

**Greenbook**  
**LSC Analysis of Enacted Budget**

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**Ohio Public Defender  
Commission**

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## **ATTACHMENT:**

Budget Spreadsheet By Line Item

# Ohio Public Defender Commission

- 45% county reimbursement rate expected
- GRF constitutes 37% of total biennial budget
- Indigent Defense Support Fund modified

## OVERVIEW

The Ohio Public Defender Commission provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent that person in criminal court.<sup>1</sup> Also significant is its role as administrator of the subsidy program that partially reimburses counties for indigent defense expenditures related to the operation of local public defender offices or the use of appointed counsel.

Other notable Commission activities include: (1) establishing the standards and guidelines for county public defenders and appointed counsel, (2) providing technical assistance to county public defenders and appointed counsel, (3) providing legal services to inmates at the state's correctional facilities, trial-level representation in some capital cases, and appellate and post-appeals representation in capital and noncapital cases, and (4) administering funds for the purpose of providing financial assistance to legal aid societies throughout the state.

## Appropriation Overview

Table 1 below summarizes the Commission's budget by fund group.

Table 1. Commission Appropriations by Fund Group, FY 2018-FY 2019 (Am. Sub. H.B. 49)					
Fund Group	FY 2017*	FY 2018	% change, FY 2017-FY 2018	FY 2019	% change, FY 2018-FY 2019
General Revenue	\$27,733,592	\$36,513,017	31.7%	\$37,873,017	3.7%
Dedicated Purpose	\$66,599,031	\$63,035,708	-5.4%	\$63,197,456	0.3%
Federal	\$193,933	\$45,611	-76.5%	\$38,315	-16.0%
<b>TOTAL</b>	<b>\$94,526,556</b>	<b>\$99,594,336</b>	<b>5.4%</b>	<b>\$101,108,788</b>	<b>1.5%</b>

\*FY 2017 figures represent actual expenditures.

<sup>1</sup> Criminal defendants have a constitutional right to court-appointed attorneys if the accused are financially unable to retain private counsel, a right guaranteed by the 6th and 14th Amendments to the U.S. Constitution. The right to counsel extends from the time that judicial proceedings have been initiated against the accused, whether by way of formal charge, preliminary hearing, indictment, information, or arraignment, through sentencing and appeal. There is no absolute right to appointed counsel in post-conviction proceedings.

To support the Commission's services and activities, the budget provides FY 2018 appropriations totaling \$99.6 million, an increase of \$5.1 million, or 5.4%, from the total FY 2017 expenditures of \$94.5 million. For FY 2019, the budget appropriates a total of \$101.1 million, an increase of \$1.5 million, or 1.5%, above the FY 2018 appropriation.

Of particular note are the differences between the amount of money appropriated from the GRF and the Dedicated Purpose Fund (DPF) Group in FY 2018 in comparison with their respective FY 2017 actual expenditures. The budget appropriates, for FY 2018, total GRF expenditures of \$36.5 million, an increase of \$8.8 million, or 31.7%, from FY 2017 total GRF expenditures of \$27.7 million. For FY 2018, the total amount of DPF money appropriated is \$63.0 million, a decrease of \$3.6 million, or 5.4%, from FY 2017 total DPF expenditures of \$66.6 million. These year-over-year differences largely reflect that, for the purposes of funding the county indigent defense services reimbursement system, the budget appropriates more GRF and less non-GRF.

### **Appropriation Allocations by Program Series**

The Commission's services and activities can be grouped into four distinct program series as follows:

1. State Legal Defense Services, the purpose of which is to provide legal representation and services to indigent adults, juveniles, and incarcerated individuals in state and federal courts when Ohio law, the Ohio Constitution, or the U.S. Constitution requires representation.
2. County-Level Indigent Defense, the purpose of which is to provide, facilitate, and improve the delivery of criminal defense services to indigent persons accused of crimes handled by common pleas, municipal, and county courts.
3. Civil Legal Aid Assistance, the purpose of which is to administer and fund the state's civil legal services program.
4. Program Management, the purpose of which is to provide the necessary services common to most state agencies, including fiscal and accounting, personnel and training, computer information systems, purchasing, fleet management, as well as collecting and processing indigent defense reimbursement payments and producing educational seminars and conferences.

Table 2 below shows the expected allocation of the Commission's total FY 2018 and FY 2019 appropriations for each of the four program series. The largest portions of the Commission's budget for the two-year span are expected to be allocated for county-level indigent defense (close to \$70 million annually, or 70%) and Civil Legal Aid Assistance (\$17.8 million annually, or 18%).

