

# OFFICE OF THE STATE PUBLIC DEFENDER



## **STRATEGIC PLAN (2018 – 2022)**

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## ***VISION AND MISSION***

### **Vision Statement**

Justice for all in Iowa's criminal and juvenile courts.

### **Mission Statement**

To ensure that all indigent persons in Iowa are provided high-quality legal representation in criminal, juvenile, and other eligible proceedings in the most efficient and fiscally responsible manner.

### **Core functions**

High-quality and cost-effective representative by public defenders to indigent clients in State criminal court, juvenile court, and other proceedings as required by law.

Prompt and fair review and adjudication of claims for payment of indigent defense fees and costs from indigent defense providers.

## ***ASSESSMENT***

In preparing this strategic plan, consideration has been given to identified strengths, limitations, challenges, and opportunities, all of which impact the Mission and Vision of the Office of the State Public Defender.

Iowa's indigent defense system continues to be strong. The 223 employees of the State Public Defender System efficiently provide high quality representation. In FY 2017, SPD offices closed cases involving more than 83,000 charges. There was a final finding of ineffective assistance of counsel in less than .001% of these charges. Similarly, more than 810 contract attorneys continue to provide high quality representation throughout all 99 of Iowa's counties. In Fiscal Year 2017, 76,737 claims were submitted to the indigent defense fund, at an average cost per claim of \$449.85.

Strengths of the Office of the State Public Defender include the experienced and dedicated staff, especially within the local public defender offices, and the experienced private attorneys willing to contract for indigent defense services in most locations. The Gideon Fellowship Program continues to be a valuable tool to recruit new attorneys. The demonstrated efficiency and expertise of public defender offices and improving technology resources are further strengths.

Limitations of the Office include staffing and funding level limitations that limit the flexibility of the Office to allocate the limited indigent defense resources in the most efficient manner.

Challenges of the Office include the lack of control or predictability of the crimes committed in Iowa, the charging decisions of 99 county attorneys and the Attorney General, or the child protection action of the Department of Human Services, and limited control over the cost of representing the indigent clients in these cases, particularly when represented by a private court-appointed attorney. Even though average costs per type of adult case appear to be within reasonable limits, many individual claims greatly exceed this expense. The inconsistent experience and quality of private attorneys taking court appointments and the inaccurate perception from some in the public or clients that public defenders are not as experienced as other attorneys also remain challenges.

Another challenge is training the contract attorneys and public defenders to meet the requirements set forth in the recent Iowa Supreme Court case. On June 9, 2017, the Iowa Supreme Court issued a decision in *Roberto Morales Diaz v. State of Iowa* that clarified the scope of criminal defense counsel's duty to advise noncitizen clients of the immigration consequences of their guilty pleas and convictions. The Iowa Supreme Court's clarification comes after the U.S. Supreme Court's 2010 ruling in *Padilla v. Kentucky* that stated criminal defense attorneys must expand their knowledge to the area of immigration law in order to inform criminal defendants of immigration consequences as a result of their criminal conviction. *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). Though the Iowa Supreme Court's decision set a higher bar than many previously assumed, our office is working to provide attorneys the resources to comply with the Court's ruling.<sup>1</sup> Since June 2017, our office provided two webinars and two in-person trainings in Des Moines and Iowa City dedicated to crimmigration. Additionally, our office provides attorney resources to assist contract attorneys and public defenders with immigration questions.

Our office continues to embrace technological advances to promote efficiencies. The State Public Defender continues to find ways to better its services through technology. In January 2017, our office required attorneys to electronically submit their claims. Our office estimates rolling out online submission for miscellaneous claims (experts, court reporters, interpreters) on February 1, 2018. Online claims allows our office to reimburse attorneys and other parties conducting work on behalf of our office in a timely manner. Further, online submission of claims reduces fraud, abuse, and accidental billing. Our office continues to look for ways to find efficiencies through technology to better serve our stakeholders. In 2018, the State Public Defender will make updates to its website to make it more user-friendly. The Public Defender will also develop plans to better its data and statistics in the way it tracks cases in the Public

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<sup>1</sup> Immigrations resources may be found on our website at: <https://spd.iowa.gov/defense-resources/immigration>.

