

Correlates of Satisfaction Among Clients of a Public Defender Agency[†]

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Abstract

Discussions of indigent defense often neglect the voice of the people these systems are designed to represent. This article addresses that gap by presenting findings of a study of client satisfaction from a rural public defender agency. One hundred twenty clients were asked about their satisfaction with their attorney, focusing on whether there were particular actions or behaviors that contributed to greater satisfaction. Attempts were made to administer the questionnaire twice, both early on in the case and after case disposition, as well as to clients both in and out of custody. Findings revealed that clients were generally satisfied with their public defender and that such satisfaction correlated with indicators of communication, investigation, and advocacy. The ways in which the resultant measure of satisfaction could be used for professional development and considered as an indicator of quality defense are discussed.

I. INTRODUCTION

The Supreme Court's landmark ruling in *Gideon v. Wainwright*¹ held incredible promise for persons facing felony charges in state courts who would now be provided an attorney if they could not afford one. Legal scholars and practitioners concerned with the rights of the accused hoped that *Gideon* meant increased Sixth Amendment protection for the most vulnerable people in our

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¹ 372 U.S. 335 (1963).

society. Skeptics worried, however, that inadequate resources would prevent public defense from realizing the full scope of the ruling. A half century of experience reveals that those concerns were warranted. To say that full implementation of this Constitutional right has proven to be a challenge would be an understatement. In fact, the American Bar Association's (ABA) 2004 report detailing the state of public defense systems in the United States articulated these shortcomings quite explicitly in its title: *Gideon's Broken Promise: America's Continuing Quest for Equal Justice*.²

The ABA report details a variety of systemic barriers to effective indigent defense. For instance, as skeptics predicted, the report notes that a primary challenge facing public defense is lack of adequate funding for attorney pay and training, and for expert assistance necessary for thorough investigation and advocacy.³ A related concern is inadequate legal representation due to caseload pressure, which may contribute to a "meet 'em and plead 'em"⁴ mentality as well as lack of personal contact with clients,⁵ though attorney inexperience or incompetence may also be at issue.⁶ Structural defects also undermine indigent defense, including lack of attorney independence from the judges who appoint them⁷ and delay or backlog in court systems themselves.⁸ Finally, indigent defense systems are often subject to little oversight,⁹ partly due to lack of data regarding funding sources, costs, and caseloads.¹⁰

Significantly, the ABA's suggested reforms include data collection and "assessments of indigent defense systems."¹¹ The defense bar and researchers are responding. For example, Delphi workload studies¹² aim "to develop data-

² AM. BAR ASS'N, *GIDEON'S BROKEN PROMISE: AMERICA'S CONTINUING QUEST FOR EQUAL JUSTICE* (2004), http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_bp_right_to_counsel_in_criminal_proceedings.authcheckdam.pdf [<https://perma.cc/L938-DCWH>] [hereinafter ABA, *GIDEON*]; see also NAT'L RIGHT TO COUNSEL COMM., *THE CONSTITUTION PROJECT, JUSTICE DENIED: AMERICA'S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL* (2009), <http://www.constitutionproject.org/wp-content/uploads/2012/10/139.pdf> [<https://perma.cc/79RS-BWAK>] (echoing similar concerns).

³ ABA, *GIDEON*, *supra* note 2, at 7–20.

⁴ *Id.* at 16.

⁵ *Id.* at 18.

⁶ *Id.* at 16.

⁷ *Id.* at 20.

⁸ *Id.* at 26.

⁹ *Id.* at 21.

¹⁰ *Id.* at 28.

¹¹ *Id.* at 45.

¹² See Geoff Burkhart, *How to Leverage Public Defense Workload Studies*, 14 OHIO ST. J. CRIM. L. 403 (2017).

supported workload standards”¹³ per case type¹⁴ and task type¹⁵ to “provide reasonably effective assistance of counsel to indigent defendants.”¹⁶

Given workload, resource, and other serious systemic problems facing indigent defense, some may question the relevance of research on client satisfaction, the focus of this article. Indeed, perceptions of indigent clients have traditionally been “unnoticed, untapped and underappreciated” as a source of information for policy-makers and practitioners alike.¹⁷ Yet indigent defendants represent the vast majority of criminal defendants,¹⁸ and the ABA report points to the importance of attorney-client interactions to reform efforts.¹⁹ Moreover, as discussed in Part II, there is a growing recognition among scholars and legal practitioners that the client perspective contributes to our understanding of quality defense. For example, the North Carolina Systems Evaluation Project, part of the State’s Office of Indigent Defense Services, developed Key Performance Indicators of high-quality defense that can be used to measure system outcomes; one such Indicator is client satisfaction.²⁰ The issue is not which outcome measure is more important—case outcome or client satisfaction—but rather a growing

¹³ AM. BAR ASS’N, THE MISSOURI PROJECT: A STUDY OF THE MISSOURI PUBLIC DEFENDER SYSTEM AND ATTORNEY WORKLOAD STANDARDS 5 (2014), http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2014/ls_sclaid_5c_the_missouri_project_report.authcheckdam.pdf [<https://perma.cc/4E76-EUA3>].

¹⁴ *Id.* at 23 (categorizing case types as Murder/Homicide, AB Felony, CD Felony, Sex Felony, Misdemeanor, Juvenile, Appellate/PCR, and Probation Violation).

¹⁵ *Id.* (categorizing tasks as Client Communication (*i.e.*, “in person conversations, phone calls, written communication, and communication with family”); Discovery/Investigation (*i.e.*, “State’s discovery disclosures, records and transcripts, depositions and witness interviews, and expert and technical research”); and Case Preparation (*i.e.*, “legal research, drafting and writing, plea negotiations, alternative sentencing research, court preparation, and case management”)).

¹⁶ *Id.* at 8; *see also* DOTTIE CARMICHAEL ET AL., PUB. POLICY RESEARCH INST., GUIDELINES FOR INDIGENT DEFENSE CASELOADS: A REPORT TO THE TEXAS INDIGENT DEFENSE COMMISSION (2015), http://www.tidc.texas.gov/media/31818/150122_weightedcl_final.pdf [<https://perma.cc/X5M7-KG8Z>].

¹⁷ Christopher Campbell et al., *Unnoticed, Untapped, and Underappreciated: Clients’ Perceptions of Their Public Defenders*, 33 BEHAV. SCI. & L. 751 (2015).

¹⁸ Though statistics vary by jurisdiction, roughly 80% of criminal defendants nationwide are indigent and thus represented by publicly funded defense attorneys. *See* STEVEN K. SMITH & CAROL J. DEFRANCES, BUREAU OF JUSTICE STATISTICS, U.S. DEP’T OF JUSTICE, NCJ 158909, INDIGENT DEFENSE (1996), <http://www.bjs.gov/content/pub/pdf/id.pdf> [<https://perma.cc/F9BM-PXLU>].

¹⁹ ABA, *GIDEON*, *supra* note 2, at 14–16, (citing *Strickland v. Washington*, 466 U.S. 668, 688 (1984) that includes “consulting with the defendant on important decisions” and “keeping the defendant informed of important developments” as obligations to providing effective assistance of counsel).

²⁰ *See* MARGARET A. GRESSENS & DARYL V. ATKINSON, THE CHALLENGE: EVALUATING INDIGENT DEFENSE: NORTH CAROLINA SYSTEMS EVALUATION PROJECT PERFORMANCE MEASURES GUIDE 1, 50 (2012), http://www.ncids.org/systems%20evaluation%20project/performanceasures/PM_guide.pdf [<https://perma.cc/2ZH7-PN7P>]; *see also, e.g.*, AM. BAR ASS’N, ABA CRIMINAL JUSTICE STANDARDS FOR THE DEFENSE FUNCTION § 4-3.1(a) (4th ed. 2015), http://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition.html [<https://perma.cc/>

recognition that people who are represented by public defenders deserve a voice, and their views could be considered in conjunction with more traditional outcome measures.

This paper contributes to that growing recognition by presenting the findings of an exploratory study of client satisfaction. This study investigated whether there are particular attorney actions or behaviors that are associated with greater client satisfaction. As discussed in Part II, research suggests that there is a positive relationship between trust and satisfaction with one's attorney.²¹ We designed this study to determine whether there were other correlates of client satisfaction as well. Those other correlates ultimately coalesced around the core duties of an attorney to communicate with their client, to investigate the facts of the case, and to advocate on behalf of the client's best interests.

Notably, those general duties are reflected in the ABA Standards for the Defense Function.²² To be clear, we did not set out to conceptualize and then operationalize specific indicators of these Standards. Rather, as discussed in Part III.C, as we reviewed the literature and spoke with attorneys in developing our measures, the resultant items reflected behaviors by attorneys that in turn are captured by the ABA Standards. Hence, our goal was to add to the existing body of knowledge by expanding the inquiry of correlates of client satisfaction. We also recognized that satisfaction with one's attorney might not be a static concept, that it might change from the beginning to the end of one's case, or that it might differ by one's custody status. Hence, we designed our study to measure those possibilities by seeking data from clients of a public defender agency both at the beginning of their cases and again after their cases were resolved, and by attempting to include in our sample clients who were in and out of custody at both times of data collection. These innovations add to the literature both substantively and methodologically.

