

ANNUAL REPORT
OF THE
COMMISSION ON INDIGENT DEFENSE SERVICES
JULY 1, 2020 – JUNE 30, 2021

Submitted to the North Carolina General Assembly
Pursuant to G.S. 7A-498.9
On

03 | 15 | 2022

Contents

| | |
|--|----|
| The Commission on Indigent Defense Services | 2 |
| Indigent Defense Services Central Staff..... | 3 |
| Indigent Defense Services Organizational Structure | 4 |
| Legislative Requests | 5 |
| 1. Expand Regional Defender Program..... | 5 |
| 2. Fund IT Needs..... | 5 |
| 3. Expand Local Public Defender Programs..... | 6 |
| 4. Targeted Staffing Increases..... | 6 |
| Actions to Improve Cost-Effectiveness and Quality of Indigent Defense Services | 6 |
| 1. Contract Services Overhaul..... | 7 |
| 2. Expanded Grant Funding..... | 7 |
| 3. Cost Control Measures..... | 7 |
| 4. Mitigating the Impact of Covid-19 | 8 |
| Volume and Cost of Cases Handled by Assigned Counsel or Public Defenders..... | 8 |
| Indigent Defense Services Administration | 11 |
| Recoupment & Revenue Collection | 13 |
| Plans for Changes in Rules, Standards, or Regulations | 14 |
| Conclusion..... | 15 |

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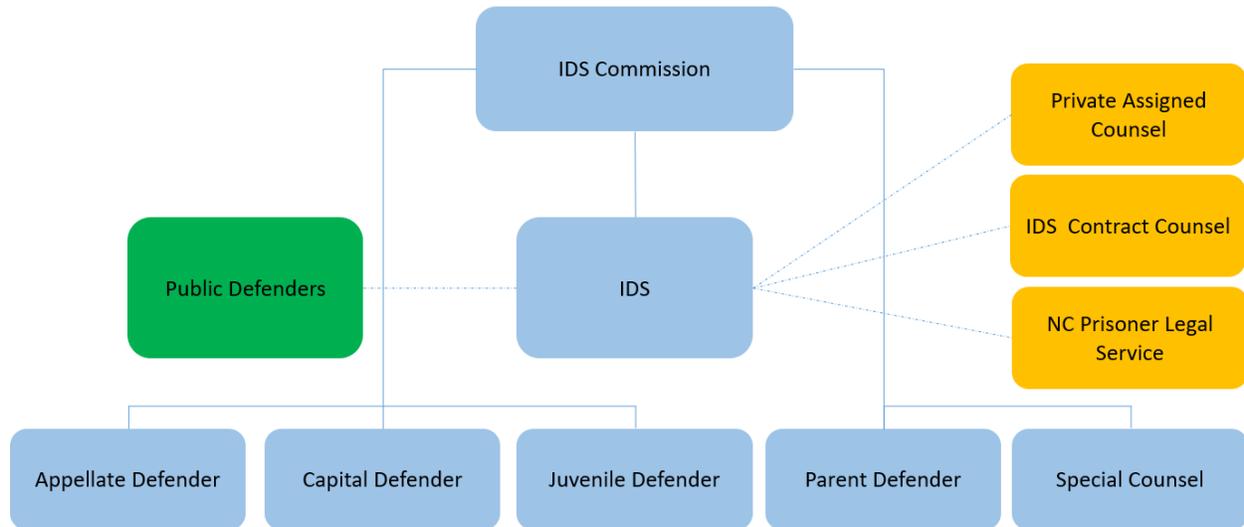
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Indigent Defense Services Organizational Structure



The 13-member volunteer **Commission on Indigent Defense Services** was established by the General Assembly in 2000. Since that time, it has offered oversight and guidance to the Office of Indigent Defense Services (IDS) and the North Carolina public defense community through periods of both growth and austerity. The Commission and its various committees develop and improve programs by which IDS provides legal representation to indigent persons.

Indigent Defense Services administers the North Carolina public defense system. It provides administrative support to the local Public Defender and Statewide Defender Offices; administers the PAC fund; and administers individually negotiated and large-scale contracts for services.

Eighteen **Public Defender Offices** in 19 Defender Districts (20 Judicial Districts) provide criminal and non-criminal trial level defense to eligible people. The Chief Public Defenders are appointed through a statutory process by the Senior Resident Superior Court Judge to serve four-year terms. Chief PDs and Assistant PDs are state-employed defenders.

Five **Statewide Defender Offices** provide oversight and supervision in specialized areas of the law. The Chiefs of each office are appointed by the Commission to serve four-year terms. They administer rosters of specialized attorneys; supervise in-house attorneys; and work with legislators, court actors, and other stakeholder groups on court improvement initiatives. The Chief and their Assistants are state-employed defenders.

North Carolina Prisoner Legal Services is a non-profit, public service law firm that provides legal advice and assistance to people incarcerated in the state in response to the United States Supreme Court decision in *Bounds v. Smith*, 430 U.S. 817 (1977). IDS contracts with NCPLS to fulfill North Carolina’s constitutional obligation to provide inmates access to court.

Private Assigned Counsel, often referred to as “PAC,” are private attorneys who agree to accept appointment for eligible clients for an hourly rate or other arrangement. They are independent contractors. In districts without a public defender, IDS must rely on local volunteer bar committees to exercise supervision over the PAC.

IDS Contract Counsel refers to a subset of PAC who contract with IDS to cover specified case types with payment at a set rate. IDS administers both a large-scale contract system for criminal defense cases in 18 counties and individually negotiated contracts statewide.

Legislative Requests

The General Assembly's 2021 public defense appropriation allowed IDS to implement long overdue increases to the rates for Private Assigned Counsel (PAC) and to take a step forward in the expansion of public defender offices. We are grateful to the General Assembly for its recognition that North Carolina public defense system is struggling and hope that the increased PAC rates will slow the alarming attrition in the ranks of qualified attorneys choosing to do this work.

Failure to adequately fund public defense leads to this attrition in the PAC rosters. In the closing remarks of its 2021 report "Private Appointed Counsel Caseload and Compensation Study," the NC State Bar noted that experienced attorneys were choosing to leave the work and. The subcommittee conducting the study expressed concern that excessive caseloads were hindering the ability of lawyers to represent their clients effectively. This attrition has resulted in "attorney deserts" throughout the state, particularly in rural areas. System stakeholders have increasingly requested that IDS create public defender offices in the underserved areas of the state.

This attrition leads to significant costs to the system. From inefficient court rooms to wrongful convictions to increased appellate costs, the increased expenses associated with a shortage of qualified attorneys may be significant. Both research and anecdotal evidence overwhelmingly support one conclusion: North Carolina needs a statewide system of local public defender programs, supported by qualified and adequately compensated private counsel to handle conflict and overflow cases.

The Indigent Defense Services Commission and Office are committed to developing a statewide system of public defense that provides quality representation in the most cost-efficient manner possible. To further these goals, the IDS Commission and Office respectfully request the General Assembly continue to make the public defense a priority this session and continue to appropriate necessary funding for its support. Our request is as follows:

1. **Expand Regional Defender Program.** (\$164,688 Recurring; \$20,000 Non-recurring) Regional Defenders act as a resource to local attorneys, making them a key component in recruiting counsel to take on public defense work both in areas where the number of available attorneys is limited and in cases that the public defenders cannot take. IDS is requesting an additional Regional Defender to recruit and work with attorneys in the western counties of North Carolina, especially in Districts 24, 30A, and 30B, which is one of the largest attorney deserts in the state.
2. **Fund IT Needs to Promote Efficiency for Staff and Attorneys.** (\$250,000 Non-recurring) IDS is dependent on information technology to conduct our administrative and analytical work, but our technology is among the oldest and least secure of any state agency. IDS is requesting funds to outsource necessary upgrades to meet the demands of the ongoing eCourts project at AOC and to address technology and security concerns with aging data collection applications.

