



**Report of the Commission on Indigent Defense Services to the
Chairs of the Senate and House Appropriations Subcommittees on
Justice and Public Safety:**

Indigent Defense Services Fee Transparency

Submitted Pursuant to Session Law 2014-100, § 18A.1

September 26, 2014

Session Law 2014-100, § 18A.1 requires the Office of Indigent Defense Services to make certain information from attorney fee applications available online. The special provision further provides that the data should be searchable and updated at least biweekly. The full special provision is set forth below.

INDIGENT DEFENSE SERVICES FEE TRANSPARENCY

SECTION 18A.1. The Office of Indigent Defense Services, in consultation and cooperation with the Office of the State Controller and the Office of State Budget and Management, shall develop and implement a plan for making certain information contained in fee applications by attorneys publicly available online. The plan shall provide for online access to the following information with respect to each fee application filed: the name of the attorney filing the application, the case number and the county, the class of the highest charge against the defendant, an indication as to whether there are multiple charges against the defendant, the judge who approved the fee application, the amount paid to the attorney through the application, and the date of that payment. In the case of fee applications that cover work paid by the session rather than by the case, the plan shall provide for identification of those applications by session. The plan shall require (i) the information to be updated at least biweekly, (ii) the information to be searchable, and (iii) all information regarding capital cases to be clearly labeled as such. The Office of Indigent Defense Services shall report on its progress in developing this plan to the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by October 1, 2014. Nothing in this section shall be construed to require the disclosure of information otherwise protected as confidential under State or federal law.

Source of Data

Because of IDS's limited resources, our intent is to use data that is already keyed into the North Carolina Accounting System (NCAS) to comply with this mandate. In addition, because the fee application forms are already complex, we want to avoid adding significantly to the attorneys' reporting requirements. The Office of State Controller (OSC) has agreed to develop a program in one of their standard applications (Information Expert) that will extract certain fields from our NCAS data and send the data to the Systemware web-based application. IDS staff will then download the data from Systemware and generate an Excel spreadsheet that can be searched and sorted. (An example of the spreadsheet is attached to this report as Appendix A.)

All of the data required by § 18A.1 are already keyed into NCAS as part of IDS's payment procedures, with the exception of an indication of multiple charges. While attorneys list multiple file numbers when applicable, only one case number is keyed and there is no existing requirement that attorneys indicate if there were multiple charges within a single file number, as is the charging practice in many jurisdictions. IDS will work with the Administrative Office of the Courts to modify the fee application forms in order to allow a Yes/No indication of whether a specific fee application covers multiple charges. We expect this modification to be approved and implemented by December 2014. IDS will have to rely on the attorneys to be accurate in this indication because we are not in a position to audit their entries. In addition, fee applications that are missing the

indication will have to be returned for completion, unless the fee application lists multiple file numbers so that IDS staff can complete the field.

Per the special provision, data will only be reported for criminal case fee applications submitted by assigned counsel. While the provision directs IDS to provide online access to certain information with respect to each fee application filed, much of the language in the special provision appears directed at criminal cases—*i.e.*, the class of the highest charge against the defendant and an indication as to whether there are multiple charges against the defendant—rather than the civil cases that IDS funds. In addition, most if not all information from civil cases that are funded through IDS, such as civil commitment and delinquency cases, is confidential under State or federal law.

Optional Additions to Reported Data

While the special provision does not require data on either the duration or the disposition of cases, IDS has decided to include that data because the length of a case and whether it involved a trial are often significant in terms of the size of the awarded fee. IDS already keys the date of first client interview in 29 counties to generate sample data for research on one aspect of quality representation, and will begin keying that data in all counties. In addition, IDS already keys the date of disposition. Using the combination of first client interview date as a proxy for the beginning date of work on a case and the disposition date, IDS will include a calculated field in the Excel spreadsheet that provides the number of days or months that the case was pending. If attorneys omit the first client interview date and we do not need it for auditing purposes, the data will be posted with that field blank. IDS also decided to include our standard disposition codes (*e.g.*, trial, plea, or dismissal) and to add an indication for each payment in capital-related cases (*i.e.*, potentially capital trial, capital post-conviction, and capital appeal) about whether the payment was an interim or a final payment.

