

LSC Redbook

Analysis of the Executive Budget Proposal

Ohio Public Defender Commission

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READER'S GUIDE

The Legislative Service Commission prepares an analysis of the executive budget proposal for each agency. These analyses are commonly called "Redbooks." This brief introduction is intended to help readers navigate the Redbook for the Ohio Public Defender Commission (PUB), which includes the following four sections.

1. **Overview:** Provides a description of the Commission's existing functions and staffing, and an overview of the Commission's executive recommended budget for the FY 2010-FY 2011 biennium, and notes other important budgetary matters.
2. **Facts and Figures:** Provides a visual time series summary of county-level indigent defense services (reimbursement rates, caseloads, costs).
3. **Analysis of Executive Proposal:** Provides a detailed analysis of the Commission's executive recommended budget, including the funding and purposes for each appropriated line item, and the services and activities that are financed by those appropriated moneys.
4. **Attachments:** Includes LSC's Catalog of Budget Line Items (COBLI), which describes each line item's purpose, revenue, and expenditures, and the LSC budget spreadsheet, which summarizes each line item's recent expenditure and appropriations history.

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ATTACHMENTS:

- Catalog of Budget Line Items
- Budget Spreadsheet By Line Item

Ohio Public Defender Commission

- Shifting to more non-GRF funding sources
- County reimbursement rate expected to be about 44%
- Civil Legal Aid revenues decline

OVERVIEW

Right to Counsel

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 Sixth and Fourteenth 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 postconviction proceedings.

Duties and Responsibilities

The Ohio Public Defender Commission, which was created effective January 13, 1976, pursuant to Am. Sub. H.B. 164 of the 111th General Assembly, provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent that person in criminal court. Arguably, from a fiscal perspective, the Commission's most significant role is 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:

- Establishing the standards and guidelines for county public defenders and appointed counsel, including a maximum fee schedule, and supervising the compliance with these standards.
- Providing technical assistance to county public defenders and appointed counsel.
- 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.
- Serving as a portal through which funds are transferred to the Ohio Legal Assistance Foundation (OLAF) for the purpose of providing financial assistance to legal aid societies throughout the state.

The Commission itself consists of nine appointed members. The Governor appoints five of the members, including the chair. The Supreme Court of Ohio appoints the other four members. To foster a nonpartisan structure, no more than five Commission 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. The Commission and the Office of the Ohio Public Defender share a common state budget.

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).

Mandated GRF Expenditure Reductions

Over the period covering FYs 2001 through 2005, the Governor, in response to ongoing revenue shortfalls, cut the Commission's enacted GRF appropriations by a total of approximately \$17.3 million. In order to reduce its GRF expenditures, the Commission took numerous actions that cut payroll and maintenance costs, delayed equipment purchases, and generally created more efficiency and less spending. Perhaps most notably, the Commission reduced the size of its payroll, largely through attrition. To date, in the current FY 2008-FY 2009 biennium, further GRF cuts totaling about \$5.3 million were mandated by the Governor. As a result of these appropriation reductions, the Commission cut the county indigent defense reimbursement rate to about 25%, and eliminated six staff positions through attrition.

Transition to Non-GRF Revenue Sources

The FY 2010-FY 2011 biennial budget, as recommended by the Governor, marks the initiation of a more noticeable transition away from GRF moneys and toward non-GRF generated revenue streams.

Over the previous two biennial budgets, the Commission's reliance on GRF funding to pay for indigent defense legal services was quite clear, and stood at about 89% of its annual criminal legal services budget. Non-GRF funding sources accounted for the remainder, or 11%.¹ As mentioned above, the Commission has faced, in recent years, several rounds of reductions in their GRF funding for indigent defense services. Several years ago, the Commission began to seek various non-GRF sources of funding as a way of replacing reductions in its GRF appropriations.

In the executive recommended budget for the FY 2010-FY 2011 biennium, of the Commission's criminal legal services budget, GRF and non-GRF funding will pay for approximately 40% and 60%, respectively. The executive budget calls for deep cuts in key GRF line items used by the Commission, cuts that are predicated on significant offsetting increases in non-GRF funding. These recent and proposed revenue enhancements are discussed in more detail below.

Recently Enacted Revenue Enhancements

Indigent Defense Application Fee

Am. Sub. H.B. 66, the main operating appropriations act of the 126th General Assembly, enacted a permanent law provision that generated revenue from a nonrefundable \$25 indigent defense application fee. The purpose of this revenue stream was to support program activities of the Commission that would otherwise have been in financial jeopardy. Of this locally collected fee, 20% is transmitted to the Commission, which must deposit the remitted fees into the state treasury to the credit of the Client Payment Fund (Fund 4080), and the remainder, or 80%, is retained by the collecting county to offset the costs of providing legal representation to indigent persons. As of FY 2009, this fee appears to be generating about \$400,000 annually for use by the Office of the Public Defender. Assuming this is a reasonably accurate figure suggests that counties are retaining an estimated \$1.6 million statewide to offset the costs of providing legal representation to indigent persons.

Civil Case Filing Fees

Am. Sub. H.B. 66 also:

- Increased the surcharge on civil actions not in a small claims division (from \$15 to \$26) and on civil actions in a small claims division (from \$7 to \$11) that

¹ These percentages do not take into account rather large non-GRF appropriations dedicated for use by the Ohio Legal Assistance Foundation (OLAF) to provide civil legal services to indigent persons. These appropriations are housed in the Public Defender Commission's budget structure, but they are transferred directly to OLAF and are not used by the Commission for the provision of any indigent criminal defense services.

are used for the charitable purpose of providing financial assistance to legal aid societies.

- Added a \$26 fee on name change, guardianship, adoption proceedings, and decedent estate proceedings to be used for the same purpose.

Current law requires 4% of the funds collected be deposited in the state treasury to the credit of the Civil Case Filing Fee Fund (Fund 5CX0) to be used by the Public Defender for the purpose of appointing assistant public defenders and for providing other personnel, equipment, and facilities necessary for operation of the Public Defender, and requires the remainder of the funds collected (96%) be deposited in the state treasury to the credit of the Legal Aid Fund (Fund 5740). As of FY 2009, this fee appears to be generating about \$700,000 annually for use by the Office of the Ohio Public Defender.

Indigent Defense Support Fund

Sub. S.B. 209, enacted by the 127th General Assembly, created the Indigent Defense Support Fund (Fund 5DY0) in the state treasury to provide support for indigent criminal defense services. The Act increased the mandatory fines for operating a vehicle while under the influence (OVI) violations at both the top and the bottom of their respective ranges and essentially directed that a specified amount of that increase, ranging between \$75 and \$500 depending on the nature of the offense, be deposited in the state treasury to the credit of Fund 5DY0.

Table 1 immediately below displays the range of the mandatory OVI fines under prior law and as changed by the Act, as well as the specified amount for each category of violation that is to be collected and forwarded for deposit in Fund 5DY0.

Category of OVI Violation	Fine Range (Prior Law)	Fine Range (Current Law)	Fund 5DY0 Deposited Amount
1st offense in 6 years	\$250-\$1,000	\$325-\$1,075	\$75
2nd offense in 6 years	\$350-\$1,500	\$475-\$1,625	\$125
3rd offense in 6 years	\$550-\$2,500	\$800-\$2,750	\$250
4th or 5th offense in 6 years or 6th in 20 years	\$800-\$10,000	\$1,300-\$10,500	\$500
2nd or more OVI felonies in lifetime	\$800-\$10,000	\$1,300-\$10,500	\$500

Under current law, Fund 5DY0 also receives revenue from a provision contained in the recently enacted Am. Sub. H.B. 562 of the 127th General Assembly requiring the court to impose and collect an additional \$10 in court costs for moving violations. Half of the revenue generated from this additional court cost is credited to Fund 5DY0.

These two funding mechanisms – an earmarked increase in OVI fines and the \$10 additional court cost – are, in combination, expected to generate about \$6 million annually for deposit in the state treasury to the credit of Fund 5DY0 for the purpose of reimbursing counties for the cost of providing criminal defense services to indigent persons.

