

IDS

OFFICE OF INDIGENT
DEFENSE SERVICES
SAFEGUARDING JUSTICE

November 15, 2024 Quarterly Commission Meeting

Meeting Material

Commission on Indigent Defense Services

November 15, 2024
NCJC, 901 Corporate Center Drive,
Raleigh, NC

Proposed Agenda	10:00 AM – 3:00 PM
Call to Order	Dorothy Hairston Mitchell
Introductions	
Adoption of Proposed Agenda	
State Government Ethics Act Reminder	
<i>Members of the commission/committee are hereby advised of their duty under the State Government Ethics Act to avoid conflicts of interest & the appearance of conflict & are instructed to refrain from participating in any matter coming before this commission/committee with respect to which there is a conflict of interest or appearance of conflict</i>	
Approve Minutes of August 8, 2024, Commission Meeting	
Remarks from the Chair	Dorothy Hairston Mitchell
Welcome New Colleagues	
(A. Traynham Dorn, Chief Public Defender for the 13 th Judicial District; New IDS Regional Defender)	
Welcome and Administration of Oath for New Commissioner (Robert Kelly Corbett, III)	
Honor Departing Commissioners	
(Arthur Beeler, Jr.; Brian Cromwell; The Honorable Joseph Crosswhite; Staples Hughes)	
Brief Overview of NC Crime Lab Ombudsperson Role	Susan Brooks, NCDNJ
Director’s Report on IDS Business	Mary S. Pollard
2025 Legislative Long Session Agenda (Fiscal and Staffing)	
Update on OASIS	
Applications for Payment in Auto-Expunged Cases (Action Item)	
2024 Audit Report	
Fiscal Reports	Aaron Gallagher
Update on FY23-24 Spending and Projections for FY24-25	
Staff Reports	
State of Appellate Defense	Glenn Gerding, Appellate Defender
Forensic Resource Programming and Digital Discovery	Sarah R. Olson
Committee Reports	
<i>Ad hoc</i> Committee on Billing Guidelines for MAC Program	Whitney Fairbanks
Rules Committee – Bylaws for Commission on IDS	
Commission Business	
Adopt 2025 Meeting Calendar	Dorothy Hairston Mitchell

Elect Chair and Vice-Chair

Adopt Recruitment Plan for Parent Defender

Whitney Fairbanks

Quarterly Misconduct Report, *if any*

Waiver of One Year Deadline for Fee Applications, *if any*

Chad Boykin

Other Business, *if any*

Executive Session

Dorothy Hairston Mitchell

The Commission shall meet in closed session as allowed by G.S. 143-318.11(a):

(3) [t]o consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

(6) [t]o consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Adjournment

Dorothy Hairston Mitchell

Next Meeting: TBD



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OFFICE OF INDIGENT
DEFENSE SERVICES
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NCIDS.org

DOROTHY HAIRSTON MITCHELL

CHAIR

Memorandum

To: IDS Commissioners
Cc: IDS Director
From: Whitney Fairbanks, IDS Deputy Director/General Counsel & Designated Ethics Liaison
Re: State Government Ethics Act and Lobbying Laws¹
Date: Updated October 2021

This memo is intended to summarize the main aspects of the Election and Ethics Enforcement Act that impact individuals who serve on the Commission on Indigent Defense Services.¹

I. STATE GOVERNMENT ETHICS ACT

A. COVERAGE AND DEFINITIONS:

The State Ethics Act went into effect on October 1, 2006, and applies to all “covered persons” as of January 1, 2007². “Covered persons” include the following:

- “Judicial officers”: All Justices and Judges of the appellate and trial courts, District Attorneys, and Clerks of Superior Court, or any person elected or appointed to any of these positions prior to taking office. G.S. 138A-3(21).
- “Judicial employees”: The Director and Assistant Director of the Administrative Office of the Courts, and any other Judicial Branch employees who earn at least \$60,000 per year and are designated by the Chief Justice as a judicial employee. 138A-3(42).

¹ This memo is a revision of one originally drafted by Danielle Carman in January of 2008, which was drawn in large part from a Memorandum titled “State Ethics Act—Effective January 1, 2007,” which was authored by Pamela Weaver Best, AOC Deputy Legal Counsel, and distributed to judicial officials on December 15, 2006, as well as materials distributed at an October 11, 2006 North Carolina Academy of Trial Lawyers CLE titled “Ethics and Lobbying: The New Statute.”

²Effective December 18, 2018, the North Carolina General Assembly recodified Chapter 163A, Elections and Ethics Enforcement Act, into Chapter 138A, State Government Ethics Act. See S.L. 2018-46.

- “Public servants”: Judicial employees and voting members of public boards or commissions with more than advisory authority. G.S. 138A-3(3) & (70)i.

So, all members of the IDS Commission are “covered persons” under the Act’s definition of “public servants.”³ To date the Chief Justice has not designated any IDS employees as “judicial employees.” Chief Justice Martin also has not designated any IDS employees as “judicial employees.” Thus, the IDS Director, Appellate Defender, Capital Defender, Juvenile Defender, Parent Defender, Special Counsel Supervising Attorney, and Chief Public Defenders are not subject to the Act.

B. SPECIAL DUTIES OF THE IDS DIRECTOR AND IDS COMMISSION CHAIR:

The head of each State agency, and Chair of each board or commission subject to the Act, have special obligations that are set forth in G.S. 138A-15, such as:

- At the beginning of each IDS Commission meeting, the IDS Commission Chair must remind the members of their duty to avoid conflicts of interest or the appearance of conflicts of interest, and must inquire of members whether there is a possible conflict with any issue coming before the Commission. G.S. 138A-15(e).
- The IDS Director and IDS Chair must notify the Ethics Commission of all new public servants or other officials who are covered by the Act, and provide those public servants or officials with copies of the Ethics Act and any necessary disclosure forms. 138A-15(h).
- The IDS Director and IDS Chair must consider the need for the development and implementation of in-house ethics educational programs, procedures, or policies. 138A15(g).

C. OBLIGATIONS OF PUBLIC SERVANTS:

1. Annual Statements of Economic Interest:

All members of the IDS Commission (and anyone who may be designated in the future as a “judicial employee” by the Chief Justice) must file an annual Statement of Economic Interest (“SEI”) with the North Carolina Ethics Commission by April 15. Because all of the information in each year’s SEI must be current as of the last day of December of the preceding year, a SEI cannot be filed prior to January 1 of the filing year. G.S. 138A-22(d). All SEIs are public records. G.S. 138A-23.

³ This memo describes the obligations of an IDS Commissioner as a “public servant” under the Act. It does not describe any additional or different obligations of “judicial officers.” IDS Commissioners who are also judges should receive information and training about their obligations as “judicial officers” directly from the AOC and North Carolina Ethics Commission.

The SEI form requires reporting of your ownership or interest in certain assets and businesses as of December 31 of the prior year, including:

- Real estate, including personal residence;
- Interests in public or private corporations or other businesses;
- Vested trusts created, established, or controlled by the filing person; and
- All liabilities, excluding indebtedness on a personal residence.

See G.S. G.S. 138A-24 and the SEI long form for the full contents of the required disclosure. The Ethics Commission has instructed filers not to leave any questions blank or the form will be returned and the filer may be subject to a fine or sanction; if the answer to any question is “none,” the filer should write “none.”

The Ethics Commission has a duty to evaluate SEIs on a biennial basis and issue written opinions about the existence or lack of conflicts of interest and potential conflicts of interest. G.S. 1385-24(e). If the Ethics Commission cites an actual or potential conflict of interest with regard to any member of the IDS Commission, the conflict must be recorded in the Commission minutes and brought to the attention of the Commission by the Commission Chair. G.S. 138A-15(c).

All new IDS Commission appointees must file a SEI and have it evaluated by the Ethics Commission before their initial appointment can be effective. G.S. 138A-22(a). The only exception is that a public servant who serves on more than one board may file one SEI and, if that public servant begins membership on another covered board during the biennial cycle, s/he is not required to file another SEI and the Commission is not required to evaluate the existing one again.

Any public servant who fails to file the required SEI will be notified by the Commission within 30 days of the due date, with a copy to the designated ethics liaison. If the public servant fails to file the SEI within 30 days of receipt of the late notice, he or she will be subject to a \$250 fine. If the public servant fails to file the SEI within 60 days of receipt of the late notice, he or she will be subject to disciplinary action. G.S. 138A-25(b).

It is a Class 1 misdemeanor knowingly to conceal or fail to disclose required information on a SEI. G.S. 138A-26. It is a Class H felony knowingly to provide false information on a SEI. G.S. 138A-27.

2. Mandatory Ethics Education:

As public servants, all members of the IDS Commission are required to receive ethics education within six months of their appointment, and must receive refresher education every two years thereafter. The Act also requires the designated ethics liaison to receive that education. G.S. 138A-14(c) & (f). Unless the Chief Justice designates any IDS employees as “judicial employees” in the future, no other IDS staff members are subject to this requirement.

The Ethics Commission has developed an educational program that satisfies the ethics education and the lobbying education requirements. See Section II.B. below. The combined program is about 2 hours long. The Commission has also developed an on-line training program that satisfies

these requirements, which is available at <http://www.ethicscommission.nc.gov/education/eduOnline.aspx>.

3. Ethical Standards:

Public servants and other covered persons shall not knowingly use their public position in a manner that will result in a financial benefit to the person, a member of the person's extended family, or a business with which he or she is associated. G.S. 138A-31(a).

Public servants and other covered persons "shall not mention or permit another person to mention the covered person's public position in nongovernmental advertising that advances the private interest of the covered person or others. The prohibition . . . shall not apply to political advertising, news stories, news articles, the inclusion of a covered person's position in a directory or biographical listing, or the charitable solicitation for a nonprofit business entity . . ." G.S. 138A-31(b).

In addition, public servants must protect against conflicts of interest by continually monitoring their financial, personal, and professional interests. G.S. 138A-35(b). Public servants must also refrain from taking any official action, up to and including abstaining from voting, if the public servant or a person with whom the public servant is associated "may incur a reasonably foreseeable financial benefit from the matter under consideration" and that benefit "would impair the public servant's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the public servant's participation in the official action." G.S. 138A-36(a) & (b). If the public servant is unsure whether there is a conflict, the public servant should disclose the relationship to the person presiding over the proceeding and seek appropriate guidance. G.S. 138A-35(a) and 138A-36(d).

Recusal is the stated way of avoiding conflicts of interest. G.S. 138-36. However, otherwise disqualified covered persons are allowed to participate in official actions if the interest or reasonably foreseeable benefit accrues equally to all members of the particular profession, occupation, or general class. G.S. 138A-38(a)(1). It has been the IDS staff's belief that the exception in 138-38(a)(1) allows Commissioners who are also private appointed counsel to take part in official actions that impact payments to private attorneys in indigent cases, such as changes in the hourly rates. On May 22, 2008, the State Ethics Commission issued an advisory opinion, which provides that Commissioners who are also private appointed counsel may take part in official actions that impact payments to private attorneys in indigent cases, such as changes in the hourly rates private attorneys, under the "safe harbor" in 138-38(a)(1).

4. Gifts:

A covered person "shall not knowingly, directly or indirectly, ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for the covered person . . . or for another person, in return for being influenced in the discharge of the covered person's . . . official responsibilities." G.S. 138-32.

Covered persons “may not solicit for a charitable purpose any gift from any subordinate State employee.” This ban does not apply if the solicitation is a generic request to all employees, such as requests to contribute to the State Employees Combined Campaign. G.S. 138A-32(b).

In addition, public servants shall not “knowingly accept a gift, directly or indirectly, from a lobbyist or lobbyist principal registered under Article 8 of [Chapter 163A]. G.S. 138A-32(c). Nor may a public servant “knowingly accept a gift, directly or indirectly, from a person whom the public servant knows or has reason to know any of the following:

- (1) Is doing or is seeking to do business of any kind with the public servant’s employing entity.
- (2) Is engaged in activities that are regulated or controlled by the public servant’s employing entity.
- (3) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant’s official duties.”

G.S. 138A-32(d). Prohibited gifts must be declined, returned, paid for, or donated to charity or the State. G.S. 138-32(g).

There are a number of exceptions to the gift ban that permit public servants to accept food and beverages for immediate consumption at public events (such as IDS Commission meetings), reasonable actual expenditures for educational programs or meetings, and plaques or non-monetary recognition mementos. G.S. 138A-32(f).

In addition, 138A-32(f)(10) provides that the gift bans in G.S. 138A-32(c) and (d) do not apply to “[g]ifts given or received as part of a business, civil, religious, fraternal, personal, or commercial relationship not related to the person’s public service or position and made under circumstances that a reasonable person would conclude that the gift was not given for the purpose of lobbying.”

5. Honoraria:

Covered persons shall not accept an honorarium for “conducting any activity where any of the following apply:

- (1) The employing entity reimburses the covered person . . . for travel, subsistence, and registration expenses.
- (2) The employing entity’s work time or resources are used.
- (3) The activity would be considered official duty or would bear a reasonably close relationship to the covered person’s . . . official duties.

An outside source may reimburse the employing entity for actual expenses incurred by a covered person . . . in conducting an activity within the duties of the covered person . . . or may pay a fee to the employing entity, in lieu of an honorarium, for the services of the covered person . . .” G.S. 138A-32.

6. Other Compensation or Benefits:

Public servants and other covered persons “shall not solicit or receive personal financial gain” for acting in the public servant’s official capacity or for advice or assistance given in the course of official duties. G.S. 138A-33.

In addition, covered persons shall not cause a member of the covered persons’ extended family to be hired or appointed to a position over which the covered person has supervisory authority. G.S. 138A-40.

D. ADVISORY OPINIONS FROM THE ETHICS COMMISSION:

The Ethics Commission has authority to render advisory opinions if requested by a public servant or other covered person. G.S. 138A-13(a). A person who seeks an opinion is immunized from sanctions when he or she acts in accordance with an advisory opinion. G.S. 163A-157.

E. DESIGNATED ETHICS LIAISON:

Each agency is required to designate someone on staff as the ethics liaison to advise public servants of their duties under the law and maintain communication with the Ethics Commission. G.S. 138A-13(f). (IDS has designated the IDS Deputy Director/General Counsel to serve as our ethics liaison.

F. VIOLATIONS, INQUIRIES BY THE ETHICS COMMISSION, AND ACTION ON COMPLAINTS:

The Ethics Commission can accept complaints, investigate, and conduct hearings on alleged violations by public servants. If the Commission finds by clear and convincing evidence that a public servant has violated the Act, the Commission may issue a private admonishment or refer the matter for appropriate action to the entity that appointed or employed the public servant. The Commission can also refer criminal matters to the Attorney General and local district attorney. G.S. 138A-12(m)(1).

Willful violations of the Act by board members constitute malfeasance, misfeasance, and nonfeasance subjecting the person to removal from the board. Willful violations by State employees constitute a violation of a written work order that could lead to dismissal.

II. AMENDED LOBBYING LAWS:

A. COVERAGE AND DEFINITIONS:

In varying degrees, the lobbying laws apply to numerous individuals as defined by G.S. 120C-100:

- “Designated individuals”: Those subject to being lobbied, including legislators, legislative employees, and public servants (as defined above).

- “Liaison personnel”: Any state employee whose principal duties, in practice or as set forth in his or her job description, include lobbying legislators or legislative employees.
- “Lobbyist”: Does not include designated individuals who are acting in their official capacity or individuals registered as liaison personnel.
- “Lobbying”: Includes direct lobbying and goodwill lobbying.

Except for any person designated as a liaison personnel under G.S. 120C-500, the provisions of Article 8 of Chapter 163A do not apply to state employees when appearing solely in connection with matters pertaining to their office and public duties. G.S. 120C-700(3). Article 8 of Chapter 1163A also does not apply to any person appearing before a committee, commission, board, or council at the invitation or request of the committee or a member thereof. G.S. 120C-700(2)

B. OBLIGATIONS OF PUBLIC SERVANTS: LOBBYING EDUCATION:

As public servants, all members of the IDS Commission are required to receive lobbying education and awareness training within six months of their appointment, and must receive refresher education every two years thereafter. G.S. 120C-103(a). Any IDS employee who may be designated by the Chief Justice in the future as a “judicial employee” will also become subject to this requirement.

C. ADDITIONAL OBLIGATIONS OF LIAISON PERSONNEL:

Every State agency must designate at least one and no more than two liaison personnel to lobby for legislative action. G.S. 120C-500. Subsection (d) provides that the Chief Justice shall designate “at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes.” In March 2009, the Chief Justice designated the IDS Director as one of the four liaison personnel for Chapter 7A agencies.

Liaison personnel are generally exempt from the lobbying laws, but are subject to the registration, reporting, and gift ban provisions of Article 8 of Chapter 163A. G.S. 120C-501.

Violations of the registration and reporting provisions are generally Class 1 misdemeanors and may subject the violator to civil fines. G.S. 120C-602.

1. Registration:

Annually, liaison personnel must file with the Secretary of State a Liaison Registration form and a State Agency Authorization Statement. No registration fee shall be required. G.S. 120C-200 and 120C-501(b).

2. Reporting:

Liaison personnel must file quarterly lobbyist reports with the Secretary of State under G.S. 120C-402. G.S. 120C-501. “The report shall include all of the following for the reporting period:

- (1) All reportable expenditures made for the purpose of lobbying.

- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) Reportable expenditures reimbursed by the lobbyist's principal, or another person on the lobbyist's principal's behalf.
- (4) All reportable expenditures for gifts given G.S. 138A-32(f)(1)-(9), 138A-32(f)(11), 138A-32(f)(12), and all gifts given under G.S. 138A-32(f)(10) with a value of more than ten dollars (\$10.00)."

In addition, if the liaison personnel incurs reportable expenditures in any month while the General Assembly is in session, the liaison personnel shall file a monthly reportable expenditure report.

3. Gifts:

The gift ban in G.S. 120C-501) applies to liaison personnel with respect to legislators and legislative employees. G.S. 163A-346(e). Subject to the gift exceptions in G.S. 138A-3(32), liaison personnel may not directly or indirectly give a gift to a legislator or legislative employee.

However, liaison personnel may make political contributions to legislators. G.S. 138A3(32) defines a "gift" for purposes of the State Government Ethics Act as anything of monetary value given or received without valuable consideration by or from a lobbyist, lobbyist principal, liaison personnel, or a person described under G.S. 138A-3(d)(1), (2), or (3). However, pursuant to G.S. 138A-3(3), campaign contributions that are properly received and reported as required under Article 23 of Chapter 163A are not gifts. In addition, while G.S. 163-278.13B provides that no lobbyist may make a campaign contribution as defined in G.S. 163-278.6 to a candidate who is a legislator, G.S. 120C-100 provides that the term "lobbyist" shall not include registered liaison personnel.

D. LIMITATION ON IDS COMMISSION APPOINTMENT OF LOBBYISTS:

There are limitations on the ability of the IDS Commission to appoint lobbyists or recent lobbyists as one of the Commission's three appointees to the IDS Commission. G.S. 120C-304 has been amended to provide: "A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a person that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that person." Any appointment made in violation of this section is void. G.S. 120C-304

E. NO STATE AGENCY MAY CONTRACT WITH A LOBBYIST:

G.S. 120C-500 provides that "[n]o State agency or constitutional officer of the State may contract with individuals who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17."

III. FORMS & QUESTIONS:

- The following link is to the North Carolina Ethics Commission website: <http://www.ethicscommission.nc.gov>. The annual Statement of Economic Interest forms, including the long form and no change form, can be accessed at that site.
- For general questions about your obligations under Subchapter II of the State Elections and Ethics Enforcement Act (formerly the State Ethics Act) as a member of the IDS Commission, please contact:
 - Whitney B. Fairbanks, IDS Deputy Director/General Counsel & Designated Ethics Liaison, at (919) 354-7205 or Whitney.B.Fairbanks@nccourts.org; or
 - Kathleen Edwards, Associate General Counsel, State Board of Elections and Ethics Enforcement at (919) 814-3600 or Ethics.Commissions@ncsbe.gov.
- For questions about the Statement of Economic Interest, please contact Lisa Johnson, Disclosure and Reporting Manager, State Board of Elections and Ethics Enforcement, at (919) 814-3600 or lisa.johnson@ncsbe.gov.

For questions about the mandatory ethics education, please contact Sue Lundberg, Associate General Counsel, State Board of Elections and Ethics Enforcement, at (919) 8143600 or sr.lundberg@ncsbe.gov



NORTH CAROLINA OFFICE OF INDIGENT DEFENSE SERVICES

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OFFICE OF INDIGENT
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DOROTHY HAIRSTON MITCHELL

CHAIR

To: Members of the Commission on Indigent Defense Services
Re: Reimbursement of Expenses

Thank you for donating your valuable time to serve on the IDS Commission.

Reimbursable Expenses

Upon request, IDS will reimburse all Commissioners for the following expenses associated with your attendance at IDS Commission meetings:

- 1) Mileage to and from your place of business and the Commission meeting location (currently at \$.625 per mile);
- 2) Parking if a receipt is provided; and
- 3) The actual cost of any overnight lodging, not to exceed \$78.90 plus actual taxes incurred, if a valid hotel receipt is provided.

In addition, Commissioners who are not state employees may claim a \$15 per diem for each day of official service. See G.S. 7A-498.4(j) and 138-5(a)(1). Beginning January 1, 2017, the IRS considers all non-state employee commission and board members who receive a stipend or per diem to be employees for employment tax purposes. This means per diem payments will be considered income subject to income tax and social security/Medicare tax withholding. If you request a per diem, IDS will enter you in the HR-Payroll system as a temporary employee and you will receive a W-2 rather than a 1099 at year end. This change only affects per diem payments and does not affect reimbursement payments for mileage, parking, or lodging. If you choose to waive the "temporary employee" compensation, you will need to complete the attached waiver.

