

VIRGINIA INDIGENT DEFENSE COMMISSION

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David D. Walker
Carmen B. Williams

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Chief Information Officer

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September 26, 2017

Virginia State Crime Commission
Members of House Committee for Courts of Justice
Members of Senate Committee for Courts of Justice
Members of House Committee on Appropriations
Members of Senate Committee on Finance

RE: 2016 Annual Report of the Virginia Indigent Defense Commission

Dear Sirs and Madams:

Pursuant to §19.2-163.01 of the Code of Virginia of 1950 as amended, enclosed please find a copy of the 2016 Annual Report of the Virginia Indigent Defense Commission. The Report contains information relating to the state of indigent defense in Virginia, caseloads of public defenders, and the status of the Commission's compliance with statutory mandates.

Please contact me with any questions or comments you have concerning this report.

Sincerely,



David J. Johnson



Virginia Indigent Defense Commission

Annual Report 2016

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FY16 - Commission Members and (Appointing Authorities)

Chairman (July 2009 – Present)

The Honorable Alan E. Rosenblatt (ret.) (Senate of Virginia)

Steven D. Benjamin (Senate of Virginia)

John G. Douglass (Virginia State Bar)

Karl R. Hade, Executive Secretary of the Supreme Court

The Honorable Edward W. Hanson, Jr. (Senate of Virginia)

Kristen Howard (Crime Commission, designee)

Guy W. Horsley (Speaker of the House)

Carolyn Grady (Virginia State Bar)

The Honorable Christopher E. Collins (Virginia House of Delegates)

Thomas R. Chaffe (Governor)

The Honorable Richard Stuart (Senate of Virginia)

David D. Walker (Speaker of the House)

Carmen B. Williams (Speaker of the House)

Kristi A. Wooten (Governor)

Commission Staff

Executive Director

David J. Johnson

Deputy Director, ISO

Maria Jankowski

Chief Information Officer

Maurion Edwards

Chief Financial Officer

Angela Thompson

Public Defender Offices

Office	Localities Served	Year Established
Alexandria	City of Alexandria	1987
Arlington	County of Arlington and City of Falls Church	2005
Bedford	City/County of Bedford	1989
Capital Defender (Central)	Cities of Bedford, Charlottesville, Colonial Heights, Emporia, Hopewell, Lynchburg, Petersburg, Richmond, and Counties of Albemarle, Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Goochland, Greensville, Halifax, Hanover, Henrico, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mecklenburg, Nelson, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Surry, Sussex, Westmoreland	2002
Capital Defender (North)	Cities of Alexandria, Fredericksburg, Winchester and Counties of Arlington, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Harrisonburg, King George, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren	2003
Capital Defender (Southeast)	Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, and Counties of Accomack, Gloucester, Isle of Wight, James City, Mathews, Middlesex, Northampton, Southampton, York	2003

Public Defender Offices

Office	Localities Served	Year Established
Capital Defender (Western)	Cities of Bristol, Buena Vista, Covington, Danville, Galax, Lexington, Martinsville, Norton, Radford, Roanoke, Salem, Staunton, Waynesboro and Counties of Alleghany, Augusta, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Henry, Highland, Lee, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe	2003
Charlottesville	City of Charlottesville and County of Albemarle	1998
Chesapeake	City of Chesapeake	2005
Danville	City of Danville	1990
Fairfax	City and County of Fairfax	1987
Franklin	City of Franklin and Counties of Isle of Wight and Southampton	1989
Fredericksburg	City of Fredericksburg and Counties of King George, Stafford, and Spotsylvania	1990
Halifax	Counties of Halifax, Lunenburg, And Mecklenburg	1990
Hampton	City of Hampton	2005
Leesburg	Counties of Fauquier, Loudoun, and Rappahannock	1988
Lynchburg	City of Lynchburg	1991
Martinsville	City of Martinsville and Counties of Henry and Patrick	1992

Public Defender Offices

<u>Office</u>	<u>Localities Served</u>	<u>Year Established</u>
Newport News	City of Newport News	2005
Norfolk	City of Norfolk	2002
Petersburg	City of Petersburg	1979
Portsmouth	City of Portsmouth	1986
Pulaski	City of Radford and the Counties of Bland, Pulaski, And Wythe	1988
Richmond	City of Richmond	1986
Roanoke	City of Roanoke	1976
Staunton	Cities of Buena Vista, Lexington, Staunton, and Waynesboro and the Counties of Augusta and Rockbridge	1972
Suffolk	City of Suffolk	1989
Virginia Beach	City of Virginia Beach	1973
Winchester	Counties of Clarke, Frederick, Page, Shenandoah, and Warren, and the City of Winchester	1989

VIRGINIA INDIGENT DEFENSE COMMISSION

A. BACKGROUND

The Virginia Indigent Defense Commission (VIDC), in conjunction with court-appointed private attorneys, provides legal representation for indigent people accused of crimes for which the possible punishment is incarceration or death.¹

The last year saw many changes in the Public Defender offices. After many years of no turnover at the Chief Public Defender level, three Public Defenders retired after decades of service and one was appointed to the Juvenile and Domestic Relations Court bench. New Public Defenders were selected for Petersburg, Richmond, Fairfax and starting in September, Charlottesville. The newly selected Public Defenders bring decades of experience as trial attorneys and leaders.

