

2025.11.21 Meeting Minutes

Commission on Indigent Defense Services

For Review at the Quarterly Meeting – February 20, 2026

Commissioner Attendees:

Bryan Jones (Chair), Miriam Thompson (*virtual*) (Vice-Chair), Cara Bridges, George Doyle, Marshall Ellis (*virtual*), Cait Fenhagen, Jarrod Lowery, The Honorable Dorothy Hairston Mitchell, John Nieman (*virtual*), Stacy Rubain (*virtual*), The Honorable Scott Ussery

IDS Staff Attendees:

Chad Boykin (Assistant General Counsel, Financial Services), Amanda Bunch (Communications Specialist), Sharif Deveaux (Regional Defender), Whitney Fairbanks (Deputy Director/ General Counsel), Aaron Gallagher (Finance Officer), Angela Henderson (Contracts Administrator), Joshua Hummel (title), 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), Carla Huff (Recruitment and Training Coordinator), Sonia Colon (IDS Budget Manager)

Local and State Public Defender Program Attendees:

Dawn Baxton (District 16), Ricky Champion (District 17), Roszena Devione-Bivens for Niccoya Dobson (District 5), A. Traynham Dorn (District 13), Glenn Gerding (Appellate Defender), Laura Gibson (*virtual*) (District 2), Woodrena Baker Harrell (District 18), Burcu Hensley (APD, District 10), Annick Lenoir-Peek (Parent Defender), J. Chad Perry (Chief Special Counsel), Robert Sharpe (Capital Defender), Jennifer Rierson (District 24), Eric Zogry (Juvenile Defender), Deonte' L. Thomas (District 10), Terri Johnson (Office of the Juvenile Defender), Phillip Elkins (District 21), Michael Driver (Office of the Appellate Defender), Sharice Zachary (Office of the Parent Defender), Benjamin Kull (Assistant Parent Defender)

Other Attendees:

Duane K. Bryant (NC Capital Defender's Award Recipient) and Christian Bryant, Chandler Bryant, Wanda Bryant, Donna P. McDonald, Sybil P. Boyd (family and guests of Mr. Bryant); Meredith Randolph (NC Legislature), Beth Hopkins Thomas (NCPLS), James "Jimbo" Perry (NCSC Chief Justice's Commission on Professionalism), Phil Dixon (UNC School of Government), Monica Yelverton (UNC School of Government), Jackie Parker (OSBM), Bhairavi Jayaraman (NC Legislature)

Call to Order and Introductions

The meeting was called to order at 10:11 a.m. by IDS Commission Chair Bryan Jones, who then proceeded with the welcome.

Adoption of the Agenda

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 August 22, 2025, Commission Meeting

The minutes from the August 22, 2025, IDS Commission meeting were presented for consideration and were unanimously approved.

Remarks from the Chair:

NC Capital Defender’s Award – Capital Defender Robert Sharp presented the first North Carolina Capital Defender’s Award to Duane Kenneth Bryant in recognition of his distinguished legal career, service to the community and longstanding commitment to justice. Bryant reflected on his career, expressed gratitude to colleagues, family, and mentors, and shared scripture and remarks emphasizing compassion and service.

Oath for new Commissioner – Jarrod Lowery was formally sworn in as a member of the Commission on Indigent Defense Services. He provided brief remarks about his background and commitment to the Commission’s mission.

Link to the relevant news items posted on the IDS website:

<https://www.ncids.org/2025/highlights-of-the-nov-21-ids-commission-meeting/>

Remarks from the Director:

State Budget – Executive Director Mary Pollard reminded Commissioners that to date, there was still no comprehensive state budget but that IDS remained grateful for the non-recurring funds granted for the PAC Fund through the mini budget.