There will be no charge for lunches provided to Commissioners who RSVP in advance. Instead, IDS staff have established a way to pay for Commissioner meals that are preplanned as part of a Commission meeting, and then get reimbursed for all of those meals directly.

Reimbursement Procedure

To claim your expense reimbursement, please complete the attached form (AOC-A-25) and mail or fax it to the following address within 30 days of the Commission meeting:

Office of Indigent Defense Services
Attn: Cati Rosu
123 W. Main St., Suite 400
Durham, NC 27701
Fax: 919.354.7201

A fillable version of the form is available at:

<http://www.nccourts.org/Forms/Documents/1028.pdf>.

Upon receipt, we will approve reimbursement and forward the form to our Financial Services Division for payment. Please indicate at the top of the form if you are not a state employee.

**STATE OF NORTH CAROLINA
Judicial Branch
Indigent Defense Services**

**REIMBURSEMENT OF TRAVEL AND
OTHER EXPENSES INCURRED IN THE
DISCHARGE OF OFFICIAL BUSINESS**

G.S. 138-6

INSTRUCTIONS: Forward the completed form (remove any blank pages) and all receipts/supporting documents (itemized hotel receipt, registration, parking receipts, advance approval, etc.) to ids.employee.reimbursements@nccourts.org in a single email. Include your first name, last name, and "travel" in the subject line of the email.

ATTESTATION REQUIRED

A state-owned vehicle is unavailable, the mileage rate of \$.625 per mile applies.
_____ (Supervisor Initials)

A state-owned vehicle is available, a private vehicle is being used by choice, the mileage rate of \$.33 applies.
_____ (Supervisor Initials)

- Office of Special Counsel Public Defender's Office
 IDS Staff
 Capital Defender
 Appellate Defender
 Juvenile Defender
- _____
(Defender District)

Payee's Name And Address <input type="checkbox"/> Check If Name Or Address Change	Position/Title	Headquarters (city)	
	Personnel No. (top of paystub)	Travel For (month and year)	Date Request Prepared

Under penalties of perjury, I certify this is a true and accurate statement of the city of lodging, expenses, and allowances incurred in the service of the State. If Federal GSA standard lodging rates are used, I affirm that I complied with the policy criteria for such rates. Signature/e-Signature Of Claimant	I have examined this reimbursement request and certify that it is just and reasonable. Signature/e-Signature Of Supervisor Name Of Supervisor	Total Cost	\$ 0.00
		Less Advance	\$ 0.00
		Reimbursement	\$ 0.00

FOR USE BY IDS FINANCIAL SERVICES DIVISION

COMPANY	ACCOUNT	CENTER	AMOUNT	Date
	532714			
	532721			Verified And Approved For Payment:
	532724			

TRAVEL (show each city visited)			TRANSPORTATION			SUBSISTENCE			OTHER EXPENSES	
Day	From	To	(1) Mode	Daily Private Car Mileage	Amount	(2) Type	In-State	Out-of-State	Explanation	Amount
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
	Category Totals For This Day:				\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
	Category Totals For This Day:				\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
CATEGORY TOTALS:						Transport.				Other Exp.
						\$ 0.00	\$ 0.00	\$ 0.00		\$ 0.00

- | | | | |
|-------------------------|--------------------------|----------------|-----------------|
| (1) Mode of Travel: | (2) Type of Subsistence: | In-State | Out-of-State |
| P - Privately-owned car | B - Breakfast | \$ 10.10 | \$ 10.10 |
| A - Air | L - Lunch | \$ 13.30 | \$ 13.30 |
| B - Bus | D - Dinner | \$ 23.10 | \$ 26.30 |
| R - Rail | H - Hotel | \$ 89.10 + Tax | \$ 105.20 + Tax |
| | 24-hr. period | \$ 135.60 | \$ 154.90 |

Check List: (1) Claimant and supervisor signature
 (2) Depart and return times required + overnight status to claim meals
 (3) Must have itemized hotel receipt, credit card receipt not accepted.

NOTE: Purpose of trip must be noted, please indicate purpose of trip under city visited.

Payee's Name	Personnel No.
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TRAVEL <i>(show each city visited)</i>		TRANSPORTATION			SUBSISTENCE			OTHER EXPENSES		
Day	From	To	(1) Mode	Daily Private Car Mileage	Amount	(2) Type	In-State	Out-of-State	Explanation	Amount
TOTALS BROUGHT FORWARD:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
			P			B				
			A			L				
	Purpose of Trip:		B			D				
	Depart Time:	Return Time:	R			H				
Category Totals For This Day:					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00
CUMULATIVE CATEGORY TOTALS:					Transport.		In-State	Out-of-State		Other Exp.
					\$ 0.00		\$ 0.00	\$ 0.00		\$ 0.00

VOLUNTARY WAIVER OF PER DIEM

Indigent Defense Services Commissioners who are not state employees may claim a \$15 per diem for each day of official service. See G.S. 7A-498.4(j) and 138-5(a)(1). Beginning January 1, 2017, IDS is required to report Commissioner per diem fees to the Internal Revenue Service as income. (If you have any questions about the tax issues related to per diem payment as a Commissioner, consult a financial professional.)

WAIVER

I hereby waive payment of per diem fees as set forth in G.S. 7A-498.4(j) and 138-5(a)(1) for my services on the Indigent Defense Services Commission. I understand this waiver will continue in effect for all services related to IDS Commission business including Commission and Commission Committee meetings until such time as I submit a written revocation of this waiver to Indigent Defense Services.

Name of Commissioner

Date

Signature of Commissioner

Draft Minutes

2024.08.09 Meeting Minutes

Commission on Indigent Defense Services

Quarterly Meeting – August 9, 2024

Virtual Meeting via Webex

Commissioner Attendees:

The Honorable Dorothy Hairston Mitchell (Chair), Bryan Jones (Vice Chair), Art Beeler, Tonya Davis Barber, Brian Cromwell, The Honorable Joseph Crosswhite, George Doyle, Marshall Ellis, Caitlin Fenhagen, Karen Franco, John Nieman, Stacey Rubain, Miriam Thompson

Staff Attendees:

Chad Boykin (Assistant General Counsel, Financial Services), Jamie Blackwell (IDS Business Analyst), Amanda Bunch (Communications Specialist), Tucker Charns (IDS Regional Defender), Whitney Fairbanks (Deputy Director/ General Counsel), Aaron Gallagher (Finance Officer), Angela Henderson (Contracts Administrator), Carla Huff (Recruitment and Training Coordinator), Sarah R. Olson (IDS Resource/Forensic Counsel), Joseph Oder (IDS Research Associate), Mary S. Pollard (Executive Director), Chris Sadler (IDS Research Director), Max Silva (Legal Assistant), Becky Whitaker (IDS Policy and Planning Attorney)

Local and State Public Defender Program Attendees:

Janna Allison (District 43), Laura Gibson (District 2), Jennifer Harjo (District 5), Niccoya Dobson (District 5), Bert Kemp (District 3), Jonathan McInnis (District 21), Jennifer Rierson (District 24), Tonza Ruffin (District 7), Jacob Ward, (District 15), Joshua Willey (District 4), J. Chad Perry (Chief Special Counsel), Glenn Gerding (Appellate Defender), Robert Sharpe (Capital Defender), Wendy Sotolongo (Parent Defender), Annick Lenoir-Peek (Deputy Parent Defender), Woodrena Baker Harrell (District 18), Eric Zogry (Juvenile Defender)

Other Attendees:

Meredith Randolph (NC Legislature), Mark White (NC Legislature), John Rubin (UNC SOG), Izzy Hernandez-Cruz (OSBM), Terri A. Johnson (OSBM), Jackie Parker/Jaclyn Arnette (OSBM), Beth Hopkins Thomas (NCPLS)

Call to Order

The meeting was called to order at 10:00 a.m. by the Honorable Dorothy Hairston Mitchell, who then proceeded with the welcome and asked all attendees to introduce themselves.

Adoption of the Agenda

Commission Chair Hairston Mitchell moved the Social Workers in Public Defense to earlier on the agenda. Commissioner Art Beeler moved to approve the amended agenda. Commissioner Bryan Jones seconded the motion. The amended agenda was adopted unanimously.

State Government Ethics Act

Chair Hairston Mitchell reminded the Commissioners of their responsibilities under the State Government Ethics Act.

Minutes from the May 3, 2024, Commission Meeting

Commissioner Brian Cromwell moved to approve the minutes from the May 3, 2024, IDS Commission meeting. Commissioner Bryan Jones seconded the motion. Commissioner Karen Franco abstained. The minutes were adopted as written.

Remarks from the Chair

Chair Hairston Mitchell extended a welcome to all in attendance. She welcomed Commissioner John Nieman who was recently appointed by the North Carolina Association of Public Defenders. Commissioner Nieman stated he was proud to be part of the Commission and looks forward to the work ahead.

Social Workers in Public Defense

UNC School of Government presenters Jessica Smith, Hannah Turner and Alex Cowell from the Criminal Justice Innovation Lab (“CJIL”) presented on their use of grant funds to explore hiring social workers to serve public defender offices in North Carolina. The group described, among other things, how public defender offices utilize social workers and how social workers impact client outcomes.

The CJIL aims to give a full report in June 2025 that describes how social workers are used in North Carolina public defender offices this pairing of services improves outcomes for some clients, which in turn, impacts the safety and health of the communities they live in.

Director’s Report on IDS Business

2024 Legislative Short Session Update

Executive Director Mary Pollard said there was not much to report from the Legislative Short Session. Both chambers proposed continuation budgets that would have adjusted the biennial budget to add \$12 million to the Private Assigned Counsel (“PAC”). But lawmakers adjourned without passing a budget adjustment. At the time of the meeting, it was uncertain when the General Assembly would return and address budgetary issues.

2025 Legislative Long Session Forecast

Director Pollard said one of the top items for the November 15 agenda would be IDS’s request for sufficient funding to meet FY demand and increase hourly rates for PAC.

To aid development of additional 2025 Long Session Requests, the IDS Research Department developed a survey aimed at assessing our state’s indigent defense system and identifying areas where improvements can be made. Regarding Public Defender expansion, Pollard reported that several judicial districts in public defender offices. Pollard said she is working with them and their County Commissions. She reminded the

Commission that its expansion request would have to address underfunding in staffing for current office. She encouraged the Commission and all in attendance to amplify IDS's voice by helping to educate lawmakers on how important the work is and what the needs currently are.

Fiscal Reports

Update on FY23-24 Spending and Projections for FY24-25

Chief Fiscal Office Aaron Gallagher gave an update on PAC fund. As was previously forecast, IDS ran out of appropriated funds before the end of the fiscal year because the General Assembly funded the 8 new PD offices immediately shifting money from the PAC fund to the PD fund. The shortfall was further amplified by steady growth in PAC demand. Gallagher and the fiscal team managed the end-of-year shortfall by daily spending analysis, constant monitoring of lapsed salary, and maximizing other funding sources such as Set-Off Debt, Federal IV-E funds from DHHS for attorneys who handle A/N/D cases, and the IDS Set-Off Debt reserve.

Fiscal Services cashflow management ensured that the shortfall had no adverse impact on PAC or IDS operations. He reported that the originally predicted FY2025 PAC projection prepared in May of 2024 predicted a \$43.9 million shortfall, which when adjusted for over-realized receipts, the impact of PD expansion and the use of lapsed salary could potentially be reduced to \$32 million.

However, forecasting is volatile, especially considering unprecedented demanded and new stressors on cashflow such as eCourts impact on recoupment. Continuous evaluation has led to some fluctuation, but current forecast is \$39 million. (Presentation available on request.)

Gallagher said IDS will pursue an emergency appropriation of \$12 million from the General Assembly in the upcoming session. If the legislature does not appropriate the additional funds, then fiscal staff would have to weight the risks/ benefits of slowing payments versus running out of money before the end of the fiscal year.

Staff Reports

Regional Defender

Regional Defender Tucker Charns gave a report on efforts toward outreach, recruitment and retention of attorneys to do court appointed work. Highlights included:

- The attorney on call program ensures every letter or call from a jail is addressed.
- Increased outreach meant more attorneys were utilizing IDS resources such as consultation services.
- Recruiting efforts in MAC counties added 11 new attorneys to the rosters.

Introduction to defenderData

IDS Deputy Director/General Counsel Whitney Fairbanks reported on the launch of defenderData. She said MAC attorneys transitioned in June 2024 from monthly spreadsheet reports to the defenderData billing platform. She covered the timeline for implementation, including details about the vendor/developer selection, launch, communication and training.

Fairbanks shared some key details about the product's functionality. She thanked the IDS MAC team and the developers with Justice Works for working diligently to custom build a platform that would be most useful to attorneys.

Noting the unprecedented data now available, Fairbanks asked the Chair to convene an *ad hoc* committee to work with staff on establishing guardrails and guidelines for the review and approval of applications for payment. The Chair agreed to convene the committee.

Committee Reports

Workload Study

IDS Defender Policy and Planning Attorney Becky Whitaker reported on the work of the Workload Committee. The committee includes chief public defenders, assistant public defenders, PAC, and representatives from the Commission. Noting that it had only met twice since May, Whitaker observed that it was off to a slow start. There is currently no timeline for the completion of the work.

Whitaker invited interested Commissioners and others on the call to volunteer to participate on the Workload Committee to enhance the efforts already made.

Digital Discovery

Whitaker reported that the Digital Discovery Team has met consistently since March. The committee includes IDS staff, chief public defenders, and PAC. The purpose is to identify all the tools PAC are using for digital discovery.

The team collected a comprehensive list of all products and services being used by PAC to look at digital evidence. Whitaker reported that AXON/Evidence.com is one product under consideration because many PD offices already have it, and many DA and law enforcement offices use it. The committee would like to offer it to every PD office and make it available to PAC.

Executive Director Pollard thanked all involved with these two committees. She stated further that the work of these two committees is connected and is important to the

work of IDS because of how overwhelming amounts of digital evidence impacts attorneys' workloads.

Commission Business

Pollard reported that until around 2010, attorneys doing capital postconviction work could file a MAR in state trial court, followed by state supreme court, then federal habeas court, U.S. Supreme Court, and, ultimately, to the governor for clemency.

In 2010, the Commission implemented a policy that limited the circumstances under which a Successor MAR (*second* or *subsequent* MAR filed after an earlier one has already been resolved) could be filed. This successor MAR policy was in place until 2018, when Pollard's predecessor asked the Commission to rescind it because he did not see sufficient return on investment considering time involved and likelihood of approval. The Commission agreed to rescind the policy.

Director Pollard asked the Commission to reinstate the policy for new successor MARs. Successor MARs currently being investigated or litigated would be allowed to proceed, albeit with increased budgetary scrutiny. Commissioner Bryan Jones made a motion to reinstate the policy. Commissioner John Nieman seconded the motion. The motion carried.

Convene Personnel Committee

Chair Hairston Mitchell convened the personnel committee to report that State Parent Defender Wendy Sotolongo announced her plans to retire in April 2025. The committee would convene the same way it did when Executive Director Pollard was reappointed. The Chair additional members are needed because some Commissioners' terms are expiring prior to the work of securing a replacement for Sotolongo can begin. She told the commissioners that she would reach out to some regarding their participation in the search.

Waiver of the One Year Deadline for Fee Applications

IDS Assistant General Counsel Chad Boykin reported on three attorneys who submitted fee apps outside the one year and ninety-day deadline for the executive director to approve payment. Boykin said IDS recommended paying all three attorneys in full.

1. The first attorney's show cause was the illness of family members. Commissioner George Doyle made a motion to pay the attorney in full. Commissioner Art Beeler seconded the motion. John Nieman abstained from this vote. The motion carried.
2. Attorney Matt Craven's show cause was case overload. He works in an attorney desert (Franklin County) where he and only 2 other attorneys take court appointed work. IDS recommended payment in full for 59.8 hours on a Class A Felony. Commissioner Bryan Jones made a motion to pay in full; Commissioner Nieman seconded; the motion carried.

3. The third waiver under consideration was for multiple cases from the same attorney, whose show cause for all 10 fee apps was that the DA entered voluntary dismissals off-docket, without providing notice to the attorney. The deadline for these 10 cases was surpassed beyond the range of seven months to upwards of nine years.

While acknowledging that out of court dismissals by DAs present an issue for PAC, the majority of Commissioners felt that three or more years was excessive. Commissioner Nieman made a motion to accept the recommendation from Commissioner Cromwell to only pay two of the ten cases in full; the motion was seconded by Commissioner Miriam Thompson, and the motion carried.

Other

Business

Commissioner Doyle mentioned a recent ruling by a federal district court judge in Oregon set precedent so that incarcerated clients who have been without representation for a certain number of days can be released from jail. Commissioner Doyle said that issues like attorney shortages and clients going too long without representation are national issues. He said that without ideas like this, he doesn't believe these issues will improve. He suggested considering the idea of commissioning a study on this issue. He asked if judges and legislators are being educated on these issues.

Executive Director Pollard replied, "We educate judges and legislators. I think the most important thing we can do is educate *lawyers*, who do not do indigent defense work and who do not do criminal defense work, about how important the work is and how they should be supporting this work... As colleagues in the profession—all of whom have taken an oath to support the constitution, which includes the 6th amendment—they should be in the trenches with us asking for resources. That's all."

There was no other business.

Adjournment

All agenda items having been addressed, the Chair adjourned the meeting at 12:44 p.m.

Director's Report on IDS Business



RESULTS OF THE 2024 INTERNAL CONTROLS AUDIT FOR INDIGENT DEFENSE SERVICES

PREPARED BY
NCAOC INTERNAL AUDIT
NOVEMBER 5, 2024



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Overall Results	2
Internal Control Evaluations	3

About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to assist and equip the General Court of Justice to fulfill its constitutional mandate of timely dispensing equal justice under the law.

About the Internal Audit Program

The Internal Audit Program serves the Judicial Branch by authority of [G.S. § 7A-343\(3a\)](#) which provides the foundation for its existence along with its responsibilities. The mission of the Internal Audit Program is to provide independent, objective assurance and consulting activities that add value and improve the operations of the Judicial Branch. Our activities are conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*.



ENGAGEMENT OVERVIEW

Objectives

The engagement was termed an internal controls audit, and the objectives were to add value and improve operations of Indigent Defense Services (IDS) by independently evaluating the effectiveness and efficiency of internal controls designed to mitigate and detect significant risks.

General Statute

This audit was conducted in order to fulfill [G.S. § 7A-498.2\(d\)](#), which requires an annual audit by NCAOC.

Audit Procedures

To accomplish this objective, we gained an understanding of the relevant internal controls and performed audit procedures to test the internal controls' design and function. These audit procedures included interviewing employees, observing operations, analyzing data, and reviewing financial records and other documents.

Scope

Our audit scope covered the period July 1, 2023 through June 30, 2024, however, was expanded for certain audit procedures to include the most current processes, controls, and transactions.

Audit Standards

This engagement was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*.



OVERALL RESULTS

Audit Opinion Defined

Due to our understanding of the organization’s risks and internal controls, the nature and extent of audit evidence gathered, the sufficient resources available to us, and our experience assessing similar organizations within the Judicial Branch, we feel we have the ability to express an audit opinion on the effectiveness and efficiency of internal controls. We also feel the need for an audit opinion exists, as it increases the value and clarity on the level of assurance given to our audit client.

This audit opinion is a limited assurance opinion, which means the possibility exists for significant issues to be present and go undetected by the audit process. For uniformity, we use the following tier grading system for our assessment of internal controls:

Internal Controls Grading System	
Effective	Controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.
Some Improvement Needed	A few specific control weaknesses were noted; generally however, controls evaluated are adequate, appropriate, and effective to provide reasonable assurance that risks are being managed and objectives should be met.
Major Improvement Needed	Numerous specific control weaknesses were noted. Controls evaluated are unlikely to provide reasonable assurance that risks are being managed and objectives should be met.

Overall Audit Opinion – Effective

Overall Audit Score – 90.2%

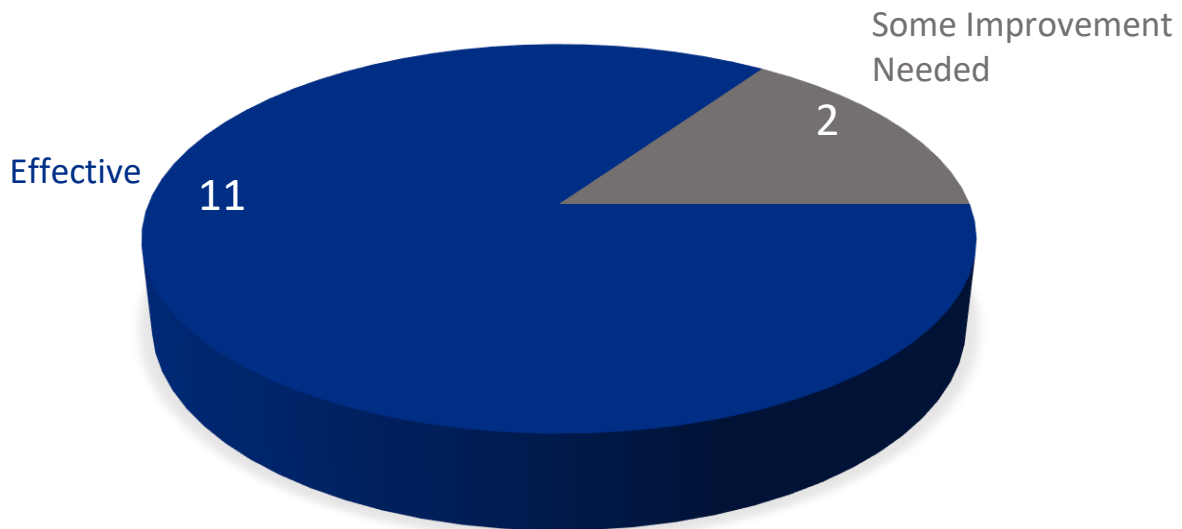


INTERNAL CONTROL EVALUATIONS

13 critical controls were evaluated including:

- Approval of attorney fee applications, including flagging those with certain characteristics to obtain multiple layers of approval
- Approval of time sheets to support hours spent by attorneys in capital cases or potentially capital cases
- Authorizations of judges to appoint attorneys to indigent defendants
- Authorizations of judges or IDS to use expert witnesses
- Compliance with policies for paying expert witnesses
- Authorizations of judges or IDS to use private investigators
- Compliance with the Travel Policy

The evaluation results are illustrated in the pie chart below:



There were no internal controls that required a documented action plan.





