



Since 1712

HYDE COUNTY

NORTH CAROLINA

Meeting Date: 11.19.12

Presenter(s): Mazie Smith

Title: Manager

Agency/Dept.: County of Hyde

Item Title: Interlocal Agreement for Public Defender's Office

Attachments: Yes

Description: The Honorable Judge Wayland Sermons has requested that the counties in the Second Judicial District support the housing of the Public Defender's Office in Beaufort County. This comes with the blessing of the Second District Advisory council, comprised of Judge Sermons, Chief District Court Judge Michael Paul, and all five Clerks of Court in the District. The County Manager has conferred regularly with Hyde County Clerk of Court, Sharon Sadler, and agrees with her guidance that Hyde County should contribute to the operation of this office on a pro rated share, based on our population.

Times Read: First

Impact on Budget: Does not increase the budget.

Recommendation: Approve interlocal agreement.

MOTION MADE BY:

_____ A. Byrd
 _____ B. Swindell
 _____ D. Styron
 _____ D. Tunnell
 _____ S. Spencer

MOTION SECONDED BY:

_____ A. Byrd
 _____ B. Swindell
 _____ D. Styron
 _____ D. Tunnell
 _____ S. Spencer

Vote:

A. Byrd
 B. Swindell
 D. Styron
 D. Tunnell
 S. Spencer

Aye

Nay

Sadler, Sharon

From: Weathington, Paula M.
Sent: Monday, October 22, 2012 9:46 AM
To: Sexton, Angie; Moulden, Denise M.; Leggett, Tonya C.; Sadler, Sharon
Subject: FW: PD office

FYI

Paula Weathington
Trial Court Coordinator
Second Judicial District
Phone: 252-940-4016
Fax: 252-940-4088
email: Paula.M.Weathington@nccourts.org

From: Randell Woodruff [<mailto:randell.woodruff@co.beaufort.nc.us>]
Sent: Monday, October 22, 2012 8:12 AM
To: Weathington, Paula M.
Subject: RE: PD office

Hi Paula,

Mr. Mayo, County Attorney is currently working on the inter-local agreement and we hope to have it out soon for the other counties to review. I'm not sure if we will have everything completed in time for the other counties to have it on their agendas by November. I plan to have it on the Beaufort Board of Commissioners agenda at their November 13th meeting and after that point if they approve it, I will forward it out to the other counties. Thanks!

From: Weathington, Paula M. [<mailto:Paula.M.Weathington@nccourts.org>]
Sent: Friday, October 19, 2012 12:16 PM
To: Randell Woodruff
Subject: FW: PD office

Paula Weathington
Trial Court Coordinator
Second Judicial District
Phone: 252-940-4016
Fax: 252-940-4088
email: Paula.M.Weathington@nccourts.org

From: Leggett, Tonya C.
Sent: Friday, October 19, 2012 10:41 AM
To: Paula Weathington
Cc: Sermons, Wayland J.; Womble, Robert A.
Subject: PD office

Paula,

Thank you for information concerning the lease and interlocal agreement. It is my understanding that Judge Sermons would like this placed on the November agenda. I have spoken to David, our county manger, he will need a copy of the draft lease agreement and copy of the interlocal agreement by noon November 7, 2012, for this item to be placed on the November 14th county commissioners agenda. It is my understanding that Andy is willing to come and speak to our county commissioners during that meeting, so I will need to make contact with him prior to the 14th meeting to arrange is appearance. .

10/23/2012



*State of North Carolina
General Court of Justice
Superior Court District 2
P.O. Box 575
Washington, NC 27889*

*Wayland J. Sermons, Jr.
Senior Resident Superior Court Judge*

*Phone Number: (252) 940-4016
Fax Number: (252) 940-4088*

October 18, 2012

To: Town Manager and all Commissioners

From: Wayland J. Sermons, Jr

Re: Public Defenders Office

I wanted to follow up on our conversation of September 22, 2012 concerning the establishment of a public defender's office in the second judicial district. Specifically, you had referenced an email the commissioners all received from someone in AOC. I still have not seen the contents or writer of that email, and Randall does not have it.

