed - time of arrest**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	no	41	34.5	34.7	34.7
	yes	77	64.7	65.3	100.0
	Total	118	99.2	100.0	
Missing	System	1	.8		
Total		119	100.0		

Respondents were asked questions concerning their attempts to contact and their interactions with their PDO attorney. Analysis of quantitative data from these 119 respondents indicated that 20% of these offenders could not identify who their public defense attorneys were. The majority of the respondents (58.8%) indicated that they had attempted to contact their public defense attorney by phone or letter, but they did not receive a response to their repeated attempts.

**Table 10**

**Attempt to contact lawyer**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	no	49	41.2	41.2	41.2
	yes	70	58.8	58.8	100.0
	Total	119	100.0	100.0	

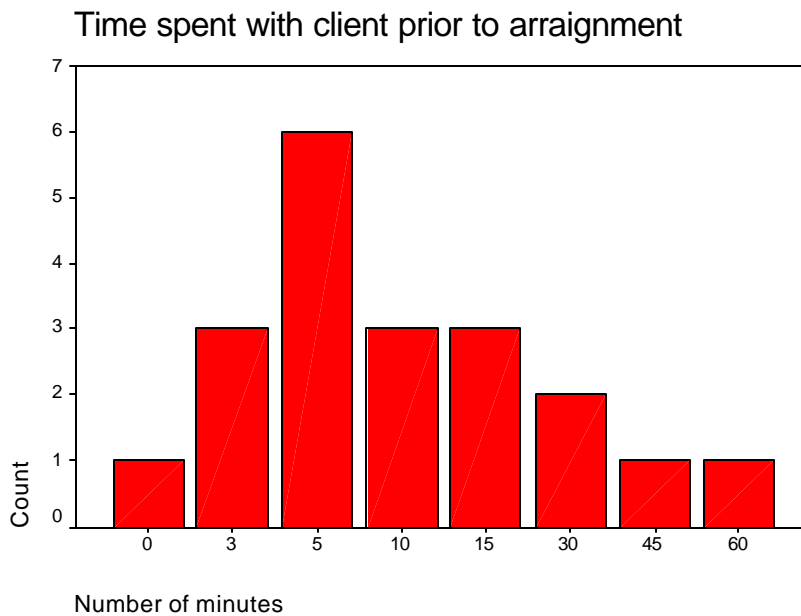
When asked if they had met with their public defense attorney prior to their arraignment, approximately 15% or 18 of the respondents indicated that they had met with their public defense attorney prior to arraignment. Since 11% of the respondents had not yet been arraigned, this data, if accurate and valid, reflects the fact that an overwhelming majority of pre-trial detainees represented by the PDO, or approximately 73.5% of the remainder of the sample, had expressed that they had no contact with their public defense attorney prior to their arraignment. Of those respondents who did have contact with their public defense attorney prior to their arraignment, the average amount of time spent meeting with the client averaged approximately fourteen minutes.

**Table 11**

**Met attorney - prior arraignment**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	no	86	72.3	73.5	73.5
	yes	18	15.1	15.4	88.9
	not yet arraigned	13	10.9	11.1	100.0
	Total	117	98.3	100.0	
Missing	System	2	1.7		
Total		119	100.0		

**Figure 6**



When asked if they had met with their public defense attorney in jail after their arraignment, a minority of respondents, approximately 31%, responded that they had met with their public defense attorney after their arraignment. Since 11% of the respondents indicated that they had not yet been arraigned, this data show that the majority of pre-trial detainees represented by the PDO, approximately 57% of the respondents, had expressed that they did not have contact with their public defense attorneys in jail after their arraignment. Of those respondents who did have contact with their public defense attorney in jail after their arraignment, the average number of times the attorney met with the client was approximately 1.59, and the average amount of time the attorney spent meeting with client averaged approximately 21 minutes. For six of the respondents, their attorneys spent more than 45 minutes with them after their arraignment.



