

An Assessment of Compensation for Private Assigned Counsel in North Carolina*

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Abstract

It is no surprise that indigent defense is not properly funded in the United States; this has been exacerbated by political fights, economic downturns, and a pandemic. The current study assesses compensation for private assigned counsel in North Carolina; in particular, the effect of compensation rate changes on the number of hours reported to the court, the amount of payment awarded by the court, and the length of disposition of cases. Results indicate that all of these variables are influenced by compensation rate changes in 2011 (in which rates were lowered) and 2022 (in which rates increased). It is concluded that private assigned counsel is torn between devoting enough time to their client's cases and maintaining a livelihood.

Keywords: indigent defense, right to counsel

1. Introduction

Funding for indigent defense has been problematic since *Gideon v. Wainwright* was handed down by the U.S. Supreme Court in 1963. A number of studies have highlighted how inadequate funding for indigent defense has negatively affected the performance of counsel in criminal cases (see Barrett, 2017; Dixon, 2013; Lefstein, 2009). For example, inadequate funding results in fewer attorneys who are attracted to indigent defense, which creates a snowball effect of increasing the number of cases for existing indigent defenders and decreasing the amount of time said defenders spend on each of their cases. This is true regardless of the type of indigent defense system in place, i.e., public defender or assigned counsel. Researchers and criminal justice practitioners alike have called for structural indigent defense reform. At minimum, increased funding can go a long way to improve indigent defense, but other reforms, such as reclassifying minor offenses and misdemeanors, represent a trickier, and more politically volatile, approach (Barrett, 2017; Fairfax, 2013). Regardless of proposed reform efforts, many indigent defenders are struggling with representing their clients effectively; the costs of indigent defense have increased, and the compensation for indigent defenders has not increased at the same rate (Haksgaard, 2020). This is especially true in rural areas, which are experiencing a shortage of defenders, largely due to retirements of existing defenders and the lack of replacements, and an increase in crime (Pruitt et al., 2018).

The current study assesses indigent defense in North Carolina, a state which utilizes public defenders, court-assigned counsel, and contract counsel. In particular, this study examines court-assigned counsel (hereafter “assigned counsel”) in North Carolina, which provides indigent defense in half of North Carolina’s judicial districts (North Carolina Office of Indigent Defense Services, 2023) [hereafter NCIDS] or 82 out of the state’s 100 counties (as either primary or secondary representation) (Lee, 2021). Compensation for assigned counsel in North Carolina has undergone a number of changes in the past 15 years, with a decrease in compensation in 2011, a flat-fee enterprise in four counties in 2017, and an increase in compensation in 2022. This study examines whether these rate changes have altered the number of hours spent on cases, the payment amount given to defenders, and the number of days between arrest and case disposition.

2. Funding Issues for Indigent Defense

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Indigent defense has never been a popular funding priority, as the public and legislators tend to view offenders as not worthy of such assistance. Rudovsky (2014) states that the “abdication of funding responsibilities” by legislatures and “lack of judicial implementation of the *Gideon* mandate” are responsible for the paltry funding of indigent defense. With regard to legislatures, a number of studies have indicated that funding for indigent defense is “woefully inadequate” (Lippman & Newton, 2000) and that state legislatures have actually cut funding for indigent defense in the midst of caseload increases. For example, Rudovsky (2014) states that, in Miami-Dade county (Florida), as indigent defense caseloads increased by 29 percent between 2004 and 2008, funding for indigent defense was cut over 12 percent. In addition, the recession in 2007-2008 led many states to cut funding across the board, and indigent defense was not spared. In North Carolina, for example, most hourly rates for assigned counsel were cut to below the original rates that were established in the early 2000s (Backus & Marcus, 2018; NCIDS, 2017). This extended into the 2010s, with other states cutting the hourly rates for assigned counsel; for example, Montana slashed its existing \$62 per hour rate to \$56 in 2018. These rates are not enough for assigned counsel to make a decent living. In 2013 in Wisconsin, attorneys paid an hourly rate of \$40 per hour had to contend with overhead costs (staff, supplies, etc.) of approximately \$41.79 per hour, resulting in attorneys losing money when engaging in indigent defense (Primus, 2023). A number of states have implemented flat-fee systems in order to save money, in that indigent defenders will only be paid a set amount regardless of how many hours they work on a case (National Association of Criminal Defense Lawyers, 2013) [hereafter NACDL]. In Virginia, for example, the maximum amount that an attorney is allowed in a felony case with a punishment of up to 20 years is \$445. In North Dakota, that rate is \$575 (Primus, 2023). Currently, the average hourly rate for assigned counsel is about \$65 per hour, with a low of \$30 per hour, without accounting for any overhead costs and with fee caps for many offenses (Brink, 2020; Primus, 2023). With regard to judges, attorneys who present their hours to judges for payment will often see their hours and fees cut by judges, such that much of the attorneys’ work goes unfunded (NCIDS, 2019). In Texas, judges, “routinely cut the bills submitted by assigned attorneys,” refusing to believe that attorneys spend a certain number of hours on some cases (Primus, 2023, p. 230). In addition, there has been a failure of judges approving waiver of fee caps for attorneys working more hours on cases and prohibiting attorneys from taking on more cases (Hollinger, 2020).