Your question was whether the establishment of a public defender's office in our district was mandatory. The answer is no, we do not have to do it, and can continue to suffer incidents of poor representation of our district's less fortunate citizens, violations of constitutional rights such as unprepared attorneys, lack of communication with an attorney until the day of court, little or no advice on defenses, trial preparation, or steps to take to receive the best possible outcome of their case. These cases then result in Motions for Appropriate Relief based on Ineffective Assistance of Counsel (IAC) claims, which must be reviewed by me as Senior Resident and most always end up requiring an evidentiary hearing. You would be shocked at some of the claims which turn out to have merit, and result in defendant's sentences being vacated.

As you know, I practiced criminal law for 29 years, and believe I understand what competent representation requires. Our citizens are not always getting it.

The next question you asked was who decides if we are going to establish a PD office here. The answer is the General Assembly. Once established, the Judicial Department, Office of Indigent Services, implements, appoints and directs the offices. In NCGS 7A-498.7, the initial PD offices were established by the General Assembly. (copy attached)

In 2011, the GA provided for the expansion of existing PD offices to adjacent counties or districts in the biannual appropriations bill, 2011 Session Law 145, Section 15.16 (a). (copy attached)

Soon after being appointed in 2009, I created the Second District Council, which consists of myself, Chief District Court Judge Michael Paul, all five Clerks in our district, the District Attorney, and the President of the district Bar association. We meet quarterly, and open lines of communication between all players. The council has been discussing a PD office in the district for several years, and in 2011 passed a resolution of support and request that IDS consider the issue.(copy attached) IDS then commenced to prepare a proposal, took it to public comment, and in 2012 enacted the expansion into the second district. (see email from Thomas K. Maher, IDS director attached)

Finally, pursuant to NCGS Sections 7A-302 and 304, (attached), the County is responsible for providing the physical facilities for the office.

So the answer to your questions are clear that it is the General Assembly and IDS that established the PD office for our district. What is not clear, and has created a good deal of concern with the issue, is whether Beaufort County must foot 100% of the cost of providing an office. The statute does not address that, and most other PD offices are either one county or provide office space for a PD in each county, such as is done in the First District. In order to solve this problem, the clerks and managers of each county have been meeting with each other and Andy Womble to devise an agreement to share, on a prorated basis established by population, the cost of renting an office for the PD.

Here is what I understand the numbers to be, based on \$2650/month:

<u>County</u>	<u>Population</u>	<u>%</u>	<u>\$\$</u>
Beaufort	47,759	50	1325.00
Martin	24,500	25	662.50
Washington	13,228	14	371.00
Hyde	5800	6	159.00
Tyrrell	<u>4800</u>	<u>5</u>	<u>132.50</u>
	96,087	100	2650.00

I believe the counties should have an Interlocal Agreement drawn by the County Attorney setting forth each of their obligation under the proposal.

I am sorry for the length of this memo but wanted to cover each aspect of our conversation. I would request that this matter be placed on each county's November agenda, and that Andy Womble present a detailed summary of the proposed lease, and a copy if it, to the county managers before their agenda packets go out. This would enable him to start receiving cases on January 1, 2013.

Please call me at 943-1690 if you have further questions or concerns.

§ 7A-498.7. Public Defender Offices.

(a) The following counties of the State are organized into the defender districts listed below, and in each of those defender districts an office of public defender is established:

Defender District	Counties
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans
3A	Pitt
3B	Carteret
5	New Hanover
10	Wake
12	Cumberland
14	Durham
15B	Orange, Chatham
16A	Scotland, Hoke
16B	Robeson
18	Guilford
21	Forsyth
26	Mecklenburg
27A	Gaston
28	Buncombe
29B	Henderson, Polk, Transylvania

After notice to, and consultation with, the affected district bar, senior resident superior court judge, and chief district court judge, the Commission on Indigent Defense Services may recommend to the General Assembly that a district or regional public defender office be established. A legislative act is required in order to establish a new office or to abolish an existing office.