HB 307 – In September, the passage of HB 307 implemented a number of changes to pre-trial release policies that were to become effective December 1, 2025. NC Superior Court Chief justice Paul Newby created a task force in charge of a comprehensive review of pre-trial release policies from across the state, chaired by Justice Phil Horner and by Judge Stuart Albright of Guilford County. Director Pollard and the Wake County Chief Public Defender and NC Association of Public Defenders’ President Deonte’ Thomas bring the defense perspectives to the committee, and stakeholders are encouraged to reach out to Chief Thomas to be heard. Director Pollard emphasized that the budgetary implications from other parts of HB 307 could be significant to the agency though not immediate. The bill stipulates that all capital appeals and evidentiary hearings for pending post-conviction cases—many of which have been dormant for 20 years or more—must be heard within the next 35 months. Director Pollard said she is concerned about finding enough lawyers to staff these case types and finding the money to pay for the surge in caseloads. She added these cases are billable at the highest rate of \$100 per hour, and the PAC

Fund could be impacted significantly as early as the end of the current fiscal year/beginning of the new fiscal year.

JPS Oversight Committee Presentation – IDS will be to presenting to the JPS Oversight Committee in the near future. Topics were to include public defense expansion, conflicts, and challenges with data collection and reporting.

Collaborative Efforts to Draft New Legislation – IDS was asked to and will provide input into draft legislation with the AOC and DHHS that would create a permanent process and procedure for capacity restoration that does not involve involuntary commitment. Included on this team will be Chad Perry, Glenn Gerding and David Andrews.

Agency Business:

Set-off Debt Solutions – Director Pollard reminded the Commission and guests that the agency receives about \$10 to \$12 million a year for the PAC fund from the recoupment of attorney's fees. She said half (or more) of that money comes from the Set-off Debt program, which is where the agency intercepts tax refunds and lottery winnings of people who have civil judgments against them for repayment of attorney fees. She explained that Enterprise Justice exacerbated an already problematic function. She said the module built by Tyler Technologies, which was released in the spring of 2024, had a greater than 30% error rate. It couldn't identify the taxpayer associated with an intercept. And then it couldn't apply the judgment to the amount owed. This is a problem because IDS was recouping a client's money to pay off the debt, but it was never applied. So then, the following year, the agency would take the money again to pay the debt, which again, was not applied—and so on. Director Pollard reported that in June 2025, the AOC leaders and IDS staff sat down together to (1) acquire the data needed from Enterprise Justice to fix the issue and (2) to develop a solution that would help the agency correctly recoup what is owed back to it. Subsequently, the IDS team wrote hundreds of lines of code and analyzed hundreds of millions of rows of data to ensure the agency would not continue to intercept the same monies repeatedly. The IDS team identified most of the erroneous models as well as the causes of the errors, and Director Pollard reported that the team was down to about 5,000 files that must be hand corrected. She said she hoped AOC would fund the hiring of temporary labor to assist with these correction efforts. She added that Tyler Technologies would have charged a significant sum to do the same work that was done by IDS staff, and she expressed great thanks to those who helped work toward the resolution.

The DAVE Report – Director Pollard reported that the DAVE Report, which was a compilation of data on agency operations and fiscal effectiveness, was submitted to the State Auditor in October 2025.

IOLTA Grant-Funded Position – Director Pollard said that the agency lost IOLTA grant funding for the Recruitment and Training Coordinator position, currently held by Carla Huff. She said IDS will repurpose and reallocate some position in house in order to keep Ms. Huff employed and to “regularize” her position as a permanent, state-funded position. Director Pollard said Ms. Huff

has done great work with training opportunities and by getting access to law schools to recruit and make sure that students know about public defense as a career path.

Director Pollard said further that aside from Ms. Huff's position, IDS as an agency did not lose any money as a result of the demise of IOLTA. Commissioner Fenhagen expressed concern over the impact on legal aid and for the financial hit so many of the offices that serve indigent clients will endure. She called it a "tremendous loss."

Commissioner Dorothy Hairston Mitchell chimed in and assured the Commission and guests that the State Bar Council is working diligently every day to develop a resolution—both short term and long term—to mitigate the impacts on what the entities and agencies that depend on IOLTA funds can now do without the funding.

Enterprise Justice Update – Upon the request of NC Supreme Court Chief Justice Paul Newby, IDS (and all other stakeholder groups—defenders, the DA conference, judges, etc.) will identify the top 10-15 improvements/enhancement they would like to see made in Enterprise Justice that would make it more user friendly.

