

## **Report on Reorganization of Sentencing Services Program**

Submitted to the North Carolina General Assembly by  
the Office of Sentencing Services,  
a division of the Office of Indigent Defense Services,  
pursuant to S.L. 2002-126, Section 14.7

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The Office of Sentencing Services (OSS), a division of the Office of Indigent Defense Services (IDS), submits this report as directed by Section 14.7(h) of the 2002 Appropriations Act (S.L. 2002-126, S.B. 1115). This report summarizes the efforts undertaken thus far to reorganize the program in accordance with the provisions enacted by the General Assembly.

## **I. Summary of Reorganization Efforts**

The Sentencing Services program was initiated in 1983 in an effort to conserve prison resources by providing the court with sentencing plans that made the best use of community resources to manage appropriate offenders in the community. (According to Department of Correction estimates, the cost of a medium custody prison bed in 2000-01 was \$24,612 per inmate per year while the cost of intermediate probation per offender per year was \$4,632, representing an annual savings of \$19,980 for each offender diverted from prison.) In furtherance of this mission, a mix of grant programs and state-operated programs provided services to all 100 counties prior to the budget cutbacks in fiscal year 2002-03. The 2002 Appropriations Act reduced the program's overall budget nearly 40%, from an annual appropriation of approximately \$5.8 million to just over \$3.5 million, and transferred the program to IDS, which was directed to reconfigure the program as necessary to implement the budget cut.

The principal reorganization efforts, discussed in more detail below, are as follows:

- Per the General Assembly's direction, OSS's central office has been reduced from 11 to 3.5 positions, which represents approximately a 65% cut in central office payroll. To maintain effective oversight of the field programs, two of the remaining staff members are regional administrators located in the field, who monitor and consult with field programs on a regular basis.
- Field programs have been funded at substantially higher levels than the central office, receiving approximately 65% of their former funding. To maintain services throughout the state, the cuts have been distributed relatively evenly among state-operated, county, and nonprofit programs.
- Although the number of field staff in the state-operated programs have been reduced, all nine state programs remain open. Of the grant programs, 26 of 28 are open and are continuing to provide service.
- Financial reporting procedures have been simplified. To ensure continued accountability, grant programs still must submit quarterly financial reports, and grant amounts may be increased or decreased as necessary.
- Data collection procedures have also been simplified. Field programs continue to record case activity for management purposes at the local level, but only essential case information is transmitted to and tracked by the central office.
- Preliminary case data indicate that the number of plans prepared this fiscal year compares favorably to the number of plans prepared in previous years. However, it is too early to project the number of plans for the entire fiscal year or the average cost per plan. More complete data will be available after the close of the third quarter (March 31, 2003), the first full quarter in which the new funding levels and other changes have been in effect.

## **II. Background of Program**

In 1983 the legislature established the Community Penalties program with the aim of providing the court system with better information about alternatives to incarceration for appropriate offenders and conserving prison resources. In 1991, the Community Penalties program became a part of the Administrative Office of the Courts (AOC); and in 1999, the General Assembly changed the name of the program from Community Penalties to Sentencing Services and made other changes to enhance the program's ability to assist judges in effectively using available correctional resources and in imposing community-based sentences where appropriate.

This last session, in 2002, the General Assembly transferred OSS, and the administrative responsibilities that went with it, to IDS. Although the effective date was the beginning of the 2002-03 fiscal year, IDS did not assume responsibility for the program until September 30, 2002, when the Appropriations Act was enacted and the transfer actually took place. The act reduced the program's overall budget almost 40%, from an annual appropriation of approximately \$5.8 million to just over \$3.5 million, and IDS was directed to reconfigure the program as necessary to implement this cut.

In transferring the Sentencing Services program to IDS, the General Assembly did not change the program's mission—that is, to assist judges in making the most effective use of correctional resources and to make recommendations about community-based sentences tailored to particular offenders. Thus, sentencing services personnel continue to be independent of both the prosecution and the defense in assessing offenders and recommending the most appropriate punishment.

