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State-Funded Indigent Defense Services, 1999

By Carol J. DeFrances, Ph.D.
BJS Statistician

In 1999 State governments provided 90% or more of the funding for indigent criminal defense services in 21 States, an increase of 4 States since 1982. In 11 of these States, the State government provided 100% of the funding for indigent criminal defense services.

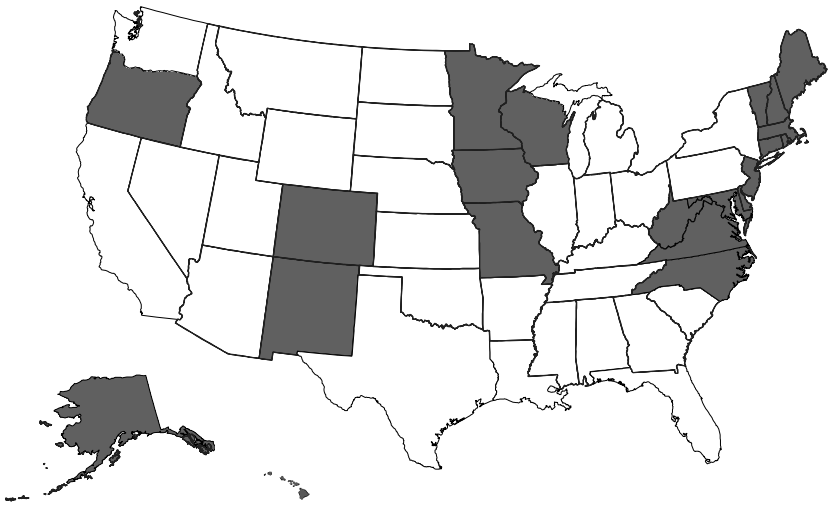
Of the remaining 10 States with State-funded programs, 7 indicated also receiving some Federal money to fund indigent defense services; 3 States reported support from foundation grants or client co-pays and collections; and 1 State indicated its largest county used a portion of its own money to fund indigent criminal defense services.[1]

This report presents findings from data collected as part of the National Survey of Indigent Defense Systems (NSIDS). The Bureau of Justice Statistics (BJS) with funding from the Bureau of Justice Assistance conducted NSIDS in 1999-2000. A previous report described indigent criminal defense services in the Nation's 100 most populous counties.[2]

[1]Information for Maryland was taken from the website for the Maryland Manual at <http://www.mdarchives.state.md.us>.
[2]*Indigent Defense Services in Large Counties, 1999,* BJS Bulletin, November 2000, NCJ 184932.

Highlights

State-funded indigent criminal defense services, 1999



• In 1999, 21 State governments funded virtually all indigent criminal defense services; 20 States had a combination of State and county funds; and 9 States relied solely on county funds.

• The 21 States, accounting for 27% of the U.S. population, spent $662 million on indigent criminal defense services in 1999, more than double the total amount in 1982 in constant dollars.

• *Public defender programs* — 19 of the 21 States funded public defender programs. Over 726,000 criminal cases were received by the public defender programs in the 17 States reporting criminal caseload data.

• *Assigned counsel programs* — 19 States provided indigent defense services through assigned counsel programs. Ten States maintained a roster of private attorneys who could be appointed to represent indigent criminal defendants. Five of the ten States had formal procedures for removing attorneys from the roster.

• *Contract attorney programs* — 11 States funded contract attorney programs. Contracts were administered to public defender offices, law firms, individual solo practitioners, nonprofit organizations, or groups of private attorneys or law firms. Five States reported competitively bidding for indigent criminal defense services.

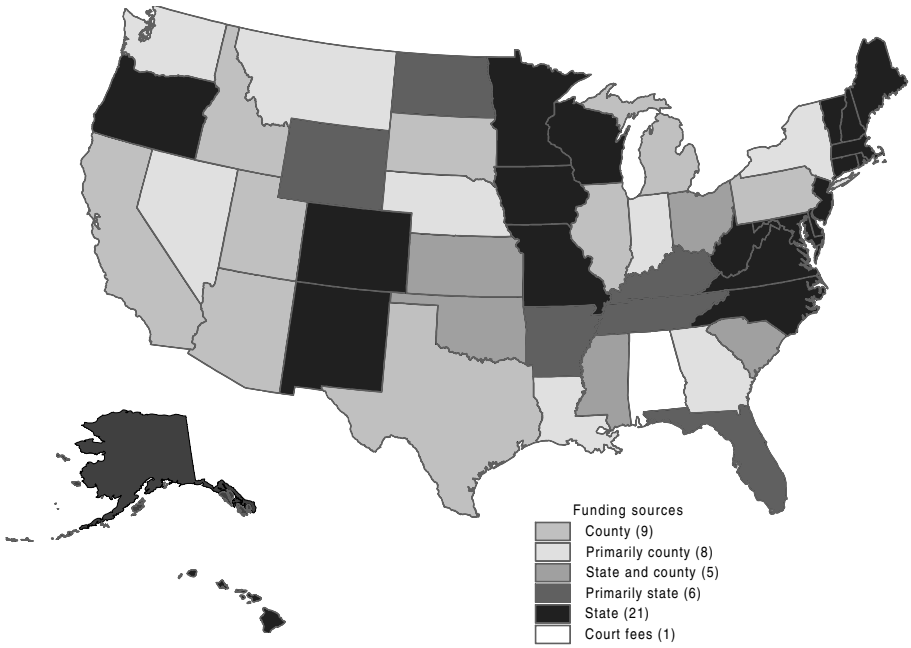
This report examines the characteristics and operations of State-funded indigent defense systems. State-level information is reported for the 21 States where virtually all of the funding for indigent criminal defense services at the trial level comes from the State government.[3]

