

IDS' Mission, Resources & Policies

2006 Misdemeanor Defender Program

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Overview

- A. IDS' Mission
- B. Some Things IDS Does to Enhance Quality & Efficiency
- C. How PD Offices Help Enhance Quality & Efficiency
- D. What IDS Needs from PD Offices
- E. Quality-Related Projects IDS Wants to Undertake with PD Offices in the Future
- F. What do PD Offices Need from IDS?

A. IDS' Mission

Effective July 2001, IDS was created to:

- Enhance oversight of the delivery of counsel and related services
- Improve the quality of representation and ensure the independence of counsel
- Establish uniform policies and procedures for the delivery of services
- Generate reliable statistical information in order to evaluate the services provided and funds expended
- Deliver services in the most efficient and cost-effective manner without sacrificing quality representation

In Short

- IDS' statutory mission is to enhance the quality, uniformity, efficiency, accountability, and cost-effectiveness of indigent defense services in North Carolina
- IDS' policies are all aimed at fulfilling that statutory mission

B. Some Things IDS Does to Enhance Quality & Efficiency

Some Ways IDS Enhances Quality & Efficiency

1. Legislative Advocacy and a Seat at the Table for Indigent Defense
2. Improved Defender Training
3. Resources Available on the IDS Website
4. IDS Listservs
5. Performance Guidelines

1. Legislative Advocacy and a Seat at the Table for Indigent Defense

- IDS regularly advocates for indigent defense at the General Assembly, and has obtained substantial increases in funding over the past 5 years
- IDS makes one appointment to the NC Judicial Council, in addition to the public defender appointment (G.S. 7A-409)
- IDS worked to get 2 defense attorneys appointed to the AOC Criminal Forms Subcommittee

IDS Systemic Reform Efforts

- Pursuant to a 2005 Special Provision, IDS is consulting with the District Attorneys, District Court Judges, and Superior Court Judges about potential systemic reforms
- Our proposals are due to the General Assembly by March 1, 2007
- Some possibilities include decriminalizing minor traffic offenses, changing the way that criminal district court is scheduled, and improved screening of capital cases
- If you have ideas about systemic reforms that would help you do your jobs better, please let us know!

2. Improved Defender Training

- To improve quality and to help you obtain meaningful CLE credits, IDS has entered into a contract with the School of Government (“SOG”) to provide expanded defender education programs
- Thanks to the hard work of SOG faculty and staff, IDS has developed a number of new and innovative training programs

Some Examples of New Programs

- A 5-day trial advocacy school for public defenders
- A hands-on training program for appellate attorneys
- Programs for attorneys who handle involuntary commitment cases, juvenile delinquency cases, and abuse/neglect/dependency and TPR cases
- An investigators conference for public defender staff investigators and private investigators
- A management training program for the chief public defenders and their administrative assistants

Past Training Materials

- All materials that are used in IDS-sponsored programs are posted on the IDS website, and can be downloaded for free
- A comprehensive Training Materials Index is also posted on the website
- To access past training materials and the index, go to www.ncids.org, and click on “Defender Training”

PD Needs Assessment

- Also thanks to the hard work of SOG staff, IDS conducted a training needs assessment of all PD Offices during the summer of 2006
- The goal of the assessment was to gather information on the training and support that is currently in place for new APDs with limited trial experience, and to determine what SOG and IDS can do to better support the offices

PD Needs Assessment

- Some themes in your responses to the Needs Assessment included:
 - Additional training would be helpful for new hires with less than six months of experience
 - You want more SOG training programs, including a "bench trial school" where misdemeanor attorneys could develop their trial skills
 - You want additional training on traffic law and DWIs
 - Many of you are interested in a formal mentorship program for new hires
 - Many of you expressed a desire for more written materials and checklists

Non-IDS Programs

- On occasion, IDS will approve requests from assistant public defenders to attend specialized training programs that are sponsored by groups other than IDS and SOG
- To seek approval to attend such a program, you need to complete form AOC-A-182 ("Request for Special Travel and Training") and submit it to the IDS Office

3. Resources Available on the IDS Website

- In addition to the training schedule and materials from past programs, the IDS website includes a wealth of materials that are helpful to public defenders and private appointed defense attorneys

