

Court-Appointed Attorney Costs

SDCL 23A-40-7 provides that the governing board of any county or municipality is responsible for providing legal counsel to anyone within their jurisdiction who is charged with a Class 1 misdemeanor or felony. If the county maintains a public defender's office, judges or magistrates will assign this office to represent indigent defendants. In counties where there is no public defender system, an attorney will be appointed.

The cost of court-appointed representation is initially borne by the county in which the charge is levied. The judge may assess attorney costs against the defendant as a part of a sentence. There is also a provision for creation of a lien against a defendant's real or personal property (SDCL 23A-40-11 and -12).

Whether represented by court-appointed counsel or by a public defender's office, and regardless of whether or not the defendant is convicted, the defendant is expected to repay the cost of the court-appointed attorney.

In addition to the costs repaid directly by the defendant, a \$6.00 fee is collected for each criminal conviction including traffic violations. This is paid into a court-appointed attorney fund established by state law. This year the fund provided an allocation to each county of approximately 6.7% of the court-appointed attorney costs incurred. This figure is shown in the second column of Table B-4 on page 33.

Table B-4 also shows county expenditures and defendant repayment as reported to the State Treasurer by the counties.

Chart B-2 on page 32 graphically compares court-appointed attorney costs and repayment by circuit for the past fiscal year. The Minnehaha (Second Circuit) and Pennington County (Seventh Circuit) Public Defender's Offices have full-time legal staffs funded by the counties to provide for the defense of economically disadvantaged persons accused of crimes. Lawrence and Butte Counties (Fourth Circuit) also share the expense of a full-time public defender's office.

The data contained in Table B-4 on page 33 shows the raw approximate average cost to each county for each court-appointed attorney case. This average does not include costs recovered by the counties either from direct payments by defendants, state reimbursements, or county lien collection efforts. When cost recovery is included in the calculation, the average payment per appointment is substantially lower. These costs were computed by dividing the total payment for the fiscal year by the total number of court-appointed attorney cases. Table B-4 also shows the percentage of total Class 1 misdemeanor and felony filings which resulted in court appointment of an attorney.

Chart B-2 on page 32 shows the difference between the cost of court-appointed attorneys and the amount the UJS collects. The cost for court-

appointed attorneys is difficult to predict from year to year because it depends on the number of arrests by law

enforcement agencies and the number of criminal prosecutions filed by the state's attorney in each county.

Chart B-2. Court-Appointed Attorney Costs Compared to Repayment by Circuit - FY2013

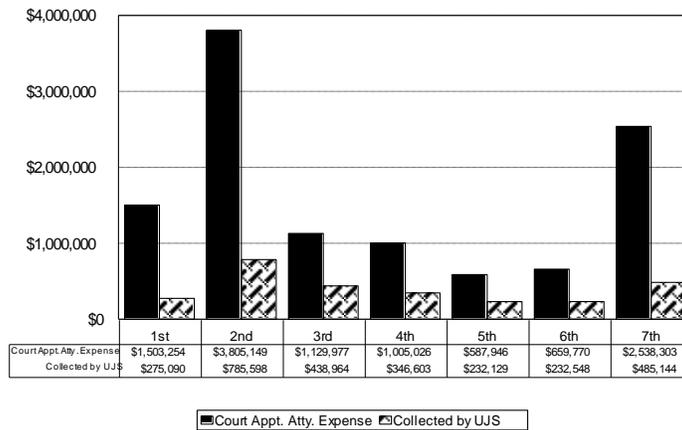
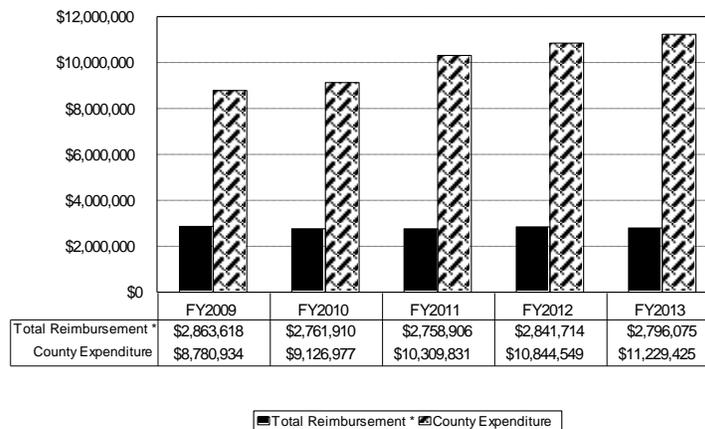


Chart B-3. Court-Appointed Attorney Cost Payback by Fiscal Year



* Does not include other transfers made to county general funds.

