



# National Institute of Justice

P r o g r a m F o c u s

## Public Defenders in the Neighborhood:

### *A Harlem Law Office Stresses Teamwork, Early Investigation*



Reports by and about the Vera Institute of Justice

# Public Defenders in the Neighborhood: A Harlem Law Office Stresses Teamwork, Early Investigation

by David C. Anderson

**T**he witness told a terrifying story, still shaking a little over it, even weeks later. The man came into her family's fast food place, produced a gun, and forced her into the back room. There he ordered her to open the safe, then made off with the \$4,000 it contained. She considered herself lucky not to have been raped or killed. At the precinct station, she looked through books of offenders' photos and picked out a man named Duncan. Yes, she said, that could have been the man.

## Highlights

Indigent defendants often are dissatisfied with their court-appointed attorneys because of the way services are delivered. Resources are limited because of overloaded court calendars, creating pressure for quick plea bargains. When cases drag on, clients may have several lawyers over the intervening months, risking the loss of crucial information with each transfer. Too often, the process seems structured more for expediency than justice.

In 1990 the Vera Institute of Justice opened an agency in Harlem that bases public defenders in a community. Known as the Neighborhood Defender Service (N.D.S.), it takes cases only from the surrounding vicinity because it believes staff can acquire a deeper knowledge of clients and their problems that way than is possible in traditional public defender agencies. N.D.S. also offers clients help with personal and family problems that lead to legal trouble.

Instead of working as individuals, N.D.S. lawyers, investigators, and clerical staff function as teams. Specially designed computer software allows any team member to update a

case record, look up a case's current status, and display a repeat client's history.

Several benefits to N.D.S.'s approach include:

- Lawyers and clients are more accessible to each other and to crime scenes.
- There is more contact with a client's family, friends, and neighbors during an investigation.
- Team representation enables use of a broad array of resources and guarantees continuity should an attorney leave N.D.S. or be unable to stay with a case.

Aggressive, early investigations most distinguish N.D.S. from traditional public defenders. About half the clients retain N.D.S. attorneys before they are arraigned. Cases are given early attention so they can be investigated and analyzed thoroughly before a client's first court appearance or, ideally, to resolve the case before it goes to trial. Traditionally, most public defenders get cases when a client first appears in court and must initially rely on information provided by the prosecutor or police.

Since it opened, N.D.S. has represented more than 5,000 clients and has established itself as a positive presence in court and in the Harlem community. Today the staff totals 30, organized into 3 teams; each carries a caseload of 180 to 200.

N.D.S. founders hypothesized that as it improved the quality of justice for clients, the agency's approach would reduce overall costs because its clients would spend less time in jail or prison. So far, that idea has been partially vindicated. N.D.S. costs are about \$1,520 per case (a majority of which are felonies). At New York City's Legal Aid Society, disposition of a felony costs \$1,339; a misdemeanor disposition costs \$187. However, N.D.S. clients have spent less time incarcerated. According to a research study, N.D.S. clients were sentenced to a total of 78,153 days of incarceration, while their matched counterparts with traditional representation were sentenced to a total of 117,913 days. The one dilemma: savings realized in upstate prisons did not affect the city budget that funded N.D.S.

As detectives followed up, it all looked plausible. Duncan worked as a street sweeper for a business group called the Grand Central Partnership. On the afternoon of the crime his work assignment had put him in the vicinity of the store, he had a criminal record, and although he had signed in for work that morning, he had failed to sign out that afternoon.

Duncan insisted he was innocent, but the police convened a lineup, and the victim, having seen his picture, now picked him out, more adamant than ever that he was the robber. The police weren't about to let him go.

Brought up for arraignment, Duncan met his court-assigned attorney a few minutes before he faced the judge. "You've got a rap sheet," the lawyer said, looking over Duncan's file. "You'd better cop a plea."

"I didn't do it," Duncan protested. His record was for picking pockets. He wouldn't know how to go about an armed robbery even if he had wanted to commit one. But the lawyer had nothing more to suggest.

In court Duncan told the judge he didn't want to plead guilty and that he wanted another lawyer. As it happened, another one, summoned that day by Duncan's godfather, appeared at his elbow to take over his defense. No, he told his new client after they had a chance to talk, you don't have to plead guilty. If you're innocent, you should fight back.

