



Indigent Defense in North Carolina

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Overview of IDS' Finances



Where the Money Comes From

Source of Funds	FY15 Amount of Funding
Appropriation	\$111,951,902
Budgeted Recoupment Receipts	\$10,186,742
Miscellaneous Receipts	\$134,793
Total	\$122,273,437

Source: NCAS

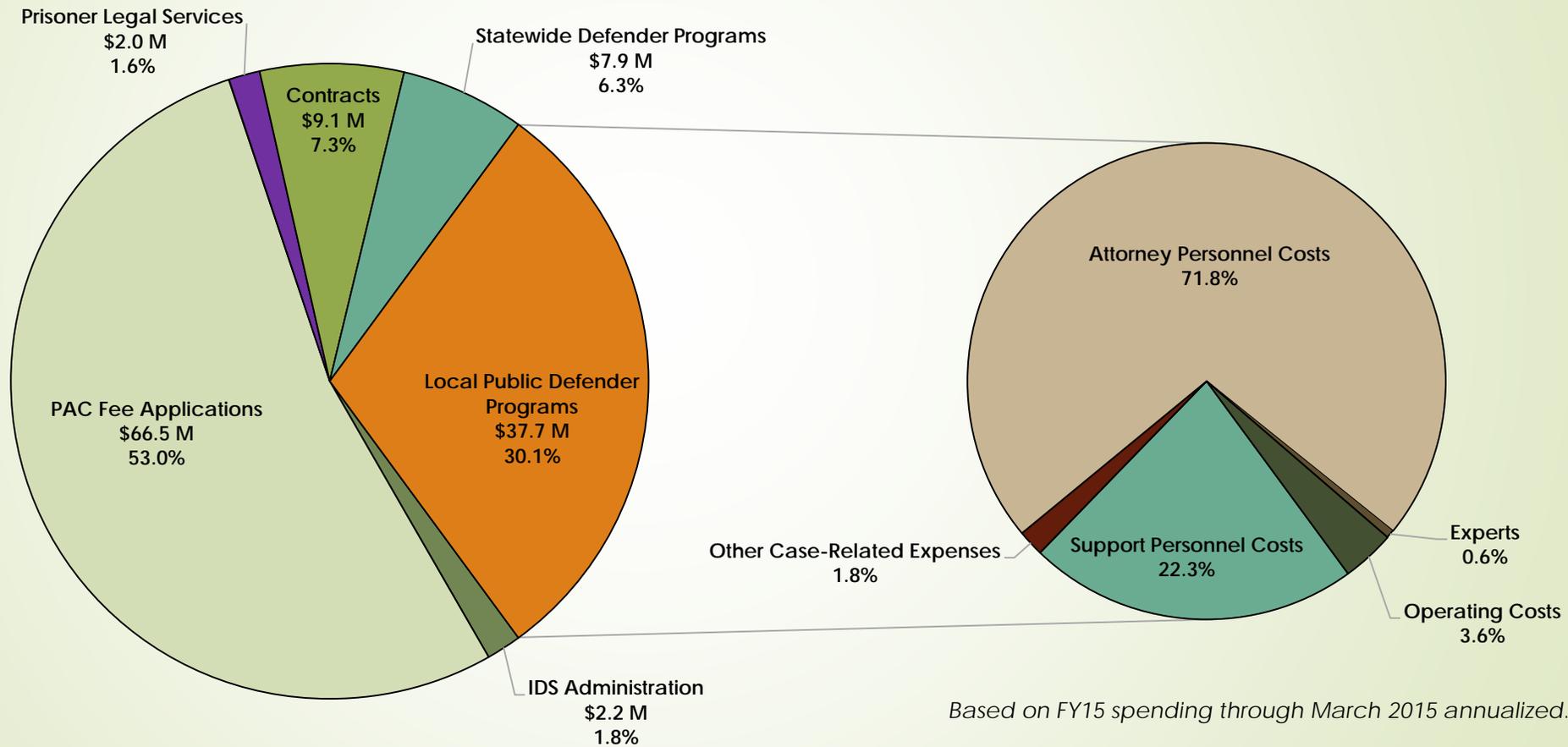
Where the Money Goes (FY15)

