

## **COMMISSION ON INDIGENT DEFENSE**

### **FY 2005-2005 ACCOUNTABILITY REPORT**

#### **Section I- Executive Summary:**

The Commission on Indigent Defense and its operational arm, the Office of Indigent Defense, were created in 1993. The focus of the Commission was to improve the delivery of indigent criminal defense in the state and to provide additional funding to assist the counties when facing extraordinary expenses in capital litigation.

In 1997-1998, the Agency became responsible for collecting and disbursing funds generated by an increase in the court filing fees for civil cases to the State's Legal Aid offices. The agency serves as a pass-through for these funds, collecting them monthly and disbursing them twice a year.

In 1999-2000, the Office of Indigent Defense took on the responsibility of administering funding for two new programs, the Civil Appointment Fund and the Appellate Conflict Fund. These programs were originally funded with appropriated, recurring funds, but have not been funded since FY 2000-2001. The program provides representation by appointed counsel to indigents in civil matters such as Post Conviction Relief cases, Sexually Violent Predator cases, Attorneys and Guardians ad Litem in child abuse cases, parents in abuse and neglect cases and in cases in which the State is seeking to terminate parental rights, as well as other civil cases which may not fit into a distinct category. The Appellate Conflict Fund provides payment to attorneys appointed to represent persons appealing a criminal conviction when the S.C. Office of Appellate Defense is unable to represent a client due to a conflict of interest.

#### 1. Major Achievements from the Past Year:

- Compiled and analyzed statistical data relating to costs of capital and non capital cases in the state;
- Funded the Criminal Defense System as follows:
  - Dispensed \$13.3 million for the representation of indigent persons in the criminal justice system, of this amount the Agency
    - ✓ Distributed almost \$7.6 million to the state's Public Defender offices for operating expenses;
    - ✓ Processed payments of approximately \$2.1 million to private attorneys for fees and expenses in capital cases and capital Post Conviction Relief cases
    - ✓ Paid out \$1.9 million to appointed counsel for fees and expenses in non capital cases
    - ✓ Paid out \$1.7 million to appointed counsel for fees and expenses in Civil Appointment Cases
    - ✓ Paid out \$458,438 for transcripts in indigent appeals cases

- Provided resources and information when requested to the state's Public defender offices, appointed counsel, the judiciary and other parties concerning the representation of indigent defendants.
- Disbursed \$1.6 million to local Legal Aid Services for operating expenses.
- Received, processed and paid 3,225 requests for payment from appointed counsel in Civil cases
- Provided funding for 5 appeals during FY2004-2005, at a cost of \$9,356.00

## 2. Mission and Values:

The Office of Indigent Defense establishes and monitors programs and services for the delivery of legal representation of indigent defendants in State Court. The office establishes criteria to be used in the determination of indigency and qualifications for services of the offices of public Defenders and administers appropriate distribution of funding for indigent defense. Additionally, the office establishes and supervises training programs for the Public defender offices across the State as well as implementing a central reporting systems for the accurate compilation of statistical data regarding the operation of Public Defender Offices and serves as a clearing house and distribution source for publications and materials involving indigent criminal defense.

This is the official Mission Statement of the Commission on Indigent defense as adopted in 1994. It sets forth the goals and objectives of the Commission. Because of the budget restraints and reductions the Agency has been unable to meet all of these goals, but has fulfilled the main purposes of the Commission, namely to provide funding for the various indigent services programs un its jurisdiction. With additional and adequate funding, the Commission hopes to again fulfill all of its mission-oriented goals.

## 3. Key Strategic Goals:

The main goal of the agency is to provide the resources necessary to appointed counsel, whether they are Public Defenders or private attorneys, to adequately represent those indigent or otherwise appointed clients in the State's criminal, civil and family courts. In order to accomplish this goal, the funding for attorneys must be delivered as quickly as possible after receiving the necessary and statutorily mandated documents. Additionally the Agency collects statistics on the operation of the indigent defense system in the State and provides information and material to interested parties.