**North Carolina Office of
Indigent Defense Services**

NCIDS.org

**Memorandum:
Proposed Process for Fee Applications Subject to Expunction**

To: IDS Commission
From: Chad Ellis Boykin, IDS Assistant General Counsel
Date: November 07, 2024

Session Law 2024-35 resumed the automated expunction of cases under G.S. 15A-146(a4) which had been paused from 2022-2024.

Non-life or death felonies and all misdemeanors that are dismissed without leave, dismissed by the court, or result in a finding of not guilty or not responsible are to be statutorily retained by the clerk for 195 days (6 months + 15 days) then destroyed.

IDS Rule 1.9(a)(1a) provides that final attorney fee applications must be submitted to the court no later than one year after final disposition.

The court system does not allow fee applications to be filed after the case file has been destroyed, which, in eligible cases, happens 6 months *prior* to the IDS filing deadline.

Fiscal Year 2023 data show 2,988 fee apps subject to auto expunction, and 1,600 (54%) of those fee apps were submitted at least 6 months after final disposition.

Request:

IDS asks the Commission to vote today to authorize IDS to set the fees in cases that are subject to auto-expunction and to authorize attorneys to submit these fee applications directly to IDS, instead of the court.

Considerations:

1. No cases that are subject to auto expunction are recoupment eligible, and no violation of the recoupment statutes would result.
2. The court files for these cases are destroyed and there is no reason the clerk would need to maintain the fee application in the file.
3. Internal audit does not audit expunged case files.

Fiscal Report

IDS FISCAL REVIEW

NOVEMBER 15, 2024

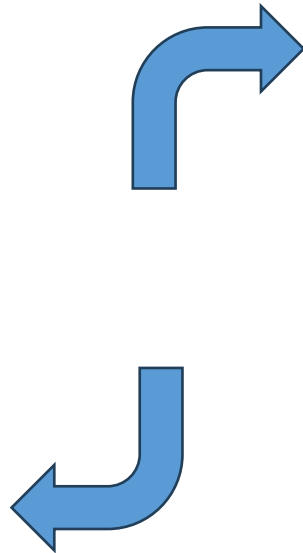
AARON GALLAGHER, IDS FISCAL OFFICER



NEW IDS BUDGET AND FISCAL STRUCTURE

BUDGET SECTION

- Budget Development
- Budget Execution
- Budget Reconciliation



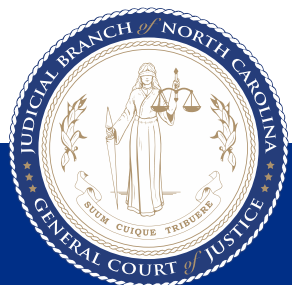
FISCAL SECTION

- Administer Accounts Payable
- Provide Fiscal Support to Local and Statewide Defender Offices
- Vendor Management
- Guide the transition to new systems such as eCourts, OASIS and the North Carolina Finance System.



PRIMARY ACTIVITIES OF THE FISCAL SECTION

- Process fee applications and issue payments to the following:
 - PAC attorneys
 - Experts supporting PAC attorneys
 - Capital attorneys
 - Experts supporting capital attorneys
 - Troubleshoot any problems that arise in processing these fee applications
- Issue payments to contract attorneys
- Reimburse staff for travel and other business-related expenses
- Pay invoices from trade vendors and service providers
- Preserve a record of fiscal activities
- Provide customer service to the many attorneys, suppliers and vendors who serve IDS and its clients.
- **Adhere to audit standards and best practices**



IDS FEE APPLICATION FORMS

STATE OF NORTH CAROLINA In The General Court Of Justice
 District Superior Court Division
 _____ County
 Check Here If This Fee Application Covers Multiple Charges

File No. _____ Provide all case numbers resolved on the same day in the same court before the same Judge
 Additional File No(s) _____

Name And Address Of Indigent Client _____
 Date Attorney Appointed _____

**NON-CAPITAL CRIMINAL CASE TRIAL LEVEL
 FEE APPLICATION
 ORDER FOR PAYMENT
 JUDGMENT AGAINST INDIGENT**

Full Social Security No. (required by G.S. 7A-455(c)) _____ Has No Social Security No.
 G.S. Ch. 7A, Art. 36, G.S. 122C-268(d), -286(d)

NOTE: Use this form ONLY for non-capital criminal cases at the trial level.
INSTRUCTIONS: Applicant completes and signs all applicable portions of Section I. The trial judge completes Sections II and III and signs Section IV to award payment or fix value of services and enter the appropriate judgments. If no judgments are to be entered, the trial judge must so indicate in Section III. Clerk mails private approved counsel fee applications to IDS Financial Services Office, Courser Box 56-10-50, Raleigh, NC, OR if courier is not available, mail to PO Box 2448, Raleigh, NC 27602.

I. APPLICATION

I, the undersigned assigned counsel, public defender, IDS contract counsel, make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent. I certify that this information is correct to the best of my knowledge. **MOST SERIOUS ORIGINAL CHARGE AND MOST SERIOUS DISPOSITION:** Check ONE box in each of the three following columns.

1. Original Charge (most serious offense)	2. Disposition (most serious disposition)	3. Judgment & Sentencing (most serious)
<input type="checkbox"/> Felony Offense Must Indicate Felony Class Name Of Offense: _____	<input type="checkbox"/> Guilty Plea Before Trial: Most Serious Original Charge Name Of Offense: _____	<input type="checkbox"/> Active Sentence Length of Sentence: _____
<input type="checkbox"/> Felony Probation Violation	<input type="checkbox"/> Guilty Plea During Trial: Other Offense Name Of Offense: _____	<input type="checkbox"/> Split Sentence
<input type="checkbox"/> Misdemeanor Offense (Non-Traffic) Must Indicate Misd. Class (If Class 3, attach Order Of Assignment)	<input type="checkbox"/> Trial: Guilty Most Serious Original Charge Name Of Offense: _____	<input type="checkbox"/> Supervised Probation
<input type="checkbox"/> Misdemeanor Probation Violation	<input type="checkbox"/> Trial: Guilty Other Offense Name Of Offense: _____	<input type="checkbox"/> Unsupervised Probation
<input type="checkbox"/> DWI	<input type="checkbox"/> Trial: Acquitted	<input type="checkbox"/> Probation Terminated
<input type="checkbox"/> Other Traffic Must Indicate Misd. Class (If Class 3, attach Order Of Assignment)	<input type="checkbox"/> Probation Violation Found	<input type="checkbox"/> PJC
<input type="checkbox"/> Criminal Contempt	<input type="checkbox"/> Dismissed With Leave <input type="checkbox"/> Dismissed Without Leave	<input type="checkbox"/> Fines And Costs Only
<input type="checkbox"/> Treatment Court (in columns 2 and 3, check Other)	<input type="checkbox"/> FTAC/FA Without Dismissal	<input type="checkbox"/> None (Acquitted/Dismissed)
<input type="checkbox"/> Satellite-Based Monitoring Hearing (in columns 2 and 3, check Other)	<input type="checkbox"/> Deferred/Diverted	<input type="checkbox"/> None (Attorney Withdrawn)
<input type="checkbox"/> Non-Capital Motion For Appropriate Relief (in columns 2 and 3, check Other)	<input type="checkbox"/> Held In Criminal Contempt	<input type="checkbox"/> Other: _____ *(Check only if none of the above)
<input type="checkbox"/> Other: _____ *(Check only if none of the above)	<input type="checkbox"/> No Probable Cause	
	<input type="checkbox"/> Attorney Withdrawn (reason): _____	
	<input type="checkbox"/> Name (Interim Fee): _____	
	<input type="checkbox"/> Other: _____ *(Check only if none of the above)	

FINAL FEES ONLY: Check here if you were appointed to represent this defendant in another case(s) at the time of the appointment to this case(s) and you already submitted a fee application for that case(s) in which the attorney appointment fee was charged.

Beginning Date (3rd Fee Request)	Ending Date (3rd Fee Request)	Date First Substantive Client Interview	Prior Total Fees And Expenses Allowed
_____	_____	_____	\$ _____

Name Of Judge Setting Fee	Time In Court	Time In Court Waiting	Time Out Of Court	Total Time Claimed This Fee
_____	_____	_____	_____	_____

Travel (no. of miles)	Copying (if in-house, no. of copies)	Other (attach receipts if > \$25)	Total Expenses
\$ _____	\$ _____	\$ _____	\$ _____

NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "name" under Payee and give applicant's taxpayer ID No. (Federal Employer ID No. or, if no Federal Employer ID, SSN). If payment is to be made to applicant's firm, give firm name as Payee and firm's taxpayer ID No.

Name Of Applicant _____ Address _____
 Payee (see Note) _____
 Taxpayer ID No. (see Note) _____ Telephone No. _____
 Email Address _____ Date _____ Signature Of Applicant _____

II. ORDER TO PAY OR FIX VALUE OF SERVICES

Based on the Findings of Fact set out in Section III, the Court ORDERS that the "Total Amount" stated on Line 4 below be:

Approved Counsel paid by the State of North Carolina to the payee named above.
 Public Defender/IDS Contractly fixed as the value of legal services and other expenses of representation rendered by the applicant named above.

1. Hours Approved By The Court	2. Fees Allowed/Value Of Services Rendered (Hours Approved x IDS Rate) =	3. Other Necessary Expenses Allowed By The Court	4. TOTAL AMOUNT
_____	\$ _____	\$ _____	\$ _____

(Over)

AOC-CR-225, Rev. 12/20, © 2020 Administrative Office of the Courts

STATE OF NORTH CAROLINA In The General Court Of Justice
 District Superior Court Division
 _____ County

File No. (s) _____

Name Of Indigent Defendant Or Respondent _____

Highest Original Charge (Criminal) Or Nature Of Proceeding (Civil) _____

**APPLICATION AND ORDER FOR
 DEFENSE EXPERT WITNESS FUNDING IN
 NON-CAPITAL CRIMINAL AND NON-CRIMINAL
 CASES AT THE TRIAL LEVEL**

G.S. 7A-314(d), 7A-454, 7A-496.5(f), 15A-905(c)(2)

INSTRUCTIONS: Use this form only if you are representing an indigent person at state expense, or if you have been retained but the Court has entered an Order finding your client indigent for purposes of obtaining expert assistance, and then only in a case in which the Court is responsible for approving funds for experts, i.e., non-capital and non-criminal cases at the trial level. Do NOT use this form in case types where counsel must seek prior approval for expert funding from the Office of Indigent Defense Services (IDS) (e.g., potentially capital cases). Do NOT use this form for non-expert fee services, such as polygraph examinations, medical procedures, lab testing, or defense-requested sentencing plans; to seek prior approval for such services, the attorney should submit a motion and proposed Order to the Court.
 The attorney for the defendant or respondent completes Section I, and submits the form and a supporting motion justifying the requested expert services to the Court. If permitted by case law, the attorney for the defendant or respondent may submit this form and the supporting motion ex parte. If funding is approved, the Court completes Section II and the attorney provides a copy of the form to the approved expert. The expert completes Section III and Section IV; after services are rendered to apply for payment. The expert then submits the completed form, along with an itemized invoice and any required receipts, to IDS Financial Services, PO Box 2448, Raleigh, NC 27602. The expert also submits a copy to the requesting attorney.

I. DEFENSE REQUEST

Based on the factual showing in the attached supporting motion as required by Ake v. Oklahoma and its progeny, the undersigned attorney for the defendant or respondent named above requests funding for the following expert services. The attorney certifies that the information provided below is true and accurate.

Check here if request and motion are being submitted ex parte.

Name And Address Of Expert _____ Is the expert a current State government employee? Yes No
 If Yes, Name And Address Of Employing Government Agency _____

Total Amount Of Funding Requested (time and expenses) \$ _____ Prior Total Funds Approved For This Expert \$ _____

Type Of Expert (check one, if none apply, skip to expert's highest education level or area of expertise)
 Paralegal Licensed Private Investigator Attorney Serving As Expert
 Transcriptionist (English Language) Mitigation Expert/Social Worker
 If None Of The Above, Expert's Highest Level Of Education Or Area Of Expertise
 High School or GED Associate's Degree Linguist (Federally Certified) Bachelor's Degree
 Master's Degree Crime Scene and Related CPA/Financial Expert Pharmacy/Pharm D.
 Information Technology Ph.D./Ph.D. Medical Doctor MD With Specialty

NOTE: The IDS Director may grant deviations from the hourly rates in Section III when necessary and appropriate based on case-specific needs. To request a deviation, complete form AOC-G-310. If a deviation has been approved, attach a copy to this form.

Expert's Years Of Experience (check one if applicable)
 Expert has more than 10 years of experience in the field in which he/she is providing services. Start date of experience: _____
 Expert has more than 20 years of experience in the field in which he/she is providing services. Start date of experience: _____

Date _____ Name Of Attorney Requesting Expert Funding _____ Telephone Number Of Attorney _____ Signature Of Attorney _____

II. COURT ORDER

The Court finds that the expert identified in Section I would materially assist in the preparation of the defense in this case and that the denial of such expert assistance would deprive the defendant or respondent of a fair trial or other case resolution. Therefore, it is ORDERED that the defendant or respondent named above is entitled to \$ _____ in funds appropriated to the Office of Indigent Defense Services (IDS) to employ the expert witness named in Section I; that the expert's fees and expenses shall not exceed this amount except by further Order of the Court; and that the expert witness named in Section I shall be compensated at the hourly rate specified in Section III and the applicable IDS policy.

The Court finds that the expert identified in Section I would not materially assist in the preparation of the defense in this case. Therefore, it is ORDERED that this motion is denied.

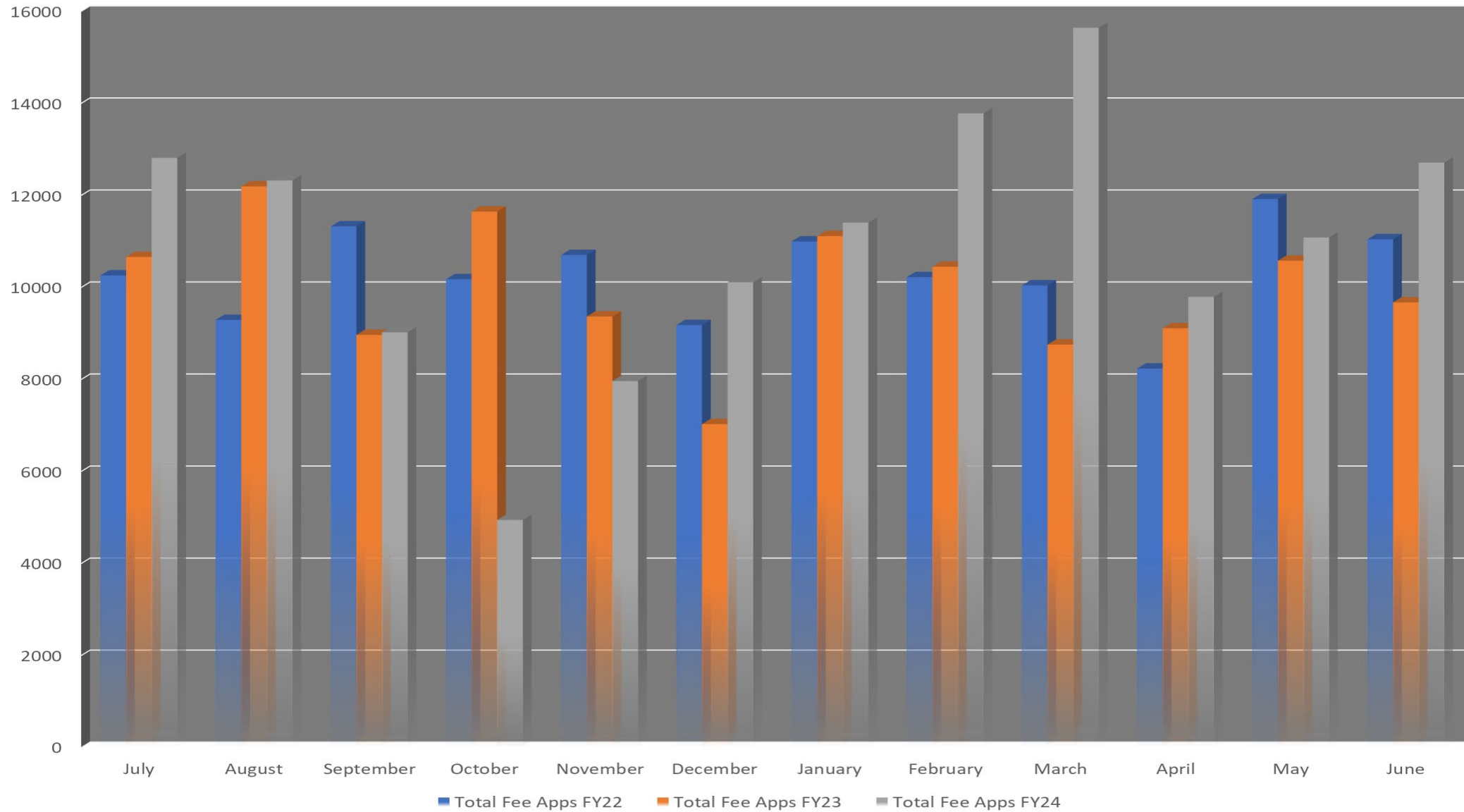
It is ORDERED that: (check one only)
 The motion submitted by counsel and this Order shall be sealed in the court file and only opened upon further order of the Court.
 The motion submitted by counsel and this Order shall be sealed, and counsel shall retain the sealed motion and Order while this case is pending and file both in the court file within 30 days of final disposition at the trial level.
 The motion and Order shall not be distributed beyond the defense team and IDS.

Date _____ Name Of Judge _____ Signature Of Judge _____

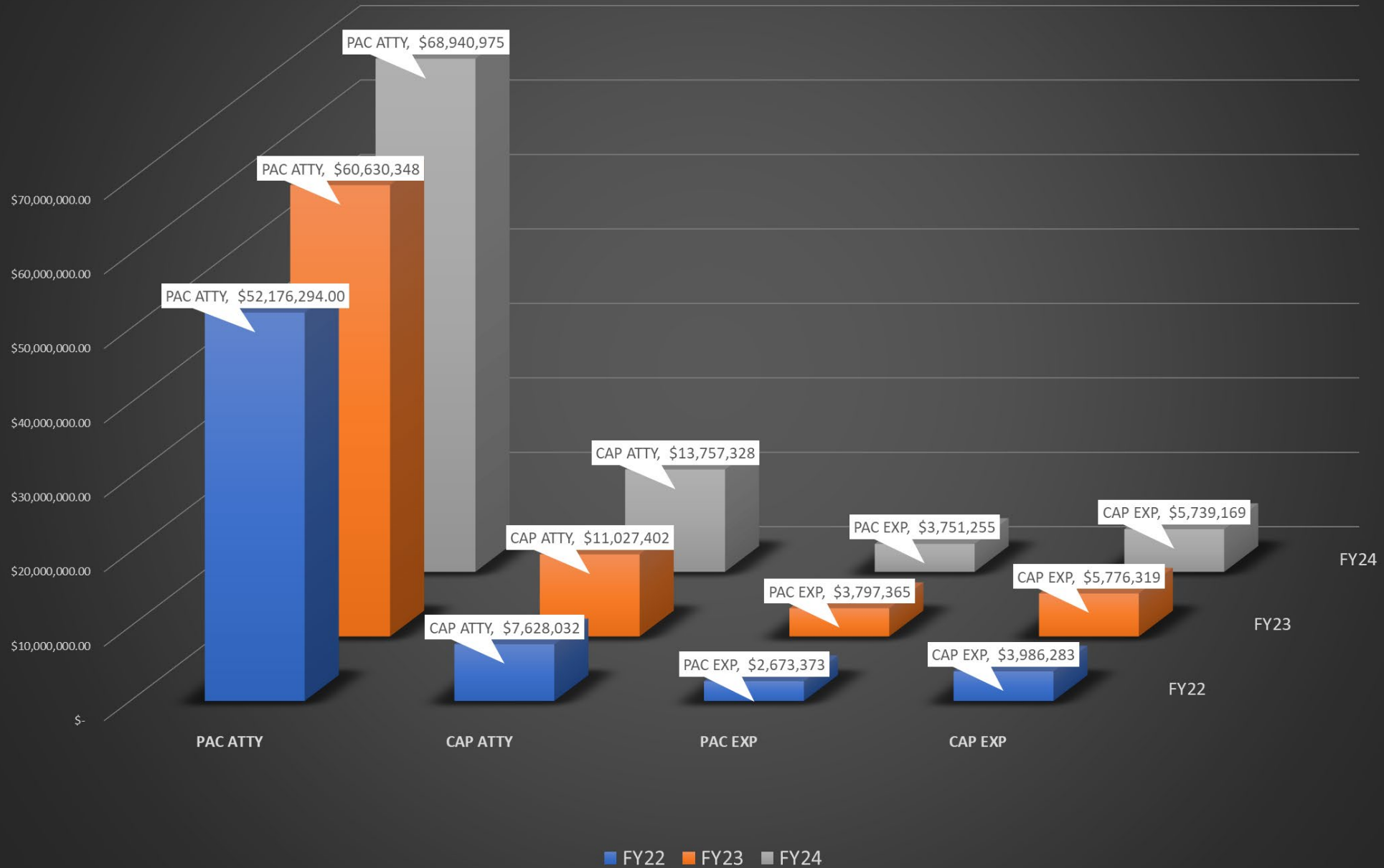
AOC-G-309, Rev. 3/22
 © 2022 Administrative Office of the Courts (Over)



