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STATE PUBLIC DEFENDER'S EFFICIENCY REPORT
Required by Senate File 439 (Act of 80th General Assembly, First Session, 2003)
December 15, 2003

I. Background

In Senate File 439, the 80th Iowa General Assembly required the State Public Defender to conduct a study and report as follows:

The state public defender's office shall, in consultation with the indigent defense advisory commission, the judicial branch, the Iowa state bar association, and other interested parties, file a report detailing how efficiency and cost savings measures can be achieved within the state public defender's office. The report shall be filed with the general assembly by December 15, 2003. The report shall include a review of the federal guidelines for appointing an attorney for an indigent defendant in federal court, make recommendations for changes to the definition of "indigent" or the purposes of appointing an attorney in state court, make recommendations on methods which can be used for recouping delinquent indigent defense fees, court costs, surcharges, fines, and other fees, and detail the office's cost containment efforts, and measurements of performance and performance-based budgeting.

Acts of the 80th General Assembly, 1st sess., S.F. 439 § 9 (2003).

The State Public Defender consulted with the organizations identified above. In addition, the State Public Defender solicited information and recommendations from the Federal Defender for the United States District Courts for the Northern and Southern Districts of Iowa, the National Legal Aid and Defender Association, the National Association of Criminal Defense Lawyers, and the Chief Attorneys for the Iowa State Public Defender System. Input from these sources is identified below, as appropriate.

This report will address the areas required by S.F. 439: a review of guidelines for appointment of attorneys (including the federal standard) and recommendations for changes in Iowa's definition of "indigent;" recommendations on methods for recouping delinquent indigent defense

fees and other court-ordered payments; detailing the State Public Defender's cost-containment efforts; and the State Public Defender's performance measures.

II. Indigence Standards

A. Iowa Standards

Iowa's financial standards for appointment of counsel are set by statute as follows:

1. For purposes of this chapter, chapter 13B, chapter 229A, chapter 232, chapter 665, chapter 814, chapter 822, and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

a. A person is entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred twenty-five percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, unless the court determines that the person is able to pay for the cost of an attorney to represent the person on the pending case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

b. A person with an income level greater than one hundred twenty-five percent, but at or below two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the court makes a written finding that not appointing counsel on the pending case would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

c. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that not appointing counsel would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments, and the seriousness of the charge or nature of the case.

IOWA CODE § 815.9 (2003).

The State Public Defender issues administrative rules to implement these standards. *See* IOWA ADMIN. CODE, AGENCY 493, ch. 10 (2003). The State Public Defender provides information to the courts on these standards, including updates on national poverty standards from the United States Department of Health and Human Services. Information on Iowa's indigent defense standards is available on the State Public Defender's website at www.spd.state.ia.us.

Surveys of Iowa District Chief Judges and Chief Attorneys for State Public Defender field offices reveal general approval of Iowa's indigence standards. There is anecdotal evidence the standards are sometimes misapplied, usually in favor of granting someone appointed counsel who might not be eligible under the statutory standards. There is also anecdotal evidence of inconsistency among magistrates and judges. The State Public Defender has received occasional complaints from family members of defendants who have been denied appointed counsel, arguing the defendant could not afford a lawyer and one should have been appointed.

B. Federal Standard

The only standard for indigence applied in the courts of the United States is the following provision of the Criminal Justice Act:

Unless the person waives representation by counsel, the United States magistrate judge or the court, if satisfied after appropriate inquiry that the person is **financially unable** to obtain counsel, shall appoint counsel to represent him.

U.S. CODE § 3006A(b) (2003) (emphasis added).

According to the Federal Defender for the United States District Courts for the Northern and Southern Districts of Iowa, the application of the "financially unable" standard is completely ad hoc, with no financial formula or application of any consistent standard for income or assets. The Federal Defender informed me that, in practice, eligibility for appointed counsel often depends on what the defendant has in readily liquefiable assets. He cited several examples of people whom he considered wealthy, but nonetheless qualified for appointed counsel because, in the magistrate judge's view, they had many fixed expenses or their assets could not be easily liquidated. *See also United States v. Brockman*, 183 F.3d 891, 897-98 (8th Cir. 1999) (illustrating ad hoc evaluation of eligibility for appointed counsel; court found discharge of previously appointed counsel was not clearly erroneous).