**Table 12**

**Met attorney - after arraignment**

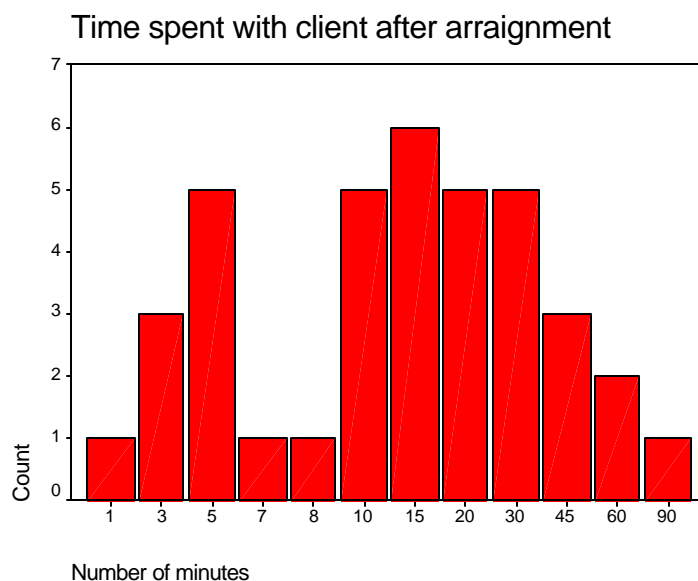
	Frequency	Percent	Valid Percent	Cumulative Percent
Valid no	68	57.1	57.1	57.1
yes	37	31.1	31.1	88.2
not yet arraigned	14	11.8	11.8	100.0
Total	119	100.0	100.0	

**Table 13**

**Descriptive Statistics**

	N	Minimum	Maximum	Mean	Std. Deviation
Number of times - after	39	1	10	1.59	1.534
Number of minutes	38	1	90	20.66	19.295
Valid N (listwise)	38				

**Figure 7**



As to the perceived amount of investigative efforts by the Public Defender investigative staff, 7.6% of the respondents (a total of 9 respondents) indicated that they were visited by an investigator regarding their cases while being held in detention. However, at least one of these respondents commented that these investigators were detectives from the Police department, not investigators from the Public Defender’s office. Nonetheless, the average amount of time spent by the investigator as indicated by the respondent was approximately 32 minutes.

**Table 14**

**Number of times - investigator**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	7	5.9	77.8	77.8
	2	1	.8	11.1	88.9
	3	1	.8	11.1	100.0
	Total	9	7.6	100.0	
Missing	System	110	92.4		
Total		119	100.0		

**Table 15**

**Statistics**

		Number of times - investigator	Length of time in minutes
N	Valid	9	6
	Missing	110	113
Mean		1.33	31.67
Std. Deviation		.707	43.665
Minimum		1	5
Maximum		3	120

Toward the completion of the survey, respondents were asked the open-ended question, “In your opinion, how can the public defender system serve you better?” A majority of the respondents indicated their disappointment with the quality and amount of legal representation they had received from their public defense attorney. A major concern was the lack of attorney-client contact at all stages of the pretrial and trial process. Another concern was the perception by some of the respondents that public defense attorneys were negotiating with the DAO to plea bargain cases so as to reduce caseloads without having fully examined the merits of the individual defendant’s case. Another common concern was the extensive length of time before cases were either plea-bargained or sent to trial. Several respondents expressed their concern that they had been waiting a least a year for their trials to begin without having met with their public defense attorneys.

A general analysis of qualitative responses from the inmate survey seems to suggest that inmates generally perceive a substantial need for client contact by their public defense counsel. Overall, responses suggest that there is minimal legal investigative legal work prior to trial; and, the clients’ interests in a speedy trial and a favorable outcome are not the primary concerns of the attorney representing them. Several respondents did express praise for the efforts of specifically named public defense attorneys who were representing them, despite the length of time they had been detained awaiting resolution to their cases, whereas others seemed to express frustration and disappointment with their services.

*D. Results of Caddo Parish Criminal Case Records Analysis*

**Major Finding # 6:**

**Inadequate public defender funding and staffing increases the likelihood that indigent clients receive poor outcomes.**

Computerized criminal case records for 1998 and 2002 in the form of an Excel spreadsheet were provided to this researcher by the DAO. Qualitative analyses of these agency records was conducted to compare case outcomes between those offenders represented by public defense attorneys, those represented by conflict attorneys (hired by the PDO in cases involving multiple indigent defendants) and private attorneys.<sup>42</sup>

Criminal charges filed by the Caddo Parish DAO for 1998 to 2002 represented 23,374 criminal case filings for five years. Of these cases, approximately 6,644 cases were dismissed by the courts prior to legal representation, and one case has been omitted due to a system-missing variable. The findings for type of attorney representation are as follows: 20.4% (3,406) of all defendants were represented by private defense attorneys, 64.2% (10,741) were represented by public defense attorneys and 15.4% (2,583) were represented by conflict attorneys.