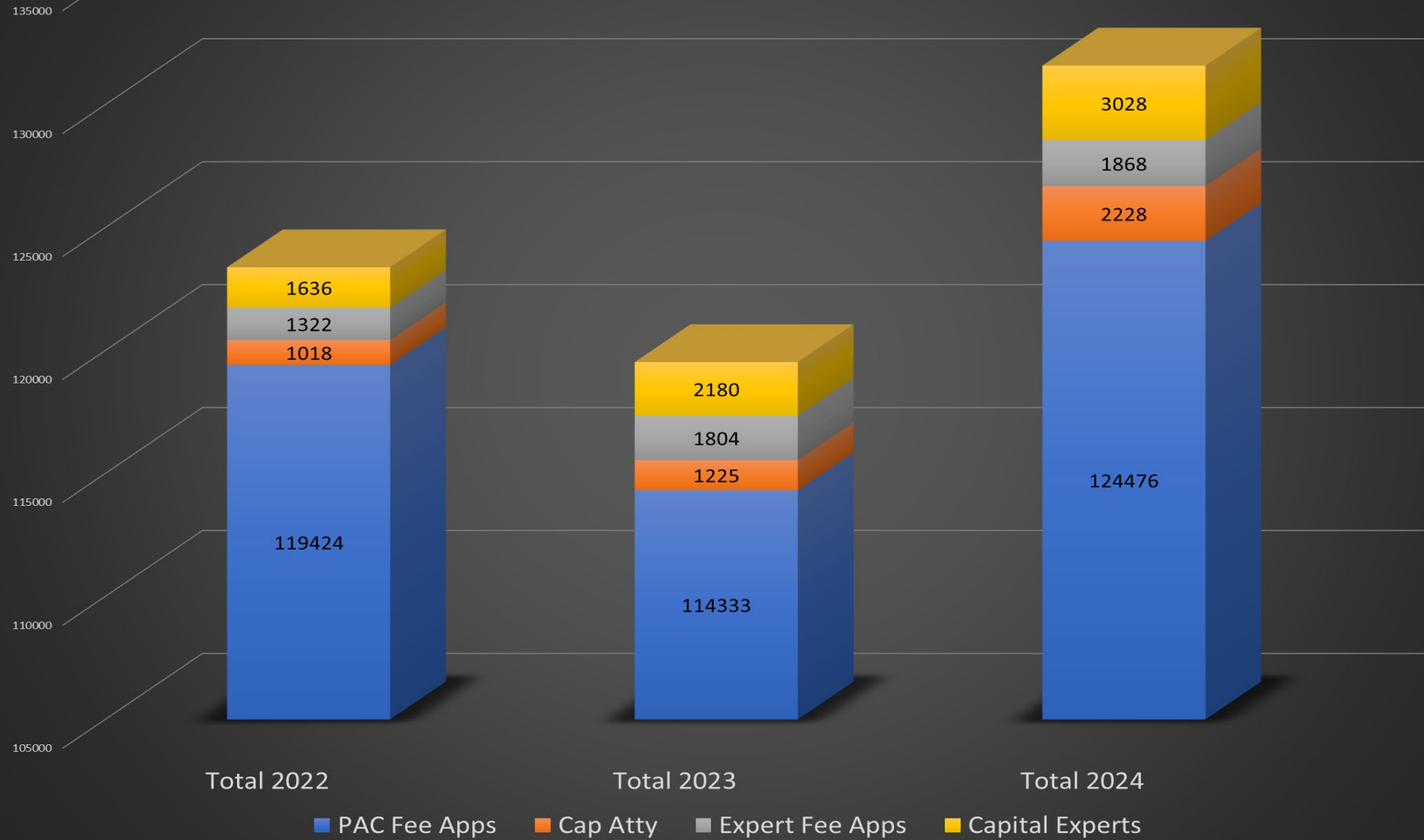
IDS FEE APPLICATIONS PROCESSED FY22-FY24



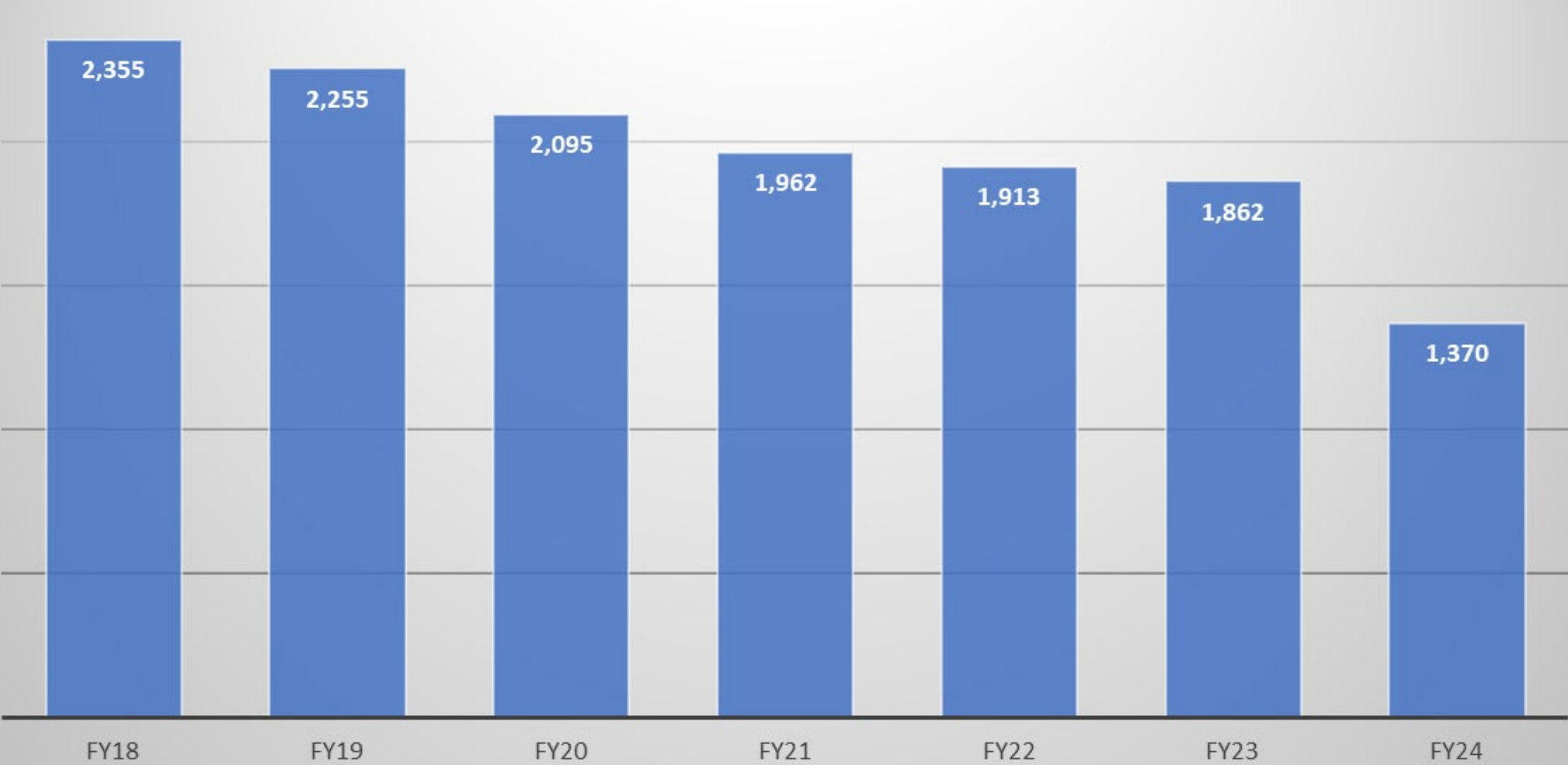
ANNUAL IDS PAC SPENDING FY22-FY24



FY22-FY24 IDS FEE APPLICATIONS PROCESSED



NUMBER OF UNIQUE ATTORNEYS PAID BY FISCAL YEAR



ISSUES FOR FY2024-25

- Monitor and Manage the PAC fund availability
 - Seek additional funding from the legislature
- OASIS Refinement and Roll-out
 - Operational in 7 counties including Guilford and Mecklenburg
- Evaluate and quantify the impact of PD Office expansion on the PAC



ISSUES FOR FY2025-26



- Continue OASIS Roll-out
- Retain and grow the number of PAC attorneys
- Manage the increase resource demands of digital discovery



QUESTIONS OR COMMENTS



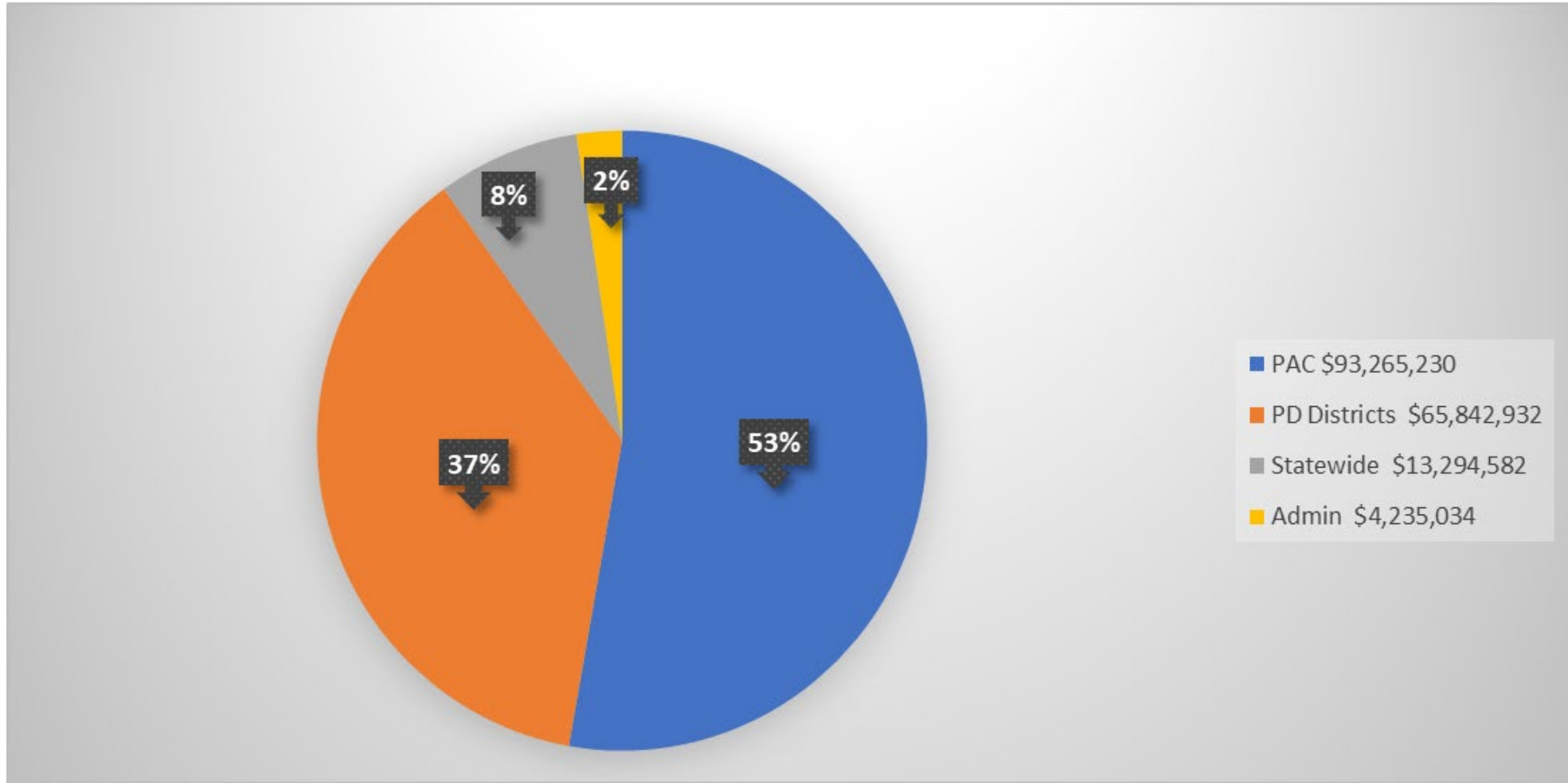
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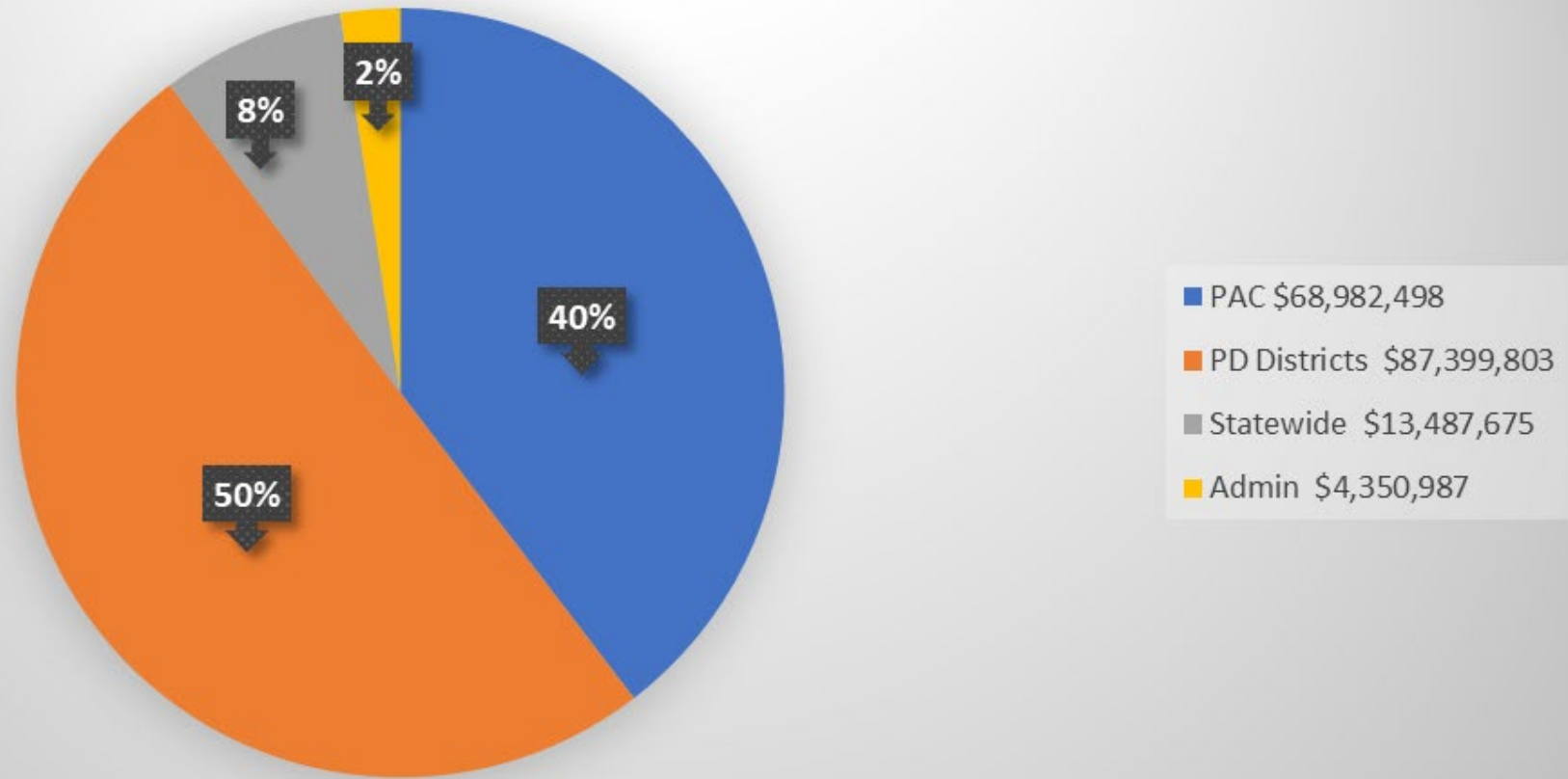
IDS BUDGET UPDATE



FY24 IDS ACTUAL EXPENSES



FY25 IDS BUDGET



FY25 PAC PROJECTION

FY25 Appropriation	\$ 56,085,288
FY25 Receipts	\$ 12,897,210
Total Budget	\$ 68,982,498
FY25 Projected PAC Exp.	\$ 102,725,000
\$8.75m per month Nov-Jun (\$32.725m July -Oct)	
Projected Shortfall	\$ (33,742,502)
Funds to address shortfall	
Carry Forward	\$ 769,000
Impact of PD Expansion	\$ 5,000,000
PD Lapsed	\$ 7,000,000
Revised Shortfall	\$ (20,973,502)



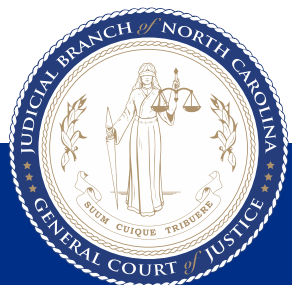
HOW IDS CAN MANAGE FY25 PROJECTED SHORTFALL

- Control spending with monthly expenditure targets
- Maintain 45-day fee app processing timeframe
- Use of lapsed salary
- Maximized the use of all revenue sources
 - Set-off debt
 - Federal IV-E funds
 - IDS set-off debt reserve
- Potential emergency appropriation



CHALLENGES TO MANAGING FY25 PROJECTED SHORTFALL

- Continued high PAC demand
 - \$11.3m spent in October 2024 (highest ever monthly expense)
 - Please note that this included fee apps held from September due to cash flow issues
- Obligations to contract attorneys provide limited flexibility in payment timeframes
- Potential decrease in availability of lapsed salary
- Volatility of set-off debt revenue due to eCourts
- Prior utilization of set-off debt reserve
 - \$1.1m remains in the fund
- Ability to obtain emergency appropriation
- 47% of the budget has been exhausted in the first four months of the fiscal year





THANK YOU

Aaron Gallagher, IDS Fiscal Officer

Aaron.M.Gallagher@NCCourts.Org

919-890-2188

Remarks from the Defense

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APPELLATE DEFENDER
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GLENN GERDING
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November 1, 2024

To: Indigent Defense Services Commission
From: Appellate Defender

Subj: Office of the Appellate Defender expansion request for FY26

The Appellate Defender respectfully asks the IDS Commission to seek an authorization from the General Assembly to expand the Office of the Appellate Defender (OAD) to add 10 Assistant Appellate Defenders and 2 paralegals in Fiscal Year 2026.

OAD is a specialized statewide defender's office but is not the primary source for appellate counsel for indigent clients in North Carolina. Instead, attorneys from the private assigned counsel (PAC) roster system managed by OAD represent the majority of clients, with OAD's 20 Assistant Appellate Defenders representing only 35 to 40% of all appointed clients on appeal each year. Adding 10 attorney positions will allow OAD to serve as the primary source for appellate counsel.

The PAC roster is a complex and costly system to operate. It is resource-intensive, high maintenance, and turnover-prone. Recruiting, training, and monitoring appellate roster attorneys consumes a significant amount of time for the Appellate Defender, Assistant Appellate Defenders, and OAD support staff, which reduces the amount of time available to devote to direct client representation. Reliance on the roster system is costly for taxpayers and clients. Expanding OAD will reduce delay in the assignment of counsel, reduce a chronic backlog, and improve the quality of client representation on appeal.

IDS has spent the past two decades expanding the reach of quality public defense in North Carolina by opening new public defender offices around the state. IDS has improved its ability to manage and administer public defense by expanding its central office staff. The Commission should now turn its focus to improving appellate defense by expanding OAD.

History of the Office of the Appellate Defender

The Office of the Appellate Defender opened in 1980 with Adam Stein as the first Appellate Defender, and six Assistant Appellate Defenders. In 1985, Mr. Stein was succeeded by one of his assistants, Tye Hunter. Mr. Hunter served as the Appellate Defender until 2000, when he was appointed as the first Director for Indigent Defense Services. Staples Hughes was appointed as the Appellate Defender in 2000 and served until retiring in 2015, at which time Glenn Gerding was appointed as Appellate Defender.

From 1980 until 2001, OAD was an agency within the Administrative Office of the Courts. Once IDS began operations in 2001, OAD moved under the cognizance of IDS. North Carolina General Statute § 7A-498.8, which is part of the Indigent Defense Services Act of 2000, sets out the appointment process for the Appellate Defender, delineates the Appellate Defender's responsibilities, and establishes IDS's responsibility for funding OAD.

In 2001, OAD had 10 Assistant Appellate Defenders. Between 2001 and 2014 the General Assembly authorized 10 additional attorney positions, one or two at a time. Since 2014, IDS has twice requested the General Assembly authorize an additional Assistant Appellate Defender position but neither request was fulfilled.

History of the Private Assigned Counsel Appellate Roster

Before OAD joined IDS in 2001, there was no centrally managed roster for court-appointed appellate counsel. If an indigent defendant in a criminal case appealed, the county clerk sent Appellate Entries to OAD. The Appellate Defender assigned the case to an Assistant Appellate Defender or returned the case to the county with a letter indicating that due to caseload constraints the case could not be assigned to an attorney at OAD. Responsibility for assigning appellate counsel fell to a local judge who appointed appellate counsel from a list of local attorneys. The Appellate Defender was able to manage OAD's caseload by declining to assign counsel and returning the case to the county of origin. The Appellate Defender was not responsible for managing a centralized appellate roster.

