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# The Impact of Public Defense Spending and Caseload on Jury Trial Rates

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Shackouls Honors College: Honors Thesis

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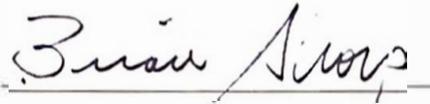
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# The Impact of Public Defense Spending and Caseload on Jury Trial Rates

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## I. Introduction

The right to an attorney when facing criminal charges has not always been a part of the judicial system which meant historically, an individual's ability to afford legal representation greatly influenced judicial outcomes. Although landmark Supreme Court cases have expanded the rights of indigent clients, the implementation and oversight of attorneys tasked with representing this group of individuals remains controversial and inconsistent. *Powell v. Alabama* (287 U.S. 45 (1932)) marked one of the first cases in which the Supreme Court emphasized the importance of retaining legal representation before the court but it was not until 1963's *Gideon v. Wainwright* (372 U.S. 335 (1963)) ruling that the court granted all people facing criminal charges the right to an attorney, regardless of inability to pay. This ruling established the position of public defenders, attorneys employed by the public to represent individuals facing criminal charges who are unable to afford legal counsel, as an integral component in the judicial process. Not all states utilize the same method to fund and oversee indigent representation and draw the most apparent distinction based on whether implementation occurs at the state or county level. A significant amount of literature already examines these differences further by comparing the efficacy between public defenders, private attorneys, and appointed counsel. However, there still remains a lack of research examining the factors that principally affect case outcomes.

Although the number of public defender offices has increased substantially in the past fifty years, the performance of public defenders remains heavily criticized for often lacking proper training, resources, time, and money to properly litigate cases (Hartley, Miller, and Spohn, 2010). Despite the fact that some may be skeptical of policies that work to protect the rights of the accused and guilty, the presumption of innocence before a blind lady justice is the bedrock on which our judicial system operates and requires equal access to legal representation.

This paper will examine the unsettling pressure placed upon public defenders to seek a plea deal rather than advocate up to the trial stage as a result of insufficient resources. A pressure that Stephanos Bibas, a leading scholar in criminal justice procedure, argues only adds an additional layer of subjectivity which can cause a deviation from the expected trial outcome (2004). This subjectivity can also be influenced by implicit racial bias resulting in outcomes affected by race (Richardson and Goff, 2013).

My research pulls data from the 2007 National Prosecutors Survey and the 2007 Census of Public Defender Offices: County-Based and Local Offices. By using variables found in both data sets, the results from the regression analysis seek to answer whether increased funding and reduced caseload affect jury trial rates in county-based public defender offices. A significant amount of literature points to the lack of resources and funds and the overburdened workload of public defenders as explanations for the problems associated with public defense. Therefore, an increase in budgets within public defender offices and a reduction in caseload should result in a positive correlation with jury trial rate.

## **II. History and Importance of Public Defense**

The Sixth Amendment of the U.S. Constitution declare the right to have “assistance of counsel for his defense.” This definition was narrowly interpreted by the court until it decided in the case *Gideon v. Wainwright*, that a defendant unable to afford an attorney could not possibly receive a fair trial without the same financial capital. In addition to the ruling *Gideon v. Wainwright*, the Supreme Court’s ruling in *Argersinger v. Hamlin* (407 U.S. 25 (1972)) concluded that the protections for accused apply to juveniles as well. Most recently, the Supreme Court expanded the precursors for gaining access to an attorney by ruling that the right to an

attorney also applies to suspended sentences in the case *Alabama v. Shelton* (535 US 654 (2002)).

Since the court's establishment of the right to legal counsel, public defenders have played an increasingly important role in maintaining equity within the courtroom. Between 1951 and the 1963 Gideon ruling, the number of public defender offices grew from 7 to 136 (Hartley, Miller, and Spohn, 2010). More recently, a 2007 Bureau of Justice Statistics report found an overall 957 public defender offices that received more than 5.5 million cases in the year 2007 and employed more than 15,000 full-time attorneys (Census of Public Defender Office, 2009). In Supreme Court Justice Black's opinion on *Gideon v. Wainwright*, he contended that the noble idea of substantive constitutional safeguards cannot be realized if the poor man is forced to face his accusers without a lawyer. The Supreme Court opinion in *Ake v. Oklahoma* demonstrated the integral role indigent defense plays in guaranteeing due process by contending that justice cannot be equal when poverty precludes meaningful representation. Additionally, due process does not mean mere access to the courthouse doors but demands access to "raw materials integral to the building of an effective defense. Without the assistance of legal counsel for indigent individuals equal to that of their adversary, a clear distinction between rich and poor would persist (470 US 68 (1985)).