C. Other States

The National Legal Aid and Defender Association (NLADA) provided a summary of indigence standards and guidelines, including those applied in selected states. The NLADA materials reveal there is no consistent standard and few authorities set out a formula for eligibility.

Those states setting out an objective standard for indigence can run into problems if the standard isn't flexible or regularly updated to reflect economic reality. The recent experience of Wisconsin is a good example. Wisconsin's indigence standard is established by statute, which sets 80% of the 1987 state poverty guidelines as the income benchmark for eligibility for appointed counsel. That has not been updated. As a result, as little as \$250 per month in income can prevent appointment of a public defender. Wisconsin's experience has produced controversy, bad publicity, and lawsuits. *See* Mary Zahn & Jessica McBride, *Poor Often Left Defenseless in Courtroom*, MIL. JOUR. SENTINEL ONLINE, Dec. 7, 2002; Jessica McBride & Mary Zahn, *Without Legislative Action, More Poor Will Struggle Finding Attorneys*, MIL. JOUR. SENTINEL ONLINE, Dec. 8, 2002.

D. National Standards

The American Bar Association has published a standard that “[c]ounsel should be provided to persons who are financially unable to obtain adequate representation without substantial hardship.” ABA STANDARDS FOR CRIMINAL JUSTICE § 5.7.1 (3rd ed. 1992). The ABA standards do not specify how to determine whether someone is “financially unable” to retain counsel.

NLADA has issued guidelines for indigent defense systems in the United States, including a standard for financial eligibility. This standard provides counsel should be appointed “to anyone who is unable, without substantial financial hardship to himself or to his dependents, to obtain such representation.” NLADA GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES § 1.5 (1976). The NLADA Guidelines include general guidance on what income and assets should be included in the determination, but do not provide for a formula or other specific standard. *Id.*

The National Conference of Commissioners on Uniform State Laws, in its Model Public Defender Act, provides for appointment of counsel for “needy” persons. The Model Act does not define “needy,” but says the court “may consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents.” MODEL PUBLIC DEFENDER ACT § 4 (1970).

The National Advisory Council on Criminal Justice Standards and Goals also lacks a specific definition of “indigent.” Its standard provides “[t]he test for determining eligibility to pay [for a private attorney] should be a flexible one that considers factors as amount of income, bank account, ownership of a home, a car, or other tangible or intangible property, the number of dependents, and the cost of subsistence for the defendant and those to whom he owes a legal duty of support.” NATL. ADV. CNCL. ON CRIM. J. STANDARDS, REPORT OF THE TASK FORCE ON THE COURTS § 13.2 (1973).

E. Recommendation

Iowa's indigence standards should not be changed. Iowa's standards meet national standards. They incorporate by reference United States Department of Health and Human Services poverty guidelines, which provide an objective anchor but allow for automatic updating without amending the statute. Iowa's standards allow judges to

consider the severity of the case and the defendant's ability to pay beyond his or her income. Accordingly, Iowa's courts aren't tied to an inflexible application of the poverty standards, recognizing the cost of a private attorney will vary according to location and the nature of the case.

This combination of objective criteria and flexibility makes Iowa's standards superior to those of states, like Wisconsin, with set-in-concrete formulas that are quickly outdated and the federal system whose ad hoc approach produces inconsistency. There is anecdotal evidence Iowa judges may have occasionally appointed counsel to defendants who might have been able to afford a private attorney or denied appointed counsel to those who should have been considered indigent. However, these incidents are not a basis for abandoning or modifying the standards.

III. Recoupment of Indigent Defense Costs

A. Iowa's Restitution Program

Iowa law provides for recoupment of indigent defense costs as follows:

3. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person. "Legal assistance" as used in this section shall include not only an appointed attorney, but also transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.
4. If the case is a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than the date of sentencing, or if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal.
5. If the case is other than a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than ten days from the date of any court ruling or trial held in the case, or if the case is dismissed, within ten days of the dismissal.
6. An appointed attorney shall submit a report pertaining to the costs and fees for legal assistance to the court at the times specified in subsections 4 and 5. If the appointed attorney is a public defender, the report shall specify the total hours of service plus other expenses. If the appointed attorney is a private attorney, the total amount of legal assistance shall be the total amount of the fees claimed by the appointed attorney together with other expenses.

