



*EVALUATING THE EFFECTIVENESS
OF THE LOS ANGELES COUNTY
PUBLIC DEFENSE SYSTEM AT
REPRESENTATION DURING THE PLEA
BARGAINING STAGE OF LITIGATION
FOR VIOLENT FELONIES*

AP Research

*What is
indigent
defense?
What is
Plea
bargaining?*

- Municipally employed attorneys who represent criminal defendants from their arraignment through sentencing
 - A stage of arbitration wherein defendants can negotiate the charge in exchange for a guilty plea
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Case Law History

- *Gideon v. Wainright* (1963)
 - *McMann v Richardson* (1970)
 - *Strickland v Washington* (1984)
 - *Hill v Lockhard* (1985)
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Existing Scholarship

- Hoffman, Rubin and Sheppard (2004) found the *marginally indigent*₁
- Anderson and Heaton (2012) established the use of reduction in sentencing time as a metric for attorney effectiveness₂
- Cornwell (2015) found that type of attorney has a significant impact on juries₃
- Research has yet to address attorney effectiveness during plea bargaining

1-Hoffman, M.B., Rubin, P.H., & Shepherd, J.M. (2004). An empirical study of public defender effectiveness: Self-selection by the "marginally indigent". *Ohio State Journal of Criminal Law*, 3, 223-255

2-Anderson, J.M., & Heaton, P. (2012). How much difference does the lawyer make? The effect of defense counsel on murder case outcomes. *The Yale Law Journal*, 122, 154-217

3-Cornwell, E.Y., (2015). The trials of indigent defense: Type of counsel and case outcomes in felony jury trials. *Albany Law Review*, 78(3), 1239-1259

What this means for Los Angeles


- 2008 audit finds Los Angeles to be meeting all indigent defense standards₄
- Los Angeles judges find that LA County Public defense offices are under resourced₅
- 94% of Los Angeles Defendants go through plea bargaining₃
- Makes it possible that violent felons will be released because of an IAC violation

⁴-The American Bar Association, Standing Committee on Legal Aid and Indigent Defendants. (2010). *State, county and local expenditures for indigent defense services fiscal year 2008*. Retrieved from https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_def_exp_enditures_fyo8.pdf


⁵-Alarcon, A., Mitchell, P.M. (2011). Costs of Capital Punishment in California: Will Voters Choose Reform this November?. *Loyola of Los Angeles Law review*, 46(0), 1-34.

Question

How effective, as a function of time sentenced and consistency, is the Los Angeles County public defense structure at representing the indigent in the plea bargaining stage of the adversarial proceedings for violent criminal felonies?




Hypothesis

- Public Defender's will achieve less beneficial results than private counsel
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METHODS



Methods of Data Collection

- Adapted from Anderson and Heaton
 - All 2nd degree murder defendants, disposed of during plea bargaining
 - PRA Request made of the LA Public Defender's and Prosecutor's offices
 - 2nd degree is most common, 1st degree is incongruent
 - Does not include defendants who plead to more than one crime, were represented by more than one attorney
 - Reduction in time sentenced used as main metric
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Methods of statistical analysis

- Two groups of defendants; Private Counsel and Public Defender
 - Average Reduction in sentencing time taken
 - Standard Deviation of sentencing time measures consistency
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Limitations

- Possible that some defendants included in the study went unrepresented by an attorney
 - “Nearly all defendants for felonies in federal and large state courts were represented by some variety of attorney”⁸

⁶-U.S Department of Justice, Bureau of Justice Statistics. (2010). *Census of public defender offices, 2007*. Washington D.C: Lynn Langton, Donald Farole, Jr.



*RESULTS AND
DISCUSSION*

Reduction in Time Sentencing (Years)