Director Pollard also reported:

- The Office of Special Counsel, formerly housed on Dix Campus in Raleigh, moved to the NC Judicial Center/AOC building.
- Whitney Fairbanks and Becky Whitaker were to present at the District Court Judges' Conference on treatment courts.
- The application period for one of the two regional defender positions closed. The vacancy opened back up after Sharif Deveaux decided to return to work as an APD specializing in juvenile defense for the Wake County Public Defender's Office.
- The agency started communicating to the field about the rule changes, the billing and expense policy updates that the Commission approved at the last meeting. Chair Jones and IDS Communications Specialist Amanda Bunch developed a video, and Ms. Bunch has gone to great lengths to spread the word.
- OASIS was live in 95 counties as of the day of the meeting and would be fully statewide by December 10. OASIS is the new electronic invoice system that replaces paper fee apps for noncapital adult criminal cases at the trial level. It ensures that attorneys are paid within 30 days of submitting an invoice.

Updates on Changes in Law and Practice

State Juvenile Defender Eric Zogry reported that the Office of the Juvenile Defender is ready to begin the appointment process early next year (2026) for the Juvenile First-Degree Murder Roster. The roster is for attorneys who represent youth ages 13 through 17 in North Carolina charged with first-degree murder and facing life without parole. He provided some background to the commission, which first approved the rules to create the roster back in the spring of 2024. He reported that about 30 attorneys are on the roster, which will cover 27 counties in a phased-in

approach. Once the roster is “activated,” and attorneys are being appointed from it, Zogry said there will be another wave of recruitment efforts to attract even more attorneys who are specialized in juvenile defense to join the list.

Director Pollard asked Zogry to provide some context for newer commissioners. Zogry explained the problems created for juvenile defendants by having different attorneys representing them on homicide charges at the district and superior court levels and the benefits arising from having one lawyer with expertise in working with adolescents handle the case at all stages. Adults facing life without parole received highly trained representation from capital roster attorneys, and defendants as young as 13 facing that same sentence require skilled attorneys as well. Commissioner Fenhagen praised Zogry for working to ensure youthful defendants had trained, excellent representation.

Zogry said he anticipates that having one attorney throughout the duration of the case will save time and money, and the quality of representation will be improved.

He plans to bring information to a future IDS Commission meeting with the list of attorneys who are on the roster as well as data that supports the notion that there will be improved outcomes for youth facing serious charges.

Fiscal Report:

IDS Fiscal Office Aaron Gallagher provided the Commission with an update on fiscal operations. Gallagher opened the Fiscal Report by acknowledging the team effort behind IDS’s fiscal operations and crediting his team with for working with him on effective and informed decision-making.

Gallagher emphasized that the fiscal section’s primary mission is not simply processing payments but rather ensuring that people’s constitutional rights are protected by maintaining a robust network of attorneys and experts willing to take indigent defense cases. He framed every fiscal activity—paying appointed counsel, reimbursing experts, managing contracts—as serving that overarching purpose.

Primary functions of the fiscal section were described as follows: issuing payments to appointed counsel (PAC attorneys), experts supporting appointed counsel, capital attorneys, and capital experts; troubleshooting problems in fee application processing; issuing payments to contractors; reimbursing staff and commissioners for travel and expenses; paying invoices to trade vendors and service providers; preserving fiscal records for audit purposes; providing customer service to attorneys, suppliers, and vendors; and adhering to audit standards and best practices.

Division Accomplishments:

- Clean audit: For the third consecutive year, IDS received a clean, unqualified audit from the internal auditors at the Administrative Office of the Courts (AOC), confirming adherence to best practices.

- Fiscal year management: Despite facing a projected shortfall of tens of millions of dollars the previous year, IDS managed to continue payments throughout all twelve months of the fiscal year without suspending or slowing down payments. This was achieved through belt-tightening, adherence to best practices, and additional funding from the General Assembly.
- Staff development: Sonia Colon, the Budget Manager, attended OSBM's budget certification course for state government professionals and successfully attained the designation of Certified State Government Budget Professional.

Update on OASIS:

Gallagher provided a detailed update on OASIS, IDS's automated invoicing platform that replaces the legacy paper-based fee application process.