## 4. Opportunities and Barriers:

The main purpose of this Agency is to disburse money to the indigent legal system in this State. A portion of this money comes from non-appropriated sources derived from fine surcharges and application fees. This source of funding has not proved sufficient for the criminal defense system and South Carolina currently ranks 49<sup>th</sup> in indigent defense

spending per capita. Only a portion of the per capita distribution to the Public Defender Offices is appropriated by the General Assembly. Since FY 2000-2001, the Agency has not received any appropriated funds for the Death Penalty Trial Fund, Conflict Fund, Civil Appointment or Civil Appointment Fund.

The major barrier to the successful operation of this Agency is adequate appropriated funding. The non-appropriated sources of revenue have peaked, as other agencies have been funded from these same sources raising the surcharge on fines to 107.5%. This source has not shown significant increases over the past years to meet the growing demands of this Agency and has actually show a decrease in the past few years. While sources such as these may provide a good supplemental base for funding, in order for the source to remain adequate sufficient appropriated funds are a necessity.

**Section II – Business Overview:**

1. The Agency had a range of six to eight employees during the past fiscal year. 1 Executive Director, 1 Administrative Manager-Assistant Director, 1 General Counsel-Legislative Liaison (vacant) and 5 staff personnel (1 vacant).
2. The Agency has one primary location: 1122 Lady Street, Suite 1110, Columbia, SC. While not having direct control over the State’s Public Defenders, all of the State’s 46 counties are served by 39 Defender Corporations located across the state.
3. Expenditures/Appropriations (See Attached Chart)

**Base Budget Expenditures and Appropriations**

Major Budget Categories	03-04 Actual Expenditures		04-05 Actual Expenditures		05-06 Appropriations Act	
	Total Funds	General Funds	Total Funds	General Funds	Total Funds	General Funds
Personal Service	\$269,042	\$216,792	\$304,524	\$304,524	\$272,524	\$272,524
Other Operating	\$185,566	\$57,000	\$127,726	\$56,417	\$51,216	\$51,216
Special Items	\$11,124,086	\$3,224,161	\$13,358,094	\$3,188,651	\$13,011,703	\$4,688,651
Permanent Improvements	\$0	\$0	\$0	\$0	\$0	\$0
Case Services	\$0	\$0	\$0	\$0	\$0	\$0
Distributions to Subdivisions	\$0	\$0	\$0	\$0	\$0	\$0
Fringe Benefits	\$70,851	\$70,851	\$80,110	\$71,298	\$72,276	\$72,276
Non-recurring	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$11,649,545</b>	<b>\$3,568,804</b>	<b>\$13,870,454</b>	<b>\$3,620,890</b>	<b>\$13,862,719</b>	<b>\$5,084,667</b>

### Other Expenditures

Sources of Funds	03-04 Actual Expenditures	04-05 Actual Expenditures
Supplemental Bills	\$0	\$0
Capital Reserve Funds	\$0	\$0
Bonds	\$0	\$0

5. The key customers of this Agency are the Defender Corporations of this State and attorneys appointed to represent indigent persons in the State courts.
6. The key supplier is the State Legislature as it provides the funding this Agency disburses.
7. The Agency disburses money to provide for the State's share of the maintenance of the local Public Defender Offices and to reimburse private attorneys for their time and expenses in representing indigent clients appointed by the courts.
8. With only 6 employees, the Agency organization structure is simple. The Commission appoints the Executive Director who oversees the general operation of the Agency. The Executive Director is responsible for the day-to-day operation of the Office of Indigent Defense which is the operational arm of the Agency. The Agency is divided into a Criminal Division, and a Civil Division, although members of the staff actually are cross-trained to function in either division.

