

Economic Losses
and the
PUBLIC SYSTEM OF INDIGENT DEFENSE:

Empirical Evidence on Pre-Sentencing Behavior from Mississippi

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INTRODUCTION

In *Gideon v. Wainwright* (1963), the United States Supreme Court decided that each state has the obligation to provide court-appointed counsel to indigent persons accused of felonies. The state of Mississippi recognized this obligation to provide counsel to indigent persons in *Conn v. State* (1964), but Mississippi has delegated this responsibility of indigent defense to counties. The counties in Mississippi, in turn, have implemented a variety of public defender systems; Mississippi counties employ attorneys on either a full-time or a part-time basis to represent indigent persons. This system, however, does not appear to work fairly.

There is ample anecdotal evidence that Mississippi's system of indigent defense is inadequate. For example, the NAACP Legal Defense and Educational Fund, Inc. (2003) reports that some detainees spend months in overcrowded county jails before their trials, awaiting resolution of their cases. In addition, many indigent persons charged with non-violent property crimes end up spending more time in jail waiting for trial than the time they eventually receive as a sentence. In some counties, indigent defendants have waited for one year—or more—before having their first conversations about the facts of their cases with a court-appointed lawyer. These examples demonstrate that there is clearly a problem with Mississippi's efforts to respond to the Supreme Court's call for providing counsel to indigent persons. In Mississippi, the patchwork system of providing counsel to indigent persons results in delayed access to court-appointed counsel and prolonged periods of jail time before sentencing.

Prolonged periods of pre-sentencing jail time for defendants who are not dangerous, in turn, result in undue personal and economic costs for indigents and unnecessary costs for the state. Obviously, housing the inmates is costly, but other economic losses of the indigent are not as obvious but are, nevertheless, significant. An employed inmate loses income while in jail, and an unemployed inmate loses valuable time that may be used to search for gainful employment. In addition, there can be equally undue spillover effects for an inmate's family, such as missed child support payments.

Clearly, the examples above indicate that Mississippi's system is far from perfect. The question of whether these examples are isolated incidents or whether they are evidence of systematic problems remains. If these examples are evidence of systematic problems, exploration of the causes and effects of such problems and of their rate of occurrence in various counties throughout Mississippi can provide a better understanding of the flaws in Mississippi's system of indigent defense. Although the system as a whole may be inadequate, this paper examines whether or not inadequacies are greater for particular demographic groups during the pre-sentencing period as well as the impact of identified inadequacies on the state economy. Because Mississippi counties handle indigent defense using both part-time and full-time public defenders and because both race and gender differences can be observed, losses for indigents represented by part-time public defenders are compared to those represented by full-time public defenders, and differences in losses across racial and gender groups are considered.

PRIMARY FINDINGS

Although this research points to a number of findings concerning Mississippi's system of indigent defense, the most important findings to note are the following:

- The implementation of a state wide full-time public defender system could increase personal income in Mississippi by over \$90 million annually, with resulting increases of \$5.3 million in state general fund revenue and \$546 thousand in local government revenue. In addition, county jail costs could decrease by \$16.5 million per year.
- Indigents represented by part-time public defense attorneys spend at least 81 more days in jail prior to sentencing when all intervening variables are controlled.
- When the influence of intervening variables is eliminated, minorities spend 52 more days in jail waiting for resolution of their case than non-minorities.
- Males spend 65 more days in jail than females after controlling for intervening variables.
- Full-time public defenders filed significantly more motions on behalf of their clients.
- In counties that employ full-time public defenders, indigents receive better, more immediate, and more satisfactory defense. Full-time public defenders more often visited their clients in jail, accepted phone calls from the client, returned phone calls to the client, investigated the case, talked to witnesses, and attempted to reduce bond.
- In counties that employ part-time public defenders, there are economic incentives for those public defenders to spend their time on private, more lucrative work and, therefore, indigents receive worse, more delayed, and more unsatisfactory defense.

In light of such clear indications that the systems of indigent defense in Mississippi are unfair and that the most serious inequity derives from the various county approaches to providing public defenders, these findings call for serious reconsideration of Mississippi's structure for providing indigent defense.

HYPOTHESES

This study measures the impact of race, gender and representation on economic loss for indigents prior to sentencing. To clearly identify the impact of these characteristics on the economic loss of indigents, the following characteristics are controlled for in the empirical analysis: personal characteristics, crime categories and county differences. Economic loss is a complicated outcome to identify because it consists of three separate measures: (1) the length of time a person spends in county jail from the arrest date until the sentence date; (2) the direct cost per day of time spent in jail; and (3) the opportunity cost per day of time spent in jail from missed work days.

The first step of the analysis is to measure the impact of each of the specific characteristics on time spent in jail. The following hypotheses have been identified:

- Because the public defender system varies by county in Mississippi, the impact of the type of legal representation is examined. It is likely that an individual represented by a full-time public defender will spend less time in jail than an individual represented by a part-time public defender, when all other factors are controlled.
- Labor market discrimination is often present in the South. Published literature indicates that minorities receive lower wages, are less likely to be employed, and receive longer sentences than non-minorities. It is likely that minorities will spend more time in jail than non-minorities, when all other factors are controlled.
- It is likely that the gender of an individual will impact the jail time served. Specifically, females are expected to serve shorter periods of time in county jail.
- The seriousness of the crime committed should impact a person's jail time. It is likely that the length of time spent in jail will increase with the seriousness of the crime committed, after controlling for other variables.
- It is likely that various characteristics of the areas in which an individual lived will have an impact on time spent in jail. Specifically, the effects of county income, county race, and county urbanization on time served in jail are examined.

PUBLIC DEFENDER SYSTEMS AND ECONOMIC INCENTIVES

Given that Mississippi counties have adopted different types of systems to compensate their public defenders, it seems logical that these different systems should be scrutinized to determine if there are any economic incentives embedded in the various alternatives which would explain differing degrees of attention to indigent persons relative to the public defender's full or part-time status. While it is true that the overall performance of any public defender system should be measured by more than just economic incentives related to compensation, it is also true that economic incentives play a role in overall performance of public defenders.

From an economic perspective, there are four distinct public defender compensation systems employed in Mississippi counties:

- A full-time public defender office (referred to hereafter as full-time public defender), which employs full-time attorneys with related staff and overhead. Each attorney is devoted exclusively to the task of indigent defense.
- A part-time public defender system, which pays selected attorneys a fixed annual salary to handle indigent defense in the county (referred to hereafter as part time - contract). These attorneys are allowed to handle other private legal work.
- A rotating-list defender system, which pays attorneys on a county list a fixed fee per indigent case handled (referred to hereafter as assigned - fixed fee). The list of attorneys may be volunteers only or may include all attorneys within a county. These attorneys are also allowed to handle other private legal work.
- A rotating-list defender system, which pays attorneys on a county list an hourly fee for handling indigent cases (referred to hereafter as assigned - hourly). Again the list may or may not be volunteers, and the attorneys can handle other private legal work.

On these various systems, the theory of economic incentives operates clearly. Motivation to maximize profits will lead public defenders to concentrate on those activities with the highest net marginal revenue per hour of time

worked. Essentially, an attorney will devote time to the activity with the highest payoff. Activities that are reimbursed on a fixed-fee basis will be neglected in favor of activities that will generate additional revenue or for which there is not a fixed fee or cap. There is still some incentive to perform fixed fee activities, but only at the minimum level necessary to maintain the contract and receive the fixed fee.

Attorneys in a full-time public defender system will have different incentives compared to attorneys in all of the part-time systems. The full-time public defender system eliminates the motive and opportunity to devote legal time and resources to private practice while representing indigent clients since no private practice is allowed. If all other factors are equal, the full-time public defender system will lead to improved defense for indigents because of superior economic incentives.

Within the part-time systems, the assigned - hourly system would seem to have the most appropriate economic incentives. If faced with the choice of devoting time to a private case or an indigent list case, there would seem to be no difference from an economic standpoint. However, because the fees are statutorily capped at a total of \$1,000 for all cases (see Miss. Code Ann. 99-15-15), there is a significant disincentive to continue working on the client's behalf once the maximum fee has been reached.

There are negative economic incentives for the part-time - contract and assigned - fixed fee systems. In both cases, the greatest economic gain can be made by devoting as little time as possible to the indigent defense work while spending the maximum amount of time working on private matters. Thus all of the part-time public defender systems employed in Mississippi are inferior to the full-time system.

There are, of course, other considerations beyond maximizing financial gain. When making choices, individuals tend to consider personal preference issues and balance these against potential financial gain. It is certainly possible that there are individuals who will look at all of the considerations and choose to provide quality indigent defense under any of these systems. However, pure economic incentive issues tend to favor the full-time public defender system.

SAMPLING AND DATA COLLECTION

In order to test the hypotheses and further demonstrate the flaws in Mississippi's system of providing counsel to indigents, data were collected from a number of Mississippi counties and from minority and non-minority, male and female indigents' cases. The goal of the sampling methodology was to collect information on indigents who were represented by public defenders in the state of Mississippi. The details collected included demographic characteristics of the individual, information on the crime in question, process-specific characteristics related to the crime, information on the economic losses of the person while in jail, and information regarding the county in which the person was arrested.

Some of the required information was available in public records, and some was only available through personal interviews. Because of the expense, a limited number of personal interviews were conducted. Therefore, this study

utilized two samples: 1) a Public Record sample compiled from the public records of 700 individuals arrested, and 2) a Personal Interview sample based on interviews with a group of 100 individuals selected from the larger Public Record sample.

COUNTY SELECTION

Because there are both full-time and part-time indigent defense systems in Mississippi, counties with both types of systems were included in the sample. In addition, the sample selection ensures that each type of part-time system, both assigned and contract counsel, is included.

The 700 study cases were drawn from 11 counties in Mississippi: Adams, Amite, Harrison, Hinds, Jackson, Lafayette, Lauderdale, LeFlore, Lee, Sunflower, and Washington (See Appendix A and B for a map of Mississippi with the selected counties and for the demographic information on these counties and for the entire state). Because there were only four counties with full-time

Figure 1. Percentage of Population Black by County (2000)

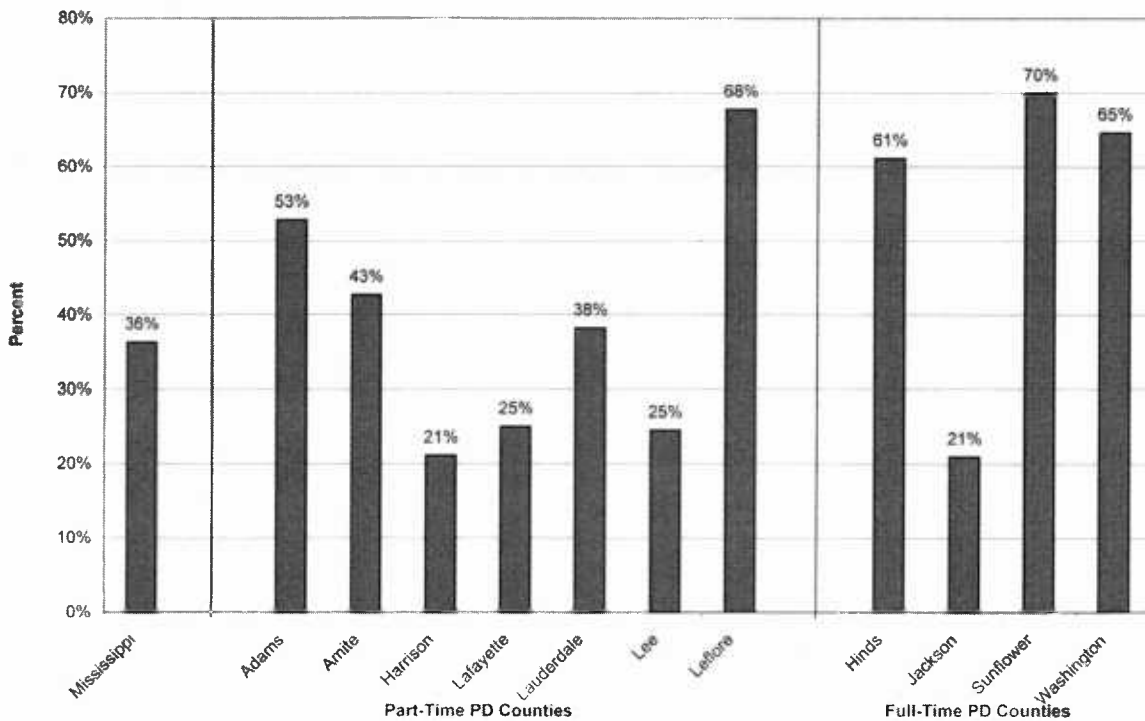


Figure 1

public defender systems, each one was included in the sample. These four counties are Hinds, Jackson, Sunflower, and Washington.