3. Consequences of Inadequate Funding

These issues have led to some unfortunate outcomes for indigent defense. With such low pay, indigent defenders have no real incentive to zealously defend their clients, especially if they know that their fees will be cut or capped at a certain amount (Primus, 2023). This results in less investigation into cases and more guilty pleas, pitting an indigent defender’s livelihood against an offender’s individual rights (Primus, 2023). Sukhatme and Jenkins (2020) argue that rates for indigent defense, particularly flat fee rates, either push away defenders (leaving more cases for the remaining defenders) or encourage defenders to take on even more cases, leaving too little time to devote to all of their cases. Anderson and Heaton (2011) state that low compensation rates in Pennsylvania led many attorneys to take on more cases than they could handle. According to Dixon (2013), in Tennessee, lack of attorneys meant that six attorneys were handling over 10,000 misdemeanor cases, logging approximately one hour per case. In Michigan, some indigent defenders were spending no more than 30 minutes per case (Baxter, 2010). Some indigent defenders make a concerted effort to take as many cases as possible in order to compensate for low hourly rates. This leaves them little time to spend on cases, increasing the odds of resolving cases quickly to move on to the next. Agan, Freedman, and Owens (2018) stated that assigned counsel in Texas resolved their cases 12.5 percent faster than similar private counsel cases. On the other hand, taking on too many cases can result in delays in other cases. Rose (2014) states that cases can take up to 18 months to resolve, as indigent defenders are strapped for time. This leads to uncertain outcomes for offenders, who may be languishing in pretrial detention waiting to meet with their attorney.

As stated previously, rates for indigent defense dissuade attorneys from undertaking indigent defense and serves to drive experienced defenders out. Primus (2023) notes that, in Virginia, Texas, and Pennsylvania, low compensation simply does not attract attorneys into indigent defense in the first place. This is especially true of newly minted attorneys who may have student loans or other debt (NACDL, 2013). The issue is even more pronounced in rural areas, which experience a shortage of indigent defenders even in the best of times, as geography (travel and distance, poor roads, bad weather, inconsistent cell phone coverage) and low compensation simply do not attract attorneys, creating “legal deserts” (see Haksgaard, 2020). On the flip side, experienced defenders may refuse to participate in indigent defense due to the lack of adequate compensation, as evidenced in North Carolina, where half of the attorneys surveyed by NCIDS (2019) reduced or eliminated themselves from public defense, indicating that they could not afford to continue. This leaves, “an inadequate, inexperienced, overworked, and inherently conflicted pool of attorneys accepting court appointments in our criminal courts” (NACDL, 2013, p. 16).

The lack of compensation for indigent defenders calls into question their effectiveness. As Primus (2020) notes,

If an attorney must handle 19,000 cases in a year (which would give her only seven minutes for the average case), it does not matter how qualified she is or how hard she is willing to work. She cannot provide effective assistance of counsel when the system gives her so little time (p. 1586).