Executive Revenue Enhancement Recommendations

The executive budget for the FY 2010-FY 2011 biennium proposes to create several new non-GRF revenue-generating mechanisms to be used by the Public Defender Commission to offset a reduction in GRF appropriations, and, to the extent possible, improve the process of reimbursing counties for the provision of indigent defense services. As proposed, these additional revenues are to be deposited in the state treasury to the credit of the existing Indigent Defense Support Fund (Fund 5DY0).

To generate these additional non-GRF revenues the bill proposes to:

- Increase, to \$30 for a felony offense and \$20 for a misdemeanor offense other than a traffic offense that is not a moving violation, the additional court cost traditionally used for public defender support.
- Impose a \$10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation.
- Increase the general driver license reinstatement fee (from \$30 to \$40).
- Increases the reinstatement fee for a financial responsibility violation from \$75 to \$100 for a first violation, from \$250 to \$300 for a second violation, and from \$500 to \$600 for a third violation.
- Increases, from \$15 to \$25, the reinstatement fee for a person who commits a specified traffic offense, motor vehicle equipment offense, or motor vehicle crime that is a misdemeanor, other than a minor misdemeanor, and whose license is forfeited for failing to appear in court to answer the charge or pay the fine.
- Establishes a surcharge of \$25 to be paid when a person posts bail and retained for deposit in the state treasury if the person is convicted, pleads guilty, or forfeits bail.

Relative to the moneys deposited in the state treasury to the credit of Fund 5DY0 and their statutorily mandated purpose, the executive budget:

- Requires the amounts of the fee, court cost, and surcharge increases described in the immediately preceding dot points be deposited in the state treasury to the credit of Fund 5DY0.

- Requires the Office of the Ohio Public Defender to disburse at least 90% of the money in the fund not less than once per year to reimburse counties for the costs of public defender systems.
- Authorizes the Office of the Ohio Public Defender to use up to 10% of the money in the fund to support the operations of the Office.

Table 2 immediately below provides a breakdown of the estimated non-GRF revenues to be generated both pursuant to current law and the executive proposed fee, court cost, and surcharge increases.

Table 2. Indigent Defense Support Fund Revenue Estimates, FYs 2010-2011					
Non-GRF Revenue Source	Annual Revenue Estimate	FY 2010*		FY 2011*	
		State Share	County Share	State Share	County Share
Mandatory OVI Fine	\$5,000,000	\$300,000	\$2,700,000	\$400,000	\$3,600,000
Moving Violation Court Cost	\$3,700,000	\$222,000	\$1,998,000	\$296,000	\$2,664,000
State Court Costs	36,900,000	\$2,214,000	\$19,926,000	\$2,952,000	\$26,568,000
Financial Responsibility Reinstatement Fee	\$4,500,000	\$270,000	2,430,000	\$360,000	\$3,240,000
General Driver's License Reinstatement Fee	\$850,000	\$51,000	\$459,000	\$68,000	\$612,000
License Reinstatement Fee (Class F Suspension)	\$500,000	\$30,000	\$270,000	\$40,000	\$360,000
Bail Surcharge	No estimate	No estimate	No estimate	No estimate	No estimate
TOTALS	\$51,450,000	\$3,087,000	\$27,783,000	\$4,116,000	\$37,044,000

*Revenue estimates for FYs 2010 and 2011 are based on the assumption of a collection rate of 60% and 80%, respectively.

Appropriations Overview

The Commission's adjusted FY 2009 appropriations are compared with the executive recommendations for FYs 2010 and 2011, by fund group, in Table 3 below. To support the Commission's services and activities, the executive budget recommends FY 2010 appropriations totaling \$95.5 million, an increase of \$13.1 million, or 15.9%, from the total adjusted FY 2009 appropriation of \$82.4 million. For FY 2011, the executive budget recommends appropriations totaling \$100.3 million, or 5.0%, above the FY 2010 recommendation. The notable storyline is the executive's intention to accelerate moving financial support for the Commission's operations and county indigent defense reimbursement program away from the GRF and toward non-GRF resources, in particular moneys appropriated from accounts in the State Special Services Fund Group.

Table 3. Executive Budget Recommendations by Fund Group, FY 2010-FY 2011

Fund Group	FY 2009*	FY 2010	% change, FY 2009-FY 2010	FY 2011	% change, FY 2010-FY 2011
General Revenue	\$33,883,946	\$29,706,138	-12.3%	\$23,957,200	-19.4%
General Services	\$1,510,965	\$1,805,524	19.5%	\$1,865,764	3.3%
State Special Revenue	\$46,715,840	\$63,829,449	36.6%	\$74,309,677	16.4%
Federal Special Revenue	\$305,419	\$202,347	-33.7%	\$212,303	4.9%
TOTALS	\$82,416,170	\$95,543,458	15.9%	\$100,344,944	5.0%

*FY 2009 figures represent adjusted appropriations.

Expense by Program Series Summary

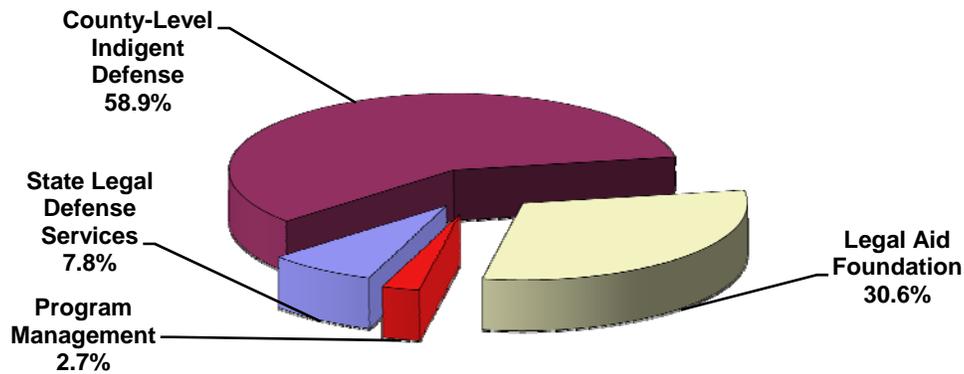
Chart 1 below shows the total recommended appropriations (FYs 2008 and 2009) by program series.² The Commission's services and activities can be grouped into four distinct program series as follows:

- 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 court.
- Legal Aid Foundation, the purpose of which is to administer and fund the state's civil legal services program.
- 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.
- 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.

Based on the biennial executive budget recommendations, the largest portions of the Commission's budget for the two-year span will be allocated for county-level indigent defense (58.9%) and the Legal Aid Foundation (30.6%).

² A program series is a service and/or activity or a closely related group of services and/or activities that correspond to a major focus, goal, need, problem, or objective.

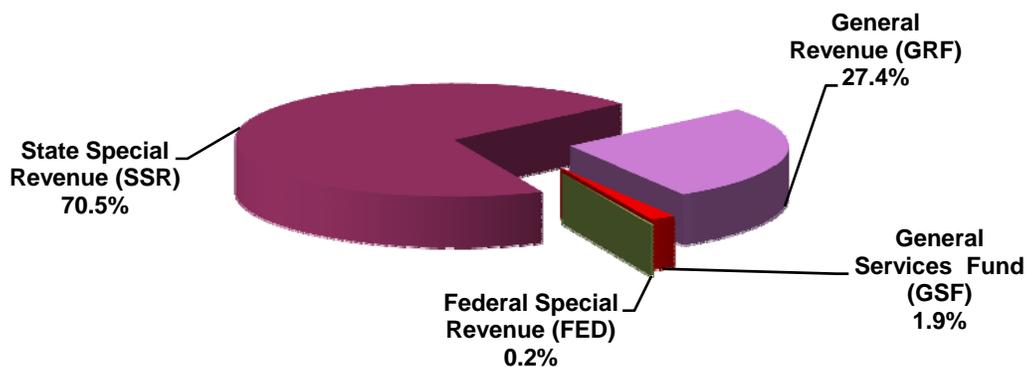
Chart 1: Biennial Executive Budget Recommendations by Program Series, FY 2010-FY 2011



Expense by Fund Group Summary

As Chart 2 below shows, of the Commission's two-year executive recommended budget, moneys appropriated from accounts in the State Special Revenue (SSR) Fund Group comprise around 70.5%, and GRF appropriations will pay for 27.4%. The remainder, or 2.1%, of budgetary funding will be drawn from moneys appropriated from other revenue sources in the state treasury, including, in order of magnitude, the General Services Fund (GSF) Group and the Federal Special Revenue (FED) Fund Group.