The part-time counties were chosen either randomly or to serve as matches for the full-time public defender counties. These counties are listed below with some explanation for their inclusion in the sample:

- Adams County is included because of its proximity to the Mississippi River (similar to that of Washington County). Although the population of Adams County is roughly one-half of the population in Washington County, the two counties are similar in terms of population density, median household income, and persons in poverty. Both counties have casinos.
- Amite County was randomly selected.
- Harrison County is the geographic and demographic counterpart to Jackson County. These two counties are

located on the Mississippi Gulf Coast, are casino counties, and are similar in terms of education, income, and race.

- Lafayette County was randomly selected.
- Lauderdale County and Lee County were selected because they represent larger, non-rural areas. They essentially balance with Hinds County.
- Leflore County is selected because of its similarity to Sunflower County. Each is located in the Mississippi Delta, and they are demographically similar in terms of population, race, income, and education.

The percentage of minorities in the population and the median income for each county is important to consider (see Figures 1 and 2.) With the exception of Jackson county, the full-time public defender counties are predominantly minority, with blacks comprising more than 60 percent of the population in each county. The only part-time public defender county with a minority population this high is

Figure 2. Median Family Income by County (1997)

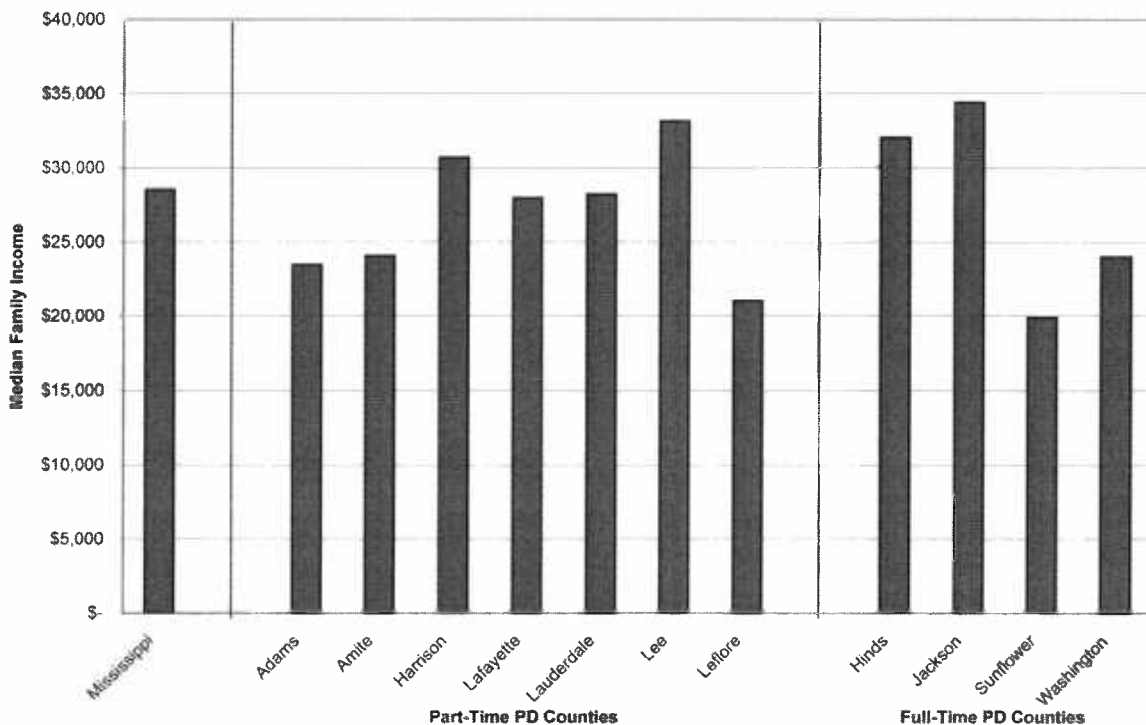


Figure 2

LeFlore county. The full-time public defender counties are diverse in terms of per-capita income. Sunflower county has the lowest median family income of any county in the sample at \$19,878, but Hinds and Jackson counties have relatively high median family incomes of \$32,033 and \$34,411, respectively.

SELECTING INDIVIDUALS FROM THE POPULATION

From the 11 counties selected, a total of 700 records were collected. These records were randomly selected from the population of indigent cases in those counties. The sample is spread among the 11 counties based on the total number of criminal dispositions in each county.

The Mississippi Administrative Office of the Courts (AAOC) provided a single printed page of individual-specific information for all of the disposed cases in the 11 sample counties for Fiscal Years 1999, 2000, and 2001 (see

Appendix C for counts of criminal dispositions in the relevant years and counties). These printouts included cases where defendants were represented by private attorneys as well as by public defenders, so the public defender cases were extracted from this information. After the public defender cases were extracted, a random sampling of 700 individual cases from FY 2000-2001 was identified.

Phase 1 - Public Records Database

For each of the 700 selected cases, relevant data from the court files were collected from the circuit clerks' offices in each county (see Appendix D for the detailed questionnaire used to collect information from the court files). In general, the information gathered from these files included dates of incarceration, relevant motions, hearings, and other court action. Also, information was gathered on outcomes such as bail, pleas, and sentencing (see Figure 3 for the total number of cases collected in each county and Figure 4 for a categorization of the information collected).

It is logical to assume that individuals committing more serious crimes will have a harder time getting out of jail on bond; thus the seriousness of the crime is an important intervening factor to analyze when considering the disparities in county jail time among indigents. Ideally, each crime could be analyzed individually to consider the disparities in county jail time for all indigents accused of each crime. However, this was not feasible due to the number of different crimes recorded. As a result, crimes were categorized by maximum sentence length according to the Mississippi penal code, with some of these categories including more than one crime. Some crimes, such as transfer of a controlled substance, are not grouped with other crimes simply because many individuals were sentenced for these crimes.

Phase 2 - Personal Interview Database

From the 700 court files obtained, 100 cases were selected for personal interviews. Ultimately interviews were conducted with 54 of the individuals. These interviews provided information regarding employment, work time, and other issues relevant to economic loss (see Appendix E for a detailed questionnaire for the individual-specific interviews and Appendix F for additional information regarding the data collection process from both public records and personal interviews).

In addition to the cases randomly selected for interview, the NAACP Legal Defense and Educational Fund, Inc. surveyed 35 women housed in correctional institutions

**Figure 3. Public Record Dataset
Number of Observations**

	<u>Number</u>	<u>Percent</u>
Adams	14	2.00
Amite	6	0.86
Harrison	209	29.86
Hinds	163	23.29
Jackson	68	9.71
Lafayette	29	4.14
Lauderdale	92	13.14
Lee	53	7.57
LeFlore	19	2.71
Sunflower	20	2.86
Washington	<u>27</u>	<u>3.86</u>
Total	<u>700</u>	<u>100.00</u>

Figure 3

Figure 4. Variable Definitions - Public Records Database

Outcome Measure

Time Number of days spent in county jail from the date of arrest to the sentencing date.

Personal Characteristics

Age Age of the individual in years.

Male A categorical variable equal to 1 if the individual is male and equal to 0 otherwise.

Minority A categorical variable equal to 1 if the individual is non-white and equal to 0 otherwise.

Assigned Counsel A categorical variable equal to 1 if the individual is represented by assigned counsel and equal to 0 otherwise.

Contract Counsel A categorical variable equal to 1 if the individual is represented by contract counsel and equal to 0 otherwise.

Full-Time Public Defender A categorical variable equal to 1 if the individual is represented by a full-time public defender and equal to 0 otherwise.

Process Characteristics

Bail Set A categorical variable equal to 1 if court records indicate that bail was set for the individual and equal to 0 otherwise.

Changed Attorneys A categorical variable equal to 1 if the court records indicate that the individual changed attorneys and equal to 0 otherwise.

Made Bail A categorical variable equal to 1 if court records indicate that the individual posted bond and equal to 0 otherwise.

Motions The number of motions filed by the public defender on behalf of the defendant as indicated by court records.

Witnesses - Defense The number of witnesses subpoenaed for the defense as indicated by the court records.

Witnesses - Prosecution The number of witnesses subpoenaed for the prosecution as indicated by the court records.

Crime-Specific Characteristics

Misdemeanor A categorical variable equal to 1 if the sentence is a misdemeanor or other minor crime and equal to 0 otherwise.

Possession A categorical variable equal to 1 if the individual was sentenced for possession of drugs (cocaine, methamphetamine, or controlled substance) and equal to 0 otherwise.

Felony DUI A categorical variable equal to 1 if the individual was sentenced for a DUI and equal to 0 otherwise.

Property A categorical variable equal to 1 if the individual was sentenced for a property crime, such as uttering a forgery or embezzlement, and equal to 0 otherwise.

Figure 4

Assault	A categorical variable equal to 1 if the individual was sentenced for a crime against persons for which he/she might receive some prison time, such as aggravated assault or possession of a deadly weapon by a convicted felon.
Transfer of a Controlled Substance	A categorical variable equal to 1 if the individual was sentenced for the transfer of a controlled substance and equal to 0 otherwise.
Burglary/Larceny	A categorical variable equal to 1 if the individual was sentenced for either burglary or larceny and equal to 0 otherwise.
Drug Sale	A categorical variable equal to 1 if the individual was sentenced for selling drugs and equal to 0 otherwise.
Burglary of a Dwelling	A categorical variable equal to 1 if the individual was sentenced for the burglary of a dwelling and equal to 0 otherwise.
Arson/Carjacking	A categorical variable equal to 1 if the individual was sentenced for a crime for which he/she would receive a significant amount of jail time, such as arson or carjacking, and equal to 0 otherwise.
Murder/Sex Crimes	A categorical variable equal to 1 if the individual was sentenced for a very serious crime, such as murder or rape, and equal to 0 otherwise.
<i>County Characteristics</i>	
Median Income	The median income of the county.
Percent Minority	A variable representing the proportion of the individual's county that is African American.
Urban	A categorical variable equal to 1 if the county is in an urban area (Jackson, Harrison, or Hinds) and equal to 0 otherwise.