<b>Program Series</b>	<b>FY 2018</b>	<b>FY 2019</b>
County-Level Indigent Defense	\$68,847,568	\$70,094,909
Civil Legal Aid Assistance	\$17,760,000	\$17,760,000
State Legal Defense Services	\$8,659,419	\$8,834,472
Program Management	\$4,327,349	\$4,419,407
<b>TOTAL</b>	<b>\$99,594,336</b>	<b>\$101,108,788</b>

### Indigent Defense Support Fund

The budget modifies the percentage of the funds in the Indigent Defense Support Fund (Fund 5DY0) used for two purposes – county reimbursement and Commission operations – as follows:

- Specifies that the State Public Defender must use 83% (decreased from 88%) of the money in Fund 5DY0 for the purposes of reimbursing county governments for expenses incurred for indigent defense.
- Specifies that the State Public Defender may not use more than 17% (increased from 12%) of the money in the fund for the purposes of appointing assistant state public defenders; providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender Office; and providing training, developing and implementing electronic forms, or establishing and maintaining an information technology system.

### Personnel

The Commission consists of nine appointed members; the Governor appoints five, including the chair, and the Supreme Court of Ohio appoints the other four. No more than five members can be from one of the two major political parties. The Commission appoints a state public defender who maintains and administers the Office of the Ohio Public Defender.

Table 3 below summarizes the number of staff that the Commission paid, or will pay, on the last pay period of FY 2012 projected through FY 2019. The total amount appropriated for each year of the FY 2018-FY 2019 biennium is expected to be sufficient for the Commission to retain the equivalent of 138 or so full-time staff (FTEs).

**Table 3. Commission Staffing Levels,\* FY 2012-FY 2019\*\***

Activity	Fiscal Year							
	2012	2013	2014	2015	2016	2017	2018	2019
State Legal Defense	72.0	70.5	74.0	73.0	80.5	80.5	80.5	80.5
County Indigent Defense	28.0	30.0	32.5	33.5	34.7	34.7	35.0	35.0
Program Management	26.0	27.8	30.5	31.0	23.0	23.0	23.0	23.0
<b>TOTAL</b>	<b>126.0</b>	<b>128.3</b>	<b>137.0</b>	<b>137.5</b>	<b>138.2</b>	<b>138.2</b>	<b>138.5</b>	<b>138.5</b>

\*These numbers represent FTE staff positions.

\*\*FY 2017-FY 2019 are estimates.

### County Indigent Defense Services Delivery Systems

In meeting the right to counsel obligations in criminal matters, each county has the option of:

- Establishing a county public defender system.
- Establishing a joint county public defender system.
- Adopting a schedule to pay private appointed counsel.
- Contracting with the state public defender.
- Contracting with a nonprofit corporation.

The board of county commissioners in each county determines the method of providing indigent defense services. Currently, counties use one of four methods: court-appointed counsel (40), county public defenders (28), contract with the state's Office of the Ohio Public Defender (11), or contract with nonprofit corporations (9).

## **ANALYSIS OF ENACTED BUDGET**

### **Introduction**

This section provides an analysis of the funding for each appropriated line item in the Ohio Public Defender Commission's FY 2018-FY 2019 biennial budget. In this analysis, the Commission's line items are grouped into their program series reflecting the focus of its services and activities. For each program series, a table is provided listing the appropriation in each fiscal year of the biennium. Following the table, a narrative describes how the appropriation is used and any changes affecting the appropriation in the budget. The four program series used in this analysis are as follows:

1. State Legal Defense Services;
2. County-Level Indigent Defense;
3. Civil Legal Aid Assistance; and
4. Program Management.

To aid the reader in finding each line item in the analysis, Table 4 shows the category in which it has been placed, listing the line items generally in order within their respective fund groups and funds.

Table 4. Commission Appropriation Line Items by Category		
Fund	ALI and Name	Program Series
<b>General Revenue Fund Group</b>		
GRF 019401	State Legal Defense Services	1: State Legal Defense Services 4: Program Management
GRF 019403	Multi-County: State Share	2: County-Level Indigent Defense
GRF 019404	Trumbull County – State Share	2: County-Level Indigent Defense
GRF 019405	Training Account	2: County-Level Indigent Defense
GRF 019501	County Reimbursement	2: County-Level Indigent Defense
<b>Dedicated Purpose Fund Group</b>		
1010 019607	Juvenile Legal Assistance	1: State Legal Defense Services
4060 019603	Training and Publications	4: Program Management
4070 019604	County Representation	1: State Legal Defense Services 4: Program Management
4080 019605	Client Payments	4: Program Management
4C70 019601	Multi-County: County Share	2: County-Level Indigent Defense
4N90 019613	Gifts and Grants	1: State Legal Defense Services
4X70 019610	Trumbull County – County Share	2: County-Level Indigent Defense
5740 019606	Civil Legal Aid	3: Civil Legal Aid Assistance
5CX0 019617	Civil Case Filing Fee	1: State Legal Defense Services
5DY0 019618	Indigent Defense Support – County Share	2: County-Level Indigent Defense
5DY0 019619	Indigent Defense Support – State Share	1: State Legal Defense Services 4: Program Management
<b>Federal Fund Group</b>		
3GJ0 019622	Byrne Memorial Grant	2: County-Level Indigent Defense
3S80 019608	Federal Representation	1: State Legal Defense Services