A number of studies have examined the effectiveness of indigent defenders with regard to a number of case outcomes, comparing assigned counsel to public defenders and privately retained counsel. These studies found that, compared to public defenders, assigned counsel had less success in securing dismissals for their clients, and offenders with assigned counsel were more likely to be convicted and sentenced to longer incarceration terms than offenders with public defenders (Anderson & Heaton, 2011; Iyengar, 2007). This was replicated in a study by Cohen (2014), who added privately retained counsel into the analysis. In this study, assigned counsel fared the worst among the three, with offenders with assigned counsel more likely to be convicted and sentenced to longer incarceration terms. Cohen (2014) attributes this to issues inherent in the assigned counsel system, which features attorneys who are unskilled, unqualified, inexperienced, and graduate from lower quality law schools (see also Iyengar, 2007; Roach, 2014). What Cohen (2014) and others do not specify is that the inadequacy of funding, the caseload, and fee caps put a stranglehold on assigned counsel’s inability to recruit top attorneys and for current assigned counsel to do their jobs effectively.

4. Current Study

The current study is an assessment of assigned counsel in North Carolina. North Carolina utilizes the three primary methods of indigent defense: public defenders, assigned counsel, and contract bids. Public defenders operate in 20 judicial districts (out of 41) and represent approximately 42 percent of the caseload. Private assigned counsel (PAC) operates in all of the judicial districts, either as primary or secondary counsel, and represents approximately 53 percent of the caseload (NCIDS, 2023). Contract bids comprise the remaining caseload. The Office of Indigent Defense Services was created by the North Carolina Legislature in 2000, and its responsibilities include,

...administer[ing] the North Carolina public defense system, provid[ing] administrative support to the local Public Defender and Statewide Defender Offices; administer[ing] the PAC fund; and administer[ing] individually negotiated and large-scale contracts for services (NCIDS, 2023, p. 2).

IDS collects data on indigent defense and engages in research to highlight the need for structural indigent defense reform. The current study focuses on PACs in North Carolina. In its report to the NC General Assembly in 2020, IDS stressed the importance of increases in the hourly rate for PACs and the need for increased staff support (NCIDS, 2021). The NC General Assembly slashed the hourly rates for PACs in 2011, leading to drastic changes in PAC representation. In a 2019 survey of PACs conducted by IDS, one-third of attorneys reported that they had to eliminate support staff, reduce staff benefits, and/or eliminate malpractice insurance. One-half of attorneys reported that they reduced or eliminated their participation in public defense because they simply could no longer afford it (NCIDS, 2019). After the aforementioned report to the NC General Assembly in 2020, hourly fee rates were increased to at or beyond the original rates and went into effect on January 1, 2022.

Table 1: Hourly PAC Rates for Select Offenses, 2002-2022

Case Type	Original Rates (2002)	August 2006	February 2008	May 2011	January 2022
Potentially Capital Cases	\$85	\$95	\$95	\$85	\$100
High-Level Felonies	\$65	\$65	\$75	\$70	\$85
All Other Superior Court Cases	\$65	\$65	\$75	\$60	\$65
All Other District Court Cases	\$65	\$65	\$75	\$60	\$65

Source: Office of Indigent Defense Services (2015, 2022)

5. Data and Methodology

Although IDS collects data on all indigent defense systems in North Carolina, it has collected the most comprehensive data on PACs. IDS provided data on cases represented by PACs from 2008 through mid-2023.³ The data provided information on a number of variables, including county, hours reported, fee award, type of practice, disposition, type of court, charge level, attorney ID, etc. The current study examines potential differences in *Hours Reported*, *Payment Awarded*, and *Length of Case* for PACs for two years before the most recent rate increases were instituted (2019 through December 31, 2021) and approximately 18 months after the most recent rate increases took effect (January 1, 2022 through June 31, 2023). The current study wanted to compare comparable time frames to equalize the number of cases before and after the 2022 rate change. North Carolina also initiated a pilot flat fee program in four counties in 2017. The flat fee program is only in place in District Courts, with hourly rates continuing in Superior Courts. District Courts handle pretrial work, such as first appearances, and misdemeanor cases, while Superior Courts are the felony trial courts. The program set initial rates but increased the rates beginning in 2022. These counties were excluded from the present analyses.