Figure 4 continued

around the state of Mississippi for a more detailed picture of the economic loss to women and children. This information has been integrated into the information from the personal interviews wherever appropriate and is designated accordingly (Figure 5 describes the variables constructed from the Personal Interview Database).

RESULTS - PUBLIC RECORDS DATABASE

The primary findings from the records of 700 individuals are as follows:

PRIMARY FINDINGS OF EMPIRICAL MODEL

- Individuals represented by full-time public defenders are more likely to exit jail, specifically resulting in at least 81 fewer days spent in jail prior to sentencing;
- Race and gender of an individual also have a significant impact on the probability of exiting jail; minorities spend 52 more days in jail prior to sentencing and males spend 65 more days;
- Persons in urban counties are likely to spend more time in jail relative to persons in non-urban counties;
- Higher county median income results in increased jail time;
- An increase in a county's minority population results in a lower chance of leaving jail.

PRIMARY FINDINGS OF SUMMARY STATISTICS

Type of Defender

- Full-time public defenders make more motions on behalf of their clients;
- Individuals represented by full-time public defenders experience significantly fewer changes in attorneys when compared to individuals represented by contract counsel;
- Bail was set and posted more often for persons represented by contract counsel;

Gender

- Female indigents are slightly older than males, less often represented by a full-time public defender, and less often minority;
- Females are sentenced for less serious crimes (misdemeanor and property crimes) while males are sentenced for more serious crimes (burglary of a dwelling, assault and murder/sex crimes);

Race

- 86 percent of the minority population is male, while only 72 percent of the non-minority population is male;
- 43 percent of minorities are represented by full-time public defenders, compared to 24 percent of non-minorities;
- Defense counsel subpoena more witnesses for minorities than non-minorities;
- A greater proportion of non-minorities make bail than minorities;
- Minorities are more often arrested for drug related crimes than non-minorities;
- Non-minorities are more often arrested for DUI and property crimes;

Location

- Individuals represented by full-time public defenders come from counties with a significantly higher level of median income;
- Contract counsel represent a significantly smaller proportion of minorities;
- 90 percent of the individuals represented by full-time public defenders are from urban counties.

Figure 5. Variable Definitions - Personal Interview Database

Personal Characteristics

Male	A categorical variable equal to 1 if the individual is male and equal to 0 otherwise.
Minority	A categorical variable equal to 1 if the individual is non-white and equal to 0 otherwise.
Assigned Counsel	A categorical variable equal to 1 if the individual is represented by assigned counsel and equal to 0 otherwise.
Contract Counsel	A categorical variable equal to 1 if the individual is represented by contract counsel and equal to 0 otherwise.
Full-Time Public Defender	A categorical variable equal to 1 if the individual is represented by a full-time public defender and equal to 0 otherwise.

Representation Indicators

Did you receive adequate representation?	A categorical variable equal to 1 if the individual felt that he/she received adequate representation. Equal to 0 otherwise.
Did lawyer visit you in jail?	A categorical variable equal to 1 if the attorney visited the individual in jail. Equal to 0 otherwise.
Did you meet lawyer in office?	A categorical variable equal to 1 if the individual met with the attorney in the attorney's office. Equal to 0 otherwise.
Did lawyer investigate case?	A categorical variable equal to 1 if the attorney investigated the case. Equal to 0 otherwise.
Did lawyer talk to witnesses?	A categorical variable equal to 1 if the attorney talked to witnesses. Equal to 0 otherwise.
Did lawyer attempt to reduce bond?	A categorical variable equal to 1 if the attorney attempted to have the individual's bond reduced. Equal to 0 otherwise.
Did lawyer take calls?	A categorical variable equal to 1 if the attorney accepted telephone calls from the individual. Equal to 0 otherwise.
Did lawyer return calls?	A categorical variable equal to 1 if the attorney returned telephone calls. Equal to 0 otherwise.
Did you change your plea to guilty?	A categorical variable equal to 1 if the individual changed his/her plea to guilty. Equal to 0 otherwise.
Time spent with lawyer?	A continuous variable reflecting the amount of time (in minutes) the lawyer spent talking with the client as reported by the client.

Job/Income Characteristics

Working when arrested?	A categorical variable equal to 1 if the individual was working when arrested. Equal to 0 otherwise.
Hourly wage (only if working)?	The hourly wage the individual reported if he/she was working when arrested.
Job loss?	A categorical variable equal to 1 if the individual reported that he/she lost a job after being arrested. Equal to 0 otherwise.

Figure 5

Did you lose a car?	A categorical equal to 1 if the individual reported that he/she lost a car after being arrested. Equal to 0 otherwise.
Did your phone get disconnected?	A categorical variable equal to 1 if the individual reported that his/her phone was disconnected after being arrested. Equal to 0 otherwise.
Did you lose a dwelling?	A categorical variable equal to 1 if the individuals reported that he/she lost a dwelling after being arrested. Equal to 0 otherwise.

Family Variables

Did your family suffer financially?	A categorical variable equal to 1 if the individual reported that his/her family suffered financially after being arrested. Equal to 0 otherwise.
Did your child care arrangements change?	A categorical variable equal to 1 if the individual reported that his/her child care arrangements changed after being arrested. Equal to 0 otherwise.
Did you miss child support payments?	A categorical variable equal to 1 if the individual reported that he/she missed child support payments after being arrested. Equal to 0 otherwise.

Figure 5 continued

SUMMARY STATISTICS

Of the 700 individuals for whom information was collected, 38 percent were represented by full-time public defenders, 58 percent were represented by contract counsel, and 6 percent were represented by assigned counsel (Figure 6; Appendix G contains a table of all of the summary statistics). Males comprised 81 percent of the sample and minorities comprised 69 percent (see Figure 7).

Regarding process characteristics (Figures 8 and 9), the data reveal that bail is set for 87 percent of the sampled individuals, and bail is posted 84 percent of the time. 29 percent of the defendants change attorneys at least once. The average number of motions filed on behalf of a defendant is 1.33. A pre-sentencing motion was filed in only 4 of the 700 cases examined, reflecting a lack of effective representation at this crucial stage of indigent defense. The average number of witnesses for a defendant is 0.07.

The crime statistics reveal that individuals in the sample are sentenced for crimes of differing severity; no one category dominates the sample (see Figure 10). Only 7 percent are sentenced for misdemeanors. The greatest proportion of

indigents is sentenced for burglary/larceny crimes. Exactly 9 percent of the sample is sentenced for very serious crimes, reflected by the murder/sex crimes category.

Each factor that might impact the length of time individuals serve in county jail was analyzed for differences between full-time public defenders, part-time contract public defenders (contract counsel) and part-time assigned public defenders (assigned counsel). The averages for each of the personal, process, and crime-specific variables have been considered based on type of representation (see Figure 11). The results suggest that there are some statistically significant differences in certain characteristics. The personal characteristics suggest that the full-time public defender and assigned counsel represent a greater proportion of minorities and males. In this sample, 80 percent of the individuals represented by full-time public defenders were minority, and 85 percent were male. The individuals represented by assigned counsel were 76 percent minority and 85 percent male. In contrast, 61 percent of the individuals represented by contract counsel were minority and 78 percent were male.

Process characteristics indicate that full-time public defenders made more motions on behalf of their clients. The aver-