(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the Commission on Indigent Defense Services.

(c) A public defender shall be an attorney licensed to practice law in North Carolina and shall devote full time to the duties of the office. In lieu of merit and other increment raises paid to regular State employees, a public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(c1) When traveling on official business, each public defender and assistant public defender is entitled to reimbursement for his or her subsistence expenses to the same extent as State employees generally. When traveling on official business outside his or her county of residence, each public defender and assistant public defender is entitled to reimbursement for travel expenses to the same extent as State employees generally. For purposes of this

subsection, the term "official business" does not include regular, daily commuting between a person's home and the public defender's office. Travel distances, for purposes of reimbursement for mileage, shall be determined according to the travel policy of the Administrative Office of the Courts.

(d) Subject to standards adopted by the Commission, the day-to-day operation and administration of public defender offices shall be the responsibility of the public defender in charge of the office. The public defender shall keep appropriate records and make periodic reports, as requested, to the Director of the Office of Indigent Defense Services on matters related to the operation of the office.

(e) The Office of Indigent Defense Services shall procure office equipment and supplies for the public defender, and provide secretarial and library support from State funds appropriated to the public defender's office for this purpose.

(f) Each public defender is entitled to assistant public defenders, investigators, and other staff, full-time or part-time, as may be authorized by the Commission. Assistants, investigators, and other staff are appointed by the public defender and serve at the pleasure of the public defender. Average and minimum compensation of assistants shall be as provided in the biennial Current Operations Appropriations Act. The actual salaries of assistants shall be set by the public defender in charge of the office, subject to approval by the Commission. The Commission shall fix the compensation of investigators. Assistants and investigators shall perform such duties as may be assigned by the public defender.

(g) In lieu of merit and other increment raises paid to regular State employees, an assistant public defender shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, nine and six-tenths percent (9.6%) after 10 years of service, fourteen and four-tenths percent (14.4%) after 15 years of service, nineteen and two-tenths percent (19.2%) after 20 years of service, and twenty-four percent (24%) after 25 years of service. "Service" means service as a public defender, appellate defender, assistant public or appellate defender, district attorney, assistant district attorney, justice or judge of the General Court of Justice, or clerk of superior court.

(h) The term of office of public defender appointed under this section is four years. A public defender or assistant public defender may be suspended or removed from office, and reinstated, for the same causes and under the same procedures as are applicable to removal of a district attorney.

(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Office of Indigent Defense Services to maintain

positions or services initially provided for under this section. (2000-144, s. 1; 2001-424, ss. 22.11(a), 22.11(d); 2002-126, s. 14.11(a); 2003-284, ss. 30.19A(c), (d); 2004-124, ss. 14.4(a), (b); 2005-276, s. 14.14(a); 2005-345, s. 50A; 2007-323, ss. 14.4(d), 28.18A(g); 2009-451, s. 15.17B(c); 2010-96, s. 27; 2011-145, s. 15.16(b).)

Committee. Members of the Committee shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 15.11.(b) Duties. – The Committee shall study the number and structure of judicial and prosecutorial districts in the State and shall make recommendations to reduce those districts by consolidation to increase efficiency and improve the quality of justice. Those recommendations shall, to the extent deemed feasible by the Committee, provide for judicial and prosecutorial district plans that are identical.

SECTION 15.11.(c) Report. – The Committee may make a final report, including any proposed legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening. The Committee shall terminate upon filing its final report or upon the convening of the 2012 Regular Session of the 2011 General Assembly, whichever is earlier.

STATEWIDE ADMINISTRATIVE COURT SESSIONS

SECTION 15.11A. The Administrative Office of the Courts shall develop protocols to offer regular Administrative Court sessions in each district court district in the State for the purpose of hearing Chapter 20 infractions. Each district shall offer Administrative Court regularly by October 1, 2011. The Administrative Office of the Courts shall report to the Joint Legislative Commission on Governmental Operations on the scheduling and deployment of resources by February 1, 2012.