3. **Expand Local Public Defender Programs.** (\$737,000 Recurring; \$52,000 Non-recurring)
The IDS Commission and Office request funding for the next step in our long-term plan to expand public defender programs throughout the state. The funding would allow IDS to establish a standalone public defender program in District 2 (\$254,000 recurring) and expand the existing program in District 5 to cover Pender County (\$483,000 recurring; \$52,000 Non-recurring). Districts 1 and 2 are both currently covered by the same public defender office, which creates an administrative burden on the Chief Public Defender, who has to keep track of court schedules and PAC rosters in 12 diverse counties. The funds requested would allow these two districts to split, easing the administrative burden and allowing each Chief Public Defender to concentrate on the management of a single judicial district. District 5 currently covers only New Hanover County, but Pender is increasingly becoming an attorney desert. Expanding this office to cover all of District 5 would be an easy and efficient way to address the needs of the local bar and the court.
4. **Targeted Staffing Increases.** (\$616,000 Recurring; \$14,500 Non-recurring) IDS is requesting four targeted new positions in specialized defender programs where demand has grown beyond existing resources. (2 Assistant Capital Defenders, 2 Special Counsel).
 - a. Pursuant to Chapter 122C of the NC General Statutes, the Office of Special Counsel must accept all civil commitment admissions in the State. For many reasons, including the State's expanded use of private Psychiatric Residential Treatment Facilities, the office's caseload has increased at an alarming pace in recent years (33% over the last six years). (\$202,000 Recurring; \$7,250 Non-recurring)
 - b. The murder rate increased by 44% statewide from FY2015 to FY2020 (the most recent year for which we have data). To meet this dramatic increase in need, the Office of the Capital Defender recruited 40 new attorneys for the Capital Roster. However, during the same time (roughly September 2020 to present) 37 experienced attorneys removed themselves from the roster. Two new Assistant Capital Defenders are needed to augment the roster and position OCD to meet the increase in demand. (\$414,000 Recurring; \$7,250 Non-recurring)

Actions to Improve Cost-Effectiveness and Quality of Indigent Defense Services

Quality of counsel remains a particular concern for IDS. The pandemic exacerbated weaknesses in IDS's supply of qualified private attorneys, particularly for high-level felony and child welfare cases. After 10 years of reduced hourly rates, the availability on the court-appointed rosters has been a concern for the agency for several years. IDS's efforts to improve quality are focused on (1) continued expansion of the public defender system; (2) expansion of the role of regional defenders and their outreach to court appointed attorneys; and (3) providing resources to private attorneys to allow effective participation in remote court proceedings and client contact. While the General Assembly's 2021 public defense appropriation allowed IDS to implement long

overdue increases to the rates we pay PAC, IDS will continue to seek funding for rate restoration as needed.

Despite its financial limitations, IDS accomplished several projects during FY2021.

1. Contract Services Overhaul

In 2021, the IDS Commission and Office undertook an evaluation of the unit-based RFP system. While a planned, well-run, and properly resourced and supported contract system can lead to quality improvements while containing costs, IDS found that these benefits are not evenly realized across all contract categories or in all districts. Accordingly, IDS Staff conducted extensive research into improvements to the contract system that would ensure that contracts for every case category in every district are cost-efficient and promote quality representation. Staff determined that a Managed Assigned Counsel (MAC) system would provide a simplified and more cost-effective way of contracting with private counsel while continuing to afford both contract defenders and IDS the benefit of a monthly payment, continued access to resources and oversight through the Regional Defender program, and enhanced qualitative and quantitative data.

2. Expanded Grant Funding

As mentioned above, IDS researchers and the Office of the Juvenile Defender (OJD) collaborated on an extensive evaluation of juvenile defense delivery throughout North Carolina. Beginning in FY2019, the grant allowed OJD and IDS to target areas of critical need, expand contract defense for juveniles into under-resourced areas, and develop and deploy new resources for juvenile defenders. OJD learned in October 2021 that the grant had been renewed.

Throughout FY2021, the Office of the Parent Defender (OPD) worked with the NC Court Improvement Project to develop a contract management module for Parent Defense Contracts. IDS Fiscal Staff and OPD also worked with NC Department of Health and Human Services on a Memorandum of Understanding that would allow OPD to draw down limited federal funding for case related services—e.g., increased use of social workers—in child welfare cases. The MOU was signed on July 1, 2021, and the first disbursement was in January of 2022.

3. Cost Control Measures

To ensure the effective use of IDS's limited appropriations, IDS has implemented measures meant to encourage efficiency while continuing to promote quality representation. For example, in addition to revamping the contract system to be more cost-effective, IDS has increased oversight of expensive capital post-conviction cases to provide safeguards against unexpected costs. This oversight includes a pre-budgeting procedure for new counsel and a second level of review of requests for expert authorizations.

4. Mitigating the Impact of Covid-19

The global pandemic forced IDS, like many agencies, to make rapid and significant adjustments. While neither the Commission nor the Office predicted that the Governor's and Chief Justice's public health emergency orders would continue into the next fiscal year, much less the next calendar year, Staff undertook several initiatives intended to maintain workflow, protect the safety of those working in public defense, and protect client interests. Efforts through FY2020 and FY2021 focused on employee safety, ensuring continuity in workflow, and upgrading equipment. For PAC, IDS encouraged interim fee applications, which enabled us to pay attorneys for work they had already completed even when the final disposition in the matter was continued indefinitely. Other initiatives include streamlined billing for video conference, subsidized continuing legal education, and modified or extended service contracts as needed.

Volume and Cost of Cases Handled by Assigned Counsel or Public Defenders

TRENDS IN THE COST OF INDIGENT DEFENSE

IDS's total spending in any given year is impacted by:

- trends in court filings and dispositions,
- share of dispositions handled by PAC or public defenders,
- changes in the number of serious felony dispositions,
- legislative changes that increase complexity of indigent defense,
- hourly PAC rates,
- state government pay and benefit rates, and
- changes in the size of the public defender and contract programs.

While IDS spending was relatively stable through most of the last decade, this was at the expense of low hourly PAC rates and little change in the size of public defender program. Beginning in FY2016, several factors combined to increase the costs of indigent defense. One of these is payroll. Public defender payroll is over a third of the total IDS budget, meaning that legislative increases in state employee pay and benefit costs led to increases in total spending, driving up the cost of public defender offices by 7.8% in FY2021. IDS Administration expenses, while only 2.2% of total expenditures, grew 10.5% over FY2020 and 18.3% over the last four years.

Another cost driver is demand. Indigent defense demand was increasing in FY2020 before the pandemic significantly slowed court activity in the last quarter and throughout FY2021. While the final tally for FY2020 saw demand at only 2% below average, in FY 2021, demand fell an additional 11.8%.

