NLADA
National Legal Aid & Defender Association

Defender Data Exchange: Boosting Defenders' Research and Data Capabilities

Public Defender and Academic Partner Collaborations

The **National Legal Aid & Defender Association** (NLADA), founded in 1911, is America's oldest and largest nonprofit association devoted to excellence in the delivery of legal services to those who cannot afford counsel. Among its key strategies, NLADA works to expand the defender community's capacity to utilize research and data through information, training, and technical assistance. This work has been guided by the Defender Research Consortium, a convening of practitioners and researchers interested in building a body of research that helps defenders make evidence-based and data-driven decisions that improve criminal justice policy and public defense systems nationwide.

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Introduction

Through its engagement with defense practitioners and the indigent defense research community in recent years, the National Legal Aid & Defender Association (NLADA) has learned of a growing number of creative pairings between academic institutions and public defenders that expand defender research capacity. The "Defender Data Exchange," or DDX, is a term NLADA applies to a variety of approaches that pair public defender organizations with academic institutions for mutually beneficial results: defenders receive low- or no-cost research assistance monitored by experienced faculty advisers, and student researchers get to hone research skills using real-world data and issues. This paper presents examples of partnerships that can serve as inspiration, or even a road map, for other defenders to pursue increased research capacity at little to no cost. While there are other avenues defenders can follow to undertake research projects (e.g., using existing funds or obtaining grant funding to contract with a researcher or hire a full-time in-house researcher), the models shared here assume defenders have limited funding available to invest in research.

Defender programs can be attractive laboratories for student researchers. The opportunity to work with real-world data sets is somewhat rare for academic researchers. The data sets from which masters and doctoral students work are often limited in size, subject matter, and practical applicability, which restricts the range of possible research projects that the students can undertake. The type and volume of data that defender offices can provide, therefore, can be very appealing. The challenge is shaping projects to meet the needs of both parties.

The DDX Pilot Project and the Origins of This Guide

Initially, the "Defender Data Exchange" was the name of an NLADA pilot project supported by funding from the Open Society Foundations (OSF) that paired a criminal justice professor with a public defender office to pursue a mutually beneficial arrangement.[1] As conceived, the professor would get access to the public defender program's case data to teach students basic research skills, such as data cleaning and coding, research question development, and data analysis. Benefits to student researchers would include the chance to work with original data, which is an uncommon opportunity, and to undertake coursework, theses, and dissertations with real-world implications. Benefits to the defender program would include in-depth analysis of its data at no cost, laying an empirical foundation for designing improvements to program operations, and an expanded capacity for evidence-based

[1] This project was conceived by NLADA social science researcher Tiffany Culley, who was also integral to the creation of the NLADA Defender Research Consortium. The concept was informed by the toolkit on finding a researcher that was jointly developed by NLADA and Margaret A. Gressens, Research Director at the North Carolina Office of Indigent Defense Services. Gressens was one of the first in-house social science experts hired by a public defender office in the U.S. The concept also grew from efforts of the Research and Data Analysis Advisory Committee, whose work formed the basis for NLADA's toolkit, *Basic Data Every Defender Program Needs to Track.*

advocacy. Ultimately, NLADA also saw the model as a way to build the pipeline of researchers who choose to focus on indigent defense in their careers.
In 2015, NLADA connected the John Jay College of Criminal Justice in New York City with the Ventura County Public Defender's Office in California as the pilot pairing. The faculty partner designed the class, enrolled students, and launched the initial test run in the spring of 2016. Unfortunately, the project was not completed due to unforeseen events that stalled the work beyond the capacity of the college. Although results of the course were inconclusive, NLADA still believes the model is viable. The project offered lessons[2] on future partnerships and was the animating concept for this paper. Ranging from the fully structured DDX class model, to "capstone" team projects,[3] to work with one graduate student on a part-time research project, there are multiple ways defender programs can receive low- or no-cost research assistance to help improve their programs.

Goals and Structure of This Guide

This guide is intended to serve as a starting point for any defender office to increase its research and analytics capacity. It is divided into four chapters: 1) The Value of Academic Research Partnerships, 2) How to Find an Academic Research Partner, 3) What to Work Out Beforehand, and 4) Defender Research Partnerships in Action.

[2] *See* Chapter 3: What to Work Out Beforehand, *infra*.
[3] Broadly speaking, a capstone project is a multifaceted assignment that serves as a culminating academic and intellectual experience whereby students apply the knowledge and capabilities they have gained to a real world issue or organization. Such projects go by different names (e.g., thesis, policy analysis exercise, policy workshop) and are common in master's programs in public policy, public administration, social services, mass communications and liberal arts.

Chapter 1: The Value of Academic Research Partnerships

Data and analytics are an increasingly essential component of indigent defense, both in assessing services delivered and managing a defender organization, but investing in in-house data collection and analysis capacity can be cost-prohibitive. Partnerships between defender programs and academic institutions can bridge this gap by increasing research capacity at little or no cost to a public defense office, while offering students valuable learning opportunities. The balance of this chapter discusses why research matters to defender organizations, and why academic partnerships are a resource defenders should consider.

Data Capacity: A Key Resource for Defenders

Defenders might ask, *What's the big deal with research partnerships? Why should I care about data capacity?* The American criminal justice landscape has shifted in the past couple of decades to rely more and more on data. How well does a defender office represent its clients? How efficiently does a defender office use resources? These are questions that are asked not only in the halls of academic institutions but also in the halls of state legislatures, county commissions, executive agencies, and other places where funding for indigent defense efforts is decided.