Community and policy engagement also grew this past year. In addition to the tens of thousands of cases handled every year across the Commonwealth by the Public Defender offices, the Executive Director, Deputy Director and many Public Defenders serve on various boards, commissions, committees, and other groups working toward improving the criminal justice system both statewide and in their communities. This year alone The Executive Director continued his engagement with DCJS by serving on the Criminal Justice Service Board and Advisory Committee on Juvenile Justice and Prevention. He also served on the Law Enforcement and Technology Sub Panel of the Secure Commonwealth Panel. The Director serves on the State Policy Team for EBDM (Evidence Based Decision Making) and five public defender offices are EBDM pilot locations including Charlottesville, which was the original EBDM cite, Norfolk, Staunton, Richmond, and Petersburg. In each of these locations the Public

Defender is a vital partner in the success of the project. Public Defenders have been invited to be part of the Governor's Task Force on Prescription drugs and Heroin abuse as a workgroup member, as well as the Governor's Commission on Parole Review. The Deputy Director serves on the State Drug Treatment Court Advisory Committee as well as numerous state policy groups addressing mental health in the justice system. The VIDC appreciates the opportunity to engage with other stakeholders to insure that the unique challenges facing indigent defendants in the Commonwealth are not overlooked.

B. VIRGINIA CODE § 19.2-163.01 - STATUTORY MANDATES

The sections of the Code of Virginia governing the VIDC include several statutory mandates most of which concern the duty to oversee court-appointed private attorneys. A summary of the recent actions taken and the mandate requiring such action follows.

1. VIRGINIA CODE § 19.2-163.01(A)(1) - Publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants.

The initial qualification requirements as well as the requalification requirements for attorneys seeking to represent indigents accused in criminal cases are enumerated in Virginia Code §19.2-163.03. A list of the qualification requirements can be found on the VIDC website at www.indigentdefense.virginia.gov. Applications for initial certification and certification renewal are also available on the website. The Standards of Practice Enforcement Attorney or the General Counsel receives applications for certification and re-certification for review and determines whether the qualification or requalification requirements have been met.

2. VIRGINIA CODE § 19.2-163.01(A)(2) - Develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.

The certification trainings have been provided monthly during FY2016 at the administrative office in Richmond and at the Roanoke County Court House Library at no cost to the participants. Certification training includes six hours of specialized criminal defense instruction and four additional hours of juvenile instruction over a two day period. Additionally, a resource manual is provided. In FY2017 the VIDC will undertake an overhaul to update and improve the initial certification training for release for viewing by summer 2017.

The VIDC continues to strive to provide quality free CLE training to the private court appointed attorneys. This year the VIDC provided approximately 45 hours of free training across the commonwealth. This free training included two appellate conferences. The first was held in July 2015 at the University of Richmond School of Law and then in Chesapeake in October. There was an overwhelming response from the private bar to these programs. The VIDC partnered with Court of Appeals judges to provide topics such as appellate practice, oral advocacy, preservation of the record, petitions for appeals and opening briefs and drafting assignments of error. Participants indicated that focused attention in the area of appeals was a huge benefit to their practice. All VIDC sponsored trainings satisfy the continuing legal education requirements for attorneys to maintain their eligibility for court appointments.

In addition to the original programing, the VIDC continues to partner with other groups to provide training programs including, the 20th Annual Robert E. Shepherd, Jr. Juvenile Law and Education Conference, held at the University of Richmond on May 13, 2016. The Conference is named for the late Professor Robert Shepherd, Jr., a former Commission Chairman and tireless advocate for the legal rights of children. The Conference provides training and information to children's advocates from all disciplines and is co-sponsored with 8 other organizations. The VIDC continues to play a role in the planning and organization of this

important program. This year the program was opened by Director Andrew Block of the Virginia Department of Juvenile Justice and included topics such as the school to prison pipeline and successfully litigating transfer and intent to certify cases.

The VIDC reviews and certifies legal education courses provided by other organizations to determine whether the courses satisfy the continuing legal education requirements for attorneys to maintain their eligibility for court appointments. A current list of Commission and MCLE-approved courses is provided on the VIDC website at www.indigentdefense.virginia.gov and is updated as new courses are approved.

By statute, attorneys maintain their eligibility for court appointments for a period of two years from the date of their initial certification. Prior to the expiration of each two year period, attorneys receive multiple re-certification notifications informing them how to maintain their eligibility for court appointments. Attorneys wishing to maintain certification for court appointed work are required to complete the one page re-certification form. Attorneys must include on the form the information verifying their completion of the statutorily required number of Commission and MCLE-approved continuing legal education credits.

- 3. VIRGINIA CODE § 19.2-163.01(A)(3) - Maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards. Disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts.**

ACeS (Attorney Certification System) is an online system that allows attorneys to apply, renew and modify their certification status via the VIDC website. ACeS updates the certified counsel list located on the VIDC website and is accessible by court personnel to retrieve the names of certified attorneys by case type and judicial circuit/district. A letter is sent to the Office of the Executive Secretary every four months advising of attorneys who have not been re-

certified or who have been removed from the certified counsel list for other reasons. The most recent list of ineligible attorneys was provided on June 1, 2016.