Duncan's new defender, David Holman, turned out to be the head of a team that included three other lawyers, two paralegals, an administrative assistant, and a student intern. They came free of charge, courtesy of an agency called the Neighborhood Defender Service of Harlem.

All this struck Duncan and his fellow jail inmates as amazing. On television that year, they watched O.J. Simpson's panel of attorneys assembling each day in a courthouse a continent away. Now here was Duncan, the street sweeper, with a dream team of his own.

When indigent defendants wind up dissatisfied with court-appointed attorneys, the reason may have less to do with who they are—lawyers in public defender agencies gain a uniquely valuable savvy for the workings of criminal courts—than with how their services get delivered. In New York, for example, the city's Legal Aid Society bases its lawyers in big central courthouses, where they typically meet clients only a few minutes before their first court appearances.

Swollen court calendars limit resources for investigation and other support work, creating pressure for disposition of cases with quick plea bargains. When cases continue for months, the client may bounce from one unfamiliar attorney to the next, risking the loss of crucial information with each transfer. All too often the process seems structured more for expediency than justice.

### A Neighborhood-Based Defense Service

In 1990 the Vera Institute of Justice set out to test a different model. It opened a Harlem office that became the headquarters for a public defender service based in a neighborhood rather than a courthouse. It sought to acquire cases early enough to

### Building on Earlier Developments

Shortly after the U.S. Supreme Court recognized the right of indigent defendants to free counsel, lawyers for the poor began organizing community-based legal services to provide both civil and criminal representations for neighborhood residents. Connecticut's New Haven Legal Assistance was among the first to provide comprehensive legal services to clients who walked in the front door, and it is one of few that continues to maintain criminal defense services in a primarily civil office.

For most neighborhood offices, the different mandates and funding streams for civil and criminal representation made comprehensive services impractical. Nevertheless, the advantages to communities of neighborhood-based defense services continued to tempt legal reformers.

In 1971 the National Conference of Black Lawyers organized the Roxbury Defenders Committee in Boston near a local court-

house. The Roxbury Defenders Committee carried out an aggressive campaign of community outreach and staffed a 24-hour hotline that neighborhood residents could call when they needed representation.

In 1976 the Criminal Defense Consortium of Cook County established community defender offices in six Chicago neighborhoods: West Town, Lakeview-Uptown, Lawndale, Woodlawn, Harvey, and Evanston. The Consortium made extensive use of paralegals and law students and, like the Roxbury project, emphasized early entry into cases as soon as suspicion had focused on a client.

Both the Roxbury and one of the Chicago offices continue to operate, and public defenders in Boston are now building on their experience in Roxbury to create comprehensive defense services, especially for young defendants.

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investigate and analyze them thoroughly before the client's first court appearance. (See "Building on Earlier Developments" for examples of other neighborhood-based defense services.)

It took cases only from the surrounding community on the theory that doing so would make it possible to acquire deeper knowledge of clients and their problems than is possible in a courthouse agency. Instead of working as individuals, lawyers, investigators, and clerical helpers function as teams, aided by computer software that enables any team member to update a case record or determine its current status at the click of a mouse. In addition to efficient, early investigations,

the team structure guarantees continuity of representation should a case drag on for months.

Beyond criminal defense, the defender office also offers clients help with personal and family problems that lead to trouble with the law. (See "Cases Beyond Court" and "The Civil Fallout.")

Since it opened, the Neighborhood Defender Service of Harlem (N.D.S.) has represented more than 5,000 clients in more than 6,000 criminal cases and has established itself as a positive presence in court and in the community. When the city contract that had funded the pilot program expired in June 1996, the New York City Council and the State of New

York pledged money to keep N.D.S. in business as an independent agency for the current year.

### N.D.S.'s Beginnings

The project's roots extend back to the early 1980s when a Harvard undergraduate named Chris Stone began teaching at an alternative high school. "The kids kept getting arrested," Stone recalls. "When I went to court, I saw lawyers who didn't even know the names of our students. I realized that what I wanted to do was be a public defender for the kids I knew."

