

**UNC School of Law
Public Defender Mentor Project**

“What does it mean to be a public defender?”¹

1. **From the Sixth Amendment to the public defender programs of today:**
 - a. Powell v. Alabama, 287 U.S. 45 (1932)(defendants’ convictions overturned because right to counsel denied);
 - b. Gideon v. Wainwright, 372 U.S. 335 (1963)(indigent criminal defendants charged with felonies have constitutional right to counsel);
 - c. Argersinger v. Hamlin, 407 U.S. 25 (1972)(the right to counsel extended to criminal defendants charged with any offense that could result in incarceration).
2. **Models for the delivery of legal services to the criminally accused** (most states have a combination of the following):
 - a. Assigned counsel systems: assignment of individual criminal cases to private attorneys on a systematic or ad hoc basis;
 - b. Contract service systems: involves a contract w/an attorney, group of attorneys, bar association, or some other entity to provide representation in a certain number or all cases within a jurisdiction;
 - c. Public defender systems: full or part-time staff attorneys and support personnel who provide defense services to indigent criminal defendants.
3. **Wide variety of cases handled by attorneys in defender organizations:**
 - a. Juveniles accused of delinquency;
 - b. Adults accused of misdemeanor and/or felonies;
 - c. State or federal appellants;
 - d. Children or parents involved in custody or care matters;
 - e. Hearings on the issues of involuntary commitment and involuntary medication;
 - f. Minors seeking an abortion without parental consent.
4. **Division of PD offices by jurisdiction:**
 - a. Federal PD programs: established in most of the 94 judicial districts. Supervised by a local Federal Public Defender, selected for a four-year term by the district’s Court of Appeals. Staffed by attorneys, investigators, and support staff, all full-time federal employees. Most federal PDs are experienced criminal or trial attorneys from state or local PD offices or large private firms. The majority of cases within the jurisdiction of federal district courts are complex drug or organized crime, white collar crime, or other types of fraud cases. Full-time and summer positions in a FPD office can be both valuable and interesting.
 - b. State and local defense of the indigent: more than half of the states have organized some type of indigent defense system, either under the executive or judicial branch. Typically, PD programs serve metropolitan

¹ See also Arnold R. Rosenfeld, PUBLIC DEFENDER PROGRAMS: A QUICK GUIDE TO THE PROVISION OF LEGAL SERVICE TO INDIGENT CRIMINALLY ACCUSED PERSONS (Harvard Law School Office of Public Interest Advising ed., 1997).

areas, supplemented by private bar and/or contract programs to serve the less populous regions, less serious cases, and the conflict or case overload matters. Some states have state PD programs that have full authority for the provision of defense services statewide, while others are organized, funded, and operated on a county, regional, or local level. Some states have combined trial and appellate state PD offices, while others have no statewide PD providing trial representation, but do have statewide appellate offices. The types of cases handled vary widely, depending on the state or local system. Most programs have investigative services; the extent of other support, such as training programs, social services, research capability, computer systems, and office staff varies greatly. PDs typically spend most of their time in court, receiving case assignments and handling bail hearings, pre-trial conferences, plea negotiations, and trials. PDs spend most of their time w/their clients, who often have a wide spectrum of needs – health, social, and counseling – in addition to legal assistance.

5. Specialized PD programs:

- a. Capital defense: some PD programs specialize in direct representation in death penalty cases, while others offer only appellate services or post-conviction services for capital defendants.
- b. Juvenile defense: some PD programs specialize in holistic juvenile advocacy, offering legal services as well as social work and other community support.

6. How do you decide which program is for you?

- a. Geography?
- b. Trial or appellate work?
- c. Quality of training and supervision for new attorneys: Training for new attorneys? Does it include trial practice? Ratio of supervisory lawyers to staff attorneys (less than 1:5)? At least one investigator for every five attorneys? Legal research tools? What types of cases handled initially? How long before handling more serious cases?
- d. Quality of practice in general: Opportunities for advancement? Caseload standard of not more than 30-50 felonies/attorney? Typical attorney turnover? Support staff assistance? Salary and benefits? How do they compare to the salaries of other public employees, e.g. prosecutors, in the same area?

7. The PD hiring process

- a. Questions to ask specific offices: The timing/deadlines, etc., relevant to the hiring process? The number of openings they have and where? Starting salaries?
- b. Factors that PD offices consider in hiring: law school courses, clinical experiences, legal internships/externships and summer jobs, ability to relate to indigent clients, writing skills, grades, commitment to public service, experience in oral advocacy, passion for poverty law, litigation or constitutional and/or human rights.