Hypotheses were difficult to determine based on previous research, especially for North Carolina. As previously mentioned, lowering hourly rates or implementing a flat fee schedule could either drive attorneys away from assigned counsel (reducing hours, payment, etc.) or enable attorneys to take more hours (and receive more payment) to make up for the loss of fees that the rate cuts imposed. In addition, the length of a case could be shorter due to overloaded PACs wanting to plea or otherwise get a case off of their desk, but it could also be longer due to either overloaded attorneys' inability to address cases quickly or attorneys drawing a case out in order to be paid more. Thus, this study examines a number of variables and relationships before and after the most recent rate increases were instituted to gauge any differences in the *Hours Reported*, *Payment Awarded*, and *Length of Case*. These variables are found in Table 2.

Table 2: Variables in the Analyses - PACs

Variable	2019-2021 ^a	2022-mid-2023 ^b
Hours Reported	Mean: 5.66 Median: 4.00	Mean: 9.42 Median: 6.00
Payment	Mean: \$342.93 Median: \$233.75	Mean: \$669.68 Median: \$390.00
Length of Disposition	Mean: 144 days Median: 91 days	Mean: 392.95 days Median: 331.00 days
Charge Level	Misd: 42.0% I Felony: 14.6% H Felony: 24.8% G Felony: 5.9% F Felony: 3.7% E Felony: 2.2% D Felony: 3.1% C Felony: 2.2% B Felony: 1.2% A Felony: 0.1%	Misd: 26.1% I Felony: 15.6% H Felony: 27.0% G Felony: 8.0% F Felony: 6.3% E Felony: 3.8% D Felony: 5.1% C Felony: 4.7% B Felony: 2.9% A Felony: 0.2%
Type of Court	District: 76.5% Superior: 23.5%	District: 58.9% Superior: 41.1%
Geography	Rural: 13.2% Suburban: 33.4% Urban: 53.4%	Rural: 13.6% Suburban: 34.8% Urban: 51.6%
No. of PAC cases	Mean: 259.60 Median: 218.00	Mean: 324.49 Median: 281.00
Multiple Charges	No: 57.1% Yes: 42.9%	No: 49.9% Yes: 50.1%
No. of Attorneys	(2341)	(1283)

N=

156,895

50,650

^adenotes pre-rate increase (2019-December 31, 2021)

^bdenotes post-rate increase (January 1, 2022-June 30, 2022)

³Data on PAC compensation rates obtained from NCIDS is retained by the primary author. Please contact the primary author for more information.

Type of Court assesses whether a case was disposed of in superior court (higher, felony trial court) or district court (lower, misdemeanor and pre-trial court). Fees are higher for cases disposed of in superior court, but PACs may log more hours in district court for pre-trial work. This is a binary variable coded as 0=district, 1=superior. **Geography** refers to whether a county is considered rural (coded 0), suburban (coded 1), or urban (coded 2). Based on the Urban-Rural classification system of the National Center for Health Statistics, all 100 of North Carolina counties were clustered into rural, suburban, or urban categories according to their population. Rural counties were identified as “non-core” in the system, suburban counties were identified as “small metro” or “micropolitan,” and urban counties were identified as “large-central metro,” “large-fringe metro,” or “medium metro” (see Ingram & Francis, 2014). As indicated earlier, rural areas face a shortage of attorneys with rising caseloads, so their experiences are likely distinct from suburban and urban PACs. **Number of Cases** reported by PACs will influence how many hours they spend on cases, which will affect the payment awarded. This is coded as a continuous variable. Relatedly, **Number of Attorneys** reflects the number of PACs that are working in each county and is coded as a continuous variable. What is interesting is that the number of attorneys overall decreases significantly after the rate change. Whether a case consisted of **Multiple Charges** (0= no, 1=yes) or higher **Charge Level** (scale based on type of charge – see Table 2 – 0=misdemeanor, 1=I felony, etc.) can influence a PACs case; these cases may be more complex or have more paperwork, leading to more hours reported.

