

IDS' Mission, Resources & Policies

2007 Misdemeanor Defender Program

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Overview

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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 one or more aspect of that statutory mission

B. Some Things IDS Does to Enhance Quality & Efficiency

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 6 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

2. Systemic Reform Efforts

- Pursuant to a 2005 Special Provision, IDS consulted with the District Attorneys, District Court Judges, and Superior Court Judges about potential systemic reforms that would increase efficiencies and save taxpayer money
- Our proposals were delivered to the General Assembly in March 2007

IDS' Main Systemic Reform Proposals:

- Expand and regionalize the public defender system
- Pilot test more efficient scheduling practices in district and superior court to minimize defense attorney wait time
- Fund a study to identify misdemeanors that should be decriminalized (such as lower level traffic offenses)
- Strengthen the ability of clerks' offices to help improve recoupment of attorney fees from clients who become able to repay the state, so that IDS will have increased revenues for services to other clients
- Eliminate felony murder as a ground for a death sentence

We're Still Interested in Your Thoughts

- While there is no longer a legislative directive for IDS to consult with other actors, we remain very interested in systemic reforms that would enhance efficiency and quality
- If you have ideas based on your work on the front lines, please let us know!

3. Improved Defender Training

- To improve quality and to help you obtain meaningful CLE credits, IDS has a standing contract with the School of Government ("SOG") to provide 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
- Programs for public defender staff investigators
- A management training program for the chief public defenders and their administrative assistants

Past Training Materials

- 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 "Training & Reference Materials"

PD Needs Assessment

- Also thanks to the hard work of Alyson Grine, SOG Defender Educator, 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 experience, and to determine what SOG and IDS can do to better support the offices

PD Needs Assessment Themes

- 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 wanted more SOG training programs, including a "bench trial school" where misdemeanor attorneys could develop their trial skills
 - You wanted additional training on traffic law and DWIs
 - Many of you expressed a desire for more written materials and checklists
 - Many of you were interested in a formal mentorship program for new hires

Responses to PD Needs Assessment

- In response to the Needs Assessment, SOG and IDS made a number of improvements to our training programs and resources, such as:
 - During June 2007, Alyson presented a series of misdemeanor skills tutorials for new hires at 5 PD Offices around the State, which addressed pleadings, defenses and sentencing, and incorporated new checklists for attorneys
 - This Misdemeanor Defender Program has several new components, including a bench trial skills component, enhanced sessions on DWI motions practice, and a domestic violence session

Responses to PD Needs Assessment

- More responses include:
 - IDS purchased one copy of the NCATL DWI Trial Notebook for each PD office
 - Alyson presented a series of one-hour trainings on Spanish for lawyers
 - There is a new on-line Tao Gui tutorial available on the IDS website
 - An orientation notebook is being developed for new APDs, which will focus on the training and resources available to new hires

NCATL Membership

- IDS also now has a contract with the NC Academy of Trial Lawyers, which entitles every APD to a free NCATL membership, a free 1-day CLE, and membership on the NCATL criminal defense listserv
- Is everyone on the NCATL listserv? Is it helpful? Have any of you taken advantage of your free CLE? Any reactions to this benefit?

Non-IDS Programs

- IDS sometimes approves requests from APDs to attend specialized training programs that are sponsored by groups other than IDS and SOG, especially if they address topics that are not covered by the IDS-SOG calendar
- 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 in advance
 - *Note: You do NOT need to get advance approval to register for your one free NCATL CLE*

4. Additional 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 (www.ncids.org)

- News & Updates links addressing recent developments and matters of interest
- The North Carolina Defender Manual
- The North Carolina Civil Commitment Manual
- A short Innocence Inquiry Commission Manual for defense attorneys
- Performance guidelines for non-capital criminal cases at the trial level
- An appellate brief bank
- 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

5. 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

6. 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 have been giving PD Offices credit for being speakers at defender training programs

Examples of Value-Added Activities

- The most recent cost-effectiveness study (FY06) includes a number of other value-added activities, such as:
 - Administering the attorney appointment system for farmout and conflict cases
 - Providing assistance, resources, and consultations to private appointed counsel
 - Serving on local and statewide criminal justice committees and boards
 - Helping manage and control the local jail populations
 - Assisting non-client defendants and citizens by explaining court procedures, etc.

7. 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

New Specialized Performance Guidelines

- IDS has also developed draft performance guidelines for attorneys representing juveniles in delinquency proceedings and parent respondents in abuse/neglect/dependency and termination of parental rights cases
- We just completed a comment period with the bar and bench about both sets of guidelines
- We plan to incorporate changes based on those comments and then present final guidelines to the IDS Commission for its approval in December 2007
- If any of you handle these case types, the draft guidelines are available on the IDS website

8. The Relationship Between Caseloads & Performance Guidelines

- We understand that performance guidelines are related to public defender caseloads, and will continue 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 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 2005-06, all of the PD Offices combined saved the State about \$2 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

Future PD Expansion

- During the last legislative session, the General Assembly also created 2 new PD Offices in:
 - District 5 (New Hanover County only); and
 - District 29B (Henderson, Polk, and Transylvania)
- The final budget bill also includes a special provision authorizing IDS to spend up to \$1.57 million creating additional new offices without further legislative action

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 ...

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

Weekly PD Disposition Report

The screenshot displays a complex spreadsheet with multiple columns and rows. The columns include categories like 'Case Type', 'Disposition', and 'Count'. The rows list various legal case types such as 'Misdemeanor', 'Felony', 'Juvenile', and 'Probation'. The data is organized into several distinct sections, with some cells containing numerical values and others containing text descriptions.

Disposition Reporting Rules

You can find the following tools at www.ncids.org
(Click on "State Defender Offices" and then "Public Defenders"):

- Rules for Counting Closed Cases
(Developed by PD Data Committee and IDS)
- Quick Reference Guide
- Answers to Questions About "Weird" Dispositions

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 Also In All Our Interests

- The number of indigent cases each year has an enormous impact on everything from overall indigent defense costs to PD staffing levels to individual workloads
- To justify our increased budget requests, we must have data that shows why we need more money

We Cannot Rely on Court System Data to Tell Our Story

- Overall court data alone would suggest that IDS' budget should not be increased, because the total number of court dispositions over the past several years has remained relatively flat
- However, the percentage of cases that are funded out of IDS' budget has steadily increased over that same time period
- So, we need the data you collect to show that IDS' budgetary needs are growing because our caseload is growing

It Works

- Between FY02 and FY07, IDS obtained about \$35 million in increased funding for indigent defense services, even when many other programs were cut or received no additional funding
- This year, IDS received more than \$6 million in additional funds

Creates More Resources for You

- The Legislature now routinely approves new attorney and support positions for IDS to allocate across all 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

- All pre-2002 computers in defender offices should now have been replaced with newer models
- Starting this fiscal year, IDS has a recurring line item in its budget for equipment replacement in state defender offices and will be able to maintain a regular equipment replacement schedule

Your Chief PD Needs this Data:

- To assess the caseloads of his or her APDs
- To assess demands on support staff
- To demonstrate with hard data the needs of your 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

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

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. 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
- Do you have any questions or comments to share at this time?

Contact Information for Some IDS Staff

- Tye Hunter, Executive Director
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