**Table B-4. COUNTY EXPENDITURES AND REPAYMENT
FOR COURT-APPOINTED ATTORNEYS - FY2013**

Circuits and Counties	Total Paid By County	Allocated by Statute	Paid by Defendant *	Collected by UJS	Percent Paid
1st CIRCUIT					
Aurora	\$19,614	\$1,174	\$8,592	\$9,765	49.8%
Bon Homme	\$114,231	\$6,929	\$4,219	\$11,147	9.8%
Brule-Buffalo	\$79,273	\$4,814	\$4,281	\$9,094	11.5%
Charles Mix	\$379,895	\$23,197	\$51,388	\$74,584	19.6%
Clay	\$71,379	\$4,363	\$9,701	\$14,064	19.7%
Davison	\$264,251	\$16,132	\$2,168	\$18,299	6.9%
Douglas	\$15,621	\$1,060	\$2,751	\$3,811	24.4%
Hanson	\$48,640	\$2,910	\$4,739	\$7,648	15.7%
Hutchinson	\$49,899	\$3,034	\$18,508	\$21,542	43.2%
McCook	\$50,672	\$3,141	\$10,075	\$13,216	26.1%
Turner	\$69,183	\$4,138	\$1,030	\$5,168	7.5%
Union	\$148,525	\$8,884	\$32,073	\$40,957	27.6%
Yankton	\$192,071	\$11,489	\$34,302	\$45,792	23.8%
TOTAL	\$1,503,254	\$91,265	\$183,825	\$275,090	18.3%
2nd CIRCUIT					
Lincoln	\$236,550	\$14,383	\$72,928	\$87,312	36.9%
Minnehaha	\$3,568,599	\$222,921	\$475,365	\$698,286	19.6%
TOTAL	\$3,805,149	\$237,305	\$548,294	\$785,598	20.6%
3rd CIRCUIT					
Beadle	\$203,929	\$12,573	\$69,232	\$81,805	40.1%
Brookings	\$322,075	\$19,653	\$117,473	\$137,126	42.6%
Clark	\$13,242	\$792	\$7,483	\$8,275	62.5%
Codington	\$267,502	\$16,053	\$87,998	\$104,051	38.9%
Deuel	\$5,679	\$340	\$5,761	\$6,101	107.4%
Grant	\$65,505	\$3,931	\$11,011	\$14,942	22.8%
Hamlin	\$18,280	\$1,093	\$6,996	\$8,089	44.3%
Hand	\$18,169	\$1,184	\$2,045	\$3,229	17.8%
Jerauld	\$16,179	\$968	\$4,098	\$5,066	31.3%
Kingsbury	\$23,479	\$1,515	\$2,184	\$3,699	15.8%
Lake	\$60,150	\$3,609	\$19,535	\$23,144	38.5%
Miner	\$12,036	\$720	\$764	\$1,484	12.3%
Moody	\$96,749	\$5,902	\$32,253	\$38,155	39.4%
Sanborn	\$7,002	\$419	\$3,380	\$3,799	54.2%
TOTAL	\$1,129,977	\$68,753	\$370,211	\$438,964	38.8%
4th CIRCUIT					
Butte	\$212,218	\$13,113	\$55,392	\$68,505	32.3%
Corson	\$19,657	\$1,176	\$6,597	\$7,773	39.5%
Dewey	\$2,691	\$161	\$4,132	\$4,293	159.5%
Harding	\$10,643	\$637	\$3,270	\$3,907	36.7%
Lawrence	\$438,801	\$26,969	\$116,139	\$143,107	32.6%
Meade	\$300,525	\$18,230	\$88,300	\$106,530	35.4%
Perkins	\$18,497	\$1,126	\$9,789	\$10,916	59.0%
Ziebach	\$1,995	\$119	\$1,453	\$1,572	78.8%
TOTAL	\$1,005,026	\$61,531	\$285,072	\$346,603	34.5%
5th CIRCUIT					
Brown	\$257,710	\$15,946	\$87,190	\$103,137	40.0%
Campbell	\$10,003	\$685	\$650	\$1,335	13.4%
Day	\$45,199	\$2,704	\$12,001	\$14,705	32.5%
Edmunds	\$8,821	\$528	\$7,118	\$7,646	86.7%
Faulk	\$5,505	\$329	\$5,546	\$5,875	106.7%
Marshall	\$32,721	\$1,957	\$10,287	\$12,245	37.4%
McPherson	\$1,036	\$62	\$940	\$1,002	96.7%
Roberts	\$99,160	\$5,934	\$36,365	\$42,299	42.7%
Spink	\$46,074	\$2,788	\$14,648	\$17,436	37.8%
Walworth	\$81,717	\$5,088	\$21,362	\$26,449	32.4%
TOTAL	\$587,946	\$36,022	\$196,107	\$232,129	39.5%
6th CIRCUIT					
Bennett	\$152,407	\$9,528	\$25,603	\$35,131	23.1%
Gregory	\$62,168	\$3,795	\$12,778	\$16,572	26.7%
Haakon	\$11,089	\$663	\$550	\$1,214	10.9%
Hughes	\$14,681	\$878	\$7,550	\$8,428	398.0%
Hyde	\$8,438	\$505	\$2,393	\$2,898	34.3%
Jackson	\$43,070	\$2,659	\$11,205	\$13,864	32.2%
Jones	\$8,078	\$483	\$5,086	\$5,569	68.9%
Lynan	\$39,734	\$2,377	\$10,312	\$12,689	31.9%
Mellette	\$91,985	\$5,588	\$14,763	\$20,351	22.1%
Potter	\$7,626	\$540	\$614	\$1,154	15.1%
Stanley	\$66,210	\$3,961	\$20,253	\$24,213	36.6%
Sully	\$30,392	\$2,010	\$6,212	\$8,222	27.1%
Todd/Tripp	\$123,893	\$7,502	\$24,740	\$32,242	26.0%
TOTAL	\$659,770	\$40,489	\$192,059	\$232,548	35.2%
7th CIRCUIT					
Custer	\$88,335	\$5,389	\$32,129	\$37,518	42.5%
Fall River/Shannon	\$117,645	\$7,167	\$48,832	\$55,999	47.6%
Pennington	\$2,332,323	\$142,289	\$249,338	\$391,627	16.8%
TOTAL	\$2,538,303	\$154,845	\$330,299	\$485,144	19.1%