### **III. Problems faced by public defenders**

However, persistent problems in public defense throughout the country stifle efforts to maintain equality in the court system making the guaranteed right to counsel a well-established principle in theory but inadequately put into practice. The court system still exists as a two-tiered system subjecting poor to a system under-resourced when compared to individuals who can afford legal representation. One of the main reasons why this inequality continues to persist is

the insufficient level of funds provided to public defense offices (Lucas, 2013). The problem of underfunding public defense has worsened following the recent economic downturn, leaving many offices unable to represent clients with the level of zeal and time necessary (Lucas, 2013). In the last forty years the incarceration rate has increased by 500% and has left offices within the criminal justice system scrambling to keep up with a budget that does not match this caseload (The Sentencing Project, 2015). Public defenders consistently lack funds to perform basic tasks such as interviewing witnesses, clients, or retaining experts for trial (Ogletree, 1995).

*Gideon* may have defined the right to an attorney when facing criminal charges, but it did not define how these systems should be run or funded. As a result, many states vary in the portion of funds provided by the state and county level to support public defense but what does remain consistent is a persistent lack of funds available (National Right to Counsel Committee (NRCC), 2009). For some states like Georgia, public defender offices rely on special funds that are not reliable sources of revenue and do not remain consistent year to year (NRCC, 2009). Other states like Louisiana have historically contributed less than 20% to public defense which means the counties with the highest number of indigent clients are also the counties least capable of providing substantial funds to support the public defender office. Not only are public defense budgets shockingly underfunded, but they are comparatively lower than average budgets given to prosecutor offices (NRCC, 2009). A report by the NRCC points out, “even conceding that prosecutors consider some cases that are never charged and that some cases are represented by retained counsel, financial support of indigent defense typically lags behind that provided for prosecutors” (2009). The scarce budget leaves public defender offices substantially incapable of competing on an equal stage with that of the prosecution.

The lack of funds coincides with an overwhelming and often impossible caseload for many attorneys. The National Advisory Commission on Criminal Justice Standards and Goals established a recommended annual caseload for attorneys in 1973 of no more than 150 felony cases per lawyer and no more than 400 misdemeanor cases per lawyer (Texas Indigent Defense Commission (TDIC), 2015). However, the commission accepted these numbers without an empirical basis for doing so and since this recommendation, the judicial system has undergone a number of changes requiring a renewed look at indigent caseloads. In 2013 the Texas Indigent Defense Commission was given the task of establishing new guidelines for caseloads (TIDC, 2015). The commission reported that a 66% increase in time was required for each offense level and the greatest need of resources to match caseload were in investigations since many attorneys conducted investigations on their own. The commission based their recommendation for required time per case on ideal trial rates. The ideal trial rate for misdemeanor offenses fell between 14% to 20% even though actual trial rates for misdemeanors remained significantly lower with only 1.1% of misdemeanors reaching trial. The commission also urged that 11% to 20% of felony cases be disposed of by trial even though just 2.5% of these cases reached trial. The commission's final caseload recommendation was ultimately made to reflect actual trial rates but given with instructions to pursue a trial rate more closely aligned with the one recommended by the panel (TDIC, 2015). Even though the commission recognized the integral role caseload limits play in ensuring equal representation, guidelines alone cannot achieve the needed reform in public defense offices but is a significant step in the right direction.

Excessive caseloads can be detrimental to attorneys' ability to prepare proper representation and lead to a system that is over reliant on pleas. Numerous testimony by the American Bar Association demonstrates that the problem of overburdened public defenders

exists throughout the country (TDIC, 2015). These reports cite examples where some attorneys have misdemeanor caseloads exceeding 1,000 cases and an example of a Florida public defender who had 13 felony cases set for court on the same day (TDIC, 2015). As of 2007, only 15% of county-based public defender offices had defined caseload limits but not all of these had the authority to refuse excessive caseloads (Census of Public Defender Offices, 2009). The Census found that approximately 73% of county offices exceeded the recommended case load limit per attorney. Additionally, around 40% of county-based offices lacked investigators to assist with the pre-trial investigations. Each county varied in how it determined indigence and assigned counsel but nearly all used income level as the principle criteria for determining indigence (Census of Public Defender Offices, 2009). The study ultimately found that only 27% of county-based offices reported a sufficient number of public defenders. Understandably, with the high volume of cases seen by public defenders each year, there is enormous pressure to plead the cases before ever coming near a trial. Currently, between 90-95% of defendants plead guilty instead of going to trial (Devers, 2011). The miniscule number of cases decided by trial can ultimately lead to alternate case outcomes and allow implicit racial bias to linger in the courts.

