

2025.05.02 Meeting Minutes

Commission on Indigent Defense Services

For Review at the Quarterly Meeting – August 22, 2025

Adoption of the Agenda

Commissioner Attendees:

Bryan Jones (Chair), Miriam Thompson (Vice-Chair), Tonya Davis Barber, Cara Bridges, Robert K. Corbett III (*virtual*), George Doyle, Marshall Ellis (*virtual*), Caitlin Fenhagen, The Honorable Dorothy Hairston Mitchell, John Nieman, Stacey Rubain, The Honorable Scott Ussery

IDS Staff Attendees:

Chad Boykin (Assistant General Counsel, Financial Services), Amanda Bunch (Communications Specialist), Tucker Charns (Regional Defender), Whitney Fairbanks (Deputy Director/ General Counsel), Aaron Gallagher (Finance Officer), Angela Henderson (Contracts Administrator), Joseph Oder (Senior Research Analyst), Sarah R. Olson (*virtual*) (Forensic Resource Counsel), Mary S. Pollard (Executive Director), Christopher Sadler (Research Director), Max Silva (Legal Assistant), Rebecca Whitaker (Defender Policy and Planning Attorney)

Local and State Public Defender Program Attendees:

Ricky Champion (District 17), Niccoya Dobson (*virtual*) (District 5), A. Traynham Dorn (District 13), Jason DeHoog for Laura Gibson (*virtual*) (District 2), Yolanda Fair (*virtual*) (Assistant Juvenile Defender), Robert Kemp III (District 3), J. Chad Perry (Chief Special Counsel), Jennifer Rierson (District 24), Wendy Sotolongo (Parent Defender), Jacob Ward (*virtual*) (District 15), Thomas L. “Bud” Woodrum II (District 6), Eric Zogry (Juvenile Defender)

Other Attendees:

Jackie Parker (OSBM), Beth Hopkins Thomas (NCPLS), James “Jimbo” Perry (NCSC Chief Justice’s Commission on Professionalism), Phil Dixon (UNC School of Government)

Call to Order and Introductions

The meeting was called to order at 1:24 p.m. by IDS Commission Chair Bryan Jones, who then proceeded with the welcome. (Note: Commissioners had previously held an executive session beginning at 10 a.m. that morning to interview candidates for the position of State Parent Defender.)

The agenda was adopted unanimously.

State Government Ethics Act

Chair Jones reminded the Commissioners of their responsibilities under the State Government Ethics Act.

Minutes of February 7, 2025, Commission Meeting

The minutes from the February 7, 2025, IDS Commission meeting were approved.

Director's Report

Executive Director Mary Pollard began her report with “shoutouts” to **Bob Trbovich**, a PAC attorney out of Mecklenburg County, who regularly steps up on challenging cases. Director Pollard said he is one of many dedicated PAC who consistently goes above and beyond. She also thanked **Commissioner John Nieman**. Not only does he serve on the Commission, but he is the retired chief public defender for Guilford County, and he recently joined the PAC roster for Stokes County—despite “trying to retire.”

Legislative Update – Director Pollard shared highlights from the proposed Senate budget. At that time, the Senate budget included one new public defender office for Rockingham County as well as \$25 million in non-recurring funds over the biennia for the PAC fund, which may enable the IDS Commission to raise rates for some targeted PAC. At the time of the meeting, she was not sure when the House budget would be finalized, and she expected a continuing budget, come July 1.

Mention of HB 953 – Director Pollard directly named Rep. Carson Smith, Rep. Laura Budd, and Rep. Terry Brown, who are calling for a Legislative Study Commission to look at salary and benefits for district attorneys, public defenders and private assigned counsel. She said she planned to speak in support of this study at the General Assembly.

Update on Set-off Debt – For newer commissioners and as a reminder to longer serving commissioners, Chief Fiscal Officer Aaron Gallagher defined “Set-off Debt” as the means by which the Department of Revenue intercepts tax returns and lottery proceeds from individuals that have civil judgements against them as a result of being represented by a public defender or court appointed lawyer. He provided for information the Set-off Debt year-to-date receipts to the Commission, stating that revenues from Set-off Debt at that point in time were “strong.”

He said told the Commission there is a statutory notice requirement “issue” for IDS to send notices to the affected taxpayers w/n 30 days of receipt of the funds. IDS’s ability to do this in a timely manner has been complicated by Odyssey/Enterprise Justice (“EJ”) in EJ counties. He said IDS is working to get a “safe harbor provision” for the time period affected.

Director Pollard said the provision would require legislative action, and IDS staff are currently working on ways to ensure that happens.

Gallagher said that while IDS staff have figured out a way to get the notices out, the process is still “touch and go” and it takes a lot of work to meet the statutory deadline. “We are hopeful that by January 1, 2026, we will have a way to fix the current problems caused by the current module,” he added. And IDS staff plan to pitch a potential solution to the issue to leadership at the NC Administrative Office of the Courts for their approval.

Brief Update on the PAC Fund – The picture was not as bleak as was previously reported. Gallagher shared the revised FY2025 PAC Projections. He expressed gratitude to the General Assembly for allocating \$8.2 million in non-recurring funds to IDS for the PAC Fund. Those extra funds combined with the YTD Set-off Debt collections have improved the end-of-year forecast for the PAC Fund. He said receipts are up, and if revenues continue to be greater than anticipated, the projections might improve. If not, he said, the picture could stay the same.