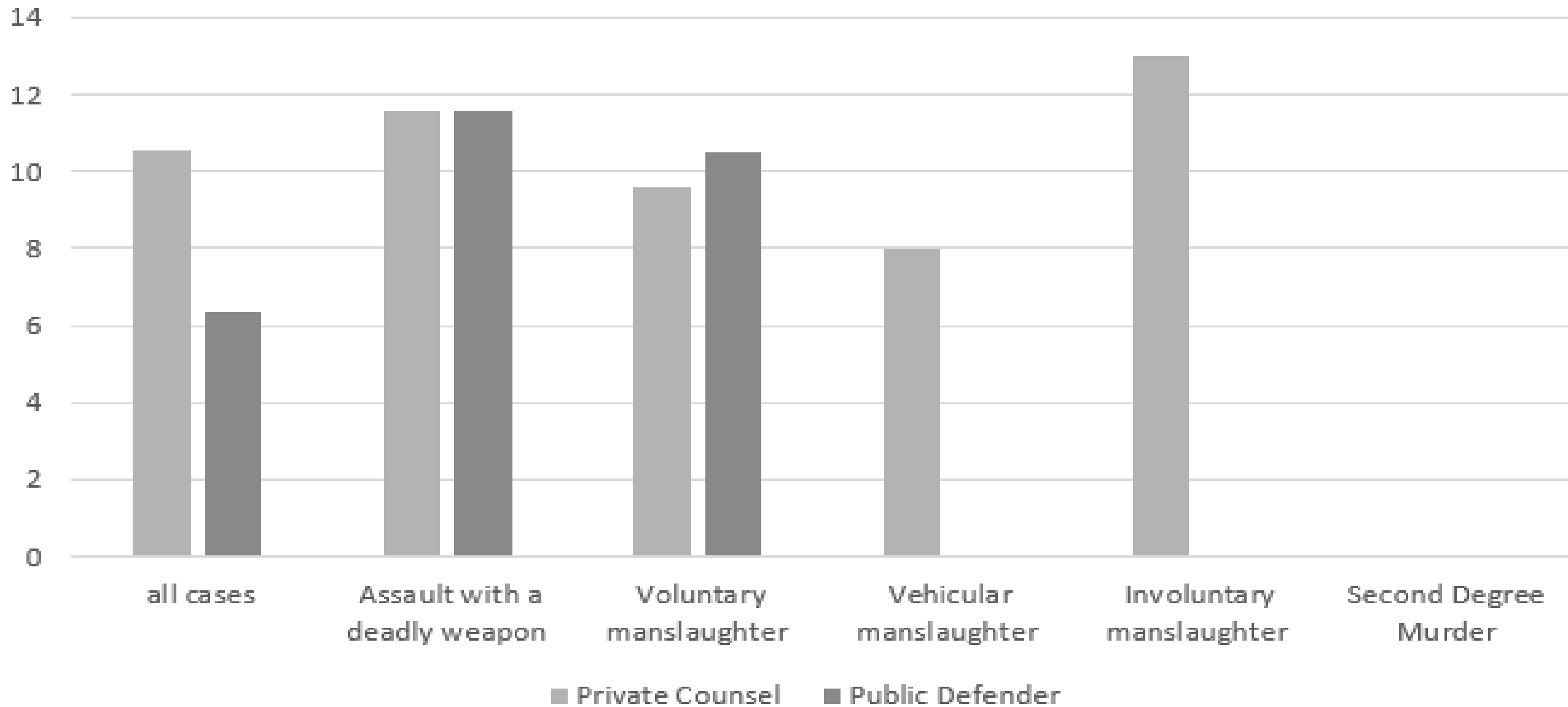


Figure 1-Reduction in Time Served Achieved by Public and Private Attorneys

Discussion of Outcome Favorability

- 28% of public defenders nationally are within first 10 years of practice,⁷
- Plea bargaining experience is cumulative⁸
- Judges in Los Angeles reported in 2008 that they believed their public defense department was under funded⁹

7-Justice Policy Institute. (2011). *System overload: The cost of under-resourcing public defense*. Retrieved from <http://www.justicepolicy.org/research/2756>

8-King, N.J., Wright, R.F. (2016). The Invisible Revolution in Plea Bargaining: Managerial Judging and Judicial Participation in Negotiations. *Texas Law Review*, 95, 325-397.

9-Alarcon, A., Mitchell, P.M. (2011). Costs of Capital Punishment in California: Will Voters Choose Reform this November?. *Loyola of Los Angeles Law review*, 46(0), 1-34.

Outcome favorability and the Marginally Indigent


- Hoffman, Rubin and Sheppard (2004)
 - “one explanation for poor public defender outcomes may be that public defender clients, by self selection, tend to have less defensible cases”
- Agreeing to a plea bargain suggests that the defendant had little confidence in court

Consistency of outcomes achieved

	Average Reduction in sentencing (years)	Percentage of Sentence reduced	Standard Deviation (years)	Number of Clientele Represented (N)
Public Defenders	6.345	42.30%	4.55	N=29
Private Counsel	10.58	70.53%	2.40	N=12
Both	7.59	50.60%	4.422	N=41

Figure 2-Statistical Summary of plea bargaining outcomes

Discussion of Consistency


- Public Defenders:
 - are of a wider range of experience
 - receive clientele of a wider range of evidence
 - Private Counsel:
 - have less consistent resources at their disposal
 - have no centralized management
 - represent clients of differing levels of wealth
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CONCLUSIONS

Conclusions

- Marked Disparity between public and private counsel
 - Outcomes achieved by Public defenders are less favorable
 - Public Defenders are less consistent
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Future Research

- A more in depth analysis of resources for the Los Angeles County Public Defender's department
 - Further research to understand the cause of the LA Public Defenders' struggles
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