Our analysis begins in Part II by reviewing the scant literature on the relationship between public defenders and their clients, and by drawing parallels to a more developed body of literature on doctor-patient relationships. Part III outlines our methodological approach, including the development of the questionnaire, recruitment procedures, and sample characteristics. Part IV presents results of the analysis. Part V discusses scholarly and practical implications of this exploratory study, along with suggestions for future research.

AM8J-EV49] [hereinafter ABA STANDARDS] (“[D]efense counsel should work to establish a relationship of trust and confidence with each client”).

²¹ See generally Marcus T. Boccaccini & Stanley L. Brodsky, *Attorney-Client Trust among Convicted Criminal Defendants: Preliminary Examination of the Attorney-Client Trust Scale*, 20 BEHAV. SCI. & L. 69 (2002).

²² ABA STANDARDS, *supra* note 20, § 4-3.9 (“Duty to Keep Client Informed and Advised About the Representation”); § 4-4.1 (“Duty to Investigate and Engage Investigators”); § 4-3.7 (“Prompt and Thorough Actions to Protect the Client”).

II. LITERATURE REVIEW

A. Patient Satisfaction

Assessments of patient satisfaction are commonplace,²³ whereas the same does not hold true for attorney-client satisfaction.²⁴ In some respects, this difference is surprising because doctor-patient and attorney-client relationships share many similarities. For instance, research indicates that the doctor-patient relationship “involves interaction between individuals in non-equal positions, is often non-voluntary, concerns issues of vital importance, is therefore emotionally laden, and requires close cooperation.”²⁵ The same could be said for the attorney-client relationship.

What cannot be said, however, is that satisfaction with those relationships has been assessed in equal measure. Attention to patient satisfaction began decades ago²⁶ whereas similar attention in the legal arena lags behind.²⁷ Part of the reason for the difference may lie in the impetus for the measurement.²⁸ Work on patient satisfaction grew out of work in consumerism—the competition in services that accompanied changes in the delivery of healthcare from solo-practitioner to more managed care—and was designed, in part, to improve patient compliance with treatment.²⁹ However, the same conditions do not hold for the relationship between public defenders and their clients. By virtue of the client’s status as

²³ Clark D. Cunningham, *Evaluating Effective Lawyer-Client Communication: An International Project Moving From Research to Reform*, 67 *FORDHAM L. REV.* 1959, 1960 (1999). See generally Lucille M.L. Ong et al., *Doctor-Patient Communication: A Review of the Literature*, 40 *SOC. SCI. & MED.* 903 (1995).

²⁴ Cunningham, *supra* note 23, at 1961.

²⁵ See Ong et al., *supra* note 23, at 903.

²⁶ John Sitzia & Neil Wood, *Patient Satisfaction: A Review of Issues and Concepts*, 45 *SOC. SCI. & MED.* 1829 (1997).

²⁷ See Cunningham, *supra* note 23, at 1961.

²⁸ Just as attorneys are now drawing from the medical field and focusing more attention on client satisfaction, the medical field, with its focus on public health, appears to be embracing a treatment approach long-endorsed by the legal community, namely (client) patient-centered practice. See generally Nicola Mead & Peter Bower, *Patient-Centredness: A Conceptual Framework and Review of the Empirical Literature*, 51 *SOC. SCI. & MED.* 1087 (2000); Somnath Saha & Mary Catherine Beach, *The Impact of Patient-Centered Communication on Patients’ Decision Making and Evaluations of Physicians: A Randomized Study Using Video Vignettes*, 84 *PATIENT EDUC. & COUNSELING* 386 (2011).

²⁹ See generally Brian Williams, *Patient Satisfaction: A Valid Concept?*, 38 *SOC. SCI. & MED.* 509 (1994).

indigent, consumerism, considered here, as the ability to choose one's attorney, is severely restricted.³⁰

Further, the issue of compliance may be more complicated in the attorney-client context than the doctor-patient relationship. In medicine, compliance is operationalized as adhering to proscribed treatment plans and attending follow-up appointments.³¹ The same general goals may apply in the legal arena; attorneys wish to convince clients that their best interests are served by accepting a particular plea deal, following through with court-mandated treatment, paying off fines, practicing good behavior while incarcerated, and so forth. However, if defense attorneys for the indigent lack the ability to serve the best interests of their clients—whether as a result of deficiencies in funding or investigatory resources, lack of proper training, experience, or competence, or larger structural concerns—this raises the question of whether or not client compliance should be the ultimate goal.³² For instance, under what conditions should a client accept a plea offer if their attorney lacks the resources to conduct a thorough investigation? Compliance in this situation would be to accept the offer: Resources are unlikely to improve in the near future; without those resources it is unlikely that additional evidence will be discovered; and without additional evidence, the next offer, if there is one, will probably be worse. However, if additional evidence would improve the client's position, should the client nevertheless comply and accept the offer?³³

These questions indicate that, while the dynamics of attorney-client relationships are unique, studying satisfaction with those relationships is not. In the next section, we put the study of client satisfaction into its larger context of the defense function. We then discuss prior research on client satisfaction, from the earliest efforts using in-depth interviews, to attempts at developing empirically-based scales of trust and satisfaction, as well as a mixed-method approach that relies on both focus groups and surveys.

³⁰ *But see* Janet Moore, *The Antidemocratic Sixth Amendment*, 91 WASH. L. REV. 1705, 1730 (2016) (discussing “a widespread misimpression that the Supreme Court has established as a matter of law that indigent defendants have no Sixth Amendment right to choose counsel”).

³¹ Jeffrey L. Jackson & Kurt Kroenke, *Patient Satisfaction and Quality of Care*, 162 MIL. MED. 273, 274 (1997).

³² *See* Janet Moore, Marla Sandys & Raj Jayadev, *Make Them Hear You: Participatory Defense and the Struggle for Criminal Justice Reform*, 78 ALB. L. REV. 1281, 1287–88 (2015).

³³ This question of compliance may be more complicated for clients than for patients. While patients may gather information about their condition, they likely do not know objectively if their doctor ordered all the proper tests or interpreted the results thereof correctly. In contrast, a client can determine if their attorney interviewed a family member believed to be pivotal to the defense. Thus, attempts to increase satisfaction as a means of increasing compliance may not transfer readily from the medical to the legal arena.

B. Attorney-Client Relationships, Trust, and Satisfaction

The ABA recognizes the importance of the lawyer-client relationship to the defense function. Specifically, Defense Standard 4-3.1 maintains: “[D]efense counsel should work to establish a relationship of trust and confidence with each client.”³⁴ In addition, legal scholars have raised methodological and theoretical reasons for studying the relationship: client perceptions provide a triangulated perspective for assessing the impact of structural deficits upon those who experience this process³⁵ as well as their notions of procedural justice.³⁶

Legal practitioners also have begun to highlight the value of evaluating client perspectives. In 2012, North Carolina’s Office of Indigent Defense Services outlined best practices for indigent defense delivery systems and emphasized the importance of client perspectives:

- Clients are the ultimate consumers of indigent defense services, and indigent defense agencies should be concerned about the overall satisfaction of their customers. In private practice, law firms and private attorneys frequently use client satisfaction surveys to gauge the perceptions of their clients. Indigent defense agencies should be just as concerned about the perceptions of their client population.
- Client satisfaction is an important measure of attorney performance and the quality of legal representation.
- Using client satisfaction as a measure of attorney performance would make indigent defense attorneys more accountable to clients.³⁷

While this report did not offer a specific format for assessing client satisfaction, its mention here underscores the value of such an instrument as related to professional development and quality defense delivery.

Historically, public defenders have struggled against the negative perceptions harbored by their clients; this particular attorney-client relationship has been long-presumed a strained one. These perceptions were captured by the work of Jonathan Casper³⁸ and other scholars³⁹ just a few years after the landmark *Gideon*

³⁴ See ABA STANDARDS, *supra* note 20.

³⁵ Burton M. Atkins & Emily W. Boyle, *Prisoner Satisfaction With Defense Counsel*, 12 CRIM. L. BULL. 427, 430 (1976); Campbell et al., *supra* note 17, at 752; Jonathan D. Casper, *Did You Have a Lawyer When You Went to Court? No, I Had a Public Defender*, 1 YALE REV. L. & SOC. ACTION 4, 5 (1971).

³⁶ Campbell et al., *supra* note 17, at 752; Ellen Raaijmakers et al., *Criminal Defendants’ Satisfaction with Lawyers: Perceptions of Procedural Fairness and Effort of the Lawyer*, 21 PSYCHOL. CRIME & L. 186, 186–201 (2015).

³⁷ See GRESSENS & ATKINSON, *supra* note 20, at 50.

³⁸ See generally Casper, *supra* note 35.

*v. Wainwright*⁴⁰ ruling. Casper explained that most of the discussions over public defense at the time were focused on whether case overloads undermined the adversarial nature of courtroom dynamic, in that regular participation in criminal defense diminished the ability of attorneys to serve as an “unequivocal advocate of the interests of his client.”⁴¹ Casper suggested that, aside from the obvious implication that additional funds and resources are needed, the defendant’s perspective and experience about the “nature of the relationship between lawyer and client . . . might be helpful in assessing the merits of present and proposed systems.”⁴² Thus, the earliest work on the nature of the relationship between public defenders and their client recognized the value of this information in informing debates about systemic reform.