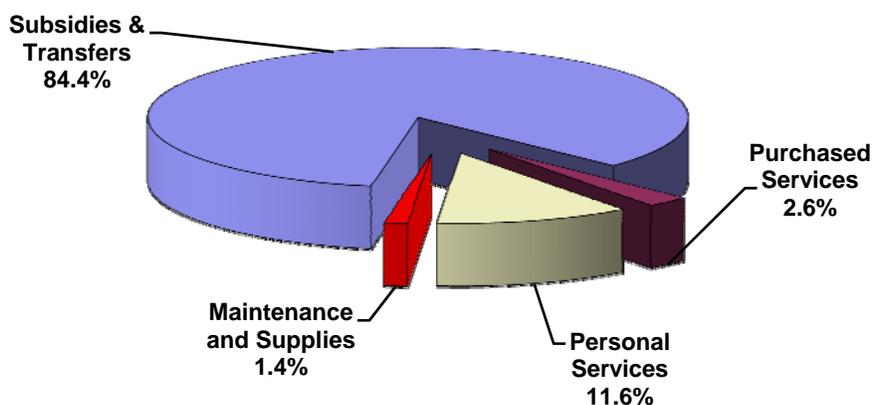
Chart 2: Biennial Executive Budget Recommendations by Fund Group, FY 2010-FY 2011



Object of Expense Summary

Chart 3 below summarizes, based on the executive recommendations, the types of items on which the Commission plans to spend its appropriated moneys for the two-year period (FYs 2010 and 2011). Nearly 85% of the Commission's expenditures will be allocated for a mix of subsidies and transfers, which includes county indigent defense reimbursement payments and financing for civil legal aid distributed by the Ohio Legal Aid Foundation. The second largest category of expense is personal services (11.6%), essentially the payroll-related expenses for approximately 118.0 full-time equivalent (FTE) staff positions. Smaller amounts will be allocated for purchased personal services (2.6%) and maintenance and supplies (1.4%). Not captured in the chart is .03% of the total biennial budget to be allocated for equipment purchases, which amounts to around \$28,000 annually out of a budget in the range of \$95 million to \$100 million per year.

**Chart 3: Biennial Executive Budget Recommendations
by Expense Category, FY 2010-FY 2011**



Staffing Levels

Table 4 immediately below summarizes the number of staff that the Commission paid, or will pay, on the last pay period of FYs 2004 through 2011. Two facets of this data can be highlighted. First, the Commission has reduced its number of staff in order to cut expenditures and stay within available appropriations. Second, it appears that the executive recommended budget will permit the Commission to more or less maintain its current staffing level.

Table 4. Commission Staffing Levels,* FYs 2004-2011								
Activity	2004	2005	2006	2007	2008	2009**	2010**	2011**
State Legal Defense	74.5	71.5	71.5	77.0	74.5	70.0	69.5	69.5
County Indigent Defense	27.5	27.5	27.5	29.0	28.0	28.0	28.0	28.0
Program Management	22.0	22.0	22.0	20.5	23.5	21.5	20.5	20.5
TOTALS	124.0	121.0	121.0	126.5	126.0	119.5	118.0	118.0

*These numbers represent full-time equivalent (FTE) staff positions.

**FY 2009 measures actual FTEs as of this date, while FYs 2010 and 2011 are estimates.

Attorney Merit Raises

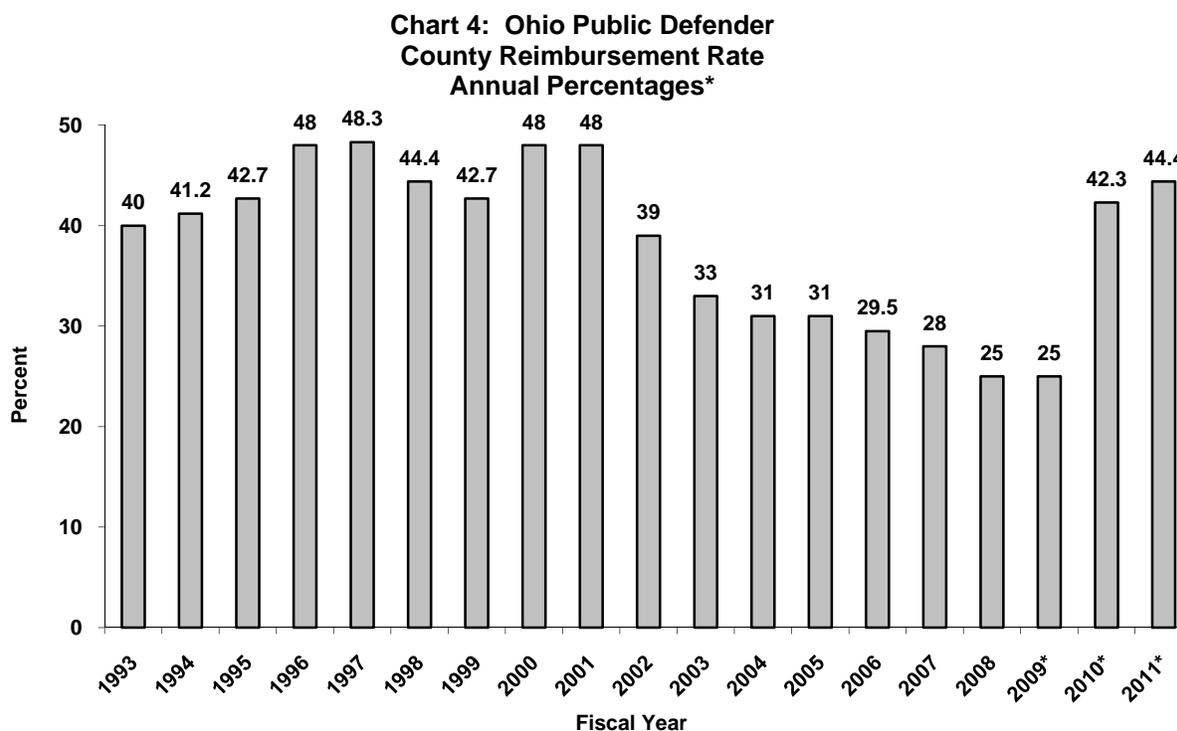
The Commission is implementing a new merit-based pay system for agency attorneys as part of their ongoing recruitment and retention efforts. All of the agency attorneys are exempt and unclassified, and thus have been subject to various restrictions placed on raises for personnel in this category. The result has been a large attrition problem, especially with respect to mid-career attorneys with five to 15 years of experience. These experienced attorneys are leaving the Commission for higher paying jobs. This new merit pay system is expected to result in an average pay increase of about 5% for most of the attorneys in each year of the FY 2010-FY 2011 biennium. The likely cost is estimated to be approximately \$300,000 in additional payroll spending in each fiscal year, and will likely be supported with moneys appropriated to non-GRF line item 019619, Indigent Defense Support – State Share, and GRF line item 019321, Public Defender Administration.

FACTS AND FIGURES

This section of the Redbook provides a visual time series summary of certain aspects of indigent defense services delivered locally by the state and counties (reimbursement rates, caseloads, costs).

County Indigent Defense Reimbursement Rate

Chart 4 immediately below captures the Commission's annual county indigent defense reimbursement rate for FYs 1993 through 2011. In the nine-year period covering FYs 1993 through 2001, that rate ranged between 40% and 48%. Since that time, the Commission's annual county reimbursement rate has declined to around 25% in FY 2009. The addition of new non-GRF funding sources in FYs 2010 and 2011 will result in a projected increase in the reimbursement rate to approximately 42% in FY 2010 and 44% in FY 2011.



*The FY 2009 through 2011 annual percentages for the county reimbursement rate in the above graph are estimates.

Pursuant to the Ohio Public Defender Law enacted in 1976, the state was required to reimburse counties for 50% of the costs associated with the provision of legal counsel to indigents. Effective July 1, 1979, pursuant to Am. Sub. H.B. 204 of the 113th General Assembly, the provision was amended to state that, if the amount appropriated by the General Assembly in any fiscal year is insufficient to pay 50% of

the costs associated with the provision of legal counsel to indigents, the amount of money paid is to be reduced proportionately so that each county is paid an equal percentage of its total costs. FY 1991 was the last time the Commission was able to reimburse counties for 50% of their indigent defense costs.