### **Category 1 – Leadership**

1. How do senior leaders, set, deploy and ensure two-way communication for:
  - a) Short and Long Term Direction: Established by the Commission and the Executive Director. Budget and other matters are proposed by the Executive Director to the Commission which accepts, rejects or modifies the proposal. Major policy decisions which are likely to be recurring and long term are decided by the Chairman the Executive Director and are submitted to the full Commission for ratification. The Executive Director is delegated authority to make emergency policy decisions and to supervise the day-to-day operation of the Office of Indigent Defense.
  - b) Performance Expectations: Set by the Executive Director after consultation and discussion with the staff.
  - c) Organizational Values: Determined by the Executive Director and the Commission
  - d) Empowerment and Innovation: Shared by all members of OID after discussion. With an agency as small as this one, regular staff meetings are simple and all staff members feel free to discuss ideas and bring forth problems they encounter.
  - e) Organizational and employee learning: Achieved by encouraging staff to avail themselves of every opportunity to learn new procedures and ideas.
  - f) Ethical Behavior: Standards are those expected to be followed by all State employees.
  
2. How do senior leaders establish and promote a focus on customers and other stakeholders?
  - a) With the size of this agency, the Executive Director has direct contact with the Agency's customers. He is available to any person who calls, and often gets calls from attorneys, judges, public defenders and other agency personnel. The agency has an open door, open phone policy.
  
3. How do senior leaders maintain fiscal, legal and regulatory accountability?
  - a) Because of the size of this agency, the Executive Director is responsible for final accountability. Staff is thoroughly trained to examine all requests for payment to ensure that all required documentation is provided and that all statutes, policies and procedures are complied with.

4. What key performance measures are regularly reviewed by your senior leaders?
  - a) The speed and accuracy of processing payment requests and the resolution of problems are reviewed and acted upon in a timely fashion by staff members and the Executive Director.
  
5. How do senior leaders use organization performance review findings and employee feedback to improve their own leadership effectiveness and the effectiveness of management throughout the organization?
  - a) Staff meetings are used to determine how the agency is functioning. Because of the size of the agency, all employees are encouraged to bring up problems and to suggest solutions. Informal conversations often result in solving most issues.
  
6. How does the organization address the current and potential impact on the public of its products, programs, services, facilities and operations, including associated risks?
  - a) The agency does not serve the public.
  
7. How does senior leadership set and communicate key organization priorities for improvement?
  - a) Open door policy and daily communication and interaction with staff.
  
8. How does senior leadership and the agency actively support and strengthen the community? Include how you identify and determine areas of emphasis.
  - a) The employees have “adopted” a needy family from the Cancer Center at Palmetto Richland Memorial Hospital for the past seven years. Staff members purchase gifts, including food, small appliances, clothing and toys. The gifts are wrapped and delivered to the family during the Christmas holidays. The costs are divided equally. The decision to participate in this activity was discussed by the entire staff and agreed on as a way to benefit the community. Several employees also regularly participate in Red Cross Blood Drives.

## **Category 2- Strategic Planning (See Attached Chart)**

1. What is your Strategic Planning process, including KEY participants, and how does it account for:
  - a) Customer needs and expectations
  - b) Financial, regulatory, societal and other potential risks
  - c) Human resource capabilities and needs
  - d) Operational capabilities and needs
  - e) Supplies/contractor/partner capabilities and needs

The Strategic Planning process begins with a review of the previous year's budget and workload by the Executive Director and Administrative Manager/Assistant Director to determine needs for the upcoming year. The Commissioners are consulted on budget and operational goals. Suggestions and input is also sought from the Chief Public Defenders from each Defender Corporation, the SC Bar Association, the SC Public Defender Association, the SC association of Criminal Defense Lawyers, and the Chief Justice of the SC Supreme Court. The primary mission of this agency is centered on funding for the public defenders and appointed counsel and most of the planning concerns budget matters. Since the agency was created, there has been a strong need and desire for the agency to become more involved in training defense attorneys and in establishing a capital trial team, but efforts to acquire the necessary funding for these initiatives has not been successful. The result is that the current under funded program leaves the State of South Carolina is ranked 49<sup>th</sup> in this area.