For his analysis, Casper interviewed seventy-two men charged with felonies in the Connecticut court system, of which forty-nine were currently incarcerated while twenty-three were either on probation, had their cases dismissed, or had been acquitted. Roughly two-thirds of the men had been represented by a public defender and the others had been represented by privately hired attorneys or another legal services agency. Casper spoke with each interviewee for approximately two hours about their perceptions of the criminal justice system and the plea bargaining process in particular. Casper’s interviewees expressed distrust, which was rooted in the feeling that their public defense attorney was working as a “surrogate of the prosecutor . . . rather than as their own representative.”⁴³ Many of the interviewees commented on the lack of time they spent with their public defenders in discussing and preparing the case, as well as career ambitions of defense attorneys hoping to become prosecutors.⁴⁴ Another factor contributing to client distrust was the lack of financial incentive for public defenders to truly

³⁹ Geoffrey P. Alpert & Donald A. Hicks, *Prisoners’ Attitudes Toward Components of the Legal and Judicial Systems*, 14 CRIMINOLOGY 461, 473 (1977) (discussing findings from a self-reported survey administered to 292 incarcerated men indicating “prisoners represented by public defenders are far more likely to have negative attitudes” than those represented by private attorneys); PATRICIA ISHMAEL, CAL. YOUTH AUTH., LEGAL REPRESENTATION SURVEY (1970) (discussing her findings from a self-report survey administered to 464 incarcerated juvenile males, and suggesting that perceptions of public defenders in terms of quality of representation, amount of time spent on the case, and type of desired attorney for future representation are substantially less favorable than for private attorneys) (unpublished report) (copy on file with authors); Stewart O’Brien et al., *The Criminal Lawyer: The Defendant’s Perspective*, 5 AM. J. CRIM. L. 283, 299 (1977) (discussing findings from interviews with prison inmates indicating that “[o]n twenty-three of the twenty-four lawyering values rated by the inmates, retained counsel received the highest score” as compared with court-appointed counsel); Glen Wilkerson, *Public Defenders as Their Clients See Them*, 1 AM. J. CRIM. L. 141, 142–45 (1972).

⁴⁰ 372 U.S. 335 (1963).

⁴¹ See Casper, *supra* note 35, at 4.

⁴² *Id.* at 5.

⁴³ *Id.* at 6.

⁴⁴ *Id.* at 6–7.

advocate for their clients. As one interviewee put it: “[The public defender] gets his money either way.”⁴⁵ Lastly, many of the interviewees remarked on the fact that public defenders, like prosecutors, were employees of the “the state” who “cannot [effectively] fight one another” given their presumably shared interests.⁴⁶ Private attorneys were presumed by most participants to provide superior lawyering; many of the men lamented about how much better they would have fared with such access.⁴⁷ Casper concluded by acknowledging that while client perceptions are

not the only goal that ought to be of concern to members of the legal community. . . [because] standards for what constitutes an adequate legal defense must be considered, and, to some extent, certainly, the legal community knows more about what a client ought to receive than does the client himself. . . . the defendant’s view—the consumer’s perceptive . . . [is] worthy of consideration as well.⁴⁸

Additional research has identified the importance of interpersonal and communications skills, as well. For instance, O’Brien and colleagues asked male inmates to rate the relative value of more than twenty different lawyering attributes and found respondents rated the item “talks up in court” highest, followed by “knows the law” and “knows what’s happening,” and then “rap with” the client and other items suggestive of interpersonal communication skills.⁴⁹ These authors also found that privately retained counsel were “given superior ratings in their personal relationship with the client” when compared with public defenders and assigned counsel.⁵⁰ Similarly, Feldman and Wilson enlisted undergraduate students to view a videotaped simulation of an attorney-client interview and rate the attorney’s performance on a number of objective criteria.⁵¹ The authors found that “the presence of high relational skills results in an increased perception of either trustworthiness or client satisfaction no matter what level of legal competence was present.”⁵² In addition, Boccaccini, Boothby, and Brodsky administered questionnaires to both practicing criminal attorneys and inmates to

⁴⁵ *Id.* at 7.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 9.

⁴⁹ O’Brien et al., *supra* note 39, at 296–97.

⁵⁰ *Id.* at 301.

⁵¹ Stephen Feldman & Kent Wilson, *The Value of Interpersonal Skills in Lawyering*, 5 LAW & HUM. BEHAV. 311 (1981).

⁵² *Id.* at 317.

compare their perceptions of which attorney skills each valued.⁵³ The authors found that both groups rated items related to “traditional legal skills” most highly; however, there was a disconnect when it came to interpersonal skills. Boccaccini and colleagues noted that while “attorneys feel that it is important to care about their clients, they underestimate the significance of using client-relations skills that demonstrate this concern.”⁵⁴

The early work of Atkins and Boyle explored how levels of client satisfaction vary according to type of attorney (*i.e.*, public defenders versus court-appointed or privately retained) as well as type and frequency of attorney-client interactions.⁵⁵ The authors conducted in-depth interviews with male prison inmates in South Carolina.⁵⁶ Although not statistically significant, some of their findings were contrary to other research⁵⁷ in that, as a percentage, defendants with public defenders were actually more satisfied with their attorneys than defendants represented by court-appointed attorneys or privately retained counsel. Interestingly, the authors also found that clients of public defenders were statistically more likely to enter guilty pleas than court-assigned and privately retained counsel; they concluded that while “there is no direct relationship between defendant satisfaction and type of counsel, the intervening variable of the type of plea entered does affect defendant satisfaction.”⁵⁸ Lastly, the data show that as length of sentence increases, satisfaction with one’s attorney decreases; in particular, sentences of more than five years in prison lead to a statistically significant drop-off in client satisfaction.⁵⁹

More recently, Boccaccini and Brodsky conducted a qualitative study that serves as an important step toward a more nuanced consideration and measurement

⁵³ Marcus T. Boccaccini et al., *Client-Relations Skills in Effective Lawyering: Attitudes of Criminal Defense Attorneys and Experienced Clients*, 26 LAW & PSYCHOL. REV. 97 (2002).

⁵⁴ *Id.* at 114.

⁵⁵ See Atkins & Boyle, *supra* note 35.

⁵⁶ *Id.* at 430. The authors drew a stratified random sample from a prison population of 1,436 men to account for variations in “age, type of offense, and number of offenses” since, as they characterize the extant research, these variables may “result in differences in treatment” by the courts. *Id.*

⁵⁷ Marcus T. Boccaccini & Stanley L. Brodsky, *Characteristics of the Ideal Criminal Defense Attorney from the Client’s Perspective: Empirical Findings and Implications for Legal Practice*, 25 LAW & PSYCHOL. REV. 81, 96 (2001).

⁵⁸ See Atkins & Boyle, *supra* note 35, at 444 (discussing that prisoners who pled guilty were more likely to be satisfied with their attorney than those who pled not guilty, and that this finding complicates the perceived relationship between client satisfaction and attorney type, given that guilty pleas were much more prevalent among clients of public defenders).

⁵⁹ See *id.* at 447 (“The data clearly indicate that client satisfaction with counsel is explained in part by the outcome of the service supplied by the attorney. However, the data reported . . . showed that two other variables—the type of attorney and the type of advice the attorney offered—at least indirectly affect length of sentence”).

of client satisfaction.⁶⁰ These authors asked 250 incarcerated men to describe their ideal attorney.⁶¹ Responses were coded and three general categories of description were identified: (1) loyalty, (2) lawyering skills, and (3) client relational skills.

When asked if and how they would behave differently with their “ideal” attorney, the most common response from participants was that they would not behave differently.⁶² Among those indicating that they would behave differently, the predicted behaviors included: being more honest and forthcoming with case facts and personal information; being more involved in their case; feeling more comfortable trusting their attorney’s judgment and confident about their case; and being more cooperative.⁶³ The authors conclude that “while criminal defendants regard their lawyer’s legal ability as important, they are equally concerned with their attorney’s loyalty and client relation skills. . . . [and] criminal defendants would be more open, honest, and assistive to an ‘ideal’ attorney.”⁶⁴ The findings thus suggest that better attorney-client relationships can mean more extensive disclosure that might in turn improve quality of representation.

Boccaccini and Brodsky then turned their attention to understanding the mechanism that would foster positive attorney-client relationships, focusing on the role of trust.⁶⁵ The authors drew from literature on trust in professional relationships to theorize that “attorney-client relationships characterized by high levels of trust should be associated with high levels of participation . . . which should, in turn, be associated with high levels of client satisfaction.”⁶⁶ They developed a 24-item self-report Attorney-Client Trust Scale (ACTS)⁶⁷ that drew from and modified existing interpersonal trust scales. Participation was operationalized in terms of self-reports of how often clients made suggestions about their cases and whether they attempted to call their attorneys to discuss the case. The authors administered their questionnaire to more than 300 male inmates and found that lower levels of trust correlated with having a court-appointed attorney (versus privately retained), going to trial (rather than taking a plea), and longer prison sentences.⁶⁸ High levels of trust, on the other hand, were associated with satisfaction with one’s attorney and with one’s sentence.⁶⁹ Their findings also suggested that “perceptions about attorneys’ interpersonal skills may be as

⁶⁰ See generally Boccaccini & Brodsky, *supra* note 57.