As of June 30, 2016, the number of certified attorneys totaled 2,145 and the total attorneys certified by case type were as follows: **(NOTE: An attorney may be certified for more than one case type.)**

Case Type	Number of Certified Attorneys 6/30/15	Number of Certified Attorneys 6/30/16	Annual Change
Capital Appellate	48	23	- 52.08
Capital Habeas	38	17	-55.26
Capital Trial Co-Counsel	177	117	-33.90
Capital Trial Lead Counsel	94	67	-28.72
Felony	1772	1747	-1.41
Juvenile	1068	1015	-4.96
Misdemeanor	2182	2129	-2.43

As was stated in the 2015 annual report, the list of attorneys qualified to serve as court-appointed counsel in capital cases was purged on September 1, 2015 and a new list was created. The list only contains attorneys who have met the new qualification standards promulgated by a committee established by the Supreme Court, State Bar and VIDC to study capital qualification in Virginia.

4. **VIRGINIA CODE § 19.2-163.01(A)(4) - Establish official standards of practice for court-appointed counsel and public defenders to follow in representing their clients and guidelines for the removal of an attorney from the official list. Notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.**

The Standards of Practice for Indigent Defense Counsel in non-capital cases are located on the VIDC website. The Standards of Practice complaint process and the complaint form are also located on the website.

Previously implemented efforts to raise awareness of the Standards and the enforcement thereof have continued. Currently, VIDC training programs incorporate the Standards of Practice whenever applicable.

5. VIRGINIA CODE § 19.2-163.01(A)(5) - Develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility.

All public defenders must receive the same certification training as any attorney seeking to serve as court-appointed counsel. Additionally, every public defender attorney must attend the annual conference. All newly hired attorneys must attend an intensive multi-day “Boot Camp” trial and appellate skills training. Finally, all public defender attorneys serving as their office’s appellate supervisor must attend a specialized appellate training.

The 2016 Annual Public Defender Conference will be held October 17-18, 2016 in Hampton, Virginia. The VIDC continues to hold the conference in the Tidewater region because the largest concentration of offices is in this area thus resulting in a significant cost savings. The annual conference provides all public defenders with the opportunity to earn more than half of the required continuing legal education credit and maintain eligibility. Topics to be covered include: plenary sessions on discovery and pretrial practices. Some of the notable breakout sessions include presentations on juveniles and trauma, the confrontation clause, defending heroin cases, and an interactive appellate topic.

The VIDC requires newly hired public defenders to attend the trial and appellate skills “Boot Camp” training program. “Boot Camp” is an intensive four day program that continues

to be a success. The May 17th- 20th, 2016 program had 21 attendees and 28 attended the December 2015 session. Attendees were provided with one hour lectures on Client-Centered Communication, Maneuvering Through General District Court, Preservation and Objections, Cross-Examination and Impeachment, Appeals, Foundations, and Sentencing and Probation Violations. The attorneys also participated in workshops correlating to the lecture topics led by experienced public defender attorneys. The workshops provided the opportunity for hands on training and immediate, direct feedback from senior attorneys within the public defender system.

The VIDC remains committed to providing continuing management training to all of its supervisors within the Public and Capital Defender Offices. In March 2016, the VIDC provided its fifth annual management training for all supervising attorneys. The management training is an opportunity for Chief PD's/CD's, Deputies and Supervising Seniors to be trained in areas related to their supervision and management of the Public and Capital Defender Offices. The management training also provides supervising attorneys with an opportunity to obtain management best practices from other offices. This year instruction on best practices on training and supervising trial attorneys was included.

6. VIRGINIA CODE § 19.2-163.01(A)(6) - Periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.

The VIDC counts cases by the number of individual clients represented, rather than by the number of charges defended. Many cases involve more than one charge. (See **Appendix A, VIDC FY15 Caseload and Charge Data**). These totals include appeals to both the Court Of Appeals of Virginia and Virginia Supreme Court.

7. VIRGINIA CODE § 19.2-163.01(B) - Commission shall adopt Rules and Procedures for the conduct of its business.

The VIDC adopted its policies and procedures in November 2006. The policies and procedures are reviewed and updated as necessary, but no less than annually. This year the Commission voted on amendments to the policies at the March Commission meeting. The policies are accessible electronically to all employees via the VIDC Knowledge Center and MOAT, the IT security training program. All employees must acknowledge receipt of the Policies as part of the annual IT security training.

8. VIRGINIA CODE § 19.2-163.01(A)(14) - Report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the state of indigent criminal defense in the Commonwealth, including Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed pursuant to §19.2-159 or subdivision B2 of §16.1-266.

A 2005 ABA report, Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview, noted that Virginia's caps on court-appointed compensation placed its fees among the lowest in the nation.² The ABA report further indicated that Virginia ranked 49th in the nation based on its compensation for court-appointed counsel.³

This report and specifically the ranking, sparked debate in Virginia, the result of which was an added requirement on the VIDC to report on Virginia's ranking among the fifty states for compensation of court-appointed counsel.

Determinative state-to-state comparisons are difficult because the structure and funding of indigent defense systems vary nationwide. By statute, an attorney appointed to represent an indigent defendant in Virginia is compensated at an hourly rate set by the Supreme Court. The total amount or cap to be paid is set by statute and may not exceed \$120.00 for a misdemeanor in general district court, \$1,235.00 for a felony charge where the maximum period of confinement is more than 20 years, and \$445.00 for any other felony in circuit court. Fee cap waivers are

available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2 felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 years or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155. With approval of the judge, Virginia also allows for a second level waiver in certain cases.⁴ These caps, even with the initial waiver, remain some of the lowest in the nation. For a comparative look at the states see **(Appendix B, State Comparisons Chart)**.

