



VIRGINIA DEFENDERS

INDIGENT DEFENSE COMMISSION

9/18/2024

Virginia State Crime Commission

Chair, House Committee for Courts of Justice

Chair, Senate Committee for Courts of Justice

Chair, House Committee on Appropriations

Chair, Senate Committee on Finance and Appropriations

RE: 2024 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 2024 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,

Timothy S. Coyne
Deputy Executive Director

2024 ANNUAL REPORT



VIRGINIA INDIGENT DEFENSE COMMISSION

1604 SANTA ROSA ROAD, SUITE 200
RICHMOND, VIRGINIA 23229
804-662-7249

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FY24 COMMISSION

Commission Members by Statute | Virginia Code § 19.2-163.02

The Chairman of the House Committee for Courts of Justice or his designee and the Chairman of the Senate Committee on the Judiciary or his designee who shall be members of the Courts of Justice committees;

- Delegate Jason Ballard/Delegate Katrina Callsen
- Senator R. Creigh Deeds

Chairman of the Virginia State Crime Commission (or Designee);

- Del. Charniele Herring/Kristen Howard

Executive Secretary of the Supreme Court (or Designee);

- Karl R. Hade

Two (2) Attorneys Designated by Virginia State Bar;

- Aaron Cook, Esq.
- Carolyn Grady | VIDC Chairman

Two (2) Persons Appointed by the Governor;

- Kristi Wooten
- Mario Lorello

Three (3) Persons Appointed by the Speaker of the House of Delegates;

- Guy W. Horsley, Jr.
- Steven Mutnick, Esq.
- LaRana Owens

and Three (3) Persons Appointed by the Senate Committee on Rules.

- Steven D. Benjamin
- Artisha Gregg
- Manuel E. Leiva

Commission Staff

Executive Director: Maria Jankowski

Deputy Director: Timothy Coyne

Information Technology Director: Jason Hodges

Human Resource Director: Stephanie Asbell

Budget and Finance Director: Solomon Girmay

FY24 PUBLIC DEFENDER OFFICES

OFFICE	LOCALITIES SERVED	EST.
ALEXANDRIA	City of Alexandria	1987
ARLINGTON	County of Arlington and City of Falls Church	2005
BEDFORD	City/County of Bedford	1989
CHARLOTTESVILLE	City of Charlottesville and County of Albemarle	1998
CHESAPEAKE	City of Chesapeake	2005
CHESTERFIELD	County of Chesterfield	2021
DANVILLE	City of Danville	1990
FAIRFAX	City and County of Fairfax	1987
FRANKLIN/ SMITHFIELD	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	County of Loudoun	1988
LYNCHBURG	City of Lynchburg	1991
MARTINSVILLE	City of Martinsville and Counties of Henry and Patrick	1992

OFFICE	LOCALITIES SERVED	EST.
NEWPORT NEWS	City of Newport News	2005
NORFOLK	City of Norfolk	2002
PETERSBURG	City of Petersburg	1979
PORTSMOUTH	City of Portsmouth	1986
PRINCE WILLIAM	County of Prince William	2020
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 Counties of Augusta and Rockbridge	1972
SUFFOLK	City of Suffolk	1989
VIRGINIA BEACH	City of Virginia Beach	1973
WARRENTON	Counties of Fauquier and Rappahannock	2021
WINCHESTER	Counties of Clarke, Frederick, Page, Shenandoah, and Warren, and City of Winchester	1989

The Annual Report of the VIRGINIA INDIGENT DEFENSE COMMISSION

MISSION STATEMENT

Dedicated to protecting and defending the rights and dignity of our clients through zealous, compassionate, high quality legal advocacy.

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

FY 2024 REVIEW

The VIDC had a very strong year in FY2024. With increased funding approved by the General Assembly and Governor in FY23, the VIDC was able to raise starting salaries for entry level attorneys and address salary compression across the agency. While this increase has helped significantly with recruitment and retention issues, we still face significant challenges in staffing in some offices. Our employee surveys are overwhelmingly positive and reflect a high level of job satisfaction. However, low salaries and opportunities for growth still drive dedicated employees to seek other opportunities.

This past year also saw a few changes in the ranks of our chief Public Defenders. Liz Murtagh, Public Defender for the City of Charlottesville and Albemarle County, retired after serving the Commonwealth for nearly 30 years. Nicholas Reppucci was selected to succeed Ms. Murtagh as Public Defender. Mr. Reppucci served as the Deputy Public Defender in the office and literally rose through the ranks from Assistant Public Defender to Deputy. He has over 29 years of experience and is an outstanding advocate for our clients. Mr. Reppucci received his undergraduate degree and his J.D. from the University of Virginia. He is a career public defender and public servant.

¹ U.S. Const. Amend. VI. Note that the death penalty was abolished in Virginia effective July 1, 2021.

Patricia Bolen was chosen as the Public Defender for the City of Fredericksburg and Counties of Stafford, Spotsylvania, and King George following the departure of Lauren Whitley. Ms. Bolen served as the Deputy Public Defender in the Fredericksburg office and came to us with many years of experience in indigent defense in Virginia and South Carolina. Ms. Bolen graduated from Cornell University and received her J.D. from Michigan State University.

JLARC STUDY

In November 2023, the Joint Legislative Audit and Review Commission (JLARC) released its long-awaited report on the adequacy and availability of legal representation for indigent defendants. Specifically the study was directed to (i) determine the adequacy of the number and location of public defenders and court-appointed attorneys to provide quality legal counsel to indigent defendants; (ii) determine the adequacy of the number of commonwealth's attorneys to appropriately prosecute crimes; (iii) compare compensation for public defenders, court-appointed attorneys, and commonwealth's attorneys and evaluate the adequacy of their compensation, including its impact on quality of representation; (iv) estimate the state and local fiscal impact of addressing compensation-related issues; (v) determine the need for, feasibility of, and fiscal impact of additional public defender offices; and (vi) evaluate the need for and required additional workload of providing defendants with representation at bail hearings. The VIDC has cooperated fully with the JLARC study by providing case management system (CMS) data, facilitating focus group meetings, being available for meetings to answer questions, providing compensation and travel expense information, and assisting with surveys of both VIDC employees and non VIDC court-appointed attorneys.

Some of the primary findings of the report included:

- A majority of judges reported that public defenders and court-appointed attorneys provide “good” or “excellent” representation overall.
- Data analysis showed that over the last 10 years, Defendants represented by a public defender, court-appointed attorney, or privately retained attorney had similar (i) rates of cases resulting in a plea deal or trial, (ii) rates of being convicted, and (iii) sentence lengths if found guilty
- The number of court-appointed attorneys has declined by more than half, from nearly 4,000 in FY13 to about 1,900 in FY23. [Note: VIDC numbers show less than 1,000 non-PD court-appointed attorneys for FY23].
- From FY13 to FY22, public defender workload is estimated to have increased nearly 50 percent.
- Public defender vacancy rates are declining after recent salary increases. The vacancy rates dropped from 16% in FY23 to 8% in early FY24.

JLARC also made a number of specific recommendations and policy options that included:

- 1) Consider amending Code of Virginia to set higher reimbursement caps for court-appointed counsel;
- 2) Consider amending Code of Virginia to establish new offense categories for court-appointed reimbursement: (i) violent felonies, (ii) non-violent felonies, (iii) misdemeanor DWI's, (iv) non-DWI misdemeanors, (v) juvenile charges;
- 3) Consider including funding for additional mitigation specialist and paralegal positions to lessen public defender workload;
- 4) Include language and funding in the Appropriations Act for the VIDC to expand the of senior trial attorney positions across the public defender offices;
- 5) Include language and funding in the Appropriations Act for the VIDC to establish pay bands for public defender attorney positions;

In response, the General Assembly passed SB356 and HB102 to increase the statutory caps for court-appointed compensation. The bills were signed by the Governor with an effective date of January 1, 2025. The new caps will be:

- Misdemeanors (excluding DWIs) - \$330
- Misdemeanor DWIs - \$448
- Juvenile - \$680
- Class 3-6 felonies - \$834
- Class 2 and "elevated felonies" - \$1,692
- Elevated felonies are: Voluntary and Involuntary Manslaughter, DUI manslaughter, indecent liberties, custodial indecent liberties, felony child abuse and neglect, malicious wounding by mob, malicious wounding, aggravated sexual battery, arson of an occupied meeting house, courthouse, etc. and arson of an occupied structure, other.
- Probation violations: Felony (except Class 1) - \$445; Misdemeanors - \$180

The waiver caps were unchanged and the bill provides that a defendant shall not be assessed fees for legal representation in an amount greater than the amount such a defendant would have owed if the assessment took place on or before June 30, 2024.