County-Level Indigent Defense Caseloads

Table 5 immediately below displays a breakdown of the total number of indigent defense cases that were closed annually from FYs 1992 through 2008, along with the estimated total number of indigent cases that are estimated to be closed annually from FYs 2009 through 2011. That breakdown shows closed cases that were directly handled by counties in some manner (the "Appointed Counsel," "Public Defender," and "Death Penalty" columns in the below table) and closed cases that were handled by the state in the form of the Office of the Ohio Public Defender Commission (the "Multi-County" and "Trumbull County" columns in the below table).

Fiscal Year	Appointed Counsel	Public Defender	Death Penalty	Multi-County	Trumbull County	Total Cases
1992	65,126	143,044	107	5,172	3,081	216,530
1993	67,321	151,676	129	5,370	3,091	227,587
1994	68,740	156,523	106	5,910	3,066	234,345
1995	68,738	170,668	111	6,929	3,488	249,934
1996	75,351	164,008	122	7,156	3,265	249,902
1997	72,883	184,519	120	7,660	4,139	269,321
1998	76,199	180,957	147	7,966	4,160	269,429
1999	88,738	189,787	140	10,197	4,753	293,615
2000	95,305	207,718	133	11,013	4,783	318,952
2001	103,495	209,129	106	10,873	4,745	328,348
2002	112,891	200,285	123	11,831	5,638	330,768
2003	126,356	240,244	108	11,977	6,330	385,015
2004	131,009	246,218	131	12,892	5,089	395,339
2005	137,833	247,613	142	12,485	6,128	404,201
2006	138,595	252,183	147	13,152	6,520	410,597
2007	137,092	245,322	136	12,472	6,376	401,398
2008	133,767	253,496	87	14,459	5,786	407,595
2009*	140,460	266,170	90	15,180	6,080	427,980
2010*	147,480	279,480	90	15,940	6,380	449,370
2011*	154,850	293,450	90	16,740	6,700	471,830

*The data associated with FYs 2009 through 2011 are estimates.

Relative to Table 5 above, the caseload data for the period covering FYs 1992 through 2008 include the following highlights:

- The number of indigent defense cases closed annually by counties and the Office of the Ohio Public Defender Commission combined almost doubled, from 216,530 to 407,595, an increase of 88.2%.
- The number of indigent defense cases closed annually by counties (appointed counsel + public defender + death penalty) increased by 85.9%, from 208,277 to 387,350.
- The number of indigent defense cases closed annually by the Office of the Ohio Public Defender Commission (Multi-County + Trumbull County) increased by 145.3%, from 8,253 to 20,245 cases.

Of the total number of indigent defense cases closed annually by counties and the Office of the Ohio Public Defender Commission combined, counties typically handled around 95%.

Cost of County-Level Indigent Defense Services

Table 6 immediately below displays a breakdown of the total annual costs to counties and the Office of the Ohio Public Defender Commission for the provision of trial-level indigent defense services. That breakdown shows the costs associated with indigent defense cases that were directly handled by counties in some manner (the "Non-Capital Cases" and "Capital Cases" columns in the below table) and the costs associated with indigent defense cases handled by the state in the form of the Office of the Ohio Public Defender (the "Multi-County" and "Trumbull County" columns in the below table).

Table 6. County-Level Indigent Defense Amount Subject to State Reimbursement & Branch Office Costs					
Fiscal Year	Non-Capital Cases	Capital Cases	Multi-County	Trumbull County	Total Cases
1992	\$39,829,961	\$1,863,669	\$1,022,538	\$481,055	\$43,197,223
1993	\$42,970,070	\$2,370,609	\$1,343,043	\$657,937	\$47,341,659
1994	\$45,297,398	\$1,851,788	\$1,466,811	\$574,328	\$49,190,325
1995	\$46,006,401	\$1,940,440	\$1,550,604	\$638,865	\$50,136,310
1996	\$47,134,045	\$1,822,116	\$1,641,873	\$661,383	\$51,259,417
1997	\$49,294,565	\$1,915,573	\$1,851,456	\$698,931	\$53,760,525
1998	\$54,973,281	\$2,479,280	\$2,052,513	\$732,528	\$60,237,602
1999	\$57,887,608	\$2,074,700	\$2,091,608	\$756,009	\$62,809,925
2000	\$65,038,160	\$1,766,673	\$2,359,659	\$819,094	\$69,983,586
2001	\$70,127,153	\$1,758,853	\$2,484,460	\$844,302	\$75,214,768
2002	\$79,916,063	\$1,978,301	\$2,507,604	\$860,862	\$85,262,830

Table 6. County-Level Indigent Defense Amount Subject to State Reimbursement & Branch Office Costs					
Fiscal Year	Non-Capital Cases	Capital Cases	Multi-County	Trumbull County	Total Cases
2003	\$88,592,159	\$2,141,417	\$2,585,325	\$863,038	\$94,181,939
2004	\$92,160,364	\$2,501,675	\$2,630,153	\$875,049	\$98,167,241
2005	\$96,170,308	\$2,337,473	\$2,607,554	\$850,974	\$101,966,309
2006	\$101,314,190	\$2,644,462	\$2,730,857	\$864,448	\$107,553,957
2007	\$103,319,659	\$2,348,198	\$2,803,450	\$891,265	\$109,362,572
2008	\$107,407,242	\$1,699,900	\$2,919,391	\$926,142	\$112,952,675
2009*	\$112,736,000	\$2,500,000	\$3,021,600	\$958,600	\$119,216,200
2010*	\$117,066,000	\$2,500,000	\$3,114,764	\$1,024,326	\$123,705,090
2011*	\$121,398,000	\$2,500,000	\$3,288,566	\$1,055,816	\$128,242,382

*The data associated with FYs 2009 through 2011 are estimates.

Relative to Table 6 above, the cost data for the period covering FYs 1992 through 2008 include the following highlights:

- The annual cost to counties of providing indigent defense services (non-capital cases + capital cases) more than doubled (161.7%), from \$41.7 million to \$109.1 million, an increase of \$67.4 million.
- The annual cost to the Office of the Ohio Public Defender Commission of providing trial-level indigent defense services more than doubled (155.8%), from \$1.5 million to \$3.8 million, an increase of \$2.3 million.

ANALYSIS OF EXECUTIVE PROPOSAL

Introduction

This section provides an analysis of the Governor's recommended funding for each appropriated line item in the Ohio Public Defender Commission's FY 2010-FY 2011 biennial budget. In this analysis, the Commission's line items are grouped into four major categories reflecting the focus of its services and activities. For each category, a table is provided listing the recommended 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 that are proposed by the Governor. The four categories used in this analysis are as follows:

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

To aid the reader in finding each line item in the analysis, the following table shows the category in which it has been placed, listing the line items generally in order within their respective fund groups and funds. This is the same order the line items appear in the budget bill.

Table 7. Categorization of the Commission's Appropriation Line Items for Analysis of Executive Proposal		
Fund	ALI and Name	Category
General Revenue Fund Group		
GRF 019321	Public Defender Administration	4: Program Management
GRF 019401	State Legal Defense Services	1: State Legal Defense Services
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
General Services Fund Group		
1010 019602	Inmate Legal Assistance	1: State Legal Defense Services
4070 109604	County Representation	1: State Legal Defense Services
4080 019605	Client Payments	4: Program Management
5CX0 019617	Civil Case Filing Fee	4: Program Management
Federal Special Revenue Fund Group		
3S80 019608	Federal Representation	1: State Legal Defense Services
State Special Revenue Fund Group		
4C70 019601	Multi-County: County Share	2: County-Level Indigent Defense
4X70 019610	Trumbull County – County Share	2: County-Level Indigent Defense
574 019606	Civil Legal Aid	3: Ohio Legal Assistance Foundation
5DY0 019618	Indigent Defense Support – County Share	2: County-Level Indigent Defense
5DY0 019619	Indigent Defense Support – State Share	4: Program Management

Category 1: State Legal Defense Services

This category of appropriations encapsulates the 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 by local public defenders.