¹ U.S. Const. Amend. VI

² ABA, Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview, The Spangenberg Group (August 2005)

³ Id. at 9

⁴ Va. Code §19.2-163

Appendix A, VIDC FY16 Caseload Data

Office Caseload FY2016 (including Appeals)

Office	Total Clients Represented	Charges
Alexandria	2,040	3,780
Arlington	2,149	3,426
Bedford	1,243	1,977
Charlottesville	2,632	4,654
Chesapeake	4,271	8,565
Danville	2,134	3,138
Fairfax	6,666	11,116
Franklin	1,305	2,832
Fredericksburg	6,680	13,458
Halifax	1,808	3,084
Hampton	3,773	6,020
Leesburg	4,595	6,664
Lynchburg	2,856	4,694
Martinsville	2,298	3,499
Newport News	5,059	9,773
Norfolk	6,060	10,825
Petersburg	1,579	2,888
Portsmouth	4,379	7,268
Pulaski	2,092	3,760
Richmond	9,551	16,721
Roanoke	3,759	5,977
Staunton	3,995	6,839
Suffolk	2,170	4,453
Virginia Beach	8,783	14,063
Winchester	3,335	5,427

Appendix B, State Comparisons Chart

STATE	HOURLY RATE	CAPS	AUTHORITY/NOTES
Alabama	\$70	Capital Case: No cap Class A Felony: \$4,000 Class B Felony: \$3,000 Class C Felony: \$2,000 Juvenile: \$2,500 All Other Cases: \$1,500	Code of Ala §15-12-21 (2015) Counsel shall be entitled to reimbursement of non-overhead expenses, with expenses exceeding \$300 subject to advance approval by the trial court.
Alaska	\$60 in-court \$50 out-of-court	Misdemeanor - Guilty Plea, No Contest Plea, or Dismissal: \$400 Misdemeanor - Trial: \$800 Felony - Guilty Plea, No Contest Plea, or Dismissal: \$2,000 Felony - Trial: \$4,000 Probation Violation - Misdemeanor: \$350 Probation Violation - Felony: \$1,000	2 Alaska Admin. Code 60.010 (2014)
Arizona	Varies	Varies (Judicial discretion)	A.R.S. § 13-4013 (2014) “Compensation for services rendered to the defendant shall be in an amount that the court in its discretion deems reasonable, considering the services performed.”
Arkansas	\$90-110 - Capital \$70-90 - Homicide Class A or Y Felony	N/A	A.C.A. § 16-87-211 (2014) (Statute directs the Arkansas Public Defender Commission to set guidelines for court-appointed

	\$60-80 - Other Felony \$50-80 - Dist. Ct. or Juvenile		attorney compensation).
California	Varies	Varies	Cal Pen Code § 987.2 (2014) Ca. Pen Code § 987.3 (2014) The court determines reasonable compensation.
Colorado	\$90 - Capital Cases \$80 - Type A Felony \$75 - Type B Felony, Juvenile \$70 - Misdemeanor, Traffic \$70 – Travel	Class 1 Felony & unclassified felonies where max. penalty is death, life, or 51+ years: \$28,000 (with trial), \$14,000 (without trial) Class 2 Felony, DF 1 felonies, & unclassified felonies where max. penalty is 41-50 years: \$12,000 (with trial), \$6,000 (without trial) Class 3-6 Felonies, DF 2-4 felonies, & unclassified felonies where max. penalty is 1-40 years: \$7,000 (with trial), \$3,500 (without trial) Class 1-3 Misdemeanors, unclassified misdemeanors, & petty offenses: \$2,500 (with trial), \$1,250 (without trial) Juvenile: \$5,000 (trial)/ \$2,500 (without trial)	Chief Justice Directive 04-04 (Amended November 2014)
Connecticut	\$75 - Felony, Serious Juvenile Offenses, Habeas Corpus, Appellate \$50 - Misdemeanor \$100 - Capital	Flat Fee Cases: Judicial District: \$1,000 Geographical Area: \$350 Juvenile Delinquency: \$350	Conn. Gen. Stat. § 51-291 (2014) By statute, the Chief Public Defender establishes the compensation for court-appointed attorneys. Cases are EITHER paid on an hourly rate or a flat fee and are assigned as such pursuant to the contract with the

			attorney.
Delaware	\$60	Felony: \$2,000 (per attorney) Misdemeanors: \$1,000 (per attorney)	Delaware Rules of Criminal Procedure Rule 44 (2015) Rule includes provisions for exceeding caps.
District of Columbia	\$60 - in-court (may be waived up to \$75) \$40 - out-of-court (may be waived up to \$75)	Felony: \$7,000 (per attorney) Misdemeanor: \$2,000 (per attorney)	18 U.S.C. § 3006A (2015) “The compensation maximum amounts...shall increase simultaneously by the same percentage, rounded to the nearest multiple of \$100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant to paragraph (1) for time expended since the case maximum amounts were last adjusted” Statute includes provisions for exceeding caps. Also see “CAPS”
Florida	Flat Fees	Flat Fees not to exceed: Capital: \$25,000 Felony (Life and Non – Life): \$15,000 Misdemeanors & Juveniles: \$1,000 Appeal: \$9,000	Fla. Stat. § 27.5304 (2015) Statute includes provisions for exceeding caps.
Georgia	By contract	By contract	O.C.G.A. § 17-12-22 (2014) Georgia Public Defender Standards Council contracts with individual attorneys for conflict appointment.
Hawaii	\$90	Felony: \$6,000 Misdemeanor (jury trial): \$3,000 Misdemeanor (jury waived): \$1,500 Petty Misdemeanor: \$900	HRS § 802-5 (2015) Statute includes provisions for exceeding caps.