OFFICE OF INDIGENT DEFENSE SERVICES EXPANSION FUNDS/EXPANSION OF PUBLIC DEFENDER OFFICES

SECTION 15.16.(a) The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2011-2012 fiscal year and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion.

SECTION 15.16.(b) G.S. 7A-498.7(b) reads as rewritten:

"(b) For each new term, and to fill any vacancy, public defenders shall be appointed from a list of not less than two and not more than three names nominated by written ballot of the attorneys resident in the defender district who are licensed to practice law in North Carolina. The balloting shall be conducted pursuant to rules adopted by the Commission on Indigent Defense Services. The appointment shall be made by the ~~senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 that includes the county or counties of the defender district for which the public defender is being appointed.~~ Commission on Indigent Defense Services."

SECTION 15.16.(c) The Office of Indigent Defense Services shall issue a request for proposals from private law firms or not-for-profit legal representation organizations for the provision of all legal services for indigent clients in all judicial districts. The Office of Indigent Defense Services shall report on the issuance of this request for proposals to the Joint Legislative Commission on Governmental Operations by October 1, 2011. In cases where the

Sermons, Wayland J.

From: Womble, Robert A.
Sent: Wednesday, October 10, 2012 12:11 PM
To: Sermons, Wayland J.
Subject: FW: Legislation
Attachments: IDS_Scan_20120910102910.pdf

Here is the legislation Tom Maher sent to me.
Thanks

R. Andrew Womble
Public Defender, 1st Judicial District
206 East Main Street Rm D-102
Elizabeth City, NC 27909
(252) 331-4650
(252) 331-4685 (fax)

From: Maher, Thomas K.
Sent: Monday, September 10, 2012 10:34 AM
To: Womble, Robert A.
Subject: RE: Legislation

Andy – In the budget bill the General Assembly included the following: "The Judicial Department, Office of Indigent Defense Services, may use up to the sum of two million one hundred fifty thousand dollars (\$2,150,000) in appropriated funds during the 2011-2012 fiscal year for the expansion of existing offices currently providing legal services to the indigent population under the oversight of the Office of Indigent Defense Services, for the creation of new public defender offices within existing public defender programs, or for the establishment of regional public defender programs. Notwithstanding the defender districts established by G.S. 7A-498.7, the Office of Indigent Defense Services may use a portion of these funds to create positions within existing public defender programs to handle cases in adjacent counties or districts. These funds may be used to create up to 50 new attorney positions and 25 new support staff positions during the 2011-2012 fiscal year and for the salaries, benefits, equipment, and related expenses for these positions in both years of the biennium. Positions creation will be staggered across the two years of the biennium. Prior to using funds for this purpose, the Office of Indigent Defense Services shall report to the Chairs of the House of Representatives and the Senate Appropriations Subcommittees on Justice and Public Safety on the proposed expansion." This is Section 15.16 (a) of Session Law 2011-145. Pursuant to a request from system actors within the Second District we initiate public comment on this expansion. Attached is the letter that we sent and the responses we received, including the response from the District Attorney in the Second District. Based on the request, and the responses, the IDS Commission voted to expand the First District Public Defender's Office into the Second District. I can send a copy of the budget bill if you need – it is lengthy. I hope this helps.

Thomas K. Maher
Executive Director
State of North Carolina
Office of Indigent Defense Services
123 West Main Street/ Suite 400
Durham, N.C. 27701
919-354-7200
Thomas.K.Maher@nccourts.org

From: Womble, Robert A.
Sent: Monday, September 10, 2012 9:56 AM
To: Maher, Thomas K.
Subject: Fw: Legislation

Tom,

This is the email I received from the Beaufort Co manager this morning. I replied but i also told him to give you a call.