Plea bargaining occurs when there is an agreement by the defendant to accept a reduced charge offered by the prosecution rather than proceeding to trial. Ideally, these agreements would entail a lessened sentence and incentivize a presumably guilty client to decide against pursuing a costly and time consuming trial. The concept often used to explain the function of plea bargains is a term referred to as “the shadows of the trial” (Bibas, 2004). Stephanos Bibas describes this as the “influence exerted by the strength of the evidence and the expected punishment after trial” (2004). In theory, plea bargains are supposed to function as a cost and time saving mechanism utilized when all evidence and factual components of the case show a clear expected outcome of

guilt. However, as a result of the large caseload and inability of public defenders to efficiently investigate each case, plea bargains occur far outside the shadow of a trial and are susceptible to a number of extralegal bias (Bibas, 2004). Prosecutors have a vested interest in maintaining a high conviction rate which can affect their decision on what cases to attempt to plead and what to take to trial. Instead of pleading the cases which have the most evidence to support a conviction, prosecutors will take the assured guilty conviction to trial and attempt to plead out the weaker cases instead of risking a loss at trial (Bibas, 2004). Public defenders can also be affected by external factors when determining whether to encourage a client to accept a plea. The low wages and overburdened workload can influence public defenders to push for a plea rather than spend the extensive amount of time preparing for trial, resulting in a skewed outcome (Bibas, 2004). The farther plea bargains get from outside the shadow of a trial, the greater the risk of reaching an agreement far removed from the actual facts of the case.

Additionally, plea bargains effectively work to remove the adversarial component of the courtroom. Some critics contend that because of the pressure to process a large number of cases swiftly, public defenders' relationship with actors in the courtroom workgroup are better characterized by cooperation rather than conflict (Bowen, 2009). The courtroom workgroup is used to describe a cooperation between the prosecutor, public defender, judge, and other courtroom staff. Instead of advocating zealously on behalf of their clients, public defenders find themselves in an enigmatic role where they must represent their client without disturbing the courtroom workgroup. Critics of this system argue that public defenders are "too quick to bargain away the precious rights of their under-privileged clients" (Albert-Goldberg and Harman, 1983). This nation's judicial system was not designed to function in private meetings between attorneys but as an adversarial institute before a judge, free from extralegal factors.

Not only does the current court system's emphasis on plea bargaining shift outcomes from beneath the shadow of a trial, it also bolsters implicit racial bias into the system. As Charles Ogletree points out, public defenders are tasked with working to dismantle racial bias since the burden of the criminal justice system falls "disproportionately on communities of color" (1995). The Sentencing Project points out that the criminal justice system unjustly affects racial minorities because of disproportionately higher arrest rates and a median income that is approximately \$20,000 less than white Americans resulting in a far greater number of minorities in need of indigent defense services (FBI Criminal Justice Information Services Division, 2012; U.S. Census Bureau, 2011). The presence of racial disparities in the court system is also evident in sentencing with a 2000 study showing that even when controlling for "severity of the offense, defendant's prior criminal history, and the specific district court's sentencing tendencies, blacks received sentences 5.5 months longer than whites and Hispanics received sentences 4.5 months longer than whites" (Spohn).

Recognizing the role race plays in the criminal justice system is exceedingly relevant to understanding why a greater emphasis on public defense funding is needed in order to reduce overuse of guilty pleas. Implicit racial bias is referred to as "the unconscious associations we make about racial groups" (Richardson and Goff, 2013). This type of bias finds itself most prevalent in moments where hasty judgements without comprehensive information take place. Overburdened public defenders can fall prey to the very bias they are tasked with eliminating when forced to determine which cases to pursue in a short amount of time (Richardson and Goff, 2013). Preparing cases for the rigorous work of trial allows for a heightened attention to facts and reduces the perpetuation of racial bias within a system already tainted by racial inequality. Not only are public defenders susceptible to implicit bias when handling cases, but extralegal

variables such as race also influence prosecutors' role in determining plea deals. A Bureau of Justice Assistance report showed that blacks are less likely than whites to receive reduced plea agreements (Devers, 2011).

The purpose of identifying this literature is not to advocate for the removal of plea bargains altogether, but rather, to demonstrate how an overreliance on plea bargaining as the means of disposing of cases alters the indispensable adversarial component of the courtroom and allows racial bias into a system in which it has no place. As mentioned earlier, the actual trial rates are far lower than the rates deemed optimal by the Texas Indigent Defense Commission's report (2015). My paper seeks to examine the relationship between funds and case load with trial by jury rates to more clearly understand the necessary steps to achieve the recommended trial rate. It is my hypothesis that an increase in funding and reduction in caseload will result in an increase in trial rates.