**Table 16**

**Type of Attorney**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	private	3406	14.6	20.4	20.4
	indigent defender	10741	46.0	64.2	84.6
	conflict	2583	11.1	15.4	100.0
	Total	16730	71.6	100.0	
Missing	99.00	6643	28.4		
	System	1	.0		
	Total	6644	28.4		
Total		23374	100.0		

Overall, without taking into account type of attorney representation, disposition outcomes for these five years shows that in 47% of the cases (10,992) the charges were either rejected or dismissed; 41% or 9,661 charges were pled as guilty; 1.2% or 283 cases were found guilty at trial, less than 1% or 103 cases were found not guilty at trial and approximately 10% of all cases (2325) were either diverted, institutionalized, given DA probation or had other outcomes.

<sup>42</sup>However, these records were collected by the DAO for purposes other than this present analysis. Several variables needed to be created from existing variables in order to compare sentencing outcome differences. Other information was not useable for the purposes of this study. Additionally, the assistance of several representatives from the PDO in February 2004 in clarifying the names and employment dates of public defenders and conflict attorneys representation, necessary for the comparative analysis. See Appendix 3.

**Table 17**

**New Disposition**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	REJECTED/DISMISSED	10992	47.0	47.0	47.0
	GUILTY PLEA	9661	41.3	41.3	88.4
	GUILTY TRIAL/JUDGE	283	1.2	1.2	89.6
	NOT GUILTY	113	.5	.5	90.1
	DIV/DAPROB/EXT/INST/ NC/OT	2325	9.9	9.9	100.0
	Total	23374	100.0	100.0	

The next step was to compare case outcomes by type of attorney, private defense attorney, public defense attorney and conflict attorney, to answer the question as to whether the type of attorney representing an offender has an influence on the dispositional outcome of the case. A total of 16,730 cases were included in the comparison between these three group outcomes, and a cross tabulation statistical analysis utilizing a Chi square statistic<sup>43</sup> was conducted to determine if there is a relationship between type of attorney and case outcomes. A Chi-square statistic of 260.538 indicates that such a relationship does exist.

**Table 18**

**Chi-Square Tests**

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	260.538 <sup>a</sup>	8	.000
Likelihood Ratio	250.095	8	.000
N of Valid Cases	16730		

a. 0 cells (.0%) have expected count less than 5. The minimum expected count is 15.90.

<sup>43</sup>The Chi Square statistic compares the tallies or counts of categorical responses between the independent groups of “types of attorney” and “sentencing outcome” to determine if the differences found to exist are representative of all cases.

Results of cross tabulation analysis are reflected in the following table. Analysis of the cells of Table 19 show that: 1) Public defense attorney cases were dismissed by the court fewer times than expected (in 39.9% of their cases) whereas private defense cases were dismissed by the courts more times than expected (in 48.3% of their cases) as were cases represented by conflict attorneys (in 50.4% of their cases); 2) Whereas clients of public defense attorneys entered guilty pleas a far greater number than expected (55.6% of all public defense attorney cases), private defense cases entered guilty pleas fewer times than expected (in 43.9% of their cases) and conflict attorneys were similar to private attorneys in that clients entered guilty please in 44.5% of their cases.

Of those 2.2% defendants overall who did go to trial, more were found guilty than expected when represented by all three types of attorneys, for public defense attorney 1.5%, for private attorney 1.7% and for conflict attorney 1.8%. However, for those found not guilty, more were found not guilty than expected when represented by a private attorney (1.4%) whereas fewer were found not guilty than expected when represented by a public defense attorney (.4%) and conflict attorney (.3%). Overall, less than one percent of all cases goes to trial and are found not guilty (.6% or 103 cases). As for other dispositions by the court (such as diversion programs, institutionalization, etc.) a larger number of cases than expected by private attorneys (4.8% or 163 cases) were given this outcome whereas for public defense attorneys, fewer defendants (2.5% or 267 cases) received this outcome. For conflict attorneys, the number of defendants given other dispositional outcomes consisted of 76 cases or 2.9% an expected outcome.