## Program Series 1: State Legal Defense Services

This program series consists of line items that the Commission uses to pay for the provision of legal representation to indigent adults, juveniles, and incarcerated individuals in all courts when the U.S. Constitution requires representation, or when it is requested by the court, the county or joint county public defender, or an inmate. Most legal matters in which the state provides direct representation involve appeals or death penalty cases. Indigent defense for most other cases is provided locally by public defenders or assigned counsel.

Table 5 below shows the line items that are used to fund State Legal Defense Services, as well as their respective FY 2018 and FY 2019 appropriations. It is followed by a narrative describing the purpose of each appropriated line item, and how the FY 2018 and FY 2019 appropriation is expected to be allocated. The amount allocated from the Commission's total appropriation for State Legal Defense Services is expected to support an estimated 80.5 full-time equivalent (FTE) staff positions.

<b>Table 5. Appropriations for State Legal Defense Services</b>					
<b>Fund</b>	<b>ALI and Name</b>			<b>FY 2018</b>	<b>FY 2019</b>
<b>General Revenue Fund (GRF)</b>					
GRF	019401	State Legal Defense Services*		\$3,612,941	\$3,793,662
<b>General Revenue Fund Subtotal</b>				<b>\$3,612,941</b>	<b>\$3,793,662</b>
<b>Dedicated Purpose Fund (DPF) Group</b>					
1010	019607	Juvenile Legal Assistance		\$207,351	\$204,756
4070	019604	County Representation		\$407,613	\$413,815
4080	019605	Client Payments*		\$493,591	\$501,551
4N90	019613	Gifts and Grants		\$10,530	\$10,530
5CX0	019617	Civil Case Filing Fee		\$556,331	\$533,722
5DY0	019619	Indigent Defense Support – State Office*		\$3,333,217	\$3,338,121
<b>Dedicated Purpose Fund Group Subtotal</b>				<b>\$5,008,633</b>	<b>\$5,002,495</b>
<b>Federal Fund (FED) Group</b>					
3S80	019608	Federal Representation		\$37,845	\$38,315
<b>Federal Fund Group Subtotal</b>				<b>\$37,845</b>	<b>\$38,315</b>
<b>Total Funding: State Legal Defense Services</b>				<b>\$8,659,419</b>	<b>\$8,834,472</b>

\*For these noted line items, the amounts in the above table only reflect the portion of the appropriation that supports the State Legal Defense Services Program.

### State Legal Defense Services (GRF line item 019401)

This line item is used for the purpose of funding the operating expenses (personal services, purchased personal services, supplies and maintenance, equipment) associated primarily with the Commission's State Legal Defense Services program series.

The budget appropriates \$3,785,087 in FY 2018, an amount that is \$399,061, or 11.8%, more than the FY 2017 actual expenditures of \$3,386,026. In FY 2019, the appropriation is \$4,006,983, which is \$221,896, or 5.9%, more than the FY 2018 appropriation.

Each year's appropriation is expected to be allocated, in order of magnitude, across two of the Public Defender Commission's four program series: State Legal Defense Services and Program Management. In FY 2018 and FY 2019, the amounts allocated for the State Legal Defense Services program series is expected to be 95% of the line item's total appropriation. Of this amount, more than 90% is expected to cover personal services (wages, salaries, fringe benefits, and payroll checkoff charges); the remainder, in rough order of magnitude, for supplies and maintenance, and purchased personal services.

#### **Juvenile Legal Assistance (DPF line item 019607)**

This line item supports the provision of certain legal services to children committed to the Department of Youth Services.<sup>2</sup> For this purpose, the budget appropriates \$207,351 in FY 2018, an amount that is \$25,892, or 14.3%, more than the FY 2017 expenditure of \$181,459. For FY 2019, the appropriation is \$204,756, which is 1.3%, or \$2,595, less than the FY 2018 appropriation. The entirety of each year's appropriation is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll checkoff charges). The appropriations will be supported by cash transferred from the Department of Youth Services pursuant to an interdepartmental agreement.

#### **County Representation (DPF line item 019604)**

This line item contains payments for legal representation, and investigation or mitigation services provided to counties under certain circumstances. The use of this money is restricted to providing legal representation for indigent persons, or to provide investigation or mitigation services.