## **III. Central Administrative Staff: Size and Function**

To reduce administrative overhead, the General Assembly [in Section 14.7(g) of the Appropriations Act] directed that the number of administrative staff be reduced from eleven positions to no more than four. Consistent with this requirement, 3.5 central office positions are currently filled, although two of the positions are actually located in the field. The positions are:

- Interim administrator (1/2 time)
- Two regional administrators (full-time)
- Administrative assistant (full-time)

The annualized cost for salary and benefits for these four positions (assuming the permanent administrator position will eventually become full-time) is approximately \$240,000, compared with an annualized cost for salary and benefits of approximately \$680,000 for the eleven previous positions. This represents approximately a 65% cut in payroll for the central office.

The interim administrator is Professor John Rubin of the Institute of Government, who is on 50% leave from the Institute while serving as interim administrator. Rubin and the program's administrative assistant—Colleen Godette, who has been with the program since 1988—work in Raleigh. This small central staff continues to share office space (much reduced) with the AOC.

The two regional administrators—Carolyn Cameron Bidwell and Kathy Johnson, also long-time employees of the program—are headquartered in the field, Bidwell in Asheville and Johnson in Wilmington. Each is responsible for half of the state, providing oversight and support

to the field programs through consultation with field managers, site visits, review of case files, training, supervision, and analysis of production data and financial reports. Previously, the state was divided into four regions, with four regional administrators, two based in Raleigh.

OSS staff work to some extent with both AOC and IDS staff. Consistent with G.S. 7A-498.2, which directs that AOC provide general administrative support to IDS, the AOC assists OSS with administrative matters such as personnel, purchasing, accounting, technology, and like functions. The administrator of OSS reports to the director of IDS, Malcolm R. Hunter; for the most part, however, day-to-day administrative matters are handled independently by OSS staff.

#### **IV. General Funding Levels of Field Programs**

Before the transfer occurred, OSS successfully extended sentencing services to every judicial district in the state. While we are in the process of streamlining several practices, we have sought to maintain this commitment to statewide service.

We set an initial goal of funding all of the field programs at 65% of their former levels, applying this benchmark to grant programs (nonprofit and county) operating under contract with OSS and to programs staffed by full-time state employees. However, because the needs of the programs vary to some extent, they have not been cut across the board to 65%. Adjustments have been made, for example, for smaller programs in which such a large cut would require too great of a reduction in personnel for the program to provide effective service. The specific cuts are discussed further in the following sections.

We considered the possibility of closing some field programs in order to fund other programs at a higher level but concluded that the higher priority, at least initially, was to try to maintain service statewide. In addition, at the time of the transfer, we did not have sufficient information to determine which programs, if any, ought to be eliminated. It was important to make funding decisions as soon after the transfer as possible—both to put programs on a relatively solid financial footing and to reassure court personnel that services would continue to be provided in their districts and that cases should continue to be referred to the programs. While we had some data on the programs compiled by the previous administrative staff at OSS, we believed that we needed to make an independent evaluation of each program, particularly in light of the downsizing of the central staff and the significant reduction in the field programs' budgets. Throughout this fiscal year, we will be evaluating the performance of the programs and, as necessary, making adjustments to their funding.

One contingency that was unresolved at the time we made the initial funding decisions was whether the reserve for agencies' severance obligations would be large enough to cover OSS's severance obligations to state employees, which was approximately \$233,000. Over 60% of this obligation arose from central staff reductions. Because the severance reserve turned out to be large enough to cover most of OSS's severance liability (84% or approximately \$195,000), we should be in a position during the second half of this fiscal year to partially restore funding to high-performing and underserved districts.

#### **V. Reductions in State Field Programs**

All of the nine state-operated programs remain open; however, nine of the 23 positions within the state field programs have been eliminated (in addition to seven central staff positions). This was accomplished by a combination of eliminating vacancies (one), resignations (two), voluntary layoffs (two), and finally involuntary layoffs (four). On an annualized basis, this

reduction represents a cut of approximately 35% in salaries and benefits. During this fiscal year, however, the cut will likely amount to less than 30% (from approximately \$943,000 for salaries and benefits to approximately \$681,000) because for most of the first quarter, before the Appropriations Act was enacted, the field programs were operating at nearly full capacity. The reductions in the specific state offices are as follows:

Judicial District	Counties Covered	Former No. of Employees	Current No. of Employees	Basis for Reduction
2	Beaufort, Hyde, Martin, Tyrell, Washington	2	1	Layoff
3B	Carteret, Craven, Pamlico	2	2*	N/A
5	New Hanover, Pender	4	3	Layoff
6A&B	Bertie, Halifax, Hertford, Northampton	2	1	Resignation
9A	Caswell, Person	2	1	Vacancy
15A	Alamance	3	2	Layoff
16A	Hoke, Scotland	2	1	Resignation
19B	Montgomery, Moore, Randolph	2	1	Layoff
28	Buncombe	4	2	Layoff
Totals:				
<b>9 districts</b>	<b>23 counties</b>	<b>23 employees</b>	<b>14 employees</b>	

\*One of the two employees in District 3B assists the programs in Districts 2 and 6.

The four previous secretarial positions in the field have been reclassified or eliminated because of the need to devote limited staff time to sentencing work. Three of the four positions have been reclassified to sentencing services specialist because the personnel in those positions are capable of and have been performing sentencing work. The fourth secretarial position (in District 5) was eliminated.

## VI. Reductions in Funding for Grant Programs

All but two of the grant programs (26 of 28 programs) are open and are providing service. On an annualized basis, the budget for the programs that have remained open is approximately \$2,470,000, which represents approximately 65% of their allotment from last fiscal year. The programs have reduced staff correspondingly. To meet the demands for service despite this budget cut, administrators in these programs are devoting a greater portion of their time to working directly on sentencing plans. Programs are also utilizing contractors (some who previously were full-time employees of the program) on a fee-per-case basis.

The two programs that closed were a nonprofit program in judicial district 21 (Forsyth County) and a county-operated program in judicial district 16B (Robeson County). They closed on their own in the summer of 2002, before the transfer took place, because of the funding uncertainty at that time. Depending on the availability of funds, we hope to restore some level of services in these districts during this fiscal year or the next. (There should be funds within OSS's budget during the next fiscal year because the funds used to cover state payroll during the first quarter of this fiscal year, when OSS's payroll was at a higher capacity, will be available for other purposes next fiscal year.)

The specific funding levels for the various grant programs are shown below. We may increase or decrease these amounts as we evaluate the needs of particular programs and of the sentencing services program as a whole. Some adjustments have already been made, as reflected below.

<b>Judicial District</b>	<b>01-02 Contract Amount</b>	<b>02-03 Contract Amount</b>	<b>Mid-year Adjustments</b>
1	83,534	49,308	
3A	124,677	81,036	
4A&B	189,936	123,456	
7A&B/C	151,752	98,640	
8A&B	109,952	71,472	
9	116,450	75,576	
10	171,592	111,528	
11A&B	205,257	133,416	
12	216,363	140,640	
13	62,853	51,648	
14	181,524	117,996	
15B	96,857	62,952	
16B*	81,356	0	
17A	116,747	75,888	5,100
17B	72,172	46,908	5,100
18	295,044	191,784	
19A	99,373	79,548	
19C	125,468	66,588	
20A&B	158,833	103,236	(4,200)
21*	155,292	0	
22	124,118	80,676	
23	74,409	51,972	
24	95,661	66,156	
25A&B	181,280	117,828	
26	240,419	156,276	
27A&B	193,602	125,844	
29	149,531	105,072	
30A&B	132,713	78,384	
<b>Totals</b>	<b>4,006,765</b>	<b>2,463,828</b>	<b>2,469,828</b>

\*Program closed

## **VII. Financial Reporting**

We have sought to simplify financial reporting procedures concerning the grant programs, without decreasing accountability, to reduce the administrative burdens on the central office and the programs themselves. Previously, OSS entered into an annual contract with grant programs for a set amount of money and then reimbursed them on a monthly basis for approved expenses up to the agreed amount. In lieu of this system, which required that the central office review each program's expenses monthly and generate a different check each month for each program, we have converted to an allotment system with periodic financial reporting.

Most of the grant programs now receive a set allotment every two months (rather than monthly, which reduces central office paperwork and enhances the programs' ability to plan).<sup>1</sup> The programs must submit quarterly financial reports showing their sentencing services expenditures, which allows the central staff to determine whether to adjust future allotments. Thus, based on second quarter reports, due mid-January, OSS will determine whether to adjust the March/April allotments.