**Table 19**

**Type of Attorney \* New Disposition Crosstabulation**

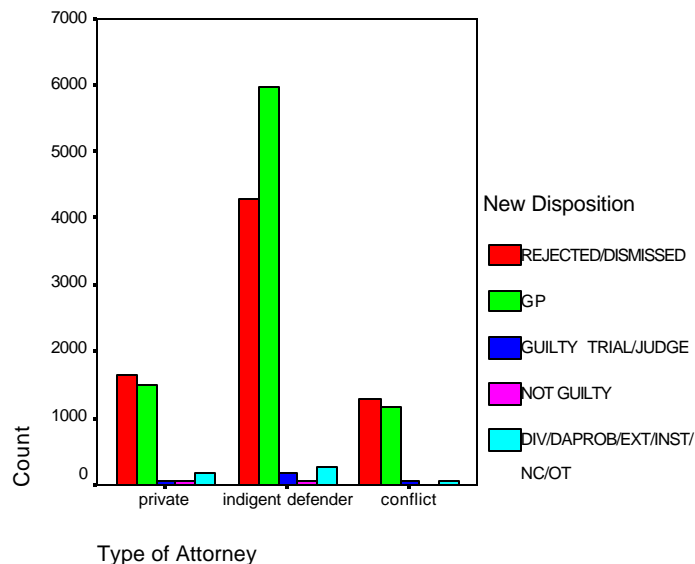
			New Disposition					Total
			REJECTED/ DISMISSED	GUILTY PLEA	GUILTY TRIAL/JUDGE	NOT GUILTY	DIV/DAPR OB/EXT/IN ST/NC/OT	
Type of Attorney	private	Count	1644	1495	58	46	163	3406
		Expected Count	1472.5	1754.9	54.6	21.0	103.0	3406.0
		% within Type of Attorney	48.3%	43.9%	1.7%	1.4%	4.8%	100.0%
		% within New Disposition	22.7%	17.3%	21.6%	44.7%	32.2%	20.4%
		% of Total	9.8%	8.9%	.3%	.3%	1.0%	20.4%
indigent defender	Count	4287	5975	164	48	267	10741	
	Expected Count	4643.7	5534.2	172.1	66.1	324.9	10741.0	
	% within Type of Attorney	39.9%	55.6%	1.5%	.4%	2.5%	100.0%	
	% within New Disposition	59.3%	69.3%	61.2%	46.6%	52.8%	64.2%	
	% of Total	25.6%	35.7%	1.0%	.3%	1.6%	64.2%	
conflict	Count	1302	1150	46	9	76	2583	
	Expected Count	1116.7	1330.9	41.4	15.9	78.1	2583.0	
	% within Type of Attorney	50.4%	44.5%	1.8%	.3%	2.9%	100.0%	
	% within New Disposition	18.0%	13.3%	17.2%	8.7%	15.0%	15.4%	
	% of Total	7.8%	6.9%	.3%	.1%	.5%	15.4%	
Total	Count	7233	8620	268	103	506	16730	
	Expected Count	7233.0	8620.0	268.0	103.0	506.0	16730.0	
	% within Type of Attorney	43.2%	51.5%	1.6%	.6%	3.0%	100.0%	
	% within New Disposition	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	
	% of Total	43.2%	51.5%	1.6%	.6%	3.0%	100.0%	

Statistical analysis of Caddo Parish District Attorney case records used for this research for the years of 1998 to 2002 show that sentencing outcome is related to the type of defense

attorney representing the criminal offender for certain outcomes. Defendants represented by private attorneys are more likely to have their cases dismissed, are less likely to plea bargain, and are more likely to have their cases referred to a diversion program than the public defender client. Defendants represented by public defense attorneys were less likely to have their charges rejected or dismissed, were more likely to plea guilty to charges, and were less likely to be given other outcomes such as diversion.

However, when cases did go to trial, the type of attorney representing the client did not affect the outcome of a guilty verdict (from either judge or jury trial). Offenders represented by private, contract or public defense attorneys were more likely to be found guilty than expected. Regarding not guilty verdicts, (from either judge or jury trial) private attorneys had a higher number of not guilty verdicts than expected (1.4%), whereas both public defense attorneys and conflict attorneys received a lower number of not guilty verdicts than expected (.4% and .3% respectively).