For FY 2018, the budget appropriates \$407,613, an increase of \$82,137, or 25.2%, more than the FY 2017 expenditure of \$325,476. The FY 2019 appropriation is \$413,845, a 1.5%, or \$6,202, increase from the FY 2018 appropriation. Almost the entirety of each year's appropriation is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll checkoff charges).

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<sup>2</sup> State law authorizes the State Public Defender to provide legal representation and services to a child committed to the Department of Youth Services (DYS) relative to the fact, duration, and conditions of the child's confinement. The Department of Youth Services is required to give the State Public Defender access to the child and any DHS institution or record that the State Public Defender needs to provide authorized representation and services (R.C. 120.06 and 5139.04).

**Client Payments (DPF line item 019605)**

This line item draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee.<sup>3</sup> The money primarily is used for operating expenses incurred by State Legal Defense Services.

The budget provides an appropriation of \$789,868 in FY 2018, an amount that is \$65,891, or 7.7%, less than FY 2017 expenditures of \$855,759. In FY 2019, the appropriation is \$807,884, which is \$18,016, or 2.3%, more than the FY 2018 appropriation.

Each year's appropriation is expected to be allocated, in order of magnitude, across two of the Public Defender Commission's four program series: State Legal Defense Services and Program Management. Over 60% of each year's appropriation is expected to be allocated for State Legal Defense Services: \$493,591 in FY 2018 and \$501,551 in FY 2019. Almost the entirety of that amount in each year is expected to cover personal services (wages, salaries, fringe benefits, and payroll checkoff charges).

**Gifts and Grants (DPF line item 019613)**

This line item is used to expend grants, donations, and awards from public and private sources received for a specific purpose that are credited to the Gifts and Grants Fund (Fund 4N90).

Presently, the fund receives an annual gift of \$10,530 from the Ohio State University Moritz College of Law to fund law students for the Commission's Wrongful Conviction Project. The Project focuses primarily on wrongful conviction claims that do not involve DNA evidence, including allegations of flawed science, witness misidentification, and false convictions. For this purpose, the budget provides an appropriation of \$10,530 in each of FYs 2018 and 2019, which is \$1,715, or 19.5%, more than the FY 2017 expenditure of \$8,815.

**Civil Case Filing Fee (DPF line item 019617)**

This line item is supported by a portion of filing fees collected in certain new civil actions and proceedings and credited to the Civil Case Filing Fee Fund (Fund 5CX0). The purpose of the money is to fund assistant public defenders and other personnel, equipment, and facilities necessary for operation of the Commission.

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<sup>3</sup> Existing law permits this money to be used to: (1) appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the Commission's operation, (2) reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems, and (3) provide assistance to counties in the operation of county indigent defense systems.

The budget provides an appropriation of \$556,331 and \$533,722 in FY 2018 and FY 2019, respectively. The appropriation for FY 2018 is \$115,353, or 26.2%, more than the FY 2017 expenditure of \$440,978. The FY 2019 appropriation is \$22,609, or 4.1%, less than the FY 2018 appropriation. Almost the entirety of the appropriated amount in each fiscal year is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll checkoff charges).

#### **Indigent Defense Support – State Share (DPF line item 019619)**

Funds for this line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), come from a mix of sources – OVI fines, court costs, bail bond fees, and license reinstatement fees – and are used for the Commission's operating costs.

The line item's FY 2018 appropriation is \$7,167,143, which is \$1,594,269, or 28.6%, more than the \$5,572,874 expended from the line item in FY 2017. The FY 2019 appropriation is \$7,212,874, which is \$45,731, or 0.6%, more than the FY 2018 appropriation. Of the total appropriation in each fiscal year, close to 50% is expected to be allocated to support a mix of operating expenses associated with State Legal Defense Services, primarily payroll. The remainder is likely to be allocated to Program Management.

#### **Federal Representation (FED line item 019608)**

This line item contributes to the funding of State Legal Defense Services, specifically the Death Penalty Division, which provides, coordinates, and supervises post-trial legal representation to indigent defendants in federal courts on federal habeas corpus proceedings where the defendant is appealing the imposition of a death sentence by a state trial court.<sup>4</sup>

It is supported by money appropriated from the Federal Representation Fund (Fund 3S80), which consists of payments collected from a federal court when it has appointed the State Public Defender to provide legal representation to an indigent defendant in a federal trial or in a federal habeas corpus proceeding, primarily matters involving the death penalty.

