



# MISSISSIPPI INDIGENT DEFENSE DATA PROJECT:

Recommendations for the Mississippi Public  
Defender Task Force

December 2015

Prepared by the National Legal Aid & Defender Association on behalf of  
the Mississippi Office of State Public Defender

Marea L. Beeman  
*Director of the Justice Standards  
Evaluation and Research Initiative*

Tiffany Culley  
*Senior Research Associate*

# Contents

Chapter 1: Background and Recommendations .....	2
Report Objective .....	2
Why Mississippi Needs a Data Collection System .....	2
Report Methodology.....	4
Recommendations to the Public Defender Task Force.....	4
Chapter 2: Findings and Action Steps .....	6
Chapter 3: Public Defender Survey Report .....	9
About the Survey .....	9
Survey Report Findings .....	9
Summary.....	14
Chapter 4: Proposed Data Collection Project Methodology .....	15
Conclusion .....	19

# Chapter 1: Background and Recommendations

## Report Objective

In July 2015, the chairman of the Mississippi Public Defender Task Force, Mississippi Supreme Court Justice James Kitchens, asked the National Legal Aid & Defender Association<sup>1</sup> to provide technical assistance to the Task Force. Specifically, Justice Kitchens asked NLADA to identify a methodology for acquiring accurate and reliable data from the circuit courts to determine the needs of the state's indigent defense system. This methodology would help the Task Force fulfill its legislatively mandated duty to make "a comprehensive study of the needs by circuit court districts for state-supported indigent defense counsel to examine existing public defender programs, including indigent defense provided in the youth courts."<sup>2</sup>

NLADA undertook this project through grant funding we receive from the Open Society Foundations to expand the capacity of the indigent defense community to embrace and utilize data, research and analysis. To develop our report, NLADA conducted site work, fielded a survey to indigent defense attorneys, and reviewed background reports and materials. The report provides recommendations, findings and action steps to assist the Task Force and sets out a methodology for a pilot data collection project. We hope that the report helps inform recommendations for an institutionalized indigent defense data collection mechanism in Mississippi.

## Why Mississippi Needs a Data Collection System

In today's data-enabled culture, it is imperative for government to carry out its functions using accurate data and information. Data automation tools make it irresponsible to claim a lack of resources exist to produce basic decision-making data. In the criminal justice system nationally, the indigent defense function has been slower than some other criminal justice system sectors to embrace the importance of using data to drive decision-making and inform resource allocation. However, it is rapidly catching up.

In Mississippi, implementation of the right to counsel is primarily a local responsibility.<sup>3</sup> For non-capital, trial level cases, Mississippi's 82 counties and multiple localities have the responsibility to select the type of delivery system used, determine the amount of funding required, and appropriate necessary funds.<sup>4</sup> Counties have implemented an array of service models to provide indigent defense representation,

---

<sup>1</sup> Founded in 1911 and located in Washington, DC, NLADA is America's oldest and largest nonprofit association dedicated to excellence in the delivery of legal services to those who cannot afford counsel.

<sup>2</sup> Mississippi Code Section 25-32-71

<sup>3</sup> The Sixth Amendment of the U.S. Constitution guarantees the right to assistance of counsel for defendants in criminal matters. In 1963, the Supreme Court decision *Gideon v. Wainwright* clarified that this right extends to people who are unable to afford an attorney in state felony cases. Subsequent opinions extended the right to counsel to misdemeanors which carry a possible punishment of incarceration and to juvenile delinquency matters. States have taken differing approaches to carrying out this constitutionally and statutorily mandated government function.

<sup>4</sup> Statutory specification for the provision of indigent defense services is found in Miss. Code Ann. § 25-32-1 et. seq. § 99-15-15 and § 99-15-17

including assigned counsel, contract public defenders, full-time salaried public defender offices and part-time salaried public defenders.

With this highly de-centralized structure, it is difficult to get a statewide picture of indigent defense activities and resources. Counties and providers of indigent defense services are under no obligation to collect and report this information. The data that are collected are not tracked in a uniform fashion. As a result, it is exceedingly difficult to piece together an accurate statewide picture of indigent defense caseload, spending and activities.

Legislative attempts to create centralized, statewide oversight for administration of indigent defense services in Mississippi have been attempted but so far have yet to be fully enacted. Steps toward greater centralization of services include creation in 2000 of two statewide offices to handle capital cases, the Office of Capital Defense Counsel and the Office of Capital Post-Conviction Counsel and, in 2005, a statewide appellate defender program, the Office of Indigent Appeals.

In 2011, the state legislature created the Mississippi Office of the State Public Defender (OSPD), which brought the Office of Indigent Appeals and the Office of Capital Defense Counsel under one entity. The OSPD continues to provide the direct client representation for which the two merged offices were previously responsible. In addition, the OSPD was given responsibility to “coordinate the collection and dissemination of statistical data” and to “develop plans and proposals for further development of a statewide public defender system in coordination with the Mississippi Public Defender Task Force.”

The Task Force comprises 13 designated members.<sup>5</sup> It is expected to “[m]ake a comprehensive study of the needs by circuit court districts for state-supported indigent defense counsel to examine existing public defender programs” in both criminal and youth court cases and report to the state legislature each year. Consideration is to be given to efforts in other states.

