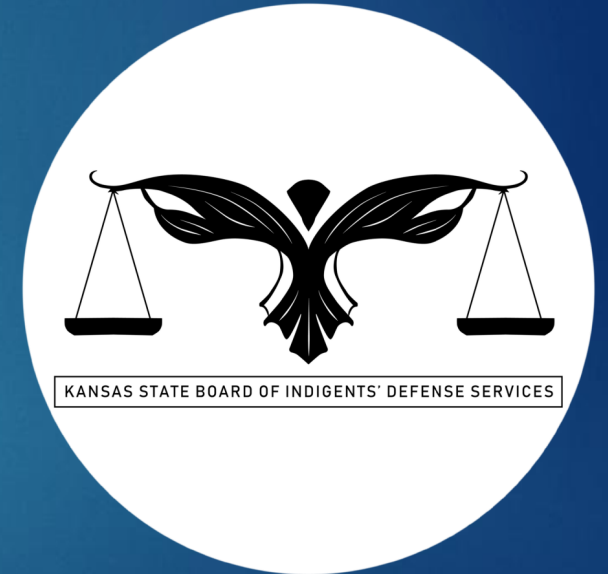


BIDS Update:

Meeting the Constitutional Mandate for Criminal Defense Counsel in Kansas

HEATHER CESSNA, EXECUTIVE DIRECTOR

KANSAS STATE BOARD OF INDIGENTS' DEFENSE SERVICES



BIDS Timeline

- ▶ **1963:** U.S. Supreme Court, in *Gideon v. Wainwright*,* held that the U.S. Constitution's **6th Amendment Right to Counsel** required states to provide attorneys to indigent individuals charged with felony-level crimes
- ▶ **1969:** Kansas Legislature established the Board of Supervisors of Panels to Aid Indigent Defendants
- ▶ **1982:** Kansas Legislature established the **State Board of Indigents' Defense Services**

* 372 U.S. 335 (1963)



Photo: Kahler v. Kansas argument, US Supreme Court, March 2022

BIDS Background

- ▶ 84% of all adult felony criminal cases in Kansas require appointed counsel from BIDS
 - ▶ Public Defender Offices
 - ▶ Private Appointed Counsel Panels (Assigned Counsel System)
- ▶ In FY 2024 BIDS handled 26,417 cases
 - ▶ 33% handled by public defenders
 - ▶ 67% handled by assigned counsel



Appellate Defender Kai Tate Mann at the KS Court of Appeals

Public Defender Offices

- ▶ Kansas attorneys are full-time BIDS' employees, working in one of our trial-level or appellate-level offices.
 - ▶ 289 full-time staff members (attorneys and support staff)
- ▶ 20 offices across the state
 - ▶ Central Administration
 - ▶ 14 Trial-level Offices
 - ▶ 1 Appellate Office
 - ▶ 4 Capital Offices for Death Penalty Cases



Group Photo of Public Defender Office Employees and Assigned Counsel in attendance at BIDS Annual Conference, June 2023.

BIDS' Expenditures – FY 2024

	Full-Time Employees	Expenditures
Trial Defense	195.6	\$ 15,161,441
Appellate Defense	27	\$ 3,489,151
Capital Defense*	36	\$ 6,337,033
Assigned Counsel and Litigation Support	--	\$ 27,686,453
Administration	30.6	\$ 3,219,830
Legal Services for Prisoners	--	\$ 289,592
Totals	289.2	\$ 56,183,500

*Capital Defense costs for Death Penalty Cases accounted for 11% of BIDS' Budget but only 0.14% of BIDS' cases

Assigned Counsel

- ▶ BIDS works with over 300 private attorneys to provide counsel for individuals charged with felonies in cases our employees cannot accept
 - ▶ Attorneys bill BIDS for their time, usually at a rate of \$120 per hour
 - ▶ Almost all of these private counsel also take non-BIDS cases
- ▶ Chief judges coordinate panels of assigned attorneys
 - ▶ Each county/judicial district is different
 - ▶ Johnson County
 - ▶ Riley County
 - ▶ Sedgwick County
 - ▶ Shawnee County
 - ▶ Leavenworth County
 - ▶ Rural counties



Shaye L. Downing, Attorney at Law, member of BIDS Assigned Counsel panel

Counties with Public Defender Office Coverage

- ▶ Allen
- ▶ Chautauqua
- ▶ Cherokee**
- ▶ Clay
- ▶ Crawford**
- ▶ Dickinson
- ▶ Douglas
- ▶ Finney
- ▶ Geary
- ▶ Johnson
- ▶ Labette**
- ▶ Montgomery
- ▶ Morris
- ▶ Neosho
- ▶ Ottawa

- ▶ Reno
- ▶ Riley
- ▶ Saline
- ▶ Sedgwick
- ▶ Shawnee
- ▶ Wilson
- ▶ Woodson
- ▶ Wyandotte*

* Office opened 2024

** Office opening 2025



The Current Crisis

- ▶ Kansas does not have enough experienced, qualified, and available criminal defense counsel willing to take BIDS cases
- ▶ In FY 2024, trial-level public defenders had an average of **13 hours per attorney, per case** to work their cases.
 - ▶ The National Public Defense Workload Recommendations call for an average of 35 hours per attorney, per case for just low-level felonies.
 - ▶ The National Public Defense Workload Recommendations call for an average of 248 hours per attorney, per case for high level felonies such as first degree murder cases.
- ▶ Based on the National Public Defense Workload recommendations, in December 2023, BIDS estimated that it needs:
 - ▶ Approximately 400 full-time public defenders to constitutionally cover caseloads in areas with public defender offices
 - ▶ Approximately 200 full-time private attorneys accepting nothing but BIDS appointments in areas not covered by public defender offices.

Contributing Factors to this Crisis



- ▶ Volume of Cases
- ▶ Insufficient Full-time Positions in Offices
- ▶ Low Salaries for Public Defenders
- ▶ Aging Population of Kansas Attorneys
- ▶ Low Private Counsel Rates

A Workable Solution To This Crisis

- ▶ **Retain current experienced employees** through careful caseload monitoring and advocacy for pay parity with prosecutors.
- ▶ **Secure additional staffing** we need to comply with national caseload standards.
- ▶ **Establish new public defender offices** in jurisdictions that are in need of additional indigent defense assistance.
- ▶ **Advocate for better pay and better resources** for our assigned counsel panel attorneys and contractors.
- ▶ **Focus on criminal justice reforms** and local policy and procedure changes where we can.

BIDS' 2025-2026 Legislative Priorities

- ▶ Retain much-needed reappropriations to cover shortfalls in funding
- ▶ 2 Budget Enhancement Requests
 - ▶ **\$6.67 Million** to Support Pay Parity with Prosecutors
 - ▶ **\$4.29 Million** for 29 FTEs to move toward Ethical Caseloads for Attorneys
- ▶ Statutory update to allow social workers to participate on legal teams in criminal and civil cases



There Is No Justice Without Us

Heather Cessna
Executive Director
hcessna@sbids.org
785-296-6631