Stone went on to law school at Yale, then worked for the public defender office in Washington, D.C. He decided that the

### Cases Beyond Court

Public defenders are used to seeing clients whose social needs dwarf whatever legal problem brought them into the office. Too often, however, the defense work ends with disposition of the legal case. "When I learned how others do it, how...once they get their clients out of jail, they just let them go, I was really surprised," says Diana Sanabria, an N.D.S. staff attorney who hasn't worked as a lawyer for anyone else. "I guess I was naive about that."

Cathy Plaza, head of social work for N.D.S., offers two examples of cases where the agency's commitment to the client—and his or her family—made a difference.

One concerned a high school student brought into court for truancy. Plaza found him a counseling program and testified on his behalf before the judge. But in the process, she discovered that he was living with his 71-year-old great grandmother, who was raising three other grandchildren by herself, one of them only 2 years old. The family lived in a rickety tenement

amidst leaking pipes and exposed wires. But the grandmother remained intensely private and fiercely proud, refusing any help from city agencies while supporting the household on a small pension.

Plaza gained her trust and continued visiting her long after her grandson's court case was settled. Eventually, she persuaded the woman to accept food and clothing from a neighborhood charity and to collect some welfare benefits for support of the children. When the apartment burned, Plaza found the family a place in city-subsidized housing.

The truancy case had exposed a major social work challenge that Plaza felt obliged to pursue long term. "What you want to do with her is to help her keep those children," Plaza explains. "That's what keeps her going...and that's what's kept them going.... This is what you call intensive case management. It takes time."

Another case involved a teenager charged with assaulting an older man. The teen-

ager turned out to have a long psychiatric history, including medication to control hallucinations. The victim of the assault kept coming to court and expressing concern for the boy who had beaten him, causing Plaza to grow suspicious.

She brought the boy in for one-on-one meetings and soon learned that the older man had been abusing him sexually for several years; the boy had finally tired of submitting to the abuse and struck back. The lawyers determined that there wasn't enough evidence to press charges against the older man, but Plaza moved swiftly to protect the boy. She found a place for him in a psychiatric hospital in Michigan, arranging for Medicaid funding and an N.D.S. staff member to escort him by plane.

He remained there for 11 months, then transferred to a halfway house in Montana before returning to New York. "That was some piece of social work," Plaza says. "So far, knock wood, he's okay."



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problems with public defense had much more to do with the way agencies were structured than with personal failings of individual attorneys. He finally got a chance to test that theory in 1990 as a project director for Vera.

The Neighborhood Defender Service, which opened that fall in a suite of offices on 125th Street, underwent a lengthy shakedown as it searched for clients at the early stages of a case. In the beginning the agency arranged for its attorneys to show up at Harlem police precincts at 6 o'clock each morning to follow up on the previous night's arrests. That lasted less than a year. The city asked N.D.S. to close its precinct operation after prosecutors began to complain.

After that the agency had to fill its caseload with court-assigned cases from



Courtesy of the Neighborhood Defender Service of Harlem

*N.D.S. transportation provides some of the best advertising.*

### The Civil Fallout

From the beginning N.D.S. committed itself to helping clients with civil matters that arose from their criminal cases. These may have included loss of parental rights because of arrests for child neglect or abuse, deportation orders for immigrants in trouble with the law, and seizures of cash, cars, or other property in the course of drug arrests.

Another common civil issue arose from the city housing authority's policy of evicting tenants when members of their households were arrested on drug charges. For these clients the civil case may have been far more urgent than the criminal one—as when a teenager's arrest for possessing a small quantity of drugs threatened to put his whole family out on the street.

At first criminal defense team attorneys were to follow up on any civil matters

related to their cases, but as the need became clearer, N.D.S. set up a civil team consisting of a staff attorney, an administrative assistant, and a lawyer on loan from Skadden, Arps, Slate, Meagher & Flom, a prestigious New York firm with a commitment to public interest law.

The civil team expired with the original N.D.S. funding in June 1996, but Leonard Noisette hopes to revive it soon. During its years of operation, the civil team made a point of filing lawsuits against the city for clients who said they had been abused by the police. "We only did this litigation if our clients had tried to obtain a private lawyer and had been unable to do so," said Martha Rayner, who led the civil team. "We weren't interested in taking work away from private lawyers." Nor were N.D.S. or its clients necessarily interested in cashing in on such matters. Rayner

recalled the typical case of a 15-year-old arrested and held in handcuffs for reasons that turned out to be "incredibly petty" but did not lead to any criminal charges.