Examples of Materials on the IDS Website

- News & Updates links addressing recent developments and matters of interest
- The North Carolina Defender Manual
- The NC Civil Commitment Manual
- Performance guidelines for non-capital criminal cases at the trial level
- An appellate brief bank
- All approved minutes of IDS Commission meetings
- All IDS rules, policies, and procedures

IDS Reports on the Website

- The IDS website also contains a number of reports generated by IDS Office staff
- Some reports that might interest you include:
 - Superior and District Court FY05 Studies: Average Hours & Frequency Distributions per Case by Charge Type
 - FY05 Private Appointed Counsel Waiting-in-Court Study
 - Public Defender Office & Private Assigned Counsel Cost Analyses
 - IDS' Annual Reports to the General Assembly

4. IDS Listservs

- IDS has created a number of listservs to facilitate communication with and between attorneys across the state who handle various types of cases
- The listservs have proven to be a great way to enhance communication and resource-sharing

10 IDS Listservs have been Created for:

- Chief public defenders
- Assistant public defenders
- Investigators in public defender offices
- Public defender support staff
- Capital trial attorneys
- Capital post-conviction attorneys
- Appellate attorneys
- Attorneys who represent parent-respondents in AND and TPR cases
- Attorneys who handle juvenile delinquency cases
- Attorneys who handle involuntary commitment cases

Can We Add You to Any Listservs?

- You all should be on the Assistant Public Defender listserv already. If you are not receiving emails, please let us know!
- If any of you will be representing parent-respondents, or handling juvenile delinquency or involuntary commitment cases, please let us know so that we can add you to those listservs as well

5. Performance Guidelines

- Using the NLADA guidelines as a starting point, IDS developed performance guidelines for non-capital cases at the trial level that are tailored to North Carolina law and practice
- The adopted guidelines are posted on the IDS website and included as an Appendix to the North Carolina Defender Manual

What the Guidelines Are and Are Not

- The guidelines are:
 - A checklist of best practices and things defense counsel should consider at each stage of a criminal proceeding
 - A training tool
 - A resource for new and experienced attorneys
 - A tool for legislative advocacy and systemic reform
- The guidelines are *not* absolute standards or mandates

The Relationship Between Performance Guidelines & Caseloads

- We understand that performance guidelines are related to public defender caseloads, and plan to work with the public defenders and Legislature to address caseloads and resources
- We welcome constructive feedback from defenders about the obstacles you all face, and the resources you will need to incorporate the guidelines into your practices

C. How PD Offices Help Enhance Quality & Efficiency

- PD Offices Enhance Quality:**
- By providing an institutional counter-point to DA Offices
 - By developing expertise in criminal cases, which leads to efficient quality services
 - By providing an additional resource for private attorneys handling appointed cases in a district

- PD Offices Also Save Money:**
- PD Offices save money and increase the stability of the indigent defense fund:
 - In FY 2004-05, all of the PD Offices combined saved the State \$2.78 million compared to what it would have cost to pay private attorneys to handle the same cases
 - PD Offices provide economies of scale
 - PD Office costs are more predictable, which makes the overall fund easier to manage

PD Office Expansion Under IDS

- North Carolina's public defender system has expanded significantly since IDS was created
- Since July 2001, new PD Offices have been established in Forsyth County, Wake County, and the First Judicial District, and existing defender offices have been enlarged
- Now that the Wake County office is up and running, PDs are handling about 34% of the cases statewide that could be handled by PDs or private attorneys

D. What IDS Needs From PD Offices



IDS Needs PD Offices to:

1. Provide Quality Legal Services for Clients
2. Report Data Accurately & Reliably
3. Submit Fee Applications to Judges in Cases that End in a Conviction

1. Quality Legal Services for Clients

- IDS wants you to provide quality legal representation for your indigent clients
- We hope that the resources we provide help you do your jobs better
- If we can provide other resources that would assist you, please let us know

2. Accurate & Reliable PD Data Reporting

It all hinges on your fee applications ...