⁶¹ *Id.* at 96–97.

⁶² *Id.* at 102.

⁶³ *Id.* at 102–03.

⁶⁴ *Id.* at 115.

⁶⁵ See Boccaccini & Brodsky, *supra* note 21.

⁶⁶ *Id.* at 71–72.

⁶⁷ *Id.* at 74.

⁶⁸ *Id.* at 78.

⁶⁹ *Id.* at 79–80.

important as perceptions about legal skills in forming opinions about overall lawyering ability.”⁷⁰ The authors did not find support for the importance of client participation to increased levels of trust or satisfaction. They do suggest, however, that attorney behavior (*i.e.*, being responsive or not to client suggestions, accepting or declining phone calls) may moderate those relationships.

In a later study, Boccaccini, Boothby, and Brodsky examined attorney behavior as a moderating factor in an attempt to explain why no relationship between the level of client participation (*i.e.*, making suggestions to one’s attorney and attempts to call one’s attorney) and trust in one’s attorney was found in their previous study.⁷¹ In this congruence model of trust development, both clients and their attorneys have to want to, and actually be involved in a (communicative) relationship.⁷² These authors thus hypothesized that increased client participation, if reciprocated by one’s attorney, can lead to improved trust toward one’s attorney, and in turn, greater satisfaction.⁷³ The authors found support for their congruence model of trust development. Specifically, they found higher levels of trust among inmates whose attorney responded positively to their efforts at participation.⁷⁴ The importance of the attorney’s response was underscored by the finding that levels of trust were lower among inmates who attempted to participate in their case, but were rebuked by their attorney, than among inmates who never made the effort.⁷⁵ Also, as predicted, trust was highly correlated with satisfaction.⁷⁶ The authors suggested that attorneys should try to gauge and account for the level at which clients desire to participate in the case, and should be sensitive to how they react to clients’ suggestions.⁷⁷ More broadly, these findings suggest the benefit to training attorneys in a client-centered approach, defined generally as focused on representing “a person, not a case file; . . . a client, not a defendant.”⁷⁸ One key aspect of client-centered representation stresses the need for attorneys to routinely

⁷⁰ *Id.* at 84.

⁷¹ Marcus T. Boccaccini et al., *Development and Effects of Client Trust in Criminal Defense Attorneys: Preliminary Examination of the Congruence Model of Trust Development*, 22 BEHAV. SCI. & L. 197 (2004).

⁷² *Id.* at 199.

⁷³ *Id.*

⁷⁴ *Id.* at 205 (discussing how this was true “for both the ‘client made phone calls’ participation variable and ‘client made suggestions’ participation variable”).

⁷⁵ *Id.* at 205–06 (discussing that this finding “was statistically significant for only the ‘client made phone calls’ participation variable, [though] the means for the ‘client made suggestions’ participation variable are clearly in the same direction”).

⁷⁶ *Id.* at 206.

⁷⁷ *Id.* at 212.

⁷⁸ CLIENT ADVISORY BD. OF N.Y. STATE DEFS. ASS’N, CLIENT-CENTERED REPRESENTATION STANDARDS (July 25, 2005), http://66.109.34.102/ym_docs/05_ClientCenteredStandards.pdf [<https://perma.cc/44NX-SHYZ>].

meet with the client and keep them informed on developments with the case.⁷⁹ Improving the attorney-client relationship appears to be rooted in such practices, which should instill trust and ultimately improve client satisfaction.

Other recent research provides further support to the value of a client-centered approach, and specifically the role of communication, in improving the attorney-client relationship.⁸⁰ The results of both quantitative (survey) and qualitative (focus group) analyses point to the importance of communication to increased levels of satisfaction.⁸¹ That is, satisfaction was highest for clients whose attorneys “asked [for the] client’s opinion,” “listened,” “look[ed] into [the] prosecutor’s evidence,” had efficient meeting focus, and kept clients “informed of consequences.”⁸² This study suggests that the role of communication extends beyond its impact on satisfaction to the heart of investigation and advocacy. If attorneys fail to communicate with those they represent, they risk shutting off a potential avenue of fruitful investigation that, in turn, may hinder their ability to advocate zealously on behalf of their client.⁸³ Ultimately, these authors concluded that clients separate effort at communication from case outcomes, and view both as important.⁸⁴

The view that case outcome is not the sole consideration of defendants is consistent with the procedural justice literature that again points to the importance of quality communication.⁸⁵ In their study of male Dutch defendants, Raaijmakers, Keijsera, Nieuwebeerta, and Dirkwager found that evaluations of procedural fairness (*e.g.*, “My lawyer gives me the opportunity to express my opinion before he/she took a decision”) were the best predictor of satisfaction, more so than the quantity or timing of contact with one’s attorney.⁸⁶

Overall, the extant research suggests that client satisfaction is a robust concept that is associated with other factors. Casper’s early work highlights the lack of trust clients feel toward their state-provided attorneys and rationales for it; his

⁷⁹ *Id.*

⁸⁰ *See generally* Campbell et al., *supra* note 17.

⁸¹ *Id.*

⁸² *Id.* at 760.

⁸³ *See id.* at 763.

⁸⁴ *Id.* at 764. *See also* O’Brien et al., *supra* note 39, at 308–09 (discussing that case outcome may not be the defining variable regarding client satisfaction: “Upgrading the services of the public defender offices alone will not greatly change the negative image of public defenders because the level of satisfaction with public defenders’ performance is substantially unrelated to the actual services received.”).

⁸⁵ Procedural justice is defined as follows: “A process in which litigants feel that they have the opportunity to express their point of view fully and in which the decision maker is perceived as having listened to and considered their side’s arguments will promote a sense of fair treatment and thus a sense of satisfaction with the court experience.” Jonathan D. Casper et al., *Procedural Justice in Felony Cases*, 22 *LAW & SOC’Y REV.* 483, 486 (1988).

⁸⁶ *See* Raaijmakers et al., *supra* note 36, at 197.

work also serves as an initial recognition of client perceptions as a source for developing systemic reforms.⁸⁷ Contemporary research further reinforces the importance of trust to client satisfaction, and offers a more nuanced operationalization of the former.⁸⁸ Other work points to the importance of attorneys' interpersonal communication skills to engendering trust and satisfaction among clients, while acknowledging that additional factors like attorney type, plea type, and sentence length may also play a role.⁸⁹ Recent findings also indicate that client participation and attorney responses to those attempts is related to trust and satisfaction,⁹⁰ and that quality of communication with one's attorney can improve client perceptions of feeling heard and ultimately satisfied.⁹¹

The current study builds on this earlier work by looking at client satisfaction in one public defender agency in rural Indiana. One goal was to determine whether specific behaviors are associated with greater satisfaction. Aside from adding to the knowledge base in this area, discovering evidence for such relationships would allow for more efficient and hopefully more effective training. Another study goal was to explore whether satisfaction with one's attorney changed over the course of a case. Previous work in this area looked at satisfaction at one point in time. More specifically, the bulk of the published work in this area is based on data collected from people in prison;⁹² it seems reasonable to expect that views might differ for people awaiting trial. Further, interviewing people twice allows us to look at views of one's attorney over time. That is, the negative perception of public defenders that exists in the literature comes, for the most part, from people who have been convicted of a crime that sent them to prison. Does the same negative perception hold for people upon being assigned a public defender? Does one's view of one's public defender stay about the same from the beginning to the end of the case? If not, does the view become more positive or negative, and why? By interviewing people twice, we are able to begin to address those important questions. We now turn to a presentation of the methodology employed in the current study.

⁸⁷ See Casper, *supra* note 35.

⁸⁸ See Boccaccini & Brodsky, *supra* note 21, at 79–81; Boccaccini et al., *supra* note 71, at 203–06.

⁸⁹ See O'Brien et al., *supra* note 39, at 297; Feldman & Wilson, *supra* note 51, at 316–17; Boccaccini et al., *supra* note 53, at 110–12.

⁹⁰ See Boccaccini et al., *supra* note 71, at 205–06.

⁹¹ See Campbell et al., *supra* note 17, at 761–63; Raaijmakers et al., *supra* note 36, at 194–98.

⁹² See generally Part II.B. With the exception of Campbell et al., *supra* note 17, and Casper, *supra* note 35, research on client views of their attorneys involves people whose convictions are serious enough to warrant incarceration.

III. METHOD

This was an exploratory study designed to capture how individuals represented by a public defender agency (“Agency”) thought of and expressed satisfaction with their attorney. The goal was to assess correlates of satisfaction and to determine whether levels of satisfaction changed from the beginning to the end of their case.

A. *Sample*

The study was designed to recruit people who were in custody as well as those who were not in custody while awaiting disposition of their case. In both situations, prospective participants received a letter from the Chief Public Defender explaining the study, informing them that it was okay to speak with the researchers, and that confidentiality of responses, including decisions whether or not to participate, would be maintained. The letter included a flyer noting the key questions being addressed by the project, the first author’s contact information, and a section asking if the person was willing to hear more about the project. If persons wanted more information, they were asked to indicate their name, email address, and phone number; if not, they were asked to note their name and leave the remainder of the form blank. The contact information portion of the flyer was perforated and the person was asked to tear it off and place it in a large mailing envelope. Those in custody heard about the study through student interns from the Agency who brought the mailing envelope back to the Agency and gave it to the designated staff person in the office. Persons who were not in custody were ordered to report to the Agency’s office upon conclusion of the initial hearing by the judge. Whenever they arrived at the office, they were given the same letter and flyer, as described above, by a staff member and then asked to put their contact information into another large mailing envelope. Hence, at no time was an attorney involved in introducing the study to prospective participants. In terms of a timeline, participants were typically given information about the study within a few days of their arrest and in most cases, our first contact with them occurred within a couple of weeks of their arrest.