7. If all costs and fees incurred for legal assistance are not paid at the times specified in subsections 4 and 5, the court shall order payment of the costs and fees in reasonable installments.

8. If a person is granted an appointed attorney or has received legal assistance in accordance with this section and the person is employed, the person shall execute an assignment of wages. An order for assignment of income, in a reasonable amount to be determined by the court, shall be entered by the court. The state public defender shall prescribe forms for use in wage assignments and court orders entered under this subsection.

9. If any costs and fees are not paid at the times specified under subsections 4 and 5, a judgment shall be entered against the person for any unpaid amounts.

IOWA CODE § 815.9 (2003). Note a defendant is liable for these costs even if he or she is found not guilty of any offense or the conviction reversed on appeal. *Id.* § 815.9(4); *State v. Johnson*, 662 N.W.2d 370 (Iowa App. 2003) (unpub.). Indigent defense costs are included in the court's restitution order to the defendant. IOWA CODE § 910.2 (2003).

Iowa law prioritizes the application of restitution monies collected in the following order: victim payments, fines, penalties and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees, court-appointed attorney fees including expense of a public defender, and contribution to a local anti-crime organization. *Id.* If a defendant is only able to make a partial payment, six categories have higher priority than reimbursement of indigent defense costs.

When a defendant is not reasonably able to pay all or part of the ordered restitution, the court may substitute community service. *Id.* The court must consider ability to pay in enforcing a restitution order; otherwise, section 910.2 would be vulnerable to constitutional attack. *Goodrich v. State*, 608 N.W.2d 774, 776 (Iowa 2000), citing *State v. Haines*, 360 N.W. 2d 791, 796 (Iowa 1985).

The Iowa Supreme Court has held a defendant who files a timely objection to a restitution order is entitled to a hearing and, if indigent, representation by appointed counsel at that hearing. *State v. Jose*, 636 N.W.2d 38, 45-46 (Iowa 2001); *State v. Alspach*, 554 N.W.2d 882 (Iowa 1996). Therefore, actions intended to recoup indigent defense cost can themselves increase those costs.

The Iowa Judicial Branch has provided information on amounts collected as reimbursement for indigent defense costs for the last four fiscal years. These figures, plus total indigent defense expenditures (public defender operations plus Indigent Defense Fund) and percent of recoupment for each of these fiscal years, are below:

FY 2003:	Collections - \$3,755,678	Expenditures - \$38,173,071	9.8% recouped
FY 2002	Collections - \$3,707,272	Expenditures - \$38,160,771	9.7% recouped

FY 2001 Collections - \$3,508,743 Expenditures - \$36,068,382 9.7% recouped

FY 2000 Collections- \$3,605,692 Expenditures - \$34,115,648 10.6% recouped

In summary, the State recovers indigent defense costs from defendants at the rate of about ten cents for each dollar spent. There are several reasons for this low recovery rate. First and foremost, the defendants are indigent. If they had means to pay for attorneys, the courts would not have appointed counsel. Also, a significant number of defendants end up in prison and thus have no opportunity to earn money to pay restitution obligations. As noted above, the courts may substitute community service for defendants unable to pay restitution. While this is a useful option, it's another reason why cash recoupment isn't at a higher rate. Finally, indigent defense costs are low on the restitution priority list. Any available cash is first applied to six other categories before any remaining may be used to recoup the cost of a court-appointed attorney.

In addition to the low recoupment rate, it should be noted any recouped indigent defense costs are deposited in the General Fund and not returned to the State Public Defender's appropriation accounts. Accordingly, the benefit to the State's indigent defense programs is at best negligible. As noted above, the restitution program itself generates indigent defense costs, as defendants have the right to counsel at restitution hearings. This further diminishes its value.

B. Prepaid Fees: An Alternative to Posttrial Recoupment?

A possible alternative to the current restitution system is an administrative fee prepaid by an indigent as a prerequisite to receiving appointed counsel. Thirteen states now require prepaid fees of some kind. Spangenberg Group, *Indigent Defense Application Fees Currently in Use* (2003). Iowa policymakers considered a prepaid fee in past years and rejected the idea as not worth the administrative costs and associated burdens.