- Rollout status: OASIS has launched in 95 of 100 counties. The remaining five counties were scheduled to go live on December 10, ahead of the original January target. At the time of the presentation, approximately 1,561 attorneys were onboard to the system (up from approximately 1,500 when the presentation was initially prepared a few weeks earlier).
- Current scope: OASIS is currently limited to adult criminal cases. Plans are underway to expand to juvenile cases and then parent representation cases. Gallagher stressed that expansion must be done slowly and methodically due to confidentiality concerns.
- Attorney feedback: Gallagher shared quotes from attorneys praising the system. One attorney reported that OASIS takes approximately three minutes to enter a fee application and that payment arrived five weeks earlier than under the old system. Others praised the ease of use, the training materials, and the transparency the system provides.
- Audit and integrity controls: Gallagher explained that Oasis was added as a service contact in eCourts, so when an attorney files and serves a fee application, IDS simultaneously receives an electronic link to that filing. IDS cross-references the file number entered in OASIS against filings in the court system to verify the fee application. Higher-level audits flag applications with more than 75 hours, expenses over a certain threshold, or duplicate file numbers. Over 50% of fee applications receive a physical, eyes-on audit, supplemented by automated checks. The system was designed in consultation with AOC's internal audit division.
- Judicial fee reductions: Discussion addressed how judicial fee reductions are handled. If a judge reduces a fee application at the disposition stage, both the fee application and the OASIS system have built-in fields to document the discrepancy.
- Overpayment recovery: Gallagher explained the overpayment process and noted that one hundred percent of identified overpayments have been resolved.
- Integration with eCourts: Gallagher explained that OASIS is not directly integrated with eCourts but noted that despite some duplication in work, the faster turnaround and the reduction of risk related moving paper fee applications around made the program an improvement.

Fee Application Volume and Trends:

Gallagher reviewed fee application volume over the past several fiscal years, noting the following trends:

- **FY 2022:** Approximately 120,000 non-capital cases (including adult criminal, parent representation, and juvenile), plus approximately 1,000 capital cases, 1,300 non-capital expert fee applications, and 1,600 capital expert fee applications.
- **FY 2023:** Volume dipped, likely a residual effect of the pandemic. Fewer court proceedings in 2021 meant fewer cases reaching disposition.
- **FY 2024:** A massive spike as post-pandemic backlogs cleared. Courts resumed full operations, and Chief Justice Newby made case disposition a priority.
- **FY 2025:** Volume dropped somewhat from the FY 2024 spike. Gallagher attributed this to two factors: the post-pandemic surge subsiding, and the introduction of eight new Public Defender (PD) offices absorbing caseload that would previously have gone to appointed counsel.
- **Capital case trend:** The number of capital cases has increased over the past four years, and capital cases carry significantly higher costs. Capital attorney spending has doubled in four years. Gallagher described this as an “alarming trend” and noted that while overall fee application numbers may decline due to PD office expansion, costs may not decrease proportionally because a greater share of remaining cases are capital.
- **Monthly payment patterns:** IDS receives its budget allocation from OSBM in quarterly installments. Spending tends to spike in the first month of each quarter when cash is available, then tapers off as the quarter progresses and cash reserves decline. Set-off debt receipts (primarily from tax refund intercepts) bolster cash availability beginning in March, which explains why spending did not taper as sharply in the final quarter.

PAC Roster:

Gallagher stressed that growing the attorney pool remains essential. Gallagher provided updated data on the number of PAC being paid by IDS. The figure presented the previous year (1,370) was acknowledged to be low due to complications with the state’s new financial system (NCFS).

The research team worked to produce a more accurate figure: 1,916 individual attorneys were paid in the relevant period. For FY 2025, the updated figure is also approximately 1,916, reflecting a leveling off. While this is an improvement over the misleadingly low prior figure, IDS lost an estimated 400–500 attorneys during the pandemic and has not yet returned to pre-pandemic levels.

Priorities for the Current Fiscal Year:

- **Enhance OASIS:** Expand acceptable case types to include parent representation and juvenile cases.

- Retain and grow appointed counsel: Explore differential pay rates and financial incentives to attract attorneys to the IDS list and encourage case acceptance, particularly in underserved areas.
- High-biller analysis: The new NCFS financial system has improved data accessibility, allowing the fiscal section to identify high-billing firms and practitioners and conduct deeper analysis of billing patterns.
- Shift from quantity to quality in accounts payable: With Oasis reducing the manual processing burden, the accounts payable team is shifting focus from simply getting payments out the door to performing more rigorous quality control and auditing of payments.

