Overview: IDS’ costs in potentially capital cases are driven by prosecutors’ charging decisions. North Carolina spends a substantial amount of money each year preparing for the prosecution and defense of cases that potentially may be tried as capital cases, but are eventually tried non-capitally. Significant savings could be generated by narrowing North Carolina’s death penalty statute to more closely align with the types of cases that are actually tried capitally, particularly given the decreasing number of death verdicts obtained each year.

Average Case Costs are Modest:¹ The cost of defending most potentially capital cases is relatively modest, and the high profile expensive cases are the exceptions:
- 50% of cases in IDS’ 2015 study cost less than $18,500
- 75% of cases cost less than $37,500
- 90% of cases cost less than $74,046
- 53.7% of cases had expert fees totaling less than $5,000

IDS’ Costs are Reactive: Prosecutors’ decisions to proceed capitally and to charge most intentional homicides as first-degree murder or undesignated murder drive IDS’ spending:
- The average cost of defending cases that are proceeding capitally is more than four times higher than the average cost of defending cases where the maximum possible punishment is life imprisonment without parole.
- During a prior study time period (between 2002 and 2007), 86% to 88% of intentional homicides were charged as either first-degree or undesignated murder; however, between FY07 and FY15, more than 83% of those cases were eventually disposed with convictions of second-degree murder or less.

Providing constitutionally effective representation at the trial level saves money that would otherwise be spent fixing mistakes in more costly direct appeals and post-conviction proceedings.


Capital Trials Require Extensive Resources: Cases that actually proceed to capital trials require extensive resources, but IDS has systems in place to control those costs:
- IDS has lowered the hourly rates in all potentially capital cases, and lowers the applicable rate even further after cases are declared non-capital.
- IDS sets pre-trial spending limits for attorneys and some defense experts unless a case has been declared “exceptional” by the IDS Director.
- IDS requires attorneys to develop pre-trial budgets in the most complex and costly cases.

Improving the Capital Representation System: IDS is working on a number of initiatives to improve the system of providing capital representation:
- Using grant funds to develop and offer programs designed to recruit new attorneys and to provide them and existing capital attorneys with targeted training opportunities.
- Identifying additional qualified attorneys and expanding the capital rosters to decrease the scheduling problems that have occurred when attorneys are handling multiple cases.
- Expanding the Office of the Capital Defender and the use of Assistant Public Defenders, which decreases expenditures on private assigned counsel.

Contact:
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<table>
<thead>
<tr>
<th>Costs Include PAC + Experts</th>
<th>FY07-FY15 YTD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Cost of Potentially Capital Case</td>
<td>$34,666</td>
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<tr>
<td>Average Cost of Murder Case Proceeding Non-Capitally</td>
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<tr>
<td>Average Cost of Murder Case Proceeding Capitally</td>
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