Thanks

Sent from my Verizon Wireless Droid

-----Original message-----

From: Randell Woodruff <randell.woodruff@co.beaufort.nc.us>

To: "Womble, Robert A." <Robert.A.Womble@nccourts.org>

Sent: Mon, Sep 10, 2012 12:48:00 GMT+00:00

Subject: Legislation

Hi Andy,

One of the Commissioners asked me to obtain a copy of the legislation that expanded the Public Defender's Office to Beaufort County. Can you provide this for me? I am starting to get a lot questions about the County spending these funds for the lease and the other necessary items. At this point I am not sure the Board will approve the lease tonight. Thanks!

**BEAUFORT
COUNTY, NC**



Randell K. Woodruff
Beaufort County Manager
Administrative Building
121 W. 3rd St
Washington, NC 27889
Office 252-946-0079
Fax 252-946-7722
Mobile 252-207-4304
randell.woodruff@co.beaufort.nc.us

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THOMAS K. MAHER
EXECUTIVE DIRECTOR
THOMAS.K.MAHER@NCCOURTS.ORG

TELEPHONE:
(919) 354-7200
FACSIMILE:
(919) 354-7201

OFFICE OF
INDIGENT DEFENSE SERVICES
STATE OF NORTH CAROLINA

www.ncids.org
123 WEST MAIN STREET
SUITE 400
DURHAM, N.C. 27701

March 26, 2012

COMMISSION
RICHARD A. ROSEN, CHAIR
BURTON CRAIG, VICE-CHAIR
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W. JAMES PAYNE
DAVID R. TEDDY
NORMAND TRAVIS

The Honorable Wayland J. Sermons, Jr.
District 2 Senior Resident Judge
P.O. Box 575
Washington, NC 27889

The Honorable Michael A. Paul
District 2 Chief District Court Judge
P.O. Box 1403
Washington, NC 27889

R. Wendel Hutchins
District 2 Bar President
P.O. Box 1085
Plymouth, NC 27962

Re: Possible Expansion of the First District Public Defender Office
into the Second District

Dear Judges and Bar President:

As you know, the Second Judicial District has experienced increasing difficulty maintaining the court-appointed system for indigent cases, particularly since the May 2011 rate reductions for private assigned counsel. As a result, on January 6, 2012, the Second Judicial District Council formally asked IDS to expand the First District Public Defender Office into the entire Second District, in addition to the cases that the office already handles in Tyrrell and Washington counties.

While the creation of a new stand-alone public defender office in the Second District would require a legislative act, Section 15.16(a) of Session Law 2011-145 provides that, "[n]otwithstanding the defender districts established by G.S. 7A-498.7," the IDS Office may use up to \$2.15 million in appropriated funds "to create positions within existing public defender programs to handle cases in adjacent counties or districts." In response to the Council's request, IDS consulted with the Chief Public Defender in the First District, Andrew Womble, and he is willing to assume this additional responsibility. If the office is expanded, Mr. Womble's plan is to open a new satellite office in Beaufort County to serve Beaufort, Martin, and Washington counties; to cover Tyrrell and Hyde counties from the existing Dare County satellite office; and to continue to operate the main office in Pasquotank County.

IDS also conducted a study examining the cost-effectiveness of expanding the First District Office into the Second District. The study indicated that, once the expansion is fully implemented, the combined First and Second District offices would cost the State approximately

\$74,000 annually more than it currently costs to cover the First District, Tyrrell, and Washington Counties with the public defender office, and to cover the rest of the Second District with private assigned counsel. In addition to those State costs, G.S. 7A-300 *et seq.* requires the counties to provide facilities for all court personnel, including public defender staff, so Beaufort County would need to provide space for a new satellite office. Despite these additional costs, the IDS Commission believes that expansion of the First District Public Defender Office (or creation of a separate and more costly stand-alone office) may well be necessary to ensure that indigent defendants in the Second District are afforded proper representation.