Digital Discovery and Axon Licensing:

Gallagher raised the issue of digital discovery costs as a major fiscal challenge. Body camera footage requires significant storage capacity and time to review. The primary vendor, Axon, charges license fees for access to its platform, which includes features such as transcription, video enhancement, multi-angle viewing, and keyword search.

- Current licensing situation: In 2022, IDS obtained Axon licenses for existing PD offices at \$15 per person per month. Axon has since raised the price dramatically; IDS negotiated the rate down to approximately \$70 per person per month, achieving parity with the rate charged to prosecutors. However, full licensing for all PD offices would cost approximately \$600,000 per year. As a result, licenses are distributed selectively to the districts with the greatest need, rather than to every individual public defender.
- Private assigned counsel: Axon has communicated to IDS that it does not currently offer a product designed for private attorneys or private law firms and is not interested in developing one. This creates an uneven playing field between PDs and PAC.
- Duplicate state spending: Commissioner Ussery raised concerns about the state paying Axon two or three times for the same content: once through the Conference of District Attorneys, once through PD offices, and potentially again through PAC. Pollard explained that everyone who accesses AXON needs their own license. Commissioner Ussery suggested the legislature should negotiate a single statewide contract.
- Legislative proposal: IDS has proposed a pilot program in which IDS would use its purchasing power to offer Axon licenses to appointed counsel, but this would require both dedicated funding and explicit legislative authorization. The proposal did not advance in the current budget cycle. Gallagher noted that previous hopes that the eCourts discovery module might serve as an alternative to Axon seems to have been ruled out.
- Cost-benefit evidence: A survey conducted by IDS found that some attorneys reported saving 20 or more hours of billable time when they had access to Axon's platform features (e.g., keyword-searchable transcription), suggesting that license costs may be partially offset by reduced hourly billing.

The commission agreed that this issue warrants a dedicated agenda item at a future meeting for continued discussion and strategic planning.

Budget Overview:

- Actual expenditures, prior fiscal year: PAC: \$92.6 million; Public Defender offices: \$78.5 million; Statewide defenders (appellate, parent, juvenile, capital, special counsel and associated costs): \$12.2 million; Administration: approximately \$2 million.
- Milestone: For the first time, the IDS budget allocates more resources to Public Defender offices than to PAC, reflecting the ongoing expansion of PD offices statewide. Gallagher noted that IDS envisions a near-term future in which PD spending consistently exceeds PAC spending.
- Administrative efficiency: Gallagher highlighted that IDS spent only 2% of its budget on administration, which he described as remarkably low for a public entity. He noted that this small investment produced significant innovations, including OASIS (developed for less than \$10,000 in direct costs) and ongoing work on set-off debt improvements.

Projected Shortfall and Mitigation Strategies:

Gallagher outlined the current fiscal year's budget position for appointed counsel spending:

- Total resources available: \$79.3 million (comprising \$66 million in General Assembly appropriations—including \$10 million from a mini-budget passed in August/September—\$12.7 million in projected receipts primarily from set-off debt, and a small carryforward of obligated but unspent funds from the prior year).
- Projected spending: Q1 spending was \$21 million. At the current burn rate of \$7–\$7.5 million per month, projected full-year spending is \$88–\$90 million, consistent with the prior year.
- Projected shortfall: Approximately \$4.4 million after accounting for lapsed salary savings (from vacant positions) and other adjustments. This is significantly improved from the tens-of-million shortfall projected the previous year.
- Operational impact: IDS expects to be able to continue payments through June, with potential throttling or suspension only in the final month of the fiscal year (June). Contract attorney payments will not be slowed; any slowdowns would apply to fee applications processed through Oasis and the traditional system.

Mitigation strategies discussed include:

- Lapsed salary: Vacant positions generate one-time savings, though this source is shrinking. IDS began the fiscal year with 36 vacancies, now down to 20 out of 700+ employees.
- Maximizing DHHS reimbursements: IDS invoices DHHS pursuant to the federal IV-E program for costs associated with representing parents whose children are in DSS custody. Gallagher urged PD offices to report hours their APDs spend on eligible cases so those can

be included in monthly DHHS invoices. Even an additional \$300,000–\$1 million over the remaining months would meaningfully reduce the shortfall.