A total of 268 people filled out the forms and ultimately 120 (44.8%) participated in the study. The response rates differed substantially between those in custody and those not in custody. For instance, 206 of the prospective participants were in custody when first presented information about the project and 173 (83.9%) of them indicated that they were willing to learn more about the project. We established in-person contact with 122 of the 173 individuals in the security center; only 14 of 122 (11.5%) declined to participate. The remaining 51 (of 173) either were no longer in the facility or were unavailable when we administered the questionnaires. We ultimately administered the questionnaire by phone to 5 of these people.

In contrast, 62 of the prospective participants were not in custody when first presented information about the project; 35 of these people (56.5%) indicated that they were willing to learn more about the project. We established telephone contact and administered the questionnaire to 7 of these 35 people, for a response rate of 20%.⁹³ Hence, the overwhelming majority of people who participated in this study were in custody when the questionnaire was administered (108 of 120, 90%).

The goal was to administer the questionnaire twice, once early in the case (Time 1) and again after the case was resolved (Time 2); that occurred for less than one-quarter of the sample. In particular, 73 people (60.8%) completed the questionnaire at Time 1 only; 15 (12.5%) completed the questionnaire at Time 2 only,⁹⁴ and 32 (26.7%) completed the questionnaires at both Time 1 and Time 2. Stated differently, 30.4% ($n = 32$) of persons who completed the questionnaire at Time 1 ($n = 105$) also completed the questionnaire at Time 2. For participants completing the questionnaire at both Time 1 and Time 2, roughly 5.5 months elapsed between our first and second contact.⁹⁵

Table 1 presents the social demographics of the participants. The typical respondent was a white (99%), male (82.5%), approximately thirty years old, who either graduated high school or obtained his GED (47.5%) and for whom this encounter was not his first experience with the criminal justice system (90.1%). The participants tended not to be overly political; the most common response was “don’t know” for both political orientation (54%) and political party (35.3%). In contrast, the sample was polarized in terms of religiosity. Specifically, almost one-third (31.6%) of the sample attended religious services “at least once per week” compared to a comparable percentage that attended services “seldom” (27.2%).

⁹³ It was not so much that people not in custody refused to participate but rather that their contact information was no longer valid—*e.g.*, phone numbers and email addresses were no longer in service.

⁹⁴ For these individuals, their cases were resolved by the time that we contacted them about participating in the study; therefore, we administered a Time 2 questionnaire only.

⁹⁵ The range of time between Time 1 and Time 2 was two to twelve months. This length of time is not equivalent to that required to close the case because some Time 2 questionnaires were administered when the person was back in detention for a new crime or a probation violation.

Table 1. Demographic Characteristics of the Sample by Questionnaire(s) Completed*

	Time 1 Only (<i>n</i> = 73)	Time 2 Only (<i>n</i> = 15)	Time 1 & Time 2 (<i>n</i> = 32)	Total (<i>N</i> = 120)
Gender				
Male	58 (79.5%)	14 (93.3%)	27 (84.4%)	99 (82.5%)
Female	15 (20.5%)	1 (6.7%)	5 (15.6%)	21 (17.5%)
Age				
Range	18–56	20–49	18–57	18–57
Mean	29.82 years	29.38 years	32.84 years	30.59 years
Education				
< High School	22 (30.1%)	4 (33.3%)	11 (34.4%)	37 (31.3%)
High School/GED	36 (49.3%)	7 (58.3%)	13 (40.6%)	56 (47.4%)
Some College or Vocational	14 (29.2%)	1 (8.3%)	6 (18.8%)	21 (17.8%)
Associates or Bachelors degree	1 (1.4%)	0	3 (9.4%)	4 (3.4%)
Political Party Affiliation				
Republican	10 (13.7%)	1 (8.3%)	5 (16.1%)	16 (13.8%)
Democrat	13 (17.8%)	2 (16.7%)	8 (25.8%)	23 (19.8%)
Independent	17 (23.3%)	1 (8.3%)	6 (19.4%)	24 (20.7%)
Other	10 (13.7%)	1 (8.3%)	1 (3.2%)	12 (10.3%)
Don't know/No answer	23 (31.5%)	7 (58.3%)	11 (35.5%)	41 (35.3%)
Political Orientation				
At least somewhat conservative	12 (16.4%)	2 (16.6%)	7 (21.9%)	21 (18.6%)
Middle of the road	10 (13.7%)	0	8 (25.0%)	18 (15.9%)
At least somewhat liberal	9 (12.3%)	0	4 (12.6%)	13 (11.5%)
Don't know	39 (53.4%)	10 (83.3%)	12 (37.5%)	61 (54.0%)

Note: We do not present the findings regarding race because all but one person indicated that they were white.

* Valid percentages are presented; when respondents do not sum to 120, the remainder of the responses were missing.

** Most people answered “other” and then stated that they were Christian, without any further specificity.

*** Unfortunately, the items regarding marital status and whether the participant had any children were left off the initial interview instrument; the items were added as their absence was discovered and then asked of people during their Time 2 interview but much of the data on these items is missing and thus total percentages are not reported.

Table 1. Demographic Characteristics of the Sample by Questionnaire(s) Completed* (cont'd)

	Time 1 Only (<i>n</i> = 73)	Time 2 Only (<i>n</i> = 15)	Time 1 & Time 2 (<i>n</i> = 32)	Total (<i>N</i> = 120)
Religion				
Catholic	9 (12.7%)	5 (41.7%)	4 (12.5%)	18 (15.6%)
Protestant	13 (18.3%)	0	7 (21.9%)	20 (17.4%)
Other**	37 (52.1%)	7 (58.3%)	16 (50.0%)	60 (52.2%)
None	12 (16.9%)	0	5 (15.6%)	17 (14.8%)
How Often Attend Religious Services**				
At least once per week	23 (31.9%)	4 (33.3%)	9 (29.0%)	36 (31.6%)
Almost every week	4 (5.6%)	2 (16.7%)	6 (19.4%)	12 (10.5%)
About once a month	11 (15.3%)	2 (16.7%)	4 (12.9%)	17 (14.9%)
Seldom	21 (29.2%)	2 (16.7%)	8 (25.8%)	31 (27.2%)
Never	12 (16.7%)	2 (16.7%)	4 (12.9%)	18 (15.8%)
Current Marital Status***				
Married (remarried, living with partner, separated)	6 (33.4%)	0	4 (22.2%)	
Single (never married or divorced)	12 (66.7%)	23 (100%)	14 (77.8%)	
Any Children***				
Yes	11 (64.7%)	1 (33.3%)	13 (68.4%)	
No	6 (35.3%)	2 (66.7%)	6 (31.6%)	
First Experience with the Criminal Justice System				
Yes	9 (12.5%)	1 (14.3%)	1 (3.1%)	11 (9.9%)
No	63 (87.5%)	6 (85.7%)	31 (96.9%)	100 (90.1%)

Note: We do not present the findings regarding race because all but one person indicated that they were white.

* Valid percentages are presented; when respondents do not sum to 120, the remainder of the responses were missing.

** Most people answered "other" and then stated that they were Christian, without any further specificity.

*** Unfortunately, the items regarding marital status and whether the participant had any children were left off the initial interview instrument; the items were added as their absence was discovered and then asked of people during their Time 2 interview but much of the data on these items is missing and thus total percentages are not reported.

B. Procedure

Before beginning the project, support was obtained from the judges and the Sheriff.⁹⁶ The first author and Chief Public Defender met with representatives of the security center to agree on procedures, including a day and time to administer the questionnaire on a semi-regular basis. If there were changes to the schedule (for instance, if we had no new names of prospective participants), the first author would email the Security Center Commander a couple of days prior to request changes. In total, we conducted 18 “waves” of data collection, or trips to the security center, over a ten-month period to collect Time 1 data, and an additional 10 trips over a thirteen-month period for Time 2 data.

Upon arrival at the security center, we used a telecom system to “buzz” the officers and note that we were there to administer the questionnaire as part of the project. We then provided the officers with a list of persons who indicated their willingness to learn more about the project. The security center had three visiting rooms; on each side was a single metal stool. A glass partition separated visitors from the persons inside. We read the informed consent and asked if the person agreed to participate. Participants were not required to sign the informed consent. We did, however, offer to provide them with a copy, noting that if they wanted a copy, the security center personnel would be the ones to give it to them and might, then, be more likely to believe that the person participated in the study. If the person indicated that they did not want to participate, we offered to sit with them for approximately 20 minutes so that the facility personnel might be less inclined to know whether they participated in the study. Since the study was conducted in the security center, we acknowledged that we could not guarantee that what was said would not be heard by facility personnel.