The executive recommended FY 2010 and FY 2011 GRF appropriations for the State Legal Defense Services category are about 23.4% and 39.2% less, respectively, than the adjusted FY 2009 GRF appropriation. This funding reduction is part of a larger transition that moves the paying of certain Commission operating expenses away from the GRF and toward a greater reliance on non-GRF revenue sources. This loss in GRF appropriations is essentially replaced by revenues deposited in the non-GRF Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share, which was created to support operations of the Commission. The moneys appropriated from Fund 5DY0 should be sufficient to maintain the current level of State Legal Defense Services.

Table 8 immediately below shows the line items that are used to fund this category of services and activities, as well as the Governor's recommended funding levels. It is followed by a narrative describing the specific types of services and activities grouped under the State Legal Defense Services category, and then a discussion of the purpose of each appropriated line item and how its recommended FY 2010 and FY 2011 appropriations will be allocated.

Table 8. Governor's Recommended Amounts for State Legal Defense Services				
Fund	ALI and Name		FY 2010	FY 2011
General Revenue Fund (GRF)				
GRF	019401	State Legal Defense Services	\$4,377,500	\$3,471,400
General Revenue Fund Subtotal			\$4,377,500	\$3,471,400
General Services Fund (GSF) Group				
1010	019602	Inmate Legal Assistance	\$0	\$0
4070	019604	County Representation	\$196,650	\$207,143
General Services Fund Group Subtotal			\$196,650	\$207,143
Federal Special Revenue Fund (FED) Group				
3S80	019608	Federal Representation	\$202,347	\$212,303
Federal Special Revenue Fund Group Subtotal			\$202,347	\$212,303
Total Funding: State Legal Defense Services			\$4,776,497	\$3,890,846

The specific types of services and activities grouped under the State Legal Defense Services category are described in more detail below.

- ***Appeals and Postconviction Representation.*** This is a program with the purpose of providing legal representation in state and federal courts to indigent persons who have been tried, found guilty, and claim they are unlawfully incarcerated. Claims of unlawful incarceration of indigent persons are reviewed to determine whether their claims have arguable merit. If arguable merit is present, attorney staff may litigate the claim in the appropriate court. This program has 12 staff attorneys and three supervising attorneys who provide representation in over 800 cases per year where the indigent claim unlawful incarceration.
- ***Death Penalty Representation.*** This is a program with the purpose of providing competent legal counsel to indigent persons under the sentence of death (Ohio's death row inmates on direct appeal, state postconviction, federal habeas corpus, and clemency appeals), as well legal assistance, criminal investigation and mitigation, and trial services to private appointed attorneys in such cases. This program also supports training seminars on death penalty law to help ensure that the state bar meets requirements imposed under Ohio Supreme Court Superintendence Rule 20. Of the program's 17 attorneys, 14 are available to work on capital appeals, postconviction, and habeas corpus cases. The Ohio Public Defender is the counsel of record for roughly half of the inmates on death row. These attorneys not only provide counsel during the review of death penalty cases through the state courts, but also as those cases go through the federal habeas litigation process, which is complex and time consuming.
- ***Intake and Prison Services.*** This program consists of three units: (1) Intake, which fields calls, handles routine questions, and receives initial requests for legal representation, (2) Records Management, which opens new case files, gathers relevant documents, delivers the files to supervisors for attorney assignment, and generates statistical reports, and (3) Prison Legal Services, which provides legal advice to inmates at the three reception centers in Ohio's prison system. Incoming inmates receive an orientation, information regarding their legal rights, and an opportunity to speak with an attorney regarding their case. The program also provides representation in select parole revocation matters. During FY 2008, the Commission provided representation in 308 parole board cases; a similar annual caseload is expected in FYs 2010 and 2011.

- ***Juvenile Legal Assistance.*** This is a program the purpose of which is to provide legal assistance and representation to juveniles who have been committed to the Department of Youth Services (DYS). Upon entering a DHS correctional facility, juveniles receive an orientation from staff attorneys and have an opportunity to have their case reviewed. Currently, the average daily population of juveniles committed to the care and custody of DHS is around 1,500. Additional activities include gathering general information for the juvenile, correcting sentencing errors, filing motions in juvenile court, and representing juveniles on appeal. With limited staff resources (this section has only 5 attorneys), not every case can be heard. Those cases with the strongest issues and the highest probability for relief will be processed. The program also coordinates and provides training to defense attorneys who handle juvenile work and provides legislative advocacy on right to counsel issues and other substantive issues involving children in the juvenile justice system.
- ***Legal Resource Center.*** This program supports the Commission's Law Library, which is maintained pursuant to section 120.04(B)(1) of the Revised Code requiring it to maintain an office equipped with a library of adequate size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment. The Law Library maintains a collection of print and electronic media materials to be used by Commission staff. Reference and research resources are also provided to all Commission staff, county public defenders, appointed counsel, and correctional institution librarians.
- ***Trial Services.*** This is a program the purpose of which is to provide direct representation and assistance to local counsel in trial level cases to indigent defendants throughout Ohio. Given that only three staff attorneys are available, representation is provided in a limited number of cases. Generally, the only times this program provides representation is when there are no local attorneys qualified to provide representation in a case. This typically involves serious capital cases. Representation may also be provided in situations where local counsel is available, but none are willing to take the case. With some frequency, local judges appoint Trial Services Program attorneys to take over the representation of an indigent defendant whose case proved to be too difficult or time consuming for a private appointed attorney to form the constitutionally requisite attorney-client relationship.
- ***Investigation Services.*** This is a program the purpose of which is to provide both criminal and mitigation investigation services for Commission staff attorneys on trial and appellate level death penalty and non-death penalty

cases on behalf of indigent defendants in both adult and juvenile courts in Ohio. The program also provides criminal and mitigation investigation services for county public defender attorneys and court appointed attorneys on death penalty and non-death penalty cases on behalf of indigent defendants.

The immediately following narrative discusses the purpose of each appropriated line item for State Legal Defense Services and how its recommended FY 2010 and FY 2011 appropriations will be allocated.

State Legal Defense Services (GRF line item 019401)

This GRF line item contains the bulk of the money appropriated for the purpose of funding the payroll, maintenance, and equipment costs associated with State Legal Defense Services. The executive recommended appropriation for FY 2010 is \$4,377,500, which is \$1,405,916, or 23.4%, less than the adjusted FY 2009 appropriation of \$5,714,832. The executive recommended FY 2011 appropriation is for \$3,471,400, which is 20.7% less than the FY 2010 recommendation and 39.2% less than the FY 2009 adjusted appropriation.

The practical effect of this reduction in GRF appropriations will not compromise the current level of State Legal Defense Services. Instead, as noted, the reduction in GRF funding for these services and activities is part of the transition away from GRF funding and toward greater reliance on non-GRF revenue sources. The proposed GRF reductions made to this line item are essentially replaced by non-GRF revenues deposited in the Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share.

The appropriated GRF amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$3.7 million in FY 2010 and \$2.9 million FY 2011), purchased personal services (\$194,000), maintenance and supplies (\$403,000), and equipment purchases (\$6,700). The number of full-time equivalent (FTE) staff positions these appropriations will support in FYs 2010 and 2011 are estimated at 40.5 and 29.5, respectively. There is an indicator that a portion of the costs of paying for FY 2010 State Legal Defense Services will be shifted to non-GRF line item 019619, which is located under a set of Commission services and activities referred to as program management.

Inmate Legal Assistance (GSF line item 019602)

This GSF line item has funded an inmate legal assistance program at the state's Marion Correctional Institution since 1991. Specifically covered are the payroll, maintenance, and equipment costs associated with one legal services attorney. The program started at the Marion Correctional Institution in response to a court case that led to a mandate that one attorney be located at the correctional institution to run the

prison's law library. In 1987, the program shifted to one that utilized law school interns to provide more general legal assistance, before taking on its current focus in 1991, in which the attorney running the correctional institution's law library also provides representation to inmates at parole revocation hearings. This line item was funded by quarterly payments transferred from the GRF maintenance budget of the Ohio Department of Rehabilitation and Correction's Marion Correctional Institution.

The executive budget proposes no appropriations for this line item, as the program is being eliminated. The attorney who ran the law library at Marion Correctional has been transferred to the Public Defender's Columbus office.