STATE	Total Paid By County	Allocated by Statute	Paid by Defendant *	Collected by UJS	Percent Paid
TOTALS	\$11,229,425	\$690,208	\$2,105,867	\$2,796,075	24.9%

* The "Paid by Defendant" sum included on this page includes only those amounts collected by the Unified Judicial System and remitted to counties. These amounts do not include payments made directly to county auditors or treasurers, city collection agents, or sums recovered by counties pursuant to a statutory lien. Hence, the figures do not include all county cost recovery.

Table B-5. COURT-APPOINTED CASES AND COSTS - FY2013

Circuits and Counties	Total Paid By County	Appointments	Misd. 1 & Felony Dispos'n	Avg. Pmt. Per Appt.	Appts. as % of Dispos'n
1st CIRCUIT					
Aurora	\$19,614	22	54	\$892	40.7%
Bon Homme	\$114,231	13	54	\$8,787	24.1%
Brule-Buffalo	\$79,273	96	168	\$826	57.1%
Charles Mix	\$379,895	246	419	\$1,544	58.7%
Clay	\$71,379	119	442	\$600	26.9%
Davison	\$264,251	356	744	\$742	47.8%
Douglas	\$15,621	7	17	\$2,232	41.2%
Hanson	\$48,640	12	34	\$4,053	35.3%
Hutchinson	\$49,899	24	61	\$2,079	39.3%
McCook	\$50,672	39	114	\$1,299	34.2%
Turner	\$69,183	44	113	\$1,572	38.9%
Union	\$148,525	116	385	\$1,280	30.1%
Yankton	\$192,071	347	816	\$554	42.5%
TOTAL	\$1,503,254	1,441	3,421	\$1,043	42.1%
2nd CIRCUIT					
Lincoln	\$236,550	304	627	\$778	48.5%
Minnehaha	\$3,568,599	4,750	7,399	\$751	64.2%
TOTAL	\$3,805,149	5,054	8,026	\$1,529	63.0%
3rd CIRCUIT					
Beadle	\$203,929	306	569	\$666	53.8%
Brookings	\$322,075	218	876	\$1,477	24.9%
Clark	\$13,242	17	49	\$779	34.7%
Codington	\$267,502	317	1,024	\$844	31.0%
Deuel	\$5,679	7	25	\$811	28.0%
Grant	\$65,505	39	124	\$1,680	31.5%
Hamlin	\$18,280	12	39	\$1,523	30.8%
Hand	\$18,169	12	22	\$1,514	54.5%
Jerauld	\$16,179	18	62	\$899	29.0%
Kingsbury	\$23,479	10	51	\$2,348	19.6%
Lake	\$60,150	103	243	\$584	42.4%
Miner	\$12,036	14	36	\$860	38.9%
Moody	\$96,749	124	275	\$780	45.1%
Sanborn	\$7,002	12	31	\$584	38.7%
TOTAL	\$1,129,977	1,209	3,426	\$935	35.3%