After the informed consent process, administering the questionnaire took approximately 20 minutes. We placed a copy of the informed consent and the questionnaire against the glass partition, inviting participants to follow along as we read aloud without relying on them to read and respond to the items on their own. After completing the questionnaire, we “buzzed” the officers again; they would let one person out and bring in the next person on the list. If a person on the list was no longer being held at the facility, we tried to reach them using the contact information they had provided.

Obtaining responses to the questionnaire at Time 2 was especially challenging because, by the time we learned of a case being closed, the person likely was released from the security center. And, as we learned while attempting to administer the questionnaire at Time 1, even with contact information, this group of people can be remarkably difficult to reach. It was not uncommon for phone numbers to no longer be in service or for emails to bounce back. Thus, in addition

⁹⁶ This support included agreeing to confidentiality of responses as well as decisions whether or not to participate in the study.

to routine attempts to contact people who were no longer in custody based on the contact information that they provided, we kept an eye out for those who were back in the facility for a new arrest or for a probation violation.

We also reached out to 14 people who were sentenced to various prisons across the state. With approval from the Indiana Department of Correction (IDOC), we first sent a letter reminding the participant of the study and asked if they would be willing to let a researcher come administer the questionnaire to them, to complete the questionnaire and mail it back, or if they preferred not to participate in this second phase of the project. The second wave of mailings to people in prison included a copy of the questionnaire, along with a self-addressed, stamped envelope in addition to the offer for a researcher to come administer the questionnaire in person at the facility where they were incarcerated. All told, we received one completed questionnaire via mail; one person returned the form indicating that they declined to participate; two people agreed to (and were) administered the questionnaire at their respective institutions; two packets were returned because the people were no longer at the respective facilities; and, we never heard from the remaining eight people. Thus, the lack of completed Time 2 questionnaires was less a function of outright refusals ($n = 17$, including the 8 people who never returned material from an IDOC facility), than an inability to make contact with people either before they left the facility or once they were out of custody.

C. Materials

The first set of items asked participants to indicate the extent of their agreement or disagreement with 31 statements about their attorney. All items were measured using a six-point scale anchored by 1 = Disagree Strongly and 6 = Agree Strongly. The first 18 of these items were adapted from a General Client Survey that the Chief Public Defender secured from another public defender office.⁹⁷ These items focused on communication and specific actions taken by the attorney, as operationalized through the following sample:

My lawyer said confusing things.

My talk with my lawyer before going in front of the judge was a good length.

It is important that my lawyer listen to my story.

My lawyer will⁹⁸ work in my best interest.

⁹⁷ To our knowledge, there are no published reports of findings based on this questionnaire. Thus, rather than replicating the items directly, we excluded some items and adapted others to the specifics of the Agency.

⁹⁸ We revised some of the items for the Time 2 questionnaire to be consistent with the timing of the case. For instance, this item became “My lawyer worked in my best interest.”

Other items in this set responded to questions, concerns, and topics of interest expressed by the Chief Public Defender and other attorneys who reviewed the documents in addition to our own review of the literature. Some of these items were as follows:

- My lawyer's relationship with the prosecutor worked to my benefit.
- My lawyer doesn't have the skill to go to trial.
- My lawyer doesn't have the will to go to trial.
- My lawyer has a team in his/her office that helps with my case.

The second set of items included another 31 items, beginning with the 24 items of Boccaccini and Brodsky's Attorney-Client Trust Scale⁹⁹ that measures general trust. Sample items from this scale include the following:

- My attorney does not really care about me as a person.
- My attorney has been unreliable in the past.
- My attorney knows how to help me with my case.
- My attorney and I have a sharing relationship.

Again, we added additional (seven) items to this set of items in response to questions, concerns, and topics of interest expressed by the Chief Public Defender and other attorneys who reviewed the documents. Examples of the items that we added include the following:

- My attorney sees me as more than someone accused of committing a crime.
- My attorney tries to get me the help I need.
- My attorney does what s/he says s/he will do.

The Time 1 questionnaire ended with a series of social demographic items and a few items about participants' previous experiences with the system. For example, they were asked whether this was their first experience with the criminal justice system, and if not, how their current attorney compares with the attorney in the previous case. Next, there was a general overall satisfaction question followed by an open-ended item inviting comment about their attorney or the Agency.

The Time 2 questionnaire repeated the same two sets of items described above. Rather than repeating the social demographic information,¹⁰⁰ however, we asked, in addition to a few other items, if their views of their attorney changed over

⁹⁹ See Boccaccini et al., *supra* note 71, at 202.

¹⁰⁰ To handle cases that were resolved by the time of their interview, we added social demographic information for that group of individuals to the end of the Time 2 questionnaire, and used the resulting instrument for this "Time 2 Only" group.

the course of the case, and if so, to comment on how and why. We again ended by asking a general overall satisfaction question followed by an open-ended item inviting comment on their attorney or the Agency.

IV. RESULTS

A. *Global Satisfaction*

Our goal was to discover the specific actions or behaviors by lawyers that resulted in more positive evaluations by the people they represent. To that end, our first step was to look at our single item, the global measure of satisfaction. All participants were asked to indicate, on a scale from 1 to 10, with 1 being extremely satisfied and 10 being extremely dissatisfied, how satisfied or dissatisfied they were with their lawyer. Mean satisfaction scores were 3.47 ($n = 15$) for the Time 2 only group, followed by 3.97 ($n = 69$) for participants for whom we have only Time 1 data, and 4.63 ($n = 32$) at Time 2 for those participants who also were interviewed at Time 1. A One-way ANOVA, comparing these mean overall satisfaction scores across the three groups, was not significant, $F(2, 113) = 0.601$, $p = 0.550$. Further, when we collapsed these scores into “satisfied” (responses of 1–5) or “dissatisfied” (responses of 6–10), almost three-quarters (75.4%, $n = 52$) of Time 1 participants, compared to basically two-thirds of the other two groups (66.7%, $n = 10$ for Time 2 Only and 65.6%, $n = 21$ for Time 1 and 2 group) were satisfied with their lawyer (Chi-square (2) = 1.220, ns).

Overall, participants were quite satisfied¹⁰¹ with their lawyer. They tended to be most satisfied at the outset, early on in the case. Satisfaction measures decreased some over the course of the case, as evidenced by a comparison of scores on the global satisfaction item at Time 1 versus Time 2, though that change was not statistically significant. We did, nonetheless, look to see if there was anything in the data that could suggest why satisfaction scores generally decreased over time.

Participants who indicated, at Time 2, that their views of their attorney changed over the course of the case were asked to comment on what it was their attorney did that resulted in the change.¹⁰² Their qualitative responses—both the positive and the negative—reflect client expectations related to the core duties of an attorney to communicate, to investigate, and to advocate.¹⁰³ For example, in

¹⁰¹ Recall that this is an aggregate measure of satisfaction. If used for purposes of professional development, one could review the data for attorneys individually.

¹⁰² The results here are tentative given that they are based on the 11 people, out of the 30 Time 2 participants who answered this question, whose views of their attorney changed over the course of the case (6 of whom viewed their lawyer more negatively and 5 of whom viewed their lawyer more positively). Of the 19 remaining Time 2 participants who answered this question, 13 were “just as positive as they always were” and 6 were “just as negative as they always were.”

¹⁰³ See *supra* note 22 and accompanying text.

regard to the significance of communication, one participant said that his views became more negative because his attorney “didn’t really say much besides the plea is good or bad—didn’t explain the options.” In contrast, a person whose views became more positive noted that they did so because his attorney “kept me informed and got me the deal I wanted.” Another respondent changed his views because of a perceived lack of advocacy, noting that the attorney “didn’t fight for [his] case at all.” Contrast that perspective with a respondent whose views became more positive because of his attorney’s thorough investigation: “[S/he] worked the case. I figured since [the attorney] was a PD [they] would just do what the state wanted but [the attorney] worked the case.” Ultimately, these respondents pointed to a sense of care or concern as yet another reason for their views of their attorney. As one respondent noted, his views of his attorney became more positive because [the attorney] “got [him] help.” For another respondent, his views of his attorney became more negative because the attorney “didn’t care.” The respondent further explained that he never received the information that he wanted on a treatment facility and that negatively impacted his family relationships.

These brief comments from clients suggest that the core duties to communicate, investigate, and advocate, as outlined in the ABA Defense Standards,¹⁰⁴ are central to feelings of satisfaction with one’s representation. We now turn to an analysis of the key sets of items in the questionnaire to determine if and how they relate to the global measure of satisfaction.

B. *Correlates of Satisfaction*

We calculated the correlation between responses to the global measure of satisfaction and each of the items in the expanded General Client Survey and Attorney-Client Trust scales at both Time 1 ($n = 105$) and Time 2 ($n = 32$), separately.¹⁰⁵ For the most part, the pattern of findings was the same: almost all of the items correlated significantly with the global measure of satisfaction in the expected direction at both Time 1 and Time 2. For example, greater satisfaction with one’s lawyer was associated with stronger agreement with the items: “If I was ever arrested again, I would want the same lawyer to defend me” ($r = -.628$, Time 1 and $r = -.917$, Time 2, $p < .01$); “My lawyer wants for me to be out of jail” ($r = -.723$, Time 1 and $r = -.711$, Time 2, $p < .01$); “My lawyer fights for me” ($r = -.652$, Time 1 and $r = -.853$, Time 2, $p < .01$); “My attorney sees me as more than someone accused of committing a crime” ($r = -.491$, Time 1 and $r = -.749$, Time 2, $p < .01$); and “My attorney tries to get me the help I need” ($r = -.705$, Time 1 and $r = -.811$ Time 2, $p < .01$).