The youngster felt insulted and frustrated, and after N.D.S. lawyers disposed of the criminal matter, they filed a suit for false arrest. The case ended in a small monetary settlement and, more important to the client, a conversation with the arresting officer mediated by a judge. "Our client felt like this was a really wonderful opportunity for him to say what he needed to say," Rayner recalled. "Whether that made a huge difference in his life, I don't know. But he had a chance to regain some of his dignity, having felt really violated by the police, and in a lot of our police misconduct litigation, that's oftentimes what our clients want."

the Harlem area, getting clients at a later stage, while it mounted an aggressive publicity and outreach campaign to increase the number calling in on their own to get help. Not until 1994 did the volume of call-ins reach the point that N.D.S. no longer needed to take Harlem cases assigned by judges at the courthouse.

## Aggressive Outreach

Despite the quality of its free service, the agency found aggressive outreach essential to maintaining a flow of new clients. Leonard Noisette, one of the founding senior attorneys at N.D.S., describes the heavily policed Harlem community as a "coercive environment" where many residents don't fully understand their right to an adequate defense. In response, N.D.S. outreach workers have distributed leaflets at housing projects and addressed civic and church groups. Eddie Ellis, an ex-convict and former minister of information for the Black Panther Party in New York, has led a popular workshop called "Know Your Rights," where he has answered questions about search-and-seizure rules, warrantless arrests, probable cause, and other issues of police conduct. He talks about what a person should do if arrested. "Keep your mouth shut until your lawyer gets there," he says. "If your lawyer doesn't get there for a long time, keep your mouth shut for a long time."

In 3 years he distributed 125,000 plastic cards imprinted with the agency's address and phone number as well as a "Notice to Police Officers and Prosecutors" that formalizes the bearer's request to speak with an attorney and refusal to waive any constitutional rights. "Once you present that card, your rights are invoked," Ellis explains. "If they question you beyond that point in the absence of your attorney, any-

thing you say cannot be used in court."

In 1993 Stone became director of Vera, elevating Noisette to lead N.D.S. Today he presides over a staff of 30, including 15 criminal defense attorneys and 6 paralegals who work as investigators and social service coordinators. The 3 criminal teams are expected to carry caseloads of 180 to 200, for an annual total of about 2,500 cases.

*While Duncan sat in jail, his team went to work. An investigator visited with his supervisors at the Grand Central Partnership and found records showing that while he had neglected to sign out from his afternoon assignment at 3:45, he was present for assignment to an evening shift at 4:15—hardly plausible behavior for an armed robber with \$4,000 in his pocket. The investigator also interviewed the complaining witness, a woman who appeared to be in a continuing state of anxiety about threats she perceived from black men. And he talked with Duncan's sister, his godfather, and his barber.*

*A strategy emerged: Although the witness adamantly claimed that she would never forget the robber's face, the description she gave did not match Duncan's that closely. In particular, she recalled a clean shaven man; Duncan had worn a beard and moustache on the day of the crime, a fact the family and barber would corroborate. She also failed to mention the prominent scar beside Duncan's left eye.*

*Furthermore, the police who arrested him told Duncan they had found his fingerprints all over the crime scene, but the prosecutors were reluctant to reveal results of the fingerprint analysis, claiming the prints were smudged. Holman could win the case if he could poke*

*enough holes in the victim's identification and show that the prints police lifted did not match Duncan's.*

## 'Right Around the Corner'

Does the neighborhood location really make a difference? "It's the kind of thing that you can't quantitatively prove," says Robin Steinberg, the agency's deputy director, "but every single person who's ever worked here and every client who's ever been represented by us knows" that it does.

One benefit is simply that lawyers and clients are more accessible to each other. Earl Ward, an N.D.S. team leader, recalls that when he worked at the central courthouse, "It was always a hassle to get your client to come in and talk...the only time they want to come downtown is when their case is on, and that might not be a day when you have time [for] a protracted discussion about his or her case."

The neighborhood base also makes crime scenes more accessible. Ward recalls the case of a young woman charged with attempted murder. "Before she was even booked...our investigator and myself had gone out to the area where it happened. It was right around the corner here...we walked over to 118th Street and Seventh Avenue and we started speaking to witnesses." They quickly learned that their new client had a viable claim of self-defense.