Figure 6. Percentage of Sample by Type of Representation

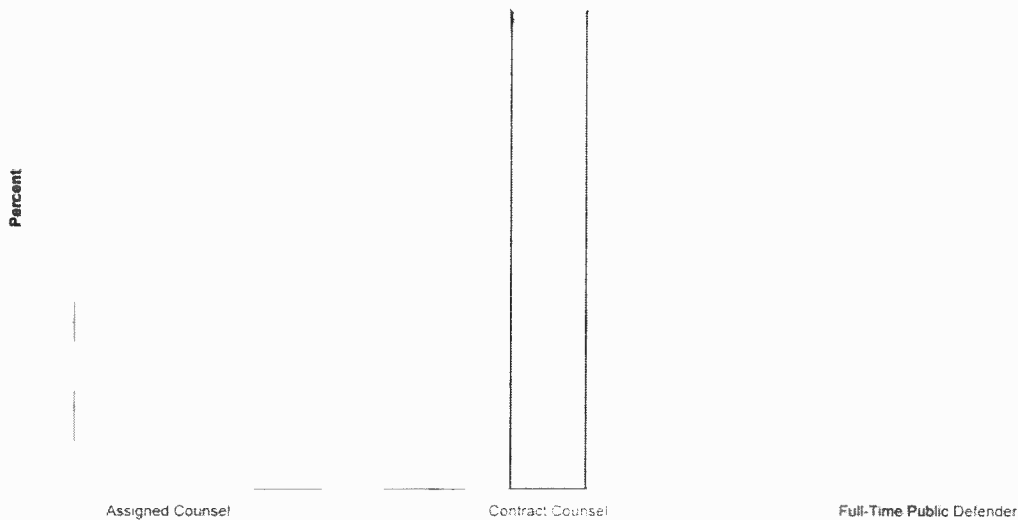


Figure 6

Figure 7. Percentage of Sample by Gender and Race

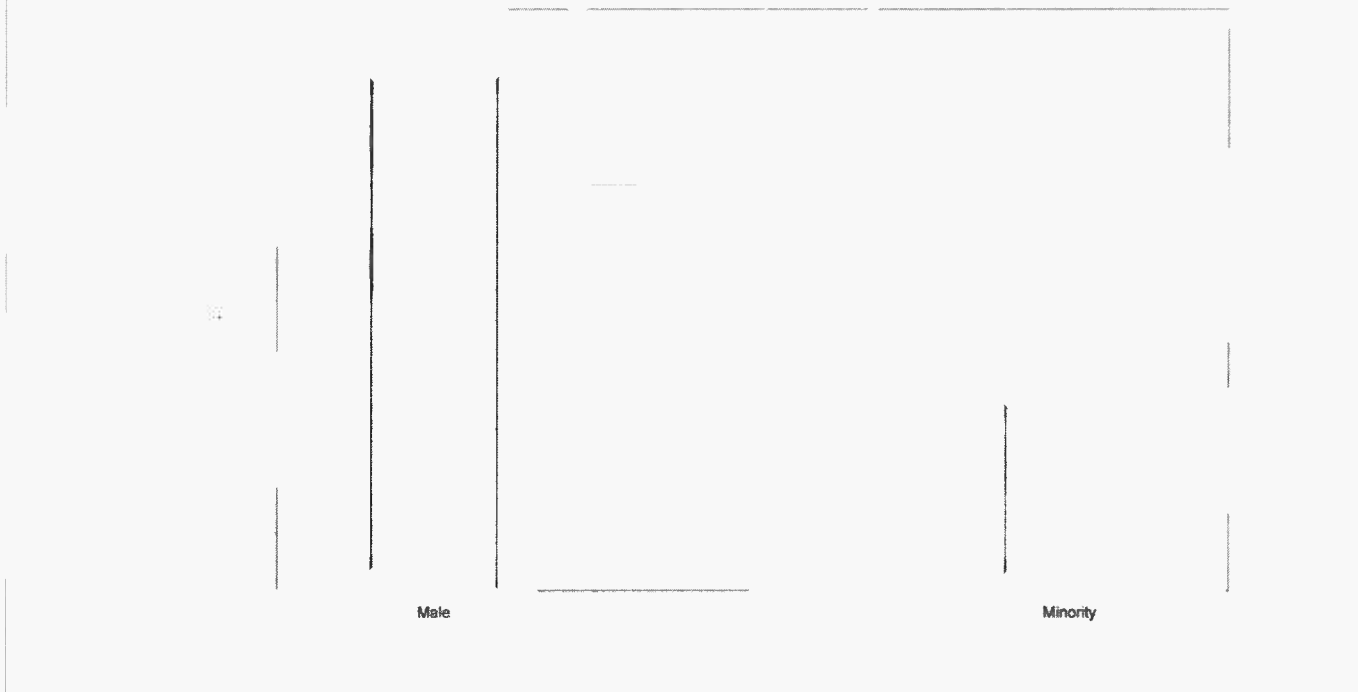


Figure 7

Figure 8. Percentage of Sample Attaining Bail and Changing Attorneys

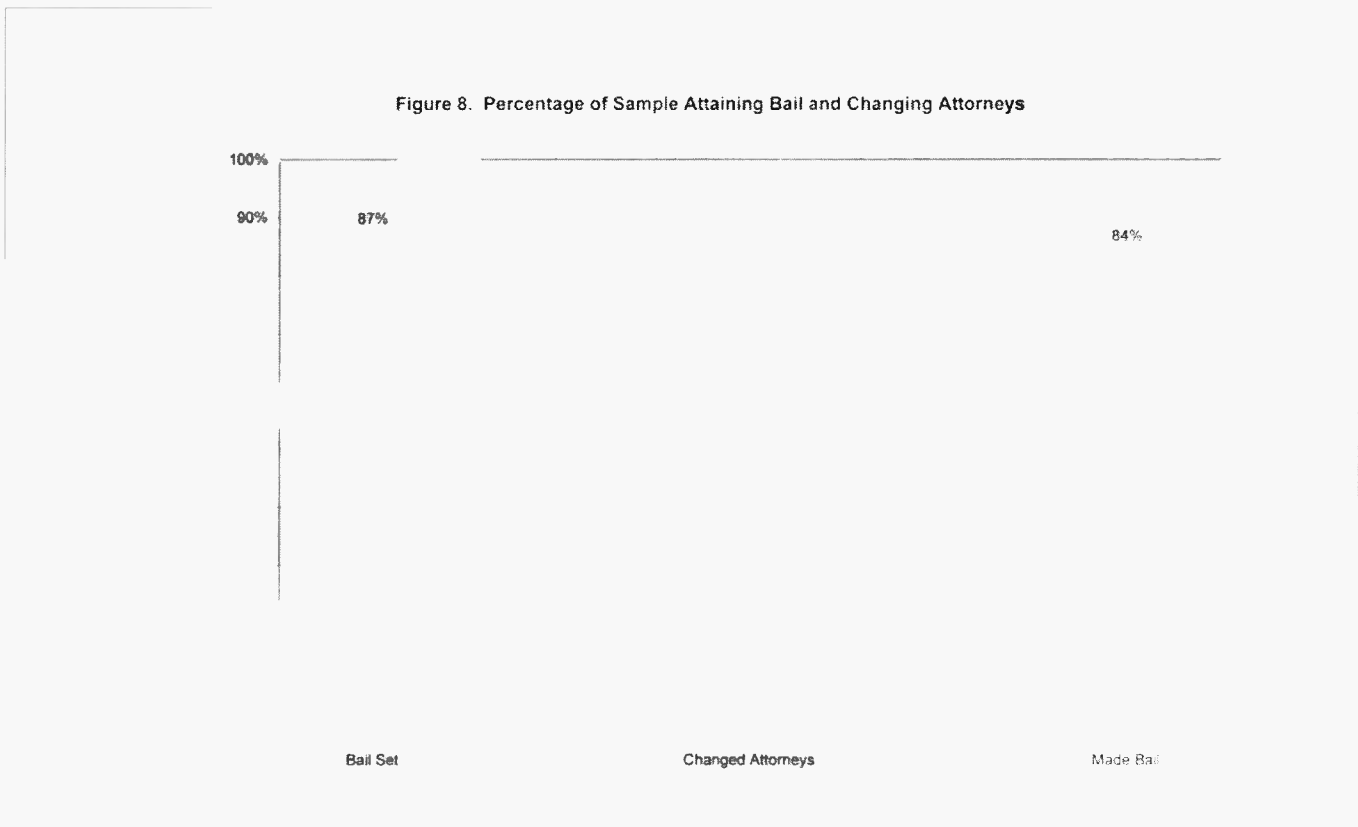


Figure 8

Figure 9. Average Motions and Witnesses

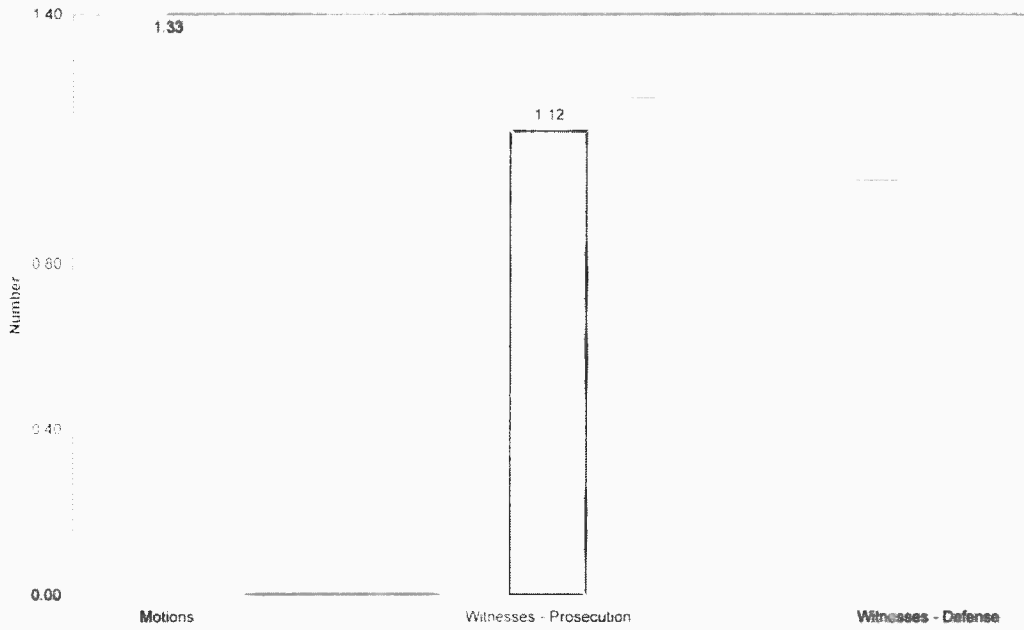


Figure 9

Figure 10. Percentage of Sample with Crime Levels

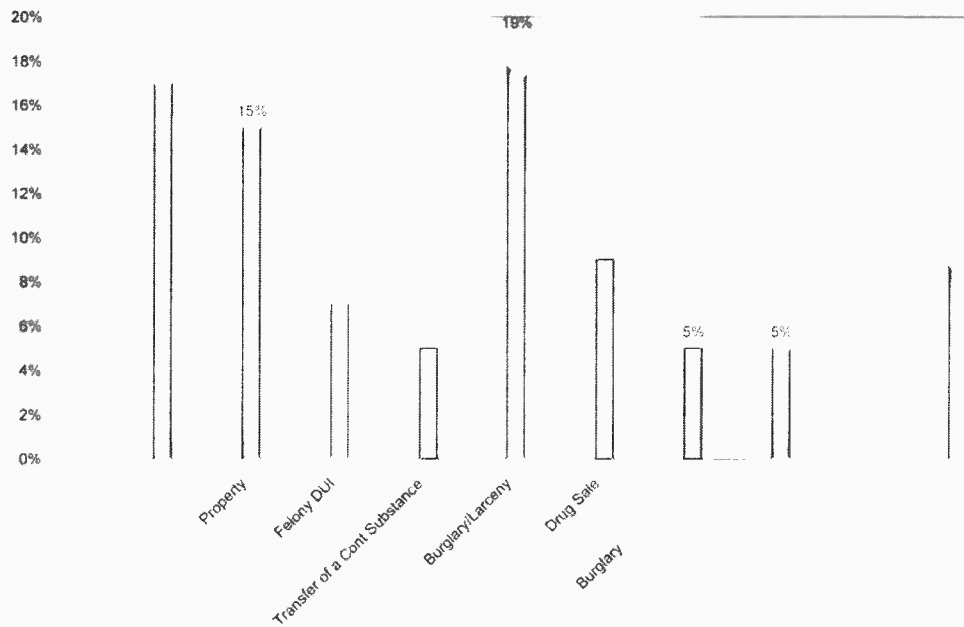


Figure 10

**Figure 11. Descriptive Statistics by Type of Representation
(Standard Deviations in Parentheses)**

	Overall Mean	Assigned Counsel	Contract Counsel	Full-Time Public Defender	Significance
<i>Personal Characteristics</i>					
Age	33.36 (9.50)	29.59 (9.38)	33.98 (9.67)	32.76 (9.11)	**
Male	0.81 (0.39)	0.85 (0.36)	0.78 (0.41)	0.85 (0.36)	
Minority	0.69 (0.46)	0.76 (0.44)	0.61 (0.49)	0.80 (0.40)	**
<i>Process Characteristics</i>					
Bail Set	0.87 (0.34)	0.82 (0.39)	0.90 (0.30)	0.81 (0.39)	**
Changed Attorneys	0.29 (0.45)	0.05 (0.22)	0.40 (0.49)	0.15 (0.36)	
Made Bail	0.84 (0.37)	0.69 (0.47)	0.87 (0.33)	0.80 (0.40)	**
Motions	1.33 (1.43)	1.10 (1.29)	1.18 (1.47)	1.59 (1.35)	
	1.12 (2.58)	1.18 (2.30)	1.04 (2.43)	1.24 (2.83)	
Witnesses - Defense	0.07 (0.63)	0.00 (0.00)	0.10 (0.75)	0.03 (0.44)	
<i>Crime-Specific Characteristics</i>					
Misdemeanors	0.07 (0.25)	0.11 (0.31)	0.07 (0.26)	0.05 (0.23)	
	0.17 (0.38)	0.11 (0.31)	0.18 (0.39)	0.17 (0.38)	
Property	0.15 (0.36)	0.08 (0.27)	0.16 (0.37)	0.16 (0.37)	
Felony DUI	0.07 (0.25)	0.03 (0.16)	0.08 (0.27)	0.05 (0.23)	
Transfer of a Controlled Substance	0.05 (0.22)	0.00 (0.00)	0.07 (0.25)	0.03 (0.19)	
Burglary/Larceny	0.19 (0.39)	0.32 (0.47)	0.19 (0.39)	0.17 (0.37)	
Drug Sale	0.09 (0.30)	0.11 (0.31)	0.08 (0.27)	0.11 (0.32)	
Burglary of a Dwelling	0.05 (0.21)	0.11 (0.31)	0.02 (0.15)	0.07 (0.26)	
Assault	0.05 (0.22)	0.05 (0.22)	0.05 (0.23)	0.04 (0.20)	
Arson/Carjacking	0.02 (0.16)	0.03 (0.16)	0.03 (0.16)	0.02 (0.16)	
Murder/Sex Crimes	0.09 (0.29)	0.09 (0.27)	0.08 (0.28)	0.10 (0.30)	

Notes: ** and * indicate significant differences at the 5 and 10% levels.