#### **IV. Data Description**

The Census of Public Defender Offices (CPDO) collected data in 2007 regarding caseload, funds, staffing, and policies for approximately 1,050 public defender offices nationwide. For the purposes of this study, CPDO defines public defender offices as those employing "salaried staff of full- or part-time attorneys to represent indigent clients," leaving out attorneys hired through appointed or contractual services (CPD, 2007). Questionnaires were sent to public defender offices funded at the state and local level, excluding federal offices and any privately funded office. The study also excluded offices that specialized in in capital appellate, or juvenile cases. As of 2007, 22 states maintained a state-based program while 27 states and the District of Columbia relied on county level administration and funding. Maine is not included in either of these categories because it relies solely on appointed private attorneys. The 22 state-

based programs retain oversight of administration and funding. The other 27 states have a mix of 15 states that are primarily funded at the county level and 12 states that receive a combination of state and county funds (Census of Public Defender Offices, 2009). These differing public defender systems governed the manner in which data was collected. State-based systems responded on behalf of each county and six of the 22 provided overall state data. States with a county-based public defender system relied on each individual county to complete the questionnaires for submission. A total of 530 county-based public defender offices responded to the survey (Census of Public Defender Offices, 2009).

In 2007 the Urban Institute collected data for the National Census of State Court Prosecutors (NCSP-07) on behalf of the Bureau of Justice Statistics (BJS). The survey was sent through mail to 2,330 chief prosecutor offices throughout the country and approximately 95% percent of these offices responded. Chief prosecutors for this study can also be referred to as district, county, commonwealth, or state's attorney but does not include municipal attorneys who handle primarily low-level limited jurisdiction cases. The prosecutors' districts correspond with county boundaries in approximately 85% of the cases. NCSP-07 looked at a number of factors such as types of cases and evidence collection methods, but for the purpose of the study, only a number of factors were used to examine the relationship between public defender funds and case outcomes. NCSP-07 measured the number of cases closed per attorney by dividing the number of felony cases closed by each office with the number of FTE prosecuting attorneys on staff in each office. The proportion of felony cases disposed of by jury verdict was determined by dividing the number of felony cases closed by number of felony cases closed by trial in each office (NCSP-07). By using data from the Prosecutors Survey and the Census of Public

Defenders, I was able to run a regression analysis to indicate the extent, if any, of the relationship between public defender funding and caseload with case outcomes.

## **V. Data Used for Regression Analysis**

Although the Census of Public Defender Offices contained data for states with both state and county-based offices, I only pulled information for county-based states. I chose to only examine systems operated at the county level because it would allow me to examine the counties found in the data from both the Census of Public Defender Offices and the NCSP-07 in order to run a regression analysis. The data set from the Census of Public Defender Offices initially displayed data on policies and operations of 530 county-based public defender offices operating in 27 states and the District of Columbia. However, 122 of these districts were dropped because of problems with the data reported. There is not substantial literature examining the data sets collected by the 2007 Census of Public Defenders and there appears to be a number of problems in the data as reported. Due to the lack of current research identifying outliers or problems with the current data, I was careful to only exclude districts from my research that were missing data or displayed a clear problem in what data was recorded. I understand this method may be imperfect, however, it is an attempt to obtain a broad understanding of the relationship between public defender offices and trial rates as opposed to a more succinct case study of a few counties. 19 of these districts were dropped because of missing budget data and an additional 4 districts whose budgets reported total budgets below \$9,000 were dropped. 18 court districts were dropped because of missing felony or total caseload. 28 offices were dropped because they either represented only a portion of a court district (e.g. The Bronx Defenders) or they were state-wide entities charged with representing only specialized cases such as capital defense. An additional 53 districts were dropped because the public defender districts did not cover the same

geographically-defined area included in the NCSP-07. This left a total of 408 public defender districts.

When joined with the NCSP-07 data, several court districts were dropped and other data modifications were made. The Washington D.C. district was dropped because it operates as both a local and a federal court district prosecuting criminal and civil cases. 7 court districts were dropped because of missing budgetary data for Prosecutor's Offices. 20 other court districts were dropped based on suspect conviction and trial rates. For example, 13 court districts with conviction rates below 25% were removed (IL-1; IN-1; LA-2; NY-1; NY-2; PA-4; SC-1; TX-1). 4 court districts with conviction rates above 600% were removed (IL-2; NE-2). 24 court districts with conviction rates between 109% and 350% were converted to 100% (AL-1; CA-3; FL-2; GA-2; IL-2; NE-3; NY-3; OH-1; PA-4; TN-2; TX-1). 4 court districts with jury trial rates above 60% were removed (GA-1; OH-2; PA-2). 17 court districts report a trial rate of 0.0% (Id-1; IL-6; LA-1; NE-7; OH-2). These districts were removed for the purpose of preventing skewed results in the regression analysis.