Locating in the community allows for more contact with a client's family, friends, and neighbors in the course of investigations. It also generates regular customers as clients return for representation after new arrests. "We encourage people who get into trouble again to call us."

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Courtesy of the Neighborhood Defender Service of Harlem

*Meetings are one way team members keep up to date on cases (clockwise from top left): former senior attorney Ray Taseff, community worker Theo Liebmann, administrative assistant Linda Scott, community worker Serge Marius, staff attorney Miguel Conde, senior attorney Milagros Arzuaga, senior attorney Jill Elijah, community worker George Lewis, and senior attorney Rick Jones.*

Noisette says, "because then we can come to court with knowledge about who they are, what the previous case was about, what's going on in their life."

Benefits of the geographic base cut in another direction as well. The N.D.S. computers that can regurgitate a repeat client's history also maintain information on police officers. "If...we have [an officer's] name as the arresting officer on our case," says N.D.S. investigator Trevor Scotland, "we can punch it into the computer and see how many other cases he's been involved with in the office." The exercise turns up officers who have been frequent subjects of brutality or abuse-of-powers complaints.

### Winning Teams

Instead of isolating themselves in individual offices, lawyers on a team sit in cu-

bicles in an open area with the team's investigators and administrative assistant. In addition to formal meetings and informal consultations, team members keep each other up to date via a computer network and software developed for the project. All are responsible for filing reports on new developments—investigative visits, court hearings, calls from clients and their relatives. Each new report is instantly distributed to every team member by e-mail.

Teamwork means that "investigators...can continue to work on a case even when the lawyer is tied up," Steinberg explains. In her previous job at Legal Aid, she says, "when I was on trial everything came to an absolute standstill [with other cases]. For 2 or 3 weeks a client didn't talk to me, couldn't get to me.... That doesn't happen here." The computer system makes it possible for the administrative assistants or any other team members to

satisfy anxious clients with up-to-date information.

The team concept also allows attorneys to co-counsel big cases that go to trial. "One attorney will do the opening, another will do the summation; they'll split up rounds of voir dire, and they will take turns examining and cross-examining witnesses," Ward says. Team representation also guarantees a client continuity in the event an attorney leaves the agency or is unable to stay with a case for some other reason.

Neighborhood Defender Service managers say teaming promotes democracy in the office, with positive fallout for clients. "The nonlawyers on the team feel just as much that the clients are their clients as the lawyers do," Noisette says. He tells of walking into his team area to find a lawyer arguing with an investigator about whether to take a call from a client. When the lawyer told the receptionist he was too busy to speak to the man, the investigator turned around in her chair and said, "'No, you've got to take that call...that client's called three times this week. I've talked to him. The administrative assistant has talked to him. He needs to talk to you.'" The attorney "had an attitude, but he took the call," Noisette says. "It would have never happened at the Legal Aid Society...a paralegal would never have the nerve" to confront a staff attorney that way.

Most of the team communication is less abrasive. "I have personal contact with all the attorneys on the team every single day," says investigator Jonathan Pageler. "I know what cases are coming to trial. I know...what our theory is on our case for every trial that's coming up," and that shapes the interviews he conducts with witnesses to help the defense.

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Despite these benefits, Stone and Noisette express disappointment that the level of collaboration on teams has declined as the agency's caseload has grown. The original idea was for every lawyer on the team to have as much knowledge of a case as any other, a situation that existed for a while. "I can remember...walking into a courtroom, not finding my lawyer, seeing the case was ready, and being able to do the case without a file," Noisette recalls. The caseload makes that impossible today and even limits the number of formal team meetings.

N.D.S. managers have also found reasons to tinker with the team structure. Until recently, community workers had shared obligations for investigation and social service assessment; now one pursues witnesses and crime scenes full time while the other focuses on social service needs. The agency also decided to put all newly hired attorneys on a "training team," where they spend their first year on misdemeanors and family court matters under supervision of an experienced leader.