It is currently difficult for the OSPD and Task Force to carry out their data collection and planning responsibilities. Documentation that Mississippi lacks an adequate data collection system for indigent defense services dates back more than 20 years, first in a report issued in 1995 by The Spangenberg Group on behalf of the Indigent Defense Sub-Committee of the Mississippi Bar Association’s Criminal Justice Task Force, and again in an update to that report issued two years later. The 1997 report stated:

Mississippi is sorely in need of a system to accurately track indigent defendant cases. Public defenders in Mississippi are under no obligation to keep accurate caseload figures and not surprisingly, most do not. Similarly, the courts’ case-tracking system does not differentiate between those cases handled by retained counsel and those handled by appointed counsel.<sup>6</sup>

---

<sup>5</sup> Authorization for the Task Force appears in Miss. Code Ann. § 25-32-71. Members include: (a) The President of the Mississippi Public Defender Association, or his designee; (b) The President of the Mississippi Prosecutors Association, or his designee; (c) A representative of the Administrative Office of Courts; (d) A representative of the Mississippi Supreme Court; (e) A representative of the Conference of Circuit Judges; (f) A representative of the Mississippi Attorney General's Office; (g) A representative of the Mississippi Association of Supervisors; (h) A representative of The Mississippi Bar; (i) A representative of the Magnolia Bar Association; (j) The Chairman of the Senate Judiciary Committee, Division B, or his designee; (k) The Chairman of the Senate Appropriations Committee, or his designee; (l) The Chairman of the House Judiciary En Banc Committee, or his designee; and (m) The Chairman of the House Appropriations Committee, or his designee.

<sup>6</sup> The Spangenberg Group, *Update: The State of Indigent Defense Services in Mississippi* (January 1997), p. 9.

The consequences of not having access to data on the indigent defense function are straightforward. Without data, it is impossible to accurately predict and justify resources needed to provide constitutionally mandated representation services. However, it is counterproductive to assign blame for the scarcity of indigent defense data in Mississippi. The indigent defense function is part of the overall criminal justice system. Complete information about indigent defense activities cannot be collected from one single entity in each county, but rather requires input from multiple actors in the justice system. With some clear direction of what data is required and a shared understanding of how to collect it, Mississippi's indigent defense function in particular and its criminal justice system overall stand to benefit from richer information about resource needs.

## Report Methodology

From August 24 to 27, 2015, NLADA conducted on-site assessments in Mississippi, which included court observation and interviews of key stakeholders involved with maintaining indigent defense data in three counties. The information gathered from the site visits was then supplemented by data from a survey sent to members of the Mississippi Public Defender Association. Its members include lawyers who represent indigent criminal defendants and do not prosecute any cases, and non-lawyers who either work in a public defender office or support indigent defense work in some non-lawyer capacity (for example, as social workers, investigators, office managers, or mitigation specialists).

In the site visits we met with indigent defense providers, court clerks, a court administrator, one judge and one district attorney. We observed criminal court proceedings in Jackson Municipal Court, Hinds County Circuit Court and Warren County Justice Court. We also met with several staff members at the Administrative Office of the Court, the chair of the Public Defender Task Force (Mississippi Supreme Court Justice James Kitchens), and leadership staff at the OSPD. In all we met with 17 people. We are grateful to the OSPD staff for arranging our site visit meetings and for the warm reception we received from those we met.

The survey, which collected responses from 58 attorneys from September 3 through 28, 2015, asked about the types of service delivery models used in each county, how defenders track case information, how they define a "case" for reporting purposes, and the percentage of their practice that are indigent defense cases. Respondents were also asked at what stage they are appointed felony cases and how many felony cases they were appointed in 2014. Results of the survey were shared with public defenders in October 2015 at the OSPD's annual meeting held in Tunica.

The balance of this report consists of 1) recommendations to the Public Defender Task Force, 2) findings with actions steps to address them and 3) a recommended Data Collection Project Methodology.

## Recommendations to the Public Defender Task Force

One central finding animates our observations and recommendations for this report: there is no shared understanding of what data are needed to assess indigent defense in Mississippi and there is no reliable mechanism to track and report information about indigent defense activity among Mississippi counties. No mandate at the county or state level requires indigent defense providers to track and report on

budget, caseload or other activities, and no mandate exists for counties to collect and report this information to a state entity. The result is an absence of up-to-date, accurate information on indigent defense delivery system type, funding, caseload, providers or activities. Without that information, there is no way for the OSPD or any other entity to accurately assess indigent defense quality or resource needs on a county, circuit or statewide basis. The recommendations below address both short- and long-term measures necessary to develop adequate data collection and analysis of indigent defense activities in Mississippi.

Recommendation 1: To facilitate uniform, statewide collection of indigent defense data in the short term, the Administrative Office of the Courts should add a check box on its Notice of Criminal Disposition Form to indicate in every criminal and juvenile delinquency case whether indigent defense counsel was appointed. This simple, no-cost mechanism will provide an immediate start to collecting critical data on indigent defense practice statewide. Over the long term, this information can be collected via the statewide Mississippi Electronic Courts (MEC) system.

Recommendation 2: The Mississippi legislature should enact legislation authorizing the Office of the State Public Defender to collect indigent defense data from counties. The legislation should direct counties to supply this information on an annual basis to the OSPD. The OSPD should be responsible for identifying which data points are required and then implementing a statewide mechanism to collect accurate data using standardized case definitions.

Recommendation 3: The OSPD should hire a staff member who is experienced in both qualitative and quantitative analysis to oversee the data collection effort. In the short term, this research analyst staff member can spearhead a pilot project to collect and analyze indigent defense data from a sample of counties. In the long term, this person would oversee a refined process to collect indigent defense data from every county (and, ideally, eventually from every municipal and justice court) on an annual basis for a complete picture of indigent defense resources.