Defender Offices and in the Indigent Defense Fund and develop a plan to make its contracting process electronic.

The judicial branch's transition to electronic court filing (EDMS) provided an opportunity to adjust the practices and procedures of criminal practitioners to accommodate the new technological demands and efficiencies. Other opportunities include partnerships with other nonprofit, government, and legal organizations to provide training for public defender and contract attorneys and thus improve the quality of indigent defense in Iowa, and dedicated private attorneys with whom the Office can work to build closer relationships and explore expanded use of specialized contracts.

## ***GOALS, MEASURES, STRATEGIES, AND ACTIONS***

### **Goal 1: Provide high-quality representation to clients of public defender offices.**

#### **Measure:**

- Percentage of public defender cases where there have been no final findings of ineffective assistance of counsel, either on direct appeal of convictions, after post-conviction relief actions, or (in the case of civil commitments) habeas corpus actions.

#### **Strategies/Actions:**

- Recruit and retain the best criminal defense attorneys, investigators, and other support staff in Iowa:
  - o Aggressively advertise vacancies using economical methods and conduct a competitive selection process, involving the local public defender office and Administrative Office (ongoing).
  - o Continue outreach to Creighton University School of Law, Drake University Law School, University of Iowa College of Law, and other area law schools to attract competitive law students and alumni for internships and full-time vacancies (ongoing).
  - o Continue the Gideon Fellowship entry-level hiring program that permits the hiring of exceptional third-year law students during the traditional law school recruitment period (ongoing).
  - o Maintain and improve physical working conditions, including by disposing through surplus process of old and unnecessary furniture, equipment, and other items (ongoing).
- Enhance the abilities of public defender personnel by providing or coordinating resources, information, training, and professional development:
  - o Continue support for New Attorney Training Program with mandatory mentoring and practice experiences for new attorneys and increasing accountability for mentorship expectations (ongoing).
  - o Provide annual three-day criminal trial skills training for attorneys (ongoing).

- Provide annual three-day juvenile skills training for attorneys (ongoing).
- Continue to provide annual one-day post-conviction relief (PCR) training for attorneys (ongoing).
- Continue to provide one-day appellate training for attorneys (ongoing).
- Continue to expand in-person training opportunities in not only Des Moines but Iowa City and other parts of the state (ongoing).
- Continue to host webinar advanced training sessions for attorneys over the noon-hour (ongoing).
- Improve internal website resources to include updated expert witness database, relevant brief bank, and standard form documents to be used in criminal juvenile cases (ongoing).
- Continue to develop and move to paperless case management and filing systems that integrate as appropriate with EDMS (ongoing).
- Ensure that public defender offices are carrying appropriate caseloads:
  - Compare and evaluate performance expectations for local public defender office, withdrawals of cases for lack of staff, and judicial branch case data to determine whether designations or staffing should be adjusted (ongoing).
  - Monitor caseloads of all attorneys and in consultation with State Public Defender, local public defenders shall withdraw from cases when appropriate to avoid overloading attorneys beyond a reasonable caseload and to ensure the provision of quality counsel (ongoing).

**Goal 2: Ensure that clients of private court-appointed attorneys are provided high-quality representation.**

**Measure:**

- Percentage of court-appointed cases (not handled by the public defender) where there have been no final findings of ineffective assistance of counsel, either on direct appeal of convictions, after post-conviction relief actions, or (in the case of civil commitments) habeas corpus actions.