The local assignment practice ended in 2001 when section 7A-498.8 was enacted and IDS promulgated Rule 3 which provides guidelines for a court-appointed appellate roster administered by the Appellate Defender. Under IDS Rule 3.4, the Appellate Defender is responsible for recruiting, training, and maintaining a roster of private counsel who are available to accept assignment to represent defendants in criminal cases on appeal.

To be eligible to serve on the appellate roster an attorney must “demonstrate that he or she is proficient in legal writing and oral advocacy, has the required legal knowledge and skill necessary for appellate representation, and will apply that knowledge and skill with appropriate thoroughness and preparation.” Rule 3.4(b). To be added to the roster, an attorney is required by Rule 3.4 to submit an application with supporting materials, including writing samples and references. The Appellate Defender may remove an attorney from the appellate roster under certain circumstances prescribed in IDS Rule 3.6. An attorney may self-remove from the roster for any reason at any time.

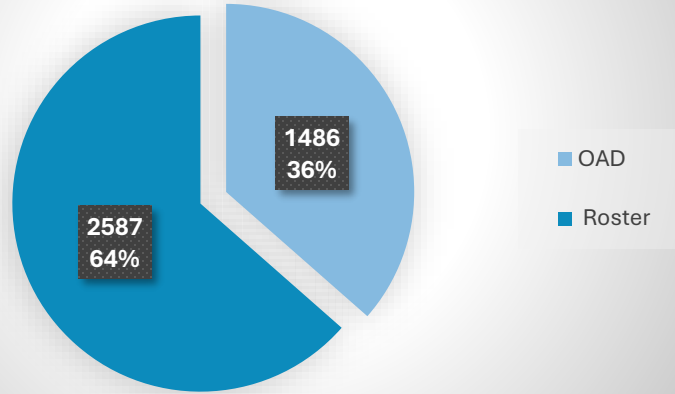
In 2001, Appellate Defender Hughes established the current version of the appellate roster system with 62 attorneys drawn from attorneys around the state, many of whom represented clients on appeal based on local appointments under the prior appointment system. There are currently 85 attorneys on the appellate roster managed by the Appellate Defender.

The PAC appellate roster is the primary source for appellate counsel in criminal cases in North Carolina.

Between Fiscal Year 2018 and Fiscal Year 2024, the Appellate Defender assigned 2,587 cases to roster attorneys and 1,486 cases to Assistant Appellate Defenders (AADs). In those seven years the majority of cases, 63.5%, were assigned to appellate roster attorneys, not AADs.

The percent of clients represented by AADs stands in stark contrast to the percent represented by Assistant Public Defenders in districts with a Public Defender’s Office. Assistant Public Defenders represent almost 100% of the clients entitled to counsel in adult criminal cases in their districts. Chief Public Defenders assign cases to PAC for conflicts but do not routinely assign cases to PAC for caseload reasons.

Total Cases Assigned by the Appellate Defender FY18 - FY24



Fiscal Year	Cases assigned to AADs	Cases assigned to Roster	Total cases assigned	Percent assigned to PAC Roster
2018	232	481	713	67.5 %
2019	270	407	677	60.1 %
2020	194	396	590	67.2 %
2021	130	183	313	58.5 %
2022	183	413	596	69.3 %
2023	215	334	549	60.8 %
2024	262	373	635	58.7 %
Total:	1,486	2,587	4,073	63.5 %

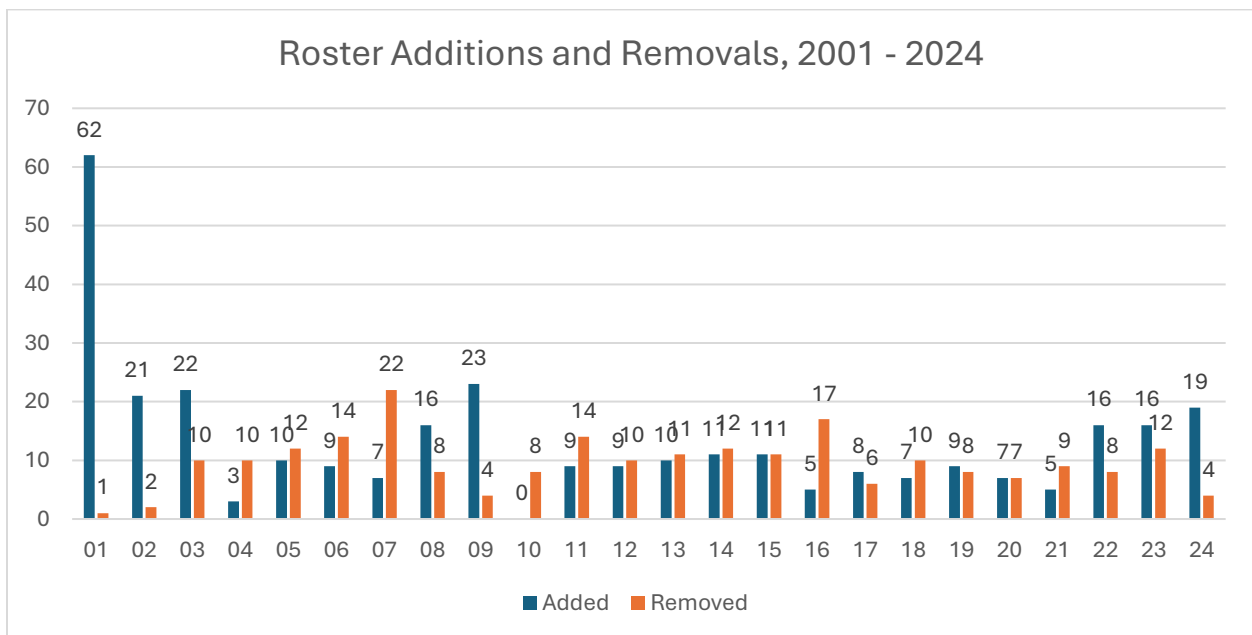
Turnover on the roster results in less experienced attorneys and lower quality representation.

Appellate criminal defense is a specialized area that requires years of sustained practice to develop. Most roster attorneys do not stay on the roster long enough and do not take enough cases to develop expertise.

Turnover on the roster has been constant since its inception in 2001. Attrition requires continuous recruiting, vetting, training, monitoring, and time-consuming administrative tasks related to reassigning cases. The number of attorneys on the roster fluctuates from month to month and year to year as attorneys leave the roster while others are added.

Attorneys leave the roster for any number of reasons such as a change in employment, lack of interest in criminal defense or appellate practice, better pay rates for representing clients in federal appeals, burnout, family responsibilities, mental health challenges, and retirement. Some decide they do not like the work after taking one or two cases. Interest in serving on the roster fluctuates based on the state of the economy. The surge in attorneys joining the roster in 2008 and 2009 is likely attributable to the Great Recession when attorneys sought court-appointed work to replace other work lost due to the downturn in the economy.

Since 2001, 315 attorneys have been added to the roster, while 230 quit, were removed for poor performance, retired, or died. Since 2002, an average of 11 people joined the roster each year and an average of 10 people left the roster each year. The following charts show turnover since the roster’s inception in 2001:



Year	Attorneys Added	Attorneys Removed	Net change	Total Attorneys
2001	62	1	-1	61
2002	21	2	19	80
2003	22	10	12	92
2004	3	10	-7	85
2005	10	12	-2	83
2006	9	14	-5	78
2007	7	22	-15	63
2008	16	8	8	71
2009	23	4	19	90
2010	0	8	-8	82
2011	9	14	-5	77
2012	9	10	-1	76
2013	10	11	-1	75
2014	11	12	-1	74
2015	11	11	0	74
2016	5	17	-12	62
2017	8	6	2	64
2018	7	10	-3	61
2019	9	8	1	62
2020	7	7	0	62
2021	5	9	-4	58
2022	16	8	8	66
2023	16	12	4	70
2024	19	4	15	85
Total:	315	230		

Of the 230 attorneys removed from the roster since 2001, the average time spent on the roster before removal was five years, although more than half spent fewer than four years on the roster.

Length of time on roster before removal	Number of attorneys
0-4 years	136
5-9 years	53
10-14 years	28
15-19 years	9
20+ years	4

The average amount of time on the roster for the 85 current members is 5.8 years, although more than half have been on the roster fewer than four years:

Length of time on roster	Number of attorneys
0-4 years	46
5-9 years	13
10-14 years	13
15-19 years	11
20+ years	2

In order to account for annual attrition from the appellate roster the Appellate Defender and Assistant Appellate Defenders must constantly recruit replacements throughout the year.

Everyone at OAD is a recruiter, pitching the roster to everyone they encounter around the state, whether speaking at a law school event, a local bar CLE, a School of Government training, an NC Bar Association meeting, or during a chance encounter with an attorney in a courthouse elevator. OAD advertises the roster through NC Advocates for Justice and the NC Bar Association email lists. OAD networks with judges, justices, clerks, and law

professors to advertise the roster. OAD has created and maintains a professional website with information about the roster.

The Appellate Defender personally spends a significant amount of time identifying potential applicants, developing relationships that could result in an application, and running down leads for possible applicants. Applicants for the roster come from recruiting efforts but often from random referral sources. Sometimes applicants contact the Appellate Defender for more information prior to applying. Other times OAD receives applications unsolicited and without prior knowledge of the applicant.

Regardless of how an attorney comes to be interested in the appellate roster, they are required to submit a statement of interest, an application form, three references, and four writing samples. The Appellate Defender and an Assistant Appellate Defender review the submitted materials to determine if applicants meet the criteria set out in IDS Rule 3.4. In some instances, the Appellate Defender calls applicants to discuss their experience.

Recruitment is a never-ending task. As shown in the section above about roster turnover, it's necessary to recruit and add at least an average of 10 attorneys to the roster annually to keep up with attrition. Although that number might seem small in isolation, the reality is there are not many attorneys in North Carolina with the skills and abilities who are interested in and capable of doing specialized appellate criminal defense and who can afford to include this work in their private practice portfolio. Many attorneys join the roster to get appellate experience, to aid in obtaining specialization from the State Bar, and after accepting one or two cases a year for a few years, stop taking cases. And as discussed in more detail below, given that more and more roster attorneys are taking fewer cases each year, a larger roster is needed each year to represent the same number of clients, requiring even greater recruitment.

Many defender districts have been referred to as “attorney deserts.” The entire state of North Carolina is an attorney desert for criminal appellate attorneys. There simply are not enough attorneys willing to devote a significant portion of their practice, for a significant number of clients, for a significant number of years, to indigent criminal appellate defense.

The Appellate Defender and Assistant Appellate Defenders devote significant time to training and mentoring new roster attorneys.

Most attorneys who join the roster have no prior experience representing clients on appeal and must be trained. Of the attorneys who join the roster that do have appellate experience, many have no experience in criminal defense, and must be trained.

OAD provides a course called Appellate Foundations to new roster attorneys to teach the basics of appellate practice and procedure in criminal cases. The course is required before an attorney can be assigned a case. The course has been certified by the State Bar for 5.5 hours of CLE credit, is free to attend, and is held in person at OAD and sometimes via Webex. The course involves eight substantive sessions presented by the Appellate Defender and five Assistant Appellate Defenders. Prior to 2020, Appellate Foundations was held once a year, but it was determined the course should be offered more often to be able to add attorneys more quickly to the roster. Since 2021, OAD has held Appellate Foundations training nine times for 58 new roster attorneys.

Once an attorney has attended Appellate Foundations, they can be assigned a case. They are also assigned a mentor – an Assistant Appellate Defender who will serve as a point of contact for questions and consultations. OAD policy requires the new roster attorney to submit a draft proposed record in their first two cases to the mentor for review prior to serving it on the State. Similarly, the new roster attorney is required to submit a draft of their appellate brief to the mentor prior to filing at the Court of Appeals in their first two cases. The mentor is expected to provide constructive feedback regarding the proposed records and briefs so the new roster attorney can apply what they learned in Appellate Foundations in their first two cases with supervision from an attorney at OAD.

Training a new roster attorney is not the same as training a new trial court roster attorney. In District, and even Superior Court, an attorney can watch a few days or weeks in court and start learning how it works while they handle their own cases. In court, new attorneys can meet local attorneys and talk with them about cases. Working in court regularly with judges, clerks, bailiffs, DAs, and probation officers allows new trial court

attorneys to learn the ropes. The same opportunity to learn by immersion simply does not exist in criminal appellate practice. Instead, OAD is the sole source to provide time-intensive training and mentoring to new appellate roster members to ensure adequate appellate representation for all clients.

The Appellate Defender and Assistants continually monitor all roster attorneys' performance.

After a new roster attorney has completed their first two cases, OAD does not have the resources to continue to provide direct mentorship or review appellate pleadings prior to filing. Instead, when a roster attorney files their appellate brief they are required to submit it to a dedicated email account at OAD. An Assistant Appellate Defender is assigned each month to review all briefs submitted that month by roster attorneys.

On average each month, the assigned Assistant Appellate Defender reads 30 roster attorney briefs, which can vary in length but usually are at least 30 pages. They also prepare a memo documenting the review and noting any concerns with the brief. If they think the roster attorney needs to supplement or amend the brief, they contact the roster attorney with advice.

The reviewing attorney also screens for briefs that should be added to the "brief bank" maintained on the OAD website, as the Appellate Defender is required by N.C.G.S. § 7A-498.8 to maintain a "repository of briefs" and make them available to roster attorneys.

The appellate case assignment process for roster attorneys is unpredictable and time consuming because case acceptance is voluntary with widely varying acceptance rates. Low acceptance rates keep roster attorneys from developing specialized knowledge.

The Appellate Defender screens all cases received by the office for information that can be helpful in assigning counsel. The Appellate Defender assigns cases to Assistant Appellate Defenders regularly throughout the month, taking care to balance each attorney's caseload based on offense type and trial length. Assigning cases to Assistant Appellate Defenders is quick and efficient.

In contrast, assigning cases to roster attorneys is an unpredictable process because the appellate roster is a voluntary roster. When the Appellate Defender offers to assign a case to a roster attorney, the attorney can decline the assignment for any reason. The Appellate Defender spends significant time each week trying to match cases with roster attorneys and trying to convince roster attorneys to accept case assignments.

The reason most roster attorneys give when they decline to take a case is that they are too busy with other cases, whether trial or appellate, or criminal or civil, depending on their practice. This is especially the case with attorneys who are in civil law firms, and those with busy criminal trial practices. Some attorneys refuse to take certain types of cases. For example, many roster attorneys decline to take any case involving a sexual offense. Some decline due to personal reasons while others decline to take sexual offense cases because they work at civil law firms and their firm does not want them representing clients convicted of a sexual offense.

Although a few roster attorneys accept a new case assignment each month regardless of the case type, the vast majority do not. In fact, the majority of attorneys on the roster accept five or fewer cases per year. That stands in contrast to an Assistant Appellate Defender who can be counted on to carry a caseload of 20 or more cases at a time and can be assigned a new case roughly every month, regardless of the case type. That's not the case with every roster attorney.

Thus, the number of attorneys on the roster at any given time is not predictive of the capacity of the roster to handle a given number of cases. Having 85 attorneys on the roster does not mean the Appellate Defender can assign 85 cases to the roster each month. Instead, what's more important than the number of attorneys on the roster is how many cases each roster attorney is willing to take each year.

From November 1, 2023, to October 31, 2024, roster attorneys accepted assignment to 373 cases, an average of 4.5 cases per attorney annually. However, the actual acceptance rate varies widely from 0 cases per year up to 21 cases per year. (Only one attorney accepted 21 cases in the past year – the next highest acceptance rate after 21 per year was 13 per year.)

The following chart shows a breakdown of case acceptance rates between November 1, 2023, and October 31, 2024:

Number of cases accepted in 12 month period:	Number of PAC:
>15	1
10-14	9
5-9	23
1-4	43
0	7
Total: 373	Total: 83

The 18 attorneys on the roster who accepted the most cases handled just over half of the cases assigned over the past year (190). The other 65 roster attorneys handled the other half (183). Fifty attorneys accepted fewer than five cases over the past year.

An Assistant Appellate Defender is usually assigned 12 to 15 cases each year and carries a caseload of 20 to 25 cases at any given time, depending on the types and sizes of the cases and whether any of the cases are capital appeals. Adding 10 Assistant Appellate Defenders would result in between 120 and 150 additional clients who could be assigned to OAD each year. Considering a roster attorney takes an average of four to five cases each year, the additional clients represented by OAD would result in a reduction of the roster by 25 to 30 attorneys. It could result in reducing even more from the roster given that 50 attorneys accepted fewer than five cases last year.

An Assistant Appellate Defender is able to represent more clients than almost all roster attorneys in a year. Therefore, each additional Assistant Appellate Defender guarantees having an attorney who can steadily and consistently represent 20 to 25 clients at a time.

On the other hand, adding one attorney to the roster guarantees nothing with regards to how many clients they will represent, as shown above with the case acceptance rates. The roster attorney might be trained and supervised and represent one client, ever. They might accept one case per year for several years. They might accept five cases. They might accept 15 cases. The problem is that it is unpredictable when a person is added to the roster how many cases they will ultimately accept. It is unpredictable if their level of taking cases will go up or down in any given year. This variability and unpredictability leads to inefficiency and delays in assigning attorneys to represent clients.

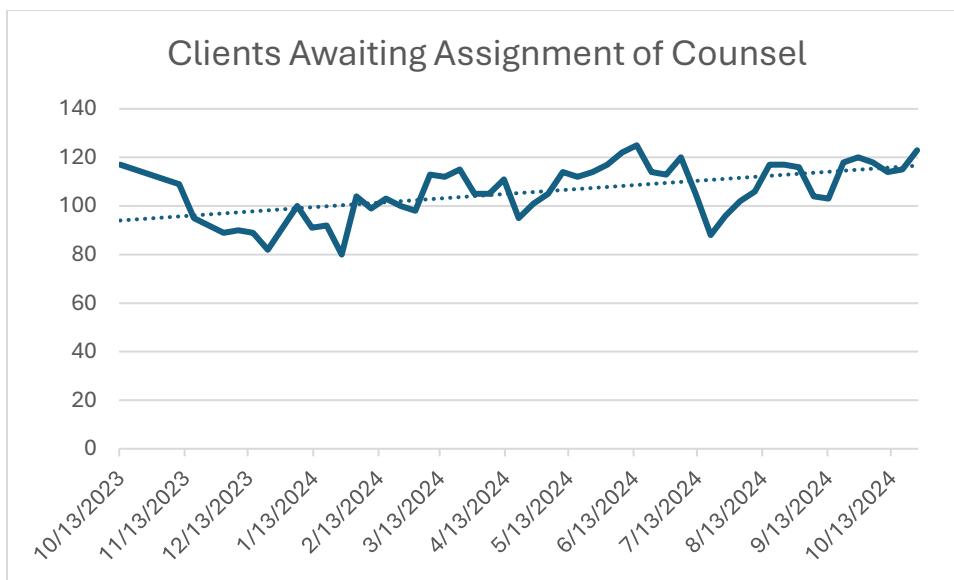
The quality of representation is affected by the number of cases an attorney accepts each year. Roster attorneys struggle to stay current on criminal law and appellate procedure if they accept fewer than four or five cases per year, and especially if they accept one or zero new cases per year. Only a sustained appellate practice over a number of years can develop the skills needed to adequately represent clients in criminal appeals.

Expanding OAD as requested will help eliminate backlogs and delays in assignments of counsel.

OAD receives cases from around the state every day, averaging around 60 cases per month. Processing cases only takes a few days, but assigning counsel takes several months due to the attorney shortage. Backlogs and delay in the assignment of appellate counsel have been the steady state at OAD due to a lack of attorneys at OAD and on the roster, but the problems have gotten worse in recent years.

During the fall of 2019, just prior to the pandemic, the backlog hovered around 35 to 40 cases unassigned at the end of each week. The delay between entry of judgment by the trial court and assignment of counsel by the Appellate Defender averaged 45 to 50 days.

Since the resumption of full trial court operations after the pandemic, the backlog has grown to unsustainable levels. The Appellate Defender tracks the backlog each week. Over the past year, the Appellate Defender has had a backlog of over 110 clients without counsel at the end of each week. The following chart shows the trend over the past 12 months.



The delay between entry of judgment by the trial court and assignment of appellate counsel by the Appellate Defender averages 85 to 120 days per client. Because of understaffing, clients are going without counsel for three to four months after conviction.

The reason for the difficulty in assigning counsel in a timely manner and in reducing the backlog is simple: there are not enough Assistant Appellate Defenders at OAD or PAC on the appellate roster to assign to the number of clients who need counsel. Attorneys at OAD and on the roster are not able to represent as many clients on appeal as they could 15 or 20 years ago due to multiple factors which have driven down the number of clients an appellate attorney can competently and ethically represent.

These factors include an explosion of digital evidence in recent years, such as bodycam, surveillance, and interrogation videos; an increase in the length of trials, particularly those involving charges of murder or sex offenses; the shift of responsibility for obtaining file materials from the clerks to the individual attorney in counties with Odyssey and e-filing; and the overall improvement of the criminal defense trial bar in asking for a complete recordation of jury selection, and in litigating cases thoroughly. All of those factors result in more transcript pages and exhibits to review in each individual case, reducing the number of cases an attorney can handle at any given time.

An additional factor affecting the ability of Assistant Appellate Defenders to take heavier caseloads is the number of cases with a death sentence that are appealed. The Appellate Defender currently assigns two attorneys to each capital appeal and, in keeping with the mandate of IDS Rule 2 for OAD to represent most of the clients in capital cases on appeal, the Appellate Defender assigns mostly Assistant Appellate Defenders, rather than roster attorneys, in capital cases.

