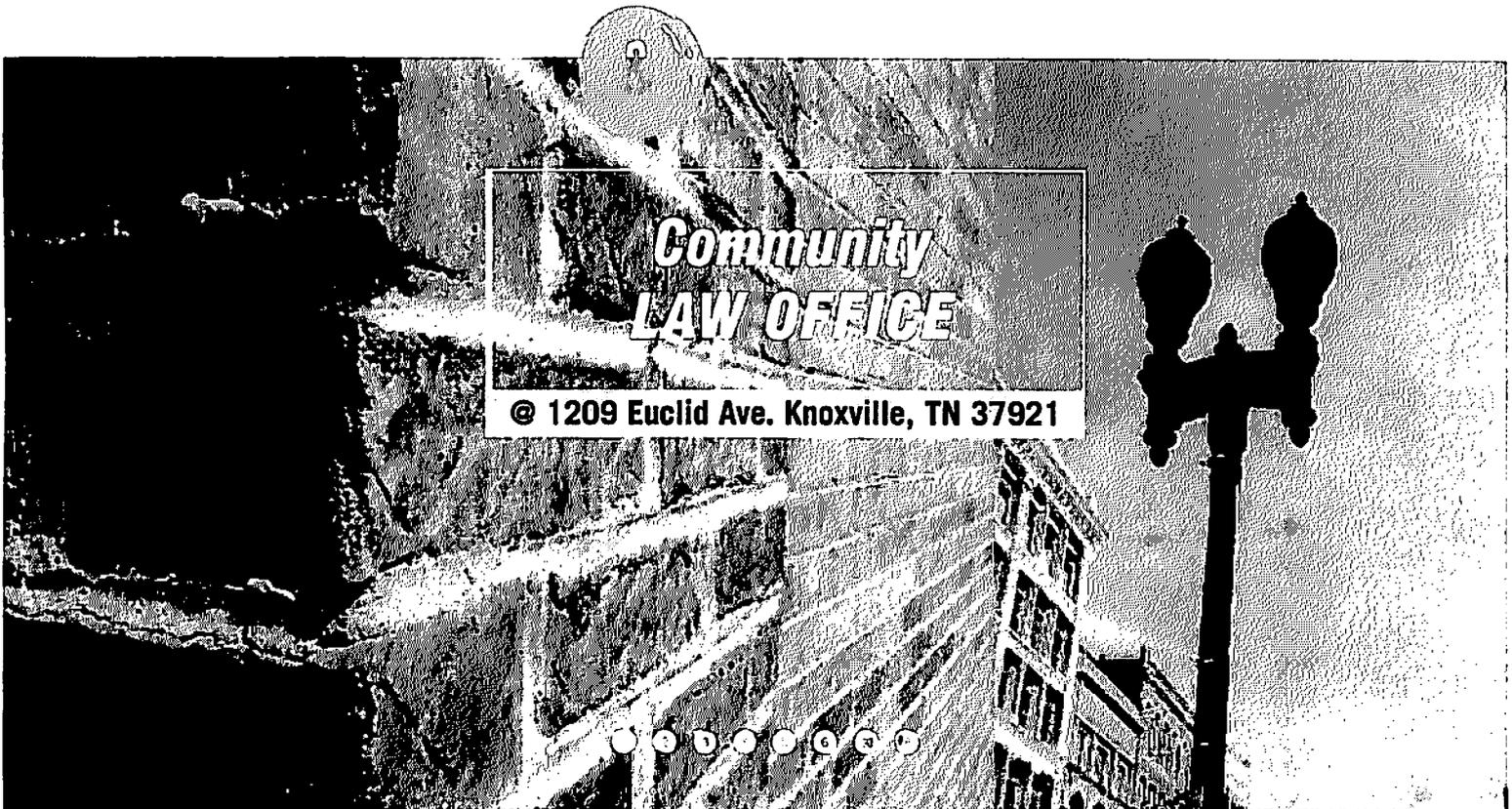


# Organizational Strategies

PEACE

PUBLIC DEFENDER 6th Judicial District

JUSTICE



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# Organizational Strategies



*Background and History*



## BACKGROUND AND HISTORY

Thirty-seven years ago, something changed for poor people accused of crimes in this country. Justice Hugo Black wrote:

*"...[t]he right of one charged with crime to counsel may not be deemed fundamental and essential ... in some countries, but it is in ours. From the very beginning, our ... constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him."*

And so the United States Supreme Court decided *Gideon v. Wainwright*.