Although the number of states with county-based systems is 27, the removed districts lowered the number of states included in the study to 23, leaving out West Virginia, Oregon, South Dakota, and Kansas. After eliminating districts with clear problems in the data recorded from both the Census of Public Defenders and the NCSP-07 and then eliminating those not present in both data sets, 380 districts remained. The number of counties in each state included in the study are shown in Table 1.

Alabama	3	Nevada	3
Arizona	9	New York	36
California	35	North Carolina	4
Florida	15	North Dakota	2
Georgia	30	Ohio	28
Idaho	3	Pennsylvania	50
Illinois	56	South Carolina	7
Indiana	8	Tennessee	24
Louisiana	24	Texas	6
Michigan	4	Utah	3
Mississippi	1	Washington	6
Nebraska	22		

The initial characteristics evident when examining public defender offices and prosecutor offices recorded in the data sets used for this study showed disparities in funding levels and caseloads between the two offices (see Table 2-1 and 2-2). Full time attorney was recorded by dividing the hours worked by part-time attorneys by the standard number of hours for a full time employee (40 hours per week) and then adding the resulting quotient to the number of full-time attorneys (Census of Public Defender Offices, 2009; NCSP, 2007). The average number of felony cases per litigating attorney in a public defender office was consistently higher than that of prosecutors in offices with similar total caseloads. Offices with caseloads of less than 1,000 cases found that the average felony case load per public defender was 97 compared to a prosecutor who averaged 80 felony cases per year. In offices with an average caseload between 2,000-5,000, the disparity reduced with public defenders averaging only 6 fewer cases than prosecutors. However, this disparity is most heavily contrasted in offices averaging over 5,000 cases with public defenders maintaining an average felony caseload of 159, 48 more cases than the prosecutor's average of 111 felony cases per year.

**Table 2-1**  
General Characteristics of Public Defender Offices Included in Study, 2007

Office Caseload	Number of Offices	Avg # Total Cases	Avg # Felony Cases	Avg # of litigating Attorneys	Avg Budget
All Offices	380	7833	2483	19.6	\$3,028,365
Less than 1,000 cases	104	561	200	2.6	\$173,363
1,000-2,500 cases	89	1617	631	5	\$588,957
2,501-5,000 cases	78	3645	1333	9.6	\$1,161,121
More than 5,000 cases	109	22844	6995	55	\$9,082,221

Office Caseload	Avg # Cases per litigating Attorney	Avg # Felony Cases per litigating Attorney	Avg Budget per Case	Avg Budget per Felony Case	Avg Budget per litigating Attorney
All Offices	436	138	\$380	\$1,491	\$121,942
Less than 1,000 cases	333	97	\$366	\$1,471	\$97,005
1,000-2,500 cases	434	148	\$377	\$2,091	\$125,369
2,501-5,000 cases	478	153	\$309	\$1,104	\$120,039
More than 5,000 cases	513	159	\$359	\$1,298	\$144,159

Not only is the disparity between public defenders and prosecutors evident through caseload level, but the data also shows disparity in funding per felony case. Budget per case recorded in both the Census of Public Defender Offices and the NCSP-07 accounted for all expenditures within the office such as investigations, litigating staff, and any additional staff or administration (Census of Public Defender Offices, 2009; NCSP, 2007). The average budget per felony case for all public defender offices is \$1,491 which is nearly half the size of the average budget available to prosecutors per felony case. The average budget per felony case for

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prosecutors is listed as \$2,950 and ranges up to \$3,480 per felony case in offices with more than 5,000 cases each year.