Program	FY15 Dispositions	FY15 Cost	FY15 % of Cost
PAC Rosters (local and statewide)	167,395	\$60,448,871	48.3%
Contract Attorneys (RFP & non-RFP)	35,092	\$9,174,000	7.3%
PAC Support (incl. investigators, experts, transcripts, lay witness fees, interpreters, and translators)	--	\$5,923,814	4.7%
Defender Offices (local & statewide) (incl. experts and support services used by offices)	116,434 (incl. pending murder cases)	\$45,303,549	36.2%
Inmate Services (NCPLS)	--	\$2,024,000	1.6%
IDS (incl. central IDS Office, IDS Financial Services, and Set-off Debt program)	--	\$2,238,054	1.8%
Total	318,921	\$125,112,288	

Note: PAC data is on demand basis to reflect fee applications received in a given FY even if payment is held due to limited cash. PAC and total cost data differ from NCAS and FY15 funding from prior screen by about \$2.9 million due to additional shortfall from FY15.

Local Public Defender Programs

IDS SPENDING MAJOR CATEGORIES AND LOCAL PUBLIC DEFENDER PROGRAMS DETAIL

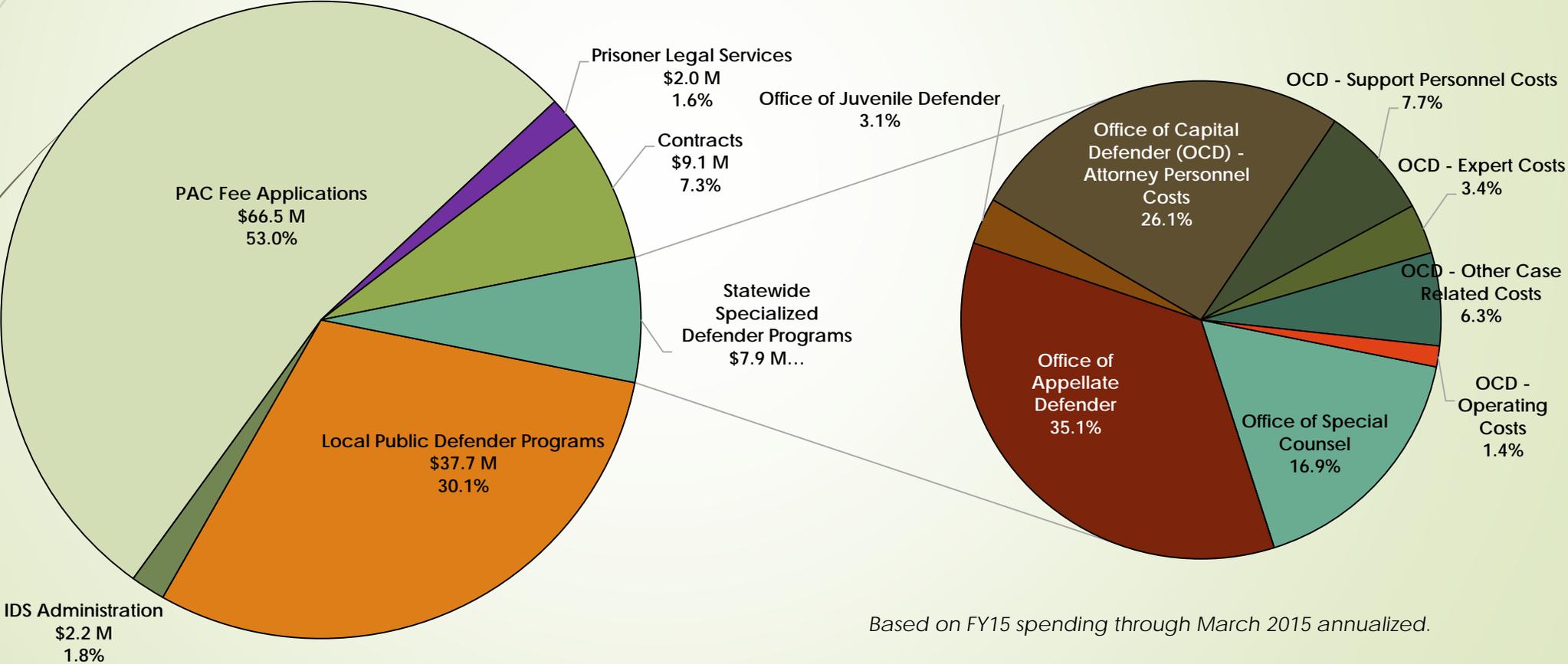


Based on FY15 spending through March 2015 annualized.