Collection, analysis, and use of data can support defenders' efforts in client advocacy, program advocacy, and policy advocacy.[4] Data adds certainty to the efforts of indigent defense agencies in representation of clients, management of attorneys and staff, evaluation of the office's work, and measuring progress toward organizational goals.[5]

In the words of Mark Erwin and Dr. Meg Ledyard, two indigent defense data scientists from Travis County (Austin), Texas: "Analytics are used to find meaning in data. . . . Analytics can help defender programs manage their work more easily, effectively, and transparently."[6] In contrast with for-profit sectors, where profit margin can often tell how well an organization is run, evaluating indigent defense agencies is a more nuanced and difficult task. For example, the seemingly most obvious result-oriented measures for defenders—dispositions—are subject to multiple factors outside the defenders' control. Therefore it is all the more important for defender offices to engage in data analytics so that they can understand how well they are performing

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[4] *See* MAREA BEEMAN, NAT'L LEGAL AID & DEFENDER ASS'N, BASIC DATA EVERY DEFENDER PROGRAM NEEDS TO TRACK: A TOOLKIT FOR DEFENDER LEADERS 5 (2014), *available at* http://www.nlada.org/tools-technical-assistance/defender-resources/research/basic-data-toolkit *or* http://www.nlada.org/search/node/%22Basic%20Data%20Every%20Defender%20Program%20Needs%20to%20Track%22 (further discussing why tracking data benefits defender offices).

[5] *See id.*

[6] MARK ERWIN & MEG LEDYARD, NAT'L LEGAL AID & DEFENDER ASS'N, INCREASING ANALYTICS CAPACITY: A TOOLKIT FOR PUBLIC DEFENDER ORGANIZATIONS 4 (2016), *available at* http://www.nlada.org/tools-and-technical-assistance/defender-resources/research *or* http://www.nlada.org/search/node/%22Increasing%20Analytics%20Capacity%22.

their work and tell uninitiated decision-makers about the results that lie beneath the surface.[7]

Increasing Data Capacity Without Breaking the Bank

For defenders, a chief benefit of a DDX research partnership is that it can expand defenders' data collection and analysis capacity with minimal allocation of in-house human resources and little to no financial cost. Instead of paying for analytics work in dollars, defenders can pay in-kind with access to real-world criminal case and court data. The benefits are by no means one-sided. For faculty and student researchers interested in criminal justice, access to this kind of data can be highly valuable. Both defenders and researchers can get what they want out of the partnership, and the defender office doesn't need to dedicate precious financial resources to paying a researcher.

Contributing to Mission-Compatible Research

Especially in offices and agencies that have not engaged in a research partnership before, defenders may be hesitant to launch into a collaboration with an outside researcher. Defenders might think that no one in the research or academic fields would be interested in their work and that seeking out a partner would be a waste of time. Alternatively, as zealous advocates for their clients' interests, defenders might worry that the partnership will compromise their clients' data and otherwise adversely affect the defender agency's core mission or the interests of the client or the agency.

Fortunately, these fears are largely unfounded or avoidable. David Colarusso, Director of the Legal Innovation and Technology Lab at Suffolk University School of Law,[8] found that many defenders may be unaware that their work is something that external actors would like to get involved with, and the data that defender offices produce (or can produce) may be valuable to researchers without counteracting the mission of the defender office.

To ease concerns about data handling, the use of the research, etc., defenders should communicate with the research partner before the project begins to agree on the scope of the project, define confidentiality and ethical parameters, identify procedures for data access and use, and decide other protocols for the partnership.[9]

Making Better Arguments to Funders for Resource Requests

In addition to helping a defender office operate more efficiently and provide better services to its clients, a defender research partnership can provide a concrete example of what a defender office can do with increased funding and capacity. The data and empirically supported findings that a research partnership may bring to light

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[7] *See id.*

[8] For more information on the L.I.T. Lab and potential opportunities for research partnerships, ***see Legal Innovation & Technology Lab***, SUFFOLK LAW SCHOOL, https://suffolklitlab.github.io.

[9] ***See infra*** Chapter 3: What to Work Out Beforehand.

can help defenders make the case to funders—e.g., county officials, state legislatures, government agencies, and philanthropic organizations—that with appropriate resources, public defenders can deliver a discrete and measurable set of improvements to the criminal justice system and public safety.

For example, a defender research partnership might study counsel at first appearance, where decision is made about whether a defendant will be released (either on cash bond or on personal recognizance) or detained pre-trial. Investment in counsel at first appearance is not uniform across the country, largely in an effort to cap expenditures on indigent defense services. But emerging research shows that defender staffing at clients' initial appearance results in increased release rates through counsel's advocacy efforts, more than offsetting costs of detaining clients pre-trial.[10]

Defenders may be concerned that launching an academic research partnership will provide funders with an excuse ***not*** to appropriate funding for basic defender research capacity. Although a DDX partnership on discrete projects can supplement a public defender's capacity for data collection and analysis, it will never supplant a defender's need for ongoing analytics capacity. If done strategically, sharing research results from a small DDX partnership can demonstrate to funders the added value of investing in increased data and research capacity. Project results can fortify a defender office's advocacy for obtaining dedicated, line-item funding for in-house research capacity that supports the office's representation of clients and internal evaluation processes going forward.

Future Collaborations

An initial defender research partnership can lead to additional collaborations later on, as the office's professional network and profile grow. As described in Chapter 4, the Montgomery County Public Defender in Pennsylvania has engaged in partnerships with several universities in the greater Philadelphia area to assist with data collection and analysis and other functions as well. Through its day-to-day work as well as its various partnerships with local universities, the public defender office has raised its community visibility and reputation. The Chief Defender reports that outside groups now contact the office to send people to assist with various projects.

[10] See, for instance, forthcoming work in this area by Alissa Pollitz Worden, University at Albany; Andrew L.B. Davies, New York Office of Indigent Legal Services; Reveka V. Shteynberg, University at Albany; and Kirstin Morgan, Appalachian State University.