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<sup>4</sup>Habeas corpus is an appeal to the federal courts for wrongful conviction and unconstitutional imprisonment. A habeas petition is filed after a defendant has exhausted his or her direct appeal and state post-conviction remedies. In this instance, a defendant combines all of the prior claims raised on direct appeal and state post-conviction and he or she raises them in one petition in the United States District Court. All habeas cases, win or lose, are reviewed by the United States Court of Appeals for the Sixth Circuit in Cincinnati. In this habeas petition, the defendant may only seek relief on claims that involve a violation of the United States Constitution, for example, a violation of the 6th Amendment right to effective counsel or a violation of the 8th Amendment right to present mitigating evidence for sentencing.

The budget appropriates \$37,845 in FY 2018, an amount that is \$127,957, or 77.2%, less than the total FY 2017 expenditure of \$165,802. In FY 2019, the budget appropriates \$38,315, which is \$470, or 1.2%, more than the FY 2018 appropriation. The appropriated amount in each fiscal year is expected to be entirely allocated for personal services (wages, salaries, fringe benefits, and payroll checkoff charges).

## Program Series 2: County-Level Indigent Defense

This program series consists of line items that the Commission uses to provide, facilitate, and improve the delivery of criminal defense services to indigent persons accused of crimes handled by common pleas, municipal, and county courts. With this portion of its budget, the Commission partially subsidizes counties for the cost of providing counsel to indigent persons in criminal and juvenile matters.<sup>5</sup> State law stipulates that the Commission reimburse counties 50% of the costs of operating their local indigent defense systems, unless the legislature appropriates less funding than needed to reimburse at 50%, in which case each county receives a reduced, but equal share.

Table 6 below compares FY 2017 expenditures (GRF and non-GRF) for county reimbursement with the amounts expected to be allocated exclusively for that purpose in each of FYs 2018 and 2019. The FY 2018 total amount of \$68.8 million is \$1.5 million more than the FY 2017 expended total of \$67.3 million. The FY 2019 total amount is \$70 million, an increase of \$1.2 million over FY 2018. The FY 2018 and FY 2019 amounts are estimated to result in an annual county reimbursement rate of 45%, just slightly down from 46% in FY 2017. Even though the total amount available in FYs 2018 and 2019 is higher than what was available for county reimbursements in FY 2017, it is not expected to be sufficient to keep pace with the forecasted statewide increase in indigent defense costs.

<b>Fund Group</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
General Revenue	\$24.3	\$32.7	\$33.8
Dedicated Purpose	\$43.0	\$36.1	\$36.2
<b>TOTAL</b>	<b>\$67.3</b>	<b>\$68.8</b>	<b>\$70.0</b>

This program series' services and activities also include establishing standards (including indigence), guidelines, and maximum fees for state reimbursement of county-level indigent defense services, and monitoring county compliance with those standards.

Table 7 below shows the line items that are used to fund this category of services and activities, as well as the funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how the FY 2018 and FY 2019 appropriations are expected to be allocated. The amount allocated for County-Level Indigent Defense is expected to support an estimated 35 FTE staff positions.

<sup>5</sup> Pursuant to R.C. 120.18, 120.28, and 120.33 to 120.35.

**Table 7. Appropriations for County-Level Indigent Defense**

Fund		ALI and Name	FY 2018	FY 2019
<b>General Revenue Fund (GRF)</b>				
GRF	019403	Multi-County: State Share	\$2,058,370	\$2,079,410
GRF	019404	Trumbull County – State Share	\$553,340	\$548,413
GRF	019405	Training Account	\$50,000	\$50,000
GRF	019501	County Reimbursement	\$30,066,220	\$31,188,211
<b>General Revenue Fund Subtotal</b>			<b>\$32,727,930</b>	<b>\$33,866,034</b>
<b>Dedicated Purpose Fund (DPF) Group</b>				
4C70	019601	Multi-County: County Share	\$2,558,173	\$2,662,641
4X70	019610	Trumbull County – County Share	\$685,699	\$698,234
5DY0	019618	Indigent Defense Support – County Share	\$32,868,000	\$32,868,000
<b>Dedicated Purpose Fund Group Subtotal</b>			<b>\$36,111,872</b>	<b>\$36,228,875</b>
<b>Federal Fund (FED) Group</b>				
3GJ0	019622	Byrne Memorial Grant	\$7,766	\$0
<b>Federal Fund Group Subtotal</b>			<b>\$7,766</b>	<b>\$0</b>
<b>Total Funding: County-Level Indigent Defense</b>			<b>\$68,847,568</b>	<b>\$70,094,909</b>

### Training Account (GRF line item 019405)

This line item is used exclusively for the Commission's Pro Bono Training Program, under which it contracts with private and nonprofit training companies to provide continuing legal education (CLE) certified seminars to attorneys who practice criminal indigent defense law. The Commission pays the seminar companies a fee for each attorney who attends a seminar under the program.