**Table 2-2**  
General Characteristics of Prosecutor Offices Included in Study, 2007

Office Caseload	Number of Offices	Avg # Felony Cases Closed	Avg Conviction Rate	Avg # of litigating Attorneys	Avg Budget
All Offices	380	2500	82.3%	26.4	\$5,862,756
Less than 1,000 cases	104	265	83.8%	3.4	\$488,748
1,000-2,500 cases	89	859	83.2%	7.9	\$1,170,537
2,501-5,000 cases	78	1845	85.7%	13.9	\$2,358,895
More than 5,000 cases	109	6442	77.7%	72.3	\$17,300,000

Office Caseload	Avg Population of District	Avg # Felony Cases per litigating Attorney	Avg Budget per Felony Case	Avg Trial Rate	Avg Budget per litigating Attorney
All Offices	380	111	\$2,950	3.35%	\$174,787
Less than 1,000 cases	34,900	80	\$3,100	3.59%	\$146,242
1,000-2,500 cases	97,694	115	\$2,782	4.02%	\$162,804
2,501-5,000 cases	161,943	147	\$2,202	3.15%	\$162,257
More than 5,000 cases	680,709	111	\$3,480	2.07%	\$220,772

The average budget per litigating attorney in the 380 counties used for this study showed consistent differences between public defender and prosecutor offices regardless of caseload within the offices. The average budget per litigating attorney in public defender offices was listed at \$121, 942, substantially lower than the average budget of \$174,787 per litigating attorney for prosecution. Budget per litigating attorney experiences the starkest contrast in public defender and prosecutor offices with caseloads greater than 5,000, consistent with the disparities seen between the two offices regarding caseload and budget per felony case. It is important to

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point out that the disparity between the two offices is often defended because prosecution handles a number of cases not represented by public defense. These are cases where there is ultimately no charge filed or cases that are represented by private counsel. However, even when considering these additional cases, the National Right to Counsel Committee reports that “financial support of indigent defense typically lags well behind that provided for prosecutors” (2009). Additionally, it is important to note that the counties in this study with consistently lower budgets per public defender were typically found in rural regions with lower caseloads. Most likely, these regions also offered a reduced cost of living as compared to public defender offices in larger cities.

The general characteristics found in the 380 counties used for this study remained in line with the literature and the overall reports from both the Census of Public Defender Offices and the NCSP-07 that describe public defense offices characterized by low budgets. A 2007 study conducted in Tennessee examined both state and non-state funds used for prosecution and defense of indigent cases. The study reported that total prosecution funding ranged between \$130 million and \$139 million during 2005. In comparison, funding for indigent defense was found to be only approximately \$56.4 million in the same year, a difference of over \$73 million (Spangenberg Group, 2007). Another study in California found that when comparing prosecution and public defense budgets between 2006-2007, indigent defense was “under-funded statewide by at least 300 million dollars” (Benner, 2007). Although not mentioned in the tables, prosecution benefits from additional access to a number of resources provided by crime labs, law enforcement, and special investigators not guaranteed to the defense (National Right to Counsel, 2009). The data found in the 380 cases used for analysis are consistent with the overall trends of data collected.

## **VI. Results**

Using the data collected from counties found in both the Census of Public Defender Offices and NCSP-07, I then ran a regression analysis to examine the statistical relationship between funding and caseloads of county level public defender offices and the trial rate within the county. My hypothesis that increased funding and reduced caseloads in public defender offices would increase jury trial rates was, however, not supported in the findings with the regression analysis showing no significant relationship between these variables. Even when analyzing conviction rates and jury trial rates separately as the dependent variable, the data showed no statistical significance to support my thesis. (See Table 3 for Impact on Jury Trial Rates and Table 4 for Impact on Conviction Rates.)

Table 3  
Impact of Public Defender and Prosecutor Office Staffing and Resources on Jury Trial Rates

coefficient (t-scores )	All Districts	County Districts	Hybrid Districts	Small Districts	Medium Districts	Large Districts	Major Urban
<b>Public Defender</b>							
Budget per defender	-0.0000004	-0.000001	-0.00000009	-0.000006	0.00002	-0.000037	-0.000003
	0.06	0.19	0.14	0.48	0.63	0.28	0.07
Felony load per defender	0.0011	0.0039	-0.003	-0.0015	0.0081	-0.00047	-0.00049
	0.57	1.07	1.11	0.33	1.62	0.08	0.24
Budget per felony case	0.000023	0.0002	-0.0007	0.00039	-0.00021	-0.00014	0.0004
	0.09	0.66	1.38	0.6	0.23	0.62	0.15
<b>Prosecutor</b>							
Budget per prosecutor	-0.0000038	-0.000003	-0.0000007	-0.000004	0.000001	-0.000004	-0.00001
	1.45	0.97	2.05 **	0.65	0.4	1.21	1.26
Felony load per prosecutor	-0.0059	-0.0053	-0.0012	-0.014	-0.0075	-0.0071	0.0018
	3.26 ***	1.68 *	0.53	3.31 ***	2.70 ***	1.83 *	0.3
Budget per felony case	0.000016	0.0001	0.0011	-0.00017	0.0004	0.0001	0.00035
	1.73 *	1.04	2.62 ***	0.98	3.45 ***	0.61	1.23
adj R-2	0.07	0.04	0.33	0.06	0.21	0.07	0.17
number of cases	379	260	119	104	88	78	109

Note: significant at \* p < .10, \*\* p < .05, \*\*\* p < .01.