Statewide Defender Programs

IDS SPENDING MAJOR CATEGORIES AND SPECIAL DEFENDER PROGRAM DETAIL

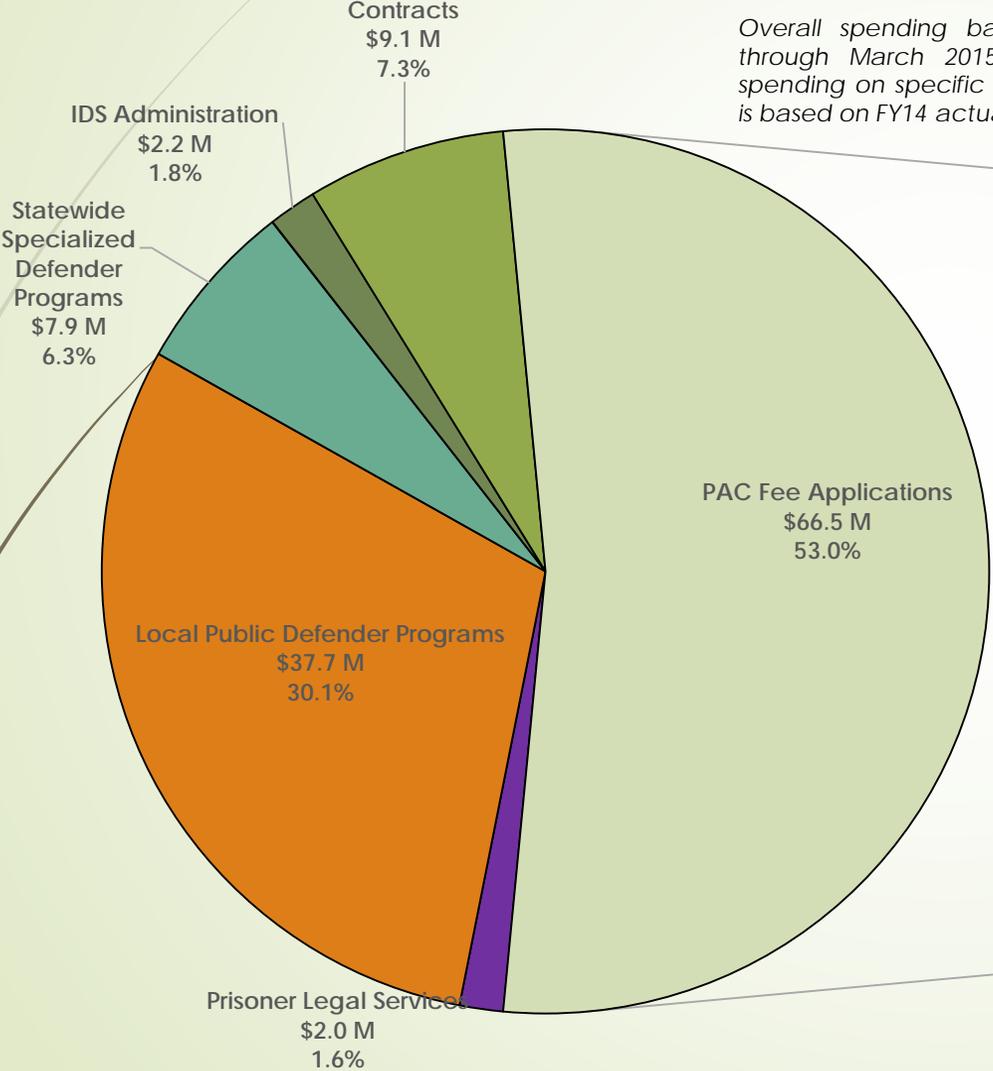
(Special Counsel, Juvenile Defender, Appellate Defender costs are over 92% personnel so no further details provided)



Based on FY15 spending through March 2015 annualized.