The budget provides an appropriation of \$50,000 in each of FY 2018 and FY 2019, an amount that is \$15,785, or 46.1%, more than the FY 2017 expenditures totaling \$34,215. The budget should enable the Commission to provide training seminars to approximately 328 attorneys that are appointed to criminal cases. The entirety of each year's appropriation is expected to be allocated to pay companies to deliver pro bono training.

### County Reimbursement (GRF line item 019501)

This line item is used to reimburse counties for up to 50% of their indigent defense expenditures on both noncapital and capital cases. The appropriation for FY 2018 is \$30,066,220, an amount that is \$8,121,401, or 37%, more than the FY 2017 total expenditures of \$21,944,819. The FY 2019 appropriation is \$31,188,211, which is \$1,121,991, or 3.7%, more than the FY 2018 appropriation. These appropriations, when combined with non-GRF funding, are estimated to support a 45% rate of county reimbursement in FY 2018 and FY 2019. This would be a decrease from the prior

biennium's reimbursement rates: 48% in FY 2016 and about 46% in FY 2017. This is because declining revenues credited to the non-GRF Indigent Defense Support Fund (Fund 5DY0), which also supports indigent defense services, means that there is not sufficient money at hand to keep pace with increasing caseloads and related costs.

**Branch Offices (GRF line items 019403 and 019404; DPF line items 019601 and 019610)**

This set of line items pays for the expenses associated with operating branch offices. Under the Branch Offices Program, the State Public Defender provides local indigent defense services as an alternative to traditional appointed counsel or county public defender offices. The Commission currently operates two such offices, referred to as the Trumbull County Branch Office and the Multi-County Branch Office.<sup>6</sup>

Although the branch office systems operate as an alternative to traditional public defender offices and appointed counsel systems, these operations are still affected by changes in state funding just like the direct reimbursement systems.

These GRF and non-GRF appropriations for the branch offices are generally structured to keep the reimbursement rates for the branch offices equal to the reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share.

**Trumbull County Branch Office.** This office, established in FY 1985, provides local indigent defense services for Trumbull County. The appropriation for this branch office (GRF line item 019404 plus DPF line item 019610) totals around \$1.2 million annually.

**Multi-County Branch Office.** This office provides local indigent defense services to ten counties in the southern and southeastern part of Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington, with public defender offices located in Athens, Ross, and Washington counties. The Multi-County Branch Office was established in January 1991. The appropriation for this branch office (GRF line item 019403 plus DPF line item 019601) totals \$4.6 million and \$4.7 million for FYs 2018 and 2019, respectively.

**Indigent Defense Support – County Share (DPF line item 019618)**

This line item draws its appropriations from the Indigent Defense Support Fund (Fund 5DY0), and is used as part of the Commission's county reimbursement system. Fund 5DY0 consists of a mix of fines, fees, and court costs. The appropriations are \$32,868,000 in each of FYs 2018 and 2019, which is 18.1%, or \$7,259,591, less than the FY 2017 total expenditure of \$40,127,591. This decrease reflects declining revenues in

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<sup>6</sup> These state public defender-operated offices are authorized under R.C. 120.04(C)(7).

Fund 5DY0. At the beginning of the FY 2016-FY 2017 biennium, an average of between \$3.6 million and \$3.7 million was credited to Fund 5DY0 each month. The average has continued to decline and the Commission is projecting monthly revenues of about \$3.1 million in FYs 2018 and 2019. The budget offsets this decline by appropriating more GRF for the county reimbursement system.

**Byrne Memorial Grant (FED line item 019622)**

This line item is being used to expend a \$39,958 federal grant awarded by the state's Office of Criminal Justice Services for the purpose of reducing offender recidivism in Athens, Pike, and Meigs counties. The grant funds are paying for a social worker in the Athens County Branch Office who works with and assists clients in obtaining appropriate community services designed to reduce the client's likelihood of reoffending. The Commission does not anticipate renewal of this grant. The budget provides for an appropriation of \$7,766 in FY 2018 to cover any final expenses; no money is appropriated for FY 2019.

### Program Series 3: Civil Legal Aid Assistance

This program series exclusively supports the Civil Legal Aid Assistance program series, which distributes funds to the Ohio Legal Assistance Foundation (OLAF), a nonprofit entity, created by statute, and charged with administering state funds for Ohio's legal aid societies.<sup>7</sup> Table 8 below shows the single line item that is used for civil legal aid assistance purposes, as well as the funding levels.