Chapter 2: How to Find an Academic Research Partner

The task of finding a partner to help a defender office conduct research may appear daunting. *Aren't researchers expensive? Do I even know any researchers? Where would I find a data scientist who cares about my work?* Past experience shows that finding a research partner doesn't have to be difficult. This chapter discusses how to identify and contact an academic research partner and what researchers and defenders each need going into the partnership.[11]

Where to Look: Institutions of Higher Learning

Academic research partners are most likely to be found at nearby colleges, universities, and law schools. Defenders in urban areas often have several nearby institutions of higher learning to choose from, and even better, they're not limited to selecting only one research partner. Defenders in more rural areas may have to look farther afield. Certainly it is possible for a defender office to partner with a university that is not in its immediate vicinity—e.g., several states away or on the other side of the country—but the distance can present complications that may hinder the partnership. An advantage of partnerships where defender programs and students are in close proximity is the opportunity for the defender program to take students to observe court proceedings so they can learn, often for the first time, about the actual context of public defender practice. And in-person contact, even if for just one meeting, goes a long way in solidifying working relationships.

Faculty working in a variety of disciplines, including criminal justice, sociology, mathematics and statistics, economics, and law, may be interested in collaborating with defenders. Law schools can be an excellent option for particular types of research that would benefit from the inclusion of a legal perspective, e.g., research involving courtroom observations to document proceedings, or interviews of defender clients.

Partnerships with academic researchers can take on a variety of structures. For example, a defender can partner with:

- a faculty member to help with selection and oversight of one or more student researchers;
- a single student researcher;
- a single student or a team of students working on a capstone project, with the defender office as the "client" of the capstone; or

[11] For a graduate research student's perspective on finding and working with a defender office on a research project, ***see*** Kirstin A. Morgan & Reveka V. Shteynberg, ***Webinar: A Graduate Student's Guide to Getting Involved in Indigent Defense Research***, NAT'L LEGAL AID & DEFENDER ASS'N (2016), http://www.nlada.org/webinars/research-students-indigent-defense, ***also available at*** https://www.youtube.com/watch?v=JROjHC8yxUQ.

- a faculty member to create a data analysis class, like in the DDX pilot program.[12]

When working with students, graduate programs are preferable to undergraduates. The project is more likely to be successful if the students have some background in statistical analysis and/or an expressed interest in the general subject area of the project. Public policy graduate programs are an excellent place to look for students with both traits, particularly programs where students need to partner with an outside organization or agency for a capstone or thesis project.

Alternatively, working with individual graduate students, if available, can be an especially rewarding type of partnership. Graduate students are frequently in search of work projects to add to their résumés, and some may be willing to work on a volunteer basis, without financial compensation, simply to have another project to list in their work experience. Students working in this kind of volunteer arrangement can be an invaluable resource for defenders.

If a defender office has financial resources that can be allocated to the research partnership, it may be worthwhile to consider hiring graduate research assistants as research partners. These students can often be hired at a moderate cost, about $15 to $20 per hour, and their status as students can bring an added benefit of access to faculty oversight and review of their work.

Ways to Connect with Academic Partners

Research partnerships can be developed in many ways. Suitable research partners can be found by searching through an already-established network of contacts, by cold-calling researchers that the defender has identified as potential partners, or more organically through general network-building efforts where the defender meets a partner by happenstance.

Defenders may already know several suitable research partners. Defenders looking for partnerships should sift through their existing network of contacts, whether searching through an email contact list, a stack of business cards, or a rolodex. Researchers and academics with an interest in criminal justice data might be among old classmates, university instructors, colleagues they've worked with in the past, or contacts made at a public defense conference.

It is not necessary for there to be a previous or existing relationship for a new research partnership to begin and succeed. Cold-calling potential research partners can yield great results. Dean Beer, the Chief Defender of the Montgomery County Public Defender in Norristown, Pennsylvania, was able to initiate a research partnership by simply searching online for professors that specialized in the areas where he needed assistance and contacting them without the benefit of any prior relationship. Similarly, the former Interim Director of the Atlanta Public Defender's

[12] *See* Introduction, *supra*, for a brief description of the original DDX pilot and how its course-based approach to data analysis was structured.

Office, Rosalie Joy, found that an effective way to seek data capacity is to call local universities and ask for intern help. Both Beer and Joy report that there is no need for anxiety about cold-calling a professor with a research request, as research topics related to indigent defense present an appealing collaboration opportunity for many different types of researchers.

To be effective leaders, chief defenders need to get out of their offices and engage with their communities. Surprising things can result! For Joy, in Atlanta, an opportunity to access additional research capacity was one of those outcomes. Joy describes the development of her office's research partnerships as organic, not strategic. She started attending county planning meetings as a way to better understand her community. She identified a potential research partner in a professor who regularly attended and participated in the planning meetings, and whose comments at the meetings indicated the professor's interest in criminal justice issues. Joy eventually reached out to the professor and initiated a research partnership for the public defender's office.

Engaging with community stakeholders opened new opportunities for the Atlanta Public Defender's Office, which meant the office was building capacity and building relationships with stakeholders. Joy found that a valuable benefit of her community outreach approach is having the public defender's office recognized by stakeholders and the community in the conversation about public safety and criminal justice.

Other ways to connect with possible faculty partners include:

- Attending local law school or other university conferences and symposia relating to criminal justice. Such meetings typically feature researchers sharing their work and offer excellent networking opportunities.
- Participating in national defender organizations. Conferences of the American Bar Association (e.g., the Indigent Defense Summit), the National Association of Criminal Defense Lawyers, the National Association for Public Defense, and NLADA can expose defenders to researchers who might want to collaborate in a defender research partnership. Also, reports and toolkits produced by these national organizations can uncover authors who may be suitable research partners.
- Attending local and state criminal defense bar association meetings that may feature relevant research topics and speakers.
- Signing up for the Indigent Defense Research Association (IDRA) listserv. IDRA is a collective of researchers and practitioners who share information and experiences to support improved collection, analysis and use of indigent defense data. The group issues white papers, meets in regular conference calls, and organizes panels of researchers who discuss indigent defense projects featured at the annual meeting of the American Society of Criminology.[13]

[13] To learn more about IDRA, ***see generally*** Andrew L.B. Davies & Janet Moore, ***Critical Issues and New Empirical Research in Public Defense: An Introduction***, 14 OHIO ST. J. CRIM. L. 337 (2017), ***available at*** https://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1317&context=fac_pubs.