6. Results

Table 2 summarizes the variables in the analyses for hourly PACs, both before and after the rate change. **Hours Reported**, **Payment Awarded**, and **Length of Case** serve as the dependent variables in this study. For the hourly rate PACs, it is interesting to note the mean number of **Hours Reported**, over the course of the time period studied, hourly rate PACs spent approximately five to nine hours on their cases, with the mean number of hours increasing after the rate change. This, subsequently, increased the **Payment Awarded**, from a mean of approximately \$343 per case before the rate increase to a mean of approximately \$670 per case after the rate increase. The **Length of Case** also increased, from a mean of 144 days before the rate increase to a mean of 393 days after the rate increase. These findings could be explained by an analysis of the independent variables in this study. For example, the **Charge Level** shows that the percentage of misdemeanor cases taken on by hourly PACs decreased and the percentage of felony cases increased after the rate change. Additionally, more cases were taken to Superior Court after the rate change (**Type of Court**). Finally, the mean **Number of Cases** taken on by hourly rate PACs increased from approximately 260 cases to 324 cases. To summarize, the increase in charge levels likely explains the increase in the number of cases moving to Superior Court. This, coupled with an increase in the mean number of cases, helps explain why the number of hours reported, the payment awarded, and the length of disposition increased after the rate change. The reason for these increases is intriguing, considering that both the violent and property crimes rates in North Carolina decreased between 2021 and 2022 (North Carolina State Bureau of Investigation, 2023), suggesting fewer cases coming into the system. It is possible that the hourly rates before the rate change that led many PACs to leave indigent defense work resulted in the remaining PACs picking up more cases due to the lack of PACs available.

Ordinary least squares regression was employed to gauge the relationship between the dependent and independent variables, both before and after the rate change. Table 3 provides the results of these analyses.

Table 3: OLS Regression Analysis – Pre-Rate Change (2019-2021)

	Hours Reported (B)	Payment Awarded (B)	Length of Case (B)
Type of Court	3.066**	184.400**	118.618**
Geography	-.056	-14.355**	-11.832**
Number of Cases	-.001**	-.144**	.025**
Multiple Charges	.509*	45.979**	16.095**
Charge Level	1.919**	154.384**	11.631**
Number of Attys.	.398	-.155	.398**
Constant	3.253	183.783	124.734

**P<.001

R² =.028

R² =.248

R² =.125

*P<.01

N=156,895

Table 3: OLS Regression Analysis – Post-Rate Change (2022-mid-2023)

	Hours Reported (B)	Payment Awarded (B)	Length of Case (B)
Type of Court	2.938**	180.442**	47.092**
Geography	-.189**	-12.646*	-9.486**
Number of Cases	-.003**	-.248**	.009
Multiple Charges	.707**	39.938**	8.069**
Charge Level	1.101**	105.568**	4.985**
Number of Attys.	-.005	-.204	.119**
Constant	3.731	224.440	78.475

**P<.001

R² =.226R² =.230R² =.089

*P<.01

N=50,650

Overall, results indicated logical and practical relationships between the dependent and independent variables.

6.1 Pre-Rate Change

For *Hours Reported*, PACs with cases disposed of in superior court, with multiple charges, and with higher charge levels report more hours (all with $p<.001$). This makes sense, as superior courts are the felony trial courts, which means that cases have progressed beyond the lower district court, which means more hours per case. Multiple charges and higher charge levels mean that cases are perhaps more complex, and PACs need to put more time into such cases. On the other hand, PACs with more cases report fewer hours (both with $p<.001$). This could mean that PACs are not able to work on their individual cases as much due to their caseload. Geography and the number of attorneys per county were not significant. The model itself is not very strong, suggesting that other factors are at play regarding the number of hours reported by PACs. For *Payment Awarded*, the model increased in strength. PACs with cases disposed of in superior court, with multiple charges, and higher charge levels report higher payment amounts (all with $p<.001$). PACs working in more urbanized courts report lower payment amounts (both with $p<.001$). As geography was significant in this model, it appears that this geography, combined with more cases, suggests that PACs in more urbanized areas have more cases, but are not spending as much time on their individual cases; thus, their payments are lower. Finally, the number of PACs per county was not significant. For *Length of Case*, all of the independent variables were significant at $p<.001$. PACs in superior court and with cases involving multiple charges and higher charge levels report longer cases. As these cases report more hours and higher payments, it is understandable that their cases would be longer. PACs who report more cases and in counties with more attorneys have longer cases. Finally, PACs in more urbanized areas report shorter cases, which is understandable considering the number of cases in urbanized courts.