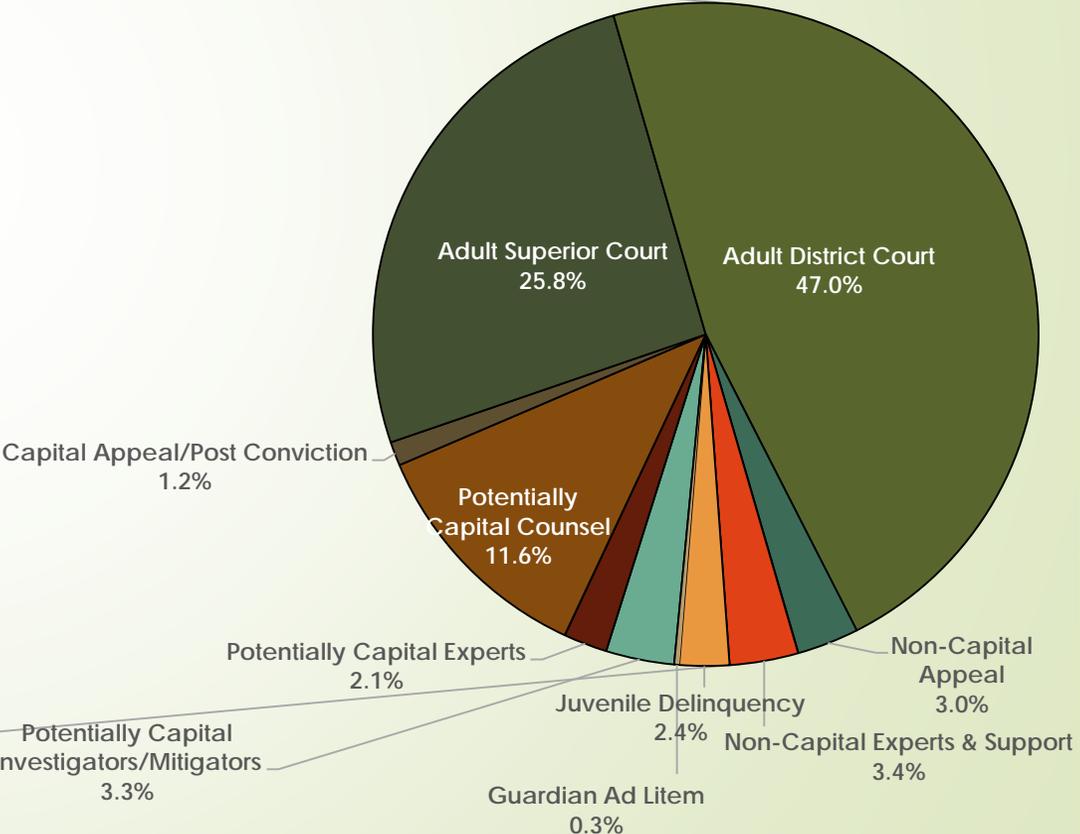
Local PAC Rosters

IDS SPENDING MAJOR CATEGORIES AND PAC DETAIL



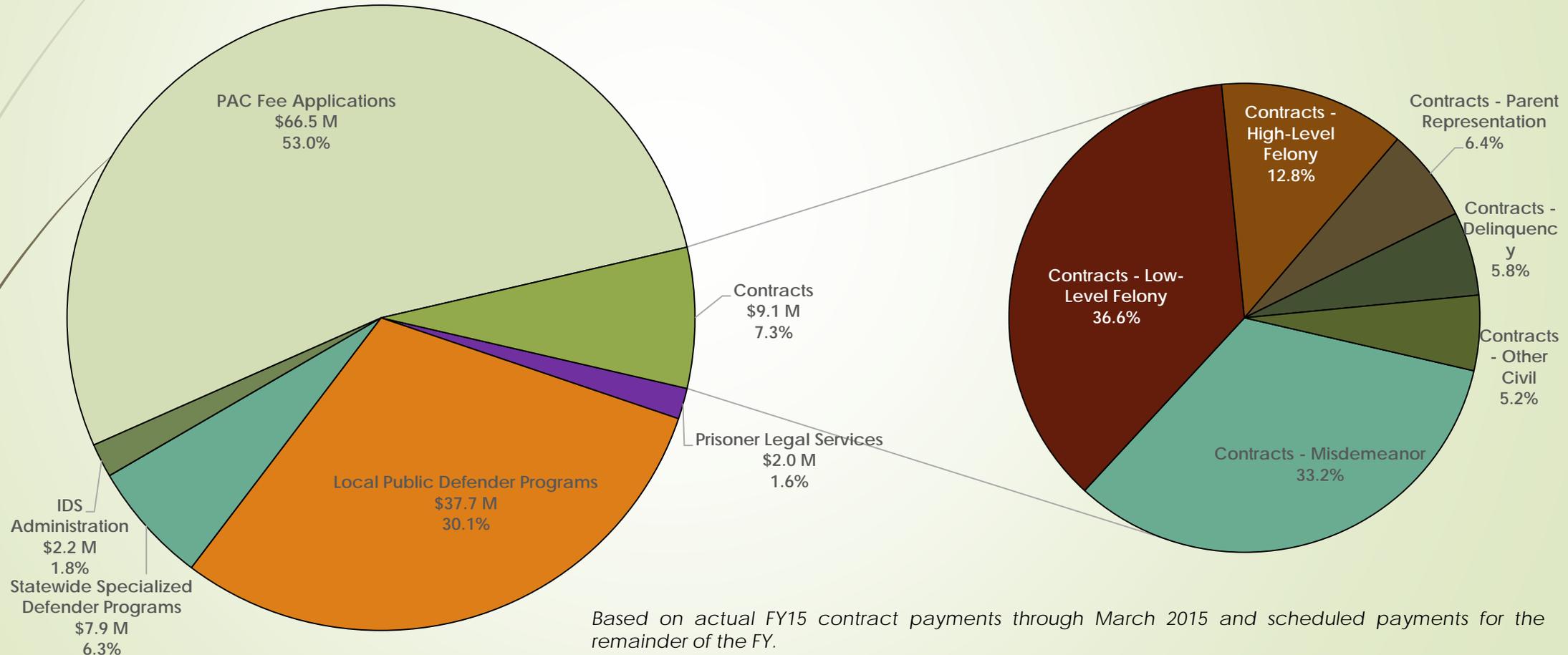
Overall spending based on FY15 spending through March 2015 annualized. Projected spending on specific case types (see sidebar) is based on FY14 actual data.

	Adult District Ct.	Adult Superior Ct.