The quality of representation on appeal varies arbitrarily based on who is assigned as appellate counsel: an Assistant Appellate Defender or a roster attorney.

Attorneys on the appellate roster work diligently and are committed to their clients. However, most are not representing clients in criminal appeals as their only work and are not working alongside other criminal appellate attorneys day to day in their offices.

Assistant Appellate Defenders are specialists in handling indigent criminal appeals and have immediate access to their colleagues at OAD. Roster attorneys' abilities and skills vary widely. Regardless of which Assistant Appellate Defender is assigned, a client will receive the same level of quality representation. That cannot be said for assignment to the roster, as skill levels, as well as work quality levels, vary widely. Adding Assistant Appellate Defenders to OAD will reduce arbitrary variability in the quality of representation.

Invest in OAD and expand its ability to provide quality appellate representation to more clients by adding attorney positions.

Far from being a state-wide defender office that is the primary source for specialized, quality appellate counsel in North Carolina, OAD primarily serves as a management office for private counsel and a clearinghouse for cases. The system is compromised by delays in assignment of counsel and significant variability in the quality of representation. The problems described in this memo exist not due to a lack of effort, problem-solving creativity, or commitment to OAD's mission. The problems exist due to a lack of resources, namely enough staff attorneys at OAD.

Since OAD opened its doors in 1980, the office has not met its full potential to be the primary source for providing appellate counsel for indigent people in North Carolina due to the lack of staff attorneys. The PAC appellate roster filled the need for appellate counsel while OAD transitioned from a locally appointed appellate counsel model to a centralized, Appellate Defender-managed statewide system in the early 2000s. But the roster has served its purpose and should no longer be the main source for appellate counsel. A role still exists for the roster, just not in its current state.

Instead of trying to solve the problems caused by the roster system through complex solutions, many of which have been tried, or at least seriously considered and rejected, the IDS Commission should seek a simple solution: expand OAD to provide the statewide appellate defense services that a state the size of North Carolina should have. OAD grew from five to ten Assistants between 1980 and 2001, and from ten to twenty Assistants between 2001 and 2014. Similar incremental, piecemeal additions of attorneys over the next decade or two is not the solution needed to replace the complex roster system. Meaningful expansion is the simple solution.

It's time for IDS to support a robust, fully staffed appellate public defense office as a critical and equal component of North Carolina's indigent defense system. Twenty-five years of over-reliance on the roster should end and OAD should be expanded by adding 10 attorney and 2 paralegal positions to fulfill the original purpose of the office – to be the primary source for specialized, quality appellate counsel in North Carolina.


Glenn Gerding
Appellate Defender

Rules and Policies

Billing Review Guidelines for Managed Assigned Counsel Program



Effective Date: 2024-11-15

I. Purpose

The purpose of these Billing Review Guidelines is to provide clear, consistent, and transparent standards for reviewing and approving attorney fee and expense submissions under the Managed Assigned Counsel (MAC) Program. These guidelines ensure that billing complies with established rates, accurately reflects services provided, and promotes efficient management of public defense funds. By outlining expectations for timekeeping, allowable expenses, and documentation, these guidelines support fair compensation for defense attorneys while protecting the integrity of the Private Assigned Counsel (PAC) fund.

These Billing Review Guidelines supplement, but do not supersede, the IDS Policies Governing Attorney Fee and Expense Applications in Non-Capital Criminal and Non-Criminal Cases at the Trial Level. In the event of any conflict between these guidelines and IDS Policies, the IDS Policies Governing Attorney Fee and Expense Applications in Non-Capital Criminal and Non-Criminal Cases at the Trial Level will take precedence.

II. Current Workflow

Beginning June 3, 2024, MAC attorneys submit their hours and expenses through defenderData. Attorneys are encouraged to maintain contemporaneous timekeeping and submit their vouchers during the first week of each payment month. IDS reviews the submitted vouchers, converts approved vouchers to a .csv file, and sends the file to the North Carolina Financial System (NCFS) for payment.

All vouchers undergo both automatic and manual review. Vouchers may be approved, rejected, reduced, or returned for additional information. Some vouchers are flagged for "special review" due to potential issues and are similarly subject to approval, rejection, reduction, or a request for additional information (see Appendix A for workflow details).

Reasonableness of Invoice

- **Case Complexity:** The hours billed should be reasonable and aligned with the complexity of the case (e.g., misdemeanor cases should generally require fewer billed hours than felony cases).
- **Independent Review:** All submissions will undergo an independent review for reasonableness and fairness.
- **Final Approval:** Once reviewed and verified, vouchers are submitted for final approval.

III. Review Guidelines and Rules

A. Voucher Special Review

Vouchers containing the following billing will be subject to additional review:

- Time entries exceeding nine (9) hours in court in a single day.

- Total work time exceeding ten (10) hours in a single day.
- Total work time exceeding sixty (60) hours in a week.

Vouchers flagged for special review may be approved, rejected, reduced, or returned for additional information. IDS may request further documentation or justification before waiving any of the above limitations. When deciding whether to waive a limitation, IDS will consider factors such as:

- Case complexity
- Length of trial or litigation
- Emergencies (e.g., natural disasters or events leading to extended court closures)

IDS reserves the right to request documentation supporting the waiver of a billing limitation. Such requests will be made via the defenderData system within ten (10) days after the relevant billing cycle closes. Attorneys will have thirty (30) days from the date of notification to provide the requested documentation. If IDS determines that a waiver is appropriate, payment will be issued during the next available MAC billing cycle.

To ensure quality representation, IDS further reserves the right to implement measures including but not limited to placing an attorney's ability to receive new appointments on hold whenever it identifies a pattern of time exceeding ten hours per day or sixty hours per month.

B. Voucher Rejection

- Vouchers containing the following will be rejected:
- Duplicate entries
- Billing for administrative tasks
- Expenses exceeding \$25 that either (1) have not been preapproved, or (2) do not include a receipt (excluding mileage, if specified in your contract)
- Time entries exceeding twenty (20) total hours in a single day

If any billing entries are deemed improper, they will be flagged for clarification. IDS staff will notify the attorney of any rejected items within ten (10) days after the close of the relevant billing cycle. Attorneys may be given an opportunity to correct improper entries. IDS will consider factors such as the frequency and nature of improper entries when deciding whether to allow revisions.

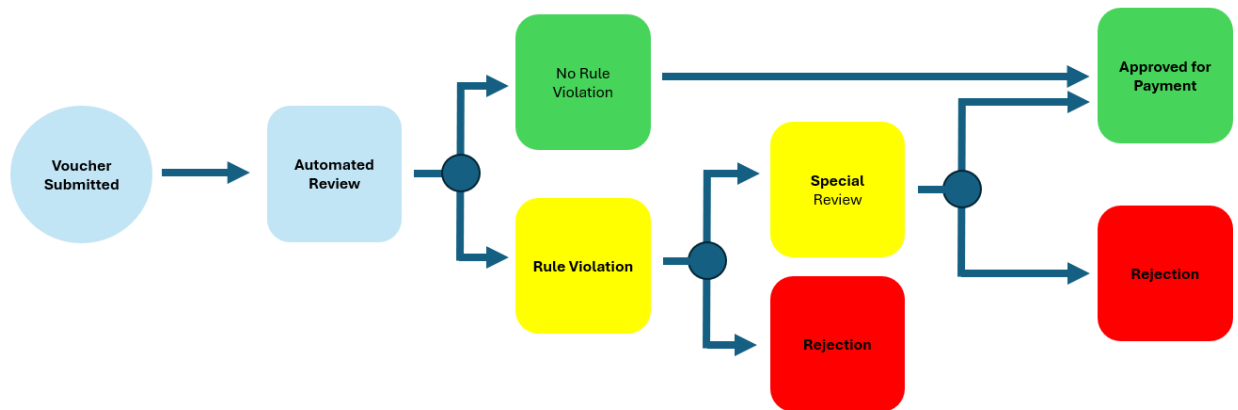
C. Review of Decision

Review of an adverse decision, except for those provided for in Paragraph III. B., will be conducted according to IDS Policy #04.01.07, "Adverse Decision of Executive Director and Procedures for Review."

Attachment A – Policy History

Policy Name:	Billing Review Guidelines for Managed Assigned Counsel Program
Policy Number:	To Be Assigned
Custodian:	Deputy Director
Effective Date:	2024-11-15
Next Review Date:	2028-11-15
Revision History	

Attachment B –Review Workflow



Bylaws of the Commission on Indigent Defense Services

Effective Date: 2024-11-15

1. Purpose and Authority

The purpose of the Commission on Indigent Defense Services ("the Commission") is to provide oversight and guidance in the delivery of indigent defense services as provided for in NCGS 7A-498.5.

2. Membership

The Commission shall consist of thirteen (13) members, appointed as provided for in NCGS 7A-498.4(b)(1)-(11).

Members of the Commission shall serve for a term of four (4) years, commencing on the date of their appointment. No member shall serve more than two (2) consecutive terms. Upon completion of two consecutive terms, a member shall be ineligible for reappointment until a period of at least one (1) year has passed since the conclusion of their last term.

Partial terms served to fill vacancies shall not count toward the term limit. However, if a member serves more than half of a full term, it shall be considered a full term for purposes of determining eligibility for reappointment.

3. Officers

The officers of the Commission shall consist of a Chair and a Vice-Chair, each elected by the members of the Commission. The Chair shall be an attorney licensed to practice law in the State.

3.1 Election of Officers. The Chair and Vice-Chair shall be elected by a majority vote of the Commission members at the last scheduled quarterly meeting in even-numbered years. Each officer shall serve a two (2) year term, commencing on the first day of the calendar year following the election, and shall continue to serve until their successor is elected and qualified. No member shall serve more than two (2) consecutive terms as an elected officer unless a period of at least one (1) year has passed since the conclusion of their last term as an officer.

3.2 Duties of the Chair. The Chair shall preside at all meetings of the Commission, set meeting agendas, and perform such other duties as may be prescribed by the Commission. The Chair shall serve as the primary spokesperson for the Commission in official matters and shall ensure the efficient conduct of Commission business.

3.3 Duties of the Vice-Chair. The Vice-Chair shall perform the duties of the Chair in the event of the Chair's absence, inability to act, or vacancy in the office of Chair. The Vice-Chair shall also perform such other duties as may be delegated by the Chair or the Commission.

3.4 Unavailability of Chair and Vice-Chair. If both the Chair and Vice-Chair are unable to attend a meeting, the Chair shall name a Commissioner to serve as Acting Chair for that meeting.

3.5 Vacancies. In the event of a vacancy in the office of Chair or Vice-Chair, the Commission shall elect a successor to serve the remainder of the unexpired term at the next regular or special meeting.

4. Meetings

4.1 Regular Meetings.

The Commission shall meet quarterly. At the last scheduled quarterly meeting of each calendar year, the Commission shall adopt the meeting calendar for the following year. The calendar shall specify the dates, times, and formats (virtual or in-person) of the quarterly meetings.

Once adopted, the meeting calendar shall be distributed to all members and made publicly available as required by law or Commission policy. The Chair may propose amendments to the calendar as needed, subject to approval by a majority of the Commission members.

From time to time and as circumstances dictate, the Commission may choose to conduct its regular meeting virtually.

4.2 Public Meetings. Unless otherwise provided by North Carolina Open Meetings Law, Chapter 143 of the North Carolina General Statutes, all meetings of the Commission shall be open to the public. The Commission shall conduct its business in a transparent manner, ensuring that the public has access to meetings and deliberations, except in cases where a closed session is permitted by law.

4.3 Notice of Meetings. A current copy of the Commission's annual schedule, detailing the dates, times, and locations of regular meetings, shall be filed with the North Carolina Secretary of State and posted on the NCIDS website, as well as in accordance with all applicable North Carolina laws.

4.4 Special Meetings. Special meetings of the Commission may be called by the Chair or by a majority of the Commission members. As required by N.C. General Statute 143-318.12(f), except in the case of an emergency, the Commission shall provide at least two (2) days' notice of special meetings. Special meetings may be held in person or virtually, depending on the nature and urgency of the business to be conducted.

4.5 Participation in Virtual Meetings. Members attending virtual meetings must have access to the necessary technology to participate fully, including audio and video capabilities. Virtual meetings shall be conducted in a manner that allows all members to hear and be heard by each other. Votes taken during virtual meetings shall be conducted by roll call or other transparent means.

4.6 Voting Procedures.

4.6.1 Quorum Required. A quorum, consisting of a majority of the Commission members, is required for the Commission to conduct official business and hold a vote. No vote shall be valid unless a quorum is present. As a member of the Commission, the Chair shall count in the establishment of a quorum.

4.6.2 Voting Rights. Each voting member of the Commission shall have one (1) vote on all matters brought before the Commission. The Chair shall not vote except in the case of a tie, where the Chair shall cast the deciding vote.

4.6.3 Non-Voting Members. The Director shall serve as a non-voting member of the Commission and may participate in discussions and deliberations but shall not cast a vote on any matter. As a non-voting member, the Director shall not count in the establishment of a quorum.

4.6.4 Method of Voting. Voting shall be conducted by voice vote or roll call, as determined by the Chair. Any member may request a roll call vote on any matter. A simple majority of the voting members present is required to approve any action, unless otherwise specified in these bylaws or by law. The method of voting during a virtual meeting shall be by roll call.

5. Committees

The Commission shall have the authority to create committees as necessary to support its functions and to address specific areas of concern or interest. These committees may include standing committees, ad hoc committees, or subcommittees, as determined by the Commission.

The purpose, composition, and duration of each committee shall be clearly defined at the time of its creation. Committees shall operate under the direction and oversight of the Commission and report regularly on their activities and recommendations.

5.1 Standing Committees. The Commission may establish standing committees to address ongoing issues and functions critical to its mission. The creation of standing committees shall be approved by a majority vote of the Commission members present at the last scheduled quarterly meeting of each calendar year.

The Chair, with input from the Executive Director, shall make assignments to standing committees, considering the expertise and interests of Commission members. Each standing committee shall consist of at least three (3) members.

5.2 Ad hoc Committees. The Commission may establish ad hoc committees as needed to address specific issues or projects that arise outside the scope of regular business. Ad hoc committees may be created by a majority vote of the Commission members present at a regular or special meeting, or by the Chair at the request of the Executive Director.

6. Appointment of IDS Director and other Staff

6.1 Appointment of Director. Pursuant to G.S. 7A498.5(b), the Commission shall appoint the Director of the Office of Indigent Defense Services. The Director may be reappointed for additional terms, subject to approval by a majority vote of the Commission members present at the meeting. The appointment and each successive reappointment, if any, shall be for a term of four (4) years.

6.1.1 Reappointment Process. The reappointment of the Director shall be considered by the Commission during the last quarterly Commission meeting before the expiration of the Director's current term. The Chair, with input from the Executive Director, shall present a performance review and recommendation regarding reappointment. Reappointment shall require a majority vote of the Commission.

6.1.2 Vacancies. In the event of a vacancy in the position of Director due to resignation, removal, or other circumstances, the Commission shall appoint an interim Director at the next regular or special meeting. A permanent appointment shall be made following an appropriate search process and Commission vote at a quarterly or special meeting.

(See NCIDS Policy # 07.03.01, “Procedures for Evaluation of Executive Director”)

6.2 Appointment of State Defenders. Pursuant to statute and Commission policy, the Commission shall appoint the Appellate Defender, Capital Defender, Juvenile Defender, Parent Defender, and Chief Special Counsel (“State Defenders”). As allowed by statute and Commission policy, the State Defenders may be reappointed for additional terms, subject to approval by a majority vote of the Commission members present at the meeting. Unless explicitly limited, the appointment and each successive reappointment, if any, shall be for a term of four (4) years. (See NCIDS Policy # 07.02.01, “Procedures for Evaluation and Appointment of IDS Commission Appointees, Other than Commission Members and the Executive Director”).

7. Rules

The Commission shall develop, adopt, and implement rules and procedures as required by applicable statutes. These rules shall ensure compliance with all relevant legal mandates and shall be designed to effectively carry out the responsibilities and duties of the Commission.

The Commission shall regularly review and update its rules to reflect changes in law or policy and ensure that they are uniformly applied throughout its jurisdiction.

8. Rates

The Commission shall establish and implement standard rates of pay for legal services, experts, and other related services as required by applicable statutes. Rates shall be set in alignment with applicable state laws, ensuring fair compensation for services rendered while maintaining effective management of allocated public defense funds.

The Commission shall conduct regular assessments of these rates, with consideration of inflation, cost of living adjustments, and feedback from program participants. Adjustments to rates may only be made within the bounds of the appropriation made by the General Assembly for private assigned counsel, ensuring compliance with state budgetary constraints while striving to maintain fair and reasonable compensation for legal services.

9. Amendments

These bylaws may be amended by a majority vote of the Commission members at any regular or special meeting, provided that written notice of the proposed amendment(s) is given to all members at least seven (7) days prior to the meeting. The notice shall include the full text of the proposed amendment(s) and any relevant supporting materials.

The Commission shall conduct a comprehensive review of these bylaws at least once every five (5) years to ensure they remain consistent with current laws, policies, and the operational needs of the Commission. Recommendations for amendments resulting from the review process shall be considered by the Commission for adoption.

Attachment A – Policy History

Policy Name:	Bylaws of the Commission on Indigent Defense Services
Policy Number:	08.01.01
Custodian:	Deputy Director
Effective Date:	2024-11-15
Next Review Date:	2028-11-15
Revision History	

FACILITATE THE ELIMINATION OF NONRESPONSIVE BOARDS, COMMITTEES, AND COMMISSIONS

SECTION 7.(a) The Legislative Library is directed to send a request for documentation and confirmation of activity to all boards, committees, and commissions that have not expired or been repealed. The documentation required by this section includes the current membership, last reported minutes, current bylaws, and a listing of the entities to which reports are to be submitted. For any board, committee, or commission that either (i) fails to respond within 120 days to the request required by this section or (ii) responds but has not met within the previous 12 months, the Legislative Library will add the board, committee, or commission to a list and will submit the final compiled list to the Joint Legislative Administrative Procedure Oversight Committee. The Committee is directed to recommend legislation to repeal the boards, committees, and commissions on the list required by and submitted pursuant to this section.

SECTION 7.(b) The Joint Legislative Administrative Procedure Oversight Committee is directed to recommend legislation to the 2025 Regular Session of the 2025 General Assembly upon its convening to repeal the boards, committees, and commissions on the list required by, and submitted to it pursuant to, subsection (b) of this section.

Commission Business



MARY POLLARD

EXECUTIVE DIRECTOR
MARY.S.POLLARD@NCCOURTS.ORG

OFFICE OF INDIGENT
DEFENSE SERVICES
SAFEGUARDING JUSTICE

NCIDS.org

DOROTHY HAIRSTON MITCHELL

CHAIR

Memo

To: IDS Commission
From: Whitney Bishop Fairbanks
Re: 2025 Commission Meeting Schedule
Date: November 15, 2025

Proposed Commission Meeting Schedule:

1. February 7, 2025
2. May 2, 2025
3. August 22, 2025
4. November 21, 2025

Please note that there also will be a special meeting of the Commission sometime in early March to consider candidates for the Parent Defender position.

Staff was mindful of the below conflicts while considering dates:

- January 16 – Guardianship Conference
- January 17 – Civil Commitment Conference
- January 20 (Monday) – MLK, Jr. Day
- January 21-24 – State Bar Council Meeting
- February 4 – 7 – Felony Defender Training
- February 21 – Current Developments in Criminal Law
- March 1 – Ramadan begins
- March 7 – NC Sentencing and Policy Advisory Commission Meeting
- March 6 – 7: Intensive Parent Defender Training
- March 7: Whiskey in the Courtroom
- March 14: Holi (Hindu) / Hola Mohalla (Sikh)
- March 31: Eid al-Fitr
- April 13-20: Passover
- April 18: Good Friday
- April 22 – 25: State Bar Council Meeting

- May 1 – 2: NCAJ Death Penalty Training
- May 7 – 9: Spring Public Defender Attorney & Investigator Conference
- May 16: Lag BaOmer (Jewish)
- May 23: start of Memorial Day weekend
- June 5 – 9: Hajj
- June 7 – 10: Eid al-Adha
- June 6: NC Sentencing and Policy Advisory Comm. Meeting; Summer Criminal Law Webinar
- June 18-21: NCAJ Annual Convention
- June 16 – 19: Judges’ Conferences
- June 27: Summer Civil Law Webinar
- July 4: Independence Day
- July 8 – 12 OR 15 – 19 (TBD): Trial School
- July 22 – 25: State Bar Council Meeting
- August 15: Feast of the Assumption (Catholic)
- August 29: start of Labor Day weekend
- September 12: NC Sentencing and Policy Advisory Commission Meeting
- October 3 – 4: Rosh Hashanah
- October 7 – 13: Sukkot
- October 14 – 16: OCD Retreat and training
- October 17: first day of Diwali
- October 21 – 24: State Bar Council Meeting
- November 11 – 13: Bridging the Gap
- November 21 – Presentation of Mary: (Eastern Orthodox Christian)
- November 27 – 30: Thanksgiving Holiday
- December 15 – 22: Hanukkah
- December 12: NC Sentencing and Policy Advisory Commission Meeting
- December 25 – January 1: Christmas, Kwanzaa

March Madness:

Men [2025 March Madness: Men's NCAA tournament schedule, dates | NCAA.com](#)

Women: [Women’s Final Four: Future dates & sites \(ncaa.com\)](#)

PROCEDURES FOR THE ELECTION OF
OFFICERS OF THE COMMISSION ON INDIGENT DEFENSE SERVICES

- I. During the regularly scheduled September meeting of the Commission on Indigent Defense Services every other calendar year, the members of the Commission shall elect a Chair and Vice-Chair to serve during the subsequent two year period.
- II. The Chair shall be elected first.
 - A. Any Commissioner present at the meeting may nominate a candidate from the floor.
 - B. All Commissioners present at the meeting are entitled to vote for one nominee. The nominee who receives a majority of votes cast shall be the next Chair.
 - C. If no nominee receives a majority of votes, there shall be a run-off election between the two candidates receiving the highest number of votes cast.
- III. Once the Chair has been elected, the Commissioners shall elect a Vice-Chair pursuant to the same procedure set forth in paragraphs II.A. through C.
- IV. In the event that a vacancy arises, at the next regularly scheduled Commission meeting, the members of the Commission shall elect a new Chair or Vice-Chair to serve throughout the remaining portion of the two-year term. Any such election shall be conducted in accordance with the procedures set forth in paragraphs II.A. through C.
- V. In the event that both the Chair and Vice-Chair are unable to attend a meeting, the Chair shall name a Commissioner to serve as Acting Chair for that meeting.

