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*Kendra H. Wilkerson
Fiscal/Research Analyst*

August 17, 2018

VIA Email

Director J. Hugh Ryan III
S.C. Commission on Indigent Defense
Post Office Box 11433
Columbia, SC 29211-1433

RE: Follow-up from Subcommittee's August 14, 2018 meeting with the agency

Dear Director Ryan:

The Law Enforcement and Criminal Justice Subcommittee appreciates the agency's partnership in the oversight process. As follow up from the meeting on August 14, 2018, the Subcommittee seeks additional information from the agency. Please provide this information by Friday, August 31, 2018.

Information by Court

1. Is the agency aware of any studies or reports which identify the potential amount of increased costs a county may incur (e.g., housing individuals in its jails) which could be saved if there were additional attorneys available to represent indigent defendants?

Laws

2. Please analyze S.C. Code Section 17-3-40, which relates specifically to claims against assets of a person provided indigent counsel, and Section 17-3-45, which also relates, in part, to claims against assets of a person provided indigent counsel, to determine if these statutes are duplicative and provide your conclusions.

Commission Meetings

3. During the meeting, the agency testified the minutes from its Commission Meetings were on the agency website. Please identify where these minutes are located on the website and the years for which they are available.

Diversion Programs

4. What is the agency and circuit public defender's offices involvement (e.g., input into structure of current programs or additional programs to offer in the future; etc.) in the diversion and pre-trial intervention programs, outside of plea negotiations to get their clients into the programs.

Data and Reports

5. What tools do the circuit public defenders utilize to provide the information the Commission compiles each year in the Human Resources and County Funding publication?
 - a. If the Commission requests information from each circuit public defender to compile the publication, do you know approximately how long it takes each of them to gather the information the Commission requests?
6. What data, if any, do personnel in the solicitor's office and public defender's offices both analyze?
 - a. Is there any data the agency would like to see both utilize more efficiently?
7. For data and reports the agency collects for the General Assembly, does the agency send this information to the Legislative Services Agency (LSA) for publication on the legislature website, pursuant to S.C. Code of Laws Section 2-1-230?
8. Please provide a copy of the report from which the agency was citing statistics during the August 14, 2018 Subcommittee meeting and identify the page numbers in the report on which the statistics are located.
9. Please provide the statistics the agency was citing based on review of its own records during the August 14, 2018 Subcommittee meeting.
10. Should the definition of "case" be the same for all types of matters or should the definition be different for appellate matters?
 - a. Utilizing the definition of case for appellate matters that the agency seeks to use, could data on the number of cases be pulled from the data currently tracked by Court Administration?

Capital Trial Division

11. During the last five years, what percentage of defendants in death penalty cases, not just trials, were represented by private attorneys not appointed by the agency?

Technology and Equipment

12. Does the circuit public defender case management systems interact with the court administration system and/or circuit solicitor systems (for ease in sharing discovery and statistics)?
13. What kind of technology upgrades, if any, are necessary to improve agency efficiency?
14. Are any technological deficiencies hindering the performance of the agency?
15. Does the agency have replacement plans for necessary computer and technology items? If yes, please send us a copy of those replacement plans.
16. Are there any other types of equipment, besides computers and programs, the agency will always need for its staff? If yes, does the agency have replacement plans for that equipment?

Indigency Screening

17. During each of the last three years, how many total defendants were there, and total defendants assigned a public defender, for the following types of matters:
- a. General Sessions and sexual violent predator;
 - b. Family Court; and
 - c. Magistrate Court.
18. If every defendant during each of the last three years was assigned a public defender, please estimate the following figures:
- a. total additional funds (attorney and non-attorney staff, etc.) that would be needed by the agency to maintain the current public defender caseloads;
 - b. revenue that would be generated if the same percentage of indigent application fees that is currently received, were received;
 - c. revenue that would be generated if the same percentage of probations were obtained and same percentage of those fees were received, as are currently received
19. Please communicate with the Department of Social Services to determine the following:
- a. If there is an efficient method of obtaining information on individuals who receive SNAP benefits that could be utilized during indigency screening as a presumption of indigency, along with any related costs; and

Indigency Screening (cont.)

20. Please communicate with the Department of Employment and Workforce and the Department of Revenue to determine the following:
 - a. Information that may be utilized during indigency screening;
 - b. Methods by which the information may be accessed; and
 - c. Cost to access the information.
21. Please communicate with the Department of Insurance to determine if it utilizes any databases (e.g., Comprehensive Loss Underwriting Exchange (C.L.U.E.)) which have information that may be utilized during indigency screening, and if so, methods by which the information may be accessed; and cost to access the information.
22. Please contact directly or through the state procurement office, if necessary, LexisNexis regarding the Comprehensive Loss Underwriting Exchange (C.L.U.E.) to determine the following:
 - a. Information that may be utilized during indigency screening;
 - b. Methods by which the information may be accessed; and
 - c. Cost to access the information.
23. Please provide the information below for the Greenville model for indigency screening
 - a. What information and documentation is required from applicants?
 - b. What methods are utilized to verify the information?
 - c. What did Greenville seek to achieve through this model and what has been achieved?
 - d. Has Greenville seen any cost savings as a result of its investment in this model? If so, please specify.
24. Please provide a chart which outlines the current steps in how indigency screening is performed, with cites to the applicable authorities.
25. Please provide the following information:
 - a. Issue(s) a statewide indigency screening process seeks to address/remedy;
 - b. Outcome sought from addressing the issue(s);
 - c. Options considered in order of preference, including a list of the pros and cons for each which the agency explained during the August 14, 2018 subcommittee meeting;
 - d. Details of the recommended model including who will perform the screening, standard operating procedures for how the screening will be performed, and how it will be enforced;
 - e. Additional costs necessary to implement the recommended model and next preferred model on the agency's list;
 - f. Areas to examine in pilot circuits, if model is implemented in pilot circuits first;
 - g. Input from potentially impacted parties; and
 - h. Explanation of how the recommended model differs from the screening process in H.4830, which was filed during the last General Assembly.

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Director Ryan

Indigency Screening (cont.)

26. Does the agency have an opinion on whether the \$40 application fee should be increased? If yes, what amount is reasonable?

The Subcommittee looks forward to working collaboratively with the agency during the oversight process. As a reminder, the Committee's expectations are provided in its Standard Practice 9. We thank you and your team for your service to the citizens of South Carolina.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward R. Tallon Sr.", with a stylized flourish at the end.

Edward R. Tallon Sr.
Subcommittee Chair

cc: The Honorable Wm. Weston J. Newton
The Honorable Katherine E. "Katie" Arrington
The Honorable William M. "Bill" Hixon
The Honorable Jeffrey E. "Jeff" Johnson