PROJECTING FY2022

The cost of indigent defense will continue to increase in FY2022. Indigent defense resources will be strained by such issues as resolving the current backlog of cases, the increased cost of capital

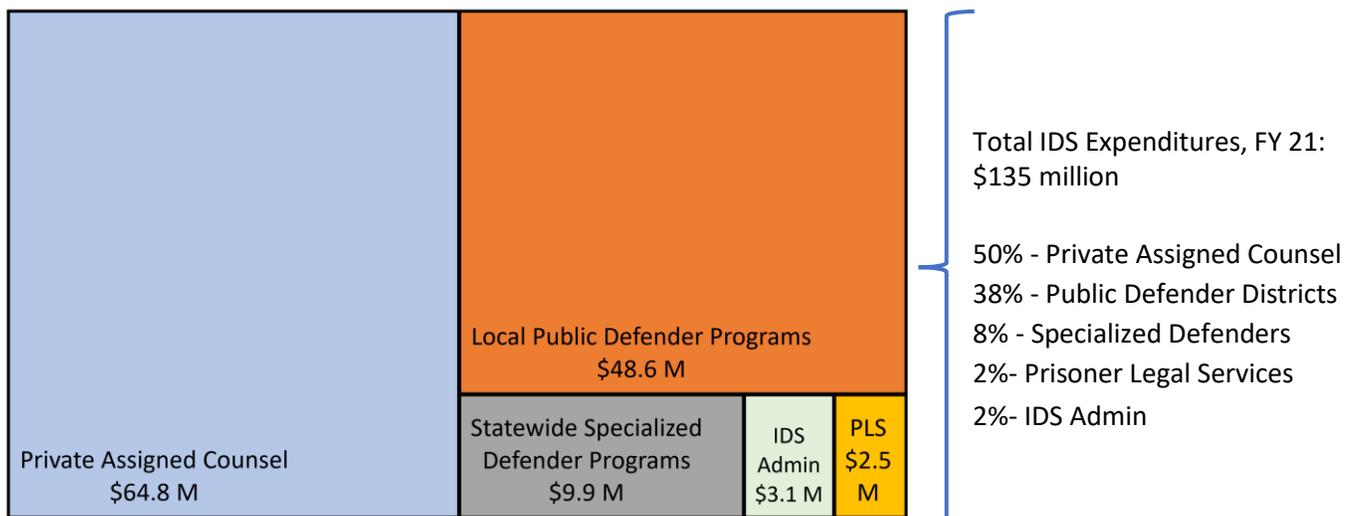
cases, continuances due to inadequate PAC rosters, and increased numbers of civil commitment cases.

To address the increasing number of attorney deserts across the state, IDS implemented across-the-board rate increases for PAC in FY2022. The rate restoration package, which was effective January 1, 2022, is projected to increase PAC spending by roughly 14% in the second half of the fiscal year and going forward. PAC spending thus far in FY2022 has been very similar to PAC spending in FY2019. Court activity has increased, but substantial backlogs and difficulties in scheduling jury trials have balanced these increases. If the similarity with FY2019 numbers continues through the remainder of the year, the 14% increase in demand during March-June 2022 will lead to projected PAC spending of \$80 million in FY 2022, a 23% increase over FY2021.

Clearing the backlog of cases created by the pandemic is one area of considerable concern. AOC’s data reveal an alarming case backlog in several case types for which IDS is responsible. According to their data, between August 31, 2019 and December 31, 2021 total pending cases increased by 19% for felonies, 6.6% for pending district court criminal cases and infractions, 27% for driving while impaired, and 13.4% in district civil cases. While IDS is not responsible for providing counsel in all cases that make up these backlogs, considered in conjunction with our own data on FY2022 year-to-date demand, IDS anticipates AOC efforts to clear the backlog will have a significant impact on PAC and local public defender programs. We are working closely with AOC to analyze data on expected increases in court activity to address the backlog of cases and to project the budgetary impact for FY2022 and FY2023.

IDS does not predict that we will end FY2022 with carryforward debt. However, the combined effect of clearing swelling court backlogs may result in shortfalls and carry-over debt as early as FY2024. Concern about earlier, more substantial shortfalls is heightened by the unpredictable nature of fiscal demands, which are subject to pressures outside of IDS control, such as the possibility that a Court may decide to expand right to counsel to include first appearance.

IDS Spending by Program:



- ☆ County and district public defender offices combined reported 69,479 dispositions and withdrawals, which represented approximately 30% of the indigent caseload in North Carolina, including criminal and non-criminal cases. Five statewide defender offices cover an additional 6%.
- ☆ IDS paid fee applications to 1,964 unique PAC attorneys around the State, including hourly rosters, flat-fee programs, and contract defenders.
- ☆ Hourly PAC reported 118,576 cases disposed, including potentially capital trials, capital appeals and post-conviction cases, adult non-capital cases, juvenile cases, and Guardian ad Litem cases, which represented 51% of all indigent cases.
- ☆ Non-RFP contractors reported 7,061 dispositions and withdrawals and RFP contractors reported 20,855 dispositions, for a total of 27,916 contractor dispositions, which represented approximately 12% of the indigent caseload in North Carolina, including criminal and non-criminal cases.

Five statewide defender offices play a critical role in ensuring that indigent defendants and respondents receive quality, cost-effective representation. The statewide defender offices provide direct representation and/or support and oversight in specialized case types where a defendant or respondent faces substantial loss of liberty.

In addition to screening applicants, all statewide defender offices provide advice and support on highly specialized areas of law to the nearly 2,000 PAC across the state. The Chiefs in each of the statewide defender offices also work closely with other state agencies and stakeholder groups to develop policies and draft proposed legislation affecting their clients, their offices, and IDS.

FY2021 State Defender dispositions by program are:

| Program | Dispositions |
|-----------------------------------|--------------|
| Offices of the Appellate Defender | 168 |
| Capital Defender | 164 |
| Parent Defender | 32 |
| Juvenile Defender | 85 |
| Special Counsel | 14,296 |

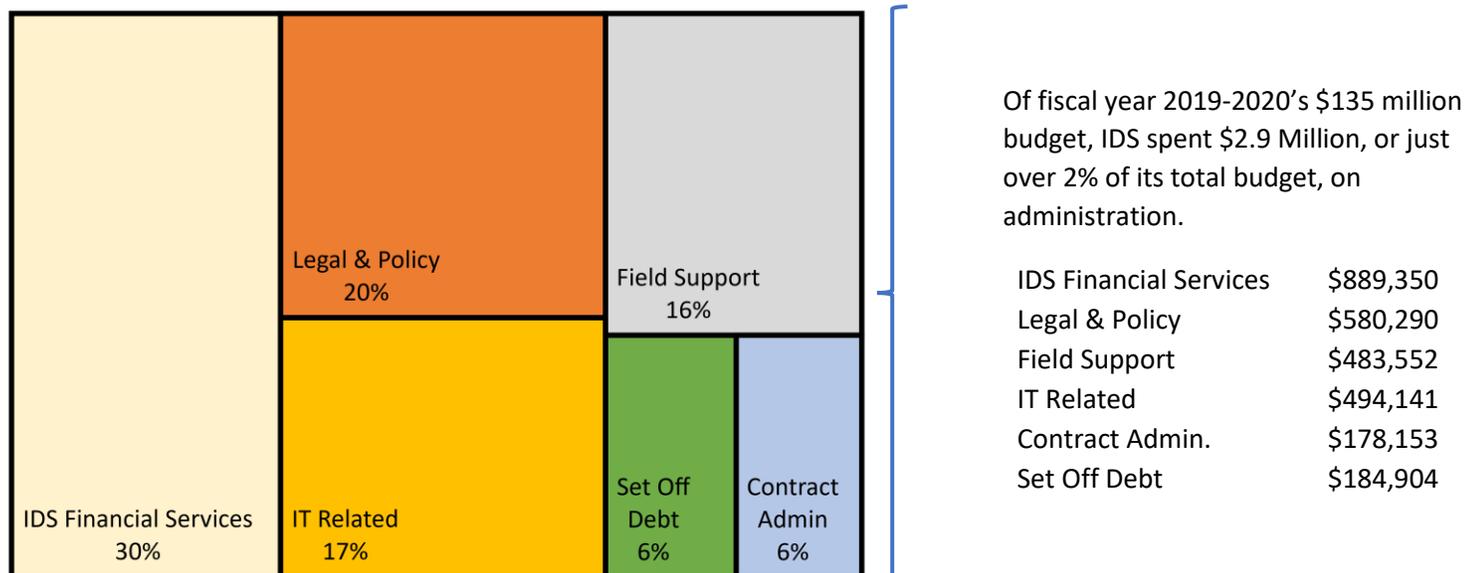
*To see where Local Defender Programs are located throughout the state, see Appendix A, “Public Defense Districts (Effective 1/1/2019).