Adopted November 15, 2002. Amended March 12, 2004 and September 16, 2011.



MARY POLLARD

EXECUTIVE DIRECTOR
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OFFICE OF INDIGENT
DEFENSE SERVICES
SAFEGUARDING JUSTICE

NCIDS.org

DOROTHY HAIRSTON MITCHELL

CHAIR

MEMORANDUM

To: IDS Commission
Cc: Mary Pollard, Wendy C. Sotolongo
From: Whitney Fairbanks
Re: Planning for Parent Defender Appointment
Date: October 22, 2024

Introduction

Wendy intends to retire on April 30, 2025. As a result, the Commission will need to appoint her successor as close in time to April 30 as possible.

(Proposed) Recruitment Plan

Staff has worked with Wendy to prepare a job posting. Based on experience recruiting other Commission appointments, IDS staff recommends the process outlined in this memorandum.

Please note that the dates listed below are approximate:

1. On November 18, 2024, staff will post the job description in the following in-state locations:
 - a. The Office of State Personnel website;
 - b. The IDS website and all IDS listservs; and
 - c. The North Carolina Bar Association's Career Center.
2. By November 22, 2024, staff will post the job description to the following national listservs and/or share with the following professional organizations:
 - a. The American Bar Association's Child-Parents' Attorneys in Child Welfare listserv;
 - b. The American Bar Association's National Alliance for Parent Representation's distribution list;
 - c. The National Association of Public Defenders' listserv;
 - d. Disability Rights North Carolina;
 - e. Center for Children's Rights;
 - f. NC Association of Women Attorneys; and
 - g. NC Association of Black Lawyers.

Staff will forward the job description to other associations or listservs it identifies as appropriate while the job posting remains open.

3. The posting will give applicants 8 weeks to apply and require them to submit a cover letter explaining their vision for the office, as well as writing samples and references.
4. After the posting closes on January 15, 2025, Mary, Wendy, and Whitney will conduct an initial paper-based review of the applications and identify up to 5 top candidates.
5. On January 24, 2025, the complete applications submitted by the top 5 candidates will be sent to the Office of Parent Defender ("OPD") so the attorneys and staff can provide individual comments

about each candidate. Note that these materials will not be sent to internal OPD applicants, if any. OPD staff will have until January 31, 2025, to provide their written comments to the IDS Director. OPD staff comments will be confidential and shared only with the Commission.

6. IDS Staff will forward applications, OPD comments, and reference information for the top 5 candidates to the Personnel Committee by February 7, 2025.
7. The Personnel Committee will meet virtually no later than February 28 to agree on the top 2 to 3 candidates to refer to the full Commission.
8. The top 2 to 3 candidates selected by the Personnel Committee will be invited to attend a special meeting of the full Commission following the Personnel Committee meeting. At that meeting, the Commission will go into Executive Session to consider the appointment of the PD. The Chair of the Personnel Committee will brief the Commission about the top 2 to 3 candidates. Each candidate then will give a 10-to-15-minute presentation (including questions) to the full Commission on a topic related to the work of the OPD. The Commission will then deliberate and make a hiring decision.

(Proposed) Job Description

(Saved as:



**State of North Carolina
Parent Defender**

SALARY	\$54,369.00 - \$138,396.00 Annually	LOCATION	Wake County NC
JOB TYPE	Permanent Full-Time	JOB NUMBER	2024-12907
DEPARTMENT	Indigent Defense Services	DIVISION	Appellate Defender
OPENING DATE	10/14/2024	CLOSING DATE	10/27/2024 5:00 PM Eastern
JOB CLASS TITLE	Parent Defender	POSITION NUMBER	60002188
SECTION	Appellate Defender Division	WORK LOCATION	Wake County
SALARY GRADE	Flat Rated		

Description of Work



SALARY GRADE: Flat Rated

The Office of the Parent Defender (OPD) was created to provide and promote high-quality legal representation for parents with an abuse/neglect/dependency or termination of parental rights (AND/TPR) case at the trial or appellate level.

The Parent Defender is responsible for the assignment of appeals in AND/TPR cases, civil contempt cases, and **Chapter 35A proceedings** when the respondent/defendant is indigent. The assignments are to in-house assistant parent defenders or to qualified and trained roster attorneys. Responsibilities regarding evaluation and compensation of appellate counsel, standards for appellate representation, substitution of counsel, and removal from the appellate roster lie with the Parent Defender.

The Parent Defender works with the UNC School of Government, Court Improvement Program, and others to develop training programs and other resources to ensure that trial and appellate attorneys have the qualifications, training, and support they need to be effective. The Parent Defender is responsible for creating and maintaining a website and

briefbank, template motions and orders, research memos, and performance guidelines. The Parent Defender provides case consultations with trial and appellate attorneys in AND/TPR and contempt cases.

The Parent Defender is responsible for managing and expanding NC's Interdisciplinary Parent Representation (IPR) Program, which pairs experienced social workers with parent attorneys to enhance legal representation for parents involved in an AND case. Additionally, the Parent Defender is responsible for managing and expanding OPD's contract program to recruit and retain qualified attorneys by providing them with a simplified way of contracting and ensuring a monthly payment.

The Parent Defender collaborates with other state agencies and stakeholder groups around policy development, legislative proposals, and state-wide initiatives in AND/TPR cases to ensure the voice of the parents and their attorneys is represented.

The Parent Defender is also responsible for managing grant applications and funding opportunities to support the OPD's programs and initiatives. This includes researching potential grants, writing proposals, ensuring compliance with grant requirements, and managing grant-funded projects.

Other duties of this position include: supervising legal, program, and support staff; creating and updating needed office policies; recruiting and supervising law interns.

The Parent Defender is appointed by the Commission on Indigent Defense Services to serve a four-year term effective _____ and will serve at the pleasure of the IDS Commission.

Knowledge, Skills and Abilities / Competencies

Knowledge of: Federal, State, common and constitutional law; judicial procedures and rules of evidence; case, statutory, regulatory and common law; NC General Statutes to defend criminal cases; judicial and quasi-judicial procedures; and legal research methods.

Skills in: strong communication, writing, interviewing, and organization.

Ability to: analyze facts, laws, rules, regulations, interpretations, and related written documents and apply applicable law to those facts; conduct legal research; plan, develop and execute an effective litigation strategy to achieve desired results; prepare, organize and conduct witness examinations; deliver opening statements, closing arguments, and evidentiary objections; and express complex legal concepts and related facts in a clear and concise manner.

Minimum Education and Experience Requirements

Juris Doctor degree from an ABA accredited law school and an active license to practice law in North Carolina.

Attach cover letter and résumé.

Supplemental and Contact Information

Applicants must complete an on-line application by clicking the above APPLY link. Mailed or faxed applications will **not** be accepted.

Before applying, please read the [Online Employment Application Guide](#) for instructions on creating your profile and applying for specific postings.

It is important your application includes all of your relevant education and work experience and that you answer all questions associated with the application to receive proper credit. Résumés are not accepted in lieu of fully completed

applications.

NOTE Many job postings require certain documents be attached to an application. Verify your application is complete and uploaded documents are attached to your application before submitting it. Applications may not be altered after they have been submitted.

Carefully review the [FAQs](#) if you experience difficulty with the application process or attaching documents. For technical issues with applications or attachments, call the NeoGov Help Line at 855-524-5627.



All NC Judicial Branch agencies are Equal Opportunity Employers.

The North Carolina Judicial Branch participates in E-Verify, an internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from the US Department of Homeland Security and Social Security Administration records to confirm employment eligibility. To learn more, click on these links:

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[Right to](#) ([Download PDF reader](#)) [Work](#) ([Download PDF reader](#))

[Right](#) ([Download PDF reader](#)) [to Work \(Spanish\)](#) ([Download PDF reader](#))

Charmaine J. Leeks
NC Administrative Office of the Courts
Human Resources Division
<https://www.nccourts.gov/about/about-judicial-branch/careers>

Agency

State of North Carolina

Address

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MARY POLLARD
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OFFICE OF
INDIGENT DEFENSE SERVICES
STATE OF NORTH CAROLINA

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SUITE 400
DURHAM, N.C. 27701

DOROTHY HAIRSTON MITCHELL
CHAIR

ART F. BEELER
VICE CHAIR

Memo

To: IDS Commission
From: Mary Pollard
Re: Recommendation for Exceptional Relief from One-Year Fee Application Deadline:
Attorney W. Robert Denning, III.
Date: October 27, 2024

As you know, IDS Rule 1.9(a)(1a) provides that “[f]or all cases finally disposed at the trial level on or after July 1, 2005, final attorney fee applications must be signed by the appointed attorney and submitted to the trial judge within no more than one year after the date on which the case was finally disposed at the trial level...In accordance with policies and procedures approved by the IDS Commission, an attorney may apply to the IDS Director...for a waiver of the applicable deadline.” Under Rule 2A.4(a) the same deadline applies to submission to the IDS Director of a capital attorney fee application.

The Commission’s approved policy on waivers of the fee application deadline provides that, if an attorney did not submit a timely fee application, the attorney “may apply to the IDS Director for a waiver of the deadline and for approval of fees for attorney time...The request must be postmarked within 90 days after the one-year deadline passes. The waiver request must include a showing of good cause that prevented submission of the fee application within the one-year deadline. Unawareness of the one-year deadline due to attorney neglect shall not constitute good cause.”

Assuming good cause is found, the policy further provides that “[i]n determining the amount of the fee, the Director will:

- 1) review the amount of time claimed by the attorney and approve an appropriate amount of time based on the factors normally considered in fixing attorneys’ fees and any data available to the Director on the average time claimed in that type of case; and
- 2) multiply the hours approved by the standard hourly rate in effect at the time the work was performed; and
- 3) reduce the amount of the award . . . by up to 10% for each partial or full month that the original submission was past the deadline, but no more than 30%.”

A. Waiver Requests Received:

On October 25, 2024, IDS received a fee deadline waiver request from attorney W. Robert Denning, III.

1. *Kenneth Lamm, 18CRS057622*: This fee application claims 435.4 hours for work performed in a capital case in Johnston County that was disposed on October 08, 2022. At

the \$85.00-\$100.00 applicable hourly rates for capital work done between 2018-2022 full payment would amount to **\$41,604.00**. There are \$1,107.61 in billed expenses, however expenses are not eligible for payment under a fee deadline waiver.

With an October 08, 2022, disposition, the one-year deadline expired on October 08, 2023, the 90-day period that would authorize the IDS Director to decide this matter expired on January 06, 2024, the deadline waiver request was submitted on October 22, 2024, which is **1 year 0 months and 14 days past the deadline**.

Because the fee application was submitted more than one year and 90 days after the expiration of the deadline, I do not have authority to grant relief and award a fee. However, Section V. of the approved waiver policy provides that, “[u]pon recommendation of the IDS Director and a showing of exceptional circumstances, the IDS Commission may grant relief in addition to that specifically permitted under this policy.”

Pursuant to Section V. of the waiver policy, I am writing to recommend that the Commission grant relief to Mr. Denning.

B. Showing of Cause and Additional Information Gathered by Staff:

The showing of cause is that after nearly 35 years in practice with the firm of Lucas, Denning, and Ellerbe, P.A., in Selma NC, Mr. Denning’s law partner was forced to retire abruptly due to serious illness. The firm was abruptly sold, with the partners given 8 weeks to vacate and set up new practices. This required finding new space, execution of new leases, negotiation of new vendor contracts, implementing new computer and copier systems, performing new business registrations, and physical relocation, all while managing existing caseloads. For Mr. Denning the caseloads included 8 active murder cases, and one active murder trial. Mr. Denning performs a significant amount of work for indigent clients in appointed cases. Finally, this case resulted in a mistrial, and absent a conviction, there is no JATF/recoupment issue.

C. Director’s Recommendation:

The Commission may choose to accept or reject the waiver request and may impose a penalty of 10% for each month past the deadline, not to exceed 30%.

The options for the Commission are:

Full Payment	10% Penalty	20% Penalty	30% Penalty
\$41,604.00	\$37,443.60	\$33,283.20	\$29,122.80

Mr. Denning has shown good cause for this fee deadline waiver.

Pursuant to Section V. of the Commission’s fee deadline waiver policy, I recommend that the Commission approve exceptional relief in this case, granting the waiver with no penalty, for a payment of **\$41,604.00**.

II. IDS DIRECTOR'S APPROVAL OR DENIAL OF WAIVER APPLICATION

- The IDS Director hereby finds good cause for the late submission of the attached fee application, reduces the total award by _____%, and directs payment in the total amount shown below and on the attached fee application form; or

▶ **Total Payment Amount:**

- The IDS Director hereby finds no good cause for the late submission of the attached fee application and denies payment in full; or
- The attached fee application is no longer eligible for a waiver of the deadline under the applicable IDS policy because it was postmarked more than 90 days after the one-year deadline expired, and payment is denied in full.

<i>Date</i>	<i>IDS Director</i> Mary S. Pollard	<i>Signature of IDS Director</i>
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STATE OF NORTH CAROLINA In The General Court Of Justice
 JOHNSTON County District Superior Court Division
 Check Here If This Fee Application Covers Multiple Charges

Capital Charge File No. 18CR057622-500
 Additional File No(s).

Name And Address Of Indigent Defendant
 KENNETH LAMM

RECEIVED
 By Indigent Defense Services at 10:01 am, Oct 25, 2024

**CAPITAL CASE FEE APPLICATION
 ORDER FOR PAYMENT
 JUDGMENT AGAINST INDIGENT**

G.S. Ch. 7A, Art. 36, Art. 37; Ch. 15A

Indigent Defendant's Full Social Security No. - Only Complete If Judgment For Fees Has Been Entered (required by G.S. 7A-455(d))
 2 | 3 | 7 | - | 6 | 3 | - | 7 | 9 | 4 | 6 Has No Social Security No. Unable to obtain Social Security No. despite reasonable efforts

NOTE: Per G.S. 7A-455(d), the fee application must include the social security number (SSN) of a party against whom a judgment for attorney's or GAL's fees has been entered under G.S. 7A-450.1 - 450.3 or 7A-455 (or certify that the SSN cannot be obtained with reasonable efforts). These SSNs are expressly required by law and therefore exempt from filers' redaction requirements in G.S. 132-1.10(d). When filing electronically, select the "Public Not Portal" security setting so that unredacted fee applications are not available on Portal.

NOTE: Use this form for potentially capital cases at the provisional or trial level, and for capital appeals or post-conviction proceedings. INSTRUCTIONS: Applicant completes and signs Section I, and mails to: Office of Indigent Defense Services, 123 W. Main St., Suite 400, Durham, NC 27701. If this is an application for interim payment, the IDS Office will complete Section II and forward a copy of this form to the IDS Financial Services Office for payment. If this is an application for final payment, the IDS Office will complete Sections II and III, and forward the original form to the trial judge, and copies of the form to the defendant and the IDS Financial Services Office for payment. The trial judge then completes Sections IV and V. The Clerk docket the judgment(s).

I. APPLICATION

I, the undersigned, am private assigned counsel public defender capital defender appellate defender provisional counsel in this capital case, and make application for payment and reimbursement of necessary expenses incurred, or for determination of value of services rendered for the indigent. I certify that this information is complete and correct to the best of my knowledge.

NATURE OF PROCEEDING: Trial Stage (if checked, complete (a) below) Resentencing Only (if checked, complete (a) below)
 Direct Appeal (if checked, complete (b) below) Other: (specify) _____
 Motion for Appropriate Relief (MAR) (if checked, complete (c) below)

CASE STATUS/TYPE OF DISPOSITION: Complete ONLY the one section below applicable to the fees now being requested:

(a) Trial Court, Disposed by Trial, Dismissal or Guilty Plea: (check all that apply)
 Case Pending (Interim Fee) Jury Impaneled Jury Death Qualified
 Jury Verdict Mistrial Guilty Plea

(b) Capital Appeals:
 Case Pending (Interim Fee)
 No Error
 Guilt Affirmed, Resentencing
 New Trial (Conviction Reversed)
 Other: (specify) _____

RESULT:
 Death Sentence
 Life, 1st Degree Murder: Jury sentencing hearing? Yes No
 2nd Degree murder Vol. Manslaughter Invol. Manslaughter
 Acquitted Dismissed Not Guilty By Reason Of Insanity
 Guilty Other Offense(s): (list) _____
 Other Result: (explain) _____

(c) Post-Conviction Or Other:
 Case Pending (Interim Fee)
 MAR: Denied New Trial Resentencing
 Other: _____
 Certiorari Denied Certiorari Granted
 Other: (specify) _____

FINAL FEES ONLY: Disposition Date 10/08/2022 Name Of Presiding Judge William A. Wood, II Check here if you were appointed to represent this defendant in another case(s) at the time of the appointment to this case(s) and you already submitted a fee application for that case(s) in which the attorney appointment fee was charged.

IF ATTORNEY IS WITHDRAWING, indicate reason: Applicant was assistant counsel, case no longer capital Conflict of Interest
 Defendant retained private counsel Other: (specify) _____

COMPLETE FOR THIS FEE: <input checked="" type="checkbox"/> Check here to indicate you have attached detailed time sheets. See Sec. 10.1 of S.L. 2020-83. (Time must be reported in decimals, not minutes.)	Beginning Date This Fee Request	Ending Date This Fee Request	Prior Total Fees And Expenses Allowed	Prior Total Hours Allowed
	12/14/2018	10/08/2022	\$ 0.00	0.00
	Time In Court	Time In Court Waiting	Time Out Of Court	Total Time Claimed This Fee
	2 1 5 . 6 0	0 0 0 . 0 0	2 1 9 . 8 0	4 3 5 . 4 0
	Travel \$ 290.50	Copying \$ 567.00	Other \$ 250.11 470.11	Total Necessary Expenses This Fee \$ 1107.61 1,327.61

NOTE: In assigned counsel cases, the applicant is always the individual attorney. If payment is to be made to individual applicant, write "same" under Payee. If payment is to be made to applicant's firm, give firm name as Payee. Per United States tax law and State policy, the Payee must have a State of North Carolina Substitute W-9 Form on file with IDS Fiscal Services, PO Box 2448, Raleigh, NC 27602. See www.osc.nc.gov/state-north-carolina-sub-w-9. Failure to provide this form could prevent or delay payment or require the State to withhold 24% for backup withholding tax.

Name Of Applicant LAW OFFICE OF ROBERT DENNING Applicant Bar No. 10851 Address LAW OFFICE OF ROBERT DENNING P.O BOX 1106; 118 S. SECOND ST. SMITHFIELD, NC 27577
 Payee (see Note) ROBERT DENNING, III **Please see NOTES page 3** Date 10/22/2024 Signature Of Applicant
 Telephone No. 919-934-4944 Email Address AMY@BOBDENNINGLAW.COM

II. AWARD OF PAYMENT OR DETERMINATION OF VALUE OF SERVICES

The IDS Director FINDS that the "Total Amount" stated on Line 3 below be:
 1. paid by the State of North Carolina to the payee named above.
 2. fixed as the value of the legal services and other expenses of representation rendered by the public defender, capital defender, or appellate defender named above.

1. Fees Allowed/Value Of Services Rendered	\$ 41,604.00
2. Other Necessary Expenses Allowed By The IDS Director	\$ 1,107.61
3. TOTAL AMOUNT	\$ 42,711.61

Date	IDS Director Mary S. Pollard	Signature Of IDS Director
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III. SUM OF ATTORNEY AND SUPPORT SERVICE FEES AND EXPENSES

NOTE: The Office of Indigent Defense Services completes this section.

A. Attorney Fees And Necessary Expenses:
SUBTOTAL A (sum of all attorney fees and expenses paid to this attorney, on this and all prior applications) \$

B. Support Services Fees And Expenses: (sum of ALL amounts incurred throughout the case)

1. Provisional counsel	\$	4. Mitigation, investigation	\$
2. Psychiatrists, psychologists	\$	5. Scientists, forensics, DNA	\$
3. Medical doctors	\$	6. Sum of all other	\$

SUBTOTAL B (sum of all support services/expert fees and expenses) \$

GRAND TOTAL A + B (attorney fees and expenses, and support services/experts) \$

IV. FINDINGS OF FACT AND JUDGMENTS

After due notice to the defendant named on the reverse, and opportunity to be heard, the Court finds that the defendant has previously been adjudged to be indigent; that he/she requested and has been provided counsel and other necessary expenses of representation; and that the applicant named on the reverse provided services and incurred expenses of which the money value is that stated in Section III above as to all attorney fees and expenses plus costs for support services and experts incurred in the course of the representation.

NOTE: After award of a final fee, the trial court should sign Section V to enter judgments against the defendant for the full GRAND TOTAL in Section III plus the attorney appointment fee. To enter judgments for a different amount, the trial court must fill in the appropriate blanks below.