While Section 15.16(a) of Session Law 2011-145 allows IDS to expand existing public defender programs without legislative approval, G.S. 7A-498.5(e) requires IDS to solicit written comments from the local bar and bench before determining the method of providing services in a particular district and to forward the comments that are received to the members of the General Assembly who represent the affected district. I am writing now to invite each of you to comment in writing about the possibility of expanding the First District Public Defender Office into the Second District. I am directing this letter to Judge Semmons and Judge Paul, but I welcome comments from any judicial officials in the district. In addition, I am writing to the Second District Bar President in the hope that he will invite the members of the various county bars to submit written comments about this matter. All of you are the ones who are most familiar with the operation of the criminal justice system in your district, and in the best position to give the IDS Commission and Office meaningful feedback about the likely impact of this expansion on the quality and efficiency of services.

By copy of this letter, I am notifying your local legislators that IDS is seeking comments about this proposed expansion. I will also share with them any comments that we receive. Finally, if this expansion proceeds, IDS will work with actors in the Second District to identify ways to ensure that the local bar and bench have a future meaningful role in the process of nominating candidates for the chief public defender position.

If you have comments, please provide them no later than Friday, April 27, 2012. Interested persons may mail or fax comments to the address or facsimile number listed above, or may email comments to Susan.E.Brooks@nccourts.org.

Thank you for your assistance. I look forward to your feedback on this issue.

Sincerely,



Thomas K. Maher
Executive Director

cc: Seth H. Edwards, District 2 District Attorney
V. Martin Paramore, Clerk, Beaufort County Superior Court
Sharon G. Sadler, Clerk, Hyde County Superior Court
Tonya C. Leggett, Clerk, Martin County Superior Court
Angie Sexton, Clerk, Tyrrell County Superior Court
Denise M. Mouldren, Clerk, Washington County Superior Court

Paul Spruill, Beaufort County Manager
Senator Stan White
Senator Clark Jenkins
Representative Bill Cook
Representative Bill Owens
Representative Timothy L. Spear
Representative Edith D. Warren
R. Andrew Womble, District 1 Public Defender
The Honorable Jerry R. Tillett, District 1 Senior Resident Judge
The Honorable C. Christopher Bean, District 1 Chief District Court Judge



State of North Carolina
General Court of Justice
Second Prosecutorial District

SETH H. EDWARDS
DISTRICT ATTORNEY
P.O. DRAWER 1705
111 W. 2ND STREET
BEAUFORT COUNTY COURTHOUSE ANNEX
WASHINGTON, NC 27889

RECEIVED

APR 4 2012

INDIGENT DEFENSE SERVICES
DURHAM, N.C.

BEAUFORT COUNTY OFFICE
252-940-4010

MARTIN COUNTY OFFICE
252-809-5110

TYRRELL COUNTY OFFICE
252-796-4562

WASHINGTON COUNTY OFFICE
252-793-2007

April 2, 2012

Mr. Thomas Maher
Office of IDS
123 West Main Street Ste 400
Durham, NC 27701

RE: Expansion of PD to 2nd District

Dear Tom,

In response to your letter dated March 26, 2012, I am writing in support of expanding the 1st District's PD office into the 2nd Judicial District. The balance of this letter will set forth my reasons.

First, I have felt for years that the lack of a PD office in the counties of Beaufort, Hyde, Martin, Tyrrell and Washington counties was the "missing link" for helping to streamline prosecution of criminal cases. I do not intend this as a knock on our local defense bar; the reality is that we do not have enough competent lawyers to handle all the cases in an efficient manner. Given the geographic make up our district, defense lawyers must accept cases in multiple counties just to earn a living, which often results in multiple scheduling conflicts on any given day. This is an obstacle we face with every court session, both in district and superior court.

Secondly, I have complete confidence in Andy Womble. I have known him for many years, going back to my days as a defense lawyer. I trust he will properly supervise his employees assigned to our district. I have always been told by other DAs with public defenders that the PD works well with moving jail cases. I would expect no less from Mr. Womble's office.

Please do not hesitate to contact me if you need further information.

With best regards, I am

Very truly yours,

A handwritten signature in black ink that reads "Seth H. Edwards". The signature is written in a cursive style with a large, stylized "S" at the beginning.

