

# Budget Unit Brief

## FY 2017



## Office of the State Public Defender

### Purpose and History

The [United States](#) and [Iowa Constitutions](#) require an indigent criminal justice defendant and indigent juveniles to be provided with legal counsel at no initial cost to the client. Iowa has two methods to provide this legal counsel: public defenders and private attorneys. A judge determines if a person is indigent, based on statute, and appoints a public defender. If a public defender is unable to take a case, the judge appoints a private attorney. Costs of legal assistance are assessed against the indigent defendant or other indigent party as a component of court costs per Iowa Code section [815.9\(3\)](#). The costs of legal assistance are assessed only to the extent of the indigent person's reasonable ability to pay.

Before July 1, 1987, indigent legal counsel costs were paid by the counties and local public defenders were county employees. The General Assembly transferred indigent legal counsel expenses to the state beginning in FY 1988, as the last major component of court reorganization. Court reorganization transferred the majority of expenses for the Judicial Branch from counties to the State General Fund, for the purpose of property tax relief, from FY 1983 to FY 1988.

Counties still maintain a "base" of expenses for juvenile proceedings. The statewide base is approximately \$1.6 million, as determined by Iowa Code section [232.141](#). The state assumes all costs for indigent juvenile cases once the county base expenditure is reached.

The General Assembly appropriated funds to the Judicial Branch in FY 1988 for the costs of indigent defense. The General Assembly transferred the program to the [State Public Defender's Office](#) in FY 1989. The General Assembly has made certain changes to the process since FY 1989 for the purpose of cost containment.

### Public Defender Offices

Polk County serves as the administrative office, Appellate Defender Office (legal representation to indigent convicted criminals for appeals), the Special Defense Unit (SDU - formerly known as the Civil Commitment Unit for Sexual Predators), and provides statewide services. The Office created a Wrongful Conviction Division within the SDU to focus on postconviction relief matters within the existing budget and FTE position authority in 2015. There is also a Deposition Unit in the Polk County Courthouse. One secretary coordinates depositions of witnesses in indigent criminal defense cases and arranges for the transport of indigent defendants from the Polk County Jail to the Courthouse for depositions. The State Public Defender has administrative authority over local public defender offices.

Nineteen local Public Defender offices located in 14 cities have been established; these offices serve all 99 counties. Local offices handle all Class "A" felony cases in all 99 counties. Woodbury, Polk, and Black Hawk counties have two offices each, one primarily for juvenile justice services and one for adult offenders. The juvenile offices also provide counsel to indigent adults when conflicts exist.

The State Public Defender is responsible for indigent juvenile cases. Local offices provide juvenile justice system services in 29 counties. Public Defenders or private attorneys provide legal representation in Child In Need of Assistance, families in need of assistance, emancipation, delinquency, juvenile mental health commitments, juvenile by-pass hearings, and termination of parental rights proceedings.

### Gideon Fellowships

The General Assembly created four Gideon Fellowships in Iowa Code section [13B.12](#). Two positions are filled and these Gideon Fellows will begin employment once they pass the bar exam in FY 2016. Two more positions are authorized in FY 2016 to be filled in FY 2017. Fellowships are two-year appointments; individuals must graduate from law school and pass the bar exam before beginning employment with the Office. Gideon Fellows may work in local offices, the State Public Defender's Office, the SDU, or the Appellate Defender's Office.

### More Information

Office of the State Public Defender: <http://spd.iowa.gov/>

Iowa General Assembly: <https://www.legis.iowa.gov/>

LSA Staff Contact: Laura Book (515-725-0509) [laura.book@legis.iowa.gov](mailto:laura.book@legis.iowa.gov)

**Funding**

The total annual budget is approximately \$57.6 million for the provision of indigent defense, including the county base. The State General Fund appropriations are approximately \$55.8 million, split between the Office of the State Public Defender (46.7%) and the Indigent Defense Fund (53.3%). The county base funding is added into the Indigent Defense Fund budget. The Indigent Defense Fund pays private attorneys for representing indigent defendants. The Fund also pays for expert witnesses, court reporters for depositions, private investigators, and other service providers for the benefit of indigent defendants or indigent parties.

**Related Statutes and Administrative Rules**

Iowa Code chapters [13B](#) and [815](#)  
[493](#) Iowa Administrative Code

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