### The Power of Information

In terms of process, it is the capacity for aggressive, early investigations that most distinguishes N.D.S. from traditional public defenders. To a great extent the issue is structural, since most public defenders don't get a case until the client's first appearance in court. "We generally do not do investigations before arraignment," says Bob Baum, head of the Legal Aid Society's criminal defense division, "because we don't have the case." At N.D.S. about half the clients retain the agency's attorneys before they are arraigned; they call immediately after arrest or when they learn police are looking for them.

Stone emphasizes the importance of getting information early. "The problem with most defense models," he says, "is that the lawyer is the last person to know anything. Lawyers get all their information from the prosecutor through discovery, and they ask for information from the cops. They are giving advice to clients about the law they know in response to facts they are getting from the government." Steinberg adds that the issue is particularly germane in New York, where rules governing discovery are restrictive. "Prosecutors have the option of giving you a lot, but they don't do it often. As a result, without good investigation, you often wind up going before the judge without a lot of good information."

The Neighborhood Defender Service has more investigators per attorney than traditional agencies (one to four at the Harlem agency, compared with one to seven at the Legal Aid Society), and most are young college graduates, likely to be more enthusiastic about their work than the retired police officers typically employed by public defenders. N.D.S. managers also note that in other agencies, investigators may operate as part of a separate unit, carrying out investigative tasks on orders from individual attorneys rather than sharing information as part of a team.

The N.D.S. emphasis on early investigation looked especially good to a client named Reuben, who got into a fight with a neighbor in a shack located at a community garden. During the fight

Reuben's neighbor fell and lost consciousness, then died in the hospital a few days later. Prosecutors charged Reuben with murder after hearing from a witness who claimed Reuben had hit the man with a pipe.

Reuben called N.D.S. when he learned police were looking for him. N.D.S. attorney Jenny Kronenfeld negotiated his surrender after Reuben identified several witnesses who said he had not used a pipe and that the fight was just a shoving match. Kronenfeld and N.D.S. investigators pursued the witnesses and nailed down their stories. They also found a physician to review hospital records, attend an autopsy of the victim's brain, and develop theories about how the man, in poor health before the incident, could well have died of natural causes. The investigative work helped Kronenfeld argue successfully for Reuben's release from jail on his own recognizance while prosecutors reconsidered the charges.



*Brainstorming (clockwise from top left): community worker Alex Sierk, deputy director Robin Steinberg, staff attorney Jenny Kronenfeld, and staff attorney Tanya Washington.*

Courtesy of the Neighborhood Defender Service of Harlem



The need to spend such resources on a homicide case seems obvious, but N.D.S. routinely invests in less dramatic matters as well. Pageler recently spent most of a morning locating and interviewing a woman who had persuaded police to charge her daughter's boyfriend with statutory rape. The boyfriend had come to N.D.S. for help.

It was not a case with a big future. The daughter and her boyfriend had lived together on and off for the previous few years and had a child together. The mother disliked the boyfriend and was trying to make trouble for him after getting into a fight with her daughter. Still, Pageler appeared at the mother's door, identified himself, persuaded her to let him in, and sat with her for nearly an hour asking her about her daughter, her daughter's boyfriend, and their problems.

Then he wrote out a statement for the woman to sign in which she said that her main reason for calling the police was her fear that the boyfriend was about to take her daughter and grandchild away to Detroit. She noted that her fight with her daughter occurred a few days after the boyfriend's 21st birthday, and she stated that despite their relationship she had never seen her daughter and her boyfriend kiss or engage in any other physical contact, "I guess out of respect."

"That's more than I expected to get," Pageler said with some satisfaction after the visit. To make the statutory rape charge stick, he explained, prosecutors would have to show proof of sexual contact after the boyfriend turned 21, but the mother now had gone on record with a statement saying she had seen none since that date. She also demonstrated a motivation to lie that N.D.S. lawyers could use to challenge any of her testimony.

Neighborhood Defender Service managers insist on the need to give all cases a certain level of early attention. In traditional practice, Stone points out, attorneys tend to save investigative resources for cases going to trial. "Yet that is the worst place to concentrate resources. Investigation should be used to *prevent* cases from going to trial. Trial is important, but it is not the main service the office provides to clients because most cases don't go to trial.... If you look at N.D.S. that way, that's what it's all about—the investigators, the teams, and the neighborhood location."