High Level Felony	1.6%	34.8%
Low Level Felony	12.1%	58.4%
Misdemeanor (inc Traffic)	47.3%	6.4%
Other Criminal	0.7%	0.4%
Parent Representation	23.1%	0.0%
Child Support Contempt	9.7%	0.0%
Other Civil	5.4%	0.0%



Private Counsel Under Contract

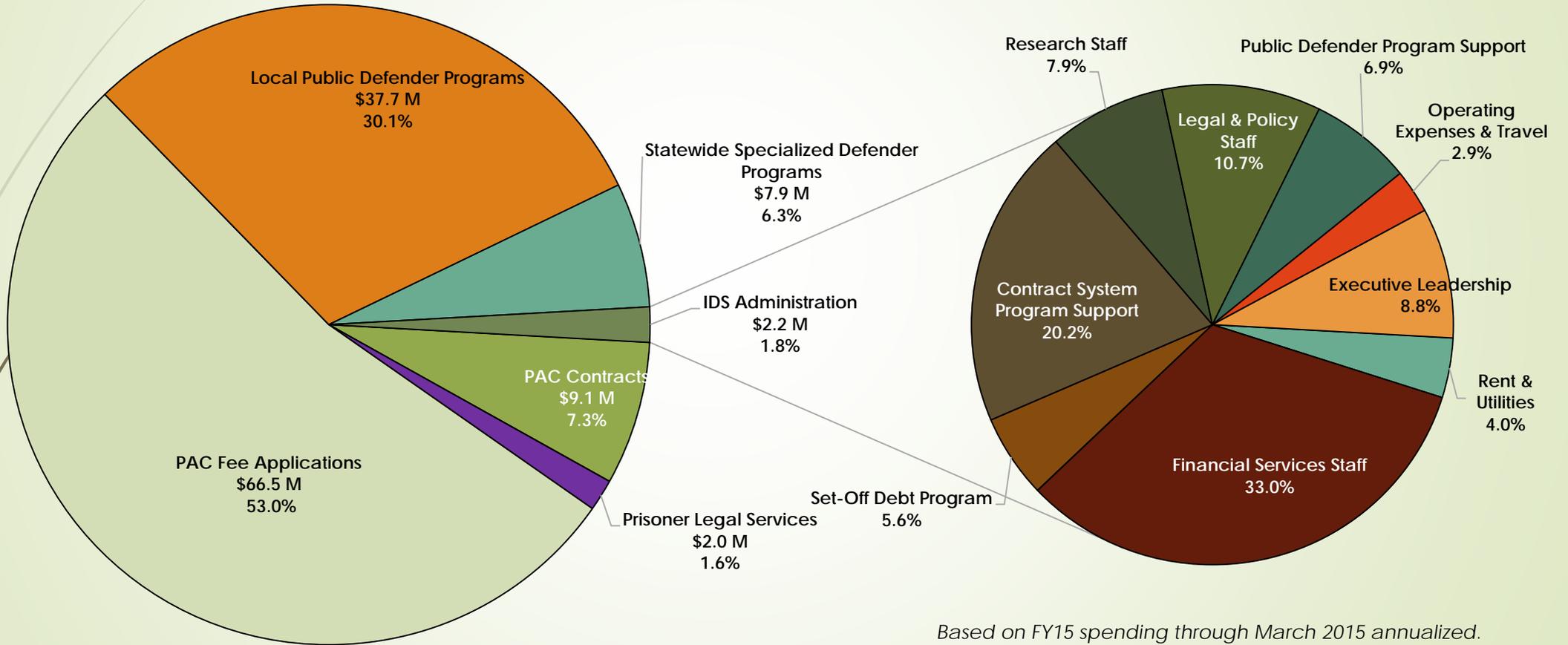
IDS SPENDING MAJOR CATEGORIES AND CONTRACTS DETAIL