Chapter 3: What to Work Out Beforehand

Once a research partner is identified, both the defender office and the researcher should discuss expectations for the project and certain essential details, including whether the researcher will receive any financial compensation for his or her work, what questions the research will address, how the researchers will access the data, how client confidentiality will be protected, and what the final work product will be.[14]

Needs of Researchers and Defenders

A crucial part of setting and communicating expectations for the project is understanding the needs of both research partners and defender offices. Although every defender office and every potential research partner has their own unique circumstances, there are some general principles that apply broadly to prospective defender research partnerships. Generally speaking, the research partner will need:

- the ability to publish findings,
- at least a rough timeframe for when they will receive the data to be analyzed, and
- grant or other financial support (not necessarily from a defender office).[15]

If the project is structured with a course designed around having students analyze the data, like in the DDX pilot program, the academic partner will have additional requirements that need to be taken into account. Although learning to clean data is part of the DDX student experience, the class needs a relatively complete (i.e., fully cleaned) data set to move forward at the pace demanded by the class schedule.[16]

To get started on a DDX research project, ideally a defender organization should have the following in place:

- a willingness and capacity to participate in the project (including human resources to monitor the academic partner's work);
- electronic case data;
- at least a rough timeframe for when the project should yield answers to the research question(s); and

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[14] *See generally* NAT'L LEGAL AID & DEFENDER ASS'N & N.C. OFFICE OF INDIGENT DEF. SERVS., TOOLKIT: BUILDING IN-HOUSE RESEARCH CAPACITY 6-8 (2013), ***available at*** http://www.nlada.org/tools-technical-assistance/defender-resources/research/building-house-capacity-toolkit ***or*** http://www.nlada.org/search/node/%22Building%20In-House%20Capacity%22 (discussing the details that defenders and researchers should agree upon before the project begins).

[15] The needs of the researcher may vary depending on the circumstances. In the original DDX pilot project with John Jay College (described in the Introduction, ***supra***), the defenders' data became the subject of a new, experimental class on research and statistical methods. To offer a new course, the professor had to seek and secure permission from the dean.

[16] For the Ventura County pilot project, NLADA was fortunate to have a law student intern who majored in economics in college and had strong skills using SPSS (Statistical Package for the Social Sciences). She was able to clean most of the data before turning it over to John Jay.

- trust in and ability to communicate with the research partner.

Partnering can be optimized if the defender agency also has:

- staff capacity to manipulate the data and respond to researcher questions;
- clear case definitions; and
- electronic access to data from other criminal justice entities (e.g., courts or jails).

Before launching a partnership, both defenders and researchers should inquire about their respective capabilities to meet the requirements that the research question will demand.

Research Question

Before the researcher proceeds with sorting and analyzing the defender data, both sides should agree upon a research question or research questions that the project will answer. This crucial step will focus the work and guide the project, helping to ensure that the research does not meander aimlessly. Deciding upon a research question may also allay some concerns about disclosure of data, as the research question will help define what data is necessary for analysis and what data do not need to be shared with the researcher.

Dovetailing with selection of the research subject and question is the determination of the scope of research. Defining and agreeing upon the scope of the research project before launching into the work is essential to a smoothly functioning partnership. As David Colarusso of the Legal Innovation and Technology Lab at Suffolk Law noted, this step allows both the defender and researcher to grasp the realm of possibility for the project and make sure they have the capacity and resources to carry out the work.

Setting out these details beforehand can help both defenders and researchers in shaping expectations for the project. Having a more coherent sense of what can and will emerge from the project improves the likelihood of defender and researcher satisfaction with the partnership and foster more collaboration in the future.

Publishing

An important question to answer at the outset of the partnership that may not initially occur to defenders is whether the researcher(s) can publish the findings of the project. Tensions can arise from this question due to the differing needs of researchers and defenders, as well as their different views of research. Working out these details before the project starts is the best way to diffuse these possible tensions.

Researchers' expectations about publishing and motivation to publish their findings vary slightly depending on their affiliation. In a defender research partnership under

the DDX class approach, defenders should expect that the faculty partner, student researchers, or both, will insist on being allowed to publish the findings of research drawn from defender data. For professional advancement, most academic faculty members are under constant pressure to publish articles and books (to "publish or perish"). Typically they will not be able to invest substantial time on projects from which no publications will result.

Comparatively, the motivation for defenders with respect to publishing research may be to "do no harm." Whereas academics seek truth and publish findings no matter what they are, defenders broadly speaking do not want "bad" results published that would reflect negatively on the office's attorneys, staff, or clients, or on its indigent defense mission. Defenders also have to ensure compliance with ethical restrictions against publishing certain case or client data.

To mitigate these tensions, defenders and researchers should formulate and agree on rules about publishing before the project begins. Defenders should seek clarity from the research partner on what details will be included in a published paper or report, with a particular eye toward identifying data about clients and cases, information about the defender office and its staff, and remarks from defenders and their staff. Defenders should insist on de-identifying client data. Defenders and researchers should also make clear whether the defender office itself will be anonymized in the report. The exact terms of engagement will vary from project to project. In this respect, note that capstone projects of graduate schools are different from pure research projects, which will tend toward the researcher wanting to publish more details.