Figure 11

Figure 12. Descriptive Statistics by Gender
(Standard Deviations in Parentheses)

	Overall Mean	Male	Female	Significance
<i>Personal Characteristics</i>				
	33.36 (9.50)	32.99 (9.71)	34.95 (8.38)	
	0.06 (0.23)	0.06 (0.23)	0.05 (0.21)	
	0.57 (0.49)	0.56 (0.47)	0.66 (0.50)	
	0.81 (0.39)	n/a		**
	0.69 (0.46)	0.72 (0.45)	0.54 (0.50)	
	0.87 (0.33)	0.86 (0.35)	0.90 (0.30)	
	0.29 (0.45)	0.29 (0.45)	0.30 (0.46)	
	0.84 (0.37)	0.83 (0.38)	0.88 (0.32)	
	1.33 (1.43)	1.36 (1.41)	1.19 (1.51)	
	1.12 (2.56)	1.15 (2.67)	0.97 (2.18)	
	0.07 (0.63)	0.08 (0.69)	0.02 (0.26)	
		0.06 (0.23)		**
	0.17 (0.38)	0.18 (0.38)	0.15 (0.36)	
	0.15 (0.36)	0.12 (.33)	0.30 (.46)	
Felony DUI	0.07 (0.25)	0.08 (0.27)		
Transfer of a Controlled S	0.05 (0.22)	0.05 (0.23)		
Burglary/Larceny	0.19 (0.39)	0.19 (0.39)	0.17 (0.38)	
Drug Sale	0.09 (0.30)		0.11 (0.31)	
Burglary of a Dwelling	0.05 (0.21)	0.05 (0.22)	0.01 (0.09)	**
Assault	0.05 (0.22)	0.06 (0.23)	0.02 (0.15)	
Arson/Carjacking	0.02 (0.16)	0.02 (0.15)	0.04 (0.19)	
Murder/Sex Crimes	0.09 (0.29)	0.10 (0.30)	0.05 (0.23)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
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			0.15 (0.36)	**
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			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
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			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
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			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
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			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
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			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	
			0.15 (0.36)	**
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			0.05 (0.21)	
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			0.02 (0.16)	
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			0.07 (0.25)	
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			0.15 (0.36)	**
			0.07 (0.25)	
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			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
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			0.15 (0.36)	**
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			0.19 (0.39)	
			0.09 (0.30)	
			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
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			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
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			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
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			0.09 (0.30)	
			0.05 (0.21)	
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			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
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			0.05 (0.21)	
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			0.02 (0.16)	
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			0.17 (0.38)	
			0.15 (0.36)	**
			0.07 (0.25)	
			0.05 (0.22)	
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			0.05 (0.21)	
			0.05 (0.22)	
			0.02 (0.16)	
			0.09 (0.29)	
			0.07 (0.25)	
			0.17 (0.38)	

age number of motions was 1.59 for each individual represented by full-time public defenders compared to 1.18 motions for contract counsel and 1.10 for assigned counsel. Individuals represented by full-time public defenders also experienced significantly fewer changes in attorney; 40 percent of the clients represented by contract counsel experienced a change in attorney, while only 15 percent saw a change when represented by full-time public defenders.

Bail was set and posted more often for persons represented by contract counsel. Bail was set 90 percent of the time and made 87 percent of the time. In cases represented by full-time public defenders, bail was set 81 percent of the time, and bail was made 80 percent of the time. Although setting and posting of bail is determined by a number of variables and is not totally under the control of the defending attorney, this information still suggests that the type of public defender affects the possibility of setting and posting bail for an indigent person. Finally, there are several crime-specific characteristics that are statistically different among the three types of representation. Contract counsel represent a greater proportion of cases involving transfer of controlled substance, while assigned counsel handled more burglary/larceny and burglary of a dwelling cases.

These data were also considered for differences between males and females, indicating that female indigents are slightly older than males, less often represented by a full-time public defender, and less often minority (see Figure 12). In relation to process characteristics, there are no significant differences between males and females. Significant differences exist in crimes committed across gender lines. In general, females are sentenced for less serious crimes (misdemeanor and property crimes) while males are sentenced for more serious crimes (burglary of a dwelling, assault and murder/sex crimes).

Finally, characteristics are analyzed for differences in minority status (see Figure 13). Personal characteristics suggest 86 percent of the minority population is male, while only 72 percent of the non-minority population is male. In addition, 43 percent of minorities are represented by full-time public defenders, compared to 24 percent of non-minorities. Process characteristics suggest that defense counsel subpoena more witnesses for minorities than for non-minorities and that a greater proportion of non-minorities make bail. Also, crime-specific characteristics reveal that minorities are more often arrested for drug related crimes (transfer of a controlled substance and drug sale) than non-minorities. Non-minorities are more often arrested for DUI and property crimes.

It was hypothesized that the characteristics of the area in which the individual lived would have an impact on time

Figure 13. Descriptive Statistics by Race (Standard Deviations in Parentheses)

	Overall Mean	Minority	Non-Minority	Minority/Non-Minority Significance
Age	33.36 (9.50)	32.51 (9.10)	34.52 (9.92)	
	0.06 (0.23)	0.06 (0.23)	0.04 (0.19)	
Contract Counsel	0.57 (0.49)	0.52 (0.50)	0.73 (0.45)	
Full-Time Public Defende	0.37 (0.49)	0.43 (0.50)	0.24 (0.43)	*
	0.81 (0.39)	0.86 (0.35)	0.72 (0.45)	**
	0.69 (0.46)	n/a	n/a	
<i>Process Characteristics</i>				
Bail Set	0.87 (0.33)	0.86 (0.34)	0.88 (0.33)	
	0.29 (0.45)	0.28 (0.45)	0.30 (0.46)	
Made Bail	0.84 (0.37)	0.82 (0.38)	0.88 (0.33)	
Motions	1.33 (1.43)	1.34 (1.38)	1.31 (1.55)	
Witnesses - Prosecution	1.12 (2.58)	1.15 (2.53)	1.06 (2.74)	
	0.07 (0.63)	0.10 (0.77)	0.00 (0.07)	**
<i>Crime-Specific Characteristics</i>				
Misdemeanors	0.07 (0.25)	0.07 (0.25)	0.07 (0.26)	
	0.17 (0.38)	0.19 (0.39)	0.14 (0.35)	
	0.15 (0.36)	0.13 (0.33)	0.21 (0.41)	
Felony DUI	0.07 (0.25)	0.04 (0.19)	0.13 (0.33)	
Transfer of a Controlled S	0.05 (0.22)	0.07 (0.25)	0.02 (0.14)	**
Burglary/Larceny	0.19 (0.39)	0.18 (0.38)	0.20 (0.40)	
Drug Sale	0.09 (0.30)	0.12 (0.33)	0.03 (0.18)	**
Burglary of a Dwelling	0.05 (0.21)	0.04 (0.20)	0.05 (0.21)	
Assault	0.05 (0.22)	0.05 (0.22)	0.05 (0.21)	
	0.02 (0.16)	0.02 (0.15)	0.03 (0.17)	
Murder/Sex Crimes	0.09 (0.29)	0.10 (0.30)	0.08 (0.27)	

Notes: ** indicates statistical significance at the 5 percent level. * indicates statistical significance at the 10 percent level.

Figure 13

Figure 14. County Descriptives by Type of Representation
(Standard Deviations in Parentheses)

	Overall Mean	Assigned Counsel	Contract Counsel	Full-Time Public Defender	Significance
Median Income (thousands)	29.90 (3.44)	22.36 (1.34)	29.40 (2.66)	31.82 (2.87)	**
Percent Minority	38.22 (18.55)	58.51 (9.68)	28.15 (11.75)	50.87 (17.99)	**
Percent Urban	63.00 (48.34)	0.00 (0.00)	52.00 (50.01)	90.00 (31.41)	**

Notes: ** and * indicate significant differences at the 5 and 10% levels.

Figure 14

spent in jail. Comparisons of county income, race and urban status for individuals classified by type of representation confirm this hypothesis (see Figure 14). The differences are statistically significant for all three variables. Individuals represented by full-time public defenders are from counties with a significantly higher level of median income - \$31.82 thousand as opposed to \$29.40 thousand for contract counsel and \$22.36 thousand for assigned counsel. Contract counsel represented a significantly smaller proportion of minorities - 28 percent as opposed to 51 percent for full-time public defenders and 59 percent for assigned counsel. Most striking, 90 percent of the individuals represented by full-time public defenders were from urban counties, compared to 52 percent for contract counsel and none for assigned counsel. These differences contribute significantly to the variation in the length of jail time examined in the following section.

PRE-SENTENCING JAIL TIME

The average indigent in the sample drawn spends 135 days in county jail prior to the resolution of the case, but there is a great deal of variation in this figure among indigents. Roughly 21 percent of persons in the sample are bailed out or released from jail on the day or the day after they are arrested. An additional 10 percent are released within one week. More than one-half of the sample is less fortunate, spending at least one month in jail. Roughly 48 percent spent at least two months in jail. Approximately 13 percent of the sample spent over one year in county jail, but less than 2 percent were jailed for more than two years' time (see Figure 15 for an overview of time spent in county jail).

The averages for time spent in jail prior to sentencing for the various crimes are even more revealing. There is considerable variation across crime categories (see Figure 16). The average time spent in jail for misdemeanors is 44 days. The average time for property crimes is 94 days. Time in jail for drug related crimes ranged from 98 days for posses-

sion to 147 days for drug sales. The time spent in jail for more violent crimes is longer, ranging from 169 days for assault to 290 days for murder/sex crimes. While the misdemeanor and property crime jail times were shorter than the other more serious categories, the actual lengths of time spent in jail for these categories are quite long.

Pre-sentencing jail time varies significantly by gender, race and type of representation (see Figure 17). Males spend an average of 146 days in jail, while females spend an average of 87 days. Minorities average 156 days in jail, while non-minorities average 93 days. Individuals represented by a full-time public defender spend 189 days in jail compared to 105 days for individuals represented by contract counsel and 99 days for assigned counsel. While this difference is significant, it is not an indicator of the quality of representation because some allowance must be made for other intervening variables. The next section shows that after the averages have been controlled for personal characteristics, crime categories and county differences, the full-time public defender average is significantly lower than the averages for the two part-time categories.

EMPIRICAL MODEL

As noted above, the differences in average length of time in jail are partially explained by intervening factors. For example, indigents represented by full-time public defenders spend longer periods of time in jail partially because they live in more urban areas with higher crime rates and a burdened legal system. To isolate the impact of gender, race, and type of legal representation on time in jail, techniques that estimate the probability of getting out of jail can be employed while controlling for various intervening variables. A higher probability of getting out of jail implies shorter jail stays.