*For detailed descriptions of the Statewide Defender Offices see Appendix B.

*Data on the volume and cost of cases handled in each district by PAC, contractors, and public defenders during fiscal year 2020-2021 is attached to this report as Appendix C.

*For a District-by-District accounting of fee applications and demand for private assigned counsel, contract counsel and experts see “Demand by County” attached as Appendix D.

Indigent Defense Services Administration



IDS's statutory charge is to:

- enhance oversight of the delivery of counsel and related services provided at State expense;
- improve the quality of representation and ensure the independence of counsel;
- establish uniform policies and procedures for the delivery of services;
- generate reliable statistical information to evaluate the services provided and funds expended; and
- deliver services in the most cost-effective manner without sacrificing quality representation.

IDS administration does this with a remarkably lean staff. Working closely with the Commission, the IDS Executive Director and Staff continuously evaluate cost and effectiveness of existing policies to ensure that quality representation is being provided in a fiscally responsible manner.

In addition to oversight and policy work, IDS provides direct support to public defense attorneys.

- ☆ Two Regional Defenders provide direct support to PAC attorneys who have contracted with IDS to provide representation. In addition to consulting with attorneys on substantive and procedural matters, these attorneys also work with the local bar, clerks'

offices, and judges to ensure that there are enough qualified attorneys to meet local demand.

- ☆ Forensic Resource Counsel assists North Carolina attorneys litigating scientific evidence issues. Through individual case consultations, continuing legal education programs, and the Forensic Resources website, Forensic Resource Counsel educates attorneys about relevant forensic science issues and assists with litigating claims related to forensic evidence at the trial, appellate and post-conviction phases of representation.
- ☆ Contract consulting attorneys provide case-by-case expert analysis in complex felonies and other cases, leading to increased quality in services and efficiencies in case processing.

FINANCIAL SERVICES

IDS Financial Services Staff is responsible for attorney and other vendor payments, as well as recoupment of money owed to the agency. In FY2021, IDS Financial Services:

- ☆ Processed 122,178 fee applications and invoices.
- ☆ Set 1,242 fee awards for attorney fee applications in potentially capital cases and appeals, including interim and final fees.
- ☆ Set fee awards for 3,415 expert bills in capital cases and appeals, including private investigators, mitigation specialists, psychologists and psychiatrists, and ballistics and scientific experts, again including interim and final fees.
- ☆ Processed and paid 8,663 flat fee awards in criminal and non-criminal cases disposed of in the district court division in counties with flat-fee systems.

In the winter of 2021, the AOC issued the results of its third annual Internal Controls Audit of IDS pursuant to G.S. 7A-498.2(d). As in prior years, all internal controls tested by AOC were determined to be “Effective,” the highest rating possible.

Recoupment & Revenue Collection

| | FY22 | FY21 | FY20 |
|--|----------------------------------|---|---|
| FMS Recoupment | | | |
| Attorney Fees – as ordered | | \$4,227,308 | \$4,130,834 |
| Appointment Fees | | \$927,297 | \$920,890 |
| | \$70 to IDS; \$5 to tech fund | \$70 to IDS; \$5 to tech fund (as of 12/1/2020) | \$55 to IDS; \$5 to tech fund (as of 12/1/2011) |
| Set Off Debt Recoupment | | | |
| Intercepted Tax Refunds or Lottery Winnings | | \$4,569,001 | \$4,851,345 |
| Criminal Court Fees | | | |
| Court of Justice Fees | \$5 (as of 2/1/2022) | \$2 (as of 12/1/2020) | |
| Total Revenues | | \$10,138,271 | \$9,903,070 |

CRIMINAL COURT FEE REVENUE

FY2021 is the first year IDS received funding through the General Court of Justice fee. G.S. 7A-304(a), as amended by Session Law 2020-83, Section 10.1(b), imposed a new fee of \$2 in every criminal case in the superior or district court wherein the defendant is convicted, enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness. The \$2 fee also applies to infractions. This fee was effective on December 1, 2020. The table above shows the changes in IDS Receipts over the last three fiscal years. In the General Court of Justice fees, the revenues of \$414,665 reflect 7 months of collections in FY21 at the \$2 level.

(G.S. 7A-304(a), was subsequently amended by Session Law 2021-180, Section 16.15.(a), to increase the new fee from \$2 to \$5. This fee change did not apply to certain motor vehicle infractions. Effective on February 1, 2022, this will be reflected as a five-month period of increased criminal court fees in our FY 2022 revenues.)

RECOUPMENT AND SET-OFF DEBT

Total revenues from recoupment during FY2021 amounted to \$9.7 million, which represents a decrease of 1.8% from the prior fiscal year. Set off debt revenues (attorney and appointment fees recouped by intercepting a debtor's state income tax return or lottery proceeds) decreased by 5.8%, a large enough drop to offset the 2.0% increase in new FMS revenues and recoupments, which are discussed above.

As noted in the chart above, G.S. 7A-455.1, as amended by Session Law 2020-83, Section 10.1, increased the attorney appointment fee from \$60 to \$75. Of this, \$70 is remitted to the PAC Fund, while \$5 is remitted to the Court Information Technology Fund. The increased fee was effective December 1, 2020.

IDS recognizes several factors that could reduce recoupment:

- a shift towards more serious crimes, where recoupment opportunities tend to be lower;
- the reduction in entitlement to counsel for low level misdemeanors, where opportunities for recoupment are higher;
- increases in other monetary obligations for convicted defendants;
- increased representation under contracts, where attorneys have a lower incentive to submit complete information on their fee applications; and
- changes in state tax policy which impact frequency of tax refunds.

On an individual basis, though, recoupment always is impacted by the individual circumstances for each defendant.

Plans for Changes in Rules, Standards, or Regulations

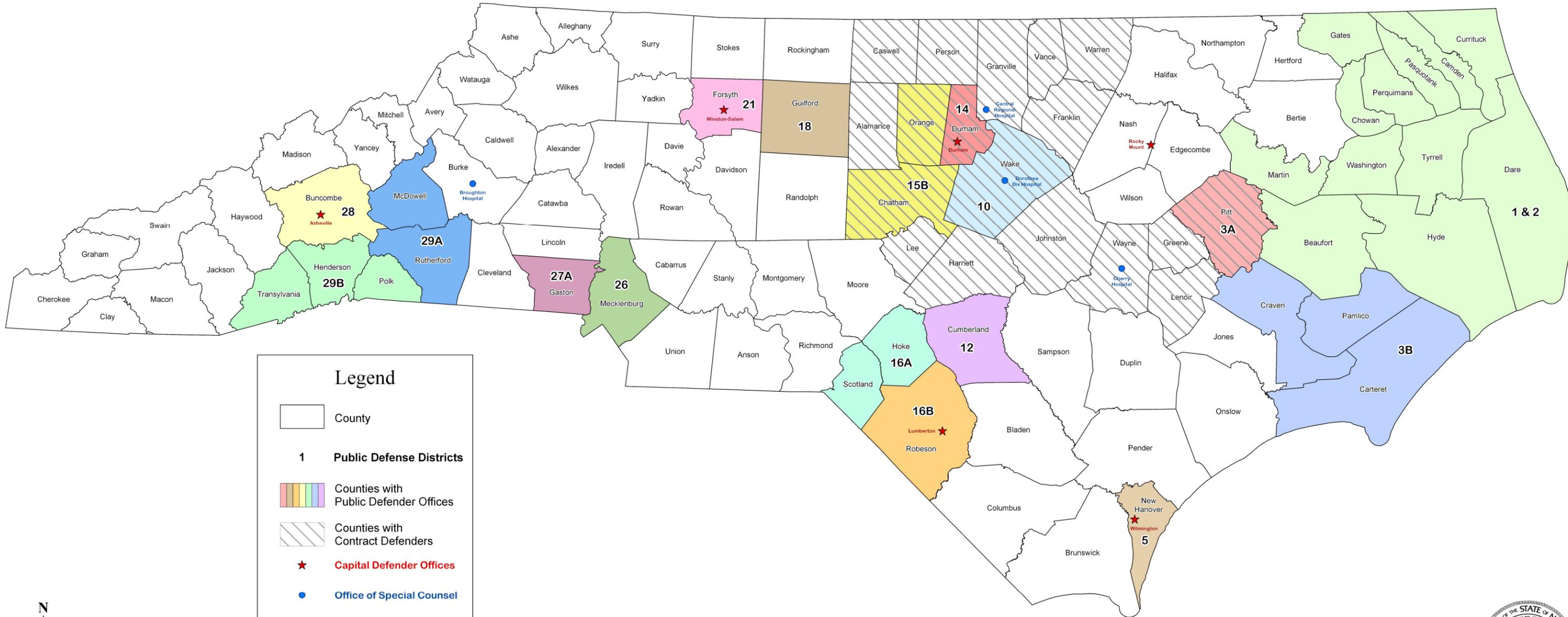
IDS is committed to a measured expansion of public defender offices in a way that addresses the areas of highest need first, that provides policymakers with a roadmap for future budget priorities, and that results in a statewide system of public defense that provides quality representation in the most efficient and cost-effective manner. IDS plans to present a long-term plan to the General Assembly in January 2023. In the meantime, in furtherance of IDS's commitment to provide quality client service in all 100 counties, IDS's plans for changes in rules, standards, or regulations, for FY2022 include:

1. Building a specialized roster of attorneys to represent juveniles charged with first degree murder through the development and promulgation of new rules and standards.
2. Developing internal rules and policies to improve recoupment procedures.

Conclusion

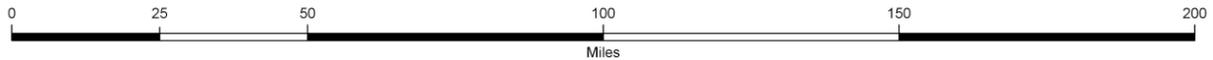
The Indigent Defense Services Commission and Office continue to work on a long-term plan that identifies how best to provide public defense in all areas of the state, using both private assigned counsel and public defender programs. IDS wants measured expansion of public defender offices in a way that will address the areas of highest need first, provide policymakers with a roadmap for future budget priorities, and result in a statewide system of public defense that provides quality representation in the most efficient and cost-effective manner.

Public Defense Districts (Effective 1/1/2019)



Legend

- County
- 1** Public Defense Districts
- Counties with Public Defender Offices
- Counties with Contract Defenders
- Capital Defender Offices
- Office of Special Counsel



Printed by the NC General Assembly, February 13, 2018.



Up-to-date through December 31, 2021. Does not include Public Defender District 27B (Cleveland and Lincoln Counties), which was established by S.L. 2021-180, Section 17.4(a).

Appendix B: COST AND CASE DATA ON REPRESENTATION OF INDIGENTS

July 1, 2020-June 30, 2021

| | Number of Cases* | Total Cost** |
|--|------------------|-------------------------|
| Assigned Private Counsel | | |
| Potentially Capital Trial | 1,242 | \$5,493,642 |
| Capital appeals/post-conviction | 179 | \$1,068,413 |
| Adult non-capital cases | 112,445 | \$40,051,846 |
| Juvenile cases | 4,100 | \$1,596,831 |
| Guardian ad Litem assigned by IDS | 610 | \$257,825 |
| Total | 118,576 | \$48,468,557 |
| Contracted Legal Services | | |
| Individually Negotiated Contracts | 7,061 | \$2,220,131 |
| RFP Contracts | 20,855 | \$7,950,205 |
| Legal Services to Inmates | 12 | \$2,520,056 |
| Total | 146,492 | \$12,690,392 |
| Public Defender Offices | | |
| District 1 & 2*** | 2,365 | \$2,492,988 |
| District 3A | 2,993 | \$2,153,505 |
| District 3B | 1,517 | \$1,416,973 |
| District 5 (New Hanover County) | 4,944 | \$2,455,221 |
| District 10 | 7,105 | \$4,710,345 |
| District 12 | 4,024 | \$2,420,695 |
| District 14 | 8,039 | \$3,376,016 |
| District 15B | 2,034 | \$1,614,045 |
| District 16A | 2,269 | \$1,445,635 |
| District 16B | 1,772 | \$1,828,194 |
| District 18 | 5,327 | \$4,472,809 |
| District 21 | 3,738 | \$3,223,926 |
| District 26 | 9,131 | \$9,504,790 |
| District 27A | 3,656 | \$2,533,709 |
| District 28 | 5,210 | \$2,239,296 |
| District 29A | 3,604 | \$1,388,851 |
| District 29B | 1,751 | \$1,366,511 |
| Total | 69,479 | \$48,643,510 |
| Office of the Appellate Defender | 206 | \$3,469,483 |
| Office of the Capital Defender | 164 | \$4,315,987 |
| Office of Special Counsel | 14,296 | \$1,649,388 |
| Office of the Juvenile Defender | 85 | \$513,283 |
| TOTAL DISPOSITIONS PAC+PD | 230,722 | \$119,237,317 |
| Support Services (PAC only)**** | | |
| Transcripts, records, and briefs | | \$344,312 |
| Expert witness fees | | \$2,206,752 |
| Investigator fees | | \$3,487,021 |
| Interpreters & Translators | | \$126,629 |
| Lay Witness Expenses | | \$0 |
| Video Transmission | | \$18,903 |
| Total | | \$6,183,617 |
| Set-Off Debt Collection | | \$184,904 |
| Indigent Defense Services | | \$2,964,242 |
| TOTAL INDIGENT DEFENSE SERVICES | | \$129,083,362.26 |

* The number of "cases" shown for private assigned counsel (PAC) is the number of payments (fee applications) made by IDS for appointed attorneys. For public defender offices, the number of "cases" is the number of indigent persons whose cases were disposed by public defenders during FY21. For contractors, numbers are dispositions reported per contract requirements. For the Office of the Capital Defender, numbers include pending cases.

** IDS reports most PAC data on a demand basis to reflect fee applications received in a given year, even if payment is held due to limited cash. Until FY10, this report was done on a cash basis. Because IDS had roughly \$2.9 Million in fee applications received in FY2021 but paid in FY2022, these demand figures are larger than cash figures. These figures exclude county funded positions in PD and IDS offices, the Mecklenburg salary supplement for attorneys, registration fees collected to defray training costs, and payments for dual employment payments.

*** The number of cases and total cost for the District 1 Public Defender Office includes expansion into all counties in District 2, effective February 2013. 812 of the reported FY21 dispositions were in District 2.

**** Support service costs for public defender offices and statewide defender offices are included in total office costs.