Compensation

Both sides should agree and make clear at the outset whether there is to be any financial compensation for the services rendered—either from defender to researcher or vice versa—and if so, either what the amount will be or how the amount will be calculated. If the researcher or academic institution is to receive compensation for their work, the defender office should know what the specific source of those funds will be (e.g., the agency's overhead budget, consultant budget, grant funding).[17]

Data Access

In light of defenders' legal and ethical duty to keep clients' personal data confidential, a potentially tricky problem can arise from the question of where to store the project data. One way to avoid some of those problems is for the researcher to go to the defender office and work there (if the office has sufficient space), or work in a remote environment that the defender office controls. This way, the defender office does not have to hand over control of its data to the researcher. Alternatively, if handing over the data to researchers, the defender office should scrub the data of any identifying

[17] For more information about funding a researcher, *see* NAT'L LEGAL AID & DEFENDER ASS'N & N.C. OFFICE OF INDIGENT DEF. SERVS., *supra* note 14, at 8.

information to make sure that all data stored on the researchers' computers or servers is anonymized. Keeping non-anonymized data on the defender side can avoid confidentiality problems, if the defender office has the capacity to store it.

Academic institutions have rigorous review requirements for any research project involving "human subjects," i.e., real people. Faculty partners will be able to provide advice to defenders on navigating a college or university's institutional review board (IRB) process, which scrutinizes research project methodologies to ensure no harm will come to study participants. At a minimum, students working on projects that involve case data from actual clients or even interviews with clients will need to undergo training in human subjects protections before the project begins.[18] While data and human subject protection procedures may sound daunting, they are quite manageable with guidance from faculty partners.

Project Timeframe

Because timing plays a significant role in forming expectations, both defender and academic partners should discuss the project timeline before launching the project. In order to plan effectively, defenders need to know when they are going to get answers to their research questions. Similarly, university partners need to know they will have the data they need in time to keep on schedule with the academic semester/quarter.

Depending on the scope and design of a project, defender research partnerships with academic institutions can take time to conceive and complete. Defenders should be realistic about time and mindful that the rhythms of academic life differ from those of a defender program's budget cycle or day-to-day operations. If a project is tied to a class, such as a capstone project, or the pilot DDX model using defender data as a teaching tool, progress will be tied to the academic calendar. Pre-project planning needs to consider the length of semesters or quarters, particularly if the project will last longer than six or four months, respectively. Even a project that is scheduled to last just one semester or quarter (e.g., a capstone project) can demand a great deal of concerted planning. Occasionally, time can run short, and students might not complete a project before graduating and moving on.

Project Monitoring

The defender office needs to allocate appropriate human resources to oversee the partnership. Defenders cannot simply hand off their data and expect to receive results after a period of time; they have to maintain communication with the research partner.

The defender office should have a designated person or persons—not necessarily the person(s) who initiated contact with the researcher—responsible for communicating with the lead researcher or students to answer questions and provide guidance as

[18] *See, e.g.*, Comm. on the Use of Human Subjects, Harvard Univ., *Required Ethics Training Overview*, HARVARD UNIV., https://cuhs.harvard.edu/required-ethics-training (an example of an IRB's requirements for human subjects studies, including details on training and other requirements of this particular IRB).

needed. As one defender noted, this designated person should be able to respond to research inquiries quickly and be able to set aside enough time for occasional correspondence or conversations with the research partner. Unanswered inquiries can deteriorate the research partnership.

Furthermore, the number of defender-side supervisors for the project should fit the size of the project and number of students and researchers that need to be overseen. Effective monitoring of the project is key to keeping the project on track both in activity and timeframe. If the defender office does not have the capacity to monitor the research project, it should discuss the terms of the partnership with the research partner or even reconsider whether it should take on the partnership.

Meeting and Communicating

As mentioned, although not mandatory, it is helpful if defender and academic DDX partners are geographically close enough to meet in person, at least once over the project span. It is strongly recommended that defenders take student researchers to court to observe criminal court proceedings and gain contextual grounding. If that is not possible, arrange for a class to meet with the defender team via teleconference, so they can ask questions and learn more about the defender's needs and perspectives, which will add richness to working from a live data set. Project drift can occur, so a project timetable setting out milestones and a regular check-in schedule are essential to keep work on track. Check-ins by phone or video call (e.g., Skype) are perfectly acceptable.

Memorandum of Understanding

Defenders and researchers should clarify and formalize their agreements on any and all of the points described above by completing a memorandum of understanding (MOU) that lays out in detail what each side expects from the relationship. At a minimum, defenders and researchers should always develop an MOU addressing data sharing.

Chapter 4: Defender Research Partnerships in Action

To embark upon a defender research partnership is not to voyage into uncharted waters: numerous defender offices have worked with—and are still working with—research partners to expand their data analytics capacity. Some defender offices are also partnering with academic institutions to meet other needs, such as increasing legal research capacity and providing logistical support.

This chapter highlights several defender research partnerships, with examples from the Bronx, New York; Atlanta, Georgia; Montgomery County, Pennsylvania; Coconino County, Arizona; and Texas. The chapter concludes with a brief discussion of other, related opportunities for defenders to engage with universities.

The Bronx Defenders' Client Satisfaction Project

Seeking to know whether its client-centered, holistic practice was meeting client expectations, The Bronx Defenders, located in New York City, tried for fifteen years to develop a suitable method to assess client satisfaction. Lacking in-house expertise on survey design and deployment, their efforts delivered uneven response rates and inconclusive responses. Finally, in 2016, it began a partnership with New York University's Robert F. Wagner Graduate School of Public Service that helped develop an effective methodology to collect quantitative data on client satisfaction.

Like other public policy schools, the Wagner School requires MPA students to undertake a Capstone project. During their final year, students work in teams, under guidance from a faculty member, to identify opportunities with outside organizations, or to independently conduct research on a pressing social question. The model simulates the real world relationship of consultant and client. Amalea Smirniotopoulos, Team Leader and Supervising Attorney for The Bronx Defenders Criminal Defense Practice, knew about the program as she is a joint JD/MPA graduate of NYU. The Bronx Defenders applied to the Wagner School to be a participating organization in the Capstone project and was accepted as a client.

