

City University of New York (CUNY)

CUNY Academic Works

Capstones

Craig Newmark Graduate School of Journalism

Fall 12-18-2020

Covering the Indigent Defendant System

Francis J. DiFiore

Craig Newmark Graduate School of Journalism

[How does access to this work benefit you? Let us know!](#)

More information about this work at: https://academicworks.cuny.edu/gj_etds/470

Discover additional works at: <https://academicworks.cuny.edu>

This work is made publicly available by the City University of New York (CUNY).
Contact: AcademicWorks@cuny.edu

Final Practicum Report

By Frank DiFiore

When I returned to the Bronx last August, I expected a normal school year. CUNY Newmark was a way for me to return to familiar territory and faces while also incorporating new ones.

In this line of thinking, I thought about subjects I had written about both while living in the Bronx as a youth and during my time as a reporter in Northern New York. I had written about environmental concerns, the challenges of religious communities, and even economic development. I finally settled on a topic close to my heart and connected with my family: the right to counsel.

BACKGROUND

By the end of the first semester, I decided to center my work on court-appointed counsel and their clients in New York City. I was indirectly familiar with this system -- my father is one of the independent attorneys who represents defendants through the Bronx's Assigned Counsel Plan, and has represented indigent clients for decades. Dad would talk about his clients at the dinner table, as well as the strategies used by the prosecutors and how much or little they were accommodated by the judge on the case.

I did not go into law as my father did, but I maintained an interest in criminal defense work. At SUNY Purchase, I wrote a magazine-length article focusing on indigent defendants in Bronx Criminal Court. When I graduated from college and began reporting as a career, I paid attention to the development of the Public Defender's Offices in Franklin County, NY -- where they struggled to staff enough people for the listed salaries.

I had journalistic and academic experience with this system; but that is a far cry from having to deal with it in order to defend my rights. I needed to make connections anew within the city with the people who do interact with it -- the attorneys, their clients, and the ancillary groups that advocate for improvements to that system.

PLANNING AND OUTREACH

When I started studying at CUNY Newmark, I started my outreach in-person at the Bronx County Hall of Justice. My father helped introduce me to several working Assigned Counsel attorneys at the courthouse, who were happy to speak with me.

It was through these in-person trips to court that I happened to catch the final act of a three-year long case involving Shawn Young, a man incarcerated at Riker's Island facing charges of attempting to kill another inmate. I was unable to reach Young, but managed to speak with his court-appointed counsel Juan Campos. Young's story and Campos' efforts to defend him against the Bronx District Attorney's office were the spine of my [first true article](#)[1][2] on the indigent defense system in New York.

It was during these discussions with the working attorneys that I heard about the state of the Assigned Counsel Plan, one of the three main branches of court-appointed counsel. These attorneys -- mostly older attorneys, many of whom formerly worked for the District Attorney's office -- told me about the distrust from first-time defendants; hearing the words "court-appointed attorney" or hearing about them being a former prosecutor can worry or discomfort someone interacting with the criminal justice system for the first time. They talked about the stagnation of pay; the pay rate for Assigned Counsel was last set in 2004, while the costs of office space, transportation, and the tools of examining evidence have only increased over time.

At the same time, these attorneys impressed upon me that their work was not merely a job for them. In spite of their previous work as prosecutors, attorneys like John Yu and Mike Marrinacio maintained that giving their best to represent people accused of crimes was a part of a key American article of faith.

This attitude was shared by attorneys who came from different backgrounds. Philip Katz, an immigration attorney by experience, joined the Assigned Counsel Plan for Manhattan's Family Court after seeing the overlap in those areas of law.

"I like helping people, and I wanted to do more of that in my work," Katz told me in November.

SETBACKS

I had hoped that reaching attorneys would allow me to contact clients reliant on court-appointed attorneys as well. I knew that many people in this position would not like to risk their privacy or put themselves in the spotlight during or right after their trial. I passed on contact information to attorneys, suggesting and hoping that former clients who felt comfortable speaking about their experiences would reach out to me.

Those calls and responses never materialized. I tried shifting effort towards reaching support groups -- bail funds, community organizations -- that I thought would be able to reach former clients on my behalf, but again, the outreach fizzled between a busy school schedule and the eventual coming of the COVID-19 pandemic.

The pandemic meant an end to visiting the court and a general slowdown in court activity, as New York State rushed to find some kind of solution to different concurring problems. During an Prof. Meredith Bennett-Smith's advanced reporting class, I was given the option to tell a personal story through an audio slideshow or to try and focus on my community despite the social distancing guidelines. I split the difference; I created such a project focusing on [my father](#), an immuno-compromised working attorney now practices law from our home in the east Bronx[3].

After my summer internship at THE CITY, I came to grips with the new normal. Meeting sources in-person was no longer viable; I had moved to trying to follow up with previous sources and new contacts via email. I had previously managed to engage two new contacts: Professors Nicole Smith Futrell and Fareed Nassor Hayat of CUNY Law. Both were former court-appointed defense attorneys (Futrell in the Bronx, Hayat in Baltimore) that expanded my view of the institution beyond the Assigned Counsel Plan.

Futrell, in particular, provided an overview of how the Bronx Defenders had built up a support structure for defendants assigned to them, building on the [legacy of Gideon v. Wainwright](#). [4]

REORIENTATION

My original plan had been to build out a series of “know-your-rights” workshops focused on court-appointed counsel -- who could expect counsel to be appointed for them, how much control a client has to be involved in their own defense, and what services are accompanied with counsel.