The General Assembly also passed HB306 that added a caseload exception for the appointment of the public defender. Specifically, the bill exempts the public defender, in counties and cities where public defender offices are established, from providing defense services for indigent clients if the public defender, with the concurrence of the executive director of the Virginia Indigent Defense Commission or his designee, determines that the public defender's current active caseload would preclude the public defender from providing adequate representation to new clients. The bill was signed by the Governor and is effective July 1, 2024.

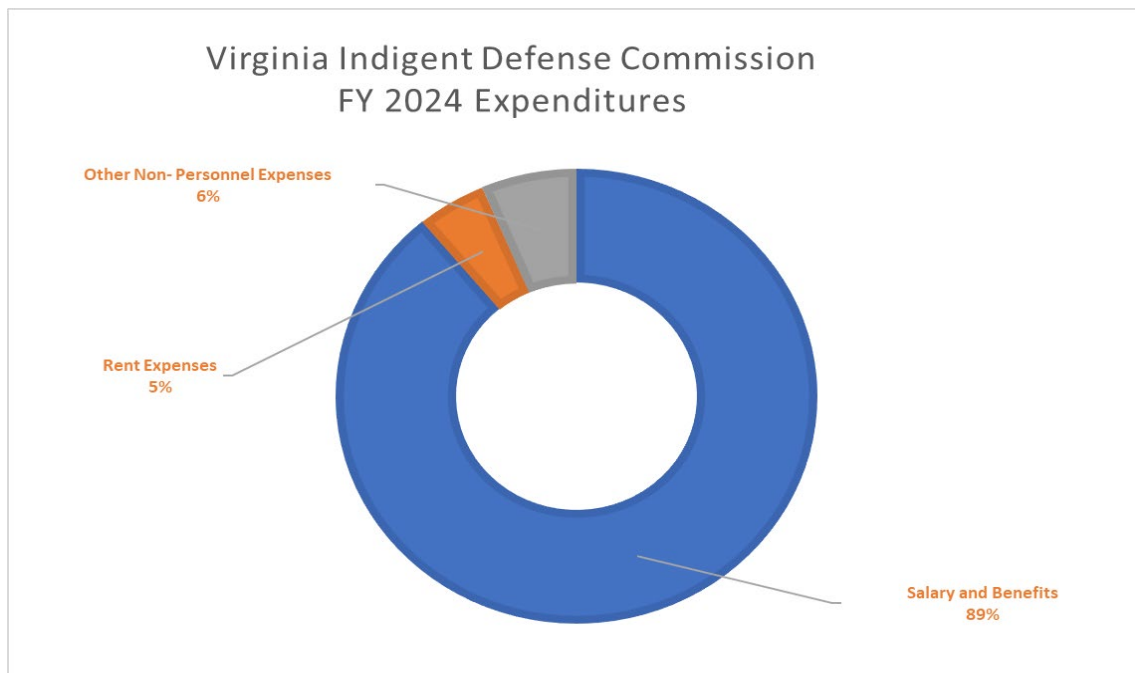
Finally, the General Assembly passed and the Governor signed HB1014 that establishes a Public Defender Office in the City of Harrisonburg and County of Rockingham. As of this report, a Public Defender has been hired and the VIDC is actively seeking office space in Harrisonburg for the new office.

COMMUNITY & POLICY ENGAGEMENT

Community and policy engagement continued in FY 2024. 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, Director of Policy and Education 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. These include the Department of Criminal Justice Services, the Virginia Criminal Sentencing Commission, the Virginia Model Jury Instruction Committee, the National Advisory Board for The Gault Center, the Criminal Law Section Board of Governors for the Virginia State Bar and the Virginia Criminal Justice Conference, among many others. The VIDC appreciates the opportunity to engage with other stakeholders to ensure that the unique challenges facing indigent defendants in the Commonwealth are not overlooked.

BUDGET

VIDC budget is driven almost entirely by personnel cost as demonstrated in the following chart.



HUMAN RESOURCES

Human Resource needs of all agency employees are managed by the internal VIDC Human Resource (HR) Department. HR provides value-added resources and expert consultation to ensure optimum program effectiveness. Specific functional areas include strategic planning, benefits, performance management, compliance, employee relations, employee engagement, compensation/payroll, policies and procedures.

Major accomplishments during FY 2024 included the digitization of personnel records and background checks. Favorable results were immediate and included increased efficiency, enhanced security of employee information and cost savings.

To support recruitment and retention efforts, the HR team promoted retirement learning and savings opportunities. As a result, there was an increase in voluntary Hybrid Retirement Plan contributions. The average employees' voluntary retirement contribution is up more than 20%. These numbers represent a significant increase in the retirement security of VIDC employees, while also decreasing Virginia Retirement System's (VRS) operational costs and lowering the risk to their retirement fund.

As part of our ongoing engagement activities, HR conducted an annual employee survey in the Spring. Annual employee survey results show definitively that VIDC employees are committed to the mission, have a very favorable perception of the agency, and their office, and consider the VIDC a good place to work. *(See attachment - FY 24 Employee Annual Survey)*

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 counsel.

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 indigent clients 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.vadefenders.org.

Applications for Initial Certification and recertification are also available on the website. The Certification and Compliance Attorney, or the Certification and Compliance Assistant, receives applications for certification and recertification 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 VIDC continues to offer Initial Certification training for attorneys seeking to accept court-appointed indigent criminal defense work. Typically, this 12-hour training program is offered live three times per year. The training is staffed with public defenders and other VIDC resource attorneys, including a member of our Appellate Cohort and the Certification Attorney. In addition to content updates and improvements, valuable practice tips are provided throughout the program. This year, all written materials were carefully reviewed by multiple experienced attorneys to ensure they were up-to-date and always with an eye for improvement. The VIDC attorney resource website and other free resources are highlighted for the attendees.

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 expiration date notifications via email, along with instructions on where to find information about re-certification. Attorneys wishing to maintain certification for court-appointed cases are required to complete the one-page recertification application form. Attorneys must include on the form the information verifying their completion of the statutorily required number of Commission and Virginia State Bar Mandatory Continuing Legal Education (MCLE) approved credit hours.

The VIDC continues to provide on-going, high-quality training at no cost to all certified court-appointed attorneys. All VIDC training provided to attorneys is approved by the Virginia State Bar for MCLE credit and is eligible to be used by attorneys to maintain certification status for court appointments.

In FY 2024, re-certification training was provided via a series of live virtual webcasts, which provided increased accessibility to attorneys across the commonwealth. The VIDC Webcast Series was open to all certified court-appointed attorneys as well as Public Defender Office staff. A total of 25 live virtual hours of MCLE credits, including 4 ethics hours, were provided to certified court-appointed attorneys. These live virtual

webcasts provided training on topics related to appeals, mental health, immigration, legislative changes and more. Furthermore, the webcasts and corresponding materials were also made available for replay via the online VIDC Video Replay Library. In FY 2024, the replay library was viewed by more than 780 users who watched more than 2,220 hours of training.

This year, the VIDC also offered 4 in-person training sessions specifically designed for court-appointed attorneys. These sessions provided 3.0 hours of MCLE credits. The sessions were presented in Portsmouth and Manassas.