The decentralized nature and diverse ways of delivering indigent defense services make collecting information nationwide difficult. Because of their more centralized and uniform nature, information on State-funded systems is easier to obtain. The 21 States examined in this report provide the most comprehensive State-level information collected on indigent criminal defense services since the 1980's.[4]

The 21 States included in this report accounted for 27% of the U.S. population in 1999 and 25% of Part 1 Uniform Crime Report (UCR) offenses reported to the police in 1999.[5] These 21 States make up the largest single category of funding sources for trial-level indigent criminal defense services (figure 1). Although each of the 21 State governments funded indigent criminal defense services, the 21 States delivered these services in a variety of ways (box on page 3). For example, Maine delivered the majority of its indigent criminal defense services through an assigned counsel program. Oregon primarily used a system of awarded contracts. Minnesota and New Mexico did not have assigned counsel programs but instead relied on statewide public defender programs and contract attorney programs.

Even within specific program types, the organization of the programs varied. For example, 16 of the 19 States with public defender programs had statewide systems that delivered indigent criminal defense services through local branches or offices. Typically, one chief or state public defender had oversight for the entire program. In the remaining three States, the State government provided the funding but the public defender programs were locally established. Counties or judicial districts within the State operated separate public defender programs, with each program headed by a chief public defender.[6]

Funding sources for indigent criminal defense services, 1999



Source: *Improving Criminal Justice System Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense,* Office of Justice Programs, March 2000, NCJ 181344, Appendix 6, <http://www.ojp.usdoj.gov/indigentdefense/icjs.pdf>.

Expenditures for indigent criminal defense services

In 1982 the 21 States included in this report spent an estimated $251 million (in 1999 dollars) on all indigent defense services (table 1). In 1999 these same 21 States had indigent criminal defense expenditures of approximately $662 million, almost 3 times the 1982 total amount. New Jersey, the most populous of the 21 States, spent the most ($73 million) on indigent criminal

[3]In 1999 county governments in nine States (Arizona, California, Idaho, Illinois, Michigan, Pennsylvania, South Dakota, Texas, and Utah) entirely funded indigent criminal defense services. In the remaining 41 States indigent defense received partial funding (20) or virtually all funding (21) from State governments. See *Improving Criminal Justice Systems Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense,* Office of Justice Programs, March 2000, NCJ 181344, Appendix 6, at <http://www.ojp.usdoj.gov/indigentdefense/icjs.pdf>

[4]*National Criminal Defense Systems Study,* BJS, September 1986, NCJ 94702, and *Criminal Defense for the Poor, 1986,* BJS Bulletin, September 1988, NCJ 112919.

[5]The 1999 State population estimates were taken from <http://www.census.gov/population/estimates/state/st-99-1.txt> Part 1 UCR offense reported to the police were taken trom *Crime in the United States: 1999,* FBI, table 4.

[6]This information is from a review of the statutes for the 19 States and from *Improving Criminal Justice Systems Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense,* Office of Justice Programs, March 2000, NCJ 181344, Appendices 6 and 7, at <http://www.ojp.usdoj.gov/indigentdefense/icjs.pdf>.

Table 1. State-funded indigent criminal defense services, 1982 and 1999

State	1999 resident population	Total State indigent defense expenditures: 1982 (in 1999 dollars)	Total State indigent defense expenditures: 1999 criminal defense	1999 total State indigent criminal defense operating expenditures per 1,000 population
Alaska	619,500	$6,084,323	$11,460,400	$18.50
Colorado	4,056,133	14,616,308	31,394,830	7.74
Connecticut	3,282,031	7,809,926	25,095,150	7.65
Delaware	753,538	3,190,692	7,306,700	9.70
Hawaii	1,185,497	6,041,000	7,539,608	6.36
Iowa	2,869,413	11,024,059	30,720,729	10.71
Maine	1,253,040	1,879,015	6,999,820	5.59
Maryland*	5,171,634	17,726,555	39,286,313	7.60
Massachusetts	6,175,169	22,597,134	62,200,000	10.07
Minnesota	4,775,508	17,979,266	46,400,000	9.72
Missouri	5,468,338	7,608,921	28,202,699	5.16
New Hampshire	1,201,134	3,705,720	10,667,770	8.88
New Jersey	8,143,412	33,970,538	72,975,000	8.96
New Mexico	1,739,844	6,872,523	22,895,400	13.16
North Carolina	7,650,789	18,992,970	62,680,384	8.19
Oregon	3,316,154	21,815,002	32,564,390	9.82
Rhode Island	990,819	2,243,255	6,105,017	6.16
Vermont	583,740	3,233,254	5,829,246	9.99
Virginia	6,872,912	15,147,913	67,480,333	9.82
West Virginia	1,806,928	5,094,557	22,454,009	12.43
Wisconsin	5,250,446	23,042,445	61,590,139	11.73
Total	73,165,979	$250,675,376	$661,847,937	