The bar chart below shows a comparison of disposition outcome counts by type of attorney representing the client. Comparatively, far more cases are plea-bargained by the public defense attorney than by private or contract attorneys. Other research and results of a current study suggest that the extended use of plea-bargaining is due to the workload and high number of cases represented by each public defense attorney.



**Figure 8 - Dispositional Outcomes by Type of Attorney**

**Discussion and Conclusion**

The quality of legal services provided to indigent defendants in Caddo Parish is far below what is recommended by LIDAB standards and by national norms. Much of these deficiencies can be traced back to overwhelming caseloads and inadequate funding. There is a lack of meaningful client contact by the PDO attorneys, little if any investigative and/or legal work

performed on cases prior to trial resulting in the minimal assertion of clients' legal rights, and very little if any use of outside experts for these cases.

In summary, this investigation of the extent (adequacy and quality) of legal services being provided to indigent defendants in Caddo Parish has shown that those accused of a crime have little or no meaningful contact with court-appointed lawyers both inside and outside the courtroom and that their cases receive very little attention in the way of meaningful investigation or expert assistance. In other words, indigent defendants have injustice by attrition and default rather than justice by litigation.

On every financial indicator, resources for the PDO pale significantly to those of the DAO. An unstable set of financial resources has seriously depleted reserve funds for the PDO. The lack of resources forces public defenders to carry caseloads far in excess of the standards set by LIDAB. The lack of adequate attorney and support staff causes delays that cost the taxpayers of Caddo Parish money.

Adding to the economic burden, public defense attorneys with heavy caseloads cannot advocate for the client to get out of jail pending trial so that they can remain gainfully employed – contributing to the Parish's tax base instead of being housed at tax payer's expense. Inadequate public defender staffing increases the likelihood that indigent clients receive poor outcomes; defendants represented by public defenders were less likely to have their charges rejected or dismissed, were more likely to plead guilty to charges, were less likely to have other outcomes such as diversion, and were less likely to go to trial, than defendants represented by private attorneys.

Defendants of African-American descent who are detained in CCC and who are disproportionately represented by public defense attorneys seem to be disproportionately affected by the failure of the system to adequately protect their state and federal constitutional right to counsel.

The essential problem of the Caddo PDO, from which all other inadequacies stem, is the inherent lack of stable, adequate funding.

**Appendix 1**

Survey # \_\_\_\_\_

Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
(Month / Day / Year)

CADDO PARISH

**INDIGENT CLIENT SURVEY**

**Read to respondent:** We are trying to determine how the Public Defender’s Office (PDO), or other legal counsel, in Caddo Parish can better serve you. As part of this effort, we would like to record your views in this matter. Your participation in this survey is voluntary, and your responses to this survey will remain confidential.

**Instructions to respondent:** Please respond to each of the following questions to the best of your knowledge. If you do not understand the question, please do not hesitate to ask your interviewer to repeat the question for you.

1. When were you arrested for the crime(s)for which you are currently charged?

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(Month / Day / Year)

2. Is the attorney who is currently representing you a public defender?

\_\_\_\_ No                      If no, interviewer to cease questioning and to thank interviewee for participating in this study.

\_\_\_\_ Yes                      If yes, what is his/her name \_\_\_\_\_

\_\_\_\_ Don’t know/can’t remember

3. After your arrest for the present offense, have you attempted to contact your lawyer?

\_\_\_\_ No

\_\_\_\_ Yes    If yes, please indicate the number of times \_\_\_\_\_

If yes, by what means? \_\_\_\_ letter    \_\_\_\_ telephone call

If yes, what did you wish to speak with your lawyer concerning?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. For each attempt to contact your lawyer, what response did you receive?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



5. Have you attempted to hire a private lawyer for your current charge(s)?

No

Yes If yes, please explain why you desired a private lawyer

\_\_\_\_\_

If yes, please explain why you were unable to obtain a private lawyer

\_\_\_\_\_

6. When were you initially incarcerated for the current charge(s)? \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
(Month / Day / Year)

7. Were you granted bail on your first charge?

No

Yes If yes, was bail revoked on the basis of new charges or for violation of your bail conditions? Please explain: \_\_\_\_\_

\_\_\_\_\_

9. As best as you can recall, please provide us with information regarding all charges currently pending against you as well as your trial dates for each of these charges:

Charge	Current Crime Charged	Current Trial Date (Month / Day / Year)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

10. Other than for your 72 hour court appearance (which is where you are brought before a judge a few days after your arrest and bond is set), about how long after your arrest did you first meet with an attorney for the current charge(s)?