Recommendation 4: The state legislature will need to provide adequate information technology (IT) resources to the OSPD to support design and automation of indigent defense data collection and analysis. Continuous investment from the state legislature into IT capacity will be necessary to operationalize data assessment, similar to what is done for prosecutors. District attorneys are provided with a case-tracking system and receive training and support for its use through the Attorney General's Office. There is no analogous resource for attorneys who take indigent defendant appointments. No training, software or hardware is supplied to courts or defenders to enter and track data uniformly.

Recommendation 5: There is a need for an OSPD-led education campaign that reaches all parties responsible for collecting or tracking indigent defense data, including providers, court clerks, court administrators, and county representatives. The campaign will include information on why it is important to collect data and should be followed by training on how data should be collected and reported. The net result will be a burgeoning culture of data collection and use that over time greatly improves resource allocation and understanding by multiple justice system stakeholders.

Recommendation 6: To identify and demonstrate the sort of data that should be collected and the process required to do so, the OSPD should undertake a data collection pilot project using the methodology spelled out in Chapter 4 of this report.

## Chapter 2: Findings and Action Steps

Findings in this section are based on site visits conducted in three Mississippi counties (Hinds, Rankin and Warren) and on results from our public defender survey. Site visits were conducted in order to understand firsthand how indigent defense data is currently tracked and managed. Hinds, Rankin and Warren counties were selected in part because they each use a different type of indigent defense delivery system for their felony cases and we sought to understand whether reporting varies across different delivery systems. Hinds County has one of the state's four full-time public defender offices; conflict of interest cases are handled by private counsel appointed by the court on a case-by-case basis. Rankin County relies on six attorneys working from separate offices as part-time public defenders. When a conflict of interest is identified by one attorney, the case is re-assigned to another of the six attorneys. And in Warren County, all representation is provided by private attorneys appointed by the court on a case-by-case basis.

### Finding 1: Recent developments have opened a window of opportunity towards standardized data tracking.

As we learned from our site visits and review of historical materials, little movement has been made in Mississippi over the last 20 years to establish a consistent and reliable indigent defense data collection system. However, positive developments indicate that the time is now right to begin this process. First, the request from the Public Defender Task Force for help identifying a methodology for data collection presents a promising new direction. The Task Force's request for assistance in developing information that will inform its recommendations to the legislature demonstrates a recognition of the importance of using data to evaluate the indigent defense system in Mississippi.

Furthermore, our conversations with representatives from the Administrative Office of the Courts (AOC) indicate an immediate opportunity for collecting standardized indigent defense data. We learned it is possible to modify an existing form, the Notice of Criminal Disposition Form, to indicate whether indigent defense counsel was appointed. This form is expected to be completed in every criminal case processed in the state. All that is required is addition of one checkbox on the form, coupled with instruction of court staff on its completion, to begin to receive basic data on the incidence on indigent defense counsel across the state.

Additionally, the Mississippi Electronic Courts system (MEC), which is being developed for use by courts statewide and is already collecting criminal justice data in two counties, is in the process of modifying and adding fields that can form a module specific to indigent defense data. This module, along with modules being developed for district attorneys and law enforcement, will feed into MEC and consolidate data across systems. Data standardization will exist across justice system sectors as all cases will be tracked according to a common definition: indictment number.

Another promising aspect of MEC is that its system design can make certain data fields mandatory, i.e., preventing the person entering data from advancing to the next field without entering information, such as whether an indigent defense attorney was appointed. These mandatory fields ensure accurate,

consistent and complete reporting across counties. As we learned during our site visits, particularly at the Hinds County Circuit Court (*see Finding 3*), simply providing fields to enter information is not enough; the fields must be mandatory to ensure consistent entry.

Action Steps:

1. The OSPD should partner with Administrative Office of Court to ensure that steps are taken to track indigent defense data, including adding a check box on the AOC's Notice of Criminal Disposition Form to indicate whether indigent defense counsel was appointed. This simple, no-cost mechanism will provide an immediate start to collecting critical data on indigent defense practice statewide.
2. For the longer term, OSPD should collaborate with MEC to ensure that the indigent defense module under development captures key data about indigent defense across the state.

**Finding 2: There are no uniform requirements at the county or state level for collecting and reporting indigent defense data. Furthermore, data are maintained by, and therefore must be collected from, multiple entities.**

There is no single entity responsible for defining what needs to be collected or for overseeing the collection effort. Further, there are no resources provided -- training, software or hardware -- to any of the entities that are the likely repositories of indigent defense data to systematize their efforts.

Putting aside problems we observed with incomplete or inaccurate data tracking, it is not possible to collect complete information about indigent defense activities in each county from one single entity. Relevant data reside with multiple entities. Defenders themselves hold information about just aspects of the work they handle as part of an overall system. Defense providers will be the source of individual attorney caseload and case activity. Courts and county officials hold additional information that defense providers will not have. Courts will have individual and aggregate level data on defendant indigency screening and attorney appointments; indigent defense attorney requests, denials and expenditures for use of investigators and expert witnesses; and case outcomes. Information on overall budgeting and expenditures for indigent defense services are likely to be held by county comptrollers or other fiscal agents.

Action steps:

1. The Mississippi Public Defender Task Force should seek legislative authorization for OSPD to be placed in charge of indigent defense data statewide and given authority to enforce its collection. With this authority, OSPD should determine what data to collect. It will need to be provided resources necessary to develop and oversee a process to ensure that data collection requests are fulfilled by all of the entities that keep and collect the data points.
2. OSPD should educate and train all justice system entities (such as individual attorneys, court clerks, court administrators, and county comptrollers) on what indigent defense data is required, why it is requested, and how to supply it. In doing so, it should seek opportunities to minimize reporting burdens by participating in existing data automation resources, such as the Mississippi Electronic Courts program.