*Fiscal year 1999 total operating expenditures for the Maryland Public Defender Office were taken from the Maryland Archives On-line at: <http://www.mdarchives.state.md.us/msa/mdmanual/25ind/html/61pubdb.html.>

Sources: 1982 expenditure data taken from *National Criminal Defense Systems Study,* BJS, September 1986, NCJ 94702. The 1982 expenditure data were adjusted for inflation and presented in 1999 dollars.

1999 State population estimates came from the Census Bureau website, <http://www.census.gov/population/www/estimates/statepop.html>.

defense services while Vermont, the smallest of the 21 States, spent the least ($6 million). In terms of per capita spending, Alaska spent the most ($19) and Missouri the least ($5).

All 21 States except Maine and Oregon expended funds for some form of a public defender program (table 2). Most States (19) also supported assigned counsel programs. Eleven States indicated expenditures for contract attorney programs.

Table 2. Expenditures for State-funded indigent criminal defense services, by type of program, 1999

State	Type of program: Public defender	Assigned counsel	Contract attorney
Alaska[a]	$9,960,400	--	$1,500,000
Colorado	22,763,529	8,322,077	0
Connecticut	22,872,200	955,000	1,267,950
Delaware[b]	7,306,700	--	0
Hawaii[b]	7,539,608	--	0
Iowa	13,173,047	8,115,790	9,431,893
Maine	0	5,995,458	174,000
Maryland	39,286,313	--	--
Massachusetts	10,583,000	51,617,000	0
Minnesota[c]	--	0	--
Missouri	27,664,539	538,159	0
New Hampshire	8,070,972	843,715	1,753,083
New Jersey[d]	72,975,000	--	0
New Mexico	11,681,300	0	7,709,100
North Carolina	11,708,864	39,731,705	329,469
Oregon	0	3,932,598	24,966,324
Rhode Island	5,000,000	1,105,017	0
Vermont	4,329,845	1,196,800	302,601
Virginia	15,887,218	38,586,442	0
West Virginia	8,773,436	13,320,392	0
Wisconsin	38,401,452	17,220,603	5,968,084
Total	$337,977,423	$191,480,756	$53,402,504

Note: Total public defender expenditures for Maryland were taken from the Maryland Archives On-line at <http://www.mdarchives.state.md.us/msa/mdmanual/25ind/html/61pubdb.html>. Amounts for public defender, assigned counsel, and contract programs may not sum to total criminal expenditures in table 1.

--Information not provided or not known.

[a]Expenditures for the public defender programs reflect combined information for the Alaska Public Defender Agency and the Office of Public Advocacy.

[b]Expenditures exclude "conflict" cases in which the public defender has a conflict of interest or an overload of cases or in which the public defender or other primary program is otherwise unable to handle.

[c]Minnesota could not disaggregate expenditures by type of program.

[d] New Jersey reported expenditures for conflict cases and specialty cases such as those involving the death penalty and abuse and neglect, as well as assigned counsel expenditures, with public defender expenditures.

Types of indigent defense services

Three primary ways of providing indigent defense services have emerged throughout the Nation. States and localities use these methods of delivering indigent defense services either singly or in combination. This report uses the following categories to describe indigent criminal defense services. Individual State programs may use slightly different terminology.

Public defender — A salaried staff of full-time or part-time attorneys that renders indigent criminal defense services through a public or private nonprofit organization, or as direct government paid employees.

Assigned counsel — The appointment from a list of private bar members who accept cases on a judge-by-judge, court-by-court, or case-by-case basis. This may include an administrative component and a set of rules and guidelines governing the appointment and processing of cases handled by the private bar members.

Contract — Nonsalaried private attorneys, bar associations, law firms, consortiums or groups of attorneys, or nonprofit corporations that contract with a funding source to provide court-appointed representation in a jurisdiction.

Public defender programs

Location of public defender programs

Nineteen States reported funding public defender programs. Public defender programs in 16 of the 19 States were statewide programs with local or regional offices located throughout the State (table 3). In 1999, 11 of these statewide public defender programs had an oversight commission. North Carolina, Virginia, and West Virginia did not have statewide public defender programs.

• In North Carolina, 13 counties comprised 11 defender districts, each with a public defender office. In the remaining 87 counties, appointment of private attorneys by the court was the primary method of providing indigent defense services.[7]

• Virginia's 20 public defender offices served 46 of the 95 counties or independent cities.[8] In the counties or independent cities without a public defender program, court-appointed counsel was the primary method used.

• 15 of West Virginia's 31 judicial circuits had public defender corporations. The remaining 16 circuits had assigned counsel programs.[9]

New Hampshire and West Virginia funded their public defender program through an awarded contract. Nine States reported their public defender program was part of the State executive branch. The location and nature of the public defender programs in the other 10 States reporting this information varied. For example, in Delaware and Massachusetts the public defender program was an independent agency of the State government, while in New Hampshire and West Virginia the program was established as an independent nonprofit organization.