\_\_\_\_\_ number of days  
\_\_\_\_\_ have not met with my attorney

11. Prior to arraignment (when you are brought to court to plead not guilty and have an attorney assigned to you) did you meet with your attorney?

\_\_\_\_\_ No  
\_\_\_\_\_ Yes     If yes, about how many times? \_\_\_\_\_  
                  If yes, about how long each time? \_\_\_\_\_ minutes  
\_\_\_\_\_ I have not been arraigned yet

12. After your arraignment, have you been visited by your attorney in jail while you have been incarcerated for the current charge(s)?

\_\_\_\_\_ No  
\_\_\_\_\_ Yes    If yes, about how many times? \_\_\_\_\_  
                  If yes, about how much time in total minutes were you visited by such attorneys in jail? \_\_\_\_\_ (minutes)  
\_\_\_\_\_ I have not been arraigned yet

13. Have you been visited by investigators (someone who will speak to witnesses and assist the lawyers in your defense) in jail while you have been incarcerated for the current charge(s)?

\_\_\_\_\_ No  
\_\_\_\_\_ Yes    If, yes, how many times? \_\_\_\_\_ number of times  
                  If yes, about how much time in total minutes have you been visited by such investigators in jail? \_\_\_\_\_ minutes

14. While you were present in the courthouse:

- a. About how many times have you spoken with your attorney? \_\_\_\_\_ number of times
- b. About how long were your discussions with your attorney? \_\_\_\_\_ total number of minutes

15. What is the status of your case for your current charge(s)?

\_\_\_\_\_ Accepted plea bargain                    If accepted plea or trial completed, explain

\_\_\_\_\_ Trial Completed sentence outcome? Sentence: \_\_\_\_\_  
\_\_\_\_\_ Trial ongoing Fine: \_\_\_\_\_ Other: \_\_\_\_\_  
\_\_\_\_\_ Probation or parole violation on earlier charges  
\_\_\_\_\_ Other: Please explain: \_\_\_\_\_

16. In your opinion, how can the public defender system serve you better? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Information about you:**

17. Your gender: \_\_\_\_\_ male  
\_\_\_\_\_ female

18. Your date of birth: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
(Month / Day / Year)

19. Your race/ethnicity:  
\_\_\_\_\_ African-American  
\_\_\_\_\_ White  
\_\_\_\_\_ Hispanic  
\_\_\_\_\_ Other Explain: \_\_\_\_\_

20. Your highest educational level achieved: \_\_\_\_\_ years of school completed

22. Number of prior convictions you have:

\_\_\_\_\_ Felonies  
\_\_\_\_\_ Misdemeanors

22. At the time of your arrest for the current charge(s):

a) Did you have a job?

\_\_\_\_\_ No  
\_\_\_\_\_ Yes If yes, what was your job title/position: \_\_\_\_\_  
If yes, how long had you been in this job? : \_\_\_\_\_ number of months  
If yes, what was your wage/salary? \$ \_\_\_\_\_ per month

b) Did you have other source(s) of income:

\_\_\_\_\_ No

\_\_\_\_\_ Yes

If yes, what were your other sources of income?

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If yes, about how much additional income did you have

\$\_\_\_\_\_ per month

**Read to respondent:** Thank you for completing this survey. Your time and participation is greatly appreciated, since it will assist us in determining the quality of legal services provided to other indigent defendants such as yourself in Caddo Parish.

**Interviewer notes:**

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## Appendix 2

### May 2004 Caddo Parish Caseloads of In-house Attorneys

Lawyer	Admin	Capital	Life*	Other Felony**	LIDAB Standards
1. Alan Golden	Director	2	11		3-5 Capital or 15-25 Life
2. Kurt Goins	Cap. Att.	3	17		
3. David McClatchey	Cap. Att.	3	16		
4. Ricky Swift	Senior - Sect. 1		48		15-25 Life or 150-200 Other felonies
5. Michelle Andrepont	Senior Sect. 2		33		
6. Mary Harried	Senior Sect. 3		41		
7. Michael Bowers	Senior Sect. 4		36		
8. Carolyn Sartin	Sect. 1			344	150-200 other felonies
9. Kammi Whatley	Sect. 2			255	
10. Wayne Dishman	Sect. 1,2			231	
11. Glen Garret	Sect. 3			212	
12. Casey Simpson	Sect. 4			277	
13. Jerry Kirkus	Sect. 3,4			231	
14. Michelle Tabarrok	Sect. 5			253	
15. Liz Gardner	Sect. 5			210	

\* Senior staff attorneys handle cases that carry either life or virtual life sentences. "Virtual life sentences" are sentences ranging from 40 to 99 years (e.g., forcible rape and 2nd degree kidnapping - 40 years, attempted murder-50 years and armed robbery - 99 years).