From Individual Fee Applications to Weekly PD Disposition Reports

- After you complete each case, a fee application is prepared
- Each fee application is then amalgamated into a weekly report documenting the number of cases disposed each week by highest charge

PD Disposition Reporting

- Why we Collect the Data
- How the Data is Used
- What Drives Decisions About Data-Collection
- How the Reporting System Works

We Collect this Data Because it is Required by Law

S.L. 2005-276, § 14.12

The IDS Office must report to the General Assembly by March 1 of each year about the following matters:

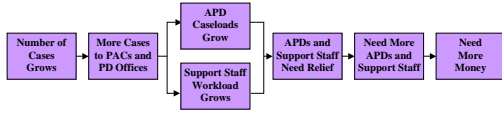


- (1) **The volume and cost of cases handled in each district by assigned counsel or public defenders;**
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.

It's In All Our Interests

The number of cases indigent defense handles each year has an enormous impact on everything from overall indigent defense costs to PD staffing levels and individual workloads

How Caseloads Impact Your Office



Obtaining More Money Means Justifying Budget Increases

- We must have unimpeachable data that shows why we need more money
- This is especially true when every year the demands on the budget exceed tax revenues and the Legislature has to make cuts

The Data You Collect Is Vital

- Private Assigned Counsel ("PAC") and PD data together tell the story
- IDS' budget is growing because our caseload is growing

We Cannot Rely on Court Data to Tell Our Story

- Overall court data alone would suggest that IDS' budget should be cut
- While the total number of court dispositions from FY02 through FY04 fell by 1%, the percentage of cases that were funded out of IDS' budget increased by about 8% during that same time period
- In addition, while the total number of court dispositions in FY05 increased by 1.8% over FY04, the percentage of cases that were funded out of IDS' budget increased by 6.9%

It Works

- Between FY02 and FY06, IDS obtained \$29 million in increased funding for indigent defense services, even when many other programs were cut or received no additional funding
- This year, IDS received an additional \$6.2 million

Creates More Resources for You

- During FY04 and FY05, the Legislature approved 22 new attorney & 11 new support positions for defender offices
- This year, the Legislature has approved 20 more new attorney and 10 more new support positions
- IDS has upgraded several administrative positions in PD offices
- IDS has also authorized new contracts in PD counties to relieve overburdened PD offices

Creates More Resources for You

- Between FY03 and FY05, IDS bought 31 new computers for PD Offices—so every person in a PD Office would have a computer of their own—and a new server for the Chatham/Orange office

Creates More Resources for You

- In FY06, we more than doubled IDS' spending on PD Office equipment and resources compared to FY05
 - IDS spent \$85,000 on office equipment, including fax machines and 20 copiers
 - IDS spent \$98,000 on computer equipment, including 44 desktops/laptops and 7 printers
 - IDS spent \$100,000 on books for PD Offices
 - IDS allowed each office to purchase a digital camera with needed features

Creates More Resources for You

- This FY, IDS obtained \$200,000 in equipment replacement funds from the Legislature, and we intend to replace all equipment purchased prior to 2000 with those funds

Your Chief PD Needs this Data:

- To assess the caseloads of their APDs
- To assess demands on support staff
- To demonstrate with hard data the needs of their office
- To argue with facts for one of the new attorney or support staff positions authorized by the Legislature

You Need this Data:

- To assess your own caseload
- To help you demonstrate your performance and value to your supervisor

IDS Needs this Data:

- To advocate for more resources and prevent budget cuts
- To decide the best ways to allocate resources, and to determine which offices need relief the most
- To estimate how we should staff new PD offices
- Etc.

What Drives IDS' Data-Collection Decisions?

Three ways we provide legal representation to indigent defendants:

- Public Defender Offices
- Private Appointed Counsel (PACs)
- Contractual Agreements

Data Decisions have to Apply to PDs, PACs, and Contracts the Same Way

- Uniformity
- Comparability
- Fairness
- Accuracy

Historical Roots: The Role of PAC Data

- PD data has to match PAC fee application data
- Collecting PAC data is difficult and more costly because over 2,000 different attorneys or firms handle indigent cases every year
- PAC fee applications are IDS' only data source for cases handled by private counsel

Matching PAC Data

- We count PD dispositions because that is how PACs bill and submit case data
- The definition of a PD “case” is designed to match PAC fee application data
- The case categories on the PD disposition report sheet have to match PAC fee application data

Why this Level of Detail?

Why do we make you report data by highest charge?