County Representation (GSF line item 019604)

This GSF line item contains payments for legal representation, and investigation or mitigation services provided to counties under certain circumstances. The use of these moneys is statutorily restricted to be used by the State Public Defender to provide legal representation for indigent persons, or to provide investigation or mitigation services.

The executive budget provides the Commission requested appropriation for this line item in each of FYs 2010 and 2011: \$196,650 and \$207,143, respectively. The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$178,000), purchased personal services (\$10,000), and between \$13,000 and \$14,000 for maintenance and supplies. It is expected that the appropriations will support 2.0 full-time equivalent (FTE) staff positions in each fiscal year.

Federal Representation (FED line item 019608)

This federal line item contributes to the funding of State Legal Defense Services, particularly those involving death penalty representation, and contains the payments collected from a federal court that offset some of the costs incurred by the Office of the State Public Defender when that court has appointed the State Public Defender to provide legal representation to an indigent defendant in federal habeas corpus proceedings, primarily matters involving the death penalty. These federal payments are used by the Commission's Death Penalty Division to provide, coordinate, and supervise 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.

The executive budget provides the Commission requested appropriation for this line item in each of FYs 2010 and 2011: \$202,347 and \$212,303, respectively. These executive recommended appropriations are lower than the adjusted FY 2009 appropriation of \$305,419. This reduction can be explained by the presence of two Ohio-based Capital Habeas Units (CHU) established by the federal court system. These

CHUs provide legal representation to indigent defendants in federal habeas corpus proceedings in cases where the State Public Defender may have been appointed to provide the same services. Since the federal government can assume more of the work in these cases, the Commission will not likely seek federal reimbursement at the same level as FY 2009.

The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$180,000), purchased personal services (\$10,000), and between \$17,000 and \$18,000 for maintenance and supplies. It is expected that the appropriations will support 1.0 full-time equivalent (FTE) staff position in each fiscal year.

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 postconviction remedies. In this instance, a defendant combines all of the prior claims raised on direct appeal and state postconviction 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.

Category 2: County-Level Indigent Defense

This category of appropriations encapsulates the 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 pursuant to the requirements of sections 120.18, 120.28, and 120.33 through 120.35 of the Revised Code. The Revised Code 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.

These 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.

The total recommended GRF appropriations for County-Level Indigent Defense (nearly \$41 million over the next biennium) reflect reductions in the amount of GRF that will be appropriated for the purpose of distributing county reimbursement payments. The total GRF amount that will be distributed for this purpose during the current biennium is estimated at nearly \$56 million, which means \$15 million less in GRF funding will be appropriated for FYs 2010 and 2011 combined. That GRF funding reduction is more than replaced by the addition of nearly \$65 million in new non-GRF funding, which will permit the Commission to increase the county reimbursement rate from about 25% in FY 2009 to around 42.3% in FY 2010 and 44.4% in FY 2011. Taking the reimbursement rate up to 50% would require additional funding of approximately \$9.2 million in FY 2010 and \$6.8 million in FY 2011.

Table 9 immediately below shows the line items that are used to fund this category of services and activities, as well as the Governor's recommended funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its recommended FY 2010 and FY 2011 appropriations will be allocated.

Table 9. Governor's Recommended Amounts for County-Level Indigent Defense				
Fund		ALI and Name	FY 2010	FY 2011
General Revenue Fund (GRF)				
GRF	019403	Multi-County: State Share	\$1,308,201	\$1,456,835
GRF	019404	Trumbull County – State Share	\$430,217	\$467,727
GRF	019405	Training Account	\$50,000	\$50,000
GRF	019501	County Representation	\$22,767,720	\$17,898,638
General Revenue Fund Subtotal			\$24,556,138	\$19,873,200
State Special Revenue (SSR) Fund Group				
4C70	019601	Multi-County: County Share	\$2,227,056	\$2,384,210
4X70	019610	Trumbull County – County Share	\$732,393	\$765,467
5DY0	019618	Indigent Defense Support – County Share	\$27,783,000	\$37,044,000
State Special Revenue Fund Group Subtotal			\$30,742,449	\$40,193,677
Total Funding: County-Level Indigent Defense			\$55,298,587	\$60,066,877

Training Account (GRF line item 019405)

This GRF 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 executive recommendation of \$50,000 in each of FYs 2010 and 2011 represent a 64.2% increase over the adjusted FY 2009 appropriation of \$30,450. In previous years, the appropriations in this line item have been cut, and the Commission, in response, was forced to reduce training opportunities. In FYs 2010 and 2011, the Commission would like to re-establish previous levels of training, and ultimately provide training sessions to every attorney appointed to criminal cases. The executive recommended budget should enable the Commission to provide training seminars to about 328 attorneys. All of the amounts appropriated in each fiscal year will be used to pay companies to deliver pro bono training.

The seminar companies presently charge \$125 per attorney for a regular one-day seminar and \$200 per attorney for the two-day Rule 20 seminars. The seminars are provided free of charge to attorneys who are employees of a county public defender office, who contract with the Ohio Public Defender to represent criminal defendants, or who agree to provide representation in an indigent case at no charge to the state. There are currently over 4,000 private attorneys who accept indigent criminal appointments in this state, as well as over 360 part-time or full-time public defenders.

County Reimbursement (GRF line item 019501)

This GRF line item has been used to reimburse counties for up to 50% of their indigent defense expenditures on both non-capital and capital cases. If the available appropriations are insufficient to reimburse 50% of the indigent defense expenditures for non-capital and capital cases, then the reimbursement percentage for each of the public defender offices and appointed counsel systems is reduced equally.

The executive recommended appropriation for FY 2010 is \$22,767,720, which is \$3,203,674, or 12.3%, less than the adjusted FY 2009 appropriation of \$25,971,394. The FY 2011 recommended appropriation is \$17,898,638, which is 21.4% less than the FY 2010 recommendation and 31.1% less than the adjusted FY 2009 appropriation. As noted, these reductions are part of an overall strategy to transition support for the Commission's services and activities away from GRF funding and toward greater reliance on non-GRF revenue sources.

Branch Offices (GRF line items 019403/019404; SSR line items 019601/019610)

This set of GRF and SSR line items pay 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. These state public defender-operated offices are authorized under section 120.04(C)(7) of the Revised Code.

For FY 2009, the branch office system is projected to handle 21,260 cases at a cost of about \$3.9 million. The branch office system is projected to handle 22,320 and 23,440 cases in FYs 2010 and 2011, respectively.

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. The executive recommendation for the GRF state share of the branch office system is more than 80% greater in FYs 2010 and 2011 than the adjusted FY 2009 appropriations for this purpose. This increase is designed to keep the reimbursement rates for the branch offices equal to the higher reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share. These counties are expected to receive much higher reimbursement rates, exceeding 40% over the next two fiscal years. Since the branch offices are funded with different line items, the executive has adjusted the state share of the branch office appropriations to keep the reimbursement rates equal across all counties.

Trumbull County Branch Office. This office, established in FY 1985, provides local indigent defense services for Trumbull County.

The recommended appropriation for this branch office (GRF line item 019404 and SSR line item 019610) totals around \$1.2 million annually. The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$597,000), purchased personal services (\$521,000), maintenance and supplies (\$74,000), and equipment purchases (\$4,700). It is expected that the appropriations will support 6.5 full-time equivalent (FTE) staff positions in each fiscal year.

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 recommended appropriation for this branch office (GRF line item 019403 and SSR line item 019601) totals in the range of \$3.5 million to \$3.8 million annually. The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$1.8 million), purchased personal services (\$1.6 million), maintenance and supplies (\$255,000), and for equipment purchases (\$11,000). It is expected that the appropriations will support 21.5 full-time equivalent (FTE) staff positions in each fiscal year.

Indigent Defense Support – County Share (SSR line item 019618)

This SSR line item, which draws its appropriations from the Indigent Defense Support Fund (Fund 5DY0), will be used as part of the Commission's county reimbursement system. The executive recommended FY 2010 appropriation for this line item is \$27,783,000, which reflects the best estimate, by Commission staff, of the non-GRF revenues likely to be collected from the mix of fines, fees, and court costs that feed the Fund 5DY0. The FY 2010 appropriation is based on the expectation of a 60% total collection rate. The recommended FY 2011 appropriation is \$37,044,000, and is based on the expectation of an 80% collection rate.