The National Legal Aid and Defender Association's guidelines conflict on the issue of a defendant's prepaid contribution. In one place, the NLADA guidelines state "if, at the time that the [indigence] determination is made, [the defendant] is able to provide a limited cash contribution to the cost of his defense without imposing a substantial financial hardship upon himself or his dependents, such contribution should be required as a condition of continued representation at public expense." NLADA GUIDELINES FOR LEGAL DEFENSE SYSTEMS IN THE UNITED STATES § 1.7(1976). In a later publication, however, NLADA repudiates this guidance: "Persons eligible for representation by assigned counsel . . . shall not be asked to contribute toward, nor to reimburse the jurisdiction for, the cost of assigned counsel." NLADA GUIDELINES FOR ADMINISTRATION OF ASSIGNED COUNSEL SYSTEMS § 2.4 (1987).

The National Conference of Commissioners on Uniform State Laws supports partial contribution by an indigent defendant, if he or she is able to pay at the time of representation. "Such payment should be no more than an amount that can be paid without causing substantial hardship to the individual or his family." MODEL PUBLIC DEFENDER ACT § 13.2 (1970).

The American Bar Association supports a prepaid contribution as long as "satisfactory safeguards are provided." ABA STANDARDS FOR CRIMINAL JUSTICE § 5-7 (3rd ed. 1992).

A report by the American Bar Association's Bar Information Program and the Spangenberg Group (a nonprofit organization providing consultation and information services on indigent defense issues) highlights the mixed record of fee programs in various jurisdictions. See American Bar Assn. & Spangenberg Group., *Pay-back Time: Public Defender Application Fees as a Source of Revenue – and Controversy* (1994). The report addresses pros and cons, lessons learned, and admonishes against overoptimistic revenue projections from fees.

The ABA/Spangenberg report highlights the following arguments in favor of fees: increased revenues for indigent defense programs (if fee revenue goes to indigent defense programs and not just to the General Fund); a fee, even a small one, may make a defendant feel like she has a “real lawyer” leading to a better attorney-client relationship; and, as long as there is a waiver provision for those truly unable to pay, there should be no chilling effect on a defendant asking for appointed counsel. The report also points out contrary arguments: revenue, when offset by administrative costs, may be negligible; even a small fee may discourage some defendants from seeking appointed counsel; and fees result in increased no-shows for court appearances.

The lessons discussed in the ABA/Spangenberg report are contradictory. One lesson is public defenders should not be responsible for indigence screening and collection of fees, as this would add to workloads of already-burdened public defenders and interfere with attorney-client relationships. However, another lesson is court personnel should not collect the fees if the courts do not benefit from them. The report has no suggestion for who should administer the fees.

Finally, the ABA/Spangenberg report warns “[a]pplication fees should not be implemented with the expectation that they will be a panacea for indigent defense under-funding problems.” The report emphasizes “application fees do not always bring in a large amount of revenue” and points to the “risk in dedicating revenue from an application fee to one particular need of an indigent defense program because fee collections can fall far short of expectations.”

Failure to meet income expectations or even cover administrative costs is a major concern with prepaid fee programs. “Imposition of a debt on a marginally indigent person, already convicted of a criminal offense, with the option of incarceration for failure to pay constitutionally barred, yields a likelihood of recovery so low (less than 10%, according to a U.S. Department of Justice Study) that the revenues produced are less than the administrative costs of processing recoupment orders.” Letter from David J. Carroll, Dir. of Research & Evaluations, National Legal Aid and Defender Assn., to Catherine Cortez-Masto, Asst. Clark Co. (NV) Mgr. (Mar. 25, 2003) (copy on file with State Public Defender), citing National Institute of Justice, *Containing the Cost of Indigent Defense Programs: Eligibility Screening and Cost Recovery Procedures* at 34-35 (1986).