Table 3. Characteristics of State-funded public defender programs, 1999

State	Governmental location of public defender programs	Oversight commission[a]	Statewide program[b]
Alaska	State executive branch	No	Yes
Colorado	Judicial branch	Yes	Yes
Connecticut[c]	Judicial branch	Yes	Yes
Delaware	Independent agency of State government	No	Yes
Hawaii	State executive branch	Yes	Yes
Iowa	State executive branch	Yes	Yes
Maryland[d]	State executive branch	Yes	Yes
Massachusetts	Independent agency of State government	Yes	Yes
Minnesota	Judicial branch	Yes	Yes
Missouri	Independent department in judicial branch	Yes	Yes
New Hampshire	Independent nonprofit organization	Yes	Yes
New Jersey	State executive branch	No	Yes
New Mexico	State executive branch	No	Yes
North Carolina	Judicial branch	No	No
Rhode Island	State executive branch	No	Yes
Vermont	State executive branch	No	Yes
Virginia[e]	Judicial branch	Yes	No
West Virginia	Independent nonprofit organization	No	No
Wisconsin	State executive branch	Yes	Yes

[a]Information from Colorado Revised Statutes, Title 21-1-101; General Statutes of Connecticut, Chapter 887, Title 51-289; Hawaii Revised Statutes, Vol. 14, § 802; Iowa Code and Supplement, Chapter 13B; Annotated Code of Maryland, Article 27, § 9; General Laws of Massachusetts, Part III, Title I, Chapter 211D; Minnesota Statutes, Chapter 611.215; Missouri Revised Statutes, Chapter 600.015; New Hampshire Revised Statutes, Title LIX, Chapter 604-B; Code of Virginia, Title 19.2, Chapter 163.1; and Wisconsin Statutes, Chapter 977.02.
[b]Information from *Improving Criminal Justice Systems Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense,* Office of Justice Programs, March 2000, NCJ 181344, Appendices 6 and 7 at <http://www.ojp.usdoj.gov/indigentdefense/icjs.pdf> .
[c]Governmental location for budget purposes only.
[d]Information on governmental location came from Annotated Code of Maryland, Article 27, § 3.
[e]Information on governmental location came from the Virginia 2000-2002 Biennial Budget, the section on the Judicial Department.

Number of chief public defenders and term of office

The term chief public defender was defined differently across defender programs. Fifteen of the 16 statewide public defender programs had 1 chief public defender who had program oversight (table 4). By contrast, Minnesota reported 11 chief public defenders: the State Board of Public Defense appointed a chief district public defender for each of 10 judicial districts. The district public defender offices handled felony and misdemeanor cases. The State Board of Public Defense also appointed a State public defender whose office represented indigent defendants in appeals and post-conviction proceedings.[10]

In the three States that did not have a statewide public defender, a chief public defender administered each separate program or defender district.

[7]North Carolina General Statutes, Chapter 7A.
[8]Code of Virginia, Title 19.2, § 163.2.
[9]Office of Legislative Auditor, Department of Administration, State of West Virginia, *Preliminary Performance Review of Public Defenders Service: Maximum Use of Public Defender Corporations Needed to Control Costs,* January 1999.
[10]Minnesota Statutes, Chapter 611.215 and Chapter 611.23.

Table 4. Characteristics of chief public defenders in State-funded systems, 1999

State	Number of chief public defenders	Chief public defender has term of office	Years in term of office	Chief public defender elected or appointed	Who appoints chief public defender	Chief public defender carries a caseload	Salary of chief public defender
Alaska:							
Primary program	1	Yes	4	Appointed	Governor	--	$80,000
Alternate and conflict program	1	No		Appointed	Governor	No	91,000
Colorado	1	Yes	5	Appointed	Independent board or commission	No	90,590
Connecticut	1	Yes	4	Appointed	Independent board or commission	No	110,524
Delaware[a]	1	Yes	6	Appointed	Governor	No	88,000
Hawaii	1	Yes	4	Appointed	Governor	No	77,964
Iowa	1	Yes	4	Appointed	Governor	No	75,000
Maryland[b]	1	No		Appointed	Board of Trustees	--	--
Massachusetts	1	No		Appointed	Independent board or commission	Yes	95,760
Minnesota	11	Yes	4	Appointed	Independent board or commission	Yes	89,627
Missouri	1	Yes	4	Appointed	Independent board or commission	No	100,932
New Hampshire	1	No		Appointed	Corporate board of directors	No	80,000
New Jersey	1	Yes	5	Appointed	Governor	No	98,225
New Mexico	1	No		Appointed	Governor	No	83,700
North Carolina	11	Yes	4	Appointed	Judges	Yes	90,224
Rhode Island	1	Yes	3	Appointed	Governor	Yes	80,000
Vermont	1	Yes	4	Appointed	Governor	No	62,000
Virginia[c]	20	No		Appointed	Independent board or commission	--	--
West Virginia	15	No		Appointed	Independent board or commission	Yes	66,500
Wisconsin[d]	1	No		Appointed	Program advisory board	No	101,859

--Information not provided or not known.
[a]Information on term of office from Delaware Code, Title 29, Section 4603.
[b]All information for Maryland from Annotated Code of Maryland, Article 27, Section 3.
[c]All information for Virginia from the Virginia 2000-2002 Biennial Budget, the section on the Judicial Department and Code of Virginia, Title 19.2, Chapter 10, §§ 163.1-.2.
[d]The number of chief public defenders for Wisconsin from the Wisconsin Statutes, Chapter 977.05.