The controlling factors used in the model include personal, crime-specific, and county-specific explanatory variables

Figure 15. Histogram of Time (Days) Served in County Jail

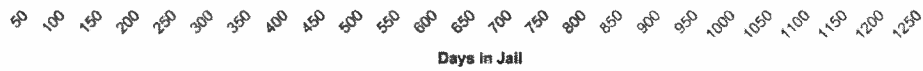


Figure 15

Figure 16. Summary of Jail Time by Crime Category (Standard Deviations in Parentheses)

	<u>Mean</u>
All Crimes	135.25 (185.54)
Misdemeanors	43.92 (79.10)
Possession	98.17 (159.22)
Property	93.99 (158.89)
Felony DUI	103.49 (117.79)
Transfer of a Controlled Substance	143.43 (174.04)
Burglary/Larceny	116.95 (153.15)
Drug Sale	147.07 (172.80)
Burglary of a Dwelling	186.27 (193.89)
Assault	168.70 (200.77)
Arson/Carjacking	255.78 (304.40)
Murder/Sex Crimes	290.28 (263.71)

Figure 16

Figure 17. Summary of Jail Time by Race, Gender, and Type of Representation (Standard Deviations in Parentheses)

	<u>Mean</u>
Male	146.01 (188.19)
Female	86.97 (165.50)
Minority	156.18 (199.94)
Non-Minority	92.95 (144.26)
Full-Time Public Defender	189.15 (210.29)
Contract Counsel	105.22 (166.72)
Assigned Counsel	99.26 (120.75)

Figure 17

**Figure 18. Weibull Hazard Model
Hazard Ratios Reported
(Standard Errors in Parentheses)**

<i>Personal Characteristics</i>	
Age	0.99 ** (0.00)
Assigned Counsel	0.60 * (0.18)
Contract Counsel	0.72 * (0.14)
Male	0.75 ** (0.09)
	0.81 ** (0.08)
Possession	0.82 (0.16)
Property	0.72 * (0.14)
Felony DUI	0.64 * (0.15)
Transfer of a Controlled Substance	0.57 * (0.15)
Burglary/Larceny	0.57 ** (0.11)
Drug Sale	0.56 ** (0.12)
Burglary of a Dwelling	0.39 ** (0.10)
Assault	0.39 ** (0.10)
Arson/Carjacking	0.35 ** (0.12)
Murder/Sex Crimes	0.35 ** (0.07)
Median Income	0.94 ** (0.02)
Percent Minority	0.98 ** (0.00)
Urban	0.58 ** (0.07)
Number of Observations	583

Note: Reported values are exponentiated coefficients, or hazard ratios. The hazard ratios reported correspond to a one-unit change in the corresponding variable. ** indicates statistical significance at the 5% level. * indicates statistical significance at the 10% level. Crime categories are jointly significant at the 5% level.

Figure 18

(Figure 18). Personal characteristics include the age, gender and race of the individual and the type of legal representation. Crime-specific characteristics include a series of categorical variables detailing the crime for which the individual was sentenced, with the omitted crime category (or the base case) of misdemeanor crimes. The proportion of the county that is black, the median income for the county, and whether the county is urban or rural are the county-specific variables.

The findings indicate that individuals represented by full-

time public defenders are more likely to get out of jail (i.e. spend less time in jail). Specifically, after controlling for all other variables specified in the model, individuals represented by assigned counsel are 40 percent less likely to get out of jail, and individuals represented by contract counsel are 28 percent less likely to get out of jail.

Race and gender of an individual also have a significant impact on the probability of getting out of jail. Minorities are 19 percent less likely to get out of jail than their non-minority counterparts, and males are 25 percent less likely than females to get out of jail.

Categorical variables controlling for the crimes that individuals commit have the expected impact. Persons committing more serious crimes are more likely to remain in jail for longer periods. For example, a person sentenced for transfer of a controlled substance is 43 percent less likely to exit jail than a person who is ultimately sentenced for a misdemeanor. On the other hand, a person committing the most serious crime (murder/sex crimes) is roughly 65 percent less likely to exit jail than a person committing a misdemeanor.

Finally, the county-specific characteristics reveal additional information. The variables controlling for county race, income and urbanization are all statistically significant. Persons in urban counties are less likely to get out of jail compared to persons in non-urban counties. Higher county median income results in a reduced probability of exit. Similarly, an increase in a county's minority population results in a lower chance of leaving jail. These are significant findings that have not been well documented in previous research; such research has typically examined cases from one jurisdiction and therefore has missed the impact of differences in the demographic makeup of a jurisdiction on time spent in jail.

To further illustrate the impact of the independent variables, the actual difference in length of time in jail by race, gender and representation has been predicted (see Figure 19). After adjusting for all other factors, figures suggest that minorities spend an average of 52 more days in jail than non-minorities. Similarly males spend 65 more days in jail than females. The differences across types of representation are even greater. After controlling for all intervening factors, data indicate that individuals represented by part-time contract counsel spend 81 more days in jail, and individuals represented by part-time assigned counsel spend 96 more days in jail than individuals represented by full-time public defenders.

Figure 19.
Difference in Predicted
Length of Time in Jail

	<u>Predicted</u> <u>Difference in Days</u>
Minority Minus Non-Minority	51.99
Male Minus Female	65.13
Contract Counsel Minus Full-Time Public Defender	80.50
Assigned Counsel Minus Full-Time Public Defender	95.90

Figure 19

RESULTS - PERSONAL INTERVIEW DATABASE

Summary Statistics

Roughly 80 percent of the random sample is male; similarly, roughly 80 percent is minority (see Figures 20-23 and Appendix H for characteristics of indigents in the Personal Interview Database). Also, about 33 percent of the sample is represented by a full-time public defender. These characteristics closely mirror those of the indigents in the Public Records Database, with the exception of the minority composition. The Personal Interview Database has a higher percentage of minorities.

In the interviews, only 38 percent of the sample indicated that they felt they had received adequate legal representation, as illustrated in Figure 21. This finding is not surprising given that only 41 percent of the sample met with an attorney while in

jail, and the average attorney interacted with the client for only an hour and 10 minutes. Very few indigents indicated that their cases were investigated (16 percent) or that the attorney spoke with witnesses (13 percent). In addition, the majority of indigents changed their pleas to guilty (64 percent).

The majority of indigents were working when arrested (70 percent), and the average hourly wage for those working was \$7.41 per hour (see Figure 22 for statistics regarding the job and income characteristics of indigents interviewed). It appears that the arrest had negative consequences for many of these indigents. After arrest, 73 percent of indigents who were working lost their jobs. In addition, many lost other important resources, such as their cars (22 percent), phones (14 percent), utilities (16 percent), and homes (24 percent).

Nearly 50 percent of the random sample felt that their personal financial loss negatively impacted their families (see Figure 23). Also, some indigents were forced to change their child care arrangements (16 percent) and some missed child support payments (11 percent).

The results of the personal interviews show a strong difference between the quality of the representation offered by the full-time public defender system and the part-time systems (see Figure 24). These results suggest that full-time public defenders devoted more resources to their clients