(i.e., disposition report or case type categories)

The Problem with Simply Counting Dispositions

Raw Dispositions Numbers Distort Workload

Attorney A 80 misdemeanors 20 felonies Total Dispositions = 100	VS	Attorney B 40 misdemeanors 50 felonies Total Dispositions = 90
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Which Attorney Has a Heavier Caseload?
Which Attorney Will Require More Support Staff Work?

Different Types of Cases Require Different Amounts of Work

More Serious Cases, Like Felonies, Have More:

- Investigation
- Motions
- Communication with Clients, Witnesses, Family Members, Prosecution, Expert Witnesses
- Copying
- Discovery to Be Collected, Organized, Abstracted, Etc.
- More Likely to Go to Trial
- Legal Research

In Short, More Work

To Show and Compare Workload Accurately

We need to know the types of cases being handled

Tools to Help You Assess Your Workload & Cost-Effectiveness

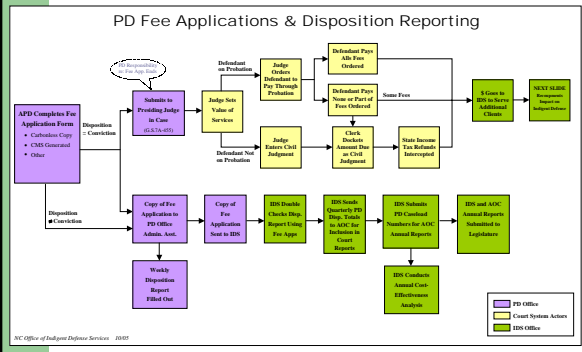
- Caseload Self-Assessment Worksheet
- PD Costs Compared to PAC Costs Worksheet

You can find both of these worksheets on the IDS website

3. Recoupment: Fee Applications in Cases that End in Conviction

- G.S. 7A-455 provides that, in all cases that end in a conviction, the court shall direct entry of a civil judgment against the indigent person for the money value of services rendered by a public defender
- Thus, in all such cases, public defenders are required by statute to complete a fee application and submit it to the Court

PD Data Collection Process



Recoupment Strengthens the Indigent Defense System

- All funds collected through recoupment go back to the indigent defense fund to pay for services to future clients
- IDS' projected receipts from recoupment are added into our budget each year
- If we fall short on our collections, we fall short on our ability to serve our clients

Recoupment Impacts the Cost-Effectiveness of PD Offices

- Recoupment tends to be lower in PD districts than non-PD districts
- Regardless of the reason for the lower rate, any recoupment losses due to a PD office are included in PD cost-effectiveness studies
- Submission of PD fee applications ensures that the recoupment process is triggered, so that your offices can be as cost-effective as possible

E. Quality-Related Projects IDS Wants to Undertake in the Future



Future Quality-Related Projects

1. Improved PD Cost-Effectiveness Studies (Value-Added Activities)
2. Quality Evaluations: The Systems Evaluation Project
3. PD Caseload Guidelines

1. Improved PD Cost-Effectiveness Studies (Value-Added Activities)

- IDS is working with the PD Offices to give those offices credit for value-added activities in our cost-effectiveness studies
- For example, we are giving PD Offices credit for being speakers at defender training programs (using the same formula as the Bar)

Additional Value-Added Activities?

Some Durham PD Office suggestions include time spent:

- Reviewing correspondence from the jail and DOC
- Consulting with the private bar
- Serving on committees required by statute

Additional Value-Added Activities?

Some Forsyth PD Office suggestions include time spent:

- Handling recalls on cases where the office is not yet appointed, but represents the defendant on other matters
- Handling post-disposition driving privileges
- Providing post-disposition vehicle forfeiture help
- Talking to folks in community resources about treatment/placement
- Straightening out jail time credit

2. Quality Evaluations: The Systems Evaluation Project



3. Public Defender Caseload Guidelines

- IDS wants to know what public defender caseloads should be in North Carolina
- But without hours data from public defender offices, we have no way of knowing what appropriate caseloads are in this State, or of justifying their additional cost to the Legislature
- We plan to pilot-test collecting hours data from PD Offices in the future

F. What do PD Offices Need from IDS?

How Can IDS Help You?

- We want to know how IDS can help you, and welcome all feedback and suggestions
- Contact information for some IDS staff members is listed on the next screen

Contact Information for Some IDS Staff

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