A Capstone team of five students reviewed past efforts of the program to survey clients, and worked to identify a model to capture client experiences that yields reasonable response rates and provides important information to understand clients' experiences and improve the delivery of indigent defense services. The team identified what questions to ask, how to ask them, how many of them to ask, and when to ask them. As a result, The Bronx Defenders now has a template for both content and approach that other offices can easily adopt. Importantly, they also learned how to implement the project on an ongoing basis without expending significant resources.

In the fall of 2017, The Bronx Defenders again partnered with NYU Wagner to develop a survey instrument and methodology to measure client satisfaction of parents they represent in Family Court. Students met with attorneys and advocates and conducted background research in the fall before piloting their survey. They anticipate

presenting The Bronx Defenders with a final product in Spring 2018 that the practice can use year after year.

Atlanta, Georgia

The Atlanta Public Defender Office's research partnerships arose as a solution to two problems: first, the defender office lacked the capacity to perform its own data collection and analysis; and second, the office didn't have the funds available to hire staff to meet those capacity needs.

As described above in Chapter 2, former Interim Director of the Atlanta Public Defender's Office, Rosalie Joy initially discovered her first research partner while attending local planning meetings in an effort to connect better with her community.

Joy informally reached out to professors at four different universities in or near the Atlanta metro area—Georgia Tech, Emory University, Georgia State University, and the University of Georgia—to discuss creating partnerships to analyze data collected by the public defender office. She found that the programs were eager to partner because their students needed experience and material for their résumés.

Joy advises other defenders, "Your schools are a huge . . . untapped resource that you ought to just pick up the phone and call. It was real easy for me, and I don't have any talent in terms of . . . advocating for why they should care. They already do and they're looking for opportunities to work in this kind of environment."

Through partnerships with the four schools, the Atlanta Public Defender's Office has been able to work with student researchers one semester at a time, with a new group of students coming in each semester. And Georgia Tech hires graduate students to oversee projects that last longer than a single semester, which provides a more consistent point of contact for research projects.

One of the most valuable outcomes from this partnership has been that the Atlanta Public Defender's Office gained influential supporters in its academic partners, who serve as a catalyst for changing perspectives among key stakeholders, including judges. Arguments about counsel at first appearance or other advocacy to benefit clients may be more effective if they come from an unexpected, external, and neutral source like an academic institution. For example, the public defender's partner at the University of Georgia asked to speak with the courts about a national study they were undertaking on fines and fees, which piqued the interest of the courts, and the partner was able to present compelling advocacy to benefit the defenders and their clients.

Montgomery County, Pennsylvania

In the western suburbs of Philadelphia, the Montgomery County Public Defender has successfully launched and sustained a data research partnership with statistics professors at Villanova University, despite not having any prior connections to the professors or the university. Chief Defender Dean Beer reports he cold-called a

statistics professor at Villanova and quickly made productive connections, noting that the professors were excited to provide opportunities for their students.

The process that Beer undertook is one that other defenders can replicate. With no connections or previous relationships with Villanova's statistics department, Beer simply went to Villanova's website with the intent to find someone who could do statistical work for his office, searched for statistics professors, found one who seemed like he would be a good fit for the project, and emailed him with a request for help. Beer told the professor his research needs: he was looking for an intern to help his office assemble data and interpret it to look for patterns in the criminal justice system, and that he also wanted help formulating research questions. Ideally, the intern would be someone who was passionate about criminal justice and wanted to help poor people. Additionally, the intern could work from home and didn't need to be at the defenders' office for the project.

The statistics professor has since connected the public defender's office to numerous masters-level students. The professor posts a job listing through the university and notifies the defender office of any applicants. In the last round of applications, Beer had the professor select the top two candidates, and Beer interviewed and offered internships to both of them. The defender office does not allocate any financial resources to the interns and the university does not offer course credit; the students simply volunteer to gain the experience and include it on their résumé.

Through this partnership, Beer has secured student interns to assemble valuable research for several initiatives. Students compiled comparative data on financial resources available to the public defender and the district attorney's office. This research has helped the defender office illuminate resource disparity and advocate for parity of resources in discussions with county officials. Students also compiled data answering the question of how many people in the county were represented by the public defender office. That research expanded to investigate how many clients were represented at different levels of the system. An ongoing project seeks to determine whether there is empirical evidence that a program run by the county, that was anecdotally reported to be racially biased, actually is biased. Another ongoing project seeks to answer the question of how long clients who have low bail amounts stay in jail, unable to post bond.

Beer's partnership with Villanova has proved valuable for both his office and for student interns. Both have learned more about the ways data can be used to advance the objectives of defender research. Beer reports he has also gained a better understanding of how to explain concepts and tasks to interns, which will improve future rounds of collaboration with student researchers.

Coconino County, Arizona

The Coconino County Legal Defender's Office in Flagstaff, Arizona has embarked on a project with faculty at Northern Arizona University (NAU) to conduct a survey on client satisfaction. Gary Pearlmutter, Director of the Legal Defender's Office, met with two professors at the NAU Political Science and Criminal Justice Departments who

have done work with which he is familiar. Together, they are in the process of crafting a tool to measure client satisfaction with the Coconino County Legal Defender's attorneys and staff, which Pearlmutter hopes to use toward improving the services his office provides.

This project draws upon lessons learned from The Bronx Defenders' client satisfaction surveys with the NYU Wagner School, described above. Pearlmutter also found inspiration in the product of another defender-researcher partnership, namely a client satisfaction survey project in Cincinnati, Ohio undertaken by researchers from Washington State University in collaboration with the Hamilton County Public Defender's Office.[19]

Texas

The Texas Indigent Defense Commission (TIDC) provides financial and technical support to counties to develop and maintain quality, cost-effective indigent defense systems that meet the needs of local communities and the requirements of the Constitution and state law.[20] Since its inception in 2001, TIDC has partnered with the Public Policy Research Institute (PPRI) at Texas A&M University to collect, analyze, and present data on indigent defense in Texas.