Seth H. Edwards

SHE/R

CC: The Honorable Wayland J. Sermons, Jr.
The Honorable Michael A. Paul
R. Andrew Womble



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT

SHARON G. SADLER, CLERK
EX OFFICIO JUDGE OF PROBATE

HYDE COUNTY
SWAN QUARTER, NC

WAYLAND J. SERMONS, JR.
RESIDENT JUDGE

April 25, 2012

RECEIVED

APR 27 2012

Mr. Thomas K. Maher
Executive Director
Indigent Defense Services
123 West Main Street, Suite 400
Durham, North Carolina 27701

INDIGENT DEFENSE SERVICES
DURHAM, N.C.

Re: Possible Expansion of 1st District Public Defender Office into 2nd District

Dear Mr. Maher:

Thank you for copying the March 26, 2012 letter sent to Hon. Wayland J. Sermons, Jr., our Resident Superior Court Judge, Hon. Michael A. Paul, Chief District Court Judge and Mr. R. Wendel Hutchins, 2nd Judicial District Bar President, to myself and the other Clerks in the 2nd District. This letter fully addresses the concerns that I know, I have had, for several years, as we have lacked substantial names on our list for the court appointed attorneys. Most recently upon the retirement of Frank Johnson, who is from Beaufort County but had served our Courts very diligently through the years as one of the attorneys for the court-appointed list, we have been limited to as little as two attorneys that could take assigned cases.

Speaking for myself, I am much in favor of the expansion of the First Judicial District Public Defender's office to include our county. We look forward to working with Andy Womble and his staff, and there is certainly adequate office space for the attorneys to meet with their clients on the 2nd floor Courtroom.

Again, thank you for including the elected Clerks with the information and allowing comments and suggestions. I look forward to this expansion and the possibility that in the near future, the Second District might be afforded a Public Defender's Office for the five counties that comprise our District.

We appreciate the efforts you and your staff have demonstrated to assist with good attorney representation for our counties; it is my hope to personally speak with our local legislators with regard to this matter in coming weeks.

Sincerely,

A handwritten signature in cursive script that reads "Sharon G. Sadler". The signature is written in black ink and is positioned above the printed name.

Sharon G. Sadler
Clerk of Superior Court
Hyde County, North Carolina

/SGS



State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT
WASHINGTON COUNTY

DENISE M. MOULDEN, CLERK
EX OFFICIO JUDGE OF PROBATE

P.O. BOX 901
PLYMOUTH, NC 27962

WAYLAND J. SERMONS, JR.
RESIDENT JUDGE

RECEIVED

APR 3 2012

INDIGENT DEFENSE SERVICES
DURHAM, N.C.

March 28, 2012

Thomas K. Maher, Executive Director
Office of Indigent Defense Services
123 W. Main St., Suite 400
Durham, N.C. 27701

Re: Possible Expansion of the First District Public Defender Office
Into the Second District

Dear Mr. Maher:

I am writing in response to the possible expansion of the P.D. Office into our district. Since the reduction in fees paid to court-appointed attorneys, Washington County has had four attorneys to withdraw from the list. Of the ones who are left on the list, only three can be appointed to or will agree to take felony cases. The Public Defender, Thomas P. Routten, is one of these. The other two attorneys who can be appointed to felony cases are extremely overloaded with appointments in other counties as well. Therefore, a lot of cases are continuously carried over from one session of court to the next and a lot of the defendants complain that they never seem to be able to reach their attorney. Very little negativism is shown towards the Public Defender. Thus, our rapport with the P.D. office has been nothing but favorable and we look forward to the possibility of this expansion to include Washington County.

After talking with the Mr. Womble about the possibility of this expansion, it appears that each of his assistants are highly accountable for the work that they are to perform. It also was evident that our local attorneys would be included in this process and not excluded so that their private practices would not suffer. That, of course, is a

concern to the small counties, especially to Washington County, as we only have three practicing attorneys at this time, one of which is already on the court-appointed list.