2. What are your key strategic objectives? (See Attached Chart)
3. What are your key action plans/initiatives? (See Attached Chart)
4. How do you develop and track action plans that address your key strategic objectives?

The size of the agency allows for effortless communication with any staff person responsible for an assignment. Progress can be tracked by simply asking the responsible person for an update or information.

5. How do you communicate and deploy your strategic objectives, action plans and performance measures?

The size of the agency allows most communication by personal, face-to-face contact.

## **Category 3- Customer Focus**

1. How do you determine who your customers are and what their key requirements are?

The main mission of the agency is to aid in providing adequate representation of indigent persons in the State's court systems. This is done by providing funding to supply those persons with an attorney and the resources needed for their legal action. The question of client satisfaction is addressed by the courts. Since the attorneys are the ones requesting the reimbursement and resources, they are best suited to determine the effectiveness of the agency.

2. How do you keep your listening and learning methods current with changing customer/business needs?

The open door-open phone policy in the agency allows anyone to voice a concern or discuss an issue with the Executive Director or any other staff member. Conferences and seminars throughout the year provide the opportunity to listen to ideas or suggestions and to develop new approaches to providing services. The agency does not have a policy of “non change”. When a concern, criticism or complaint is expressed, the policy or procedure is reviewed and changed if it will increase efficiency or save time or money. The policy of the agency is that everything can be improved upon.

3. How do you use information from customers/stakeholders to keep services or programs relevant and provide for continuous improvement?

Communication with the public defender offices, attorneys and other organizations provides input on procedures or policy that may need to be updated. As stated above, when a suggestion is made, the information is reviewed and acted upon to make changes if it provides for more efficient and effective delivery of our services.

4. How do you measure customer/stakeholder satisfaction?

An annual survey of the public defender corporations provides the opportunity for comments and suggestions. Also, seminars and conferences that are attended by public defenders, private attorneys and other representatives of the state’s judicial system allows agency leadership to interact and exchange information and ideas.

5. How do you build positive relationships with customers and stakeholders? Indicate any key distinctions between different customer groups.

Part of the customer group is comprised of Public defenders and the other part by private attorneys. The Agency provides information through funding published seminar materials and appearing at seminars and conferences to explain agency policy and procedures. The Executive Director makes on site visits to the public defender offices, judges, law school administrators and indigent defense programs in neighboring states.

#### **Category 4 – Measurement, Analysis and Knowledge Management**

1. How do you decide which operations, processes and systems to measure for tracking financial and operational performance?

The primary operation of the agency is disbursing funds as quickly and efficiently as possible, maintaining accurate accounting records and compiling accurate statistical information.

2. What are your key measures?

The speed and efficiency in processing payments to our customers, and the accuracy of the accounting and statistical data collected.

3. How do you ensure data integrity, timeliness, accuracy, security and availability for decision-making?

Information collected includes the date the request is received, the date processed, and the date mailed to the recipient. Several processes verify financial information and reporting functions are automated to produce reports for budgeting and financial tracking.

4. How do you use data/information analysis to provide effective support for decision-making?

Information is collected and statistics are analyzed to determine trends and make comparisons. This data provides the basis for funding requests and budget analysis.

5. How do you select and use comparative data and information?

Information is collected from payment requests concerning case types, using standardized criminal codes and detailed expense information. From this information, we are able to determine usual and average expenses for various aspects of a case. This information is often provided to judges and attorneys to assist them in determining what is “reasonable and necessary” for representation in court. Information is also collected from Public Defenders on their county funding, caseloads, staffing, etc., for comparison with funding for solicitors.

6. How do you manage organizational knowledge to accomplish the collection and transfer and maintenance of accumulated employee knowledge, and identification and sharing of best practices?

By cross training staff to perform multiple tasks and function in different areas as needed, information and knowledge is shared continually. The staff is routinely informed about agency projects, activities and goals.

### **Category 5 – Human Resources**

1. How do you and your managers/supervisors encourage and motivate employees (formally and/or informally) to develop and utilize their full potential?