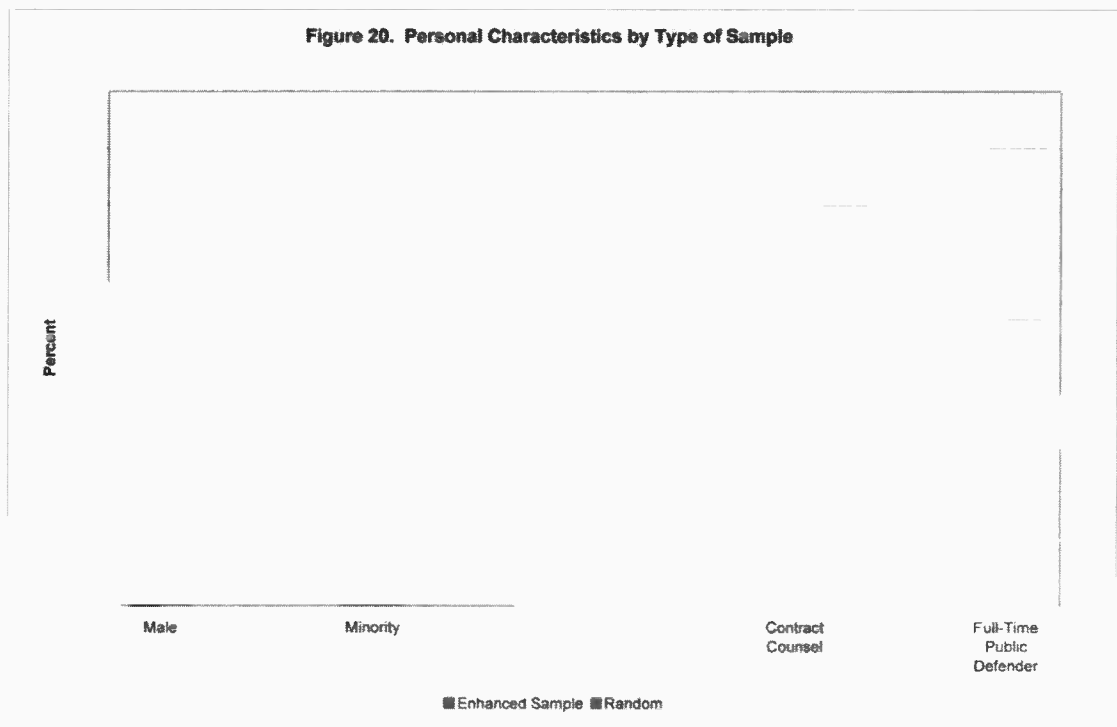


Figure 20

Figure 21. Representation Characteristics by Type of Sample

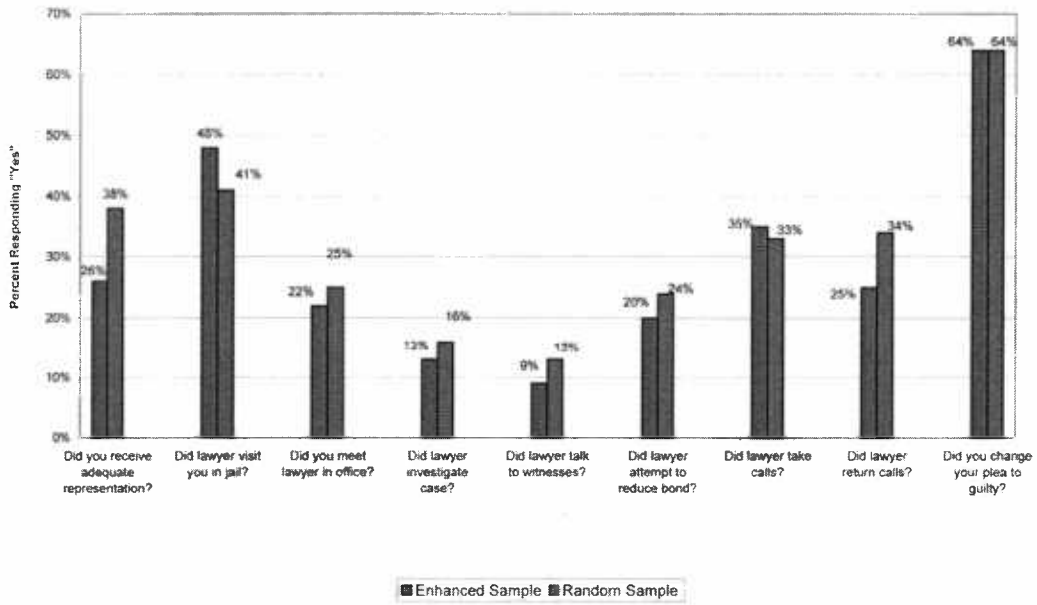


Figure 21

Figure 22. Job/Income Characteristics by Type of Sample

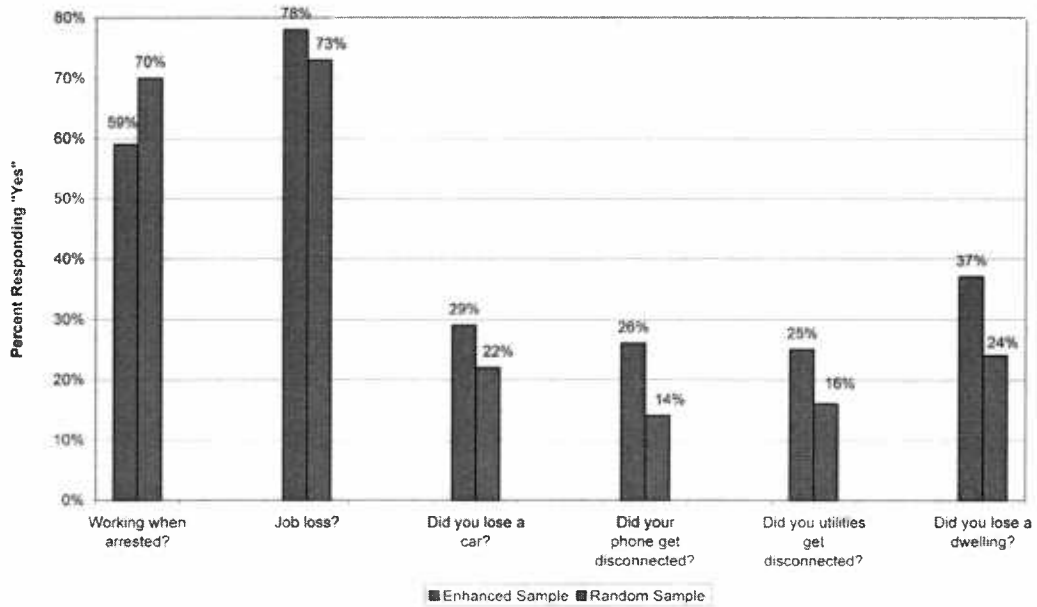


Figure 22

Figure 23. Family Characteristics by Type of Sample

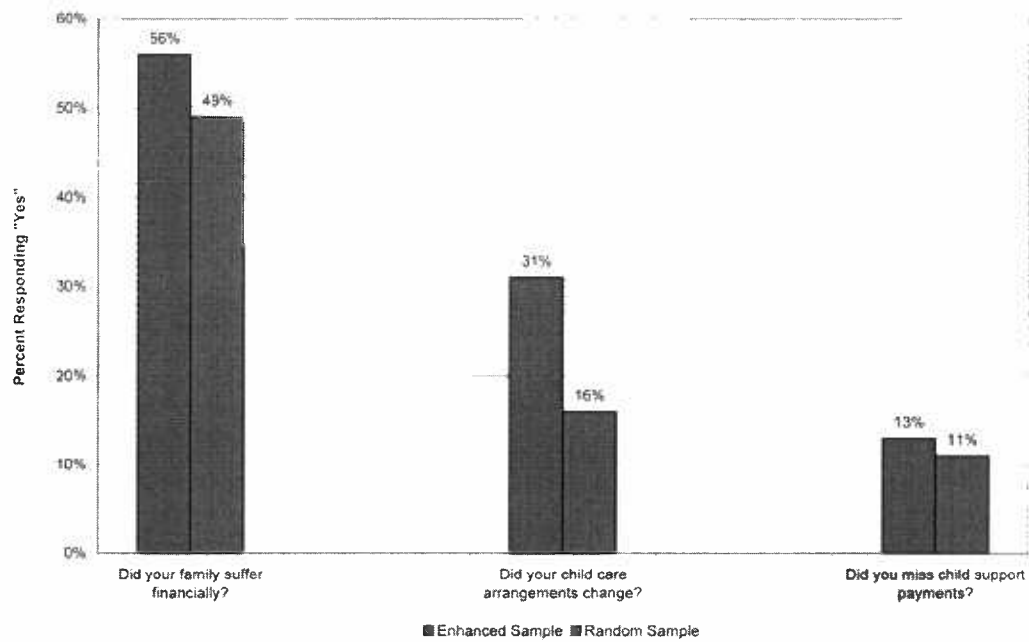


Figure 23

Figure 24. Differences of Means for Legal Representation Characteristics
Random Sample
(Standard Deviations in Parentheses)

	Assigned Counsel	Contract Counsel	Full-Time Public Defender	Significance
Did you receive adequate representation?	0.33 (0.58)	0.38 (0.49)	0.41 (0.51)	
Time spent with lawyer (minutes)?	22.50 (10.61)	51.96 (45.22)	130.22 (169.68)	*
Did lawyer visit you in jail?	0.00 (0.00)	0.32 (0.48)	0.65 (0.49)	**
Did you meet lawyer in office?	0.33 (0.58)	0.28 (0.45)	0.19 (0.40)	
Did lawyer investigate case?	0.33 (0.58)	0.03 (0.19)	0.42 (0.51)	**
Did lawyer talk to witnesses?	0.33 (0.58)	0.03 (0.18)	0.31 (0.48)	**
Did lawyer attempt to reduce bond?	0.00 (0.00)	0.14 (0.35)	0.50 (0.52)	**
Did lawyer take calls?	0.50 (0.71)	0.19 (0.40)	0.70 (0.48)	**
Did lawyer return calls?	0.50 (0.71)	0.22 (0.42)	0.67 (0.50)	**
Did you change your plea to guilty?	1.00 (0.00)	0.65 (0.49)	0.55 (0.52)	

Notes: ** indicates statistical significance at the 5 percent level. * indicates statistical significance at the 10 percent level.

Figure 24

than

assigned counsel or contract counsel. Full-time public defenders more often visited their clients in jail, accepted phone calls from the client, returned phone calls to the client, investigated the case, talked to witnesses, and attempted to reduce bond. Additionally, full-time public defenders spent more time with their clients.

ECONOMIC IMPACT

Utilizing the information described above and other sources, it is possible to estimate the annual impact on the Mississippi economy of implementing the full-time public defender system throughout the state. The average hourly salary (including individuals who were not working) of the persons interviewed was \$4.12, implying an average daily loss of income of \$32.96. The indirect effect of those lost salary dollars is \$22.08. Thus the gain in personal income to the state resulting from the elimination of one day in jail for the average individual is \$55.04.

The implementation of the full-time public defender system should decrease jail time per criminal disposition by at least 80.5 days (see Figure 19). When this saving is multiplied by the number of dispositions handled annually by part-time counsel, the total annual increase in state personal income is \$90.9 million. An increase in state income of this magnitude will generate a total of \$5.3 million annually in additional tax revenue for the state's general fund and \$546 thousand in additional local government tax revenue (see Figure 25).

Another potential source of saving from the decrease in jail days is the reduction of expenses by county government related to jail inmates. While no precise value has been established for this saving, an estimate has been prepared under the assumption that a reduction of one jail day will result in a cost reduction of \$10 per inmate per day. The annual savings for the counties resulting from the implementation of the full-time public defender system is \$16.5 million.

The economic impact values presented in this section are obviously based on a number of assumptions that could be debated. Regardless of the precise values of the assumptions used, the fact remains that the impact is large and the resulting savings to state and local government would be substantial. Eliminating disparities in the current system - disparities resulting primarily from the different county approaches to providing for indigent counsel - has obvious benefits. Given that all indications suggest that the full-time public defender system is more beneficial to both indigents and to the state, Mississippi would be well served to reconsider its current system of providing indigents with the legal counsel to which they are constitutionally entitled.

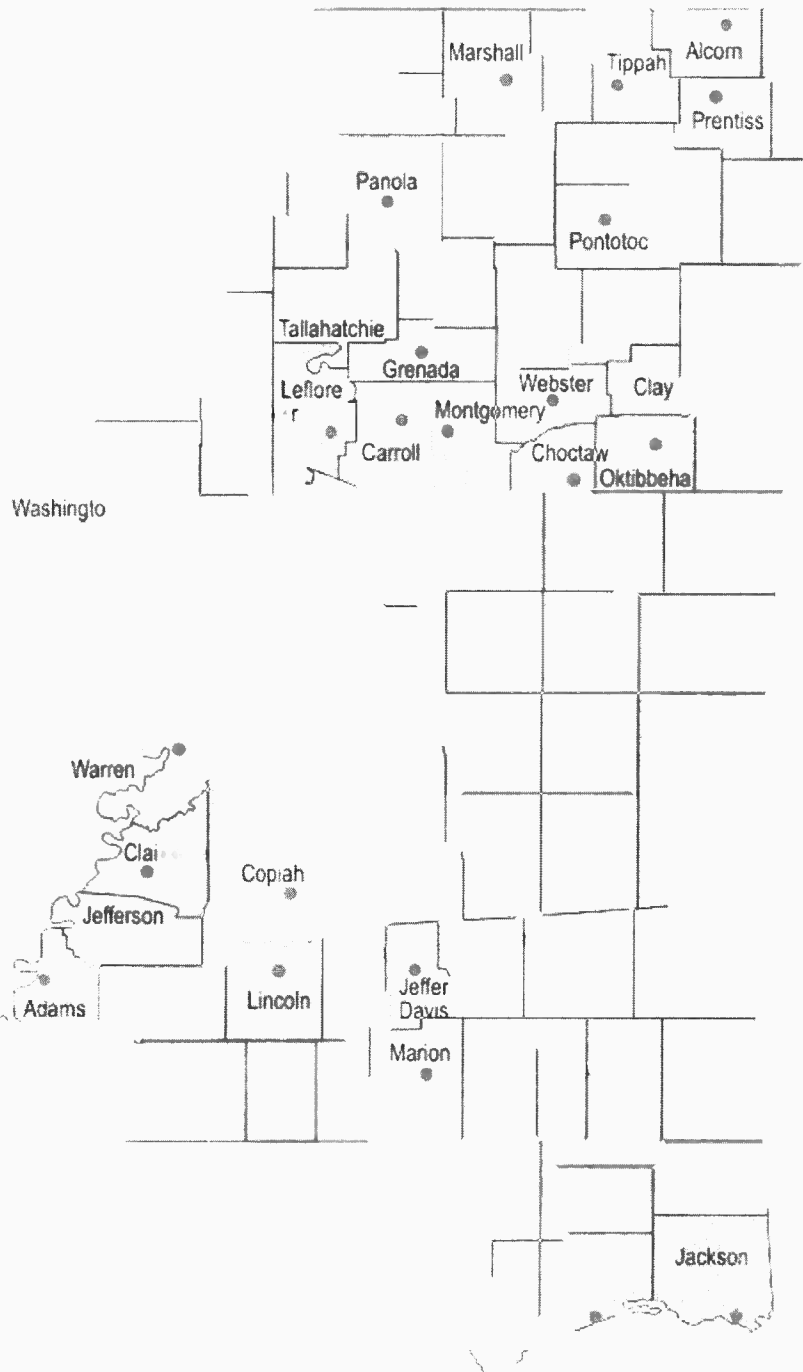
Figure 25. Economic Impact of Implementing Full Time System Statewide

<i>Part-Time Indigent Dispositions for FY 2000</i>	
Total Statewide Dispositions	25,832
Less Dispositions in Full-Time Counties	<u>(1,692)</u>
Dispositions in Part-Time Counties	<u>24,140</u>
Less Non-Indigent and Bad Check Dispositions*	(3,621)
Part-Time Dispositions Covered by Study	<u>20,519</u>
<i>Economic Impact per Disposition per Day</i>	
Lost Daily Salary**	\$ 32.96
Indirect Loss***	<u>22.08</u>
Total Income Loss	<u>\$ 55.04</u>
<i>Annual State Wide Impact of Replacing Part-Time System with Full-Time System</i>	
Increase in Personal Income****: (Decreased Jail Days x Income Loss x Dispositions)	\$ 90,919,000
Increase in General Fund Tax Revenue***	5,273,000
Increase in Local Government Tax Revenue***	546,000
Estimated Decrease in Jail Cost***** (Decreased Jail Days x Marginal Cost per Day x Dispositions)	\$ 16,518,000

* Estimated to be 15% of total dispositions based on sample.
 ** Calculated from the Personal Interview Database showing average salary of \$4.12 per hour.
 *** Based on statewide multipliers obtained from Mississippi Center for Policy Research.
 **** Using 80.5 days differential for all part-time dispositions.
 ***** Based on estimated marginal cost per jail day of \$10.