Table 8. Appropriation for the Ohio Legal Assistance Foundation				
Fund		ALI and Name	FY 2018	FY 2019
<b>Dedicated Purpose Fund (DPF) Group</b>				
5740	019606	Civil Legal Aid	\$17,760,000	\$17,760,000
<b>Total Funding: Ohio Legal Assistance Foundation</b>			<b>\$17,760,000</b>	<b>\$17,760,000</b>

#### Civil Legal Aid (DPF line item 019606)

The budget appropriates \$17,760,000 in each of FYs 2018 and 2019 to support the state's legal aid societies. This amount is \$1,581,657, or 9.8%, more than FY 2017 expenditures of \$16,178,343.

The money for these purposes is appropriated from the Civil Legal Aid Fund (Fund 5740), which consists of: (1) interest generated on lawyer and title insurance trust accounts, and (2) additional filing fees collected on certain new civil actions and proceedings. Money from these dedicated funding sources is deposited in Fund 5740 and then passed through the Commission to the Foundation. The Foundation then administers payments to nonprofit legal aid societies that provide legal representation to indigent persons in civil cases. These payments are distributed pursuant to a statutory formula based on poverty population. Every county is served by one or more legal aid societies.

<sup>7</sup> The Foundation, established by H.B. 152 of the 120th General Assembly, effective July 1993, develops financial support and solicits financial contributions for use in providing assistance to Ohio's legal aid societies.

## Program Series 4: Program Management

This program series includes the services and activities performed by the Commission's Administrative Division, which provides the necessary services common to most state agencies, including fiscal and accounting, personnel and training, computer information systems, purchasing, fleet management, and delivery. The Division also provides certain required services: collecting reimbursement from the counties for legal services provided by the Ohio Public Defender, processing reimbursement to the counties for indigent defense programs, and producing educational seminars and conferences.<sup>8</sup>

The total amount to be allocated from the budget for the Program Management category in each of FY 2018 and FY 2019 is expected to be \$4,327,349 and \$4,419,407, respectively. The amounts are likely to be sufficient to maintain the current level of program management services, including personal services expenses (wages, salaries, fringe benefits, and payroll checkoff charges) for 23.0 FTE staff positions.

Table 9 below shows the line items that are used to fund Program Management services and activities, as well as the enacted funding levels. It is followed by a narrative describing the purpose of how the FY 2018 and FY 2019 appropriations will be allocated.

<b>Table 9. Appropriations for Program Management</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2018</b>	<b>FY 2019</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019401	State Legal Defense Services*	\$172,146	\$213,321
<b>General Revenue Fund Subtotal</b>			<b>\$172,146</b>	<b>\$213,321</b>
<b>Dedicated Purpose Fund (DPF) Group</b>				
4060	019603	Training and Publications	\$25,000	\$25,000
4080	019605	Client Payments*	\$296,277	\$306,333
5DY0	019619	Indigent Defense Support – State Office	\$3,833,926	\$3,874,753
<b>Dedicated Purpose Fund Group Subtotal</b>			<b>\$4,155,203</b>	<b>\$4,206,086</b>
<b>Total Funding: Program Management</b>			<b>\$4,327,349</b>	<b>\$4,419,407</b>

\*For these noted line items, the amounts in the above table only reflect the portion of the appropriation that supports Program Management.

### State Legal Defense Services (GRF line item 019401)

This line item is used for the purpose of funding the operating expenses (payroll, purchased personal services, supplies and maintenance, equipment) associated primarily with the Commission's State Legal Defense Services program series, and secondarily Program Management. The amount allocated for Program Management is

<sup>8</sup> R.C. Chapter 120.

expected to be \$172,146 in FY 2018 and \$213,321 in FY 2019. Well over 50% of each year's allocation is expected to be allocated for personal services (wages, salaries, fringe benefits, and payroll checkoff charges); the remainder for a mix of supplies and maintenance, and purchased personal services.

### **Training and Publications (DPF line item 019603)**

This line item is used to pay for training and educational programs for attorneys and others involved with the legal representation of indigent persons. For this purpose, the budget appropriates \$25,000 in each of FYs 2018 and 2019, which is \$1,655, or 6.2%, less than the FY 2017 expenditure of \$26,655.

The line item is supported by money appropriated from the Training and Publications Fund (Fund 4060). The money is expected to be generated from a nominal fee that the Commission plans to charge attendees of its training and educational programs.

### **Client Payments (DPF line item 019605)**

This line item draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee. Each year's appropriation is expected to be allocated, in order of magnitude, across two of the Commission's four program series: State Legal Defense Services and Program Management.

For the portion of this line item supporting Program Management, the expected allocation is \$296,277 in FY 2018 and \$306,333 in FY 2019. Almost the entirety of each year's appropriation is expected to cover personal services (wages, salaries, fringe benefits, and payroll checkoff charges).