¹⁰⁴ See *supra* note 22 and accompanying text.

¹⁰⁵ We relied on all available data for these analyses, not just those who completed both Time 1 and Time 2. That is, the Time 1 analyses are based on 105 people, not just the 32 who completed both Time 1 and Time 2.

There were, however, a few items where the correlation with satisfaction differed at Time 1 compared to Time 2. Specifically, people who were more satisfied with their attorney at Time 1 were also more likely to agree that “the judge treated [them] with respect” ($r = -.292, p < .01$), that they were “treated fairly by the judge” ($r = -.436, p < .01$), and that they “know what [they as the client] need to do next” ($r = -.436, p < .01$). In contrast, none of these items correlated significantly with satisfaction at Time 2.

There were also a few items that allowed for a comparison of expectations (at Time 1) and perceived experience (at Time 2). For example, at Time 1 almost all participants agreed that “it is important that my lawyer listen to my story” and thus, its correlation with satisfaction was not significant ($r = -.047, p > .05$). At Time 2, participants were not presented with that same item but rather they were asked to indicate the extent of their agreement or disagreement with the item: “My lawyer listened to my story.” Here, there was a highly significant correlation with satisfaction ($r = -.696, p < .01$), with those agreeing with the item also being more satisfied with their attorney. Hence, while agreement that it is important for their lawyer to listen to their story did not correlate significantly with satisfaction at Time 1, agreement that their lawyer listened to their story correlated significantly with satisfaction at Time 2. The same pattern of findings occurred regarding one of the items related to plea bargaining. Specifically, almost everyone agreed, at Time 1, that they “want[ed] [their] lawyer to bring them every plea offer” which did not correlate with global satisfaction ($r = .043, ns$). However, at Time 2, agreement that their lawyer “explained the meaning of any plea offers” correlated significantly with greater satisfaction with their lawyer ($r = -.724, p < .01$).

Given that the overwhelming majority of items correlated¹⁰⁶ significantly with the global measure of satisfaction, the next step was to reduce the number of items to develop a measure that would distinguish between those satisfied and dissatisfied with their attorney. To that end, we conducted an exploratory factor analysis,¹⁰⁷ based on the 105 completed Time 1 interviews, to determine whether the long list of items¹⁰⁸ included distinct underlying constructs or whether the items appeared to measure a single construct. The results support the latter

¹⁰⁶ The results of the correlations do not tell us whether there is a causal relationship between, or the order of, the variables. Hence, we do not know if people who are satisfied with their attorney are more likely to interpret particular behaviors in a positive light, or because of particular behaviors occurring, that persons are more satisfied with their attorneys. A true test of these important relationships and the distinctions thereof is beyond the scope of this project.

¹⁰⁷ See G. DAVID GARSON, *FACTOR ANALYSIS* (2013) (ebook) (“Exploratory factor analysis . . . seeks to uncover the underlying structure of a relatively large set of variables. The researcher’s a priori assumption is that any measured variable (indicator) may be associated with any factor. . . . There is no prior theory and one uses factor loadings to intuit the factor structure of the data.”).

¹⁰⁸ We conducted factor analyses on each of the sets of items—Attorney-Client Trust and the General Client Survey—separately and then combined. The pattern of results was the same: almost all items loaded on a single factor.

interpretation. That is, while 13 factors emerged, factors 2 through 13 included only a few items that often loaded, albeit less strongly, on other factors as well. Thus, items from the Attorney-Client Trust Scale and the General Client Survey (in addition to items that we developed) loaded on the first factor. As described previously, the items all tapped into clients' views of and experiences with their attorney and thus it is not surprising that the vast majority of items loaded on a single factor. Because the items come from various sources, however, it is unclear exactly what that factor reflects. What we do know is that the items individually correlate with our global measure of satisfaction. Thus, the items that load on the same factor may reflect different facets of satisfaction. For example, researchers have looked at different facets of job satisfaction, such as pay and benefits, recognizing that the different facets are related to each other as well as to a global measure of job satisfaction.¹⁰⁹ It may be that client satisfaction is organized similarly, that there is a global sense of satisfaction but that different facets of client satisfaction also exist. We looked at that possibility by revisiting the duties of an attorney.¹¹⁰

We reviewed each of the items that correlated significantly with satisfaction (at Time 1, to take advantage of the larger sample size) and classified them as reflecting one of three duties of an attorney—communicate, investigate, advocate—treating those as different facets of satisfaction.¹¹¹ We then used the scale command through Statistical Package for the Social Sciences (SPSS) to evaluate and further reduce the number of items while maintaining strong internal consistency. To do this, we first created sub-indexes—Communicate, Investigate, Advocate—and then combined items from these sub-indexes to form a general measure of the correlates of satisfaction. The resultant items are presented in Table 2.

¹⁰⁹ Scott Highhouse & Alene S. Becker, *Facet Measures and Global Job Satisfaction*, 8 J. BUS. & PSYCHOL. 117 (1993).

¹¹⁰ See *supra* note 22 and accompanying text.

¹¹¹ *Id.*

Table 2. Correlates of Satisfaction

Item	Mean	Standard Deviation	Correlation with Global Satisfaction	Corrected Item-Total Correlation	Cronbach Alpha if Deleted
<i>Communicate</i>					
My lawyer said confusing things [^]	5.02	1.44	-.404**	.523	.952
My lawyer explained what was going to happen next	4.74	1.68	-.511**	.637	.950
My lawyer treated me with respect	5.65	1.05	-.459**	.608	.949
My lawyer interrupts me when I'm speaking [^]	5.57	1.09	-.523**	.579	.950
My attorney tells me what s/he will do	5.10	1.40	-.715**	.808	.945
My attorney does what s/he says s/he will do	4.92	1.43	-.662**	.821	.944
<i>Advocate</i>					
My lawyer works against me more than for me ^e	5.33	1.25	-.613**	.725	.947
My lawyer fights for me	5.06	1.40	-.666**	.852	.944
I feel that my attorney is on my side	5.04	1.48	-.692**	.892	.942
My attorney tries to get me the help I need	4.90	1.55	-.712**	.877	.943
<i>Investigate</i>					
My attorney always does what s/he should for my case	4.73	1.53	-.663**	.875	.943
My lawyer doesn't have the skill to go to trial [^]	5.20	1.33	-.614**	.761	.946
My lawyer doesn't have the will to go to trial [^]	5.22	1.30	-.583**	.754	.946
My lawyer has a team in his office that helps with my case	4.97	1.47	-.489**	.662	.948

[^] These items were reverse scored
^{**} $p < .01$

All of the index items relied on a six-point scale ranging from 1 (strongly disagree) to 6 (strongly agree)¹¹² with items being reverse scored as necessary so that high scores always indicate greater agreement, a more positive view of the attorney's actions. In contrast, the global satisfaction item was based on a scale from 1 to 10 with lower values indicating greater satisfaction. As such, greater satisfaction (low values) on the global item was associated with greater agreement (high value) on the scale items, resulting in negative correlations. As indicated previously, all of the items on the index correlated significantly ($p < .01$) with the global satisfaction item, ranging from a low of $r = -.404$ ("My lawyer said confusing things") through $r = -.715$ ("My attorney tells me what s/he will do").

The sub-index designed to tap into the duty to communicate consists of 6 items, with a Cronbach's alpha of .835. Both the Advocate and the Investigate sub-indexes each consisted of 4 items and their Cronbach's alphas were .911 and .871, respectively. The overall index, based on all 14 items, obtained a Cronbach's alpha of .950. An overall measure of the correlates of satisfaction thus ranged from 6 through 84, with a midpoint of 45. The actual scores obtained ranged from 19 through 84, with a mean of 68.58 and a standard deviation of 17.53.

Our next step was to determine whether those who expressed general satisfaction or dissatisfaction with their attorney scored differently on our correlates of satisfaction measure. We dichotomized the global measure of satisfaction at the midpoint of the 10-point scale and conducted a t -test with scores on the 14-item correlates of satisfaction measure. The results were highly significant $t(26.28)^{113} = 4.709$, $p < .01$. In particular, those who were satisfied with their attorney scored a mean of 74.84 on our correlates of satisfaction measure, compared to 53.51 for those who were dissatisfied with their attorney.

We then calculated the correlation between mean scores on our new correlates of satisfaction measure and the global satisfaction measure at Time 1, the result of

¹¹² We adopted the same response alternatives as Boccaccini and Brodsky, across all items, to allow for comparisons. See Boccaccini & Brodsky, *supra* note 21. However, we also provided an option of "don't know" (coded as 9, treated as missing), recognizing that some of the items may not apply as readily to persons being interviewed early on in their case. In creating the indexes, we replaced missing values with each individual's mean score across the General Client Survey, their mean score across the Attorney-Client Trust Scale, and then finally the mean score across the items added to the end of the Attorney-Client Trust Scale, respectively. Thus, for a missing value on the Attorney-Client Trust Scale, the individual's mean score across the other items of the scale was substituted for the missing value(s). We elected to substitute individual mean values rather than to conduct multiple imputations because "[i]mputing the individual's mean is also an appropriate and simple method for dealing with missing data that may be more interpretable to the majority of medical readers." Fiona M. Shrive et al., *Dealing with Missing Data in a Multi-Question Depression Scale: A Comparison of Imputation Methods*, 6 BMC MED. RES. METHODOL. 57, 57 (2016), <http://www.biomedcentral.com/1471-2288/6/57>.