3. The Task Force and OSPD should work with court leaders and others to ensure that all entities that are expected to report indigent defense data are provided with resources to do so, including training, software and hardware.

### Finding 3: There is no consistent tracking of indigent defense data.

Due to the absence of data reporting requirements, indigent defense data are not tracked consistently. Data that *are* collected are not tracked following uniform definitions.

Currently, the ability to collect reliable data varies greatly by county. Courts report on different aspects of indigent defense activity, depending on their particular capacity and data systems. As our survey documented, some attorneys do not track their data electronically. In Rankin County, we learned that the six part-time public defenders do not have a shared case management system. While the circuit court can produce information on the overall number of cases filed in a year, there is no way to determine how many cases were assigned to public defenders. In Warren County, where indigent defense services are provided entirely by individual attorneys appointed on a case-by-case basis, there is no mechanism in place to track aggregate information on indigent defense cases.

Simply having a case management system that can track indigent defense information is not always a guarantee that it will yield necessary data. In the Hinds County Public Defender Office, the case management system is outdated and lacks the necessary automation to produce accurate reports. Additionally, we found that some courts have fields in their case management systems to collect indigent defense data, but the fields do not get utilized. For instance, the Hinds County Circuit Court has a field to indicate whether a defendant is indigent and whether he/she was appointed an attorney. However, this information is rarely entered.

#### Action Steps:

1. OSPD should undertake the recommended data collection pilot project as soon as possible so that the office is positioned to launch a full-scale data collection operation once legislation is enacted.
2. OSPD should assess each county's existing mechanisms for tracking indigent defense data.
3. OSPD should use the results of the assessment to determine data collection resource needs on a county-by-county basis.
4. On an ongoing basis, OSPD should monitor reporting compliance and ensure quality control of the data reported.

# Chapter 3: Public Defender Survey Report

## About the Survey

This section presents the results of a survey sent to Mississippi indigent defense attorneys in September 2015 about the state felony indigent client cases they handle. The brief survey sought information about the different types of indigent defense service delivery models used in each county, how defenders track case information, how they define a “case” for reporting purposes, and the percentage of their practice that is indigent defense cases. The survey also asked defenders how many felony cases they were appointed in 2014 and at what stage they are appointed felony cases.

The survey collected responses from September 3 to 28, 2015. Attorneys who provide indigent defense representation in more than one county were asked to submit one survey entry for each county. In total, we received 63 entries from 58 attorneys, representing practices in a total of 33 counties. While the sample size is not representative of indigent defense attorneys working in all of Mississippi’s 82 counties, the responses provide valuable information from providers about their practices.

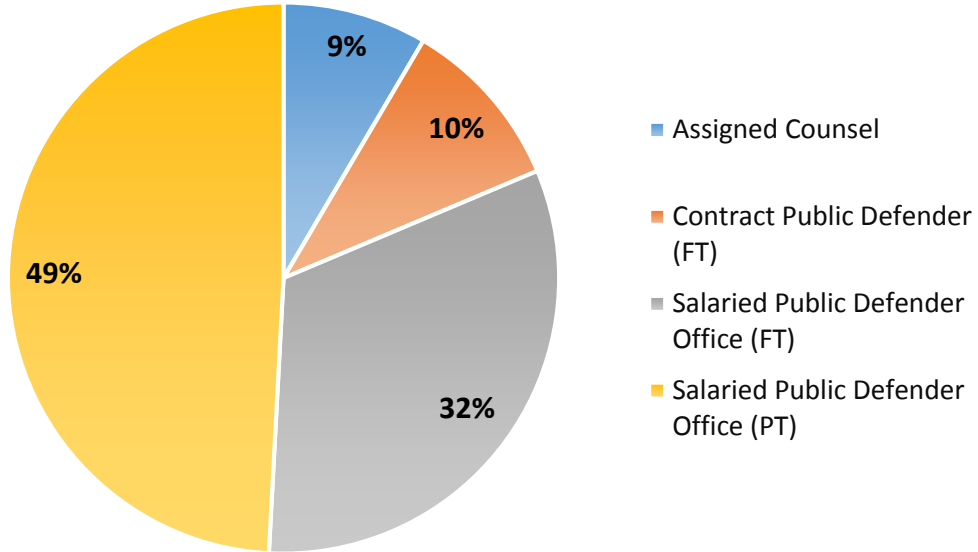
## Survey Report Findings

The analysis of the survey is divided into six key areas: service delivery models, case tracking, defining a case, felony appointments, caseload, and continuity of counsel.