### **Indigent Defense Support – State Share (DPF line item 019619)**

Of this line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), just over 50% of the annual appropriation is expected to be allocated to support Program Management. The remainder is expected to be allocated to State Legal Defense Services.

For the portion of the line item supporting Program Management, the expected allocation is \$3,833,926 in FY 2018 and \$3,874,753 in FY 2019. This allocation will primarily support personal services (wages, salaries, fringe benefits, and payroll checkoff charges); the remainder a mix of supplies and maintenance and purchased personal services.

# FY 2018 - FY 2019 Final Appropriation Amounts

# All Fund Groups

## Line Item Detail by Agency

			FY 2016	FY 2017	Appropriation FY 2018	FY 2017 to FY 2018 % Change	Appropriation FY 2019	FY 2018 to FY 2019 % Change
<b>Report For Main Operating Appropriations Bill</b>			<b>Version: As Enacted</b>					
<b>PUB Ohio Public Defender Commission</b>								
GRF	019401	State Legal Defense Services	\$ 3,267,564	\$ 3,386,026	\$ 3,785,087	11.79%	\$ 4,006,983	5.86%
GRF	019403	Multi-County: State Share	\$ 1,841,726	\$ 1,850,905	\$ 2,058,370	11.21%	\$ 2,079,410	1.02%
GRF	019404	Trumbull County - State Share	\$ 517,171	\$ 517,626	\$ 553,340	6.90%	\$ 548,413	-0.89%
GRF	019405	Training Account	\$ 43,550	\$ 34,215	\$ 50,000	46.13%	\$ 50,000	0.00%
GRF	019501	County Reimbursement	\$ 21,813,038	\$ 21,944,819	\$ 30,066,220	37.01%	\$ 31,188,211	3.73%
<b>General Revenue Fund Total</b>			<b>\$ 27,483,049</b>	<b>\$ 27,733,592</b>	<b>\$ 36,513,017</b>	<b>31.66%</b>	<b>\$ 37,873,017</b>	<b>3.72%</b>
1010	019607	Juvenile Legal Assistance	\$ 217,355	\$ 181,459	\$ 207,351	14.27%	\$ 204,756	-1.25%
4060	019603	Training and Publications	\$ 0	\$ 26,655	\$ 25,000	-6.21%	\$ 25,000	0.00%
4070	019604	County Representation	\$ 326,981	\$ 325,476	\$ 407,613	25.24%	\$ 413,815	1.52%
4080	019605	Client Payments	\$ 968,100	\$ 855,759	\$ 789,868	-7.70%	\$ 807,884	2.28%
4C70	019601	Multi-County: County Share	\$ 2,045,903	\$ 2,264,582	\$ 2,558,173	12.96%	\$ 2,662,641	4.08%
4N90	019613	Gifts and Grants	\$ 15,519	\$ 8,815	\$ 10,530	19.45%	\$ 10,530	0.00%
4X70	019610	Trumbull County - County Share	\$ 573,840	\$ 616,499	\$ 685,699	11.22%	\$ 698,234	1.83%
5740	019606	Civil Legal Aid	\$ 15,123,770	\$ 16,178,343	\$ 17,760,000	9.78%	\$ 17,760,000	0.00%
5CX0	019617	Civil Case Filing Fee	\$ 343,678	\$ 440,978	\$ 556,331	26.16%	\$ 533,722	-4.06%
5DY0	019618	Indigent Defense Support - County Share	\$ 36,501,225	\$ 40,127,591	\$ 32,868,000	-18.09%	\$ 32,868,000	0.00%
5DY0	019619	Indigent Defense Support - State Office	\$ 5,003,934	\$ 5,572,874	\$ 7,167,143	28.61%	\$ 7,212,874	0.64%
<b>Dedicated Purpose Fund Group Total</b>			<b>\$ 61,120,304</b>	<b>\$ 66,599,031</b>	<b>\$ 63,035,708</b>	<b>-5.35%</b>	<b>\$ 63,197,456</b>	<b>0.26%</b>
3GJ0	019622	Byrne Memorial Grant	\$ 30,349	\$ 28,131	\$ 7,766	-72.39%	\$ 0	-100.00%
3S80	019608	Federal Representation	\$ 44,202	\$ 165,802	\$ 37,845	-77.17%	\$ 38,315	1.24%
<b>Federal Fund Group Total</b>			<b>\$ 74,551</b>	<b>\$ 193,933</b>	<b>\$ 45,611</b>	<b>-76.48%</b>	<b>\$ 38,315</b>	<b>-16.00%</b>
<b>Ohio Public Defender Commission Total</b>			<b>\$ 88,677,904</b>	<b>\$ 94,526,556</b>	<b>\$ 99,594,336</b>	<b>5.36%</b>	<b>\$ 101,108,788</b>	<b>1.52%</b>