Workload Impact

Because the special provision requires biweekly updates, IDS needs to develop an efficient procedure. We explored using the Office of State Budget and Management's website (Open Book), which posts contract data online, but they only update their postings every few months so that would not comply with the special provision. Currently, our plan is as follows:

1. Data will be keyed into NCAS from fee applications pursuant to existing procedures, with the addition of an indication of multiple charges and the expansion of first client interview date to all counties. This will have some impact on the time involved in keying each fee application. Currently, IDS has 4.5 staff who primarily process fee applications. Last year, we processed around 200,000 attorney fee applications with each one taking approximately one minute and 45 seconds to key.
2. Biweekly, one of the financial services staff will submit the Information Expert report and download the Excel spreadsheet. The same staff person will format the spreadsheet so that it is searchable, clearly labels capital cases and per session payments, etc. This will probably involve about 45 minutes of work every other week.
3. IDS's Office Manager will load the file to the IDS website biweekly, overwriting the prior report. The intent is to have a single report posted at any time, dating back to the initial posting. If the file size becomes unwieldy, we will investigate other options.

4. A glossary will be provided to translate codes from NCAS.
5. While members of the public will be able to download the file from our website for their own purposes, IDS is not in a position to offer additional assistance to viewers as they try to download or analyze the data. However, we intend to ask users to provide basic contact information so that we are in the best position to ensure that the information and format meets their needs.
6. IDS will notify attorneys that the payment data will become public.

Proposed Timeline

1. OSC is in the process of finalizing the specs for the new report, at which point it will be assigned to a programmer. They anticipate the report being operational sometime in November 2014.
2. IDS will then test OSC's report, develop a protocol for cleaning the data, and test the posting of the data on our website.
3. IDS has asked AOC to revise the fee application forms to include a checkbox for attorneys to indicate whether a given fee application covers multiple charges, and AOC is in the process of making those changes. IDS expects the revised forms to be available to attorneys by December 2014.
4. Data should be available to the public around January 1, 2015.

APPENDIX A

Required Field	Required Field	Required Field	Required Field	Required Field	Required Field	Required Field	IDS Added Field	Required Field	IDS Added Field	Required Field	Required Field	Required Field	IDS Added Field
County	File #	Per Session Fee?	Highest Charge	Atty Last Name	Atty First Name	Amount Paid	Disposition or End Date	Date Paid	Length of Time Case Pending (in days)	Multiple Charges	Account Title	Judge	Disposition
Alamance	14CRS 5645		Misdemeanor	Simpson	Homer	\$165.00	5/20/2014	7/3/2014	23	No	District Ct	Allen	GBL
Mecklenburg	59081114WCS	W	Probation Violation	Short	Carl	\$880.00	5/2/2014	6/3/2014	45	Yes	District Ct	Trosch	n/a
Hoke	11CRS2333		Class A Felony	Smith	Bill	\$12,345.00	2/1/2014	2/25/2014	322	Yes	Potentially Capital Trial	Maher	I
Glossary:	File # for session payments indicates date, county, length, and attorney. The # above is: 59=Mecklenburg 081114=08/11/14 W=whole day CS=Carl Short	A=morning P=afternoon W=whole day X= other					End date is ending date for time claimed on that fee application if not a final		Calculated field based on date of first client interview (as proxy for start of case) and disposition date	May be multiple file numbers or multiple charges in one file number; self reported once added to fee app forms		Fees approved by IDS indicate Maher or Carman	GBS=plea highest charge GB=plea lesser charge TA=trial acquitted DWL=dismissed with leave