

Performance Review: Public Defender Services

Agency Purposes: The Public Defender Services (PDS) is to administer, coordinate and evaluate programs by which the state provides legal representation to indigent persons, monitor the progress of various delivery systems, and recommend improvements.

PERD's Objectives:

The objectives of this review were to evaluate whether the PDS compiled data to adequately evaluate the efficiency and the quality of legal representation provided to indigent persons and determine how PDS uses data to assess and monitor legal representation and improve the overall performance of the indigent defense legal system.

Key Recommendations:

The Legislature should consider implementing changes to establish an attorney appointment system that is more independent of the judicial branch.

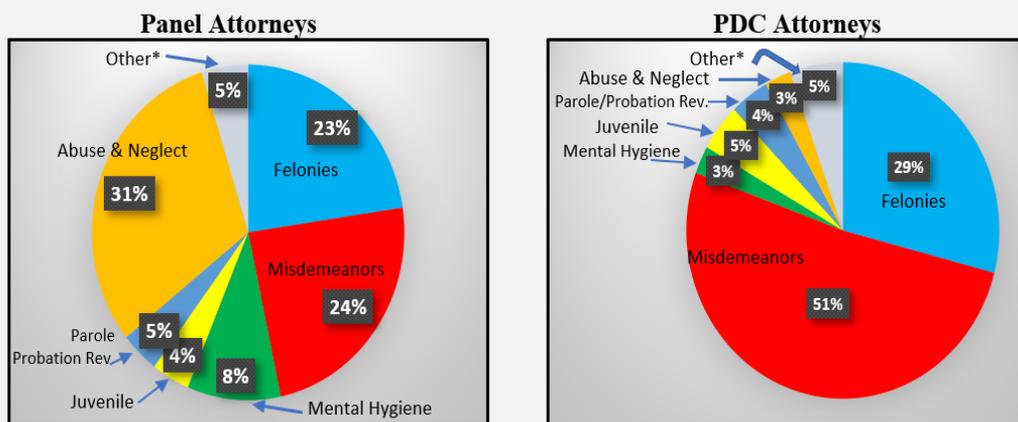
The Public Defender Services should establish performance measures for the qualitative review of indigent defense as required by West Virginia Code §29-21-3b(a).

The PDS should review whether there are other advantages of PDCs in terms of the programs that could be provided, and the resources public defenders would have that many panel attorneys may not have. Appropriate data should be collected that would demonstrate the advantages of PDCs in improving the quality of the indigent defense system.

What Did PERD Find?

- The PDS is required to evaluate and monitor the efficiency and quality of legal representation within the indigent defense system.
- The PDS compiles substantial data related to efficiency; however, the agency does not collect data to evaluate the quality of legal representation.
- The PDS claims it does not have the duty or authority to evaluate the quality of representation, but it is the opinion of the Legislative Services Division that the PDS has a statutory duty to evaluate the quality of legal representation within the indigent defense system.
- The structure of West Virginia's indigent defense system limits the PDS from evaluating the quality of the indigent defense system because it cannot collect the necessary data from court-appointed attorneys.
- To promote greater use of public defender corporations, the PDS compares the costs per case of panel attorneys to public defender corporations, which suggest lower costs for public defender corporations. However, the data are not comparable because of the different composition of cases (see Figure 1 below).
- The PDS should evaluate other advantages in using Public Defender Corporations such as holistic programs that can be offered and greater access to resources such as support staff, structured education, and mentoring of young attorneys.

Figure 1
Case Distribution by Case Type
PDC Attorneys vs. Appointed Panel Attorneys
FY 2021



Source: PERD Analysis using data in the PDS Annual Report 2021 Draft

*Other includes Habeas, Supreme Court, and Municipal Court Charges for Panel Attorneys, and Habeas, Drug Court, and Supreme Court for Public Defenders.