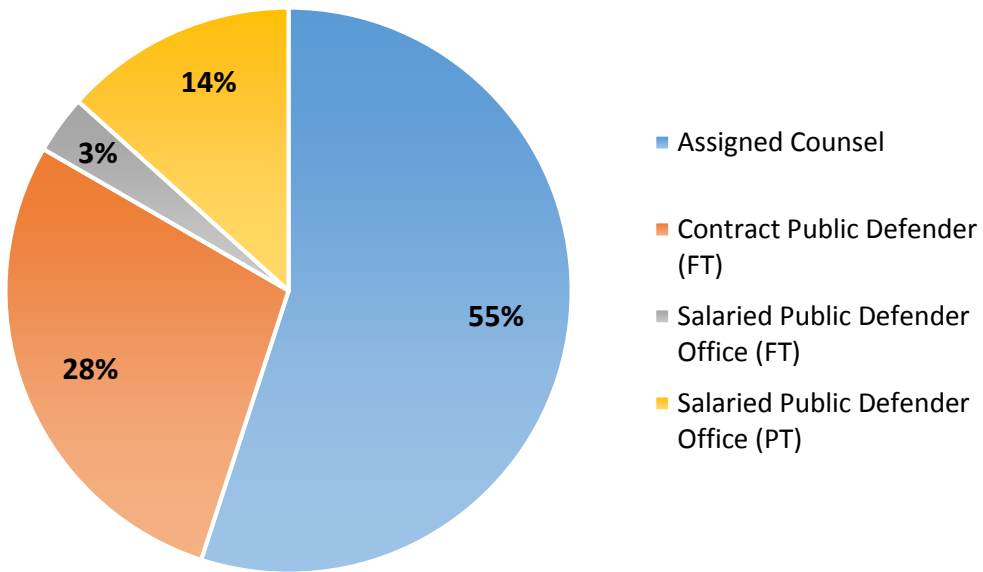
### 1. Service Delivery Models

The survey’s first two questions asked about the type of indigent defense delivery systems used for primary and conflict of interest cases in the respondents’ counties. The overwhelming number of respondents work in counties where the primary delivery system is a public defender office, either “full-time salaried public defender” (49 percent) or “part-time salaried public defender (32 percent).” For conflict of interest cases, “assigned counsel” was reported as the predominant delivery system used (55 percent). Approximately 80 percent of responses were from attorneys who take cases in their county’s primary case service delivery model, and 20 percent were from those who take cases in their county’s conflict of interest case service delivery model.

### Primary Type of Service Delivery Model

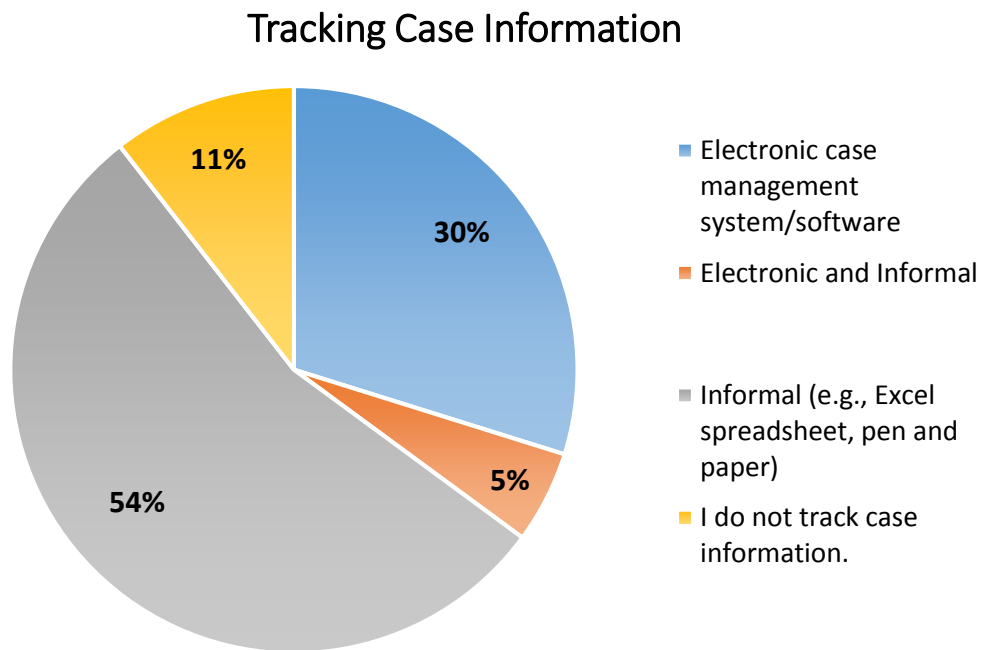


### Conflict of Interest Service Delivery Model



## 2. Case Tracking

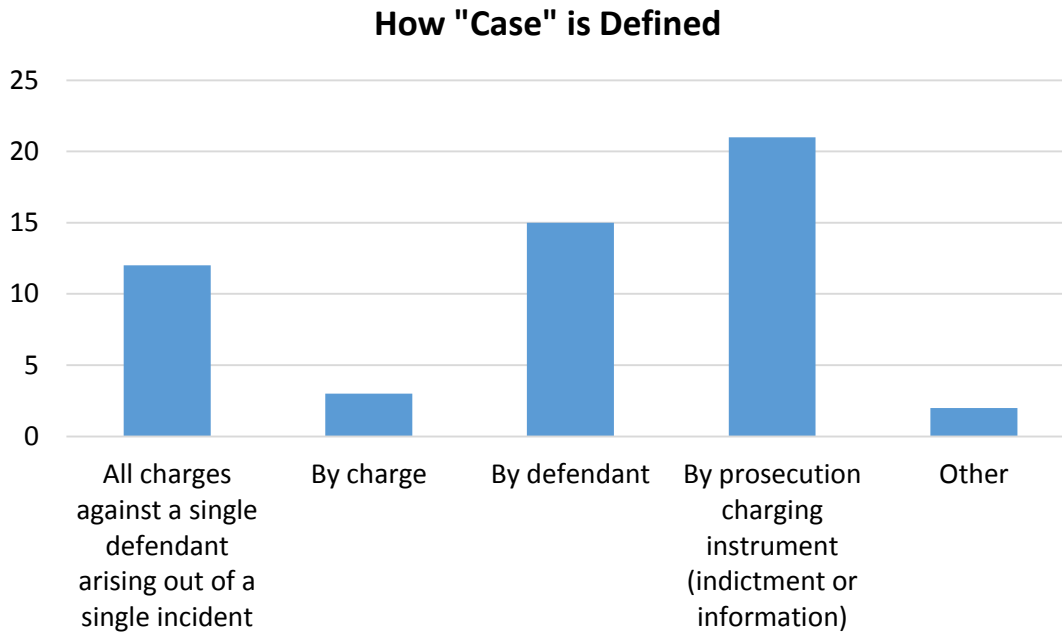
Most respondents to the survey do not keep track of case information using an electronic case management system. Over half (54 percent) of respondents track case information informally, either with a simple spreadsheet, or pen and paper. Approximately 30 percent of respondents use electronic case management systems, and five percent use a combination of case management systems and informal data collection methods. Eleven percent do not track case information at all. Most counties in Mississippi do not request data from indigent defense attorneys but were they to, these results suggest that many attorneys would be ill-equipped to easily produce basic data on cases handled.



