

# OFFICE OF THE STATE PUBLIC DEFENDER



## 2014-2018 STRATEGIC PLAN

Submitted May 1, 2014

## 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 continues to be 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 2013, public defender offices closed more than 91,940 cases, at an average cost per case of \$282, and there was a final finding of ineffective assistance of counsel in less than 0.002 % of these cases. Similarly, more than 1,100 contract attorneys continue to provide high quality representation throughout all 99 of Iowa's counties. In Fiscal Year 2013, 60,929 claims were submitted to the indigent defense fund, at an average cost per claim of \$508.

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. Fortunately, the newly authorized Gideon Fellowship Program will be valuable tool to recruit new attorneys even in a more challenging legal market. 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. 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.

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 expanded use of specialized contracts. The possibility of potential savings from continued targeted expansion of local public defender operations also remains an 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).
  - Implement newly authorized Gideon Fellowship entry-level hiring program that permits the hiring of exceptional third-year law students during the traditional law school recruitment period (2014-16).
  - 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
  - Continue support for New Attorney Training Program with mandatory mentoring and practice experiences for new attorneys and increasing accountability for mentorship expectations (ongoing).
  - Provide annual three-day criminal trial skills training for attorneys (ongoing)
  - Provide annual three-day juvenile skills training for attorneys (ongoing)
  - Develop and host monthly lunch webinar advanced training sessions (2015-16)
  - 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 (2015-17).
  - Move to paperless case management and filing systems that integrate as appropriate with EDMS (2017-18).

- 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: A & B felony; C & D felony, misdemeanor, postconviction relief, and juvenile contracts (2014).
  - Establish minimum qualification requirements for all contract types (2014)
  - Develop web-based appointment system to assist courts in making proper appointments given changing contracts and designations and to provide better data to State Public Defender (2015-2016)
  - Promptly and fairly act in response to disciplinary action by the court against contract attorneys or justified complaints about contract attorneys (ongoing).
  - Study additional methods of evaluating quality of representation, including client and judicial feedback (2016-2017)
- 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).
  - Develop annual appellate and postconviction relief introductory trainings (2014)
  - Develop and host monthly lunch webinar training sessions (2015-2016)

- Develop standard form documents used in criminal and juvenile cases and make available online for court-appointed attorneys (2016-17)
- Explore development of mentorship program for senior public defenders or trusted contract attorneys to mentor new contract attorneys, including opportunities for observing or second-chairing trials (2017-18)
- 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).
  - Continue adaption 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).

- 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).
  - Expand child-support contempt special contract program from Polk County to other higher volume counties (2014).
  - Develop specialized alternative-fee appellate contract and pro bono program, reaching out to former appellate clerks, civil appellate practitioners, and others with criminal appellate experience to participate (2014-15).
  - Evaluate other opportunities for increased use of specialized contracts, including with nonprofit organizations, and implement as appropriate (2015-2017).
- 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 or excessive claims, and terminate contracts where appropriate
  - Adopt administrative rules implementing additional safeguards to prevent excessive or improper billing (2014).
  - 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).
  - Upgrade claims review system to include electronic submission of itemizations to automate aggregate review process and permit real-time analysis as claims are initially approved (2014).

#### **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
  - Complete necessary technology development to upgrade claims review system to a paperless submission system (2014).
  - Explore further automation of fiscal processing with Department of Administrative Services and Department of Inspections and Appeals Fiscal Staff (2015)
- 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).
  - Continue outreach training on indigent defense claims rules and ethics in one-day introductory training session for new contract attorneys and support staff training, and develop online training (2014-2015).
  - 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 (2014-15).
  - Develop claims review policy manual to ensure consistent and accurate information is provided to inquiring attorneys (2015-16).
- 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 contract attorneys seeking feedback on claims review process and suggestions for improvement (ongoing).
  - At least biannually, conduct review of all administrative rules to identify areas for simplification, clarification, and improvement (ongoing).