For example, North Carolina reported 11 chief public defenders, Virginia 20, and West Virginia 15. The chief public defender had an established term of office in 11 States and in the primary program in Alaska. In seven States and the alternate program in Alaska, the chief public defender served at the pleasure of the appointing authority.

Selection and salary of chief public defenders

Unlike their chief prosecutor counterparts who are primarily elected, the chief public defenders were appointed in all 19 States.[11] In eight States the governor appointed the chief public defender; in seven States, an independent board or commission made the appointment; and in the remaining four States, judges, the program advisory-board, the board of trustees, or the corporate board of directors.

[11]*Prosecutors in State Courts, 1990,* BJS Bulletin, March 1992, NCJ 170092.

In five States (Massachusetts, Minnesota, North Carolina, Rhode Island, and West Virginia) the chief public defender carried a caseload. In 1999 annual salaries for chief public defenders ranged from $62,000 to $111,000.

Salaries of assistant public defenders

The minimum salaries for entry-level assistant public defenders ranged from $29,000 to $45,000 among the States reporting this information (table 5).

Table 5. Annual salary of assistant public defenders and supervisory attorneys in State-funded systems, 1999

State	Assistant public defender at entry-level		Assistant public defender with 5 years experience		Supervisory attorney	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Alaska *	$45,000	$61,000	$55,000	$75,000	$63,000	$86,000
Colorado	35,124	45,816	54,480	73,008	60,528	86,376
Connecticut	41,612	46,808	54,759	66,622	57,217	100,406
Delaware	36,000	43,000	45,401	106,565	--	88,000
Iowa	35,152	44,033	44,033	68,286	58,718	85,466
Massachusetts	28,600	28,600	42,000	42,000	76,500	76,500
Missouri	30,500	--	50,232	--	--	--
New Hampshire	31,018	42,770	48,204	52,754	41,020	59,254
New Jersey	40,965	47,873	47,873	83,955	63,198	91,000
New Mexico	28,941	43,410	44,834	67,253	47,669	71,502
Rhode Island	38,000	42,000	42,000	46,000	50,000	58,000
Vermont	29,500	32,500	39,000	42,000	57,000	--
West Virginia	32,000	--	35,000	40,000	55,000	78,000
Wisconsin	37,087	93,108	38,200	93,108	42,829	98,850

Note: Hawaii, Maryland, Minnesota, North Carolina, and Virginia did not provide salary information.
--Information not provided or not known.
*Salary information for the Alaska Public Defender Agency.

Table 6. State-funded public defender programs, by type of staff, 1999

State	Number of full-time and part-time staff: Total staffing	Chief public defenders	Assistant public defenders[a]	Supervisory attorneys[b]	Managers[c]	Investigators[d]	Social workers	Paralegals	Indigency screeners	Support staff[e]	Other
Alaska[f]	147	2	63	19	0	14	0	1	0	48	0
Colorado	380	1	220	27	1	61	0	4	0	56	10
Connecticut	348	1	124	40	4	57	26	2	0	77	17
Delaware	119	1	57	1	1	12	12	12	0	23	0
Hawaii	132	1	84	9	0	7	0	0	0	31	0
Iowa	199	1	108	17	0	23	0	0	0	50	0
Maryland[g]	784	1	--	--	--	--	--	--	--	--	--
Massachusetts	190	1	108	16	0	15	6	0	0	41	3
Minnesota	636	11	486	30	0	47	25	17	0	20	0
Missouri	558	1	286	44	6	86	15	0	0	120	0
New Hampshire	127	1	52	10	2	23	0	0	0	39	0
New Jersey	870	1	256	33	60	220	0	0	0	300	0
New Mexico	258	1	133	24	3	20	13	18	14	32	0
North Carolina	200	11	118	0	0	27	0	0	0	44	0
Rhode Island	81	1	42	4	1	7	3	0	1	22	0
Vermont	68	1	43	2	0	8	0	0	0	14	0
Virginia	334	20	170	76	3	25	0	0	0	30	10
West Virginia	203	15	107	15	0	3	1	2	0	60	0

Note: Information includes full- and part-time staff. Wisconsin did not provide staffing information.
--Information not provided.
[a]Any employee of the public defender program licensed to practice law or who has applied for admission to the bar, and who primarily litigates cases. Excludes attorneys in nonlitigating positions.
[b]Attorneys in managerial positions who litigate cases.
[c]Attorneys or nonattorneys in primarily managerial positions who do not litigate cases.
[d]Includes investigators on contract.
[e]Administrative staff, clerical staff, computer personnel, fiscal officers, and training directors.
[f]Information is for both the Alaska Public Defender Agency and the Office of Public Advocacy.
[g]Information taken from the Annotated Code of Maryland, Article 27 and the Maryland Archives On-line at <http://www.mdarchives.state.md.us/msa/mdmanual/25ind/html/61pubdb.html>.