Understanding this breakdown sheds light on the difficulty of statewide case reporting, as well as on the challenges that can be anticipated for a data collection project. Data not entered into a standardized case management system can be disorganized, incomplete, inconsistent, or, as this chart demonstrates, nonexistent. Even data in a case management system, as we discovered during our site visits, may present those exact problems if data are not entered in correctly or if certain important fields are left blank. To track consistent and meaningful information, it is important that attorneys have the ability, capacity and will to track data and are asked to so do in a standardized fashion.

### 3. Defining a Case

Survey respondents varied greatly in how they define a “case” for reporting purposes. The most common definition of a case reported was “by the prosecution charging information.” The second most common definition of a case reported was “by defendant.”

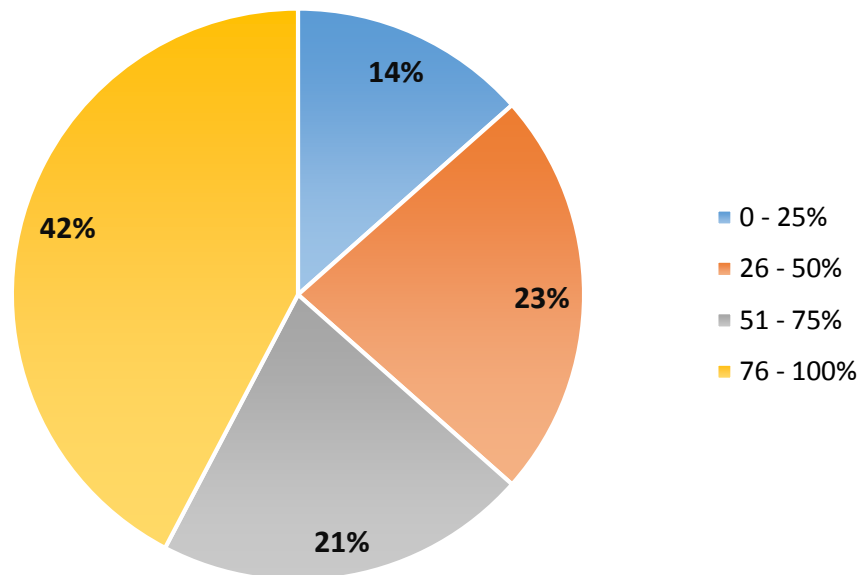


Lack of uniformity in how attorneys define and therefore count cases becomes problematic when comparing data across counties, especially when trying to quantify attorney caseload consistently. For instance, if we wanted to compare whether attorneys in County A have a higher caseload than those in County B, and each county defines a “case” differently, we cannot simply take the case numbers they provide at face value. Similar to comparing inches and centimeters, these numbers would need to be converted to provide useful information. This process can be both difficult and time-intensive.

## 4. Felony Appointments

Asked to estimate how much of their overall practice consisted of indigent defense appointments, the single largest category selected from four broad options was “76-100%.” More than half of all respondents indicated that indigent defense appointments consisted of over 50 percent of their overall practice.

**Indigent Defense Appointments  
Percentage of Practice**



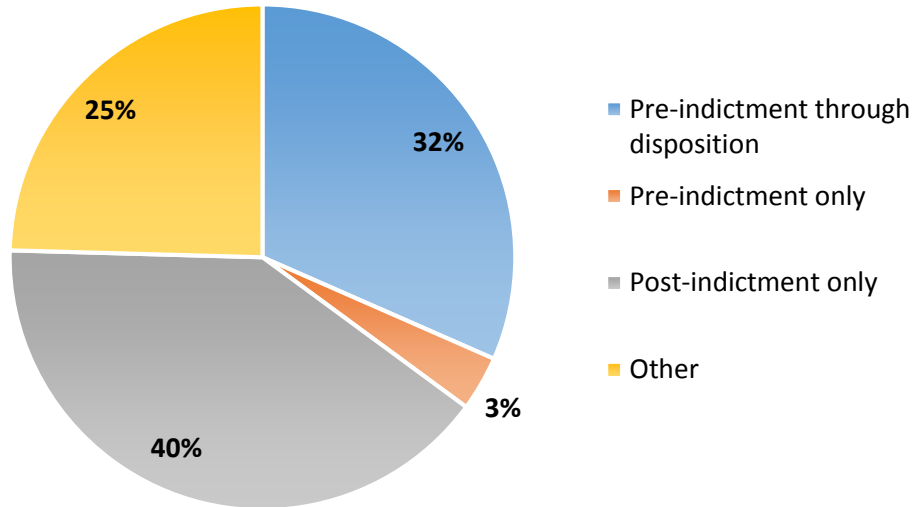
## 5. Caseload

Our survey attempted to measure overall indigent defense workload for Mississippi attorneys by considering 1) the percentage of an attorney’s practice that consists of indigent defense appointments and 2) the number of indigent defense cases an attorney takes per year. However, our survey question, “How many cases were you appointed in 2014?” received problematic responses. Some attorneys provided a number that reflected the cases they were appointed as an individual, while others reported the number of cases their office handles. Some could not provide a number at all. Therefore, we were unable to conduct the analysis we hoped or to even simply report average indigent defense case attorney caseload.