TIDC's need for data analysis arose immediately after its founding. The Fair Defense Act of 2001, which established the TIDC, also allocated state funding to each of Texas's 254 counties, who in turn were tasked with submitting local plans on how they would provide indigent defense services, and identify expenditures for these services. In an interview for the first meeting of the Defender Research Consortium,[21] Jim Bethke, then Executive Director of TIDC, noted, "With the sheer size of the state of Texas, this was a lot of information coming to the state, and we didn't have a means to capture that intelligently."

In the same interview, PPRI Research Scientist Dottie Carmichael stated that the TIDC could have contracted with a vendor specializing in I.T. for its data collection needs, but instead launched a partnership with Texas A&M:

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[19] ***See*** CHRISTOPHER CAMPBELL, FINAL REPORT: HAMILTON COUNTY PUBLIC DEFENDER'S OFFICE CUSTOMER SATISFACTION PILOT SURVEY PROJECT (2010) (describing the Hamilton County project), ***available at*** https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2014/ls_sclaid_3d_%20janet_moore_indig_def_ref_proj.authcheckdam.pdf.

[20] Originally named the Task Force on Indigent Defense and reorganized as the Texas Indigent Defense Commission in 2011, TIDC is a permanent standing committee of the Texas Judicial Council, governed by a board consisting of eight ex officio members and five members appointed by the Governor.

[21] The first meeting of the Defender Research Consortium (DRC) took place in Baltimore, Maryland on December 3-4, 2015. Supported by a grant from the Open Society Foundations, NLADA held three meetings of the DRC, which brought together chief defenders, line defenders, researchers, technologists, analysts, and others who were interested in building a body of research that helps defenders make evidence-based and data-driven decisions that improve public defense systems nationwide. The other two meetings took place in Detroit, Michigan on July 26-27, 2016, and in Las Vegas, Nevada on September 11-12, 2017. For more information about the DRC and its work, ***see*** NAT'L LEGAL AID & DEFENDER ASS'N, ASSESSING QUALITY: A HISTORY OF INDIGENT DEFENSE "QUALITY INDICATORS" (2018).

> I think there was value added by working with a university because we were doing more than creating a system that technically gathered data. We were able to think about how that data would be used going forward. And now . . . after fifteen years of accumulating data, we're now about to initiate a project that's going to start bundling that information up in a way to present quality indicators that policymakers, counties, advocates can use to see how indigent defense is improving and growing in Texas.

That nascent project became the Texas ACT Smart Defense Data Portal, an internet interface which sets out and tracks quality indicators to evaluate indigent defense systems in the state.[22] Carmichael has been a key partner in coordinating the efforts of PPRI in helping TIDC assemble the new system.

Bethke also noted that one of the first studies that TIDC worked with PPRI on was an impact study of the Fair Defense Act. In addition to showing which jurisdictions did well and which had shortcomings in achieving benchmarks set by the Act, the study also dispelled false notions about public defense. Bethke would hear in various trainings anecdotal complaints that providing early counsel was a waste of county and state dollars because 20 to 30% of those cases would never be filed anyway. The impact study conducted by PPRI, however, showed that figure was just 1 to 2%. As defenders in Texas and elsewhere learn more about the importance of early involvement of counsel, Carmichael and Bethke view the appointment of counsel in cases with no charges filed as a good thing, especially if the determination to drop charges was due to the attorney's efforts.

Speaking to the advantages of a defender-researcher partnership, Carmichael pointed out that TIDC can ask PPRI to do as much or as little work as they need in a given year without having to worry about fulfilling an ongoing fiscal commitment to an in-house researcher. Furthermore, as both are state agencies, TIDC and PPRI can easily contract for desired services without the need for a competitive bid on every project. Partnering with a university also allows TIDC access to a broad range of expertise: if TIDC has a data project that requires heavy statistical analysis, Texas A&M has statisticians; if TIDC needs to conduct a survey (e.g., TIDC's weighted caseload study, which necessitated contacting and recruiting private attorneys), Texas A&M can call upon its survey research lab.

Other Academic Partnerships

Innovative partnerships can provide benefits to defender offices and their clients in a number of ways outside of data collection and analysis. An academic partner can also help expand capacity for legal assistance and/or legal research, supplement general office capacity, and facilitate communication with clients through incorporation of design expertise.

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[22] *See* TEXAS INDIGENT DEFENSE COMM'N, TEXAS SMART DEFENSE DATA PORTAL 22-27 (2017), *available at* http://www.tidc.texas.gov/media/57036/170516_Texas-Smart-Defense-Presentation.pdf (describing the A.C.T. Smart portal and providing screenshots of the forthcoming portal and its online tools).

Legal Assistance/Legal Research

Universities, especially law schools, are an excellent resource for short-term human resources to help defender offices provide legal assistance (depending on state laws about representation by law students and unbarred attorneys[23]) and/or legal research. Students can contribute to a defender office's work outside of legal internship and law school legal clinic arrangements.

For example, Robert Boruchowitz, Director of the Defender Initiative of the Fred T. Korematsu Center for Law and Equality at Seattle University School of Law, partnered with law students from Tulane and Loyola Law Schools in Louisiana and Hofstra Law School in New York to carry out court observations and interviews for an evaluation of Louisiana's public defense system.[24] Boruchowitz paid the students from Tulane and Loyola at a rate of $10.00 per hour plus expenses, and the students from Hofstra worked for academic credit without pay, although their expenses were paid.[25]

General Office Capacity

Defenders in Montgomery County, Pennsylvania have also found success in expanding general office capacity through an ongoing partnership with Drexel University. Drexel's curriculum incorporates a co-op system, whereby students study full-time during their freshman year then alternate taking classes with working at a university-approved employer in six-month cycles. Most students complete one to three six-month periods of work with an outside employer before graduating.[26] The Montgomery County Public Defender's Office typically has about four Drexel students in a three-year period, with no more than one student at a time. These students provide general office capacity.