6.2 Post-Rate Change

For *Hours Reported*, most independent variables were significant at $p<.001$. PACs with cases in superior court, multiple charges, and higher charge levels report more hours. Geography was, again, negatively correlated with reported hours, as PACs in more urbanized areas reported fewer hours. In addition, PACs with more cases reported fewer hours. Finally, the number of PACs in each county was not significant at $p<.001$. The strength of the model did improve after the rate increase. For *Payment Awarded*, type of court, multiple charges, and charge level remain strongly statistically significant, with PACs in superior court, with cases involving multiple charges, and with cases with higher charge levels reporting higher payment amounts. The significance of geography decreased minimally but was still significant at $p<.01$ – PACs in more urbanized areas report lower payments. PACs with more cases reported lower payments, but the number of PACs in each county was not significant in this model. The strength of the model was similar to the model before the rate change. For *Length of Case*, the independent variables retain significance at $p<.001$, with the exception of number of cases, and the strength of the model decreased. PACs in superior court, with cases involving multiple charges, and with cases with higher charge levels reported longer cases. PACs in more urbanized areas report shorter cases, and PACs in counties with higher numbers of PACs report longer cases, but this is not a very strong correlation.

6.3 Discussion

Table 4 provides a simplified illustration of these findings.

Table 4: Making Sense of the Results

Pre-Rate Change (2019-2021)	Post-Rate Change (2022-mid-2023)
Type of Court, Multiple Charges, Higher Charge Levels best correlate with <i>Hours Reported, Payment Awarded, Length of Case</i> (strong and positive)	Variables retain significance for all dependent variables (strong and positive)
Geography correlates with <i>Payment Awarded</i> and <i>Length of Case</i> only (negative)	Variable retains significance for these dependent variables (negative); attains significance for <i>Hours Reported</i> (negative)
Number of Cases per Attorney correlates with <i>Hours Reported</i> and <i>Payment Awarded</i> (negative) and <i>Length of Case</i> (positive)	Variable retains significance for <i>Hours Reported</i> and <i>Payment Awarded</i> (negative); loses significance for <i>Length of Case</i>
Number of PACs per county correlates with <i>Length of Case</i> (positive) only	Variable retains significance for <i>Length of Case</i> (positive) only

To be clear, there are two different questions posed in these analyses. The first question assesses the factors that explain the number of hours submitted, the payment awarded, and the length of case for PACs in North Carolina. The second question assesses if these factors change based on a rate increase for PACs. As seen in Tables 3 and 4, it could be argued that the type of case best explains the dependent variables, rather than caseload pressures or amount of compensation. In particular, cases that are moved to superior court are strongly and positively correlated with the number of hours submitted, the payment awarded, and the length of case. These types of cases have made it to superior court after pre-trial proceedings in district court, so the cases are longer and involve more attorney attention. Similarly, cases with multiple charges and higher charge levels suggest more complex cases and, in the case of charge level, more felony cases that appear in superior court. These variables also did not change in significance after the rate change; thus, it is no surprise that these variables strongly correlate with the dependent variables.