Based on actual FY15 contract payments through March 2015 and scheduled payments for the remainder of the FY.

IDS Administration

IDS SPENDING MAJOR CATEGORIES AND ADMINISTRATIVE COSTS DETAIL



Based on FY15 spending through March 2015 annualized.

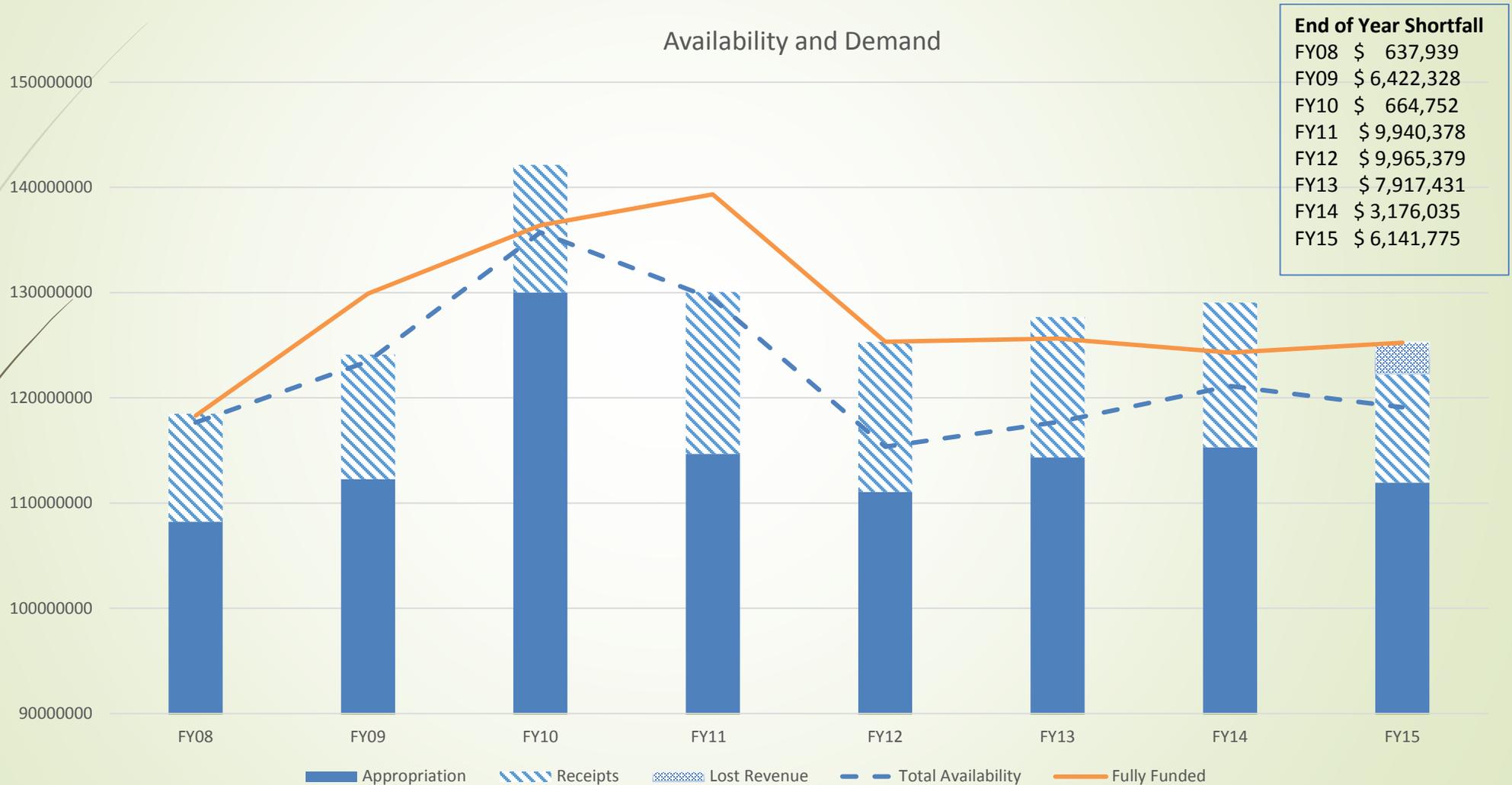
IDS Projections for Funding Needs

- Historically, IDS' projections for demand on the PAC Fund (including PAC, experts, and support) have been very accurate
- End-of-year deficits are not due to unpredictability of funding demands but are because indigent defense has not received the funding IDS knew it would need

FY	Sept. Projection Compared to End-of-FY PAC Fund Demand
09	-1.46%
10	-4.16%
11	0.14%
12	-4.70%
13	-5.55%
14	-4.37%
15	0.83%
7-Year Average	-2.75%

Negative percentages mean demand was lower than projected

History of Underfunding and Shortfalls



FY15 lost recoupment revenue due to changes in tax code and withholding tables



Other Factors that Influence Annual Demand and Shortfalls

- Changes in PAC hourly rates
- OSBM reversions and restricted access to recoupment receipts
- Appropriations shifting between recurring and non-recurring
- Transferring or eliminating programs
 - e.g., NCPLS and Sentencing Services
- Changes in the law
 - e.g., Class 3 misdemeanors and entitlement to GALs for parents in A/N/D and TPR cases
- Changing legislative directives about service delivery systems