The recommended biennial appropriation for this line item, when combined with the nearly \$41 million in biennial funding for indigent defense reimbursement appropriated to GRF line item 019501, County Reimbursement, provides a substantial increase in funding for County-Level Indigent Defense. The combined amount of recommended GRF and non-GRF appropriations for county indigent defense reimbursement totals about \$50.6 million in FY 2010, and about \$54.9 million in FY 2011 (GRF line item 019501 + SSR line item 019618). The overall reimbursement rates will increase from about 25% in FY 2009 to around 42.3% in FY 2010 and 44.4% in FY 2011.

Category 3: Ohio Legal Assistance Foundation

This category of appropriations is exclusively to support operations of the Ohio Legal Assistance Foundation (OLAF), which is a nonprofit entity, created by statute, and charged with administering state funds for Ohio's legal aid societies. The Foundation, established by Am. Sub. 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. Moneys from dedicated funding sources, including, but not limited to, the interest earned on certain trust and real estate escrow accounts, are deposited to the credit of the Legal Aid Fund (Fund 5740) and are 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 to legal aid societies throughout the state pursuant to a statutory formula based on poverty population. Every county is served by one or more legal aid societies.

Table 10 immediately below shows the lone line item that is used for civil legal aid purposes, as well as the Governor's recommended funding levels. It is then followed by a narrative describing how that appropriation amount will be used, and as appropriate, the implications of the Governor's recommended funding levels.

Table 10. Governor's Recommended Amounts for the Ohio Legal Assistance Foundation				
Fund	ALI and Name		FY 2010	FY 2011
State Special Revenue (SSR) Fund Group				
5740	019606	Civil Legal Aid	\$30,000,000	\$30,000,000
Total Funding: Ohio Legal Assistance Foundation			\$30,000,000	\$30,000,000

Civil Legal Aid (SSR line item 019606)

The executive recommended budget does not fully fund the Commission's requested annual appropriation levels for this SSR line item, the purpose of which is to support the state's legal aid societies. The Commission requested \$40 million in each of FYs 2010 and 2011, but the recommended appropriation is \$30 million in each fiscal year. The revenue received from certain interest bearing trust and real estate escrow accounts is very sensitive to fluctuations in interest rates. In recent years, the federal funds rate, which affects these accounts, has been steadily decreasing. In June 2006, the federal funds rate was 5.25%, and by the end of calendar year 2008 had dropped to about 2%. Since these accounts are currently generating less revenue, the FYs 2010 and 2011 recommended appropriations were reduced accordingly.

Prior to FY 2006, 4.5% of the line item's annual appropriation was reserved to pay for the Foundation's actual, reasonable costs in administering the program. As a result of a statutory change contained in Am. Sub. H.B. 66, the main operating appropriations act for the 126th General Assembly, the Foundation is now permitted to keep an additional 15% of the revenues credited to Fund 5740. Under current law, then, this 15% is combined with the 4.5% that was previously used to administer the program, and this combined amount is then transferred to an entirely different fund, the Legal Assistance Foundation Fund, which is not a fund of the state treasury, but rather a private fund under the Foundation's custody and control.

Pursuant to division (D)(1)(c) of section 120.53 and division (A) of section 120.521 of the Revised Code, the 15% set aside is used to: actively solicit and accept gifts, bequests, donations, and contributions for use in providing financial assistance to legal aid societies; to enhance or improve the delivery of civil legal services to indigents; and operate the foundation. In each of FYs 2010 and 2011, approximately \$5.8 million, or 19.5%, of the civil legal aid revenues will be transferred to the Legal Assistance Foundation Fund. An additional \$7,000 in each of FYs 2010 and FY 2011 will be charged as administrative costs borne by the Commission for salaries and telephone expenses associated with managing Foundation activities.

Category 4: Program Management

This category encompasses 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. In addition, the Administrative Division also provides services specifically mandated by Chapter 120. of the Revised Code, including: 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.

The recommended GRF appropriations for FYs 2010 and 2011 are less than the adjusted FY 2009 GRF appropriation. This funding reduction is part of a larger transition that moves the paying of certain Commission operating expenses away from the GRF and toward a greater reliance on non-GRF revenue sources. This loss in GRF appropriations is largely replaced by revenues deposited in the non-GRF Indigent Defense Support Fund (Fund 5DY0) and appropriated to line item 019619, Indigent Defense Support – State Share, which was created to support operations of the Commission. The moneys appropriated from Fund 5DY0 should be sufficient to maintain the current level of program management services and activities.

Table 11 immediately below shows the line items that are used to fund this category of services and activities, as well as the Governor's recommended funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its recommended FY 2010 and FY 2011 appropriations will be allocated.

Table 11. Governor's Recommended Amounts for Program Management				
Fund	ALI and Name		FY 2010	FY 2011
General Revenue Fund (GRF)				
GRF	019321	Public Defender Administration	\$772,500	\$612,600
General Revenue Fund Subtotal			\$772,500	\$612,600
General Services Fund (GSF) Group				
4080	019605	Client Payments	\$865,798	\$886,500
5CX0	019617	Civil Case Filing Fee	\$743,076	\$772,121
General Services Fund Group Subtotal			\$1,608,874	\$1,658,621
State Special Revenue (SSR) Fund Group				
5DY0	019619	Indigent Defense Support – State Share	\$3,087,000	\$4,116,000
State Special Revenue Fund Group Subtotal			\$3,087,000	\$4,116,000
Total Funding: Program Management			\$5,468,374	\$6,387,221

Public Defender Administration (GRF line item 019321)

The GRF line item provides funding for the Administrative Division's payroll, maintenance, and equipment costs associated with delivering agency support services, including, but not limited to, fiscal and accounting, human resources, computer information systems, general office services (purchasing, inventory, records management, fleet management, and delivery), library maintenance, and county reimbursement collections and payments.

The line item's executive recommended appropriation for FY 2010 is \$722,500, which is \$455,009, or 37.1%, less than the adjusted FY 2009 appropriation of \$1,227,509. The FY 2011 recommended appropriation is \$612,600, which is 20.7% less than the FY 2010 recommendation and 50.0% less than the adjusted FY 2009 appropriation. As noted, the reduction in GRF funding will be offset by tapping into moneys appropriated to SSR line item 019619, Indigent Defense Support – State Share.

The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$500,000 to \$640,000), purchased personal services (\$8,000 to \$10,000), maintenance and supplies (\$90,000 to \$113,000), and for equipment purchases (\$5,000 to \$6,000). It is expected that the appropriations will support 7.0 full-time equivalent (FTE) staff positions in FY 2010, and 5 FTEs in FY 2011.

Client Payments (GSF line item 019605)

This GSF line item draws its appropriations from payments collected from certain defendants and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee. These moneys may only 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 executive budget provides the Commission requested appropriation for this line item in each of FYs 2010 and 2011: \$865,798 and \$886,500, respectively. The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$830,000 to \$850,000), and maintenance and supplies (\$36,000). It is expected that the appropriations will support 10.5 full-time equivalent (FTE) staff positions in each fiscal year.

Civil Case Filing Fee (GSF line item 019617)

The GSF line item is supported by certain locally collected filing fees that are deposited in the state treasury for the purpose of appointing assistant public defenders and for providing other personnel, equipment, and facilities necessary for operation of the Ohio Public Defender Commission.

The executive budget provides the Commission requested appropriation for this line item in each of FYs 2010 and 2011: \$743,076 and \$772,131, respectively. Of those appropriated amounts, about \$733,900 in FY 2010 and \$762,700 in FY 2011 will be allocated for the payroll expenses supporting approximately 9.0 full-time equivalent (FTE) staff positions. The remaining appropriation will be allocated for maintenance and supplies in the amount of about \$9,200 in FY 2010 and \$9,400 in FY 2011.

Indigent Defense Support – State Share (SSR line item 019619)

This SSR line item, which draws its appropriations from the Indigent Defense Support Fund (Fund 5DY0), will be used to support Commission operating expenses. The line item's executive recommended appropriations total \$3,087,000 and \$4,116,000 in FYs 2010 and 2011, respectively. The appropriated amount in each fiscal year will be more or less roughly allocated as follows: payroll-related expenses (\$2.6 million in FY 2010 and \$3.5 million in FY 2011), purchased personal services (\$110,000 in FY 2010 and \$150,000 in FY 2011), and maintenance and supplies (\$335,000 in FY 2010 and \$450,000 in FY 2011). It is expected that the appropriations will support 21.0 full-time equivalent (FTE) staff positions in FY 2010 and increase to 33 FTEs in FY 2011.