Since this landmark decision in 1963, the most common means of providing indigent legal services has become the public defenders office. In 1989, the Tennessee legislature created the statewide Public Defenders Conference and established the District Public Defender Offices.

Mark Stephens was elected in August 1990 as the District Public Defender for the Sixth Judicial District, which is a jurisdiction covering Knox County, Tennessee. The Knox County Public Defenders Office was formally opened on September 1, 1990. The staff consisted of seven assistant public defender attorneys, three secretaries and one investigator.

Within fourteen months, the office was handling far too many cases. Facing an ethical dilemma over whether clients could be competently represented if the office continued to be appointed to clients, the office requested that the local judiciary stop appointing new cases to the office. The relief was necessary until the caseload ratios became acceptable again or until the necessary resources were allocated that would allow the office to competently represent more clients. The relief was granted.

Sessions' Court Judges began appointing all new cases to members of the Knoxville Bar. Beginning at A and Z in the directory, the appointments to the private bar created a groundswell of support for more public defender resources. The local response was immediate, and also drew national attention and garnered a *New York Times* front-page article.

In 1992, the legislature responded by increasing not only our staff but also the staffs of other public defenders throughout the state. The Knox County office doubled in size increasing assistant public defender positions to a total of fourteen.

In this spirit of positive change, the office pressed for other institutional changes to increase the quality of representation for indigent defendants. Funding mechanisms designed to maintain parity between County resources which flowed to the prosecutor's office and the defender's office were created and passed through the State and County legislative assemblies. Modest taxes on criminal warrants also increased the ability of the Knox County Public Defender to add to his staff. These novel and alternative means of funding have now increased the size of our office by almost fivefold.

The determined will of the Knox County Public Defenders office, since its inception, is to provide quality and caring counsel to our indigent clients. The early battles to adequately fund the Public Defender's mission set the stage. The goal now is to develop our client's legal defense in a more holistic and efficient manner.

Recognizing the public defenders whose work has been on the vanguard of this challenge, we see that the commitment to providing the best representation includes not only devoting time to the statutes and legal precedents involved in our clients' defense, but also exploring the causes and consequences of poverty. As Lenny Noisette, Executive Director of Harlem's Neighborhood Defender Services, said:

*"...[w]e have learned from our work with families that the line between victim and offender is not nearly as solid as it is often described. As victims of poverty, our most vulnerable citizens find themselves one day in court as the complainant/victim and the next day as the accused. Understanding the fluid lines between crime and poverty has helped us provide more comprehensive services to the families we serve."<sup>1</sup>*

To excel as a community, we must be willing to reach out and offer meaningful and dignified assistance to the poor. Addressing a client's social needs and fulfilling one's ethical, professional legal responsibilities are not differing obligations but rather a marriage of moral imperatives. Thus, this office will embark on a venture that promises to expand the traditional role of public defense; a role that at its core includes providing the client with quality, zealous legal representation, while at the same time empowering the client to fulfill life goals and dreams.

## THE COMMUNITY LAW OFFICE

For eleven years the Public Defenders office has provided the highest quality legal representation for indigent clients (adults and juveniles). Because of the unmet social needs of this client population and the growing number of cases, the office came to the realization that more had to be done. A number of factors exacerbated this situation:

1. The closing of mental health facilities and reduction of funding to aid those who are mentally ill beginning in 1996. By 1998, there were 1,890 inmates with some form of mental illness in county jails.<sup>2</sup>
2. The cost of treating those addicted to drugs and alcohol.
3. The lack of coordination of services that do exist and funding restrictions that make it difficult for programs to serve those who need those services.
4. Due to high cost of raising a family, both parents must work, leaving children with less supervision.
5. A growing number of individuals who are uneducated and lack skills necessary to make a "living wage" as opposed to the minimum wage.<sup>3</sup>
6. The growing cost of medical care.
7. Criminal Justice professionals who historically have not seen their role as extending beyond the "processing" of cases.
8. A public that does not understand the present system and has become increasingly more frustrated with those involved.