The original plan was no longer viable, but the main goal remained the same: informing the public. The common threads in my meetings with these attorneys revolved about a lack of information and apathy. The general public was either indifferent or suspicious of court-appointed counsel -- in part due to a media and political atmosphere that bolstered a hardline approach to criminal justice -- which meant their budgets were vulnerable and their place in the court system was undervalued. Providing an alternative media voice, and putting the indigent defense system in context, was the ultimate goal in the end.

I scaled back my goals to a simpler solution: get information about the indigent defense system to the public with an online publication. I had considered centering it on [Medium.com](#)[5] to start, due to my familiarity with the system. However, I came to understand that I would need a space with its own identity

To build this website and give my stories their own space, I relied heavily on techniques for coding html from Prof. John Keefe's Design and Development class. With a lack of original images and video for a court-centric media piece, I also tried to find public domain images and personal work that could illustrate the tone I wanted this website to convey to visitors.

PUBLIC DEFENSE INFORMER

Public Defense Informer would be the best way to compile and distribute the information I had gathered about how attorneys relate to their clients. The articles I chose for PDI's premiere reflected the topics attorneys emphasized in my early interviews: the financial balancing act, the history of public defense, and the reach of those programs. My hope was that providing a baseline of context, I could work towards more specific topics in the future.

My own fears about PDI's viability and visual appeal kept me from fully unveiling it to the public -- its target audience -- until near the end of the third semester. It was well into December that I opened the way to the website with [a Facebook page](#)[6], hoping that my pre-existing contacts with former classmates and activists in criminal justice reform would help with outreach.

Such a late arrival, naturally, comes to little to show. In the week that it was unveiled to the public, [the Facebook page](#) saw only 48 people reached and 28 engagements. While well-wishes from friends and associates are nice, I wish I had been more bold in preparing and sharing what I had; just as I wished I had been more active in reaching out to support groups to open the door to former indigent defendants.

In spite of the setbacks, I believe I have laid the groundwork for future stories focusing how our society delivers the right to counsel. The articles I have written provide a baseline of understanding that can springboard in more narrow areas of expertise, such as the intersection of criminal court and immigration court. There are plenty of stories left to be relayed from the people engaging and living with them to the general public.

FUTURE PLANS

There are paths to improvement. Reaching out to established criminal justice reform groups like the Brennan Center for Justice -- or even one of the defender groups like the Legal Aid Society -- could allow me to serve an information resource. I plan to build out a more consistent social media posting strategy to draw in a wider audience. Making contacts with more people involved in the system would be a better visual to personify the public defender system than any Creative Commons image. And I have my [original organization](#) outline from Prof. Jeremy Caplan's class as a blueprint for the future. [7]

The guiding star of PDI must always be the well-being of the people it is meant to support -- the defendants facing the criminal justice system. This is why when I created [my own ethical guidelines](#) in Prof. Bolton's class, I repeatedly emphasized the need to respect privacy and avoid feeding into a sensationalized media practice surrounding criminal court trials. [8]

Despite all the difficulties, I am proud of PDI. I have been able to create a foothold for news about indigent defense. In a time when people are rethinking the balance of power between the public and law enforcement, such a space may help keep the pressure on public officials to remember the rights of the accused.

APPENDIX

- [1] [“A Narrowing Field: Indigent Defense in New York City.”](#) *Public Defense Informer*. Interviewing several working Assigned Counsel Plan members, I focus on the attempted murder case of Shawn Young as an example of the work done by court-appointed counsel in New York City. [2] As part of the article, I draw data from the 2019 New York City budget to compare the financial power of the prosecution and defense. The total budget for public defender services in New York City for that year came to \$210 million, with just about half going to the Legal Aid Society. By contrast, the total budget for the city's five District Attorney offices comes to \$351 million -- not counting the billions-strong budget of the NYPD.
- [3] [“DiFiore Interview Final.”](#) I interviewed my father, Julius C. DiFiore, as he grabbed files from his office in April 2020. He would continue his practice at our home in the east Bronx; as of December 2020, he has not returned in-person to court appearances due to fears of COVID-19. His court appearances on behalf of his clients have been done through remote appearances; he has since made brief return trips to his office for civil work, while masked and social distanced.
- [4] [“A Step-By-Step History of Indigent Defense in America.”](#) *Public Defense Informer*. I interviewed Prof. Nicole Futrell Smith of CUNY Law, who sits on the Bronx Defenders' Board of Directors, about the development of indigent defense services in recent years. The inclusion of investigative and social services builds on the precedent set by *Gideon v. Wainwright*, which in turn built on the legacy of *Powell v. Alabama*, the case of the Scotsboro Boys. I reviewed several case summaries of the relevant suits to try and make it sensible for a non-legal scholar audience.

- [5] [Medium.com](#) was an interesting interactive tool for parsing out an online presence. Ultimately, however, I realized that it came with limitations in terms of presentation and editing capability.
- [6] [Facebook](#) was the best way I could cultivate an audience -- mid-way between the open free-for-all of Twitter and the closed clique discussion of a subreddit. After initially posting under PDI's profile, I would go on to share stories at different times from my personal account to try and expand the reach of PDI. Excerpts from stories were used to try and pique the interest of readers. Since Facebook tends to be more popular post-workday, I aimed for these postings in evening times when people would be more likely to view them.
- [7] To assist us in making our projects financially viable, our Startup class plotted [outlines](#) to boil down quick 3-4 pitches about our product, why we should be trusted as experts, and how we intend to build out an audience for it.
- [8] Our second-semester Ethics class not only informed us about the general laws to be familiar with, but the personal ethics we hold and that our communities know that we are beholden to. As a court-focused reporter, [my ethics guideline](#) focuses on respecting attorney-client confidentiality and to avoid feeding into "quick and flashy" journalism tropes.