		Appeals: \$5,000	
Idaho	Set by Court	Set by Court	Idaho Code § 19-860 (2014) (Code refers to public defenders and was amended to delete information regarding court appointed counsel; however, local judicial rules state that the court assigns a reasonable rate of compensation). First Judicial District Rule 10: Attorneys are to submit monthly vouchers for payment.
Illinois	Reasonable Fee as set by the Court In Counties with populations greater than 2 million people: \$40 - in-court \$30 - out-of-court	Reasonable Fee as set by the Court In Counties with populations greater than 2 million people: Felony: \$1,250 Misdemeanor: \$150	725 ILCS 5/113-3 (2015) Statute includes provisions for exceeding caps.
Indiana	\$90	N/A	Burns Ind. Code Ann. § 33-40-8-2 (2014) states that “a judge shall establish the fee to be paid to an attorney or attorneys for providing services to poor people.” Indiana Public Defender Commission Standards for Indigent Defense Services in Non-Capital Cases set the hourly rate.
Iowa	\$70 - Class A Felony \$65 - Class B Felony \$60 - All other cases	<i>(Adult Cases)</i> Class A Felony: \$18,000 Class B Felony: \$3,600 Class C Felony: \$1,800 Class D Felony: \$1,200 Aggravated Misdemeanors: \$1,200 Serious Misdemeanors:	Iowa Code § 13B.4 (2013) - Flat fee contracts Iowa Code § 815.7 (2013) - Hourly rates Iowa Code § 815.10A (2015) Statute includes provisions for exceeding caps. State Public Defender Administrative Rules Chapter 12.6

		<p>\$600</p> <p>Simple Misdemeanors: \$300</p> <p>Misdemeanor appeals to District Court: \$300</p> <p>Contempt/Show Cause: \$300</p> <p>Probation/Parole violations: \$300</p> <p>Juvenile Cases –</p> <p>Delinquency: \$1,200</p> <p>Juvenile Court Review: \$300</p> <p>Judicial Bypass Hearings: \$180</p> <p>Juvenile Commitment Hearings: \$180</p> <p>Juvenile Petition on Appeal: \$600</p> <p>Motion for Further Review after Petition on Appeal: \$300</p>	
Kansas	<p>\$80 (Negotiable)</p> <p>\$65 - Assigned Attorneys</p>	<p>Non-trying cases -</p> <p>Felony 1-5: \$1,300</p> <p>Felony drug offense with more than 6 hours work in-court: \$1,300</p> <p>Felony 6-10: \$975</p> <p>Felony drug offenses with less than 6 hours work in-court: \$975</p> <p>Probation Revocations:</p>	<p>K.S.A. § 22-4507 (2013)</p> <p>The Court can negotiate a lower hourly rate with attorneys willing to accept court appointments. If appropriations for payments are insufficient, the state board of indigent's defense services can establish a formula for pro rata payments.</p> <p>Kansas Administrative Regulations 105-5-2, 105-5-6-7</p> <p>When a public defender, contract counsel, or conflict attorney is unavailable, then the court will assign counsel who are paid at a rate</p>

		<p>\$260</p> <p>Tried cases -</p> <p>Felony 1-3, off-grid felony offenses, felony drug offenses level 1: \$6,500</p> <p>Felony 4, felony drug offenses 2-4: \$2,600</p> <p>Felony 5-10: \$1,950</p>	<p>of \$62/hr.</p> <p>Kansas Administrative Regulations 105-5-8 (2015)</p> <p>Statute includes provisions for exceeding caps.</p>
Kentucky	<p>Policy 8.04 & 8.06</p> <p>\$75 – Capital Cases</p> <p>\$50 – Violent Felonies</p> <p>\$40 – Non-Violent Felonies</p> <p>\$40 – Transfer Hearing (YO Cases)</p> <p>\$40 – Juvenile & Misdemeanor</p> <p>\$35 – Direct Appeal (in-court)</p> <p>\$25 – Direct Appeal (out-of-court)</p> <p>\$35 – Probation Revocation Appeal (in-court)</p> <p>\$25 – Probation Revocation Appeal (out-of-court)</p>	<p>Policy 8.04 & 8.06</p> <p>Capital Cases: \$30,000</p> <p>Violent Felonies: \$1,500 (w/ trial), \$1,200 (w/out trial)</p> <p>Non-Violent Felonies: \$900 (w/ trial), \$600 (w/out trial)</p> <p>Juvenile & Misdemeanor: \$300</p> <p>Capital Cases (Appellate Work): \$5,000</p> <p>Direct Appeal: \$750</p> <p>Probation Revocation Appeal: \$350</p>	<p>KRS § 31.235 (2014)</p> <p>The court shall pay reasonable and necessary fees but not in excess of fees established by the Department of Public Advocacy.</p>
Louisiana	Flat fee contracts	Flat fee contracts	<p>La. R.S. 15:147(C)(1) (2013)</p> <p>The Louisiana Public Defender Board enters into contracts with attorneys to provide indigent defense services.</p>