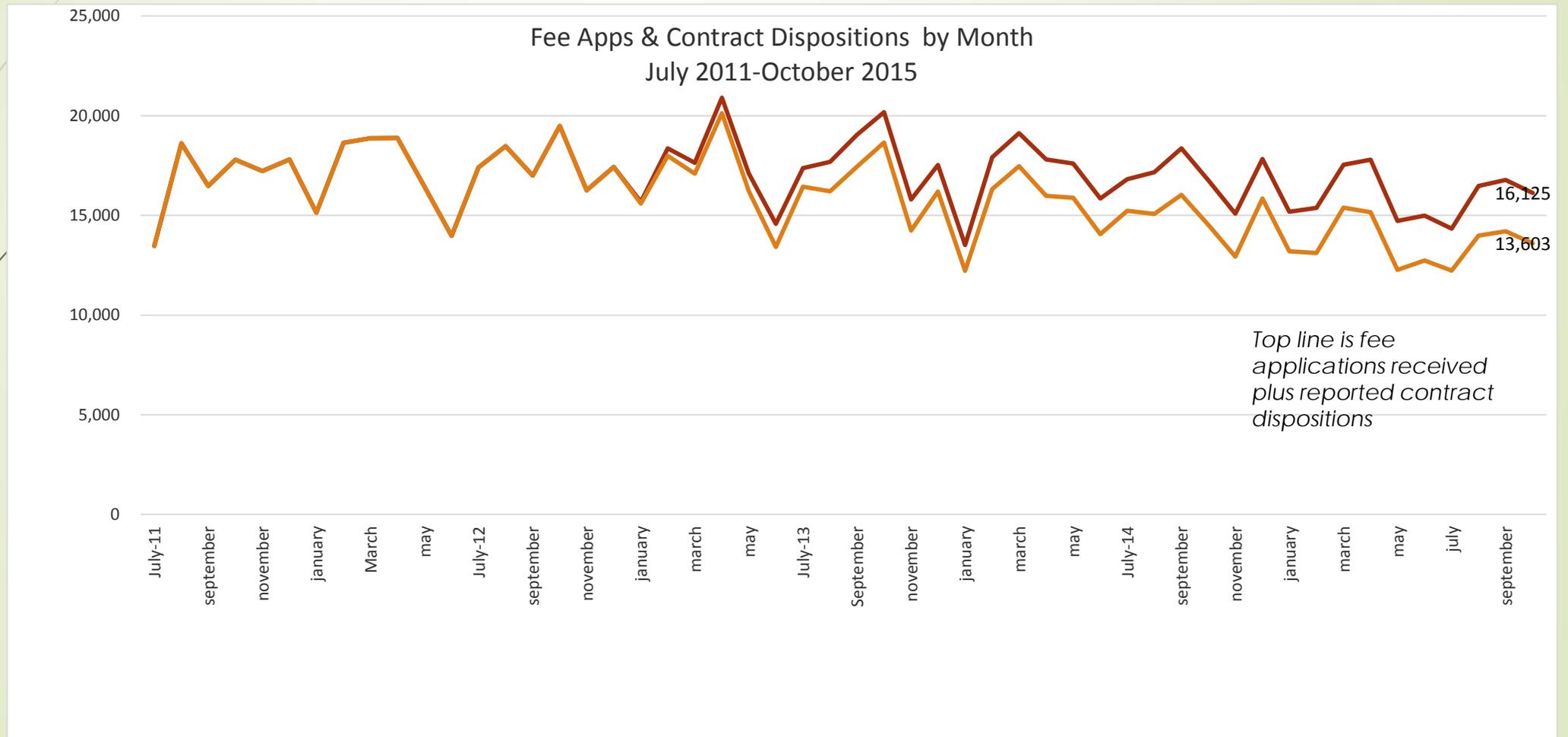
What Drives IDS' Costs

- ▶ Per case costs are not the primary factor driving IDS' overall spending
- ▶ PAC per case costs are quite low and quite stable

FY	Average Cost per Disposition
01	\$370.94
14	\$372.18

- ▶ IDS' overall spending is due to the type and volume of cases
 - ▶ e.g., a shift toward more felonies or toward higher level felonies will increase IDS' spending
 - ▶ e.g., changing indigency rates

Volume of Cases Fluctuates Significantly Over Time



IDS' Increasing Share of the Pie

- ▶ Between FY02 and FY14, there has been a **9.5% decrease** in the number of total criminal non-traffic court file numbers
- ▶ During that same time period, there has been a **44.7% increase** in the number of criminal non-traffic public defender, PAC, and contractor file numbers that are funded through IDS

	FY02	FY04	FY06	FY08	FY10	FY12	FY14
Criminal Non-Traffic Court Files	850,541	842,488	876,555	872,486	823,737	810,894	769,822
IDS Criminal Non-Traffic Files	291,954	318,460	366,294	392,011	412,970	414,594	422,411
IDS Disps. as % of Criminal Non-Traffic Court Files	34.3%	37.8%	41.8%	44.9%	50.1%	51.1%	54.9%