### Catch-22 on Costs

Stone, Noisette, and the other founders of N.D.S. had postulated that in addition to improving the quality of justice for clients, the agency's approach would reduce costs by making it more efficient. So far, that idea is only partially vindicated.

In 1995 the Neighborhood Defender Service handled about 2,500 cases on a \$3.8 million budget, or about \$1,520 per case. (Under the new funding arrangement, the annual budget totals \$2.5 million.) At Legal Aid, disposition of a felony costs \$1,339, while a misdemeanor disposition costs only \$187. N.D.S. says that it has not calculated a breakdown of average costs for felonies and misdemeanors, but Noisette points out that in 1995, 66 percent of the cases it handled were felonies, compared with 37 percent for all criminal cases in Manhattan, a figure that reflects the Legal Aid Society's caseload. (N.D.S. administrators speculate that Harlem residents charged with misdemeanors are more willing to take court-assigned help from the Legal Aid Society, while those charged with more serious crimes seek special help from N.D.S.)

The heavy felony practice necessarily inflates N.D.S.'s costs per case. Its managers also point out that because they intervene earlier with clients, much of the work they do involves cases that don't reach the point of disposition in court, a fact that artificially increases the raw calculation of costs per disposed case.

Neighborhood Defender Service officials understood from the beginning, however, that their representation would cost more than traditional practice. They counted on reductions in the amount of time their clients spend in jail and prison to produce net savings to the system. The only hard research on the agency's work so far confirms that idea, but less usefully than N.D.S. managers would have liked. (See "The Impact of the Neighborhood Defender Service on Case Outcomes.") The cost of a day in New York State prisons averages about \$70, while the figure for city jails exceeds \$150. At those rates the reduced time behind bars easily offsets the higher cost of N.D.S. representation to make it competitive with a big institutional provider like Legal Aid. But there is a problem: To the extent the savings are realized in upstate prisons, they don't affect the city budget that funded N.D.S.

"We're in a little bit of a Catch-22," Noisette laments. "The city looks at those statistics and says.... 'It's fine that you're doing this great work, but you're not saving us a whole lot of money.'"

*Holman's strategy worked. In court he hammered at the victim's identification of Duncan: She said the man who robbed her was clean shaven, but on the day of the crime, Holman showed, his client's beard and moustache were intact and clearly apparent. According to the police*

## The Impact of the Neighborhood Defender Service on Case Outcomes

In 1993 researchers at the Vera Institute of Justice compared a sample of cases handled by the Neighborhood Defender Service with similar cases handled by traditional defenders in the same New York City courts. They began with all cases begun at N.D.S. during a 6-month period in 1991 and a second 6-month period in 1992. Using a data set containing all cases arraigned in New York County during those months, the researchers located the N.D.S. cases and, for each case, located a matched non-N.D.S. case. In creating the comparison groups, two cases were considered matched if the two defendants:

- Were the same gender.
- Were members of the same race or ethnic group.
- Were in the same age group.
- Had the same number of prior felony convictions.
- Had the same number of prior misdemeanor convictions.
- Had the same number of open cases.
- Had been arrested on a charge of the same level of severity.
- Had been arrested on a charge of the same type.
- Had been arrested on additional charges of the same level of severity.

This process found matches for 732 N.D.S. cases.

A matched sample was needed because N.D.S. cases were generally more serious than typical cases in New York County. Whereas the majority of arrestees in the county were charged with misdemeanor offenses, over two-thirds (69 percent) of those defendants represented by N.D.S. were arrested on felony charges. The most common arrest charge for N.D.S. clients was drug related (47 percent), followed by harm to persons (16 percent), harm to persons and property (12 percent), and property crimes (11 percent). For only 30 percent of the defendants, the arrest that

brought them into the sample was their first; yet the great majority (69 percent) had no prior felony convictions, and a similar proportion (63 percent) had no prior misdemeanor convictions.

The researchers compared the outcomes of court proceedings between the matched pairs of cases on four measures that might be related to the effectiveness of counsel: release at first appearance, speed of disposition, conviction, and sentence. The research showed no significant difference between the chance of release at first appearance, the speed of disposition, time in pretrial detention, or the chance of conviction between the two samples, but it did find statistically significant differences in the sentences imposed across the matched pairs of N.D.S. and non-N.D.S. cases. Neighborhood Defender Service clients in the sample were sentenced to a total of 78,153 days of incarceration; their matched counterparts with traditional representation were sentenced to a total of 117,913 days.