Programs remain subject to the requirement that grant funds be utilized for sentencing services purposes only. They also must submit to an annual audit as required by state law. The contracts between OSS and the programs have been revised to reflect the revised financial reporting obligations.

### **VIII. Data Collection**

We have also sought to simplify the data collection process for the field programs. Previously, the programs entered case information in an AOC-developed software package called "Profiler" and, on a monthly basis, transmitted their databases to the central office. A central staff person would then debug the databases and compile them into a single database. However, because the Profiler software was designed primarily as a management tool for field level managers and not as a central data collection tool, central staff would have to re-enter essential information about case activity (such as number of cases opened, prepared, and presented) into another software program for analysis and report generation.

The field programs are continuing to use the Profiler software to record their case activity for management purposes at the local level; however, rather than transmitting their entire databases to the central office for compilation, which absorbed staff time at both the field level and central office, the programs are transmitting only the most essential case information. The central office is then able to enter and analyze the information in a standard spreadsheet program.

This approach should be sufficient to track programs' activity. Additional information about case activity can be obtained if necessary because the field programs are continuing to enter case information in their local databases. However, additional staff and resources would need to be devoted to assembling and analyzing the data.

### **IX. Estimated Number of Plans and Cost Per Plan**

Section 14.7(h) of the Appropriations Act directs OSS to submit as part of this report an estimate of the number of plans expected to be prepared this fiscal year and the cost per plan. It is too early at this stage to project these numbers, however, because the funding and personnel changes have not been in effect long enough. Few changes were made during the first quarter of this fiscal year, when the program was still part of the AOC and the size and shape of the budget cuts were not yet certain. Although permanent changes were made during the second quarter, they were not in effect for the entire quarter and their impact may not be fully realized.

At least initially, plan preparation appears to be running above a pro rated share of the average number of plans prepared during the past four years. Thus, for the four fiscal years from 1998 through 2001, the average number of plans prepared during the first quarter was 505; during

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1. Two programs, one operated by a county and the other operated by a nonprofit program but partially administered by a county, continue to be reimbursed for their actual expenses because of the nature of their accounting systems.

the first quarter this fiscal year, 380 plans have been prepared, which is 75% of the four-year average (above the 60% funding level for the program as a whole and the 65% funding level for the field offices). It is unclear at this stage, however, whether this number reflects the potential number of plans that may be prepared for the entire year. The first quarter numbers may include cases that were begun in fiscal year 2001-02, when program capacity was greater, and thus may be higher than the number of plans that may reasonably be expected. Or, the first quarter numbers may reflect the uncertainty surrounding the program during the first quarter, which may have depressed case referrals; thus, it is possible that a greater number of plans may be prepared this fiscal year. (Second quarter numbers are not yet available.)

Based on the financial reporting and data collection procedures described above, we should be able to provide more complete projections to the General Assembly after the close of the third quarter (March 31, 2003), the first full quarter in which the programs will have operated under the new funding levels and personnel configurations.

#### **X. Update on Inquiries under Section 14.7(f)**

Section 14.7(f) of the Appropriations Act directs each sentencing services program to “review its procedures and implement methods of (i) minimizing the frequency with which plans are prepared but not presented to the court, and (ii) ensuring the efficient management of probation revocation cases when they are referred by a judge.”

With respect to the first item, we are in the process of investigating the extent to which plans are prepared but not presented to the court. In its April 2002 Report to the General Assembly on the Effectiveness of the Sentencing Services Program (AOC Report), the AOC indicated that 1112 plans were presented during the six-month study period (Jan. 1, 2001, through June 30, 2001), and 68 plans were prepared but not presented. *See* AOC Report, p. 7. The number of cases in the smaller “prepared but not presented” category may nonetheless be overstated. As used in the AOC Report, the category includes any plan that was “written and delivered to the court, but was not used in a sentencing hearing.” *See* AOC Report, p. 8. The definition thus includes plans that were actually submitted to the court for its consideration. Whether a plan was formally presented at a sentencing hearing may not be critical if the court and parties have otherwise utilized the plan in negotiating a plea and determining an offender’s sentence. Once we determine the extent to which plans are prepared and the information not provided to the court in any fashion, we will be in a better position to identify the reasons for this occurrence and potential ways to further minimize it.<sup>2</sup>