When funding permits, employees are encouraged to participate in educational and/or training opportunities. Employees are also encouraged to learn and assume additional job duties and responsibilities within the agency.

2. How do you identify and address key developmental and training needs, including job skills training, performance excellence training, diversity training management/leadership development, new employee orientation and safety training?

The agency has no formal in-house programs, but employees are encouraged to avail themselves of courses and programs offered by other agencies and organizations.

3. How does your employee performance management system, including feedback to and from employees, support high performance?

The agency is very small and there is a considerable amount of friendship and willingness to work together among all employees. All employees are encouraged to help each other in their work. Because everyone is cross-trained, any employee can perform another's job and can pitch-in to help when one employee's workload is greater than the others or when someone is on leave.

4. What formal and/or informal assessment methods and measures do you use to determine employee well being, satisfaction and motivation?

Every employee is reminded that they can discuss any problems with the Director or Administrative Manager. The agency utilizes "flex time" to help employees work around family and personal demands. Because of the size of the agency and the daily contact with each other, employees are encouraged to discuss problems and give advice to each other. Again, because of the friendships that have developed over years of working together, co-workers provide a support system for the staff.

5. How do you maintain a safe, secure, and healthy work environment? (Include your workplace preparedness for emergencies and disasters.)

The Agency occupies a small suite in an office building in Columbia. Safety and health hazards are examined by almost daily visible observations of each employees work area and common areas within the building.

6. What is your extent of involvement in the community?

The employees of the agency have "adopted" a needy family from the Cancer Center at Palmetto Richland Memorial Hospital for the past seven years. Staff members purchase gifts, including food, small appliances, clothing and toys. The gifts are wrapped and delivered to the family during the Christmas holidays. The costs are divided equally. The decision to participate in this activity was discussed by the entire staff and agreed on as a way to benefit the community. Several employees also regularly participate in Red Cross Blood Drives.

#### **Category 6 – Process Management**

1. What are your key processes that produce, create or add value for your customers and your organization, and how do they contribute to success?

Technology and automation of redundant processes has greatly increased the speed and efficiency in the agencies work processes and has resulted in improved customer service.

2. How do you incorporate organizational knowledge, new technology, changing customers and mission-related requirements, cost controls and other efficiency and effectiveness factors into process design and delivery?

Ensuring that all employees are informed of changes and obtaining feedback from the staff when new procedures or processes are mandated.

3. How does your day-to-day operation of these processes ensure meeting key performance requirements?

The staff is well informed of all agency activities and everyone has the opportunity to provide their ideas for implementing any changes or improvements that are needed.

4. What are your key support processes, and how do you improve and update these processes to achieve better performance?

Improvements in technology and automation are continually being upgraded to provide faster more efficient response to our customer's needs.

How do you manage and support your key supplier/contractor/partner interactions and processes to improve performance?

Information technology initiatives and improvements are the key factor in improving the performance of the agency and the organizations that we support and provide services for.

### **Category 7 – Results**

1. What are your performance levels and trends for the key measures of customer satisfaction?

Requests for payments that are correctly submitted are processed and forwarded to the Comptroller General's Office within five (5) working days of receipt. Appropriated Public defender payments are processed within the first five working days of the month. Supplemental Public Defender payments are processed within seven working days of receipt of the notice of deposit of the funds in the Agency's account.

2. What are your performance levels and trends for the key measures of mission accomplishment and organizational effectiveness?

These are measured by the collection of statistical data on the operation of the indigent defense system statewide.

3. What are your performance levels for the key measures of financial performance?

The agency's financial performance is controlled by the amount of money appropriated by the Legislature.

4. What are your performance levels and trends for the key measures of Human Resource Results?

The Agency has experienced only one involuntary termination in over eleven years of operation. Employees are recognized and rewarded for their job performance as set out in State Human Resource Regulations. Agency has utilized reclassification and performance increases to retain employees whenever possible.

5. What are your performance levels and trends for the key measures of regulatory/legal compliance and community support?

Not applicable.