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BAR ASSOCIATION
SEEKING LIBERTY & JUSTICE

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May 5, 2011

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The Honorable Beverly Eaves Perdue
Governor of North Carolina
State Capitol
Raleigh, North Carolina 27601

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Funding for the Office of Indigent Defense Services

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Dear Governor Perdue and Members of the General Assembly:

EXECUTIVE DIRECTOR

ALLAN B. HEAD

We are writing on behalf of the 16,000-member North Carolina Bar Association to urge you to support adequate funding for North Carolina Office of Indigent Defense Services ("IDS").

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We recognize that the severe state budget shortfall is laying many difficult choices before you, our leaders. Nevertheless, proper funding and resources for criminal defense are critical to ensuring a sound and fair justice system for all our state's citizens. We urge you to give the IDS budget every consideration as a vital state program as you make budget decisions this year.

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We understand that the current version of the House budget includes an \$11.3 million reduction in IDS funding for the 2011-12 fiscal year against IDS's continuation budget. This reduction would be in addition to a projected non-recurring shortfall of about \$12.8 million in the current fiscal year (2010-11) attributable primarily to increased demand for indigent defense services, as well as \$8 million in projected underfunding for the 2011-12 fiscal year based on anticipated demand. Thus, at the current rate of \$75 per hour for private court appointed counsel, IDS is facing a total shortfall of more than \$30 million next fiscal year, which represents approximately one-third of all state funding for appointed private counsel.

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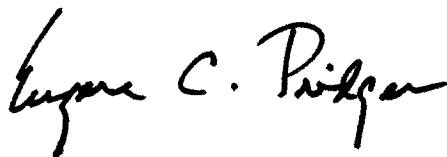
We understand that the General Assembly has expressed interest in a statewide public defender system. That would be a major change, one that cannot be implemented quickly. In the meantime, the funding shortfall IDS is facing will result in severe rate reductions for private appointed counsel, payment delays, or both. We fear that the result will be widespread resignations by more skilled and experienced attorneys from court-appointed lists. Judges could be forced to appoint less qualified lawyers to represent indigent defendants. A crisis in the quality of our justice system could occur.

Payment reductions and delays will also create a substantial hardship for the lawyers who handle indigent cases, most of whom are solo practitioners or members of small law firms. These lawyers are running small businesses that make positive contributions to their local economies. Some years ago, the North Carolina Bar Association conducted an economic survey that determined the operating costs of law firms of various sizes. After adjusting the survey results for inflation, the operating expenses of one- to four-person law firms in North Carolina currently average more than \$58 per hour. As a result, the attorneys that IDS depends on to do the majority of the state's court appointed defense work are netting an average of \$17 per hour at the current rate of \$75 per hour, which applies in all criminal cases other than capital cases. If that hourly rate is reduced by \$10 per hour, attorneys who accept court appointment will effectively earn less than North Carolina's minimum wage of \$7.25 per hour. If IDS is expected to reduce hourly rates in an amount that would cover a \$30 million shortfall, the non-capital hourly rate would have to be set at an even lower level, resulting in attorneys losing money whenever they handle an indigent case. That would drive many of these small law firms away from this work or perhaps out of business, leaving IDS and the courts without any way to provide indigent people with competent attorneys and further damaging local economies all over the State.

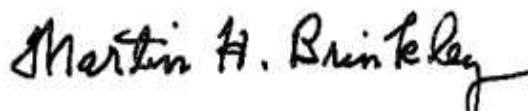
IDS currently relies on attorneys in small law firms to serve as counsel in approximately two-thirds of our State's indigent cases. The current proposed reductions to IDS's budget will decimate our indigent defense system, as well as the court system as a whole. That, in turn, will leave our poor citizens with shoddy or no representation and endanger their constitutional right to counsel. We urge you not to allow that to happen.

Thank you for your attention to our concerns and for your service to our State.

Sincerely,



Eugene C. Pridgen
President



Martin H. Brinkley
President-Elect