The remaining independent variables have mixed results. Geography is also relatively strongly correlated with the dependent variables. More urbanized areas have a larger caseload, so it makes sense that PACs in these areas have potentially more cases in their own caseload. PACs in more urbanized areas had lower payments and shorter cases before the rate change; this continued after the rate change, with the number of hours reported also gaining significance. That geography was negatively correlated with the dependent variables suggests that PACs in these areas have a higher caseload, which necessitates spending less time on individual cases. This is illustrated in Table 2, which shows, overall, the mean number of cases for all PACs in North Carolina increasing after the rate change, in addition to a reduction in the overall number of PACs.

The number of cases per attorney correlated negatively with hours reported and payment awarded, both before and after the rate change. More cases per attorney means that there is less time to spend on individual cases, which reduces the number of hours reported and, subsequently, the payment awarded. Before the rate change, the number of cases per attorney was positively correlated with length of case. Perhaps cases could not be attended to quickly when attorneys have many cases; thus, it is possible that cases were not disposed of in an efficient manner. This variable lost significance, however, after the rate change.

Finally, the number of PACs per county had interesting results. Before the rate change, the number of PACs per county did not correlate with hours reported or payment awarded. Perhaps this meant that there were enough attorneys in these counties to take on cases that individual attorneys could not “rack up” hours. This variable was positively correlated with length of case both before and after the rate change.

7. Conclusion

Indigent defense suffered from several issues well before *Gideon v. Wainwright* was decided in 1963. States, in particular, have struggled to implement Gideon’s mandate, leading to inadequate representation of criminal defendants. To provide representation, states have utilized a number of systems; the most used are public defenders and private assigned counsel (PAC). Some previous research has illustrated that both systems can be deficient compared to privately retained counsel in terms of case outcomes (e.g., plea vs. trial, guilty vs. acquittal, sentencing differences), while other research points to equal or superior performance of these indigent defense systems compared to privately retained counsel. The purpose of the current study was not to compare case outcomes, but to examine the amount of “work” put into cases by a widely used indigent defense system in North Carolina – private assigned counsel. Used in all judicial districts and in 82 percent of North Carolina’s counties (82 out of 100), PAC can be either the primary or secondary method of indigent defense in a county. The Office of Indigent Defense Services in North Carolina compiles statistics on the workload and caseload of PAC in North Carolina and was the source of data for the current study.

As noted previously, PAC has suffered from a lack of funding for myriad reasons, and this lack of funding can contribute to PAC performance, affecting the number of hours spent on cases as well as the livelihood of the PAC themselves. The current study gauged how funding itself and changes in funding affect the workload of PACs in North Carolina. Results indicated several interesting findings.

First, interviews with attorneys before North Carolina's rate change indicated that some withdrew from public defense or cut their staff because of the low amount of funding provided by the state. Descriptive analyses (Table 2) show that, pre-rate increase, PACs reported fewer hours per case, lower payment awards, and shorter case dispositions, but OLS regression analyses provided a bit more nuance for these results. During both time periods, results indicated that the type of case had the strongest correlation with these variables, in that cases in superior court, cases with multiple charges, and cases with higher charge levels were strongly and positively correlated with these variables. Also, descriptive analyses showed that the number of cases per attorney increased after the rate change, and this variable was negatively correlated with the number of hours reported and the payment awarded both before and after the rate change. Relatedly, the number of PACs per county was significant for length of case only, both before and after the rate change, and had no impact on the number of hours reported or payment awarded. Finally, PACs in more urbanized areas report lower payments and longer cases, with fewer hours reported after the rate change. Based on these results, it can be concluded that there is more to funding and work product for PACs. In effect, it is not so simple to conclude that PACs leaving indigent defense means more work for remaining attorneys or that increases in funding mean PACs are making more money. It appears that the type of case and the system itself explains payment better than increases or decreases in funding and number of PACs. This is not to say that PACs leaving indigent defense were not affected by lower rates or higher caseloads, but it is more nuanced than that. PACs may be better able to control their caseloads by refusing cases (as compared to public defenders); thus, any increase or decrease in funding and number of attorneys does not affect their caseload or their compensation. Regardless, the compensation that PACs do receive is still quite meager, and state legislatures, including North Carolina's General Assembly, should prioritize increasing indigent defense funding so that indigent defenders can earn a livelihood and defendants can receive effective counsel.

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