The minimum salary for an assistant public defender with 5-years experience ranged from $35,000 to $55,000. The minimum salary for a supervisory attorney ranged from $41,000 to $77,000.

Public defender program staffing

The statewide public defender program in New Jersey employed the most staff (870) (table 6). Four States (Colorado, Minnesota, Missouri, and New Jersey) reported 200 or more assistant public defenders. New Jersey reported the largest number of investigators at 220. Eight States (Connecticut, Delaware, Massachusetts, Minnesota, Missouri, New Mexico, Rhode Island, and West Virginia) indicated employing social workers. Only New Mexico and Rhode Island reported having indigency screeners.

Table 7. Cases received by State-funded public defender programs, 1999

State	Number of cases received				
	Total	Criminal[a]	Juvenile[b]	Civil[c]	Other[d]
Alaska[e]	29,983	15,853	658	1,476	996
Colorado	64,179	54,352	5,672	0	4,155
Connecticut	56,327	50,265	5,947	115	0
Delaware[f]	36,290	30,460	5,830	0	0
Hawaii[g]	39,870	35,778	3,846	246	0
Iowa	61,232	48,360	12,872	0	0
Massachusetts	7,143	6,200	918	25	0
Minnesota[h]	178,175	140,475	37,700	--	0
Missouri	73,738	68,200	4,629	909	0
New Hampshire	15,552	8,812	1,308	11	5,421
New Jersey[f]	96,752	58,165	15,000	16,012	7,575
New Mexico[i]	53,911	--	--	--	--
North Carolina	48,375	36,839	1,858	2,237	7,441
Rhode Island	12,750	10,500	2,230	20	0
Vermont	12,703	10,344	1,339	107	913
Virginia	51,375	41,019	10,356	0	0
West Virginia	33,556	28,100	3,855	1,235	366
Wisconsin	124,171	82,649	30,810	4,235	6,477
Total	996,082	726,371	144,828	26,628	33,344

Note: Maryland did not provide caseload information. Due to missing data the breakdown by case types does not sum to the total.
--Information not provided or not known.
[a]Includes felony capital, felony noncapital, misdemeanors that carry a jail sentence, ordinance infraction, appeal, probation and revocation cases.
[b]Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in criminal court, juvenile status offense, and juvenile transfer hearings.
[c]Includes mental commitment, State post-conviction or habeas corpus, and Federal habeas corpus.
[d]Includes special proceedings, miscellaneous hearings, Megan's law, child abuse, child protection, post conviction probation and parole, and withdrawals.
[e]Total includes information for both the Alaska Public Defender Agency and the Office of Public Advocacy. Specific types include information only for the Alaska Public Defender Agency.
[f]Total includes conflict cases.
[g]Total excludes conflict cases.
[h]State post-conviction or habeas corpus cases were included with appeals under criminal cases.
[i]Information could not be broken down by case type.

Public defender program caseload

Besides handling criminal cases, all the public defender programs in the 18 States reporting case information had responsibility for handling other types of cases as well. In 1999 public defender programs received over 726,000 criminal cases, 144,000 juvenile cases, 26,000 civil cases, and 33,000 other types of cases (special proceedings, child abuse, child protection, post-conviction parole and probation, and withdrawals) (table 7).

In the 16 States reporting public defender expenditures and criminal caseload, the estimated cost per criminal case was $490.[12]

Table 8. Source of appointment for private attorneys to provide indigent criminal defense services in State-funded systems, 1999

State	Source of appointment			
	Court (judges)	Court clerk's office	Public defender program	Assigned counsel program
Colorado				■
Connecticut	■			
Iowa	■			
Maine	■	■		
Massachusetts				■
Missouri			■	■
New Hampshire	■	■		
North Carolina	■	■		
Oregon	■	■		
Rhode Island	■	■		
Vermont	■	■		
West Virginia	■			
Wisconsin			■	■

Note: Alaska, Delaware, Hawaii, Maryland, New Jersey, and Virginia did not provide information on source of private attorney appointments.

Assigned counsel programs

Appointment of private attorneys

Fourteen of the 19 States with assigned counsel programs in 1999 provided some detailed information on attorney appointments. Five States indicated that either judges (Connecticut, Iowa, and West Virginia) or the assigned counsel program (Colorado and Massachusetts) appointed the private attorneys to represent indigent criminal defendants (table 8).

Eight States reported multiple offices could make private attorney appointments. For example, in Maine, New Hampshire, North Carolina, Oregon, Rhode Island, and Vermont, the court (judges) or the court clerk's office could assign private attorneys to represent indigent criminal defendants.

[12]This estimated cost per case was calculated by using the 1999 public defender expenditure data from table 2, divided by the criminal caseload from table 7 (excluding Maryland, Minnesota, and New Mexico from both tables). The cost-per-case estimate for individual types of cases can vary greatly, depending on resources needed. A death penalty case, for example, would require much more than a larceny case.

