

## **State Public Defender Indigent Defense Fund Summary**

Mark C. Smith  
Acting State Public Defender  
[msmith@spd.state.ia.us](mailto:msmith@spd.state.ia.us)

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This month, the State Public Defender system is twenty years old. It was formed from various county programs when the State assumed responsibility for providing effective assistance of counsel to eligible indigent persons.

The sixth amendment to the United States Constitution and its counterpart in the Iowa constitution mandate effective assistance of counsel to those accused of crime and involved in the juvenile justice system regardless of whether they can afford to hire an attorney. There are two principal parts to the State Public Defender's duties as coordinator for Iowa's indigent defense services.

The State Public Defender supervises the state public defender system, with field offices at various locations in the state and serving 93 of Iowa's 99 counties. Forty-three of those counties have full service from a public defender office, that is, coverage for at least all felonies and indictable misdemeanors. Public defender offices cover additional counties for major cases. Several of these counties also have full service juvenile coverage from a public defender office, either representing children in delinquency cases, child in need of

assistance cases, and termination of parental rights cases, or parents in child in need of assistance and termination cases. The State Public Defender system also includes the State Appellate Defender office with statewide coverage for appeals and the Civil Commitment Unit with statewide coverage for commitment proceedings for sexually violent predators under chapter 229A of the code.

For the counties and cases not served by a public defender office, and for other cases where the public defender cannot represent someone because of a conflict of interest or workload considerations, the court appoints another attorney. In some cases, the court will appoint a nonprofit organization that has a contract with the State Public Defender. In the vast majority of cases, the court appoints a lawyer from the private bar – the short-hand term is “assigned counsel” – who then submits a claim for his or her services based on established fee rates and per case fee limits set by the State Public Defender’s office.

The second major part of the State Public Defender’s job is to administer the indigent defense fund from which we pay the fee claims. The State Public Defender budget is broken down into two parts with money for public defender operations and money in the indigent defense fund for payment of claims.

The hourly fee rates for assigned counsel are set by Iowa code section 815.7. As a result of recent fee rate increases the current hourly rates are \$70 per hour for class A felonies, \$65 per hour for class B felonies, and \$60 per hour for all other cases, including all juvenile court cases and post-conviction relief actions.

The State Public Defender's office sets per-case fee limitations by administrative rule, as required by Iowa code section 13B.4.

Each year has seen significant increases in the number of indigent defense cases handled by public defender offices and the number of claims against the indigent defense fund by assigned counsel from the private bar. Those figures are summarized in the materials from the legislative services agency. There has been a leveling out of the cases handled by public defenders, which is not surprising as the state public defender trial division has not had an increase in attorney resources since 1998 and, in recent years, public defender offices have focused on increasing their coverage in class A and B felony cases, which means more of the less serious (and less expensive) cases go to assigned counsel from the private bar. Accordingly, claims traffic has continued to increase every year. Last year the total claims surpassed 84,000.