Reform is needed in the entire criminal justice system that allows for the recognition of cause and effect between poverty and criminal activity. Continuing to ignore the issues that contribute to criminal activity is dangerous. The Public Defenders office recognized this problem and is poised to take steps to change strategies within, as well as advocate for change in the system as a whole. The underlying assumption is that these changes will reduce crime and the long-term cost to the taxpayer.

The National Criminal Justice Commission (NCJC) reports that

*"The majority of the people filling our prisons come from impoverished backgrounds and lack a formal education.... Crime policy cannot be separated from issues of child poverty or family stability, nor can it be seen in isolation from spending in other areas of the economy."*<sup>4</sup>

This finding corresponds with the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) areas needed to combat crime. These areas correspond with the NCJC recommendations:

- Strong families
- Strong core social institutions (schools, churches and community organizations)
- Prevention strategies and programs – recreational centers
- Immediate intervention
- Intermediate sanctions for lesser violent offenders
- Secure confinement for violent and chronic offenders – must be coupled with comprehensive treatment and rehabilitative services

In a survey of 6000 inmates from 431 jails completed by the Bureau of Census for the Bureau of Justice, results further support the need for services in the community.<sup>5</sup>

- 63% of convicted males and 50% of females reported using alcohol regularly
- 60% used drugs, alcohol or both at time of offense
- 82% used THC at least once in their life
- 48% of female and 13% of male inmates report being sexually or physically abused at least once in their life
- 27% of females and 3% of males had been rape victims
- 36% of inmates were unemployed before their most recent arrest
- 50% reported incomes below \$600 during month of arrest

In addition, *Corrections Today* in its December 2000 issue reported that the US currently has more mentally ill men and women in jails and prisons than in all state hospitals combined.<sup>6</sup> A survey conducted by the Knox County Public Defenders Office indicates that these same areas are a problem and of concern to their clients and staff attorneys. The legal staff of the Public Defenders office consisting of twenty-three attorneys was surveyed concerning client needs. Attorneys were asked to base their opinion on their general knowledge of the clients that they represented in the last calendar year.

The survey was divided into two sections. Section One listed twenty-three problem areas. Attorneys were asked to judge what percentage of their clients had experienced the problem area in the last year. The attorneys were also asked to rank the severity of the problem for the percentage of clients who were affected. The results here reflect that over 60% of our clients have significant to serious problems with maintaining employment or adequate income, as well as with drug and alcohol abuse. The attorneys believe that over 40% of our clients have mental health issues that are significant to serious.

Section Two listed the same twenty-three problem areas and asked that attorneys choose the top ten problems faced by their clients, ranking them 1 to 10. If a problem area was not listed but should be included in the top 10 problems, the attorney was asked to write in the problem.

Problems associated with drug abuse, alcohol abuse, mental health needs, and employment related issues comprise the top five client needs as ranked by the attorneys of the Knox County Public Defenders Office. The results of this part of the survey are more fully reported in Table 1 below.

TABLE 1 - SERVICE NEEDS

<i>Rank</i>	<i>Need</i>	<i>Number Identifying</i>
1	Drug treatment	23
2	Alcohol treatment	20
3	Mental Health services	20
4	Better employment / income	15
5	Employment	17
6	Drivers License	19
7	Education	15
8	Transportation	17
9	Housing	15
10	Medical Needs	8

The consensus among community resource providers is that while some services do exist, the amount of funding, type of funding (TennCare, private insurance, etc) and restrictions placed by funding sources make it difficult to serve all those in need of the services.

The Knox County Public Defenders office has designed a program, the Community Law Office (CLO), to assist clients in overcoming these problems. They include assessing the client, developing a plan of action, making referrals to existing service providers, providing needed programs that do not exist serving as an advocate for expanding community programs, and advocating and educating the professionals in the system as well as the public about the need for change. It is not sufficient to deal with client problems in isolation. However, it is important to lead the client through the plan one step at a time for as long as the client desires assistance. A client's plan is broken into small realistic steps allowing for a feeling of accomplishment as each step is completed.