Private attorney roster

The assigned counsel programs in Iowa, Vermont, and West Virginia did not maintain a roster of attorneys (table 9). In the 10 States where the assigned counsel program maintained a roster of attorneys, 5 (Connecticut, Massachusetts, North Carolina, Rhode Island, and Wisconsin) had formal procedures for removing attorneys from the roster (table 9).

Table 9. Private attorney roster in State-funded assigned counsel programs, 1999

State	Private attorney roster: Maintained by assigned counsel program	Private attorney roster: Formal procedures to remove attorneys
Colorado	Yes	No
Connecticut	Yes	Yes
Iowa	No	
Maine	Yes	No
Massachusetts	Yes	Yes
Missouri	Yes	No
New Hampshire	Yes	No
North Carolina*	Yes	Yes
Oregon	Yes	No
Rhode Island	Yes	Yes
Vermont	No	
West Virginia	No	
Wisconsin	Yes	Yes

Note: Alaska, Delaware, Hawaii, Maryland, New Jersey, and Virginia did not provide roster information.
*North Carolina has appointment lists developed and maintained by a bar committee in each district.

Private attorneys were included on the assigned counsel programs roster in various ways. In Missouri the public defender system maintained the roster of private bar attorneys. In Maine all attorneys in the local bar were included on the roster unless they requested to be removed; Maine attorneys also could volunteer for specified types of cases.

In seven States private attorneys were placed on the roster after volunteering and meeting qualifications (not shown in a table). Attorneys qualified through approval by program administrators, through attending legal seminars or training each year, or through participating in training prior to representing clients.

Assigned counsel private attorney appointments and caseload

The number of private attorney appointments ranged from 200 in Oregon to 4,800 in Massachusetts (table 10). Taken together, the assigned counsel programs in the 13 States reporting caseload information received almost 700,000 cases. About 302,000 criminal cases and 87,000 juvenile cases were received by assigned counsel programs. An additional 11,000 cases involved civil matters.

A quarter of the cases received by assigned counsel programs in North Carolina and Virginia involved termination of parental rights, abuse and neglect, guardian ad litem, and contempt.

Table 10. Private attorney appointments and cases received by assigned counsel programs in State-funded systems, 1999

State	Number of private attorney appointments	Number of cases received: Total	Criminal[a]	Juvenile[b]	Civil[c]	Other[d]
Colorado	400	8,714	6,176	2,026	512	0
Connecticut	250	903	832	60	11	0
Iowa	500	--	--	--	--	--
Maine[e]	508	19,275	11,833	--	461	6,981
Massachusetts	4,800	201,034	--	17,108	--	--
Missouri	458	458	422	9	27	0
New Hampshire	--	881	159	262	0	460
North Carolina	2,050	116,427	67,873	13,811	4,935	29,808
Oregon	200	12,961	10,926	361	445	1,229
Rhode Island	1,413	1,589	1,050	539	--	--
Vermont	225	573	447	52	0	74
Virginia	2,492	264,945	154,618	39,888	0	70,439
West Virginia	750	25,109	15,022	3,338	4,020	2,729
Wisconsin	1,400	46,881	33,060	10,034	1,113	2,674
Total	15,446	699,550	302,418	87,488	11,324	114,394

Note: Alaska, Delaware, Hawaii, Maryland, and New Jersey did not provide appointment and caseload information. Due to missing data, breakdown by case type does not sum to the total.
--Information not provided or not known.
[a]Includes felony capital, felony non-capital, misdemeanors that carry a jail sentence, ordinance infraction, appeal, probation and revocation cases.
[b]Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in criminal court, juvenile status offense, and juvenile transfer hearings.
[c]Includes mental commitment, State post-conviction or habeas corpus, and Federal habeas corpus.
[d]Includes special proceedings, contempt, guardian ad litem, termination of parental rights, and child abuse and neglect.
[e]Maine provided information on the number of vouchers paid to court-appointed attorneys. In criminal cases one voucher per case was usual; in child protective cases there could be many vouchers per case.

Contract attorney programs

Contracts administered

Eleven States reported contract attorney programs (table 11). The number of contracts for indigent criminal defense services administered in these 11 States ranged from 1 in Maine to 600 in Iowa. Three States (New Hampshire, Oregon, and Vermont) indicated administering contracts awarded to public defenders. Ten States administered contracts to individual solo practitioners; 9 States, law firms which handled both indigent and private cases; 6 States, nonprofit organizations; and 3 States, a law firm or group of private attorneys or law firms joined solely to provide indigent representation under the contract. None of the States responding administered a contract to a bar association.

Contract awarding and monitoring

Alaska, Maine, New Hampshire, Oregon, and Wisconsin reported competitively bidding for indigent criminal defense services (table 12). Oregon awarded contracts to handle the majority of its indigent criminal cases. In several counties in New Mexico and Vermont, contracts were awarded to handle the majority of indigent criminal cases. Eight States reported that the State public defender program handled the majority of indigent criminal cases and contracts were only awarded to handle public defender conflicts. Alaska and Iowa contracted out cases not handled by the public defender program.