\*\* When a defendant has more than one docket number the PDO counts each one separately. Docket numbers present a more accurate measure of the amount of cases and thus the workload each attorney actually has. For reporting purposes to LIDAB, docket numbers are used.

### APPENDIX 3

#### ID AND CONFLICT ATTORNEYS – February 26, 2004

##### LISTING OF BOTH ID and CONFLICT ATTORNEYS

Andrepoint, Michele	ID (10/94 – 12/31/97; 7/1/99 to present) Conflict (1/1/98 to 6/30/99)
Book, Gary	Conflict
Bowers, Michael	ID (3/1/98 to present) drug section
Brewer, John	Conflict
Brown, Michelle	ID Juvenile Court
Carmody, Michael	Conflict
Clark, Joseph	Conflict
Cole, Rollin W.	Conflict
Collins, Stephen	Conflict
Cranford, Victoria	Conflict (pre 1997)
Dishman, Wayne	ID (3/1/98 to 4/28/2000) rehired 1/2004
Fisher, Richard	Conflict - Misdemeanor
Foster, Diane	ID (11/3/97 to 9/3/99)
Franklin, Jared	Conflict - Misdemeanor
Frederick, Mark	Conflict - Misdemeanor
Glassel, Steve	Conflict – capital
Goins, Jesse	ID (3/1/96 to 11/20/01)
Goins, Kurt	ID (1/2/87 to present)
Golden, Alan	ID – felony/capital
Goorley, Richard	Head of CAPOLA
Harried, Mary	ID (12/15/97 to present)
Harris, Alan	ID (4/86 to 11/14/97) Conflict to present
Harville, Stuart	ID (7/1/98 to 12/03)
Hood, James	Conflict - misdemeanor
Inderbitzin, Ronald	Conflict - misdemeanor
Jackson, Mary	ID (1/1/02 to 12/31/03) Conflict misd <2002
Johnson, Ginger	Conflict - regular
Kirkus, Jerry	ID (1/1/01 to present)
Lester, Calvin	ID – Juvenile Court
McDonald, Stanley	Conflict
McClatchey, David	ID (4/1/91 to present)
Mouton, Edward	ID (1/1/97 to 6/30/99)
Perkins, Michele	ID Juvenile Court
Shacklette, Ross	Conflict - Misdemeanor
Smart, Pamela	ID (1/1/91 to 1/31/02) Conflict to present
Stegall, Alan	Conflict - Misdemeanor
Straub, Scott	Conflict - Misdemeanor
Stroud, Martin	Conflict

Swift, Ricky	ID (3/4/96 to present)
Thomas, Floyd & Lloyd	Conflict - regular
Vergis, Michael	ID (9/25/98 – 4/18/03); Private presently
Thornell, Warren	Conflict – regular and capital
Waltman, Angela	ID (5/8/2000 to 12/29/2000)
Waltman, Tim	Conflict - misdemeanor
Whatley, Kammy	ID (9/1/99 to present)
Winchell, Mary	Conflict (resigned ID 6/30/95)
Zaccaria, Frank	ID – (1/7/97 to 2/15/01) Conflict to present

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Frederick, Mark	Conflict - Misdemeanor
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Harris, Alan	Conflict 11/15/97 to present
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Hood, James	Conflict - misdemeanor
Jackson, Mary	Conflict misd <2002
Johnson, Ginger	Conflict - regular
McDonald, Stanley	Conflict
Shacklette, Ross	Conflict - Misdemeanor
Stegall, Alan	Conflict - Misdemeanor
Straub, Scott	Conflict - Misdemeanor
Stroud, Martin	Conflict
Thomas, Floyd & Lloyd	Conflict - regular
Thornell, Warren	Conflict – regular and capital
Waltman, Tim	Conflict - misdemeanor
Winchell, Mary	Conflict



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