In addition to VIDC training programs, VIDC Certification and Compliance Attorney reviews and approves MCLE approved courses provided by external organizations to determine whether courses satisfy the 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 <http://www.vadefenders.org/recertification/> and is regularly updated as new courses are submitted and approved.

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.

The VIDC Attorney Certification System (ACeS) is an online database that allows attorneys to apply, renew and modify their certification status via the VIDC website. ACeS continually updates the certified counsel list located on the public VIDC website (<https://aces.virginiainteractive.org/defend/>) and is accessible by court personnel to retrieve the names of certified attorneys by case type and judicial circuit/district.

As of August, 2024, the number of **certified attorneys totaled 1,341 and less than 1000 of these are not VIDC employees**. This represents the lowest number in recent years. This is at least the 5th straight year with a significant decline in certification numbers. In 2019, there were 1,949 certified attorneys compared to 1,341 this year. That is a 31% drop in 5 years. A recent review substantiated anecdotal reports that attorneys are no longer maintaining certification and accepting appointments due to inadequate compensation. The total attorneys certified by case type were as follows:

Case Type	Number of Certified Attorneys 7/2023	Number of Certified Attorneys 7/2024	Annual Change %
FELONY	1,274	1,186	-6.90
JUVENILE	677	628	-7.24
MISDEMEANOR	1,449	1,341	-7.45

NOTE: An attorney may be certified for more than one case type.

A list is sent to the Office of the Executive Secretary every four months advising of attorneys who have not been recertified or who have been removed from the certified counsel list for other reasons. The most recent list of ineligible attorneys was provided in August of 2024.

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 are outlined on the VIDC website (<http://www.vadefenders.org/standardsofpractice/>). The Standards of Practice complaint process and complaint form are also located on the website. The Standards of Practice are highlighted in the live Initial Certification training and the complete Standards of Practice are included in the training manual provided to attendees.

Previously implemented efforts to raise awareness of the Standards of Practice and the enforcement thereof have continued. Currently, VIDC training programs incorporate and highlight 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 Initial Certification training as any attorney seeking to serve as court-appointed counsel. Public defenders are encouraged to attend a live session of the Initial Certification training, however, in an effort to get new public

defenders certified as quickly as possible, they are provided the option to complete the training via online video replay.

All attorneys employed by the VIDC must also attend an intensive week-long training program known as *Public Defender Boot Camp*, typically within the first six months of employment. The training emphasizes trial skills and addresses the rewards and challenges of public defense, with the goal of developing a client-centered practice. Staffed by experienced public defender leaders, this training program is one part of an overall strategy to recruit, train, and retain quality attorneys who want to serve as public defenders. In FY 2024, two in-person training sessions were provided in December 2023 and May 2024, to 69 new attorneys. This event provided 27.5 hours of MCLE approved training credit hours, including 2 ethics hours. This training is also VIDC approved to be used by attorneys towards maintaining their certification status.

In October 2023, we held the VIDC Annual Public Defender Conference at the Virginia Beach Convention Center. The conference featured three plenary sessions on the hearsay, preliminary hearings and ethics. The conference included breakout sessions on topics including probation violations and the ADA, defending drug cases, experts, litigating mistrial motions, DNA, jury trials and many more. This conference provided eight MCLE hours, including one hour of ethics, one hour of attorney wellness, one hour of juvenile recertification credit and two hours of mental health recertification credit. This year the Leadership Conference directly followed the Annual Public Defender Conference. This conference is for supervisors within all the offices and provided 3.5 hours of MCLE credit and covered topics including employment law, vicarious trauma and others.

VIDC continues to serve as a co-host, alongside University of Richmond School of Law, to provide the Annual Robert E. Shepherd Jr. Youth Law and Education Conference. In addition to facilitating the MCLE approval process and providing promotional assistance, a number of VIDC attorneys served on the conference planning committee and presented at the event. The event is open to the public with all proceeds benefiting the University of Richmond School of Law. In FY 2024, the conference provided seven hours of MCLE, including one hour of ethics, GAL recertification credits and VIDC approved juvenile-specific training eligible to be used by attorneys towards maintaining their juvenile certification status.

Moving into FY25, we are planning to combine training efforts for investigators, paralegals and mitigation specialists by creating a single multi-track conference that will focus on defense team strategies and provide position-specific breakout sessions. This

single conference will be designed to replace the currently separate biennial Mitigation Specialist and Investigator Conferences, and will solve the goal of creating a regularly scheduled training program for our Paralegals.

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 Attachment - FY24 Caseload and Charge Data Report*).

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 a number of minor amendments to the policies and procedures. The policies are provided to all employees at the time of onboarding and accessible electronically to all employees via the VIDC intranet. All employees must acknowledge receipt of the Policies when onboarded.

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

This report, 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

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)

for compensation of court-appointed counsel. The State Compensation Comparison Chart is attached to this report.

State-to-state comparisons are difficult because the structure and funding of indigent defense systems vary nationwide. Pursuant to Va. Code § 19.2-163, an attorney appointed to represent an indigent defendant in Virginia is compensated at an hourly rate set by the Supreme Court. As of July 1, 2024, the total amount or cap to be paid is set by statute and may not exceed \$120 for a misdemeanor in general district court, \$1,235 for a felony charge where the maximum period of confinement is more than 20 years, and \$445 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. These caps, even with the initial waiver, remain some of the lowest in the nation.

Effective January 1, 2025, the new compensation rates will be:

- Misdemeanors (excluding DWIs) - \$330
- Misdemeanor DWIs - \$448
- Juvenile - \$680
- Class 3-6 felonies - \$834
- Class 2 and "elevated felonies" - \$1,692
- Elevated felonies are: Voluntary and Involuntary Manslaughter, DUI manslaughter, indecent liberties, custodial indecent liberties, felony child abuse and neglect, malicious wounding by mob, malicious wounding, aggravated sexual battery, arson of an occupied meeting house, courthouse, etc. and arson of an occupied structure, other.
- Probation violations: Felony (except Class 1) - \$445; Misdemeanors - \$180

The waiver caps will remain unchanged and the bill provides that a defendant shall not be assessed fees for legal representation in an amount greater than the amount such a defendant would have owed if the assessment took place on or before June 30, 2024.

Compensation for court appointed counsel in Virginia on appeal is governed by Virginia Code §19.2-326 which provides in part:

In any felony or misdemeanor case...the court which an appeal is taken shall order the payment of such attorneys' fees in an amount not less than \$300, cost or necessary expenses of such attorneys in an amount deemed reasonable by the

court, by the Commonwealth out of the appropriation for criminal charges. If the conviction is upheld on appeal, the attorney's fees, cost and necessary expenses of such attorney paid by the Commonwealth under provision hereof shall be assessed against the defendant.

The Virginia Court of Appeals revised the fee structure effective July 1, 2023. The new fee structure is as follows:

- \$1,500 for misdemeanor appeals briefed and argued before the Court and \$1,300 for those cases that are not argued
- \$2,000 for felony appeals briefed and argued before the Court and \$1,800 for those cases that are not argued
- An additional \$500 for those cases that are granted *en banc* review and argued

This change was made primarily in response to all criminal appeals becoming appeals of right effective January 1, 2022.

The Virginia Supreme Court also revised the fee structure for criminal appeals to the highest court effective October 17, 2023. The new fee structure is as follows:

- Misdemeanor appeals: fee amounts begin at \$700, not to exceed \$1,500
- Felony appeals: fee amounts begin at \$1,000, not to exceed \$2,000
- If a petition for appeal is granted, court-appointed counsel in docketed criminal appeals that proceed to an opinion or order will receive \$3,250 and are not paid at the petition stage.

The attached comparison charts reflect the higher rates for Virginia. Even with the higher fee caps, Virginia still ranks in the bottom quartile of states with established fee caps for felonies, misdemeanors and juvenile cases, and in the bottom half for states with established fee caps for appellate cases.