**Strategies/Actions:**

- Ensure indigent defense contract attorneys are competent to effectively represent indigent clients in the cases to which they are appointed:
  - Implement more precise case-type categories for indigent defense contracts, including: A & B felony; C & D felony, misdemeanor, post-conviction relief, and juvenile contracts (ongoing).
  - Continue minimum qualification requirements for all contract types (ongoing).
  - Promptly and fairly act in response to disciplinary action by the court against contract attorneys or justified complaints about contract attorneys (ongoing).
- Provide increased training and other resources for court-appointed attorneys:

- Provide annual three-day criminal trial skills training for attorneys (ongoing).
- Provide annual three-day juvenile skills training for attorneys (ongoing).
- Provide semiannual one-day criminal and juvenile introductory trainings for all new court-appointed attorneys after each Iowa bar exam sitting (ongoing).
- Provide annual appellate and post-conviction relief introductory trainings (ongoing).
- Develop and host monthly noon-hour webinar training sessions (ongoing).
- Provide in-person and webinar training sessions on crimmigration (ongoing).
- Develop and provide in-person trainings throughout the State and not just in Iowa City and Des Moines (2018-2019).
- Adequately compensate attorneys and other indigent defense providers in a timely and accurate manner.
  - At least annually, review number of contract attorneys statewide and in each county to determine whether attorneys are increasing or decreasing and whether any counties have a shortage of attorneys (ongoing).
  - Conduct comparison of hourly rates of compensation with other states and the federal government (ongoing).
  - At least every three years, complete report to General Assembly and Governor making recommendations as to the hourly rate of compensation for attorneys (ongoing).

**Goal 3: Improve the cost-effectiveness and efficiency of Iowa’s indigent defense expenditures.**

**Measures:**

- Total Expenditure for indigent defense
- Cost per claim in the indigent defense fund
- Cost per case for public defender cases

**Strategies/Actions:**

- Maximize public defender offices’ productivity while maintaining high quality representation
  - Annually set performance expectations for each local public defender office and continuously monitor (ongoing).
  - Continue enforcement of designation policy to ensure that field offices are receiving appointments in all cases for which they are designated (ongoing).
  - Continue adaptation to electronic court filing (EDMS) by the judicial branch and explore opportunities to achieve efficiencies through adjustment of internal procedures, including the keeping of paperless case files (ongoing).

- Develop system to better track statistics of public defenders and contract attorneys (2018 – 2019).
- Continue technological improvements and efficiencies by developing online contracts for contract attorneys (2018 – 2020).
- Review and update public defender website to ensure it is user-friendly (2018 - 2019).
- Continue expansion of specialized contracts with attorneys and other indigent defense providers
  - Maintain and enter into new contracts with court reporters in high volume areas of the state for the use of public defenders and court-appointed attorneys (ongoing).
  - Evaluate and develop other opportunities for increased use of specialized contracts, including with nonprofit organizations, and implement as appropriate (2018).
- Closely review attorneys who submit unreasonable or excessive claims, and terminate contracts where appropriate
  - Review administrative rules to ensure there are adequate safeguards to prevent excessive or improper billing (ongoing).
  - Continue annual review of aggregate claims for attorneys with unusually high volume of claims or other concerning practices (ongoing).
  - Closely review claims from attorneys with history of submitting excessive or unreasonable claims (ongoing).
  - Rollout claims review system for miscellaneous claims to include electronic submission of itemizations to automate aggregate review process and permit real-time analysis as claims are initially approved (2018).

**Goal 4: Compensate attorneys and other indigent defense providers in a timely and accurate manner.**

**Measures:**

- Percentage of Notices of Action on indigent defense claims that are unchallenged or upheld upon final judicial review
- Percentage of indigent defense claims reviewed and acted upon within an established time period

**Strategies/Actions:**

- Develop and transition to an online paperless claims submission and review system for miscellaneous claims (2018 – 2019).
- Review and revise administrative rules to clarify, simplify, and ensure they reflect the best practices to achieve high quality and efficient representation of indigent persons.

- Continue outreach to stakeholders seeking feedback on claims review process and suggestions for improvement (ongoing).