Table 11. Contract attorney programs in State-funded systems, 1999

State	Number of contracts administered for criminal indigent defense services	Contracts awarded to public defenders	Contracts administered: Individual solo practitioners	Contracts administered: A law firm handling both indigent and private cases	Contracts administered: A law firm or group of attorneys or firms joined solely to provide contracted indigent defense	Contracts administered: Nonprofit organization
Alaska	78	No	Yes	Yes	No	No
Connecticut	304	No	Yes	Yes	No	Yes
Iowa	600	No	Yes	Yes	No	Yes
Maine	1	No	--	--	Yes	--
Minnesota	27	No	Yes	No	No	Yes
New Hampshire	--	Yes	Yes	Yes	Yes	Yes
New Mexico	120	No	Yes	Yes	No	No
North Carolina	4	No	Yes	Yes	No	Yes
Oregon	77	Yes	Yes	Yes	Yes	Yes
Vermont	48	Yes	Yes	Yes	--	--
Wisconsin	93	No	Yes	Yes	No	No

--Information not provided or not known.

Table 12. Contracts awarded in State-funded systems, 1999

State	Jurisdiction competitively bids for indigent criminal defense services	Indigent criminal defense contracts are awarded to handle — All or a majority of indigent criminal cases	Public defender conflicts, including case overload	Types of cases not handled by the public defender or assigned counsel
Alaska	Yes	No	No	Yes
Connecticut	No	No	Yes	No
Iowa	No	No	Yes	Yes
Maine[a]	Yes	No	No	No
Minnesota	No	No	Yes	No
New Hampshire	Yes	No	Yes	No
New Mexico[b]	No	Yes	Yes	No
North Carolina[c]	No	No	No	No
Oregon	Yes	Yes	Yes	No
Vermont[d]	No	Yes	Yes	No
Wisconsin	Yes	No	Yes	No

[a]In one county a contract was awarded to handle all criminal and juvenile cases.
[b]In several counties, contracts were awarded to handle the majority of criminal cases.
[c]Contracts were awarded for specific case types in special circumstances.
[d]In 6 of the 14 counties, contracts were awarded to handle the majority of criminal cases.

Table 13. Cases received by contract attorneys in State-funded systems, 1999

State	Number of cases received by contract attorneys				
	Total	Criminal[a]	Juvenile[b]	Civil[c]	Other[d]
Connecticut	7,280	5,364	1,753	163	0
Maine[e]	500	--	--	--	--
Minnesota	22	22	0	0	0
New Hampshire	5,828	3,269	709	0	1,850
New Mexico[e]	21,640	--	--	--	--
North Carolina	--	--	3,020	2,500	0
Oregon	140,382	98,857	6,835	2,205	32,485
Vermont	4,227	2,067	559	0	1,601
Wisconsin	11,989	11,989	0	0	0
Total	191,868	121,568	12,876	4,868	35,936

Note: Iowa did not provide caseload information. Alaska included the contract attorney caseload with the public defender caseload. Due to missing data, breakdown by case type does not sum to total.
--Information not provided or not known.
[a]Includes felony capital, felony noncapital, misdemeanors that carry a jail sentence, ordinance infraction, appeal, probation and revocation cases.
[b]Includes juvenile delinquency, delinquency appeals, juveniles proceeded against in criminal court, juvenile status offense, and juvenile transfer hearings.
[c]Includes mental commitment, State post-conviction or habeas corpus, and Federal habeas corpus.
[d]Includes contempt, termination of parental rights, dependency and reviews, and psychiatric security review board hearings.
[e]Maine and New Mexico could not breakdown the caseload by case type.

Contract attorney program caseload

In the 9 States reporting contract attorney caseload information, the number of cases received by contract attorneys ranged from over 140,000 in Oregon to 22 in Minnesota (table 13). In these 9 States, contract attorneys handled about 192,000 cases. Contract attorneys handled about 122,000 criminal cases, 13,000 juvenile cases, and 5,000 civil cases.

Methodology

Respondent selection

In 1999 State governments provided virtually all of the funding for indigent criminal defense services in 21 States. All 21 States were selected to receive program questionnaires as part of the the National Survey of Indigent Defense Systems (NSIDS). The data collection for NSIDS was conducted by the National Opinion Research Center. The program questionnaire is available at the BJS website http://www.ojp.usdoj.gov/bjs/pub/pdf/nsids99_p.pdf>

Survey response

Of the 26 program surveys mailed to the various state agencies within the 21 States, 25 were completed. No information was received from Maryland's State Public Defender Program or the assigned counsel program. In Alaska two program surveys were mailed, one to the primary public defender program and one to the alternate public defender program (Office of Public Advocacy). In Colorado, New Hampshire, Rhode Island, and Virginia one program survey was mailed to the public defender program and one to the assigned counsel program. In the remaining 16 States, one program survey was mailed to the appropriate State agency or program.

All the information presented in the text and tables of this report came from the data gathered from the program surveys unless otherwise noted.

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This report in portable document format and in ASCII, its tables, and related statistical data are available at the BJS website: http://www.ojp.usdoj.gov/bjs/