Table 4  
Impact of Public Defender and Prosecutor Office Staffing and Resources on Conviction Rates

coefficient (t-scores )	All Districts	County Districts	Hybrid Districts	Small Districts	Medium Districts	Large Districts	Major Urban
<b>Public Defender</b>							
Budget per defender	-0.00003	-0.00016	-0.00008	0.00004	-0.00005	-0.00001	-0.00002
Felony load per defender	1.57	0.77	2.51**	0.7	1.14	0.51	0.92
Budget per felony case	0.008	0.01	0.0094	-0.009	0.00069	-0.0016	0.022
	0.75	0.73	0.58	0.33	0.32	0.05	1.23
Budget per prosecutor	0.0014	0.0012	0.0015	0.0014	-0.00029	0.00072	0.0026
	1.5	1.17	0.64	0.72	0.16	0.51	1.48
<b>Prosecutor</b>							
Budget per prosecutor	0.000013	-0.000004	0.000003	-0.00003	0.000017	0.000008	-0.000007
Felony load per prosecutor	0.18	0.43	0.24	1.01	2.02**	1.09	0.43
Budget per felony case	-0.036	-0.019	-0.051	-0.037	-0.04	-0.037	-0.041
	2.43***	1.16	3.43***	1.22	1.58	2.35**	2.22**
adj R-2	0.00021	0.0004	-0.0004	0.0011	-0.00011	-0.0002	0.0005
	0.97	1.55	0.39	2.40**	0.19	0.44	1.02
number of cases	0.07	0.04	0.14	0.15	0.1	0.09	0.12
	379	260	119	104	88	78	109

Note: significant at \* p < .10, \*\* p < .05, \*\*\* p < .01.

The analysis measuring impact on jury trial rates shows that budget per defender and budget per felony case have no statistical relationship with the change in jury trial rates. Separate analysis based on size of public defender district maintains this same finding contending that funding is not a significant variable in increasing the jury trial rates. Additionally, county districts as compared to hybrid districts (districts funded and overseen by a combination of both county and state level administration) provides no substantial difference in measuring the impact of funding on jury trial rates. Felony load per public defender also does not have a statistical impact on jury trial rates either.

In contrast, budget per felony case and felony case load for prosecutors' offices did show a relationship. Felony load per prosecutor recorded a strong inverse correlation with jury trial rates. As felony load decreased, the jury trial rate increased substantially. The only categories where this trend did not occur was in hybrid districts and prosecutor districts found in urban areas. Budget per felony case in prosecutor offices showed a correlation with the increase in jury trial rates overall but was most clearly seen in hybrid districts and medium sized districts which have a population of between 100,000-249,000 (NCSP, 07). The regression analysis examining impact on jury trial ultimately establishes no reason to identify funding and caseload within public defender offices as principle factors in determining the most efficient policy reform necessary to increase jury trial rates as suggested by the Texas Indigent Defense Conviction in 2015.

The regression analysis examining conviction rates as the dependent variable (Table 4) again finds no statistical significance in increased funding for public defenders and reduced conviction rates. The only district showing any significance is seen in hybrid districts. Regarding

prosecution, felony load per prosecutor does indicate an inverse statistical relationship regarding conviction rates with the strongest again taking place in hybrid districts.

Although the findings from the regression analysis do not support my hypothesis, I do not believe it is a result of problems in the statistical analysis. The districts dropped from the data because they were not present in both the Census of Public Defender Offices and NCSP-07 appeared to occur randomly, giving no reason to suspect that this would impact the findings. Additionally, variance inflation factor tests indicate no problem with multicollinearity. In analysis with each of the defender or prosecutor variables included one or two at a time, similar results as reported were found. Tests for heteroscedasticity did indicate a problem so the results reported include robust standard errors. Still, the results were only moderately impacted.

The literature overwhelmingly indicates lack of funds and high caseloads as the main contributing factors to the problems associated with public defense. According to the literature discussed in this particular study, these factors appear to lead to low jury trial rates which effectively alter the adversarial component of trial and permit unconscious racial bias into the courtroom. Yet, the regression analysis consisting of over 380 counties does not support this argument. It is possible that many of the counties that were dropped due to errors with data recorded or counties who chose not to participate in the Census altogether represented the lowest funded counties. High caseloads and little pay to support litigating staff could have prevented these offices from participating in the study and consequently out of the regression analysis. However, as previously mentioned, the counties that were dropped from the final regression analysis occurred randomly which would not have made a significant impact on the results as shown.