FY24 CASELOAD & CHARGE DATA REPORT

OFFICE	CASES	CHARGES
ALEXANDRIA	2,031	3,940
ARLINGTON	2,519	4,980
BEDFORD	906	1,533
CHARLOTTESVILLE	1,912	3,333
CHESAPEAKE	4,293	9,655
CHESTERFIELD	4,059	8,764
DANVILLE	2,004	3,589
FAIRFAX	8,365	16,216
FRANKLIN/SMITHFIELD	1,762	3,527
FREDERICKSBURG	4,899	9,991
HALIFAX	2,113	3,625
HAMPTON	2,161	4,494
LEESBURG	2,824	4,658
LYNCHBURG	2,620	5,060
MARTINSVILLE	1,837	2,832
NEWPORT NEWS	4,896	11,038
NORFOLK	4,333	9,179
PETERSBURG	1,175	2,263
PORTSMOUTH	2,491	5,019
PRINCE WILLIAM	3,811	8,385
PULASKI	1,998	3,658

OFFICE	CASES	CHARGES
RICHMOND	5,835	11,339
ROANOKE	2,927	5,304
STAUNTON	3,616	7,526
SUFFOLK	1,922	4,231
VA BEACH	8,247	14,762
WARRENTON	1,282	2,066
WINCHESTER	2,160	3,811

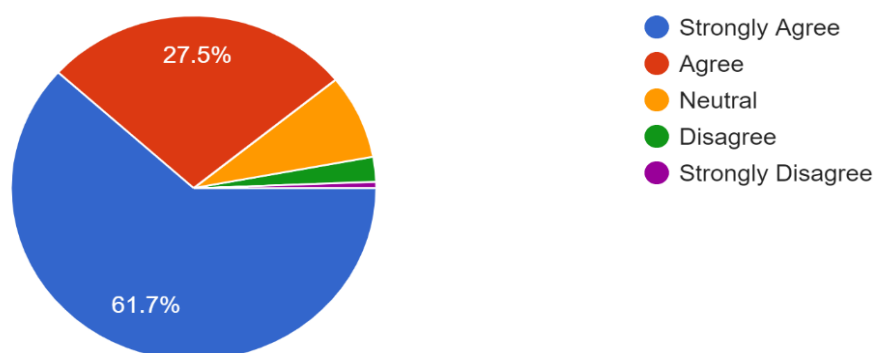
FY24 EMPLOYEE ANNUAL SURVEY

Excerpt from IDC 2024 Annual Survey conducted in April 2024. Over 340 employees responded from 28 field offices as well as the Administration office.

Total Responses: 342

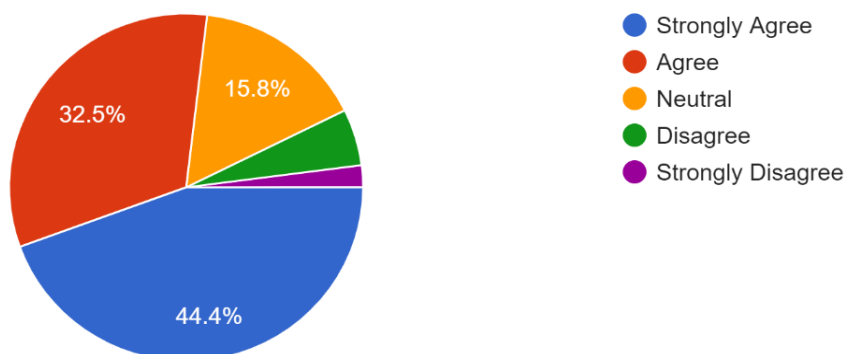
Excerpt #1:

Management demonstrates a commitment to integrity, equity and ethical behavior by example in their day to day activities.



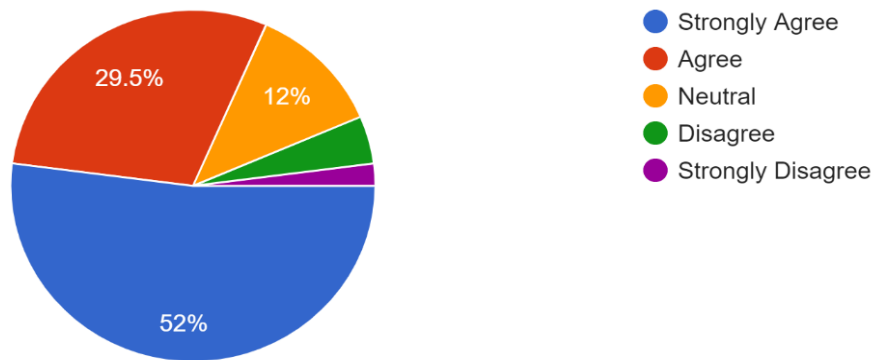
Excerpt #2:

Management decisions are made in an equitable and transparent manner.



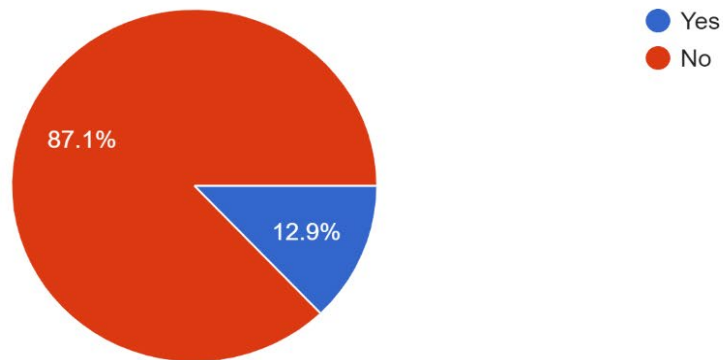
Excerpt #3:

Management addresses and resolves issues of behavioral and ethical standards consistently, timely and equitably in accordance with the provisions of the agency's Code of Ethics.



Excerpt #4:

Is there a process, practice or policy in your office that makes your workload unnecessarily harder or greater?



STATE COMPARISONS CHART

STATE	HOURLY RATE	CAPS	AUTHORITY/NOTES
Alabama	Capital Case: \$120 Class A Felony: \$100 Class B Felony: \$80 Class C or D Felony: \$80 Juvenile: \$70 All other cases: \$70 Appeals: \$70	Capital Case: No cap Class A Felony: \$6,000 Class B Felony: \$4,000 Class C or D Felony: \$3,500 Juvenile: \$4,500 All Other Cases: \$2,000 Appeals: \$2,500	New fees effective October 1, 2024 - Code of Ala §15-12-21, 15-12-22 (2024).
Alaska	In Court: \$60 Out of Court: \$50	Unclassed Felony: \$20,000 Class A Felony: \$9,000 Class B Felony: \$4,875 Class C Felony: \$4,000 Misdemeanor - \$1,625 Probation Violation - Felony: \$1,875 Probation Violation - Misd: \$625 Appeals: \$2,500 - \$7,500	2 AAC 60.010 (2021) (Alaska Administrative Code); see also Appellate Rules and Procedures, Rule 209 (sets costs to be assessed to defendant for appeal - \$250 - \$2,000)
Arizona	Varies (Judicial discretion)	Varies (Judicial discretion)	A.R.S. § 13-4013 (2005): "Compensation for services rendered to the defendant shall be in an amount that the court in its discretion deems reasonable, considering the services performed." A.R.S. §13-4041: "Compensation for services rendered on appeal shall be in an amount as the supreme court in its discretion deems reasonable, considering the services performed."
Arkansas	Capital: \$120 All other cases: \$70	Set by the Arkansas Public Defender Commission.	A.C.A. § 16-87-211 (2001) Statute directs the Arkansas Public Defender Commission to set guidelines for court-appointed attorney compensation. Hourly rates provided by the Arkansas Public Defender Commission.
California	Varies	Varies	Cal Pen Code § 987.2 (2021) Cal. Pen Code § 987.3 (1973) The court determines reasonable compensation based on specified factors.
Colorado	Class A (1) Felony: \$105 All other felonies, Juvenile: \$100 Misdemeanor, Traffic - \$95 Travel - \$95	Class 1 Felony: \$37,760 (trial); \$18,880 (no trial) Class 2 and DF1 Felony: \$16,520 (trial); \$8,260 (no trial) Class 3-6 and DF 2-4 Felony: \$10,620 (trial); \$5,310 (no trial) Misdemeanors, Traffic, & Petty Offenses: \$4,720 (trial); \$2,360 (no trial) Juvenile: \$8,260 (trial); \$4,130 (no trial) Appeals: \$2,360 - \$10,620	C.R.S. 21-2-101 (2007) C.R.S. 21-2-103 (2018)(describing when alternate defense counsel, as opposed to a public defender, would be appointed to represent an indigent defendant.) Chief Justice Directive 04-04 (Amended July 2023) provides alternate defense counsel hourly rates and fee caps.
Connecticut	Felonies: \$75 Misdemeanors: \$50	Where flat rate compensation contracts are used, they are put in place by jurisdiction: Judicial District cases: \$1,000 Geographical Area cases: \$350 Juvenile Delinquency cases: \$350 Appeals: \$6,000	Conn. Gen. Stat. § 51-291 (2012) By statute, the Chief Public Defender establishes the compensation for court-appointed attorneys. Division of Public Defender Services, Guidelines for Assigned Counsel - Criminal (effective July 2, 2011) sets out hourly rates and case rates. All assigned counsel must enter into a contract with the Assigned Counsel Unit of the Division of Public Defender Services.