<p>Maine</p>	<p>\$50</p>	<p>Murder: Fee to be set by Executive Director</p> <p>Class A: \$2,500</p> <p>Class B and C (against person): \$1,875</p> <p>Class B and C (against property): \$1,250</p> <p>Class D and E (Superior or Unified Criminal Court): \$625</p> <p>Class D and E (District Court): \$450</p> <p>Probation Revocations: \$450</p> <p>Juvenile: \$450</p>	<p>15 M.R.S. § 810 (2015)</p> <p>4 M.R.S. § 1804(3)(F) (2015)</p> <p>The Maine Commission on Indigent Legal Services sets the rate for court appointed counsel.</p> <p>Code of Maine Rules § 94-649, Chapter 301</p>
<p>Maryland</p>	<p>Same hourly rate as federal panel attorneys.</p>	<p>District Court - federal misdemeanor</p> <p>Circuit Court - federal felony</p> <p>Juvenile Court - federal felony</p>	<p>Md. Criminal Procedure Code Ann. § 16-207 (2014)</p> <p>The Public Defender prepares schedules for fees and expenses for panel attorneys.</p> <p>Maryland Administrative Code 14.06.02.06</p> <p>Attorneys are compensated at the same hourly rate as federal panel attorneys.</p>
<p>Massachusetts</p>	<p>\$100 - Homicide</p> <p>\$60 - Superior Court non-homicide</p> <p>\$53 - District Court</p>	<p>Annual cap on billable hours: 1,650</p>	<p>ALM Gl ch. 211D, §11 (2014)</p> <p><u>Note:</u> Counsel may not accept new appointments or assignments after billing 1,350 billable hours, except in homicide cases.</p>
<p>Michigan</p>	<p>Set by the Court</p>	<p>Set by the Court</p>	<p>MCLS § 775.16 (2014)</p> <p>The statute covers appointment of counsel, but the case law notes following the statute state that the court sets the rates.</p>
<p>Minnesota</p>	<p>State Board of Public</p>	<p>State Board of Public</p>	<p>Minn. Stat. §611.215 (2014)</p>

	Defense determines rates	Defense determines rates	State Board of Public Defense responsible for appointment of counsel and collection of costs. Minn. Stat. §611.27 (2014) The state's obligation for the costs of the public defender services (including court-appointed attorney fees) is limited to the appropriations made to the Board of Public Defense.
Mississippi	Set by the Court	Circuit Court: \$1,000 Court not of record: \$200 Capital Cases: \$2,000 Appeals to State Supreme Court: \$1,000	Miss. Code Ann. §99-15-17 (2013)
Missouri	Flat fee contracts Missouri State Public Defender Website – Panel Attorney Payments, Contract Fee Schedule http://www.publicdefender.mo.gov/contracts/res_Panel_Atty_Payments.htm Jury Trial - \$1,500 for 1 st day, \$750 for each additional day (partial days prorated) Bench Trial - \$750/day, prorated	Murder first degree: \$10,000 Other homicide: \$6,000 Felony Class A/B - Drugs: \$750 Felony Class A/B- Other: \$1,500 Felony Class A/B - Sex: \$2,000 Felony Class C/D - Drugs: \$750 Felony Class C/D - Other: \$750 Felony Class C/D - Sex: \$1,500 Misdemeanor: \$375 Juvenile - Non-violent offense: \$500 Juvenile - Violent offense: \$750	§600.042 R.S.Mo. (2014) The state Public Defender contracts with private attorneys for legal services. §600.021 R.S.Mo. (2014) The commission contracts with private attorneys to provide defense services.

		<p>Probation Violation: \$375</p> <p>Direct Appeal: \$3,750</p> <p>Direct Appeal (If Counsel Previously Worked on Case at Trial): \$1,875</p>	
Montana	<p>\$62</p> <p>\$120 – Capital Defense</p>	N/A	<p>47-1-216, MCA (2013)</p> <p>The Commission adopts rules to provide reasonable compensation to contract attorneys.</p>
Nebraska	Set by Court or Public Defender Commission	N/A	<p>R.R.S. Neb. §29-3927 (2013)</p> <p>Public Defender Commission is responsible for determining compensation rates for contracting attorneys and court-appointed attorneys.</p> <p>R.R.S. Neb §29-3905 (2013)</p> <p>Allows the court to fix reasonable expenses and fees.</p>
Nevada	<p>\$125 - Capital cases</p> <p>\$100 - all other cases</p>	<p>Capital, or life case: \$20,000</p> <p>Felony not punishable by death or life in prison: \$2,500</p> <p>Misdemeanor: \$750</p> <p>Gross Misdemeanor or Felony Appeal: \$2,500</p> <p>Misdemeanor Appeals: \$750</p>	<p>Nev. Rev. Stat. Ann. §7.125 (2015)</p> <p>Statute includes provisions for exceeding caps.</p>
New Hampshire	<p>\$100 – Major Crimes</p> <p>\$60 – all others</p>	<p>Homicides under RSA 630:1-2 (per co-counsel): \$20,000</p> <p>Felony – Sexual Assault: \$8,000</p> <p>Felony: \$4,100</p> <p>Misdemeanor: \$1,400</p> <p>Supreme Court Appeals: \$2,000</p>	<p>Rules of the Supreme Court of the State of New Hampshire, Rule 47 (2015)</p> <p>Statute includes provisions for exceeding caps.</p>