Appendix C: Recoupment and IDS Cost by County FY2021

| County | FMS Recoupment | | Set Off Debt | Total | Non-Capital PAC Demand | PD Office Expense | Total Cost |
|------------|----------------|-----------|--------------|-----------|------------------------|-------------------|-------------|
| | Atty Fees | Appt Fees | | | | | |
| Alamance | \$91,052 | \$28,295 | \$99,667 | \$219,014 | \$1,080,195 | | \$1,080,195 |
| Alexander | \$35,607 | \$7,751 | \$27,289 | \$70,647 | \$228,391 | | \$228,391 |
| Alleghany | \$10,173 | \$2,364 | \$2,572 | \$15,108 | \$69,974 | | \$69,974 |
| Anson | \$12,225 | \$550 | \$48,987 | \$61,762 | \$172,966 | | \$172,966 |
| Ashe | \$30,399 | \$9,230 | \$8,955 | \$48,584 | \$151,124 | | \$151,124 |
| Avery | \$23,147 | \$3,761 | \$2,734 | \$29,641 | \$130,396 | | \$130,396 |
| Beaufort | \$56,807 | \$14,419 | \$24,089 | \$95,316 | \$422,616 | \$347,349 | \$769,966 |
| Bertie | \$8,936 | \$2,010 | \$8,751 | \$19,697 | \$126,160 | | \$126,160 |
| Bladen | \$29,111 | \$4,231 | \$15,863 | \$49,205 | \$379,222 | | \$379,222 |
| Brunswick | \$121,302 | \$18,997 | \$46,830 | \$187,129 | \$1,270,658 | | \$1,270,658 |
| Buncombe | \$56,671 | \$20,923 | \$48,248 | \$125,843 | \$1,218,760 | \$1,888,652 | \$3,107,413 |
| Burke | \$22,786 | \$3,380 | \$72,051 | \$98,217 | \$747,882 | | \$747,882 |
| Cabarrus | \$109,479 | \$17,867 | \$126,670 | \$254,016 | \$862,869 | | \$862,869 |
| Caldwell | \$25,133 | \$4,785 | \$92,054 | \$121,972 | \$851,875 | | \$851,875 |
| Camden | \$1,545 | \$1,006 | \$969 | \$3,520 | \$10,081 | \$45,203 | \$55,284 |
| Carteret | \$49,002 | \$8,744 | \$11,314 | \$69,061 | \$390,238 | \$581,764 | \$972,002 |
| Caswell | \$11,388 | \$3,306 | \$9,311 | \$24,005 | \$112,499 | | \$112,499 |
| Catawba | \$45,567 | \$982 | \$121,248 | \$167,797 | \$1,085,135 | | \$1,085,135 |
| Chatham | \$4,099 | \$5,113 | \$12,203 | \$21,415 | \$133,708 | \$390,172 | \$523,880 |
| Cherokee | \$21,080 | \$4,428 | \$12,239 | \$37,747 | \$287,259 | | \$287,259 |
| Chowan | \$5,216 | \$1,650 | \$8,241 | \$15,108 | \$53,147 | \$118,162 | \$171,309 |
| Clay | \$7,986 | \$1,790 | \$2,567 | \$12,343 | \$88,230 | | \$88,230 |
| Cleveland | \$71,890 | \$23,043 | \$65,785 | \$160,718 | \$684,673 | | \$684,673 |
| Columbus | \$52,268 | \$9,928 | \$37,463 | \$99,658 | \$707,946 | | \$707,946 |
| Craven | \$75,033 | \$10,333 | \$48,864 | \$134,231 | \$665,923 | \$458,685 | \$1,124,608 |
| Cumberland | \$64,451 | \$16,810 | \$82,551 | \$163,811 | \$1,588,913 | \$1,742,860 | \$3,331,774 |
| Currituck | \$25,305 | \$5,459 | \$8,043 | \$38,807 | \$43,445 | \$215,706 | \$259,151 |
| Dare | \$42,822 | \$8,637 | \$19,123 | \$70,582 | \$70,941 | \$350,521 | \$421,463 |
| Davidson | \$97,030 | \$14,869 | \$157,927 | \$269,826 | \$857,260 | | \$857,260 |
| Davie | \$32,733 | \$5,263 | \$19,562 | \$57,558 | \$250,441 | | \$250,441 |
| Duplin | \$80,322 | \$9,750 | \$25,109 | \$115,181 | \$423,264 | | \$423,264 |
| Durham | \$21,033 | \$9,537 | \$59,821 | \$90,390 | \$1,042,213 | \$2,658,696 | \$3,700,909 |
| Edgecombe | \$40,624 | \$7,350 | \$28,679 | \$76,654 | \$366,740 | | \$366,740 |
| Forsyth | \$93,055 | \$31,019 | \$149,580 | \$273,654 | \$1,211,212 | \$2,369,339 | \$3,580,551 |
| Franklin | \$36,614 | \$9,631 | \$29,117 | \$75,362 | \$468,277 | | \$468,277 |
| Gaston | \$17,815 | \$25,327 | \$68,671 | \$111,813 | \$683,740 | \$1,941,027 | \$2,624,767 |
| Gates | \$3,852 | \$1,285 | \$1,511 | \$6,648 | \$10,849 | \$51,547 | \$62,396 |
| Graham | \$1,985 | \$275 | \$3,821 | \$6,081 | \$155,598 | | \$155,598 |
| Granville | \$20,957 | \$6,305 | \$33,957 | \$61,218 | \$330,375 | | \$330,375 |

| | FMS Recoupment | | Set Off Debt | Total | Non-Capital PAC Demand | PD Office Expense | Total Cost |
|-------------|----------------|----------|--------------|-----------|---------------------------|----------------------|--------------|
| Greene | \$9,257 | \$2,153 | \$11,916 | \$23,326 | \$170,711 | | \$170,711 |
| Guilford | \$109,934 | \$34,052 | \$188,732 | \$332,717 | \$1,414,120 | \$3,529,881 | \$4,944,001 |
| Halifax | \$46,648 | \$7,434 | \$57,345 | \$111,427 | \$732,284 | | \$732,284 |
| Harnett | \$26,146 | \$7,757 | \$39,532 | \$73,434 | \$884,870 | | \$884,870 |
| Haywood | \$50,610 | \$7,860 | \$52,933 | \$111,403 | \$709,276 | | \$709,276 |
| Henderson | \$22,561 | \$5,322 | \$77,005 | \$104,888 | \$510,211 | \$637,323 | \$1,147,534 |
| Hertford | \$10,647 | \$1,487 | \$12,003 | \$24,137 | \$113,184 | | \$113,184 |
| Hoke | \$10,721 | \$2,475 | \$11,725 | \$24,922 | \$146,626 | \$422,333 | \$568,959 |
| Hyde | \$2,273 | \$620 | \$2,943 | \$5,836 | \$17,880 | \$22,998 | \$40,878 |
| Iredell | \$133,057 | \$27,605 | \$84,366 | \$245,028 | \$871,496 | | \$871,496 |
| Jackson | \$29,583 | \$5,253 | \$17,812 | \$52,647 | \$340,496 | | \$340,496 |
| Johnston | \$64,160 | \$20,538 | \$48,647 | \$133,345 | \$1,361,606 | | \$1,361,606 |
| Jones | \$9,243 | \$1,397 | \$6,253 | \$16,893 | \$68,204 | | \$68,204 |
| Lee | \$19,693 | \$5,937 | \$41,846 | \$67,476 | \$447,252 | | \$447,252 |
| Lenoir | \$43,854 | \$7,342 | \$63,488 | \$114,684 | \$785,949 | | \$785,949 |
| Lincoln | \$50,409 | \$10,420 | \$50,985 | \$111,814 | \$514,352 | | \$514,352 |
| Macon | \$39,877 | \$6,088 | \$15,121 | \$61,086 | \$402,342 | | \$402,342 |
| Madison | \$23,984 | \$5,637 | \$2,838 | \$32,460 | \$133,600 | | \$133,600 |
| Martin | \$33,838 | \$5,196 | \$9,997 | \$49,031 | \$159,034 | \$177,640 | \$336,674 |
| McDowell | \$54,662 | \$14,889 | \$42,565 | \$112,116 | \$316,062 | \$500,780 | \$816,842 |
| Mecklenburg | \$51,895 | \$2,921 | \$198,323 | \$253,139 | \$3,330,792 | \$7,129,036 | \$10,459,829 |
| Mitchell | \$19,141 | \$3,490 | \$8,237 | \$30,869 | \$138,400 | | \$138,400 |
| Montgomery | \$9,561 | \$1,665 | \$18,265 | \$29,490 | \$102,313 | | \$102,313 |
| Moore | \$59,559 | \$9,651 | \$51,029 | \$120,239 | \$783,998 | | \$783,998 |
| Nash | \$89,700 | \$18,577 | \$66,128 | \$174,405 | \$599,818 | | \$599,818 |
| New Hanover | \$98,800 | \$21,496 | \$129,334 | \$249,630 | \$944,695 | \$1,811,385 | \$2,756,081 |
| Northampton | \$5,127 | \$869 | \$8,121 | \$14,117 | \$124,147 | | \$124,147 |
| Onslow | \$134,964 | \$22,371 | \$63,576 | \$220,911 | \$1,097,449 | | \$1,097,449 |
| Orange | \$35,510 | \$11,373 | \$22,154 | \$69,037 | \$211,962 | \$908,698 | \$1,120,660 |
| Pamlico | \$12,925 | \$2,106 | \$6,327 | \$21,358 | \$39,445 | \$45,081 | \$84,526 |
| Pasquotank | \$23,539 | \$7,248 | \$14,889 | \$45,676 | \$100,013 | \$336,247 | \$436,260 |
| Pender | \$36,880 | \$6,199 | \$22,988 | \$66,067 | \$345,099 | | \$345,099 |
| Perquimans | \$4,081 | \$1,968 | \$6,859 | \$12,907 | \$21,067 | \$114,197 | \$135,264 |
| Person | \$22,543 | \$6,570 | \$32,298 | \$61,411 | \$321,700 | | \$321,700 |
| Pitt | \$50,686 | \$13,398 | \$97,673 | \$161,757 | \$670,702 | \$1,756,302 | \$2,427,005 |
| Polk | \$3,820 | \$1,335 | \$10,241 | \$15,396 | \$99,733 | \$157,830 | \$257,563 |
| Randolph | \$76,300 | \$14,650 | \$89,252 | \$180,201 | \$938,613 | | \$938,613 |
| Richmond | \$14,383 | \$1,197 | \$91,960 | \$107,540 | \$737,046 | | \$737,046 |
| Robeson | \$28,383 | \$4,123 | \$50,996 | \$83,502 | \$2,123,123 | \$1,323,375 | \$3,446,498 |
| Rockingham | \$114,708 | \$16,970 | \$67,131 | \$198,808 | \$818,672 | | \$818,672 |
| Rowan | \$127,572 | \$26,556 | \$120,598 | \$274,725 | \$1,092,003 | | \$1,092,003 |
| Rutherford | \$60,884 | \$19,888 | \$50,044 | \$130,815 | \$221,347 | \$642,953 | \$864,300 |

