

State Funding of Indigent Defense National Survey

Executive Summary

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Introduction

The data contained in this document were collected for informational and policy making purposes through a survey of agency administrators and fiscal analysts. For Fiscal Year (FY) 2008, the collected data demonstrate a broad view of state funding for indigent defense services without drawing any conclusions about the needs of the respective states.

Methodology

A survey was conducted during the period of September 28, 2007 through December 11, 2007. Approximately half of all states responded to an initial electronic mail survey. The remainder of the states' data were gathered through a combination of telephone and electronic mail communication. Data sources include offices of state public defenders, state budget offices, and legislative staff.

State funding of indigent defense was defined as state general fund and other dedicated state revenue streams. Federal and local revenues were not included in this definition. These determinations were sometimes difficult to make but an attempt was made to be consistent in applying rules. For calculating per capita values, 2006 population estimates by the U.S. Bureau of the Census were used.

Results

Data were gathered from 50 states. Information was compiled and yielded the results shown in Figures 1 and 2. The same data are shown in Tables 1 and 2. For per capita funding, data demonstrate a median value of \$8.43 and an average value of \$10.30 for all 50 states. The range of total dollars expended on indigent defense by state extended from almost zero dollars to approximately \$346 million. State indigent defense systems range from those that are primarily funded by local revenues to those that are funded by state funds only. The attached figures and tables show the distribution on a per capita basis and by actual funding amounts. Relevant notes from the states are shown in Appendix A.

In the course of the survey, respondents repeatedly provided several anecdotal concerns about state indigent defense funding and development. A few of those concerns are provided below.

- ❖ Low funding levels and stagnant state funding are creating constitutional crises.
- ❖ Case workloads for indigent defenders are excessively high.
- ❖ The funding of indigent defense systems is a patchwork of varied sources.

Table 1. State funding per capita on indigent defense for FY 2008.

State	State Funding Per Capita (Ascending Order)
UT	\$0.03
AZ	\$0.12
PA	\$0.21
MI	\$0.53
TX	\$0.91
NV	\$1.00
MS	\$1.02
SD	\$1.03
ID	\$1.42
IL	\$1.93
NE	\$2.14
CA	\$2.74
OH	\$3.32
IN	\$3.41
WA	\$4.27
GA	\$4.30
NY	\$4.61
OK	\$5.53
TN	\$5.94
MO	\$6.13
SC	\$6.24
HI	\$6.61
LA	\$6.68
AR	\$6.83
KS	\$8.39
ME	\$8.47
ND	\$8.65
KY	\$9.04
RI	\$11.61
NC	\$12.03
AL	\$12.72
MN	\$12.84
CT	\$12.90
WY	\$13.83
NJ	\$14.00
CO	\$14.03
WI	\$14.88
NH	\$15.95
MD	\$16.01
VT	\$16.51
DE	\$17.18
WV	\$17.37
VA	\$17.77
IA	\$18.04
FL	\$19.15
MT	\$20.88
NM	\$20.98
MA	\$24.04
OR	\$29.11
AK	\$51.79

Table 2. State funding of indigent defense for FY 2008.

State	Total State Funding (Ascending Order)
UT	\$74,000
AZ	\$737,900
SD	\$804,000
ID	\$2,084,200
NV	\$2,500,000
PA	\$2,646,000
MS	\$2,960,846
NE	\$3,789,438
MI	\$5,314,200
ND	\$5,500,000
WY	\$7,123,126
HI	\$8,500,000
VT	\$10,303,603
ME	\$11,200,000
RI	\$12,390,640
DE	\$14,658,800
AR	\$19,196,323
MT	\$19,727,489
OK	\$19,804,008
NH	\$20,970,648
TX	\$21,397,124
IN	\$21,500,000
KS	\$23,197,270
IL	\$24,813,520
SC	\$26,975,933
WA	\$27,330,000
LA	\$28,645,243
WV	\$31,592,972
AK	\$34,700,000
MO	\$35,812,857
TN	\$35,878,700
KY	\$38,005,300
OH	\$38,078,220
GA	\$40,265,178
NM	\$41,000,000
CT	\$45,194,922
IA	\$53,791,824
AL	\$58,500,000
MN	\$66,348,000
CO	\$66,711,000
WI	\$82,700,000
NY	\$89,000,000
MD	\$89,900,000
CA	\$99,984,000
NC	\$106,540,251
OR	\$107,744,500
NJ	\$122,148,000
VA	\$135,808,741
MA	\$154,751,721
FL	\$346,379,948

Appendix A

Notes on Individual State Funding of Indigent Defense:

1. Alabama – Funding includes a dedicated revenue stream of \$21.5 million in addition to \$37 million of state general fund. The other revenue stream includes judicial fees and fines. The legislature also has placed language in the appropriations bill indicating that it will fund any revenue shortfall for indigent defense.
2. Alaska – The Office of Public Advocacy receives about \$17.6 million, and the Public Defender Agency receives an equivalent amount.
3. Arkansas – Other than direct state appropriations, the state also provides funding through the Administration of Justice Fund.
4. Arizona – The majority of funding for indigent defense is local. A county public defender's office indicated that a small amount of funds from the state were provided to counties. The individual named the fund as the "Fill the Gap" Fund. However, an analyst with the Office of Strategic Planning and Budgeting was not aware of those funds.
5. California – The state provides a little more than \$1 million from the Federal Trust Fund that is not shown in the survey amount.
6. Connecticut – The state provides about \$264,000 in federal grant funding that is not shown in the survey amount.
7. Delaware – The state's indigent defense system is funded entirely by state general fund.
8. Florida – The state general fund appropriation includes \$30 million in the Appropriations Act in the event that indigent defense services are in a deficit posture in FY 2008.
9. Georgia – As part of the survey amount, the state appropriates about \$4.8 million from a dedicated revenue stream of fees and grants.
10. Hawaii – The state's system of indigent defense is funded entirely by state general fund except for funds maintained by the courts that go to conflict cases.
11. Idaho – Counties pay for trial-level work, and the state funds appeals.
12. Illinois – For FY 2008, the state also appropriated \$300,000 from federal funds that are not included in the survey amount.
13. Indiana – The state's public defender office only handles post-conviction relief. The state's indigent defense system is primarily funded by county funds. The state reimburses counties for up

to 40% of their capital and felony case costs if they choose to participate in the program. Some counties choose to not participate because they must meet caseload standards. Only 57 of 92 counties participate currently. The amount going to county reimbursement for FY 2008 is about \$14.5 million. The remaining funds support the state's public defender for post-conviction relief.

14. Iowa – In the survey amount, about \$21.8 million supports public defenders. The majority of the remaining amount funds assigned council and non-profits.
15. Louisiana – The survey amount shown includes about \$10.7 million for contracted appellate programs and about \$15.5 million for indigent defender services. The state funding portion provides about one-fourth of the estimated operating needs of public defenders.
16. Maine – The amount shown in the survey is only an estimate. The amount had not yet been finalized.
17. Massachusetts – The state's indigent defender system is awaiting an additional \$22.5 million state appropriation to cover costs from FY 2007.
18. Michigan – The survey amount includes \$4.5 million for the State Appellate Defender Office and about \$761,000 for the Appellate Assigned Counsel System.
19. Minnesota – The state's indigent defender system is almost entirely funded through state general fund.
20. Mississippi – The state's indigent defense system is primarily funded through local revenues. The survey amount includes state support of \$1,234,245 for the Office of Indigent Appeals; \$1,034,769 for the Office of Capital Defense Counsel; and \$691,832 for the Office of Capital Post-Conviction Counsel.
21. Missouri – The state also provides funding for related benefits. That amount was indeterminable since it is not provided directly to the public defender system. The state also appropriates about \$475,000 from federal funds and debt off-set that is not included in the survey amount.
22. Nebraska – The survey amount is comprised of court fees in a dedicated revenue stream.
23. Nevada – The state funded portion of indigent defense services only covers a limited number of counties within the state.
24. New Hampshire – The state's public defender system is entirely funded by state funds.
25. New Jersey - The survey amount includes about \$21.5 million for indigent child welfare and kinship services in criminal cases. It also includes about \$16.4 million in private state contracts for legal services to indigents and about \$84 million for trial level work, appellate services, and public defender administration. The state also appropriates about \$1.2 million in federal funds not included in the survey amount.
26. New York – The survey amount shown includes \$8.7 million state general fund and \$80.3 million of a dedicated revenue stream from fees.
27. North Carolina – The amount shown in the survey does not include about \$8.8 million in Attorney Fee judgments.

28. Ohio – The current cost reimbursement rate to the counties is 25%. The survey amount shown does not include \$4.5 million that is a combination of fees and fines, federal funds and local revenues.
29. Oklahoma – The survey amount includes about \$3.5 million from fees and reimbursements.
30. Oregon – The state's indigent defense system is funded almost entirely through state general fund except for a small amount of application fees.
31. Pennsylvania – The state appropriates about \$5 million in federal funds that is not included in the survey amount.
32. Rhode Island – The state appropriates about \$421,000 in federal funds that is not included in the survey amount.
33. South Carolina – The survey amount shown includes \$5 million of non-recurring state appropriations and \$13.2 million of a dedicated revenue stream of fines and fee collections.
34. South Dakota – The data shown are an estimate only. Counties assume almost the entire cost of indigent defense services. The state assists by assessing and collecting fees that amount to about 12% of the cost of indigent defense services based on a 2005 study.
35. Texas – The survey amount shown includes \$18.35 million as direct pass-through to counties for cost reimbursement. The remaining \$3 million is for discretionary projects and programs.
36. Wisconsin – The state's indigent defense system is about 98% funded through state appropriations.
37. West Virginia – The state's indigent defense system is funded entirely by state general fund.
38. Wyoming – The state appropriates about \$1.3 million of county revenues that are not included in the survey amount.