¹¹³ Levene's Test for Equality of Variances was significant, indicating that equal variances could not be assumed and thus the degrees of freedom for this test was 26.28, not 89 as one would expect given that the N was 90.

which was highly significant ($r = -.748$, $p < .01$, $n = 92$). The same correlation, based on Time 2 data, was even stronger ($r = -.885$, $p < .01$, $n = 32$). Hence, the correlates of satisfaction measure—items that tap into the core duties of a defense attorney to communicate, investigate, and advocate—is closely associated with the global measure of satisfaction.

V. DISCUSSION AND CONCLUSION

This study contributes to the growing recognition among legal scholars and practitioners that client satisfaction provides an important perspective for thinking about how to improve indigent defense delivery. Our research was guided primarily by an inquiry regarding whether particular actions or behaviors of attorneys contribute to greater client satisfaction. The findings revealed that clients were satisfied with their public defender more than what was found in previous studies.¹¹⁴ Further, the correlates of satisfaction measure, as well as qualitative comments from participants, suggest that client perceptions of attorney behavior related to communication, investigation, and advocacy are closely associated with a global measure of satisfaction. This finding reinforces the ABA Standards as a guideline for best practices as they appear to serve as a roadmap for improving client satisfaction; put differently, what the legal profession encourages of attorneys is in line with what clients want from their attorneys. Attorneys who strive to meet these guidelines are thus likely to improve both the quality of representation (and perhaps case outcome) as well as the client's level of satisfaction (and perhaps perceptions of procedural fairness).

The correlates of satisfaction suggest specific areas that could be targeted for training purposes. While advocacy and investigation are skills addressed traditionally in clinical programs in law school, training in interpersonal communication skills tends to be neglected,¹¹⁵ our findings suggest that those skills matter to clients. Several decades of research in the field of interpersonal communication have helped define what constitutes “good” communication¹¹⁶ and

¹¹⁴ The level of satisfaction revealed in this study was higher than that obtained in other published research. See *supra* Part IV. But see Boccaccini et al., *supra* note 71, at 203 (discussing a finding of mean satisfaction score of 1.85 on a 4-point scale where 1 = very unsatisfied and 4 = very satisfied); Boccaccini & Brodsky, *supra* note 21, at 79 (“Participants also tended to be dissatisfied with their attorneys.”). Possible explanations for the high level of satisfaction observed in this study include the quality of the attorneys, the general culture of the Agency, or other less competency-based characteristics such as the fact that this study was conducted in a rural area (*i.e.*, a comparatively small courtroom workgroup may lead to more familiarity among clients and attorneys) or the method of survey administration (*i.e.*, face-to-face interviews rather than self-administered).

¹¹⁵ See Cunningham, *supra* note 23, at 1961.

¹¹⁶ See generally Brian H. Spitzberg, *What Is Good Communication?*, 29 J. ASS'N COMM. ADMIN. 103 (2000).

to develop measures of those criteria.¹¹⁷ From self-reflection to peer (or client) observation, applying such measures in the context of attorney-client interactions may prove instructive. For example, Brian Spitzberg and Thomas Adams developed an instrument suitable for self- or peer-administration, the Conversational Skills Rating Scale (CSRS), which consists of items that tap into skills, general impressions, as well as behaviors.¹¹⁸ This type of instrument may be a useful tool for pedagogical use during law school or professional development for practicing attorneys.¹¹⁹

More generally, our findings provide support for the notion that items included in the expanded General Client Survey and Attorney-Client Trust scales are correlated with global client satisfaction. Future research should continue to utilize and refine these instruments and included items in attempts to better measure the concepts of “trust” and “satisfaction” in this unique professional context, as well as the relationship between the two concepts.

There are a number of limitations with this study. We should note, however, that these limitations are largely rooted in our attempts to address the methodological gaps in the previous research: while extant studies relied almost exclusively on participants who are incarcerated, we attempted to include both participants who were in custody and those who were not. Also, previous research has rested entirely on data collected either pre- or post-adjudication; we attempted to collect data at both points of time.¹²⁰ Notwithstanding, the sample size of our study was small, particularly for clients who completed both the Time 1 and Time 2 questionnaires. In addition, the sample was not randomly selected, and nearly all of the clients we interviewed were in custody at the time; each of these factors contributed to the potential for sampling bias. Future research would benefit from random sampling procedures and from a larger number and proportion of non-incarcerated persons, whose satisfaction with their attorney may differ fundamentally from those who are currently incarcerated.

¹¹⁷ See generally Elizabeth Graham & Scott Titsworth, Measurement Issues and Trends in Interpersonal Communication (Jan. 2008) (unpublished manuscript, presented at the Interpersonal Communication Division of the National Communication Association conference, San Diego) (copy on file with authors); Sherwyn Morreale, Philip Backlund, Ellen Hay & Michael Moore, *Assessment of Oral Communication: A Major Review of the Historical Development and Trends in the Movement from 1975 to 2009*, 60 COMM. EDUC. 255 (2011).

¹¹⁸ BRIAN H. SPITZBERG & THOMAS W. ADAMS, CSRS: AN INSTRUCTIONAL ASSESSMENT OF INTERPERSONAL COMPETENCE I (2007).

¹¹⁹ For additional examples of self-report scales, see generally Lily A. Arasaratnam, *The Development of a New Instrument of Intercultural Communication Competence*, 20 J. INTERCULTURAL COMM. (2009), <http://www.immi.se/intercultural/nr20/arasaratnam.htm> [<https://perma.cc/RV2L-NM3M>]; Rebecca B. Rubin & Matthew M. Martin, *Development of a Measure of Interpersonal Communication Competence*, 11 COMM. RES. REP. 33 (1994).

¹²⁰ See *supra* note 92 and accompanying text for a discussion of the rationale for these methodological choices.

While scholars working in this area uniformly recognize the problem with relying on incarcerated persons as participants, at least one group of researchers has commented explicitly on the difficulty of securing interviews with clients who are not in custody. Campbell and colleagues utilized a variety of procedures for establishing contact with potential participants, including mailed surveys, postcards with a hyperlink to an online version of the survey, telephone, and administering the surveys directly to participants.¹²¹ They report securing interviews with 156 out of 568 clients for whom they had contact information, noting that direct administration was by far the most effective method for securing the interview.¹²² Our experiences were similar: securing participation was most successful for potential participants with whom we came into direct personal contact (for us, this meant at the security center). This is not surprising given the demographic characteristics of persons involved in the criminal justice system; securing a permanent address, phone number, and/or Internet access can be difficult.

Nonetheless, future efforts aimed at assessing client satisfaction must address this methodological hurdle. One option is to provide some sort of incentive. However, that may be complicated by jail or prison rules and procedures, as well as Institutional Review Board regulations that require all persons involved in a study be treated similarly—thus, everyone either does or does not receive an incentive.¹²³ Experience reveals that the ability to conduct interviews ultimately relies on contact. This suggests that if researchers want to include persons who are not incarcerated in their samples, it would be best to be available at the times and places where prospective participants are going to be—the courthouse or the public defender agency itself being sure to secure a location in which to administer the questionnaire or conduct the interview in a manner that allows for confidentiality of responses.

The findings also suggest some future directions for research. For example, the authors intend to look more closely at how case outcome may be related to satisfaction. We saw that levels of satisfaction decreased somewhat by the end of the case, but it remains to be determined whether that shift was associated with severity of the initial charge, case outcomes, attorney behaviors, or some combination thereof. Another variable ripe for future analyses is frequency and form of attorney-client contact.¹²⁴ Given that the literature suggests client

¹²¹ See Campbell et al., *supra* note 17, at 756–57.

¹²² *Id.* at 756.

¹²³ To the extent that non-indigent persons or persons not facing criminal charges receive incentives for the time they allocate to participate in research, so too should indigent individuals facing criminal charges.

¹²⁴ See, e.g., Atkins & Boyle, *supra* note 35, at 437–38 (finding that length of time between arrest and first interview, as well as number of interviews, were related to prisoner satisfaction with defense counsel, and suggesting that response patterns may be explained in part by seriousness of the case and accordant client expectations); Raaijmakers et al., *supra* note 36, at 195 (finding that more

participation may influence trust in and/or satisfaction with one's attorney, a better understanding of the impact of the quantity and quality of attorney-client contact would be helpful. Finally, this and previous work suggest that satisfaction is related to client-centered approaches. It would be useful to assess different dimensions of that approach—to see if behaviors other than those related to communication, investigation and advocacy likewise contribute to measures of satisfaction. A more complete understanding of the indicators of satisfaction could help to improve attorney-client relationships, a key performance indicator of quality defense.¹²⁵

attorney-client phone calls correlate with greater satisfaction—though the finding was not statistically significant—while frequency of pretrial, in-custody visits was “not significantly related” to satisfaction).

¹²⁵ See GRESSENS & ATKINSON, *supra* note 20, at 50.