Delaware	\$60 \$50 for appeal	Felony: \$2,000 Misdemeanor: \$1,000 Appeals: \$1,000-\$2,000	Delaware Rules of Criminal Procedure, Rule 44 (2023) for appointment of counsel by trial court; Rules of the Supreme Court of the State of Delaware, Rule 26 (2023) for appointment of counsel on appeal. Rules includes provisions for exceeding caps.
District of Columbia	\$110	Felony: \$7,000 Misdemeanor: \$2,000 Appeals: \$5,000	D.C. Code § 11-2604; 18 U.S.C. § 3006A (2010); Admin. Order 23-06 (May 2, 2023) Statute includes provisions for exceeding caps.
Florida	Flat Fees	Capital: \$25,000 Life Felony: \$9,000 Non-capital, non-life felony: \$6,000 Misdemeanors and Juveniles: \$1,000 Appeals: \$9,000	Fla. Stat. § 27.5304 (2023) Statute includes provisions for exceeding caps on "rare occasions," requires approval by Justice Administration Commission, and evidentiary hearing for approval by court if JAC objects.
Georgia	Flat Fees (By contract)	Life Felony - \$7,500; Felony - \$3,000; Misdemeanor - \$1,000; Juvenile - \$1,500	O.C.G.A. § 17-12-22 (2011) Georgia Public Defender Standards Council contracts with individual attorneys for conflict appointment. Six localities which have opted out of the state system set their own compensation rates for court-appointed attorneys. (Per Ga. Public Defender Office 4/19/23).
Hawaii	\$90	Felony: \$6,000 Misdemeanor (jury trial): \$3,000 Misdemeanor (jury waived): \$1,500 Petty Misdemeanor: \$900 Any other type case: \$3,000 Appeals: \$5,000	HRS § 802-5 (2006) Statute includes provisions for exceeding caps.
			Idaho Code § 19-6019 (2023)
Idaho	Set by contract by the Office of State Public Defender (eff. 7/1/24)	Set by contract by the Office of State Public Defender (eff. 7/1/24)	Effective July 1, 2024, the new Idaho Office of the State Public Defender was created. The State Public Defender has the power to enter into contracts with defending attorneys to provide indigent defense services.
Illinois	\$40 - in-court \$30 - out-of-court	Felony: \$5,000 Misdemeanor: \$500 Appeals: \$2,500	725 ILCS 5/113-3.1 (2023) 725 ILCS 105/10.5 (1997)
Indiana	\$110	Varies (Judicial discretion)	Burns Ind. Code Ann. § 33-40-8-2 (2004) 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 can recommend standards for indigent defense. The Indiana Public Defender Commission requires a \$110/hour rate in all Commission counties (roughly 73% of counties in Indiana) effective 1/1/25.

Iowa	Class A Felony: \$83 Class B Felony: \$78 All other cases: \$73	Adult Cases: Class A Felony: \$21,414 Class B Felony: \$4,368 Class C Felony: \$2,190 Class D Felony: \$1,460 Aggravated Misdemeanors: \$1,460 Serious Misdemeanors: \$730 Simple Misdemeanors: \$365 Misdemeanor appeals to District Court: \$365 Contempt/Show Cause: \$365 Probation/Parole violations: \$365 Juvenile Cases : Delinquency: \$1,460 Juvenile Petition on Appeal: \$730 Appeals: No limit	Iowa Code § 13B.4 (2017) - Flat fee contracts Iowa Code § 815.7 (2023) - Hourly rates Iowa Code § 815.10A (2013) Statute includes provisions for exceeding caps. State Public Defender Administrative Rules Chapter 12.6 (1/11/23) provides the attorney fee caps based on maximum hours allowed.
Kansas	\$120-\$140	Non-tried cases: Felony 1-5: \$1,600 Felony 6-10: \$1,200 Probation Revocations/Misc: \$427 Tried cases: Felony 1-3, off-grid felony offenses, felony drug offenses level 1: \$8,000 Felony 4, felony drug offenses 2-5: \$3,200 Felony 5-10: \$2,560 Appeals: \$1,920	K.S.A. § 22-4507 (2024) 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. Kansas Administrative Regulations 105-5-2, -6, -7, -8. Provides generally for the hourly rates and caps, as well as provisions for exceeding caps in "exceptional cases." Localities set caps for misdemeanor cases. See e.g. Johnson County District Court "Court Appointment Fee Schedule". Kansas Administrative Regs 105-5-3 Appellate Courts; Compensation: Shall be paid under K.A.R. 105-5-2 (2020),
Kentucky	Set by contract by the Department of Public Advocacy	Set by contract by the Department of Public Advocacy	KRS § 31.235 (2002) The Department of Public Advocacy shall pay reasonable and necessary fees but not in excess of fees established by the Department of Public Advocacy.
Louisiana	Flat fee contracts	Flat fee contracts	La. R.S. 15:147(C)(1) (2017) The Louisiana Public Defender Board enters into contracts with attorneys to provide indigent defense services.
Maine	\$150	Murder: Fee approved by Executive Class A: \$5,000 Class B and C (against person): \$4,000 Class B and C (against property): \$2,500 Class D and E: \$2,500 Probation Revocations: \$1,500 Juvenile: \$1,500 Miscellaneous: \$1,000 Appeals: \$3,000	15 M.R.S. § 810 (2018) 4 M.R.S. § 1804(3)(F) (2019) The Maine Commission on Indigent Legal Services sets the rate for court appointed counsel. Code of Maine Rules § 94-649, Chapter 301 (2023). Provides the hourly rates and caps.
Maryland	\$172 (same hourly rate as federal CJA panel attorneys).	Felony: \$13,400 Misdemeanor: \$3,800 Probation violation: \$2,900 Appeals: \$9,600	The Maryland Public Defender prepares schedules of professional fees and expenses for panel attorneys and other professional and technical services rendered to indigent individuals other than by the Public Defender's staff, taking into consideration the nature of the services, the time spent, the skill or experience required, and any other pertinent factor. Md. Crim. Proc. Code Ann. § 16-207(b)(2). By Md. Code Regs 14.06.02.06, the Public Defender is permitted to match the federal public defender/CJA panel rate.

