

# Modeling the Efficiency and Fairness of Compensation Systems for Privately Assigned Attorneys In North Carolina: A Legal and Economic Assessment

Dr. Reza Farhadi

Department of Criminology and Penal Studies, Tehran Institute of Law and Social Justice, Tehran, Iran

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**Abstract:** The compensation structure for privately assigned attorneys in indigent defense systems plays a critical role in determining both the quality of legal representation and the equitable functioning of criminal justice systems. This study develops a legal-economic analytical framework to evaluate the efficiency and fairness of compensation mechanisms for privately appointed counsel in North Carolina. Drawing on empirical and doctrinal literature, the research integrates incentive theory, labor economics, and constitutional legal standards to assess how current payment structures influence attorney behavior, case outcomes, and systemic equity. Evidence suggests that misaligned incentives—particularly low flat-fee compensation and delayed payments—can undermine defense quality and exacerbate disparities in legal representation (Agan, Freedman, & Owens, 2018). The study synthesizes findings from national and state-level reports, including North Carolina's Indigent Defense Services data, to construct a multidimensional model incorporating efficiency metrics (cost-effectiveness, case throughput) and fairness indicators (equity of access, workload distribution). Results indicate significant structural inefficiencies and distributive imbalances, particularly in rural jurisdictions. The paper concludes by proposing a hybrid compensation model integrating performance-sensitive base payments with standardized overhead adjustments to improve both efficiency and fairness. The findings contribute to ongoing debates on indigent defense reform and provide policy-relevant insights for state-level judicial and legislative stakeholders.

**Keywords:** Indigent defense, compensation systems, private assigned counsel, North Carolina, legal economics, efficiency modeling, fairness analysis, criminal justice reform, incentive theory, public defense.

## 1. Introduction:

### 1.1 Background and Problem Statement

The constitutional guarantee of the right to counsel, established in *Gideon v. Wainwright* (1963), obligates states to provide legal representation to indigent defendants. However, the operationalization of this right has resulted in structurally uneven compensation systems for privately assigned attorneys, particularly in state-managed indigent defense programs. In North Carolina, private assigned counsel (PAC) serve as a critical component of the indigent defense ecosystem, yet their compensation structure has long been criticized for inadequacy and inconsistency.

Empirical research suggests that compensation

systems directly influence attorney performance, selection effects, and case outcomes (Cohen, 2014). Moreover, economic studies indicate that attorneys respond predictably to financial incentives, which may result in reduced effort or selective case engagement under low compensation regimes (Agan, Freedman, & Owens, 2018). This raises significant concerns regarding both efficiency (resource utilization and case processing) and fairness (equitable access to quality defense).

### 1.2 Research Objectives

This study aims to:

1. Develop a legal-economic model for evaluating PAC compensation systems.

2. Assess efficiency and fairness dimensions of current North Carolina compensation structures.
3. Analyze incentive distortions affecting attorney behavior and case outcomes.
4. Propose reform-oriented compensation frameworks grounded in empirical evidence.

### 1.3 Scope and Significance

The study focuses on North Carolina's indigent defense system, with comparative insights drawn from national literature. It contributes to policy debates on public defense reform, particularly in addressing systemic inefficiencies and inequities documented in prior research (Backus & Marcus, 2018; National Association of Criminal Defense Lawyers, 2013).

## 2. LITERATURE REVIEW

### 2.1 Incentives and Attorney Performance

A substantial body of literature examines how compensation affects attorney behavior. Agan, Freedman, and Owens (2018) demonstrate that incentive structures significantly influence attorney selection and effort allocation in criminal defense systems. Their findings suggest that under low or fixed compensation, attorneys may exhibit adverse selection behavior, opting into less complex cases or reducing effort investment. This "lemon problem" highlights inefficiencies in indigent defense markets.

Similarly, Iyengar (2007) finds measurable variation in case outcomes based on counsel assignment, reinforcing the argument that attorney quality and incentives materially affect justice outcomes. These findings are further supported by Anderson and Heaton (2011), who show that defense counsel significantly influences conviction rates and sentencing severity.

### 2.2 Structural Inefficiencies in Indigent Defense Systems

Barrett (2017) argues that underinvestment in indigent defense produces broader economic inefficiencies in criminal justice systems, including increased incarceration costs and procedural delays. Dixon (2013) and Hollinger (2020) further emphasize that chronic underfunding leads to systemic overload and diminished defense quality.

North Carolina-specific reports (North Carolina Office of Indigent Defense Services, 2019; 2023) reveal persistent disparities in compensation rates and overhead recovery for private counsel, suggesting structural inefficiencies in resource allocation.

### 2.3 Fairness and Constitutional Considerations

Fairness in indigent defense is closely tied to constitutional guarantees of effective assistance of counsel. Primus (2020; 2023) critiques doctrinal

limitations in enforcing effective counsel standards, arguing that structural deficiencies in defense systems often escape judicial remedy.

Rudovsky (2014) similarly distinguishes between rhetorical commitments to Gideon and practical realities, noting that underfunding undermines constitutional fairness. Lefstein (2009) reinforces this view, characterizing indigent defense in many jurisdictions as systematically broken.

### 2.4 Rural Access and Compensation Disparities

Research on rural legal deserts highlights geographic inequities in access to counsel (Pruitt et al., 2018). Haksgaard (2020) shows that compensation levels significantly affect attorney availability in rural jurisdictions, exacerbating disparities in legal representation quality.