*report, she initially described the robber as dark skinned, while Duncan's complexion is relatively light.*

*On that point Holman got an unexpected dividend. When the victim denied she had described the man as dark, the attorney brought in the police officer who wrote the report; he claimed he had made up the fact that the robber's skin was dark. Holman had a field day with that. What else had the officer made up? Why should the jury believe anything he said?*

*The fingerprints clinched the case. Prosecutors sought to fend Holman off by saying the prints were smudged. But the defense attorney persisted, and when he finally got hold of the prints he found they weren't too smudged to work with. He then obtained a report showing that none of the prints matched Duncan's, including those lifted from furniture the victim said the robber had touched. The jury found it easy to acquit Duncan of all charges.*

*Later Duncan could reflect on how far he had come from the day the Legal Aid attorney recommended he plead guilty. "If I didn't have these people here, the Neighborhood Defenders, I would be in a whole lot of trouble," he said. "They're good lawyers. They're very good lawyers."*

## About This Study

This Program Focus was written by David C. Anderson, a former member of the *New York Times* editorial board and the former editor of *Police Magazine* and *Corrections Magazine*. He is the author of *Crimes of Justice: Improving the Police, the Courts, the Prisons and Crime and the Politics of Hysteria: How the Willie Horton Story Changed American Justice*.

*On the cover:* Young Harlem residents employed by the New York City Department of Employment's Youth Employment Program assist with distribution of N.D.S. outreach materials. (Photo courtesy of the Neighborhood Defender Service of Harlem.)

Findings and conclusions reported here are those of the author and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

*The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime.*

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The documents also can be downloaded through the NCJRS Bulletin Board System or at the NCJRS Anonymous FTP site in ASCII or graphic formats. They can be viewed online at the Justice Information Center World Wide Web site. Call NCJRS for more information.

Please note that when free publications are out of stock, they are available as photocopies or through interlibrary loan.

*Alternative Sanctions in Germany: An Overview of Germany's Sentencing Practices*, Research Preview, 1996, FS 000137; also available as part of the Research in Progress seminar series. Pfeiffer, Christian, Ph.D., *Sentencing Policy and Crime Rates in Reunified Germany*, VHS videotape, NCJ 152237, U.S. \$19, Canada and other countries \$24.

Anderson, David C., *In New York City, a "Community Court" and a New Legal Culture*, Program Focus, 1996, NCJ 158613.

Boone, Harry N., Ph.D., and Betsy A. Fulton, *Implementing Performance-Based Measures in Community Corrections*, Research in Brief, 1996, NCJ 158836.

*The Drug Court Movement*, Update, 1995, FS 000093.

*Evaluation of Boys and Girls Clubs in Public Housing*, Research Preview, 1995, FS 000100.

Finn, Peter, *The Manhattan District Attorney's Narcotics Eviction Program*, Program Focus, 1995, NCJ 153146.

McGillis, Daniel, *Beacons of Hope: New York City's School-Based Community Centers*, Program Focus, 1996, NCJ 157667.

Miller, Neal, *State Laws on Prosecutors' and Judges' Use of Juvenile Records*, Research in Brief, 1995, NCJ 155506; Update, 1995, FS 000074.

Mills, Gregory, *COMMUNITY Backed Anti-drug Tax: COMBAT in Jackson County, Missouri*, Program Focus, 1996, NCJ 160937.

*National Institute of Justice Journal: Communities: Mobilizing Against Crime, Making Partnerships Work*, 1996.

Sadd, Susan, and Randolph M. Grinc, *Implementation Challenges in Community Policing: Innovative Neighborhood-Oriented Policing in Eight Cities*, Research in Brief, 1996, NCJ 157932.

Sampson, Robert, Ph.D., *Communities and Crime: A Study in Chicago*, Research in Progress seminar series VHS videotape, 1996, NCJ 156924, U.S. \$19, Canada and other countries \$24.

Skogan, Wesley, Ph.D., *Community Policing in Chicago: Fact or Fiction?* Research in Progress seminar series VHS videotape, 1996, NCJ 153273, U.S. \$19, Canada and other countries \$24.

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