Massachusetts	<p>\$120 - Homicide</p> <p>\$85 - Superior Court non-homicide</p> <p>\$65 - District court</p> <p>\$85 - Children/Family Law</p>	Annual cap on billable hours: 1,650	<p>ALM GL ch. 211D, § 11 (2022)</p> <p>Notwithstanding the billable hour limitation in subsection (b), the chief counsel of the committee may waive the annual cap on billable hours for private counsel appointed or assigned to indigent cases if the chief counsel finds that: (i) there is limited availability of qualified counsel in that practice area; (ii) there is limited availability of qualified counsel in a geographic area; or (iii) increasing the limit would improve efficiency and quality of service; provided, however, that counsel appointed or assigned to such cases within the private counsel division shall not be paid for any time billed in excess of 2,000 billable hours. It shall be the responsibility of private counsel to manage their billable hours.</p>
Michigan	<p>Life felonies: \$120; Non-life felonies: \$110; Misdemeanor: \$100</p> <p>Appeals: \$50-\$75/hr.</p>	<p>Determined by Michigan Indigent Defense Commission</p> <p>Appeals: Plea-based Appeals: \$750-\$1,125 Trial-based Appeals: \$3,375</p>	<p>"Economic disincentives or incentives that impair defense counsel's ability to provide effective representation must be avoided."</p> <p>MCLS § 780.991.</p> <p>MIDC Standard 8: "Assigned counsel should receive prompt compensation at a reasonable rate and should be reimbursed for their reasonable out-of-pocket, case-related expenses. Assigned counsel should be compensated for all work necessary to provide quality legal representation."</p> <p>MSC Admin. Order 2017-3 and approved by Appellate Defender Commission sets appellate fees.</p>
Minnesota	State Board of Public Defense determines rates	State Board of Public Defense determines rates	<p>Minn. Stat. §611.215(2)(c)(3) (2007) 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.</p>
Mississippi	Set by the Court	<p>Circuit Court: \$1,000</p> <p>Court not of record: \$200</p> <p>Capital Cases: \$2,000 per case</p> <p>Appeals to State Supreme Court: \$1,000 per case</p>	Miss. Code Ann. §99-15-17 (1980)
Missouri	Flat fee contracts	<p>Murder first degree: \$10,000</p> <p>Other homicide: \$6,000</p> <p>Felony Class A/B - Drugs: \$750</p> <p>Felony Class A/B - Other: \$1,500</p> <p>Felony Class A/B - Sex: \$2,000</p> <p>Felony Class C/D/E - Drugs: \$750</p> <p>Felony Class C/D/E - Other: \$750</p> <p>Felony Class C/D/E - Sex: \$1,500</p> <p>Probation Violation: \$375</p> <p>Misdemeanor: \$375</p> <p>Juvenile Murder first degree: \$2,000</p> <p>Juvenile other homicide: \$1,500</p> <p>Juvenile Felony Class A/B - Drugs: \$500</p> <p>Juvenile Felony Class A/B - Other: \$750</p> <p>Juvenile Felony Class A/B - Sex: \$1,250</p> <p>Juvenile Felony Class C/D/E - Drugs: \$500</p> <p>Juvenile Felony Class C/D/E - Other: \$500</p> <p>Juvenile Felony Class C/D/E - Sex: \$1,000</p> <p>Juvenile Misdemeanor: \$375</p> <p>Direct Appeal: \$3,750</p>	<p>§600.042 R.S.Mo. (2019)</p> <p>The state Public Defender contracts with private attorneys for legal services. §600.021 R.S.Mo. (1986) The commission contracts with private attorneys to provide defense services. Missouri State Public Defender Website – https://publicdefender.mo.gov/private-counsel-opportunities/mspd-contracting/panel-rates/</p>

Montana	\$71	Statute allows for fixed fee contracts	47-1-121, MCA (2019) The Public Defender Commission adopts rules to provide reasonable compensation to contract attorneys. See Compensation Schedule: https://opd.mt.gov/Resources/AttorneyResources
Nebraska	Set by Court: range from \$50 - \$125; majority of courts \$95-\$100	N/A	R.R.S. Neb §29-3905 (1990) The appointing court "shall fix reasonable expenses and fees." https://nebraskacriminaldefense.org/resources/Documents/Court%20Appointed%20Counsel%20Report%20-%20July%202022%20Final.pdf
Nevada	\$125 - Capital cases \$100 - all other cases	N/A	Nev. Rev. Stat. Ann. §7.125 (2021) Caps were removed in 2021.
New Hampshire	\$125 – Major Crimes (capital murder, homicide, aggravated felonious sexual assault, felonious sexual assault first degree assault, class A felony robbery, and felony arson) \$90 - all other cases \$125 - appeals to Supreme Court	Homicides under RSA 630:1-2 (per co-counsel): \$20,000 Aggravated felonious sexual assault, felonious sexual assault and first degree assault: \$12,500 All other felonies: \$5,500. Misdemeanors: \$2,000 Supreme Court Appeals: \$10,000	Rules of the Supreme Court of the State of New Hampshire, Rule 47 (2022). Rule includes provisions for exceeding caps.
New Jersey	\$100 - in-court \$100 - out-of-court \$100 – Appellate cases	N/A	N.J. Stat. §2A:158A-7 (1994) Public Defender establishes compensation with contract OPD Pool Attorney Guideline and Application Process (2024) These guidelines set the current rates.
New Mexico	Flat-fee contracts generally \$85 - First degree murder and first degree felonies \$42.50 travel time	Can vary by district 1st Degree Murder: \$6,500 1st Degree Felony (Life): \$6,500 1st Degree Felony: \$900 or \$950 2nd Degree Felony: \$850 or 930 3rd Degree Felony: \$775 or 900 4th Degree Felony: \$650 or \$780 Juvenile: \$360 or \$420 Misdemeanor: \$220 Prob Violation: \$650 or \$780 Appeals (General Calendar): Opening Brief: \$1,300 to \$3,900 Reply Brief: \$200 to \$650 Cert. Pet. NM SCT: \$200 to \$650 Oral Argument: \$200 to \$650 (\$1,900 to \$5,850)	N.M. Stat. Ann. §31-15-7 (2014) Public Defender to establish fee schedule for court appointed counsel. 2024 LOPD RFP - set caps LOPD Contract Counsel Legal Services (2020-21) - hourly rate
New York	\$158	\$10,000 (all matters) Appeals: \$10,000	NY CLS County §722-b (2023) Statute includes provisions for exceeding caps. NY CLS Jud. §35 (2023)

North Carolina	<p>\$100 - Capital and LWOP cases \$85 - Class A-D felony \$65 - Class E-I felony and probation violations \$65 - All other cases resolved in Superior court \$65 - Misdemeanors Appeals: \$75-\$100/hr</p>	No fee caps	<p>N.C. Gen. Stat. § 7A-498.5 (2015) Office of Indigent Defense Services responsible for setting rates. Private Assigned Counsel Rates were updated January 1, 2022</p>
North Dakota	\$80	<p>Felony - \$2,000 Misdemeanor - \$850 Juvenile - \$850 Post-conviction - \$500 Any other matter - \$500 Appeal - \$2,000</p>	<p>N.D. Cent. Code, § 54-61-02 (2017) Commission on Legal Counsel has authority to set fees. N.D. Cent. Code, § 29-07-01.1 (2013): Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Policy on Payment of Extraordinary Attorney Fees (adopted 12/11/06)</p>
	<p>\$125 - death penalty cases \$75 - all other cases</p>	<p>Adult Aggravated Murder (w/ specs) - no fee maximum Aggravated Murder (w/o specs) - \$15,000/attorney Murder - \$10,000 Felony with Possible Life Sentence/Repeat Violent Offender/Major Drug Offender: \$10,000 Felony (degrees 1-2) - \$8,000 Felony (degree 3) - \$5,000 Felony (degrees 4-5) - \$3,500 Misdemeanor (degrees 1-4) - \$2,000 Misdemeanor OVI/BAC - \$2,500 Contempt - \$500 Probation violations - \$750 Juvenile Aggravated Murder (w/ specs) - no fee maximum Aggravated Murder (w/o specs) - \$7,500/attorney Murder - \$6,000 Murder - \$6,000 Felony (degrees 1-2) - \$5,000 Felony (degrees 3-5) - \$3,500 Misdemeanor - \$2,000 Misdemeanor OVI/BAC - \$2,500 Contempt - \$500 Probation violations - \$750 Appellate Level Proceedings Death Sentence - no fee maximum Cumulative Minimum Sentence exceeds 25 years - \$8,000 Felony (degrees 1-2) - \$5,000 Felony (degree 3) - \$3,500 Felony (degrees 4-5) - \$2,500 Felony Plea - \$1,500 Misdemeanors - \$2,000 Misdemeanor plea - \$1,000</p>	<p>ORC Ann. 120.33 (2017) 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. Statute includes provisions for exceeding caps. Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement (2024) sets out maximum fees and rates.</p>
Ohio			