- Potential supplemental appropriation: When the General Assembly reconvenes after the new year, IDS may seek additional funding to close the gap.

Ongoing Challenges:

- Contract attorney commitments: IDS has committed to paying contract attorneys monthly. This limits fiscal flexibility.
- Declining lapsed salary: With vacancies shrinking (from 36 to 20), less one-time savings are available to redirect toward appointed counsel spending.
- Set-off debt volatility: The eCourts set-off debt module has experienced errors that make revenue from this source less predictable. IDS collected over \$13 million last fiscal year, but continued problems with the system could impact collections.
- Lack of a comprehensive state budget: North Carolina does not currently have a full state budget. The state is operating under a series of patches that address specific cost increases (e.g., retirement rate increases, health plan contribution increases) but do not comprehensively address all agency needs.
- OASIS payment timeline increasing burn rate: To incentivize attorney participation in OASIS, IDS promises payment within 30 days (compared to 45 days for traditional paper fee applications). While this improves attorney satisfaction and recruitment, it accelerates the rate at which IDS expends its available cash.

Public Defender Office Expansion:

Gallagher addressed the fiscal implications of PD office expansion. Key points raised included:

There is a natural lag between when a PD office becomes operational and when it meaningfully reduces appointed counsel spending. Offices authorized in October 2023, January 2024, and July 2024 are still ramping up. Commissioner Ussery noted that in his district, it took approximately 18 months for the PD office to reach full operational capacity after legislative authorization.

Gallagher acknowledged the tension between expanding PD offices (which have higher fixed costs but provide more predictable budgeting) and increasing the PAC rate. Raising the PAC rate could attract more private attorneys and make PD offices appear comparatively more cost-effective.

Commissioner Ussery noted that fiscally conservative legislators will want to see demonstrated cost-benefit data from the new PD offices. Gallagher expressed optimism that next year's data will show a meaningful reduction in PAC spending attributable to PD expansion.

Pollard observed that some PD offices were staffed to cover only 50% of eligible cases per their legislative authorization, which can make their caseload statistics appear less robust compared to offices authorized for full coverage. Gallagher acknowledged this complexity.

Commission Business

IDS Commission Appointment (Dorothy Hairston Mitchell Seat) – Chair Jones made a motion to table the discussion and vote for this agenda item and revisit the appointment decision at the next meeting. The motion was seconded by Commissioner Ussery and was approved unanimously. Commissioner Hairston Mitchell will continue to serve in a holdover capacity.

Budget Committee – IDS Assistant Director and General Counsel, Whitney Fairbanks, provided a brief update to the full commission on behalf of the Budget Committee. She reported that the committee’s recent meeting included a discussion of billing guidelines within the Managed Assigned Counsel (MAC) program. That discussion resulted in a committee decision to direct IDS staff to develop more detailed proposals for a two-tiered billing review process within the MAC program.

Fairbanks noted that the details of the committee’s discussion and direction are laid out in a memo provided to commissioners. She emphasized that the Budget Committee is not requesting any action from the full commission at this time; the update was informational only.

She reported that Jamie Blackwell, who was unable to attend the meeting, is taking the lead on the process and procedural aspects of the project. The committee anticipates being able to present options to the full commission for review and potential adoption at the February meeting.

Adopt the 2026 IDS Commission Meeting Calendar – The proposed 2026 Commission meeting calendar was presented. All Commissioners present voted to approve the 2026 meeting dates. The Commission will meet on February 20, May 1, August 7 and November 6 in 2026.

Executive Session

At 12:47 p.m., Commissioner Ussery made a motion, which was seconded by Commissioner George Doyle, to go into executive session to hear an update on litigation and to discuss a personnel matter.

Open session was convened at 1:29 p.m., during which the Commission took no further action.

All agenda items having been addressed, the Chair adjourned the meeting at 1:30 p.m.

Next Meeting: May 1, 2026

Location: NC Administrative Office of the Courts, Raleigh, NC