It is my desire to see the Public Defender's Office expand to include the Second Judicial District. I believe that justice would be served more efficiently and effectively with the availability of this office.

Thank you for taking the time to inform us of this advancement and to seek our feedback.

Sincerely,

A handwritten signature in cursive script that reads "Denise M. Moulden". The signature is written in black ink and is positioned above the printed name.

Denise M. Moulden
Washington County Clerk of Superior Court

§ 7A-302. Counties and municipalities responsible for physical facilities.

In each county in which a district court has been established, courtrooms, office space for juvenile court counselors and support staff as assigned by the Division of Juvenile Justice of the Department of Public Safety, and related judicial facilities (including furniture), as defined in this Subchapter, shall be provided by the county, except that courtrooms and related judicial facilities may, with the approval of the administrative Officer of the Courts, after consultation with county and municipal authorities, be provided by a municipality in the county. To assist a county or municipality in meeting the expense of providing courtrooms and related judicial facilities, a part of the costs of court, known as the "facilities fee," collected for the State by the clerk of superior court, shall be remitted to the county or municipality providing the facilities. (1965, c. 310, s. 1; 1998-202, s. 15; 2000-137, s. 4(a); 2007-323, s. 14.16; 2008-107, s. 29.8(f); 2011-145, s. 19.1(l).)

Article 28

Uniform Costs and Fees in the Trial Divisions.

§ 7A-304. Costs in criminal actions.

(a) In every criminal case in the superior or district court, wherein the defendant is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the prosecuting witness, the following costs shall be assessed and collected. No costs may be assessed when a case is dismissed. Costs under this section may not be waived unless the judge makes a written finding of just cause to grant such a waiver.

- (1) For each arrest or personal service of criminal process, including citations and subpoenas, the sum of five dollars (\$5.00), to be remitted to the county wherein the arrest was made or process was served, except that in those cases in which the arrest was made or process served by a law-enforcement officer employed by a municipality, the fee shall be paid to the municipality employing the officer.
- (2) For the use of the courtroom and related judicial facilities, the sum of twelve dollars (\$12.00) in the district court, including cases before a magistrate, and the sum of thirty dollars (\$30.00) in superior court, to be remitted to the county in which the judgment is rendered. In all cases where the judgment is rendered in facilities provided by a municipality, the facilities fee shall be paid to the municipality. Funds derived from the facilities fees shall be used exclusively by the county or municipality for providing, maintaining, and constructing adequate courtroom and related judicial facilities, including: adequate space and furniture for judges, district attorneys, public defenders and other personnel of the Office of Indigent Defense Services, magistrates, juries, and other court related personnel; office space, furniture and vaults for the clerk; jail and juvenile detention facilities; free parking for jurors; and a law library (including books) if one has heretofore been established or if the governing body hereafter decides to establish one. In the event the funds derived from the facilities fees exceed what is needed for these purposes, the county or municipality may use any or all of the excess to retire outstanding indebtedness incurred in the construction of the facilities, or to reimburse the county or municipality for funds expended in constructing or renovating the facilities (without incurring any indebtedness) within a period of two years before or after the date a district court is established in such county, or to supplement the operations of the General Court of Justice in the county.
- (2a) For the upgrade, maintenance, and operation of the judicial and county courthouse phone systems, the sum of four dollars (\$4.00), to be credited to the Court Information Technology Fund.
- (2b) For the maintenance of misdemeanors in county jails, the sum of eighteen dollars (\$18.00) in the district court to be remitted to the Statewide Misdemeanor Confinement Fund in the Division of Adult Correction of the Department of Public Safety.
- (3) For the retirement and insurance benefits of both State and local government law-enforcement officers, the sum of six dollars and twenty-five cents (\$6.25), to be remitted to the State Treasurer. Fifty cents (50¢) of this sum shall be administered as is provided in Article 12C of Chapter 143 of the General Statutes. Five dollars and seventy-five cents (\$5.75) of this sum shall be administered as is provided in Article 12E of Chapter 143 of the