New Jersey	<p>\$60 - in-court</p> <p>\$50 - out-of-court</p> <p>\$252 - full day (per diem)</p> <p>\$60 – in-court (appellate cases)</p> <p>\$50 – out-of-court (appellate cases)</p> <p>\$250 – Oral Argument (appellate cases)</p>	N/A	<p>N.J. Stat. §2A:158A-7 (2015)</p> <p>Public Defender establishes compensation with contract attorneys.</p> <p>OPD Pool Attorney Application Process sets current rates.</p>
New Mexico	<p>Flat-fee contracts</p> <p>Hourly rate in 5 counties (see Notes)</p> <p>\$85</p>	<p>1st Degree Murder: \$5,400</p> <p>1st Degree Felony (Life Imprisonment): \$5,400</p> <p>1st Degree Felony (Judicial Districts 5, 9 & 10): \$750</p> <p>1st Degree Felony (All Other Districts): \$700</p> <p>2nd Degree Felony (Districts 5, 9 & 10): \$730</p> <p>2nd Degree Felony (All Other Districts): \$650</p> <p>3rd Degree Felony (Districts 5, 9 & 10): \$700</p> <p>3rd Degree Felony (All Other Districts): \$595</p> <p>4th Degree Felony (Districts 5, 9 & 10): \$650</p> <p>4th Degree Felony (All Other Districts): \$540</p> <p>Juvenile (District 5): \$300</p>	<p>N.M. Stat. Ann. §31-15-7 (2015)</p> <p>Public Defender to establish fee schedule for court appointed counsel.</p> <p>Public Defender Contract Counsel Sample Contract</p> <p>Lists flat fee schedules.</p>

		<p>Juvenile (All Other Districts): \$250</p> <p>Misdemeanor Trial: \$100</p> <p>Retrial: Half the Original Fee</p> <p>District Court Appeals –</p> <p>1st Degree Murder: \$2,700</p> <p>Summary Cases (First Memo): \$540</p> <p>Summary Cases (Subsequent Memo): \$216</p> <p>Certiorari Petitions: \$162-\$540</p> <p>Oral Argument (Non-Capital Cases): \$486</p> <p>Certiorari Petition (US Supreme Court): \$1,890</p> <p>Special Motions: \$297</p> <p>All Other General Calendar Appeal Cases: \$1,080-\$3,2400</p>	
New York	<p>\$75 - Felony</p> <p>\$60 - Misdemeanor</p>	<p>Felony: \$4,400</p> <p>Misdemeanor: \$2,400</p>	<p>NY CLS County §722-b (2015)</p> <p>None</p>
North Carolina	<p>\$70 - Class A-D felony</p> <p>\$55 - All other cases resolved in district court</p> <p>\$60 - All other cases resolved in Superior Court</p> <p>\$60 - Parole and post-release revocation hearings</p>	N/A	<p>N.C. Gen. Stat. § 7A-498.5 (2015)</p> <p>Office of Indigent Defense Services responsible for setting rates.</p> <p>Private Assigned Counsel Rates were updated in March of 2014.</p>

	<p>\$55 – Competency Cases</p> <p>\$70 – Non-Capital Appeals and Post-Conviction (A-D Felony)</p> <p>\$60 – All other Non-Capital Appeals and Post-Conviction</p>		
North Dakota	<p>By contract</p> <p>According to Commission office, standard monthly contract rate is \$75/hr.</p>	<p>Presumed rate system</p> <p>Felony - \$575 (7 hours of work)</p> <p>Misdemeanor - \$300 (4 hours of work)</p> <p>Juvenile - \$375 (5 hours of work)</p> <p>Juvenile (non-TPR) - \$450</p> <p>Appeal - \$2,250</p>	<p>N.D. Cent. Code, § 54-61-02 (2014)</p> <p>Commission on Legal Counsel has authority to set fees.</p> <p>Statute does not mention specific hourly rates.</p>
Ohio	<p>\$60 - in-court</p> <p>\$50 - out-of-court</p> <p>\$95 – Capital Case</p>	<p>Felony with Possible Life Sentence/Repeat Violent Offender/Major Drug Offender: \$5,000</p> <p>Felony - Deg. 1-3: \$3,000</p> <p>Felony - Deg. 4-5: \$2,500</p> <p>Misdemeanor - Deg. 1-4: \$1,000</p> <p>Contempt: \$300</p> <p>Probation violations: \$500</p> <p>Juvenile: \$1,000</p> <p>Aggravated Murder (w/ specs) - \$75,000</p>	<p>ORC Ann. 120.33 (2014)</p> <p>The Board of County Commissioners shall establish a schedule of fees by case or an hourly basis. The County must file an up-to-date fee schedule with the Ohio Public Defender, who then will reimburse up to the maximum set by the Ohio Public Defender State Maximum Fee Schedule.</p> <p>Ohio Public Defender State Maximum Fee Schedule For Appointed Counsel Reimbursement</p> <p>Statute includes provisions for exceeding caps.</p>