With respect to the second item, sentencing services work on probation violation cases presents an additional opportunity to conserve prison resources because each revocation and activation of sentence places an additional strain on prison capacity. Sentencing Services personnel are a potentially useful resource for the court and for probation personnel because they are trained to assess offender capabilities and deficits and to identify appropriate resources inside and outside the state. However, as recognized by the above provision, it is important to manage

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2. Although not specifically requested in the Appropriations Act, we are also examining cases in which case files are opened and sentencing services plans are not prepared (according to the AOC Report, there were 587 such cases during the six-month study period). These cases represent a small expenditure of sentencing services resources. Although potentially eligible for sentencing services, the cases are winnowed out—for example, because the parties are able to reach a plea bargain on their own. However, even though a full plan is not necessary, the preliminary investigation conducted by sentencing services personnel may contribute to entry of a plea or other early resolution of the case.

these cases efficiently to avoid duplication of effort. To focus OSS's efforts on probation violation cases in which the court requires the expertise of sentencing services, OSS's policy is that sentencing services programs should not handle probation violation cases unless ordered by the court. Under this policy, a very small proportion of the total caseload handled by the programs has involved probation violations. *See* AOC Report, pp. 7, 44. Of the 1822 cases opened during the six-month study period, 104 involved referrals for probation violations; and, of these 104 cases, an undetermined number involved new criminal charges that would have been eligible for sentencing services whether or not the offender was on probation. OSS staff intend to meet with judges and other court personnel in those districts in which judges most often request the assistance of sentencing services in probation violation cases. This should give us a better understanding of the reasons that such referrals are made and help us determine best practices for managing these cases.

## **XI. Other Management Changes**

The following areas have also required attention since the transfer of the program to IDS.

(a) The field programs have been using an interview protocol involving two instruments, the LSI-R (short for Level of Services Inventory-Revised) and ASUS (short for Adult Substance Use Survey), for assessing the appropriate punishment for offenders. Previously, field programs would send to the central office a copy of each completed instrument, and the central office would enter the information in a central database for, among other reasons, determining the error rate of field personnel. Because of its utility in evaluating offenders, the field programs are continuing to use the instrument; however, we have eliminated the transmission requirement and the central recording of data. To maintain staff proficiency in using the instrument, we have developed guidelines to assist program managers in monitoring their staff's performance.

(b) OSS has had a small website maintained by the AOC, which provides basic information about the program such as contact information. With the transfer of OSS to IDS, which also has a website, OSS and AOC have adopted the same arrangement as for the IDS website. Thus, the OSS web pages will continue to be stored on the AOC's computer system, but the responsibility for updating and revising the pages will be handled by OSS staff, which is now proficient at making changes.

(c) In preparing sentencing recommendations for the court system, field programs are statutorily required to obtain and present prior record information about offenders. They must obtain and review this information both to determine an offender's eligibility for sentencing services and to determine the appropriate punishment. To fulfill this responsibility, field programs have had access to ACIS, short for the Automated Criminal & Infraction System maintained by the AOC. OSS and AOC have worked out an arrangement for continued access to criminal record information, developing procedures to ensure the system's security and establishing a fee schedule for nonprofit programs performing sentencing services and other work on behalf of the court system.

(d) Because some offices have closed or have been reduced, including the central office, OSS has had to dispose of some equipment (computers, fax machines, and the like) and furniture. Under OSS's standard contract with all of the grant programs, equipment and furniture purchased with sentencing services funds are the property of OSS. Our first priority has been to redistribute extra equipment and furniture to other parts of the sentencing services program. Equipment and furniture that are no longer required have been transferred to IDS and to AOC for use in their operations.

## **XII. Conclusion**

Although the sentencing services budget has been substantially reduced, we believe that the program has been able to maintain essential service without sacrificing quality or accountability. As we complete the work of restructuring the program and streamlining administrative procedures, the program should be able to devote its full attention to serving the court system in developing cost-effective and appropriate sentences for offenders.