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To: Attorneys
From: Darrin Jordan, IDS Commission Chair
Mary Pollard, IDS Executive Director Date:
February 12, 2020

NOTICE OF TARGETED RATE HIKES FOR PAC AND CONTRACT ATTORNEYS

On January 22, the Indigent Defense Services Commission voted for a very modest rate hike for some classes of case. This is possible based on revenue forecasts that include receipts from the Court of Justice fee that went into effect on December 1 and from the fifteen dollar increase in the indigent appointment fee.

We hope that this measure is only an interim step towards an across-the-board rate hike that will restore the effective hourly rate paid to attorneys before the 2011 legislative budget cuts required a significant rate cut. The additional revenue was insufficient to raise rates across the board, and the Commission and staff carefully considered how best to allocate it.

The IDS Commission and staff are committed to seeking recurring funding that will allow for hourly rates that reflect the value of the work that you do for your clients. We will need your help in that effort and hope that all of you will reach out to your elected representatives to talk with them about the importance of the work that you do for your communities and the impact that unfairly low rates have on you and your practice.

We are grateful for the work that you do for indigent clients.

Important information about the new rates, including how and when they are to be implemented, is summarized below. For your convenience, a table with the current and new hourly rates for all affected case types also is attached to this memo.

Potentially capital cases will continue to have three hourly rates: While the case is potentially capital, the rate remains \$85, and if the case becomes non-capital, either because the prosecution informs counsel that the case will not be a capital case or does not declare the case capital in the first 12 months, the rate will revert to \$80 an hour. Work done after the case is declared capital at a Rule 24 hearing, and for capital appeals and capital post-conviction work, will continue to be paid at \$90.

For counsel providing representation on high-level felonies under contracts, there will be a proportionate increase in the non-hourly compensation. The current compensation for a single high-level felony unit under the contract system will increase by \$1,800.00, or from \$25,300.00 to

\$27,100.00. For counsel providing representation to juveniles pursuant to contracts, the monthly rate of compensation will increase by 1.5%.

Driving While Impaired and Class A1 misdemeanors disposed of in the district court will increase from \$55 to \$60 an hour. (Note both classes currently are compensated at \$60 an hour when disposed of in the superior court.) For misdemeanor contract units, dispositions for Driving While Impaired and Class A1 offenses will entitle contractors to an additional half case credit—e.g., a DWI disposed of on March 1, 2021 will be worth 1.25 case credits.

The counties operating under the Uniform Fee Pilot will see the following fee increases based on the rate restoration:

- Class A – D felonies disposed of in district court will increase from \$425.00 to \$450.00; and,
- Class A – E felonies adjudicated and disposed in juvenile delinquency proceedings will increase from \$535.00 to \$575.00.

The new hourly rates are to be applied prospectively. In no case should it be applied retroactively. In other words, interim fee applications approved under the current rate will not be revisited even if the case is finally disposed or the date of the last appellate ruling is March 1, 2021 or later.

Case Type	Current Rate	New Rate	Date
Class A – D felonies paid by hourly rate (including satellite-based monitoring “bring back” hearings and reviews of NGRI determinations) whether disposed of in district or superior court	\$75	\$80	Cases finally disposed on or after March 1, 2021
Driving While Impaired offenses disposed of in district court	\$55	\$60	Cases finally disposed on or after March 1, 2021
Class A1 misdemeanors disposed of in district	\$55	\$60	Cases finally disposed on or after March 1, 2021
Potentially capital cases proceeding noncapitally at the trial level	\$75	\$80	Work done on or after March 1, 2021
Provisional counsel in capital cases	\$75	\$80	Work done on or after March 1, 2021
Non-capital appeals and non-capital postconviction where the most serious conviction was a Class A-D felony, and appeals of satellitebased monitoring hearings	\$75	\$80	Work done on or after March 1, 2021