Figure 25

APPENDIX A



APPENDIX B

COUNTY DEMOGRAPHICS

	<u>Adams</u>	<u>Amite</u>	<u>Harrison</u>	<u>Hinds</u>	<u>Jackson</u>	<u>Lafayette</u>	<u>Lauderdale</u>	<u>Lee</u>	<u>Leflore</u>	<u>Sunflower</u>	<u>Washington</u>	<u>Mississippi</u>
Population, 2000	11,340	13,599	186,601	250,800	131,420	38,744	78,161	75,755	37,947	34,369	62,977	2,844,658
Population Change, 1990 to 2000	-2.90%	2.00%	14.70%	-1.40%	14.00%	21.70%	34.00%	15.50%	1.60%	-2.20%	-7.30%	10.50%
White Persons, 2000	46.00%	56.40%	73.10%	37.30%	75.40%	71.90%	60.10%	73.70%	30.00%	28.90%	34.00%	61.40%
Black Persons, 2000	52.80%	42.70%	21.10%	61.10%	20.90%	25.00%	38.20%	24.50%	67.70%	69.90%	64.60%	36.30%
Other, 2000	1.20%	0.90%	5.80%	1.60%	3.70%	3.10%	1.70%	1.80%	2.30%	1.20%	1.40%	2.30%
High School Graduates, 1990	43.84%	34.53%	40.01%	45.99%	39.59%	29.68%	41.31%	36.51%	30.50%	26.20%	35.43%	34.78%
College graduates, 1990	9.65%	5.26%	8.73%	16.11%	7.66%	12.35%	7.89%	8.10%	8.67%	6.60%	8.61%	7.98%
Median household income, 1997	\$ 23,444	\$ 24,072	\$ 30,706	\$ 32,033	\$ 34,411	\$ 27,958	\$ 28,225	\$ 33,160	\$ 21,027	\$ 19,878	\$ 24,001	\$ 28,527
Persons below poverty, 1997	22.60%	18.40%	14.90%	18.50%	13.60%	14.30%	17.50%	12.00%	29.10%	34.30%	26.00%	18.10%
Persons per square mile, 2000	74.70	18.60	326.30	288.60	180.80	61.40	111.00	168.30	64.10	49.50	87.00	60.60

* indicates person 25 years and over

APPENDIX C

Criminal Dispositions
Fiscal Year: July - June

	<u>1999</u>	<u>2000</u>	<u>2001</u>
Adams	462	315	173
Amite	97	68	0
Harrison	2292	1915	2208
Hinds	1000	1067	1205
Jackson	653	788	772
Lafayette	424	441	487
Lauderdale	983	1031	946
Lee	812	714	340
Leflore	102	131	98
Sunflower	258	274	240
Washington	<u>348</u>	<u>418</u>	<u>147</u>
Total	<u><u>7431</u></u>	<u><u>7162</u></u>	<u><u>6616</u></u>

APPENDIX D

INDIVIDUAL INFORMATION

Last Name Sample First Name _____ Date of Birth _____
Race _____ Cause/Case Number: _____ SSN _____ - - 0
Gender: _____

COUNTY INFORMATION

County _____
Judge's Last Name _____ Judge's First Name _____
Attorney's Last Name _____ Attorney's First Name _____ Date Attorney Appointed: _____
Lead attorney change during course of trial? _____ Was there a Second Chair? _____
Fine \$0.00 Indigent Fee \$0.00 Restitution \$0.00
Court Costs \$0.00 Attorney Fees \$0.00 Other Fees \$0.00

Conditions of Payment _____

CASE INFORMATION

Date of Alleged Crime: _____ Arrest Date _____ Date of Arraignment _____
Bail Set (Y/N): _____ Date Bail Set: _____ Bail Amount: \$0.00
Bail Posted (Y/N/Unknown): _____ Date Bail Posted: _____ Declared Indigent: _____
Date Released for Other Reasons _____ Why Released for other reason? _____
Plea Date: _____ Date of Preliminary Hearing _____ Trial Date: _____
Plea: _____
Confined: _____ Bail Revoked?: _____ Dispositions Reported: _____
Conviction as Result of: _____

INDICTMENT INFORMATION

Date of Indictment _____
Count I Charge: _____
MS Code Section (Count I): _____
Count II Charge: _____
MS Code Section (Count II): _____
Count III Charge: _____
MS Code Section (Count III): _____

Date of Sentence/or Final Disposition: _____ Appeal (Y/N) _____ Where Incarcerated: _____
Number of witnesses sup by defendant 0
Number of witnesses sup by plaintiff: 0
Total witnesses: 0

Court Ruling1

Other Comments1

Motion 2

Court Ruling2

Other Comments2

Motion 3

Court Ruling3

Other Comments3

Motion 4

Court Ruling4

Other Comments4

Motion 5

Court Ruling5

Other Comments5

Motion 6

Court Ruling6

Other Comments6

Motion 7

Court Ruling7

Other Comments7

CHARGES AND SENTENCING INFORMATION

Count I

Portion of Sentence to be Served (Count I)

Portion of Sentence to be Suspended (Count I)

To be Served on Probation (Count I)

Other/Method of Disposition (Count I)

Count II

Portion of Sentence to be Served (Count II)

Portion of Sentence to be Suspended (Count II)

To be Served on Probation (Count II)

Other/Method of Disposition (Count II)

Count III

Portion of Sentence to be Served (Count III)

Portion of Sentence to be Suspended (Count III)

Other/Method of Disposition (Count III)

To be Served on Probation (Count 111)

Address:

APPENDIX E

PERSONAL INTERVIEW

Individual Information

Last Name _____
First Name _____
Gender _____
Race _____
Date of Birth _____
Docket Number _____
County _____
Date of Interview _____
Additional Criminal Case Information

Job/Educational History

Skill Level/Occupation _____
Educational Level _____ None _____ Less than High School _____ Some High School
_____ High School Grad _____ Some College _____ College Grad
_____ More than College
Literacy Level _____
Working when arrested? _____ YES _____ NO
Salary/Wages _____
Benefits _____
Loss of Job _____ YES _____ NO
Miss work while in Jail? _____ YES _____ NO
Currently in Custody? _____ YES _____ NO
If YES, Where in custody? _____
If NO then,
Have arrests interfered with your ability to find work? _____ YES _____ NO
Have you missed school because you were in jail? _____ YES _____ NO
Did arrest have any long term, adverse affects on educational opportunities? _____ YES _____ NO
Were you receiving SSI, Welfare, or Other Benefits when arrested? _____ YES _____ NO

Amount? _____

Do you feel you received adequate representation? YES NO

Explain: _____

Time lawyer spent talking to you: _____

Did the lawyer visit you in jail? YES NO

Did you ever meet the lawyer in the office? YES NO

Did you change attorneys in the course of your case? YES NO

Did the lawyer do any investigation? YES NO _____

Did your lawyer talk to witnesses? YES NO _____

Did an investigator work on your case? YES NO _____

Did the lawyer make an attempt to have your bond reduced? YES NO _____

If you or your family made calls, did the lawyer take calls? YES NO

Did the lawyer return calls? YES NO

Did you change your plea to guilty? YES NO

How did it come that you changed your plea to guilty? _____

Family Information

Did a family member lose a job because of your jail time? _____ YES _____

If YES, Who? _____
Why? _____
Job? _____
Pay? _____

Was a family member forced to take a job? _____ YES _____ NO

If YES, Who? _____
Why? _____
Job? _____
Pay? _____

Have any of your family members suffered financially because of your loss of income? _____ YES _____ NO

_____ household at the time of your arrest? _____

How many children do you have? _____

Did child care arrangements change because of your arrest? _____ YES _____ NO

Explain: _____

Miss Child Support Payments? _____ YES _____ NO

How much? _____

Were any children placed in foster care? YES _____ NO _____

When in jail, family visits per year: _____
Distance traveled to visit: _____
Welfare after Release? _____ YES _____ NO

Personal Finances

Did you own a car? _____ YES _____ NO

Did you lose the car because you went to jail? _____ YES _____ NO

Did your phone become disconnected because of jail time? _____ YES _____ NO

Were utilities disconnected? _____ YES _____ NO

Did you loose your dwelling? _____ YES _____ NO

Health Information

Additional Comments

APPENDIX F

Data Collection Difficulties

There were several roadblocks that impacted our efforts to collect data. First, the data collection effort from public records was obviously dependent upon the quality of the records in each county, and this quality varied vastly from county to county. As a result, many of the variables we originally hoped to collect were largely unavailable. For example, the data collection form in Appendix D calls for the date an individual is declared indigent. Unfortunately, this information was missing two-thirds of the time. Another example lies in the information regarding bail. The date bail was set was not recorded in the court files in nearly 80 percent of the cases. Although this information would have provided additional insight, the missing information was not essential to this study.

Vital to this study is information on the length of time individuals were housed in county jails. Because the court files did not contain complete information on this variable, the county jail logbooks were relied heavily upon to retrieve these dates. Even so, this important variable is not available in 89 cases.

The second major roadblock encountered during the data collection effort was during the personal interview stage. Of the 100 individuals selected for personal interview, only 54 were ultimately interviewed. Most individuals from this population who are currently housed in Mississippi correctional facilities were interviewed. Individuals housed in correctional institutions outside the state were not interviewed. Private investigators were used to locate and interview the remaining non-institutionalized population. These individuals are not an easy group to locate, and they are highly suspicious of anyone wanting to discuss their criminal backgrounds.

Although only 54 of the personal interviews were completed, this information is sufficient for the purposes for which it is intended. The fifty percent response rate is actually quite good and the absolute size of the data set allows us to draw conclusions concerning the economic impact of the public defender system in Mississippi.

APPENDIX G

Summary Statistics - Public Records Database

	<u>Mean</u>	<u>Std. Dev.</u>	<u>Min</u>	<u>Max</u>	<u>Number of Obs</u>
Time in Jail	135.25	185.54	1	1225	615
<i>Personal Characteristics</i>					
Age	33.36	9.5	18.31	66.02	685
Assigned Counsel	0.06	0.23	0	1	700
Contract Counsel	0.58	0.49	0	1	700
Full-Time Public Defender	0.38	0.49	0	1	700
Male	0.81	0.39	0	1	700
Minority	0.69	0.46	0	1	676
<i>Process Characteristics</i>					
Bail Set	0.87	0.33	0	1	601
Changed Attorneys	0.29	0.45	0	1	692
Made Bail	0.84	0.37	0	1	523
Motions	1.33	1.43	0	7	700
Witnesses - Plaintiff	1.12	2.58	0	20	698
Witnesses - Defense	0.07	0.63	0	9	700
<i>Crime-Specific Characteristics</i>					
Misdemeanors	0.07	0.25	0	1	687
Possession	0.17	0.38	0	1	687
Property	0.15	0.36	0	1	687
Felony DUI	0.07	0.25	0	1	687
Transfer of a Controlled Substance	0.05	0.22	0	1	687
Burglary/Larceny	0.19	0.39	0	1	687
Drug Sale	0.09	0.29	0	1	687
Burglary of a Dwelling	0.05	0.21	0	1	687
Assault	0.05	0.22	0	1	687
Arson/Carjacking	0.02	0.16	0	1	687
Murder/Sex Crimes	0.09	0.29	0	1	687

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