Based on total criminal non-traffic and indigent case disposition numbers provided by AOC, which counts every closed CR or CRS file number as a disposition. In other studies, IDS staff calculate dispositions differently, counting all file numbers disposed on the same day before the same presiding judge as one disposition.



Challenges of Flat Fees/Fee Schedules

- ▶ Flat per case fees will not increase predictability more than the new contract system, which is based on bundled flat fees
- ▶ Flat per case fees have inherent disincentives
 - ▶ Same per case fee regardless of amount of time expended
 - ▶ Discourages attorneys from disposing of all pending charges against one client together because they can get multiple flat fees
- ▶ Tried to counteract those disincentives in new contract system with
 - ▶ Guaranteed volume of cases
 - ▶ Regular monthly pay (cost-effective amounts compared to PAC averages)
 - ▶ Option of extraordinary pay for an extraordinary case
 - ▶ Oversight through Regional Defenders



Time Needed to Provide Effective Representation

NC Average PAC Hours Compared to Studies in Other States

NC PAC Averages	District Court Misdemeanor	Superior Court H/I	Superior Court B1/B2
	3.31	8.75	36.70
Missouri Study	Misdemeanor	Felony C/D	Felony A/B
	11.7	25	47.6
Texas Study	Misdemeanor	Low Felony	High Felony
	10-12.9	15.7-19.2	29.6-29.8

Average hours include trials