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Key Observations Concerning the Wood County Indigent Defense System

Based on on-site interviews with judges, magistrates, court administrators, defense lawyers, and county judges October 17-18, 2002

Summary

Wood County (pop. 36,752) uses a rotation system for appointing attorneys in order from graduated appointment lists (1st and 2nd degree felonies; 3rd degree and state jail felonies; misdemeanors; two levels of juvenile offenses). The magistrates, primarily the one based in the county jail building, conduct all Art. 15.17 hearings. At magistration, defendants have an opportunity to request court-appointed counsel and enter information about their income and expenses on a form provided by the magistrate. Every Tuesday and Friday morning, the county's sole district judge holds a hearing to rule on requests for court-appointed counsel. Both bonded and jail defendants appear at these hearings. At the hearing, the district judge reviews the defendants' financial information forms and sometimes questions the defendants about their finances. If the district judge determines that the defendant is indigent, the district court coordinator selects the next attorney off the appropriate rotating list, and notifies the defendant of the attorney's name and telephone number. The judge also requires that appointed attorneys return a form, indicating to the court when they received notice of appointment, and when they first contacted the client.

- ◆ In contrast to the testimony offered at a recent Task Force on Indigent Defense meeting by Wood County Judge William Alexander, there is an overall consensus that the Wood county indigent defense system has improved through implementation of the Fair Defense Act. Judge Alexander (who is retiring as county judge in December) himself acknowledged that he had a different perspective on the law than most judges, as he is not a lawyer, having spent most of his life in the sciences as an engineer and a consultant. One of the chief concerns Judge Alexander expressed is that he believes people are waiting longer to have their cases disposed of because now they are requesting and getting appointed lawyers instead of first discussing guilty pleas with the district attorney. We did not find anyone else in Wood County who shared this concern.

- ◆ One of the most significant improvements in Wood County resulting from the Fair Defense Act is quicker appointment of counsel. The district judge generally ensures that appointments are made within the time limits specified in the Act.

- ◆ Significantly more bond reduction hearings and examining trials are being requested, indicating that early attorney involvement can produce concrete improvements in the quality of representation provided to indigent defendants.
- ◆ The district judge prefers making appointments on a rotating, rather than a discretionary, basis. In fact, he adopted a rotating list for felonies in Wood County before the FDA passed. The chief innovations brought about by the Act are that the district judge now specifies objective qualifications and the appointment lists are tiered by offense levels.
- ◆ Following enactment of the FDA, the district judge raised attorney fee rates by \$5 an hour. Under the initial plan, all attorneys were compensated on an hourly basis at \$55 or \$60 per hour, depending on the seriousness of the alleged crime or juvenile offense. (However, within the last several weeks, the district judge has introduced a new fee schedule with a flat rate of \$300 for misdemeanor pleas and \$350 for felony pleas, unless special circumstances warrant an itemized bill. For trials, the default rate is the number of in-court hours, doubled, at the appropriate rate of \$55 or \$60 per hour.)
- ◆ Continuing challenges that still remain to be addressed include:
 - The county needs help meeting increased costs associated with more frequent and prompt appointments and updated attorney fee schedules. While these increases can be partially offset by improved efficiencies, more state funding will be needed.
 - As in many counties across the state, the various participants in the criminal justice system in Wood County would welcome more guidance and consistency regarding standards for determining who is indigent.