The recent experience of Minnesota is a telling example of the pitfalls involved with prepaid fees and decisions based on revenue assumptions. Effective July 1, 2003, Minnesota began charging indigent defendants a \$50-\$200 fee as prerequisite to receiving appointed counsel. The Minnesota Legislature cut \$7 million from the state's indigent defense budget, anticipating fee revenues would make up that amount. That proved to be, in the words of one observer, “ridiculously optimistic.” As a result, Minnesota has had to lay off public defenders. Moreover,

at least one Minnesota judge has declared the fee requirement unconstitutional. As of this writing, that ruling is on appeal. See Robert E. Pierre, *Right to an Attorney Comes at a Price: Minnesota Law Requiring Fees for Public Defenders is Challenged*, WASH. POST ONLINE, Oct. 21, 2003; Margaret Zack & Pam Louwagie, *Public Defender Co-Payment Declared Unconstitutional*, MINN.-ST. PAUL STAR TRIB. ONLINE, Sep. 4, 2003; Associated Press, *New State Fees for Poor Defendants Challenged*, DULUTH NEWS TRIB. ONLINE, Jul. 8, 2003.

C. Recommendation

If Iowa continues attempting to recoup indigent defense costs, no changes are recommended to the current system. It's clear no system generates sufficient revenue to offset the cost of administration. If recoupment is considered desirable for symbolic reasons, the present system is as good as any and has the advantage of familiarity. However, there should be consideration of whether a dime-on-the-dollar is a satisfactory return rate for the investment of resources devoted to recoupment.

This brings us to the State Public Defender's cost containment efforts and how best to manage indigent defense costs in the long run.

IV. Cost Containment Efforts

At the outset, it's important to emphasize no one involved with administering Iowa's indigent defense programs has any influence on program needs. The General Assembly decides what is a criminal offense and how it is to be punished; Iowa's State Patrol, 99 county sheriffs, and numerous city police forces decide whom to arrest; and Iowa's 99 county attorneys decide what charges to file against whom. Indigent defense is a constitutionally mandated cost, inextricably associated with prosecution of crime. As Iowa's expenditures on prosecution and incarceration of convicts have increased over the last decade, so have Iowa's indigent defense expenditures.

It's also important to emphasize every Act of the General Assembly affecting the criminal code also impacts indigent defense costs. If the Legislature creates a new crime, that means more prosecutions and, accordingly, higher indigent defense costs. If the punishment for an existing crime is increased (e.g., from a Class C felony to a Class B felony), that can have a three-fold impact on indigent defense costs. First, the hourly assigned counsel fee can increase (from \$50/hour for Class C to \$55/hour for a Class B). IOWA CODE § 815.7 (2003). Second, the per-case fee limit may increase (for a Class B, the fee limit jumps to \$3,500 from \$1,200 for a Class C). IOWA ADMIN. CODE § 493-12.6(13B,815). Finally, an increased punishment raises the stakes in a prosecution. As a result, there are more depositions, suppression hearings, and trials. This is especially so if the enhanced punishment includes a mandatory minimum term of imprisonment.

Notwithstanding, the State Public Defender has focused on controlling costs in administering both Public Defender Operations and the Indigent Defense Fund. We've also advocated for actions to enhance the long-term efficiency of Iowa's indigent defense programs.

A. Cost Control

Public Defender Operations. The State Public Defender reviews and must approve every expense by a public defender field office, no matter how small. Training expenses have been reduced by emphasizing SPD's own resources, partnerships with persons and organizations willing to donate services or provide them at reduced cost, and distance learning on the Iowa Communications Network. During Fiscal Year 2002, each SPD field office conducted a "bottom-up review" of all procedures, identifying practices that could be eliminated or streamlined. For the past two fiscal years and so far in the current fiscal year, SPD has maintained between six and ten attorney vacancies in order to meet budget constraints. However, the requirement to maintain vacancies undermines SPD's ability to produce cases, which, as explained below, has a detrimental impact on overall indigent defense costs.

Indigent Defense Fund. Each of the more than 50,000 claims annually against the IDF is carefully reviewed by at least two staff members. A paralegal audits each claim, ensuring all required information is present and terminating any obviously improper claims. An attorney conducts a final review and adjudication, approving only those fees and expenses that are appropriate and reasonable, and consistent with statute and SPD's administrative rules. *See generally* IOWA CODE chs. 13B, 815 (2003); IOWA ADMIN. CODE AGENCY 493 (2003). The State Public Defender also personally spot audits claim adjudications.