JUDGMENT #1 (Attorney Fees and Expenses) Based on the above findings, it is ORDERED that the State of North Carolina recover from the indigent defendant the GRAND TOTAL in Section III above, together with interest at the legal rate from the date the judgment is docketed until paid, **UNLESS** one of the following boxes is checked:

- 1. The defendant was not convicted of a criminal offense and no judgment for attorney fees and expenses shall be entered; or
- 2. Other: _____

JUDGMENT #2 (Attorney Appointment Fee) It is further ORDERED that the State of North Carolina recover from the indigent defendant the attorney appointment fee pursuant to G.S. 7A-455.1, which shall be \$50 for convictions prior to October 1, 2010, \$60 for convictions between October 1, 2010 and November 30, 2020, and \$75 for convictions on or after December 1, 2020, **UNLESS** one of the following boxes is checked:

- 1. The defendant was not convicted of a criminal offense and no judgment for the attorney appointment fee shall be entered; or
- 2. The attorney named on the reverse was appointed to represent the defendant in another case(s) at the time of the appointment to this case(s), and he or she already submitted a fee application for that case(s) in which the attorney appointment fee was charged (see Section I, "Final Fees Only," on the reverse).

V. SIGNATURE OF JUDGE

The foregoing AWARD OF PAYMENT OR DETERMINATION OF VALUE OF SERVICES, as made by the Director of Indigent Defense Services, shall be entered and filed this day in the office of the Clerk of Superior Court. The FINDINGS and JUDGMENTS of the Court shall be entered and filed this day in the office of the Clerk of Superior Court. The Judgments shall become effective as provided by law.

Date	Name Of Judge (type or print)	Signature Of Judge
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VI. DOCKETING - CSC USE ONLY

NOTE: Docket any judgments immediately on the date on which the defendant's conviction becomes final, unless the defendant is ordered as a condition of supervised or unsupervised probation to pay the State for the costs of his/her representation. If the defendant is so ordered, docket any judgments immediately on the date the defendant's probation is revoked or terminated by the Court, or when the term of probation expires, whichever occurs first; then docket the amounts owed.

Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Judgment #1 Judgment Abstract No.	Amount Docketed \$
		Judgment #2 Judgment Abstract No.	Amount Docketed \$

NOTE TO CLERK: If Judgment #2 has been ordered by the Court, docket \$50 if the Disposition Date on Side One is before October 1, 2010, docket \$60 if the Disposition Date on Side One is on or after October 1, 2010 and prior to December 1, 2020, and docket \$75 if the Disposition Date on Side One is on or after December 1, 2020.

Labor

Jury Trial	Description	Labor Hours Claimed	Labor Hours Paid	Hourly Rate	Subtotal
▶ Non-Trial	85 rate	41.50	41.50	85.00	3,527.50
Non-Trial	75 rate	45.10	45.10	75.00	3,382.50
Non-Trial	80 rate	9.30	9.30	80.00	744.00
Non-Trial	100 rate	339.50	339.50	100.00	33,950.00
* Non-Trial				0.00	
Totals:		435.40	435.40		41,604.00

Submitted By: ▼

Defendant:

Expense	Quantity		Requested	Awarded
Mileage:	581.00	miles x 0.500 / Mile	290.50	290.50
Hotel:	0	nights x 89.10 / Night	0.00	0.00
Hotel Tax:	0.00		0.00	0.00
Meals:	0	nights x 46.50 / Night	0.00	0.00
Copies:	5,670	pages x 0.10 / Page	567.00	567.00
Paralegal Hours:	14.80	hours x 15.00 / Hour	222.00	222.00
Long Distance:			0.00	0.00
Postage:			17.11	17.11
Parking:			0.00	0.00
Other:	CDs/DVDs, Marshall Investigative Agency		231.00	11.00
Expense Total:			1327.61	1107.61

Paralegal/Intern Prior Expenses in Case

Prior Paralegal Expenses

Prior Intern Expenses

Attorney Information

Prior Total Fees and Expenses

Prior Total Hours Paid

Excel spreadsheet for hours. Waiver to the Commission.

NOTES:

Work completed after 9/6/2019, when the case was declared non-capital at a Rule 24 hearing, is paid at \$75.00 per hour.

Work completed on or after 3/1/2021 is paid at \$80.00 per hour.

Work completed on or after 1/1/2022 is paid at \$100.00 per hour.

No receipt provided for Marshall Investigation Agency. Investigative services must be pre-approved by the Office of the Capital Defender (-\$220.00).

Labor Award:	41,604.00
Total Award:	42,711.61

Expert Information

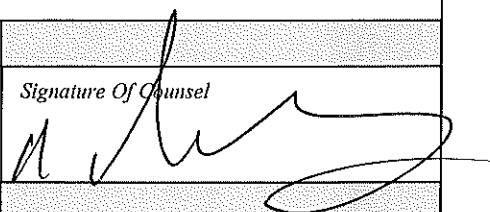
Total Funds Auth at IDS Rcd Date:

Amount Prior Paid

Total Paid (Including this One)

Funds Remaining After This Award



STATE OF NORTH CAROLINA JOHNSTON County		Form IDS-037 File Nos. 18CR057622-500	(Rev. 10/17)
Name Of Indigent Defendant KENNETH LAMM		CASE STATUS FEE APPLICATION ADDENDUM POTENTIALLY CAPITAL CASES AT THE TRIAL LEVEL WARRANT SERVED ON OR AFTER JANUARY 1, 2011 IDS Policy, "Hourly Pay Rates for Appointed Counsel in Potentially Capital Cases at the Trial Level"	
INSTRUCTIONS: Private appointed counsel who represent a defendant in a potentially capital case at the trial level where the warrant was served on or after January 1, 2011 or the attorney was appointed on or after May 2, 2011 must complete this form and attach it to any AOC-CR-425 fee application that is submitted to the IDS Office. If counsel fails to attach this form to a fee application in any such case, the fee application will be returned to counsel unpaid.			
I. FEE APPLICATION INFORMATION			
Name Of Counsel W. ROBERT DENNING		Name Of Co-Counsel (if applicable)	
Start Date Work THIS Fee Request 12/14/18		End Date Work THIS Fee Request 10/8/22	
II. STATUS OF CASE			
Date Warrant Served 12/12/2018		Date Attorney Appointed 12/14/2018	
Status Of Case (during time period covered by this fee application) (check all that apply)			
<input type="checkbox"/> Proceeded Potentially Capital: The assigned prosecutor has not yet decided whether the case will proceed capitally or non-capitally and 12 months have not passed since the warrant was served.			
<input type="checkbox"/> Proceeded Capital: The case was formally declared capital at a Rule 24 hearing on (insert exact date) _____.			
<input checked="" type="checkbox"/> Proceeded Non-Capital:			
<input type="checkbox"/> The assigned prosecutor communicated to the undersigned counsel that the case will not be prosecuted capitally on (insert exact date) _____.			
<input checked="" type="checkbox"/> There was a formal declaration in open court or at a Rule 24 hearing that the case will not be prosecuted capitally on (insert exact date) 09/16/2019 9/7/2019 per IDS database			
<input type="checkbox"/> 12 months have passed since the warrant was served and the court has not conducted a Rule 24 hearing.			
NOTE: If jury selection in a trial begins with appointed counsel being paid at the proceeded capital hourly rate, counsel's services throughout the trial shall continue to be compensated at that rate regardless of any change in the status of the capital nature of the trial.			
III. ATTACHMENTS			
Attachments (check all that apply)			
<input type="checkbox"/> Some or all of the time covered by this fee application was incurred while the case was proceeding non-capital, but the undersigned attorney hereby requests that the IDS Director find good cause to treat that time as proceeding potentially capital for compensation purposes. A written explanation for this request is attached.			
<input type="checkbox"/> Undersigned counsel believes this is an unusually complex and time-consuming case. To assist the IDS Director in evaluating the reasonableness of the time claimed, additional information is attached (e.g., a description of the case and the State's evidence, a description of the discovery, a description of complex factual or legal issues, or a list of atypical motions).			
IV. CERTIFICATION			
Date 10/21/24	I, the undersigned attorney, make application for payment of services and reimbursement of necessary expenses incurred. I certify that the above information is complete and correct to the best of my knowledge.		Signature Of Counsel 
V. IDS OFFICE USE ONLY			

Date	Description	Time
12/14/18	First meeting with client at the jail	1.80
12/17/18	Phone conversation with Dr. Hilkie re: working on this case	0.30
12/17/18	Meeting with paralegal to go over case; Letter to Defendant's mom and girlfriend	0.60
12/19/18	Visited client at the jail	1.60
1/3/19	Met with client	1.00
1/4/19	Phone call with defendant's mother	0.60
1/5/19	Review Discovery to date	4.00
1/11/19	Travel to Smithfield to meet with Bob Boykin; meeting with Boykin	0.70
1/14/19	Letter to boykin and hilkey - engagement; Arrainment request; req. for discovery; motion to preserve all evidence; recordation; compel discovery	1.40
1/16/19	consent order to return garage door opener	0.40
1/28/19	Drafted Motion to Compel Discovery	0.20
3/13/19	Discovery reviews; conf with client re: cell phone Conf with Enusta R:e:phone	3.20
3/16/19	Travel to wilson Jail to go to scene - Ride 5 varias crime scene two locations	4.20
3/19/19	Request funds for Envista Forensics	0.20
3/19/19	Print and review all paper discovery received	6.30
3/20/19	affidavit in support of motion to examine; mtn to inspect evidence; order to preseverve evidence	0.60
3/21/19	Ltr to clt re: upcoming court date	0.20
4/8/19	Order Recordation (recovered)	0.20
4/11/19	Met with ADA, Paul Jackson and Officer Blane Hickers re: phone testing	0.80
4/12/19	Order to examine, inspect evidence	0.30
4/18/19	demand to confront witness	0.20
5/23/19	Ltr to clt re: upcoming court date; Mtn to compel discovery	0.40
7/1/19	Mtn for Bond Reduction	0.20
7/5/19	Jail visit	1.20
7/15/19	Preparation of Cunnigham Motion and Mtn to Compel complete file of ME	0.50
8/13/19	Met with client at jail	1.20
9/3/19	Conf. with Boykin; Requested additional funds for Bob Boykin	1.20
9/4/19	Review of materials, talk with client, met with defendant's mother	1.10
9/6/19	Outcome of Rule 24 form; affidavit in support of cunningham 2	0.80
9/13/19	Drafted Order for complete file of ME	0.60
9/20/19	Conference with ADA	1.10
9/24/19	Order on Mtn to compel complete Med Record	0.50
11/21/19	Ltr to clt re: upcoming court date	0.20
12/18/19	Met with client at jail	1.40

\$85/hr

\$75/hr

Date	Description	Time
12/30/19	Print, review and organize discovery	3.60
1/3/20	Ltr to Paul Jackson re: missing complete file of ME	0.40
1/13/20	Order for NCDPS; DAC Records	0.70
2/12/20	conf with client	1.40
3/21/20	reviw of discovery	3.10
3/23/20	Motion for Bond Reduction	0.20
3/25/20	Discuss ME expert with paralegal;email ME expert	0.40
3/26/20	Mtn to compel statements of defendant	0.20
3/30/20	Reqd funds for Dr. Roberts; mtn to compel med. Rec of decedent	0.40
5/29/20	conf with clietn	1.90
6/4/20	meeting with client	1.40
6/11/20	Burned copies of DVDs to send to ME expert;ltr to ME expert;Burned officer statements to CD for ME expert	2.10
6/15/20	Drafted Ex Parte Motion, Affidavit & Order for prison records; affidacit Re: client prison records	1.30
6/22/20	Motion to reveal the deal	0.20
7/16/20	Homicide status meeting with judge	1.10
7/18/20	404-B research	4.50
7/24/20	Completion of Trial Date Form to IDS	0.20
9/3/20	letter to combined records	0.20
10/19/20	review discovery organize file; complete research	4.70
10/20/20	404-B research	3.50
12/23/20	Met with client at the jail	0.60
1/2/21	visit with client	4.20
3/22/21	New discovery printed and reviewed; Letter to transcriptionest with 3 interviews	2.30
3/26/21	Visit to Wayne Co jail to see client;client moved to Wayne Co	2.80
5/3/22	Mtn to dismiss; 404-B prior bad acts; Brady Bagley Mtn; Def. Prior records	0.40
5/5/22	Drafted mtn and affidavit for Local Confinement	0.40
5/6/22	Visit to Wayne Co jail	3.50
5/9/21	Review discovery	3.70
5/12/22	Mtn. to compel bench note ME	0.20
5/13/22	Compiled witness statement notebook and Officer's statement notebook for trial	6.10
5/16/22	Compiled Lab report notebook, Crime Scene notebook, Search Warrant notebook for trial	6.40
5/17/22	Compiled Motions notebook for trial	4.50
5/21/22	Worked on preparing for trial;traveled to Wayne Co to see client;Met with client	6.10
5/24/22	Drafted Mtn in Limine re: photos and videos	0.40

\$80/hr

\$100/hr

Date	Description	Time
5/24/22	Travel to Winston Salem to meet with expert Dr. Kristina Roberts, MD	7.50
5/25/22	Emailed two interviews of defendant to Dr. Roberts; burned third interview of defendant and mailed out; mtn in Limine Photos; Mtn in Limine Shadow of Doubt; Mtn to disclose states witness statement	1.50
5/26/22	Phone conference with Dr. Kelly at ME office	0.60
5/27/22	Reqd addtl funds for Dr. Roberts	0.20
5/31/22	Drafted Motion and Order to Continue Trial	0.30
7/24/22	trial prep	6.40
7/28/02	Mtn to suppress search warrant on Toyota Highlander	1.20
8/6/22	conf with	2.30
8/10/22	Phone conferences with Bill Gerrans and Terry Alford	3.60
8/11/22	Mtn to inspect evidence	0.20
8/12/22	More conferences with Bill Gerrans, Jack O'Hale and Terry Alford re: plea vs. trial	3.20
8/15/22	Go through photos; trial prep	8.70
8/19/22	Wayne co to meet with client; trial prep	5.10
8/21/22	Travel to Wayne Co to meet with client; worked in office preparing for trial	6.60
8/22/22	Met with Bob Boykin for trial prep	7.70
8/25/22	Drafted Mtn and Order #2 to Test & Examine Defendant phone	0.40
8/31/22	Completed Application for Exceptional Designation	0.60
9/1/22	Email and phone communication with Jake Green at Envista re: cell phone	0.50
9/1/22	Reqd addtl funds for Envista	0.20
9/2/22	Completion of Trial Date Form to IDS (new trial date)	0.20
9/2/22	Prep Affidavit in support of mtn to suppress, mtn to compel identity of State's expert witness, Mtn to produce interviews	2.40
9/3/22	trial prep	9.70
9/4/22	Trial prep; 404 Research; Felony Murder research	8.50
9/6/22	Affidavit re: the need to produce interviews of witnesses; mtn to produce interviews of witness	0.50
9/7/22	Reqd addtl funds for Bob Boykin; affidavit Re: the need to test cell phone	0.60
9/8/22	Drafted Mtn in Limine re: victim, Mtn in Limine re: Registered sex offender, Mtn in Limine re: Stmt of Defendant	1.00
9/10/22	Mtn sequester states witness; mtn in limine prison; prep. motions notebooks; motion in limine sexual activity; Order on Motion to examine, test defendant cell phone 2; trial prep	10.30

Date	Description	Time
9/11/22	Copies of defendant's three interviews for trial; Prep and research for Jury questionnaire; mtn to distribute questionare to jury	1.20
9/15/22	Req addtl funds for Envista	0.20
9/17/22	Work-review jury trial prep	5.50
9/23/22	Copies of caselaw (404B) for trial	1.10
10/3/22	Outcome of Case Report	0.60
10/4/22	Clean up and reorganization of entire file and notebooks after trial	4.40
10/8/22`	Organize File - FOR NEXT TRIAL	4.50
	total out of Court	219.80

Date	Description	Time
1/3/19	Court date	0.60
3/4/19	Court date	0.60
4/1/19	Court date	0.60
6/3/19	Court date	0.60
6/21/19	court date	0.60
7/1/19	Court date	0.60
7/2/19	Court to hear motions	1.10
9/3/19	Court date	0.60
9/6/19	Court date; Rule 24 hearing	0.80
9/12/19	Court date	0.60
10/7/19	Court date	0.60
12/2/19	Court date	0.80
1/6/20	Court date	0.60
2/3/20	Court date	0.60
3/2/20	Court date	0.60
1/4/21	Court date	0.60
2/1/21	Court date	0.60
4/5/21	Court date	0.60
5/3/21	Court date	0.60
7/6/21	Court date	0.60
8/2/21	Court date	0.60
9/7/21	Court date	0.60
11/1/21	Court date	0.60
12/6/21	Court date	0.60
1/4/22	Court date	0.60
2/7/22	Court date	0.60
3/7/22	Court date	0.60
5/2/22	Court date	0.60
7/5/22	Court date	0.60
9/12/22	TRIAL& prep for next day	18.40
9/13/22	TRIAL& prep for next day	18.90
9/14/22	TRIAL & prep for next day	19.20
9/15/22	TRIAL & prep for next day	18.10
9/16/22	TRIAL	8.00
9/19/22	TRIAL & prep for next day	18.40
9/20/22	TRIAL & prep for next day	18.10
9/21/22	TRIAL & prep for next day	18.70
9/22/22	TRIAL & prep for next day	18.10
9/23/22	TRIAL	8.00
9/26/22	TRIAL & prep for next day	17.40
9/27/22	TRIAL	8.00
9/28/22	TRIAL	8.00
	TOTAL in court	215.60

Paralegal Time

KENNETH LAMM
JOHNSTON COUNTY MURDER
18 CRS 57622;21 CRS 318

Date	Description	Time	
12/17/18	Meeting with Bob to go over case	0.40	
12/17/18	Ltrs to family of defendant, pretrial case form, requested funds for Hilkey, set up file	1.10	
01/04/19	Requested funds for Bob Boykin	0.30	
01/14/19	Drafted: Engagement letter for Bob Boykin, Engagment letter for Dr.	1.80	
1/16/2019	Drafted Order to Return seized property (garage door opener) to Barbara Allen	0.3	
1/17/2019	Scanned and emailed search warrant for DNA to Bob Boykin; researched and	2.1	
5/15/2019	Reqd funds for Jackie Wells	0.2	
8/21/2019	Ltr to clt re: upcoming court date	0.2	
9/20/2019	Ltr to clt re: upcoming court date	0.2	
1/2/2020	Demand to confront on labs	0.1	
3/25/2020	Discuss ME expert with Bob;Email ME expert	0.4	
3/26/2020	Drafted Mtn to Compel Stmt of Def	0.3	
4/23/2020	Copied medical records of vicitim for defendant expert MD to review; emailed	1.1	
5/22/2020	Printed new discovery	0.4	
6/22/2020	Prep and file Mtn to Reveal Deal	0.3	
9/3/2020	Ltr to Combined Records with Ex Parte Order for prison records	0.2	
9/10/2020	Copies all discovery for client	1.3	
3/22/2021	Copied 3 DVD discs and mailed to transcriptionist to transcribe the	1.6	
5/3/2022	Cleaned up and organized file in preparation for trial	1.5	
5/6/2022	Printed transcribed interviews of defendant	0.4	
9/20/22	Communicate with Jake Green of Envista re: defendant phone	0.60	

14.8 hrs

TRAVEL EXPENSES				
3/16/2019	Travel to Wilsonto go to various ways to scene	\$0.50	77	\$38.50
3/26/2021	Visit Wayne Co jail to see client;he was moved to Wayne Co	\$0.50	44	\$22.00
5/6/2022	Visit Wayne Co jail to see client;he was moved to Wayne Co	\$0.50	44	\$22.00
5/21/2022	Traveled to Wayne Co to see client	\$0.50	44	\$22.00
5/24/2022	Traveled to Winston Salem to meet with Dr. Kristina Roberts, MD	\$0.50	284	\$142.00
8/19/2022	Travel to Wayne Co to see client	\$0.50	44	\$22.00
8/21/2022	Travel to Wayne Co to see client	\$0.50	44	\$22.00
	TOTAL:			\$290.50
	OTHER EXPENSES:			
*See Attached	Paralegal Time (max of 15 hrs)	\$15.00	14.8	\$222.00
	TOTAL "OTHER" EXPENSES			
			copies	
	DVDs	\$1.00	10	\$10.00
	CDs	\$1.00	1	\$1.00
	Postage to mail discovery to ME expert			\$4.65
	Postage to mail exparte order to combinded records for prison records;certified mail required			\$7.05
	Postage to mail ltr and dvds to transcriptionist			\$0.91
5/25/2022	Postage to mail ltr to Dr. Roberts with third interview of Defendant			\$4.50
9/23/2022	Adapters for computer during trial @80.41 revoed from invoice			
9/26/2022	Service of subpoenas on witnesses during trial; Marshburn's Investigation Agency			\$220.00
	TRAVEL EXP			\$290.50
	PARALEGAL TIME			\$222.00
				\$248.11
	Total travel and "other"			\$470.11

Reference: 20001232733900:20001232733900:20000634466899

LUCAS, BRYANT, DENNING, & EDWARDS P. A.
 ATTORNEYS AT LAW
 CRIMINAL CLIENT COST ACCOUNT
 P. O. BOX 309
 SELMA, NC 27576

2673
 66-112/531

DATE September 26, 2022

PAY TO THE ORDER OF Marshburn's Investigation Agency \$ 200.00
Two Hundred Twenty Dollars 200/100 DOLLARS

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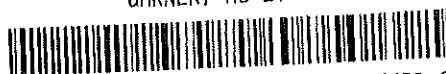
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6473498	NS-PCHDHD6	24.99
	6FT HDMI CABLE	
	Sales Tax	1.81
6483537	NS-PA3UHD	49.99
	USB 3.0 TO HDMI ADAPTER	
	Sales Tax	3.62

Subtotal	74.98
Sales Tax	5.43

=====
Total 80.41

*****3469 USD\$ 80.41

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