Oklahoma	Flat-fee contracts	Felony: \$3,500 Misdemeanor, Juvenile, Traffic: \$800 Appeals: \$3,500 (felony); \$800 (misd)	22 Okl. St. §1355.8 (2001) Statute includes provisions for exceeding caps.
Oregon	\$61 - Capital lead counsel \$46 - Capital co-counsel \$46 - Non-capital cases	Determined by the Public Defense Services Commission	ORS §151.216 (2018) The Public Defense Services Commission adopts guidelines regarding the fair compensation of appointed counsel. Public Defense Payment Policy and Procedures (2019). Provides guidelines for obtaining an increase in the set hourly rates (section 2.2). Also sets out the hourly rates (Exhibit 2). [NOTE: Temporary Hourly Increase Policy effective through 6/30/25 applies only to in custody defendants entitled to court appointed counsel. Sets temporary hourly rates of \$164 to \$200 and "soft caps" of \$10,000 to \$75,000.]
Pennsylvania	Set by the Court	Set by the Court	16 P.S. §9960.7 (1969) Attorney to be rewarded reasonable compensation to be fixed by the Court. **In Pennsylvania, all counties except Philadelphia are required to create and fund a public defender's system. The public defender in Philadelphia is an association which is not part of the county or state government.
Rhode Island	\$100 - Murder \$90 - Class 1 Felony \$60 - Class 2 Felony \$90 - Juvenile \$50 - DUI \$50 - Misdemeanor \$85 - Misc. Appeals & Petitions	Murder: \$30,000 Class 1 Felony: \$10,000 Class 2 Felony: \$5,000 Juvenile - \$2,500 DUI - \$2,500 Misdemeanor - \$1,800 Criminal Appeal: \$5,200	General Laws of Rhode Island §8-15-2 (1969) Statute cited in Executive Orders (see below) which provides chief justice of the court to ensure that court-appointed attorneys are paid in a fair and equitable fashion. Supreme Court Executive Orders 2019-06 and 2023-07 provide the hourly rates and caps. Additional case types included beyond those listed.
South Carolina	\$60 - in-court \$40 - out-of-court	Felony: \$3,500 Misdemeanor: \$1,000 Appeals: \$1,000 (misd)-\$3,500 (felony)	S.C. Code Ann. §17-3-50 (2007) Includes provisions for exceeding hourly rates and caps. In 2013 SC created a contract program which contracts with private attorneys to handle non-capital criminal conflict cases for a flat fee. Sample contract online provide for flat fee of \$900/case. https://sccid.sc.gov/608-contract
South Dakota	\$115	Set by Court	S.D. Codified Laws § 23A-40-8 (1983) Reasonable and just amount to be paid based upon guidelines established by the presiding judge of the circuit court. Office of the State Court Administrator Court-Appointed Attorney Guidelines (eff. 11/15/23)
Tennessee	Non-Capital Cases \$60 - in and out of court	First Degree Murder or Class A or B felony in trial court: \$3,600 Felony other than First Degree Murder or Class A or B felony: \$2,400 Preliminary hearings for felonies, juvenile charged w/non-capital felony: \$1,800 Misdemeanor, probation violation: \$1,200 Contempt of Court, parole revocation: \$600 Appeals: \$1,200	Tennessee Supreme Court Rule 13, Sec. 2 (amended 2024-pending) Rule includes provisions for exceeding caps (see specifically section 2(e)(1)).
Texas	Set by Court	Set by Court	Texas Code of Criminal Procedure Article 26.05 (2019) Counsel to be paid a reasonable fee as set by the court. Judges of the county courts, statutory county courts, and district courts trying criminal cases in each county must establish a schedule of fees.

Utah	Rate per guidelines set by the county or municipality	Rate per guidelines set by the county or municipality	Utah Code Ann. § 78B-22-302 (2019) Utah Code Ann. § 78B-22-203 (2019) Attorney shall be paid reasonable compensation by the court.
Vermont	\$100	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 Appeals: \$2,000	13 V.S.A. § 5205 (1982) The Supreme Court shall set reasonable rates of compensation. Vt. Adm. Ord. SCT. § 6 (effective 7/1/23) Administrative Order of the Supreme Court. Provides the hourly rates and caps, as well as provisions for exceeding the caps.
Virginia	\$90	Effective 1/1/25: Felony with sentence of more than 20 years: \$1,692 Other felony: \$834 DUI: \$448 Misd: \$330 Juvenile: \$680 \$2,000-\$4,500	Va. Code § 19.2-163 (2024) 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. With approval of the judge, Virginia also allows for a second level waiver in certain cases. Fee caps in the Va. Court of Appeals range from \$1,300 (misdemeanor not argued) to \$2,500 (felony appeal with en banc review and argument), and in Va. Supreme Court an additional \$700 (misd) to \$2,000 (felony).
Washington	Set by each county or city	Set by each county or city	Rev. Code Wash. (ARCW) §10.101.030 Each county or city must establish standards for the delivery of indigent defense services, including compensation. Standards adopted by the Washington State Bar Association serve as guidelines.
West Virginia	\$80 - in-court \$60 - out-of-court	Felony offenses with possibility of life in prison: court discretion All other cases: \$4,500 Appeals: \$4,500	W. Va. Code §29-21-13a (2023)(eff. 6/9/23) Statute includes provisions for exceeding caps.
Wisconsin	\$100 (\$50/hr for travel time)	N/A (cap of 2,080 hrs/yr)	Wis. Stat. § 977.08 (2023)
Wyoming	\$100 \$35-\$60 - out-of-court	Court discretion	Wyoming Rules of Criminal Procedure Rule 44(e) (2019)

STATE COMPARISONS CHART - CAPS

FELONY LOW, FELONY HIGH, MISDEMEANOR, JUVENILE

STATE	FELONY LOW	FELONY HIGH	MISDEMEANOR	JUVENILE
Alabama	\$3,500	\$6,000	\$2,000	\$4,500
Alaska	\$4,000	\$20,000	\$1,625	\$1,625-\$20,000
Colorado	\$5,310	\$37,760	\$4,720	\$4,130-\$8,260
Connecticut	\$1,000	\$1,000	\$350	\$350
Delaware	\$2,000	\$2,000	\$1,000	\$1,000-\$2,000
District of Columbia	\$7,000	\$7,000	\$2,000	\$2,000-\$7,000
Florida	\$6,000	\$9,000	\$1,000	\$1,000
Georgia	\$3,000	\$7,500	\$1,000	\$1,500
Hawaii	\$6,000	\$6,000	\$1,500	\$3,000
Illinois	\$5,000	\$5,000	\$500	\$500-\$5,000
Iowa	\$1,460	\$21,414	\$365	\$1,460
Kansas	\$1,200	\$8,000	\$427	\$427-\$8,000
Maine	\$2,500	\$5,000	\$1,000	\$1,500
Maryland	\$13,400	\$13,400	\$3,800	\$3,800-\$13,400
Mississippi	\$1,000	\$1,000	\$200	\$200
Missouri	\$750	\$6,000	\$375	\$375-\$2,000
New Hampshire	\$5,500	\$12,500	\$2,000	\$2,000-\$12,500
New Mexico	\$650	\$6,500	\$220	\$360-\$420
New York	\$10,000	\$10,000	\$10,000	\$10,000
North Dakota	\$2,000	\$2,000	\$850	\$850
Ohio	\$3,500	\$10,000	\$2,000	\$2,000-\$7,500
Oklahoma	\$3,500	\$3,500	\$800	\$800
Rhode Island	\$5,000	\$30,000	\$1,800	\$2,500
South Carolina	\$3,500	\$3,500	\$1,000	\$1,000-\$3,500
Tennessee	\$2,400	\$3,600	\$1,200	\$1,800
Vermont	\$5,000	\$25,000	\$1,000	\$2,000
Virginia	\$834	\$2,542	\$450	\$1,330
West Virginia	\$4,500	\$4,500	\$4,500	\$4,500