Increasing Public Defender Case Production. Between Fiscal Years 2000 and 2003, SPD increased public defender case production by 22 percent (70,074 cases in FY03 versus 57,629 cases in FY00). In FY03, the public defender cost per case was \$224. The cost per claim against the Indigent Defense Fund in FY03 was \$420. Using an estimate of a \$200 savings for every case handled by public defenders, we estimate the increase in public defender case production resulted in savings in overall indigent defense costs of \$2,489,000 over the last three fiscal years. However, the budget-mandated holding of attorney vacancies has undermined SPD's ability to maintain high case production.

B. Long-Term Indigent Defense Cost Management

The best way to manage the long-term costs of indigent defense is to fund public defender operations fully, expand public defender coverage where appropriate, and provide increased incentive for experienced and efficient private lawyers to take court appointments for those cases not handled by public defenders.

Fully fund public defender operations. As described above, budget constraints have forced SPD to hold between six and ten attorney vacancies for the past two fiscal years. If a public defender position is vacant for an entire fiscal year, approximately 600 cases that would have been handled by that public defender will go to the private bar for a net loss to the General Fund of about \$120,000. Multiply by ten attorneys and the net annual loss is \$1.2 million.

Expand public defender coverage. In recent years, the State Public Defender has analyzed several times the short-term costs versus long-term savings associated with expanding public defender services to certain counties not now covered by SPD field offices. The first-year

investments would be significant, but would be recovered by overall indigent defense savings within five years. An updated analysis is available on request.

Increase incentive for experienced and efficient private attorneys. In its first report, the Indigent Defense Advisory Commission recommended the State give serious consideration to a \$5/hour across-the-board increase in assigned counsel fees as soon as the State's budget situation allowed consideration of new money. Iowa Indigent Defense Adv. Comm., First Report at 4-5 (Dec. 9, 2002). Among the reasons for this recommendation was the importance of ensuring continued availability of experienced private counsel for court-appointed cases. A fee increase doesn't look much like a cost-containment measure and, in the short run, it isn't. However, in the long term, the continued participation of experienced lawyers as court-appointed counsel means cases are handled more efficiently, with less time spent (at \$50 per hour or higher) reinventing the proverbial wheel. In its second report, which is attached to this report, the Indigent Defense Advisory Commission reiterates this recommendation, noting other jurisdictions have recently implemented fee increases for private counsel.

In summary, the State Public Defender recommends a policy focus away from short-term, small-dollar expenses and ineffective attempts at recouping costs, and toward the *long-term efficiency* of its indigent defense programs, and the *management* and *containment* of indigent defense costs. This involves a fundamental recognition that indigent defense is a constitutional mandate, part and parcel of prosecuting crime in Iowa. The State cannot maintain a robust crime-fighting posture without robust indigent defense programs. This means full funding for public defender operations, expansion of public defender coverage where it makes sense to do so, and keeping experienced and efficient private attorneys on the assigned counsel list.

V. State Public Defender Performance Measures

The State Public Defender's performance measures for Public Defender Operations are:

1. Standard: One percent or less of public defender cases with final findings of ineffective assistance of counsel. Measure as of 1st Quarter, FY2004: .005% (one case out of 16,981).
2. Standard: 95 percent of caseload performance expectations (P.E.) achieved by public defender field offices. Measure as of 1st Quarter, FY2004: Projected 101% (67,924 cases, 67,000 P.E.).

The State Public Defender's performance measures for Indigent Defense Claims are:

1. Standard: 90% of challenged notices of action upheld on final review. Measure as of 1st Quarter, FY2004: 99.8% (1,817 out of 1,821).
2. Standard: 90% of indigent defense claims approved or disapproved within 30 days of receipt. Measures as of November 30, 2003, by claim type:

Adult claims: 84%*

Appellate claims: 94%

Juvenile claims: 100%
Miscellaneous claims: 93%

3. Standard: 30 days or less average claim processing time. Measures as of November 30, 2003, by claim type:

Adult claims: 22.12 days
Appellate claims: 19.12 days
Juvenile claims: 12.6 days
Miscellaneous claims: 20.19 days

* In June 2003 (the first month of FY2004), only 60% of Adult claims were processed within 30 days because priority was given to FY2003 claims that were still coming in. Since June 2003, we have been processing well over 90% of Adult claims within 30 days. We expect to achieve the 90% standard for Adult claims by the end of FY2004.

Respectfully Submitted,

Thomas G. Becker

Thomas G. Becker
State Public Defender

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Indigent Def. Adv. Comm. Report