Law and Design

The Stanford Legal Design Lab is an interdisciplinary effort of Stanford Law School and the Hasso Plattner Institute of Design at Stanford University (the "d.school") that brings together the fields of design, technology and law to make the law, and legal services, less intimidating and more accessible. Students from different disciplines, including law, medicine, engineering, social sciences, and others, join design students

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[23] For example, law students and unbarred law graduates in Illinois may represent clients. ILL. SUP. CT. R. 711, ***available at*** http://www.illinoiscourts.gov/SupremeCourt/Rules/Art_VII/artVII.htm#711; ***see also Representation by Law Students/Graduates (711) Forms***, ILL. COURTS, http://www.illinoiscourts.gov/Administrative/forms/711.

[24] Affidavit of Robert C. Boruchowitz at ¶ 6, Allen v. Edwards (La. Jud. Dist. 19th May 4, 2017) (No. 655079). ***See also Boruchowitz report: Louisiana's public defender system violates rights of the poor***, SEATTLE UNIV. SCHOOL OF LAW (May 5, 2017), https://law.seattleu.edu/newsroom/2017-news/boruchowitz-report-louisianas-public-defender-system-violates-rights-of-the-poor (detailing the context of Boruchowitz's evaluation project).

[25] Boruchowitz aff., ***supra*** note 24, at ¶ 6.

[26] ***See How University Co-Ops Work***, DREXEL UNIV., http://drexel.edu/difference/co-op/how-co-op-works (providing further details on Drexel's co-op system).

and outside experts in the Legal Design Lab's projects. According to Director Margaret Hagan, the Lab harnesses the design process and seeks to "make things to solve peoples' problems."

A central focus of the Legal Design Lab's work is to transform the way information is presented so that it is engaging and easy to follow, particularly for a lay audience.[27] Legal Design Lab materials employ a variety of graphic formats and elements, including flowcharts, comic strips, and digital platforms, to describe complex legal processes and help make an intimidating process or set of laws more approachable. The intent of the lively materials created is to increase the confidence and knowledge of laypersons when they have to go to court. Metrics of success ask whether the solutions developed are useable, useful, and engaging to users.

The Legal Design Lab is engaged in several projects that draw on civil legal aid and defender offices as partners. For example, in Alameda County, California, NLADA helped connect the Lab with the East Bay Community Law Center to jointly design materials that help motorists understand procedures and protect their interests when haled into the often byzantine world of California traffic court. In Alabama, the Lab is working with public defense attorneys to make processes in the criminal justice system more understandable to indigent defendants. And in Lansing, Michigan, the Lab is helping residents understand their rights and the legal processes involved in eviction.

Hagan's pioneering lab inspired the BYU Law School to create a similar program. In fall 2017 it launched LawX, a legal design lab which hopes to apply multi-disciplinarian design process to create products and other solutions that address Utah's gap in access to legal services. The inaugural course focused on helping unrepresented litigants respond to a lawsuit and answer a complaint.[28]

The Innovation Lab at Northeastern University School of Law (the "NuLawLab") has also undertaken an interdisciplinary law and design approach to make law more accessible to the general population.[29] The NuLawLab has taken on assorted projects, including a partnership with the Massachusetts Trial Court to fundamentally redesign the commonwealth's Housing Court.[30] It has also undertaken a number of projects involving legal services offices and courts using gamification and design approaches.

Defenders and civil legal aid attorneys interested in this collaborative approach to better equipping the clients and families they serve to navigate the justice system

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[27] *See* Margaret Hagan, *About*, LEGAL DESIGN LAB, http://www.legaltechdesign.com/about (describing the mission and work of the Legal Design Lab).
[28] *See* Robert Ambrogi, *Law School's New A2J Design Lab Will Put Students In Shoes Of Entrepreneurs*, ABOVE THE LAW (June 19, 2017, 5:58 PM), https://abovethelaw.com/2017/06/law-schools-new-a2j-design-lab-will-put-students-in-shoes-of-entrepreneurs.
[29] *See About the Lab*, NULAWLAB, http://www.nulawlab.org/about.
[30] *See NuLawLab Housing Project: Redesigning Housing Court*, NULAWLAB, http://www.nulawlab.org/view/redesigning-housing-court. For the Lab's other projects, *see All Projects*, NULAWLAB, http://www.nulawlab.org/all-projects.

might consider reaching out to the Stanford, Utah, or Northeastern legal design labs, or other university design programs or organizations that focus on design.[31]

Conclusion

A lack of resources and funding is a constant state of affairs for many public defender offices. However, since data and research are an increasingly necessary element to achieving sustainability and growth in defender programs, partnerships with academic institutions offer a unique and effective opportunity. Every defender office needs basic research capacity and every academic institution is looking for experiential opportunities for their students. Defender offices can create or improve analytics capacity through partnerships with academic institutions and at the same time, provide valuable experience for students in need of projects that expand their knowledge and skills. As illustrated in the examples contained in this report, data analytics and research can grow defender capacity to achieve quality representation, illustrate defender impact on communities, and drive improvements in the criminal justice system.

For more information on examples in this paper, or for assistance getting started on building research partnerships, please contact NLADA's Defender Legal Services team.

[31] *See, e.g.*, *About Us*, GRAPHIC ADVOCACY PROJECT, http://www.graphicadvocacy.org (describing the Graphic Advocacy Project, an organization which is not affiliated with a particular university and helps solve legal problems of clients, attorneys, and systems stakeholders with a design-oriented approach similar to the Legal Design Lab's).

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