| | FMS Recoupment | | Set Off Debt | Total | Non-Capital PAC Demand | PD Office Expense | Total Cost |
|---------------|--------------------|------------------|--------------------|--------------------|---------------------------|----------------------|---------------------|
| Sampson | \$37,070 | \$9,425 | \$30,804 | \$77,299 | \$336,349 | | \$336,349 |
| Scotland | \$4,640 | \$458 | \$12,836 | \$17,935 | \$232,036 | \$611,403 | \$843,438 |
| Stanly | \$13,015 | \$2,616 | \$49,863 | \$65,494 | \$292,656 | | \$292,656 |
| Stokes | \$36,049 | \$8,488 | \$22,935 | \$67,473 | \$372,152 | | \$372,152 |
| Surry | \$92,067 | \$13,543 | \$39,157 | \$144,766 | \$611,377 | | \$611,377 |
| Swain | \$25,925 | \$2,675 | \$5,527 | \$34,128 | \$212,106 | | \$212,106 |
| Transylvania | \$12,420 | \$2,558 | \$20,112 | \$35,090 | \$195,015 | \$255,649 | \$450,664 |
| Tyrrell | \$5,209 | \$1,451 | \$3,368 | \$10,029 | \$20,280 | \$38,859 | \$59,138 |
| Union | \$104,559 | \$16,128 | \$103,886 | \$224,572 | \$1,407,021 | | \$1,407,021 |
| Vance | \$20,660 | \$8,391 | \$43,624 | \$72,675 | \$118,826 | | \$118,826 |
| Wake | \$85,715 | \$41,112 | \$280,568 | \$407,396 | \$2,798,582 | \$3,842,710 | \$6,641,291 |
| Warren | \$7,842 | \$2,845 | \$12,768 | \$23,454 | \$20,948 | | \$20,948 |
| Washington | \$10,564 | \$2,752 | \$5,707 | \$19,023 | \$72,282 | \$57,099 | \$129,381 |
| Watauga | \$52,777 | \$8,384 | \$14,641 | \$75,802 | \$328,910 | | \$328,910 |
| Wayne | \$68,776 | \$17,411 | \$82,940 | \$169,126 | \$996,641 | | \$996,641 |
| Wilkes | \$46,715 | \$12,552 | \$56,524 | \$115,791 | \$383,352 | | \$383,352 |
| Wilson | \$83,597 | \$8,791 | \$36,855 | \$129,243 | \$610,448 | | \$610,448 |
| Yadkin | \$55,357 | \$7,842 | \$32,331 | \$95,531 | \$343,268 | | \$343,268 |
| Yancey | \$35,731 | \$5,392 | \$7,646 | \$48,769 | \$127,666 | | \$127,666 |
| | | | | | | | |
| Totals | \$4,227,308 | \$927,297 | \$4,569,001 | \$9,723,606 | \$53,876,801 | \$37,481,463 | \$91,358,264 |

Appendix D: Demand by County

| | Number of Payments | Demand |
|---------------------------|---------------------------|--------------------|
| <u>District 1</u> | | |
| Camden | 17 | \$12,610 |
| Chowan | 80 | \$54,304 |
| Currituck | 103 | \$74,397 |
| Dare | 168 | \$74,463 |
| Gates | 18 | \$15,785 |
| Pasquotank | 174 | \$229,775 |
| Perquimans | 47 | \$28,997 |
| District Total | 607 | \$490,331 |
| <u>District 2</u> | | |
| Beaufort | 1,104 | \$440,942 |
| Hyde | 52 | \$19,877 |
| Martin | 457 | \$195,168 |
| Tyrrell | 58 | \$20,280 |
| Washington | 186 | \$88,035 |
| District Total | 1,857 | \$764,302 |
| <u>District 3A</u> | | |
| Pitt | 1,470 | \$843,152 |
| District Total | 1,470 | \$843,152 |
| <u>District 3B</u> | | |
| Carteret | 659 | \$400,979 |
| Craven | 1,749 | \$855,140 |
| Pamlico | 113 | \$55,789 |
| District Total | 2,521 | \$1,311,908 |
| <u>District 4A</u> | | |
| Duplin | 985 | \$488,431 |
| Jones | 216 | \$78,217 |
| Sampson | 1,288 | \$377,096 |
| District Total | 2,489 | \$943,743 |
| <u>District 4B</u> | | |
| Onslow | 4,451 | \$1,276,434 |
| District Total | 4,451 | \$1,276,434 |
| <u>District 5</u> | | |
| New Hanover | 2,977 | \$1,139,009 |
| Pender | 1,114 | \$477,967 |
| District Total | 4,091 | \$1,616,976 |