VIRGINIA RANK:

26/28

24/28

22/28

22/28

States with no statutory fee cap (rate set by Court, state PD Office, or contract):

Arizona, Arkansas, California, Idaho, Indiana, Kentucky, Louisiana, Massachusetts,

Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Carolina, Oregon,

Pennsylvania, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming

STATE COMPARISONS CHART

FEE CAPS - LOWEST CLASS FELONY

STATE	FELONY LOW
Maryland	\$13,400
New York	\$10,000
District of Columbia	\$7,000
Florida	\$6,000
Hawaii	\$6,000
New Hampshire	\$5,500
Colorado	\$5,310
Rhode Island	\$5,000
Vermont	\$5,000
Illinois	\$5,000
West Virginia	\$4,500
Alaska	\$4,000
Ohio	\$3,500
Alabama	\$3,500
South Carolina	\$3,500
Oklahoma	\$3,500
Georgia	\$3,000
Maine	\$2,500
Tennessee	\$2,400
Delaware	\$2,000
North Dakota	\$2,000
Iowa	\$1,460
Kansas	\$1,200
Connecticut	\$1,000
Mississippi	\$1,000
Virginia	\$834
Missouri	\$750
New Mexico	\$650
VIRGINIA RANK:	26/28

STATE COMPARISONS CHART CAPS - HIGHEST CLASS FELONY

STATE	FELONY HIGH
Colorado	\$37,760
Rhode Island	\$30,000
Vermont	\$25,000
Iowa	\$21,414
Alaska	\$20,000
Maryland	\$13,400
New Hampshire	\$12,500
New York	\$10,000
Ohio	\$10,000
Florida	\$9,000
Kansas	\$8,000
Georgia	\$7,500
District of Columbia	\$7,000
New Mexico	\$6,500
Alabama	\$6,000
Hawaii	\$6,000
Missouri	\$6,000
Illinois	\$5,000
Maine	\$5,000
West Virginia	\$4,500
Tennessee	\$3,600
Oklahoma	\$3,500
South Carolina	\$3,500
Virginia	\$2,542
Delaware	\$2,000
North Dakota	\$2,000
Connecticut	\$1,000
Mississippi	\$1,000
VIRGINIA RANK:	24/28

STATE COMPARISON CHART

CAPS - MISDEMEANOR

STATE	MISDEMEANOR
New York	\$10,000
Colorado	\$4,720
West Virginia	\$4,500
Maryland	\$3,800
Alabama	\$2,000
District of Columbia	\$2,000
New Hampshire	\$2,000
Ohio	\$2,000
Rhode Island	\$1,800
Alaska	\$1,625
Hawaii	\$1,500
Tennessee	\$1,200
Delaware	\$1,000
Florida	\$1,000
Georgia	\$1,000
Maine	\$1,000
South Carolina	\$1,000
Vermont	\$1,000
North Dakota	\$850
Oklahoma	\$800
Illinois	\$500
Virginia	\$450
Kansas	\$427
Missouri	\$375
Iowa	\$365
Connecticut	\$350
New Mexico	\$220
Mississippi	\$200
VIRGINIA RANK:	22/28

STATE COMPARISONS CHART - CAPS

CAPS - JUVENILE HIGH

STATE	JUVENILE
Alaska	\$20,000
Maryland	\$13,400
New Hampshire	\$12,500
New York	\$10,000
Colorado	\$8,260
Kansas	\$8,000
Ohio	\$7,500
District of Columbia	\$7,000
Illinois	\$5,000
Alabama	\$4,500
West Virginia	\$4,500
South Carolina	\$3,500
Hawaii	\$3,000
Rhode Island	\$2,500
Delaware	\$2,000
Missouri	\$2,000
Vermont	\$2,000
Tennessee	\$1,800
Georgia	\$1,500
Maine	\$1,500
Iowa	\$1,460
Virginia	\$1,330
Florida	\$1,000
North Dakota	\$850
Oklahoma	\$800
New Mexico	\$420
Connecticut	\$350
Mississippi	\$200
VIRGINIA RANK:	22/28

STATE COMPARISONS CHART

APPELLATE CAPS

STATE	APPELLATE LOW	APPELLATE HIGH
Alabama	\$2,500	\$2,500
Alaska	\$2,500	\$7,500
Colorado	\$2,360	\$10,620
Connecticut	\$6,000	\$6,000
Delaware	\$1,000	\$2,000
District of Columbia	\$5,000	\$5,000
Florida	\$9,000	\$9,000
Georgia	\$3,000	\$7,500
Hawaii	\$5,000	\$5,000
Illinois	\$2,500	\$2,500
Kansas	\$1,920	\$1,920
Maine	\$3,000	\$3,000
Maryland	\$9,600	\$9,600
Michigan	\$750	\$3,375
Mississippi	\$1,000	\$1,000
Missouri	\$3,750	\$3,750
New Hampshire	\$10,000	\$10,000
New Mexico	\$1,900	\$5,850
New York	\$10,000	\$10,000
North Dakota	\$2,000	\$2,000
Ohio	\$1,000	\$8,000
Oklahoma	\$800	\$3,500
Rhode Island	\$5,200	\$5,200
South Carolina	\$1,000	\$3,500
Tennessee	\$1,200	\$1,200
Vermont	\$2,000	\$2,000
Virginia	\$2,000	\$4,500
West Virginia	\$4,500	\$4,500
VIRGINIA RANK	19/28	14/28

STATE COMPARISONS CHART

HOURLY RATES (NON-CAPITAL)

STATE	HOURLY RATE - LOW	HOURLY RATE - HIGH
Alabama	\$70	\$100
Alaska	\$50	\$60
Arkansas	\$70	\$70
Colorado	\$95	\$105
Connecticut	\$50	\$75
Delaware	\$50	\$60
District of Columbia	\$110	\$110
Hawaii	\$90	\$90
Illinois	\$30	\$40
Indiana	\$110	\$110
Iowa	\$73	\$83
Kansas	\$120	\$140
Maine	\$150	\$150
Maryland	\$172	\$172
Massachusetts	\$65	\$120
Michigan	\$50	\$120
Montana	\$71	\$71
Nebraska	\$50	\$125
Nevada	\$100	\$100
New Hampshire	\$90	\$125
New Jersey	\$100	\$100
New Mexico	\$42	\$85
New York	\$158	\$158
North Carolina	\$65	\$100
North Dakota	\$80	\$80
Ohio	\$75	\$75
Oregon	\$46	\$46
Rhode Island	\$50	\$100
South Carolina	\$40	\$60
South Dakota	\$115	\$115
Tennessee	\$60	\$60
Vermont	\$100	\$100
Virginia	\$90	\$90
West Virginia	\$60	\$80
Wisconsin	\$50	\$100
Wyoming	\$35	\$100
VIRGINIA RANK	12/36	21/36
States with no set hourly rate (rate set by		
Court, state PD Office, or flat fee):		
Arizona, California, Florida, Georgia, Idaho,		
Kentucky, Louisiana, Minnesota, Mississippi,		
Missouri, Oklahoma, Pennsylvania, Texas,		
Utah, Washington		