## 6. Continuity of Counsel

We asked attorneys at what stage(s) in a felony case they are involved. Overall responses indicate a lack of continuity of counsel for indigent defendant cases. Only 32 percent of responding attorneys are involved from pre-indictment through disposition, while 40 percent enter cases at indictment.

Stage Appointed Felony Case



For the responses indicating “other,” some respondents take cases at both pre-indictment and post-indictment stages. Others occasionally handle preliminary hearings, and some handle cases at the pre-indictment stage only if the client is in jail.

### Summary

The results from this short survey point to how difficult it is to collect reliable and comprehensive data on indigent defense in Mississippi, even from providers themselves. The survey results underscore the need for a statewide data collection mechanism to identify and collect accurate data using standardized case definitions. Until that is done, it will be very difficult to project adequate resource needs for indigent defense attorneys throughout the state.

## Chapter 4: Proposed Data Collection Project Methodology

Currently, collecting statewide data on indigent defense services in Mississippi is a time-intensive and laborious process. Without a reporting mandate, outreach must be made to each county to compile basic data. There is not a single source where one can turn in each county to collect accurate information on indigent defense system type, expenditure and caseload data as multiple entities maintain aspects of the complete data picture.

The following section sets out a recommended methodology by which OSPD can collect baseline data on indigent defense from individual counties in Mississippi. The data collected will provide the necessary foundation for understanding how the public defense function operates in the state. It will serve as a starting point for developing a regular data collection and analysis project to be administered by the OSPD.

The scope of data collection for this initial project is felony data only. As data collection capacity expands, information on misdemeanors and youth court should also be collected to understand how the indigent defense system as a whole is working in the state.

The methodology for this project consists of five distinct phases: build research capacity, determine data to collect, identify sites, collect data, and analyze data.

### Phase 1: Build Research Capacity

The first phase of the project involves building OSPD's capacity to identify, collect and analyze data. First, OSPD should hire a research analyst responsible for overseeing this project. Ideally, this individual would be experienced in both qualitative and quantitative analysis (including the use of statistical software) and have an understanding of the fragmented indigent defense system in Mississippi. The research analyst will also be responsible for hiring and training legal interns or other staff who will go out to each of the selected counties and collect the data necessary.<sup>7</sup>

The research analyst, in collaboration with IT support from OSPD or the AOC, will then create a data warehouse that will store the information collected. The data warehouse must allow for analysis via statistical software and have enough storage space to collect all of the data from this project. While the data collected from this project may allow for a relatively simple data warehouse, resources should be designated to eventually move to a more advanced warehouse, such as through Microsoft SQL Server. It is recommended that OSPD work with the AOC to see if there are existing data infrastructures on which this warehouse may be built and determine if hiring an IT consultant for this project is necessary.

A detailed guide on building indigent defense data warehouses can be found on the North Carolina Systems Evaluation Project website.<sup>8</sup>

---

<sup>7</sup> See NLADA's *Building In-House Research Capacity Toolkit* for helpful information on what to look for and how to recruit an indigent defense research analyst.

<http://www.nlada100years.org/sites/default/files/NLADA%20Toolkit%20-%20Research%20Capacity.pdf>

<sup>8</sup> <http://www.ncids.org/Systems%20Evaluation%20Project/Infrastructure/links.htm>



## Phase 2: Determine Data to Collect

Before beginning any data collection or analysis, a set list of key data to be collected will need to be determined (e.g., attorney caseload, case outcomes, client contact).<sup>9</sup> This standardized list will allow for meaningful comparisons among the different counties. We recommend limiting the number of data points to only the information most crucial for this project. The more data that need to be collected, the more burdensome it will become to both the counties providing the information and for the researcher(s) collecting and analyzing the data. Therefore, it is important to strike the right balance between the amount of information gathered and the amount of time and resources required.

The definitions for each data point will also need to be standardized. In particular, there must be a common definition of a “case” used, otherwise accurate counting and comparisons will be impossible. For example, if one attorney reports cases by individual charges, and another reports cases by defendant, then the first attorney’s caseload will likely artificially appear higher than the second attorney’s caseload because defendants often face more than one charge.

The difficulty of standardizing the definition of a case is prevalent throughout indigent defense research and is a common problem in many jurisdictions. Standardization is time-intensive because a common definition of a case must first be selected, and then all other data must be recalculated to conform to this standardization. Though difficult, this process is arguably the only way to accurately determine attorney workload and caseload and is therefore a highly recommended component of this project. It may also be possible to select for the sample only counties that use the same definition of case as a way of bypassing this problem.

## Phase 3: Identify Sites

This project will involve data collection from five to eight counties in Mississippi. The exact number of sites will depend primarily on staff capacity and expected project completion timeframe. To present as broad a picture as possible, these sites will be determined by various levels of diversity, such as geography, types of delivery system and population. It may also be helpful to capture diversity in levels of data tracking capacity (i.e., case management system, spreadsheets, paper only) although more advanced systems will allow for more efficient and reliable data collection.