		<p>Aggravated Murder (w/o specs) - \$8,000/1 attorney, \$10,000/2 attorneys</p> <p>Appellate Level Proceedings –</p> <p>Aggravated Murder (death sentence) - \$25,000</p> <p>Aggravated Murder (sentence other than death) - \$5,000</p> <p>Murder with Life Sentence/Repeat Violent Offender/Major Drug Offender/Sexually Violent Predator - \$3,000</p> <p>Felonies/SB2 & HB1 Appeals - \$1,500</p> <p>Misdemeanors - \$1,000</p> <p>Other/Juvenile - \$1,000</p>	
Oklahoma	Flat-fee contracts	<p>Felony: \$3,500</p> <p>Misdemeanor, Juvenile, Traffic: \$800</p>	<p>22 Okl. St. §1355.8 (2014)</p> <p>Statute includes provisions for exceeding caps.</p>
Oregon	<p>\$61 - Capital lead counsel</p> <p>\$46 - Capital co-counsel</p> <p>\$46 - Non-capital cases</p>	N/A	<p>ORS §151.216 (2015)</p> <p>The Public Defense Services Commission adopts guidelines regarding the fair compensation of appointed counsel located in the Public Defense Policies and Procedures, Exhibit 3.</p>
Pennsylvania	Set by the Court	Set by the Court	<p>16 P.S. §9960.7 (2014)</p> <p>Attorney to be rewarded reasonable compensation to be fixed by the Court.</p>
Rhode Island	\$100 - Murder	Murder: \$15,000	General Laws of Rhode Island §8-15-2

	\$90 - Class 1 Felony	Class 1 Felony: \$10,000	Supreme Court Executive Order No. 2012-06
	\$60 - Class 2 Felony	Class 2 Felony: \$5,000	
	\$50 - Misdemeanor Appeal (Superior Court)	Misdemeanor Appeal (Superior Court): \$1,500	
	\$30 - Violation of Court Order (non-payment of fines, costs)	Violation of Court Order (non-payment of fines, costs): \$1,500	
	\$35 - Adult Criminal Trial in Family Court	Adult Criminal Trial in Family Court: \$2,500	
	\$30 – Delinquency	Delinquency: \$1,000	
	\$75 – Criminal Appeal	Criminal Appeal: \$3,000	
	\$75 – Misc. Petition	Misc. Petition: \$3,000	
	Superior Court –	Family Court –	
	\$200/day – Courtroom 14 (Fines, Costs, and/or Restitution Calendar), Licht Judicial Complex	Delinquency (Review): \$2,000	
	\$200/day – Courtroom 5-G (Pre-arraignment Calendar), Providence/Bristol County	District Court – DUI: \$2,500 Misdemeanor: \$1,500	
	\$200/day – Courtroom 9 (Daily Criminal Calendar), Providence/Bristol County		
	Family Court –		
	\$30 – Delinquency (Arraignment)		
	District Court –		
	\$50 – DUI		
	\$50 – Misdemeanor		

South Carolina	\$60 - in-court \$40 - out-of-court	Felony: \$3,500 Misdemeanor: \$1,000	S.C. Code Ann. §17-3-50 (2015)
South Dakota	\$92	N/A	S.D. Codified Laws § 23A-40-8 (2015) Reasonable amount to be paid based upon guidelines established by the presiding judge of the circuit court. See Unified Judicial System Policies Regarding Court-Appointed Attorney Fees.
Tennessee	<i>(Non-Capital Cases)</i> \$50 - in-court \$40 - out-of-court	First Degree Murder or Class A or B felony in trial court: \$2,500 Any other felony in trial court: \$1,500 Felony preliminary hearing, misdemeanor, probation violation, juvenile: \$1,000 Contempt of Court, parole revocation: \$500	Tennessee Supreme Court Rule 13 Rule includes provisions for exceeding caps.
Texas	Court sets rate	Court sets fee	Texas Code of Criminal Procedure Article 26.05
Utah	Court sets rate	Felony: \$3,500 Misdemeanor: \$1,000 Appellate Court: \$2,500	Utah Code Ann. § 77-32-304.5 (2014)
Vermont	\$50	Felony with possible life sentence or death penalty: \$25,000 Other major felony: \$5,000 Minor felony or Juvenile: \$2,000 Misdemeanors & all other proceedings: \$1,000	Vt. A.O. 4 §6 (2014) 13 V.S.A. § 5205 (2015)

		Appeals: \$2,000	
Virginia	\$90	<p>Felony with 20 years or more sentence (resolved in district court or circuit court): \$1,235</p> <p>Other felony (resolved in district court or circuit court): \$445</p> <p>Misdemeanor in Circuit Court: \$158</p> <p>District Court cases (misdemeanors, felony preliminary hearings where the felony was not resolved in district court): \$120</p>	<p>Va. Code § 19.2-163 Supreme Court of Virginia Chart of Allowances</p> <p>Fee cap waivers are available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2 felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 year or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155.</p>
Washington	Set by Court	Set by Court	Rev. Code Wash. (ARCW) §36.26.090 (2015)
West Virginia	<p>\$65 - in-court</p> <p>\$45 - out-of-court</p>	<p>Felony offenses with possibility of life in prison: court discretion</p> <p>All other cases: \$3,000</p>	W. Va. Code §29-21-13(a) (2015) Statute includes provisions for exceeding caps.
Wisconsin	<p>\$45 - in-court</p> <p>\$35 - out-of-court</p>	N/A	Wis. Stat. § 977.08 (2015)
Wyoming	<p>\$100 - in court</p> <p>\$35-60 - out-of-court</p>	N/A	Wyoming Rules of Criminal Procedure Rule 44(e)