STATE TOTALS	Total Paid By County	Appointments	Misd. 1 & Felony Dispos'n	Avg. Pmt. Per Appt. *	Appts. as % of Dispos'n
TOTALS	\$11,229,425	13,517	27,647	\$831	48.9%

Circuits and Counties	Total Paid By County	Appointments	Misd. 1 & Felony Dispos'n	Avg. Pmt. Per Appt.	Appts. as % of Dispos'n
4th CIRCUIT					
Butte	\$212,218	171	387	\$1,241	44.2%
Corson	\$19,657	8	48	\$2,457	16.7%
Dewey	\$2,691	7	22	\$384	31.8%
Harding	\$10,643	7	31	\$1,520	22.6%
Lawrence	\$438,801	493	1,438	\$890	34.3%
Meade	\$300,525	373	1,148	\$806	32.5%
Perkins	\$18,497	17	39	\$1,088	43.6%
Ziebach	\$1,995	5	9	\$0	55.6%
TOTAL	\$1,005,026	1,081	3,122	\$930	34.6%
5th CIRCUIT					
Brown	\$257,710	344	1,290	\$749	26.7%
Campbell	\$10,003	2	15	\$5,001	13.3%
Day	\$45,199	26	131	\$1,738	19.8%
Edmunds	\$8,821	17	77	\$519	22.1%
Faulk	\$5,505	10	24	\$550	41.7%
Marshall	\$32,721	46	119	\$711	38.7%
McPherson	\$1,036	1	12	\$1,036	8.3%
Roberts	\$99,160	280	641	\$354	43.7%
Spink	\$46,074	36	91	\$1,280	39.6%
Walworth	\$81,717	126	269	\$649	46.8%
TOTAL	\$587,946	888	2,669	\$662	33.3%
6th CIRCUIT					
Bennett	\$152,407	196	263	\$778	74.5%
Gregory	\$62,168	41	60	\$1,516	68.3%
Haakon	\$11,089	3	10	\$3,696	30.0%
Hughes	\$14,681	411	769	\$36	53.4%
Hyde	\$8,438	2	16	\$4,219	12.5%
Jackson	\$43,070	44	75	\$979	58.7%
Jones	\$8,078	12	30	\$673	40.0%
Lyman	\$39,734	35	72	\$1,135	48.6%
Mellette	\$91,985	40	70	\$2,300	57.1%
Potter	\$7,626	2	22	\$3,813	9.1%
Stanley	\$66,210	48	109	\$1,379	44.0%
Sully	\$30,392	11	24	\$2,763	45.8%
Todd/Tripp	\$123,893	121	183	\$1,024	66.1%
TOTAL	\$659,770	966	1,703	\$683	56.7%
7th CIRCUIT					
Custer	\$88,335	58	201	\$1,523	28.9%
Fall River/Shannon	\$117,645	139	269	\$846	51.7%
Pennington	\$2,332,323	2,681	4,810	\$870	55.7%
TOTAL	\$2,538,303	2,878	5,280	\$882	54.5%

* Does not include county reimbursements which substantially lowers the average payment per appointment to \$624 per case.
 (\$11,229,425-\$2,796,075=\$8,433,350/13,517 = \$624)