Which counties are selected will also depend heavily on the amount of available data. Ideally, each site would have information on all items of the pre-determined list of data points as specified in Phase 2. And while gathering information about a county in which data collection is limited to pen and paper, this option should only be explored if an office/attorney keeps consistent and easily accessible information. All other counties must have electronic data that is kept either in a case management program or in an Excel spreadsheet.

---

<sup>9</sup> A good starting point is NLADA’s report, [Basic Data Every Defender Program Needs to Track: A Toolkit for Defender Leaders](http://www.nlada100years.org/sites/default/files/BASIC%20DATA%20TOOLKIT%2010-27-14%20Web.pdf) (2014) <http://www.nlada100years.org/sites/default/files/BASIC%20DATA%20TOOLKIT%2010-27-14%20Web.pdf>

## Phase 4: Collect Data

This phase of the project involves first collecting information on which parties possess the necessary data, whether it be the attorneys themselves, a circuit court clerk, a court administrator, county administrator, or even an IT manager. In some counties, data will be located at more than one source. There should be an “all hands on deck” approach to identifying all of the data sources within each county, a process which may require site visits. While it is certainly possible to train law interns or research assistants to engage in this process, this phase is best conducted by the research analyst and other relevant OSPD staff because they have a deeper knowledge of how indigent defense service delivery systems work in Mississippi and can most quickly identify whom to contact. NLADA’s experience visiting just three counties, coupled with The Spangenberg Group’s more intensive data collection experience in the mid-1990s, suggests that data sources will include circuit clerks, chancery clerks, court administrators, county administrators, county comptrollers, budget analysts, public defenders, court appointed attorneys and even law clerks of circuit court justices, depending on the sample of counties selected.

Concurrent to identifying data sources will be training of legal interns or other support staff in collecting data from the selected counties. Training should include going through the list of key data points and explaining 1) what each data point means and what are the standardized definitions, 2) where to obtain the data, particularly where different items are kept by different sources and 3) how to identify incorrect or missing data. This training will need to be tailored to account for the differences among the selected sites; some sites may require more intensive training than others. OSPD support staff should receive or help compile a list of primary contacts who are able to provide data and work with staff as they gather data.

Quality control will be critical at this phase to prevent the need to go back to the original source to re-collect data. The research analyst should monitor the legal interns and other data collectors to ensure that the information received matches with the information requested. The research analyst should also continuously check that the data received is standardized across the sites or, at minimum, is able to be standardized through data cleaning. Weekly or bi-weekly meetings with all relevant OSPD staff are recommended to identify any gaps or necessary modifications to the project.

## Phase 5: Analyze Data

Any data set that is collected must be cleaned, e.g., reviewed and purged of duplicate entries and other inaccurate data. Ideally, the data sets would also be standardized in a way that can allow for meaningful comparisons across counties. However, this component can be very difficult and time-intensive to achieve. If time and resources are limited, comparative data across counties may not be as important as understanding data from counties individually. Therefore, making sure the data set received from a county is accurate would be a higher priority than making sure the data in a format that can be compared across counties.

The research analyst will be responsible for data cleaning unless he or she is able to hire assistants with quantitative analysis skills. Data may be cleaned and analyzed via statistical software or Excel. If there

are IT managers in those counties where data is collected, they may also be able to help export data in a way that requires less data cleaning and standardization.

There are two types of statistics associated with the data analysis for this project. The first type of statistic is descriptive, which includes counts, percentages and other factors. The number of cases an attorney is appointed is an example of a descriptive statistic. The second type of statistic is inferential and relates to whether and to what degree two variables are associated. For instance, the relationship between the use of an investigator and case outcome is an inferential statistic.

For the purposes of this project, quantitative analysis will consist primarily of descriptive analysis, which will provide the necessary information to measure caseload, expenditures and other counts and averages. Inferential analysis, which requires using advanced statistical methods, can be completed at a later stage to answer more in-depth questions, such as which factors contribute to better case outcomes. Whether inferential analysis can be completed for this project depends largely on the amount and reliability of the data collected, the availability of statistical software, and the ability of the research analyst to use advanced statistical methods to determine correlations.

The quantitative analysis reported should also be supplemented with qualitative data, which includes any important information gathered throughout the duration of the project that cannot be measured numerically. As an example, how a particular indigent defense service delivery model works in a county, as well as the process by which data are transferred and reported, are two important pieces of information that are not quantifiable and yet enormously important to collect. Qualitative data, which can also include information gathered through interviews and surveys, provides information on contexts, processes, perceptions and other areas that allow the quantitative data to be meaningful.

## Conclusion

NLADA found that the ability to collect and analyze data required to determine the needs of indigent defense in Mississippi has not significantly improved since the 1990s. While positive movement has been made to increase administrative oversight of indigent defense services statewide, progress to systematize data collection is hampered from a lack of necessary authority and tools to effectively carry out this responsibility.

It is impossible for OSPD to fulfill its reporting and planning mandate without a requirement for counties to supply it with basic data. Indeed, even if counties were required to supply this information, the picture of indigent defense felony case needs would still be incomplete because the data supplied would not report on municipal or justice court activity. This data is particularly important given that felony cases originate in municipal and justice courts.

The pilot project methodology included in this report provides a way for OSPD to move forward with data collection in the short term, independent of when legislation facilitates more comprehensive data collection across the state. Based on the findings from our site work and survey, the project methodology presents a step-by-step guide towards overcoming the hindrances that have for so long stymied the efforts around consistent data collection. The challenge of understanding the state of indigent defense in Mississippi through data is not insurmountable. We believe that it may be overcome through thoughtful and methodological assessment, coordination and implementation.