| <u>District 6A</u> | | |
|-----------------------------|--------------|--------------------|
| Halifax | 2,025 | \$939,881 |
| District Total | 2,025 | \$939,881 |
| <u>District 6B</u> | | |
| Bertie | 407 | \$201,195 |
| Hertford | 427 | \$177,667 |
| Northampton | 393 | \$239,941 |
| District Total | 1,227 | \$618,803 |
| <u>District 7A</u> | | |
| Nash | 1,810 | \$760,344 |
| District Total | 1,810 | \$760,344 |
| <u>District 7B/C</u> | | |
| Edgecombe | 1,173 | \$447,057 |
| Wilson | 1,841 | \$759,797 |
| District Total | 3,014 | \$1,206,854 |
| <u>District 8A</u> | | |
| Greene | 370 | \$277,447 |
| Lenoir | 1,593 | \$957,075 |
| District Total | 1,963 | \$1,234,522 |
| <u>District 8B</u> | | |
| Wayne | 2,415 | \$1,157,334 |
| District Total | 2,415 | \$1,157,334 |
| <u>District 9</u> | | |
| Franklin | 1,199 | \$479,108 |
| Granville | 1,094 | \$352,699 |
| Person | 962 | \$350,234 |
| Vance | 1,267 | \$291,449 |
| Warren | 299 | \$42,393 |
| District Total | 4,821 | \$1,515,883 |
| <u>District 10</u> | | |
| Wake | 7,886 | \$3,334,200 |
| District Total | 7,886 | \$3,334,200 |
| <u>District 11A</u> | | |
| Harnett | 1,654 | \$1,151,048 |
| Lee | 884 | \$515,649 |
| District Total | 2,538 | \$1,666,698 |

| <u>District 11B</u> | | |
|----------------------------|--------------|--------------------|
| Johnston | 1,849 | \$1,546,673 |
| District Total | 1,849 | \$1,546,673 |
| <u>District 12</u> | | |
| Cumberland | 3,157 | \$2,042,195 |
| District Total | 3,157 | \$2,042,195 |
| <u>District 13A</u> | | |
| Bladen | 961 | \$477,549 |
| Columbus | 1,878 | \$1,081,926 |
| District Total | 2,839 | \$1,559,475 |
| <u>District 13B</u> | | |
| Brunswick | 3,393 | \$1,403,314 |
| District Total | 3,393 | \$1,403,314 |
| <u>District 14</u> | | |
| Durham | 2,089 | \$1,194,651 |
| District Total | 2,089 | \$1,194,651 |
| <u>District 15A</u> | | |
| Alamance | 3,422 | \$1,277,206 |
| District Total | 3,422 | \$1,277,206 |
| <u>District 15B</u> | | |
| Chatham | 452 | \$136,048 |
| Orange | 446 | \$244,635 |
| District Total | 898 | \$380,684 |
| <u>District 16A</u> | | |
| Hoke | 266 | \$350,215 |
| Scotland | 553 | \$320,618 |
| District Total | 819 | \$670,833 |
| <u>District 16B</u> | | |
| Robeson | 4,166 | \$2,292,755 |
| District Total | 4,166 | \$2,292,755 |
| <u>District 17A</u> | | |
| Caswell | 360 | \$118,389 |
| Rockingham | 2,561 | \$914,856 |
| District Total | 2,921 | \$1,033,245 |

| <u>District 17B</u> | | |
|----------------------------|--------------|--------------------|
| Stokes | 1,174 | \$393,848 |
| Surry | 2,265 | \$675,046 |
| District Total | 3,439 | \$1,068,895 |
| <u>District 18</u> | | |
| Guilford | 3,844 | \$1,905,022 |
| District Total | 3,844 | \$1,905,022 |
| <u>District 19A</u> | | |
| Cabarrus | 2,583 | \$922,974 |
| District Total | 2,583 | \$922,974 |
| <u>District 19B</u> | | |
| Montgomery | 376 | \$233,311 |
| Randolph | 3,058 | \$1,103,537 |
| District Total | 3,434 | \$1,336,848 |
| <u>District 19C</u> | | |
| Rowan | 3,564 | \$1,262,750 |
| District Total | 3,564 | \$1,262,750 |
| <u>District 19D</u> | | |
| Moore | 2,683 | \$829,337 |
| District Total | 2,683 | \$829,337 |
| <u>District 20A</u> | | |
| Anson | 779 | \$261,272 |
| Richmond | 2,449 | \$823,333 |
| Stanly | 902 | \$405,651 |
| District Total | 4,130 | \$1,490,256 |
| <u>District 20B</u> | | |
| Union | 3,402 | \$1,571,189 |
| District Total | 3,402 | \$1,571,189 |
| <u>District 21</u> | | |
| Forsyth | 4,475 | \$1,583,217 |
| District Total | 4,475 | \$1,583,217 |
| <u>District 22A</u> | | |
| Alexander | 655 | \$271,026 |
| Iredell | 3,304 | \$910,566 |
| District Total | 3,959 | \$1,181,592 |

| District 22B | | |
|-----------------------|--------------|--------------------|
| Davidson | 3,359 | \$928,998 |
| Davie | 770 | \$257,560 |
| District Total | 4,129 | \$1,186,558 |

| District 23 | | |
|-----------------------|--------------|------------------|
| Alleghany | 227 | \$76,525 |
| Ashe | 443 | \$158,336 |
| Wilkes | 1,615 | \$391,964 |
| Yadkin | 745 | \$354,936 |
| District Total | 3,030 | \$981,761 |

| District 24 | | |
|-----------------------|--------------|------------------|
| Avery | 513 | \$141,363 |
| Madison | 550 | \$138,241 |
| Mitchell | 532 | \$167,827 |
| Watauga | 1,193 | \$329,536 |
| Yancey | 432 | \$127,970 |
| District Total | 3,220 | \$904,937 |

| District 25A | | |
|-----------------------|--------------|--------------------|
| Burke | 2,583 | \$922,974 |
| Caldwell | 3,294 | \$865,985 |
| District Total | 5,877 | \$1,788,959 |

| District 25B | | |
|-----------------------|--------------|--------------------|
| Catawba | 4,067 | \$1,194,380 |
| District Total | 4,067 | \$1,194,380 |

| District 26 | | |
|-----------------------|--------------|--------------------|
| Mecklenburg | 5,303 | \$4,084,591 |
| District Total | 5,303 | \$4,084,591 |

| District 27A | | |
|-----------------------|--------------|------------------|
| Gaston | 2,125 | \$848,385 |
| District Total | 2,125 | \$848,385 |

| District 27B | | |
|-----------------------|--------------|--------------------|
| Cleveland | 2,991 | \$745,786 |
| Lincoln | 1,766 | \$545,082 |
| District Total | 4,757 | \$1,290,868 |

| District 28 | | |
|-----------------------|--------------|--------------------|
| Buncombe | 3,094 | \$1,332,383 |
| District Total | 3,094 | \$1,332,383 |

| <u>District 29A</u> | | |
|----------------------------|----------------|----------------------|
| McDowell | 508 | \$326,227 |
| Rutherford | 643 | \$291,563 |
| District Total | 1,151 | \$617,790 |
| <u>District 29B</u> | | |
| Henderson | 1,241 | \$628,194 |
| Polk | 275 | \$121,601 |
| Transylvania | 412 | \$195,235 |
| District Total | 1,928 | \$945,031 |
| <u>District 30A</u> | | |
| Cherokee | 625 | \$304,018 |
| Clay | 267 | \$88,230 |
| Graham | 243 | \$155,861 |
| Macon | 1,020 | \$449,640 |
| Swain | 523 | \$226,305 |
| District Total | 2,678 | \$1,224,053 |
| <u>District 30B</u> | | |
| Haywood | 2,076 | \$775,205 |
| Jackson | 1,031 | \$388,568 |
| District Total | 3,107 | \$1,163,772 |
| GRAND TOTAL | 150,717 | \$ 63,797,940 |

Notes: Reports through FY07 included only payments to attorneys; FY08 through FY21 data include payments to experts and investigators as well. Count of payments is not identical to number of cases but is a count of number of fee applications paid plus number of cases closed as reported by contractors. Interpreters not included. This data excludes fee applications/contract payments received during FY20 but not paid until FY21 but includes those held for payment at end of FY21.