The YTD PAC expenditure was \$77 million, with the expectation to spend another \$16 million before the end of the fiscal year. This was on pace with where the agency's spending was at this time last year. Gallagher said that new PD offices are siphoning off demand from PAC, and he was optimistic it will come in under \$93 million in expenditures for the end of FY2025.

He anticipated being able to pay PAC into June. "This is a great testament to being able to find revenue, collect revenue, and get the new public defender offices staffed and up and running," he said. "We don't want to have to stop PAC payments, but we will most likely stop payments from June 15 through July 1."

Commissioner Tonya Davis-Barber agreed, adding that historically, when IDS had to stop PAC payments, it needed to be done as early as March/third quarter. That IDS can pay into June and resume normal payments (under a continuing budget resolution) as soon as the start of the new fiscal year was very good news.

Remarks from the Chair

The Chair recognized **Chief Public Defender Robert C. Kemp III** of Judicial District 3 (Pitt County) for being named the recipient of the **John B. McMillan Distinguished Service Award** in December 2024.

Commission Business

Rules and Billing Policies for Non-Capital, Non-Criminal Cases at the Trial Level – The IDS Rules were originally adopted and last revised in 2002 and 2004, respectively. Along with IDS Assistant Director/General Counsel Whitney Fairbanks and IDS Assistant General Counsel Chad Boykin, Executive Director Pollard and the two have drafted revisions to the IDS Rules and Billing Policies. Plans are to convene the Budget Subcommittee for its input. Once the Budget Subcommittee is satisfied with the revisions, the draft will be circulated to the Commission in time for review and feedback before the August 22 meeting. The goal is for the revised Rules to "reflect the reality of practice in 2025 and the reality of IDS operations in 2025."

There are two major changes:

- (1)** OASIS will be statewide by the end of the current calendar year. Since OASIS guarantees payment within 30 days of billing, in return, IDS will adopt a policy to require that **attorneys bill within 90 days of the disposition of the case**. This is critical for IDS to monitor cash flow and to be able to identify instances of overbilling.
- (2)** **Attorneys must keep time records to back up their fee apps**, and those records must be released to IDS if ever audited. A fuller discussion on that is anticipated at the August 22 IDS Commission meeting.

Development Subcommittee – The Development Subcommittee was asked to expand interns in for public defender offices for the summer of 2026, offering some compensation for law school students so they do not go without income as they intern in PD offices across the state.

Policy and Planning Subcommittee – The Policy and Planning Subcommittee must update and resubmit the Strategic Plan (Aaron Gallagher and the Fiscal Team were to lead this effort). It will be due *before* the next meeting of the IDS Commission.

Revisions to the Uniform Appointment Plan – The idea to strike the jury trial requirement for attorneys to join the (List 2) low-level felonies and probation violation rosters, was brought before the Commission as an action item by Executive Director Pollard. It was suggested to her by a lawyer/Legislator who wants the best for IDS. Pollard added it will be paramount for IDS to ensure local bar associations are aware of the training and resources IDS can and does provide for free.

Instead, the recommendation would be to require that attorneys must observe at least one jury selection and one jury instruction.

Commissioner Tonya Davis Barber suggested to also require training for jury trials—that List 2 attorneys *either* have jury trial experience *or* undergo a jury trial CLE.

Commissioner Dorothy Hairston Mitchell agreed, stating that jury experience is *critical* to success in getting the best possible outcomes for clients in the courtroom.

Executive Director Pollard emphasized the training needs to be a “free and readily available jury module. And she included IDS Regional Defender Tucker Charns’ offering and affirmation that IDS could and would develop some jury training for this purpose.

Commissioner Scott Ussery made the motion to approve the changes as discussed, specifically to require to (1) observe at least one voir dire and one jury instruction OR (2) *contact IDS* for jury trial training, which will be free and readily available, and which IDS will provide.” The motion was seconded by Commissioner John Nieman and passed unanimously. (Note: Commissioner Cara Bridges and Vice-Chair Miriam Thompson had stepped out of the room at the time of the vote.)

Waiver of One Year Deadline for Fee Applications – Assistant General Counsel Chad Boykin brought two waiver applicants for consideration by the IDS Commission.

- (1) For the first applicant, Commissioner Ussery moved to decline payment, which was seconded by Chair Bryan Jones. Commissioners Ussery, Jones and Doyle voted in favor to decline payment.

Another motion to pay the attorney with a 20% reduction was made by Commissioner Stacey Rubain and was seconded by Commissioner Barber. The motion carried.

- (2) Commissioner Scott Ussery also made a motion to decline payment for the second applicant. Following a robust discussion, Commissioner Caitlin Fenhagen seconded the motion, which carried with five votes. (Note: Commissioner Thompson recused herself from this vote, and Commissioners Barber and Nieman voted against the motion to deny pay.) **There was another motion made by Commissioner Rubain to pay the attorney at 20% which was seconded by Commissioner Barber. But Commissioner Ussery opposed, stating that there was already a motion on the table. And the Chair took the vote to decline payment, which ultimately passed.

The 2025 recipient of the John Rubin Award for Excellence in Training was Anthony Monaghan, assistant public defender from Mecklenburg County.

Executive Session

Following a second closed session, Chair Bryan Jones convened again in open session at 3:36 p.m. and announced that Annick Lenoir-Peek was appointed as Parent Defender for the state of North Carolina for a two-year term beginning July 1, 2025. She replaces Wendy Sotolongo, who retired June 30, 2025.

Adjournment

All agenda items having been addressed, the Chair adjourned the meeting at 3:38 p.m.

Next Meeting: August 22, 2025 | Location: NCJC – Raleigh, NC