### 2.5 Research Gap

While prior studies address attorney incentives and systemic deficiencies, there remains a lack of integrated models that simultaneously evaluate efficiency and fairness in compensation systems at the state level. This study addresses this gap by constructing a combined legal-economic framework tailored to North Carolina's PAC system.

## 3. METHODOLOGY

### 3.1 Research Design

This study employs a qualitative-analytical and conceptual modeling approach grounded in legal economics. The methodology integrates doctrinal legal analysis with economic incentive theory to evaluate compensation structures.

### 3.2 Analytical Framework Development

A dual-dimensional model is developed:

#### (A) Efficiency Dimension

Efficiency is operationalized through:

- Cost per case handled
- Case throughput rates
- Attorney workload distribution
- Administrative overhead efficiency

#### (B) Fairness Dimension

Fairness is assessed using:

- Equity in compensation across case types
- Geographic distribution fairness (urban vs rural)
- Access parity for defendants
- Workload equity among attorneys

### 3.3 Incentive Structure Modeling

Building on Agan, Freedman, and Owens (2018), the

model incorporates incentive-response relationships. The framework assumes that attorney effort (E) is a function of compensation (C), workload (W), and marginal benefit expectations:

$$E = f(C, W, \text{expected returns})$$

Under flat-fee systems, marginal returns decrease as workload increases, potentially inducing effort minimization behaviors. This aligns with empirical findings that compensation structure significantly influences attorney selection and performance (Agan, Freedman, & Owens, 2018).

### 3.4 Data Sources

The analysis relies on:

- North Carolina Office of Indigent Defense Services reports (2017–2023)
- National Bureau of Economic Research working papers
- Peer-reviewed legal and economic literature
- Criminal justice statistical reports (North Carolina State Bureau of Investigation, 2023)

### 3.5 Evaluation Procedure

The model evaluates:

1. Structural efficiency of PAC compensation
2. Behavioral incentives affecting attorney performance
3. Distributional fairness across jurisdictions
4. Systemic implications for indigent defense outcomes

## 4. RESULTS

The analysis reveals three major findings.

First, the North Carolina PAC compensation system exhibits structural inefficiencies characterized by misaligned incentives and inconsistent overhead reimbursement. Flat-fee arrangements often fail to reflect case complexity, resulting in disproportionate workload burdens. This finding aligns with Agan, Freedman, and Owens (2018), who demonstrate that fixed compensation structures distort attorney effort allocation and case selection behavior.

Second, efficiency metrics indicate that attorney throughput does not necessarily correlate with case quality. While higher caseloads increase system output, they simultaneously reduce individualized attention per case, leading to potential declines in defense effectiveness. Anderson and Heaton (2011) similarly demonstrate that variations in attorney quality produce significant differences in case outcomes, reinforcing the importance of incentive alignment.

Third, fairness disparities are most pronounced in rural

jurisdictions, where compensation rates and attorney availability are lower. North Carolina IDS reports (2019; 2023) indicate persistent geographic inequities in access to qualified counsel, contributing to unequal defense outcomes across counties.

Additionally, incentive misalignment results in selective participation behavior among attorneys, where more experienced counsel may avoid low-compensation cases. This supports findings by Agan, Freedman, and Owens (2018), who identify systematic selection bias in public defense systems driven by compensation differentials.

## 5. DISCUSSION

The findings highlight a fundamental tension between efficiency and fairness in indigent defense compensation systems. While flat-fee structures may improve administrative predictability, they create significant distortions in attorney incentives, leading to reduced effort and potential quality degradation.

From a legal-economic perspective, the current North Carolina system reflects suboptimal equilibrium outcomes. Attorneys respond rationally to financial incentives, but these incentives are not aligned with constitutional goals of effective representation. Agan, Freedman, and Owens (2018) provide critical evidence that such misalignment leads to systematic inefficiencies in criminal defense delivery.

The fairness implications are particularly concerning in rural jurisdictions, where limited attorney availability exacerbates inequality. Pruitt et al. (2018) and Haksgaard (2020) confirm that geographic disparities significantly influence access to justice outcomes.

However, increasing compensation alone may not resolve inefficiencies. Without structural redesign, higher payments could still produce workload imbalances. Therefore, a hybrid compensation model—combining base salaries, case complexity adjustments, and performance-sensitive incentives—may offer a more balanced solution.

Limitations of this study include reliance on secondary data and the absence of direct micro-level case analysis. Future research should incorporate empirical datasets linking compensation levels directly to case outcomes.

## 6. CONCLUSION

This study developed a legal-economic framework to evaluate the efficiency and fairness of privately assigned attorney compensation systems in North Carolina. The findings demonstrate that current compensation structures generate significant inefficiencies and equity disparities, primarily due to misaligned incentives and inadequate adjustment for

case complexity and geography.

The research contributes to legal scholarship by integrating incentive theory with constitutional analysis, highlighting systemic weaknesses in indigent defense delivery. Consistent with Agan, Freedman, and Owens (2018), the study confirms that compensation design plays a decisive role in shaping attorney behavior and case outcomes.

Future reform efforts should prioritize hybrid compensation models that balance efficiency with fairness while ensuring compliance with constitutional standards of effective counsel.

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