

OFFICE OF THE STATE PUBLIC DEFENDER



2012-2016 STRATEGIC PLAN

Submitted January 9, 2012

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 representation 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 is strong. The more than 200 employees of the State Public Defender System have been efficiently providing high quality representation on more cases than ever before. In Fiscal Year 2011, public defender offices closed more than 87,500 cases, at an average cost per case of \$268, and there was a final finding of ineffective assistance of counsel in less than 0.002% of these cases.

Similarly, more than 1,000 contract attorneys continue to provide high quality representation throughout all 99 of Iowa's counties. In Fiscal Year 2011, 70,266 claims were submitted to the indigent defense fund, at an average cost per claim of \$444. This was an increase of nearly 5,000 claims from Fiscal Year 2010, yet the total amount spent from the indigent defense fund decreased slightly. Both the increase in productivity of the public defender offices and the initial cost savings from the indigent defense fund appear to be caused at least in part by the expansion of the Public Defender System by 16 positions this past year. Continued savings are expected as the effect of the expansion is fully realized.

Strengths of the Office of the State Public Defender include the experienced and dedicated staff, especially within the local public defender offices and experienced private attorneys willing to contract for indigent defense services in most locations. Particularly given the current state of the legal market, there has been little difficulty attracting competitive candidates for attorney vacancies or sufficient private attorneys to contract for indigent defense services, but challenges could increase as the legal market improves. 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. The ability to provide services in 99 counties through public defender offices is also limited by geography and scheduling difficulties.

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 actions 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. As demonstrated in the charts included in this Office's recent Report on Iowa's Indigent Defense System (Dec. 30, 2011), even though average costs per type of adult case appear to be within reasonable limits, many individual claims greatly exceed this expense, including for example a Class A felony claim for more than \$75,000, and a simple misdemeanor claim of more than \$4,000. 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.

The judicial branch's transition to electronic court filing (EDMS) provides both a challenge and 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 specialized expanded contracts. The possibility of potential savings from continued targeted expansion of local public defender operations also remains a ripe opportunity for improving the efficiency and quality of indigent defense in Iowa.

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
 - Aggressively advertise vacancies using economical methods and conduct competitive selection processes, involving the local public defender office and Administrative Office (ongoing).
 - Continue outreach to the University of Iowa College of Law, Drake University Law School, and other area law schools to attract competitive law students and alumni for internships and full-time vacancies (ongoing).
 - Develop an entry-level hiring program that permits the hiring of exceptional third-year law students during the traditional law school recruitment period to begin work upon their admittance into the Iowa Bar (2012-13).
 - 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
 - Implement New Attorney Training Program with mandatory mentoring and practice experiences for new attorneys. (2012)
 - Provide annual three-day criminal basic skills training for attorneys (ongoing)
 - Provide annual three-day juvenile skills training for attorneys (ongoing)
 - Develop and host monthly lunch webinar advanced training sessions (2012-13)
 - Plan appellate training session to be held periodically (2012-13)
 - Improve internal website resources to include updated expert witness database, relevant brief bank, and standard form documents to be used in criminal and juvenile cases (2013-14).
- Ensure that public defender offices are appropriately staffed for office caseload
 - At least annually 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 (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 that indigent defense contract attorneys are competent to effectively represent indigent clients in the cases to which they are appointed by
 - Implement more precise case-type categories for indigent defense contracts, including felony, misdemeanor, and postconviction relief contracts, with appropriate requirements for training or experience (2013).
 - Study the possibility of adding additional training or other requirements for all contracts (2012-13).
 - 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 basic skills training for attorneys (ongoing)
 - Provide annual three-day juvenile skills training for attorneys (ongoing)
 - Develop one-day introductory training for all new court-appointed attorneys to be held twice a year in March and August after each Iowa bar exam sitting (2012).
 - Develop and host monthly lunch webinar training sessions (2013)
 - Plan appellate training session to be held periodically (2012-13)
 - Develop standard form documents used in criminal and juvenile cases and make available online for court-appointed attorneys (2013-14)
- 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).
 - At least every three years, 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).
 - *(See further strategies and actions related to prompt and accurate manner of compensation detailed as Goal 3)*

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:

- Ensure that public defender offices are as productive as possible while maintaining high quality representation
 - Annually set performance expectations for each local public defender office and monitor monthly (ongoing).
 - Continue enforcement of designation policy to ensure that field offices are receiving appointments in all cases for which they are designated (ongoing).
 - Actively prepare for the transition 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 program 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 (2012).
 - Develop and implement pilot program for specialized contracting with attorneys with alternative fee arrangements for specific classes of cases in a county (2012).
 - Evaluate opportunities for increased use of specialized contracts statewide and implement as appropriate (2012-2016).
- Evaluate and implement targeted expansion of public defender offices where appropriate
 - Annually review indigent defense expenditures and expected cost of public defender attorneys and determine areas where legal representation could be more efficiently provided by public defender offices (ongoing).
- Closely review attorneys who submit unreasonable and excessive claims, and terminate contracts where appropriate
 - Complete detailed review of top 2% of highest billing attorneys (2012).
 - Closely review claims from attorneys with history of submitting excessive and unreasonable claims (ongoing).
 - Upgrade claims review system to include electronic submission of itemizations to automate aggregate review process (2013).

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
- Average processing time for an indigent defense claim

Strategies/Actions:

- Develop and transition to an online paperless claims submission and review system
 - Engage with Department of Administrative Services and State Auditor to continue to satisfy any accounting or audit requirements in a paperless system in a reasonable and efficient manner (2012).
 - Complete necessary technology development to upgrade claims review system to a paperless submission system (2013).
- Educate attorneys and other indigent defense providers regarding administrative rules and indigent defense claim procedures
 - Respond promptly and accurately to attorney questions by phone, e-mail, or in person (Ongoing).
 - Develop training session on indigent defense claims to be included in new one-day introductory training session for new contract attorneys (2012).
 - Seek opportunities to present to groups of attorneys at continuing legal education seminars or bar meetings regarding the claims review process (ongoing).
 - Develop additional guidance and training materials on indigent defense fee claim policies and procedures and make available online (2012-13).
 - Develop claims review policy manual to ensure consistent and accurate information is provided to inquiring attorneys (2013-14).
- 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.
 - Adopt administrative rules providing detailed guidance on reasonableness of expenses for court reporters (2012).
 - Continue outreach to contract attorneys seeking feedback on claims review process and suggestions for improvement (ongoing).
 - Complete comprehensive review of administrative rules to clarify, simplify, and update with current best practices (2013).
 - At least biannually, conduct review of all administrative rules to identify areas for simplification, clarification, and improvement (ongoing).