It is also important to consider the data not visible when measuring only for variances in jury trial and conviction rates. Jury trial rates alone do not show any signs of difference in the handling of cases leading up to a trial or plea deal. One of the main criticisms Stephanos Bibas made about the problem with a system over reliant on plea deals is not necessarily with the action of pleas itself, but that they too often occur outside the scope of a trial (2004). It is possible to have an increase in the amount of pleas taking place based on substantial evidence as a result of increased funds without this being recorded in the data. Nevertheless, increased funds for public defender offices and reduced caseloads do not prove to have statistical significance in ever increasing trial rates as recommended by the Texas Indigent Defense Commission. Another point to consider when weighing the implications of the analysis is whether the better funded public defender offices serve as an adequate point of reference for achieving the desired jury trial rate. More than 70% of counties participating in the 2007 census reported having insufficient number of attorneys to meet the standard guidelines (Census of Public Defender Offices, 2009). Prosecutor offices consistently having an overall higher budget when compared to public defender offices could potentially serve as a factor in explaining the findings that were not in line with the hypothesis. Although there are a number of complex factors that could work to explain the findings of the regression analysis, it is apparent that my thesis overestimated how much caseload and budget affected jury trial rate.

Although these two variables might play a role in achieving the recommended jury trial rate, it is clear that these are not the driving policy reforms necessary to achieve the suggested rate. In theory we can see these factors serving as necessary components for reform, but practice does not indicate the strong correlation. Perhaps what is necessary to reduce the overreliance on plea bargains is a combination of reforms that work to alter the atmosphere and improve skill

sets found in public defender offices. The Public Defender Service (PDS) for the District of Columbia depicts a number of the practical reforms that must occur alongside changes to funds and caseload for there to be a significant effect on increasing trial rates and reducing conviction rates. This public defender office is often seen as the gold standard for how other public defender offices should be modeled. According to the Census for Public Defender Offices, PDS has an average budget per felony case of \$19,199, remarkably higher than the \$1,491 average budget per felony case of the counties used in this study. Public defenders at PDS average only 13 felony cases per defender compared to the average of 138 felony cases (Census of Public Defender Offices, 2009). Correspondingly, felony trial rates in the District of Columbia are recorded at 20.8% with a felony conviction rate of 83.3% (Census of Public Defender Offices, 2009). These rates are more closely aligned with the recommended trial rates that work to maintain the adversarial component of the courtroom that ensures exceptional advocacy on behalf of the client and thwart racial bias.

Charles Ogletree identifies a number of factors that work to create a public defender office with trial rates at the recommended rate. Although he identifies the importance of adequate funds and reduced caseloads, Ogletree emphasizes the integral component training plays in maintaining the office's success (1995). PDS provides expert and practical training at the start of employment and continues training to keep staff attorneys up to date on changes in law. Public defenders are also provided training in the area of investigations along with ample access to investigators and interns to assist with this component of trial preparation (Ogletree, 1995). Attorneys are taught to prepare each case as if it is going to trial with the office emphasizing thoroughness with each case. PDS also provides a unique office culture that cultivates a community of staff encouraged to seek high quality representation. Unlike burnout

that occurs at high rates in many public defender offices, the supportive culture of PDS works to prevent high attrition rates (Ogletree, 1995). From this example it is clear that adequate funds and reasonable caseloads are not the primary factors that work to achieve the recommended trial rate but rather the culmination of numerous components that work to establish effective indigent representation. Perhaps my thesis overstated the impact of budget and caseload on the intended trial rate when the complex issue requires comprehensive, not isolated, change.

## **VII. Conclusion**

The judicial system's commitment to upholding justice relies on the right to legal counsel regardless of financial ability. Unfortunately, this is a right far too often recognized in theory but not adequately implemented into practice. To keep pace with rising incarceration rates filling court dockets across the country, plea bargains have become the most common and swiftest means of closing cases. This overreliance on plea bargains without sufficient investigations and consideration of evidence has effectively altered the adversarial character of the courtroom and allowed racial bias to impact cases before ever reaching trial. In order to prevent these problems from continuing, it is crucial that jury trial rates experience a growth which could occur as a result of changes to the current public defender systems across the country. Unlike my thesis presumed, simply increasing funds for public defender offices and reducing caseloads will not suffice as the much needed reform. Instead, there must be a comprehensive reform that perhaps includes a reform in the training, office atmosphere, and resources in public defender offices everywhere.

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