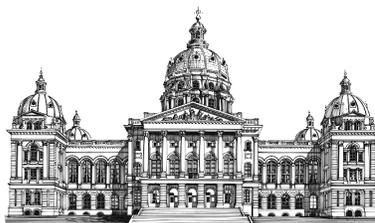

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State Capitol
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Indigent Defense Update

ISSUE

A review of measures implemented by the General Assembly to reduce the cost of legal representation for indigent persons and the impact on the State General Fund.

AFFECTED AGENCIES

State Public Defender
Judicial Department

CODE AUTHORITY

Sections 13B.4, 13B.10, 232.41, 815.4, 815.5, and 815.9, Code of Iowa

BACKGROUND

In 1989, county public defenders and State appellate defenders were combined under the State Public Defender within the Department of Inspections and Appeals (DIA). The same year the Indigent Defense Program was moved from the Judicial Department to the DIA.

Indigent Defense is a State Program designed to provide legal representation to low-income criminal defendants. Legal representation is provided by either a State public defender, a private attorney contracted with by the State Public Defender, or a private attorney appointed by a Court.

The State Public Defender, appointed by the Governor and confirmed by the Senate, coordinates and supervises all court cases assigned to public defenders and contract attorneys. All public defenders are State-employed attorneys working within the DIA.

Court-appointed attorneys are also compensated with State funds. Each court-appointed attorney submits a summary billing to the presiding judge who then determines the total amount of compensation. The District Court Judge authorizes all payment claims. The District Court Administrator receives the information and forwards it to the DIA, and payment is made for the amount authorized.

Since 1989, the General Assembly has made the following changes to reduce the cost of the Indigent Defense Program:

- **Expanded the State Public Defender's Office.** The State Public Defender's Office was expanded in late FY 1991 to handle more indigent defense cases. A task force review of the average cost-per-case indicated that cases handled by private court-appointed attorneys cost approximately twice as much as those handled by the State Public Defender. A supplemental appropriation of \$540,000 was provided to the State Public Defender in FY 1991 and additional funding of \$1.7 million in FY 1992 to add 44 attorneys and 4 new office locations.
- **Authorized Contracting with Private Attorneys.** The State Public Defender contracted with a number of private attorneys to provide legal representation at fixed (reduced) hourly rates as part of a 6-county pilot project during FY 1993 and FY 1994.
- **Created Measurable Requirements to Determine Indigent Status.** Beginning September 1, 1993, the courts were required to use the federal Department of Health and Human Services poverty guidelines to determine the degree to which a person is indigent. Persons with incomes at or below 150.0% of the poverty guidelines are considered indigent and receive legal counsel at State expense. However, a person with income in excess of the 150.0% ceiling may still receive State-paid legal counsel if the court makes a written finding of substantial hardship.
- **Required "Partially Indigent" Persons to Contribute to the Cost of Defense. Persons defined as "partially indigent" must contribute to the cost of their legal defense. Persons with incomes between 100.0% and 150.0% of the poverty level are required to contribute \$100 for legal defense costs in accordance with rules adopted by the State Public Defender. Persons with incomes in excess of 150% of the poverty level who receive legal representation under the hardship clause, are considered "partially indigent" and are required to contribute \$200 toward their legal defense costs.**

CURRENT SITUATION

During the 1994 Legislative Session, the General Assembly approved a pilot project to track the costs of juvenile indigent defense cases. The Public Defender has chosen Hardin and Washington counties to participate in a 1-year pilot project to review and process juvenile indigent defense claims.

Currently, each county pays a fixed dollar amount of juvenile indigent defense costs each year. When the threshold is reached, all subsequent costs are paid from the State's appropriation for indigent defense. The county forwards only the dollar amount of claims to the DIA for payment. No documentation is provided regarding the claims, such as the type of crime, case number, or attorney hours charged. The pilot project requires 2 counties to forward the county-base dollars and all claims information to DIA for review to determine if cost efficiencies can be achieved in juvenile indigent defense cases similar to those that have been implemented for adult indigent defense cases.

The General Assembly also authorized statewide contracting of private attorneys for FY 1995. The 6-county pilot project generated an estimated savings of \$183,000 for FY 1994.

BUDGET IMPACT

Historical budget information for Indigent Defense costs is illustrated below:

	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>	<u>FY 1993</u>	<u>FY 1994</u>
<u>Court Appointed Attorneys</u>					
Total Adult Cases	17,444	19,926	16,557	17,077	15,263
Rate of Change		14.2%	-16.9%	3.1%	-10.6%
Expenditures	\$ 8,192,414	\$ 9,278,529	\$ 8,172,263	\$ 7,586,834	\$ 7,372,005
Rate of Change		13.3%	-11.9%	-7.2%	-2.8%
Average Case Cost	\$ 470	\$ 466	\$ 494	\$ 444	\$ 483
<u>Contract Attorneys Pilot Project</u>					
Total Contract Cases	NA	NA	NA	924	7,630
Expenditures	NA	NA	NA	\$ 238,702	\$ 2,421,035
Average Case Cost	NA	NA	NA	\$ 258	\$ 317
<u>Juvenile Case Expenses</u>					
Expenditures	\$ 3,419,267	\$ 3,533,435	\$ 3,626,887	\$ 3,203,905	\$ 3,277,043
Total Indigent Defense Exp.*	\$ 11,611,681	\$ 12,811,964	\$ 11,799,150	\$ 11,029,441	\$ 13,070,083
Rate of Change		10.3%	-7.9%	-6.5%	18.5%
* FY 1994 includes GAAP Deficit Reduction funds of \$1.1 million					
<u>Public Defender Expenses</u>					
Total Adult Cases	12,677	14,574	27,382	27,482	28,143
Rate of Change		15.0%	87.9%	0.4%	2.4%
Total Juvenile Cases	2,476	3,124	6,870	8,705	9,175
Rate of Change		26.2%	119.9%	26.7%	5.4%
Total Appellate Cases	409	381	461	412	442
Rate of Change		-6.8%	21.0%	-10.6%	7.3%
Total Cases	15,562	18,079	34,713	36,599	37,760
Rate of Change		16.2%	92.0%	5.4%	3.2%
Total Expenditures	\$ 3,731,983	\$ 4,516,836	\$ 6,532,120	\$ 7,538,473	\$ 7,887,259
Rate of Change		21.0%	44.6%	15.4%	4.6%
Average Case Cost	\$ 240	\$ 250	\$ 188	\$ 206	\$ 209
Total All Expenditures	\$ 15,343,664	\$ 17,328,800	\$ 18,331,270	\$ 18,567,914	\$ 20,957,342
Rate of Change		12.9%	5.8%	1.3%	12.9%

The Judicial Department is scheduled to provide the first report of revenue collected from defendants required to pay a portion of their legal defense costs by January 1, 1995.

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