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General Revenue Fund

GRF 019321 Public Defender Administration

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$1,289,281	\$1,263,331	\$1,252,281	\$1,227,509	\$772,500	\$612,600
	-2.0%	-0.9%	-2.0%	-37.1%	-20.7%

Source: GRF

Legal Basis: Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FYs 1998 and 1999)

Purpose: The line item provides funding for the Administrative Division's payroll, maintenance, and equipment costs associated with delivering agency support services, including, but not limited to, fiscal and accounting, human resources, computer information systems, general office services (purchasing, inventory, records management, fleet management, and delivery), library maintenance, and county reimbursement collections and payments.

GRF 019401 State Legal Defense Services

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$5,708,060	\$5,667,108	\$5,838,191	\$5,714,832	\$4,377,500	\$3,471,400
	-0.7%	3.0%	-2.1%	-23.4%	-20.7%

Source: GRF

Legal Basis: Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FYs 1998 and 1999)

Purpose: The line item contains money appropriated for the purpose of funding the payroll, purchased personal service, maintenance, and equipment costs associated with the State Legal Defense Services program series, the function of which is to provide legal representation and services in non-capital and capital cases 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. Non-capital and capital cases are handled by the Commission's Legal Division and Death Penalty Division, respectively.

GRF 019403 Multi-County: State Share

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$733,006	\$807,471	\$750,209	\$712,239	\$1,308,201	\$1,456,835
	10.2%	-7.1%	-5.1%	83.7%	11.4%

Source: GRF

Legal Basis: Statutory authority for contractual arrangement resides in various ORC sections, including 120.04, 120.06, and 120.33; Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Controlling Board on December 17, 1990)

Purpose: The line item provides funding for the state's share of operating the Multi-County Branch Office Program. The program, which began operation on January 1, 1991, provides indigent defense services as an alternative to traditional appointed counsel or county public defender offices to ten counties in south and southeastern Ohio: Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington. These ten participating counties have essentially each entered into a contract with the Commission under which the state provides indigent defense services in their respective counties. Branch offices are located in Athens, Ross, and Washington counties. In addition to employing state public defenders, the Commission contracts with private attorneys in all ten counties.

Each county's contribution to the program is deposited in the state treasury to the credit of Fund 4C70 (line item 019601, Multi-County: County Share). The funding split between the state and county shares is the same as it is for the Commission's much larger statewide County Reimbursement Program under which the state is responsible for up to 50% of a county's indigent defense costs.

GRF 019404 Trumbull County - State Share

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$240,321	\$255,478	\$236,929	\$227,522	\$430,217	\$467,727
	6.3%	-7.3%	-4.0%	89.1%	8.7%

Source: GRF

Legal Basis: Statutory authority for contractual arrangement resides in various ORC sections, including 120.04, 120.06, and 120.33; Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 291 of the 115th G.A., the main operating appropriations act covering FYs 1984 and 1985)

Purpose: The line item funds the state's share of the Trumbull County Branch Office's annual operating expenses. The branch office, which has been in operation since 1984, provides indigent criminal defense representation throughout the courts of Trumbull County. A contract is negotiated annually with Trumbull County that designates the duties of the branch office and determines the percentage of financial contribution paid by both parties to fund the office. The percentage paid by each mirrors the reimbursement rate applicable to all counties under either the assigned counsel or county public defender systems. Approximately 10% of the Trumbull County contract obligation is contributed by participating municipalities. The local share of the branch office is deposited in the state treasury to the credit of Fund 4X70 (line item 019610, Trumbull County - County Share).

GRF 019405 Training Account

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$29,745	\$32,204	\$25,031	\$30,450	\$50,000	\$50,000
	8.3%	-22.3%	21.7%	64.2%	0.0%

Source: GRF

Legal Basis: Statutory authority for the program resides in ORC 120.03(D)(2); Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 171 of the 117th G.A., the main operating appropriations act covering FYs 1988 and 1989)

Purpose: The line item is used exclusively for the Commission's Pro Bono Training Program, under which it contracts with private and non-profit 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 seminar companies presently charge \$125 per attorney for a regular one-day seminar and \$200 per attorney for the two-day Rule 20 seminars.

The Commission allows private attorneys to attend seminars at no cost to the attorney. In exchange for free attendance, each attorney must provide one pro bono (for free) case for every seminar attended. Pro bono cases must be provided within one year of the seminar date, and pro bono attorneys are limited to two seminars per year. Public defenders also are limited to two seminars per year.

GRF 019501 County Reimbursement

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$30,060,000	\$30,000,000	\$29,812,630	\$25,971,394	\$22,767,720	\$17,898,638
	-0.2%	-0.6%	-12.9%	-12.3%	-21.4%

Source: GRF

Legal Basis: Statutory authority and guidelines for the reimbursement program reside in various ORC sections, including 120.04, 120.18, 120.28, 120.33, 2941.51, and 2949.19; Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 164 of the 111th G.A., the act establishing state, county, and joint county public defenders)

Purpose: Since the start of FY 2006, the line item has been used to reimburse counties for up to 50% of their indigent defense expenditures on non-capital and capital cases. If the available appropriations are insufficient to reimburse 50% of the indigent defense expenditures for non-capital and capital cases, then the reimbursement percentage for each of the public defender offices and appointed counsel systems is reduced equally. Prior to FY 2006, indigent defense expenditures for capital cases were reimbursed through the Commission's GRF line item 019503, County Reimbursement - Capital Cases. Effective FY 2006, the Capital Cases line item's funding and purpose were consolidated within GRF line item 019501, County Reimbursement.

GRF 019504 Reimbursement: Mandate Assistance

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$620,491	\$631,840	\$0	\$0	\$0	\$0
	1.8%				

Source: GRF

Legal Basis: As needed line item; Section 249.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Controlling Board on July 12, 2004, pursuant to Section 31 of Am. Sub. H.B. 95 of the 125th G.A. authorizing the transfer of any moneys within GRF line item 911404, Mandate Assistance, not fully utilized to the Public Defender Commission for the costs incurred by counties in providing indigent defense)

Purpose: The line item is used to disburse funding to county commissioners in order to provide additional reimbursement for the cost incurred by counties in providing criminal legal services to indigent defendants pursuant to ORC Chapter 120. The amount disbursed to each county is allocated proportionately on the basis of the total amount of reimbursement paid to all of the counties during the most recent fiscal year for which data is available and as calculated by the Commission.

*General Services Fund Group***1010 019602 Inmate Legal Assistance**

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$50,078	\$30,473	\$114	\$17,557	\$0	\$0
	-39.1%	-99.6%	15355.1%		

Source: GSF: Quarterly legal services payments transferred through an interdepartmental agreement from the GRF maintenance budget of the Ohio Department of Rehabilitation and Correction's Marion Correctional Institution

Legal Basis: Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Controlling Board in 1978)

Purpose: The line item funded an inmate legal assistance program at the state's Marion Correctional Institution, a purpose it has served since 1991. Specifically covered were the payroll, maintenance, and equipment costs associated with one legal services attorney. The executive budget proposes no appropriations for this purpose, as the attorney who ran the law library has been transferred to the Commission's Columbus office and the program discontinued.

The program started at the Marion Correctional Institution in response to a court case that led to a mandate that one attorney be located at the correctional institution to run the prison's law library. In 1987, the program shifted to one that utilized law school interns to provide more general legal assistance, before taking on its current focus in 1991, in which the attorney running the correctional institution's law library also provides representation to inmates at parole revocation hearings.

4060 019603 Training and Publications

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$0	\$16,000	\$0	\$0	\$0	\$0
	N/A				

Source: GSF: (1) Fees received by the Commission for conducting educational seminars, and (2) sale of publications on topics concerning criminal law and procedure.

Legal Basis: ORC 120.03(E); (originally established by Am. Sub. H.B. 291 of the 115th G.A., the main operating appropriations act covering FYs 1984 and 1985)

Purpose: The Commission is required to expend moneys deposited to the credit of the fund for the sole purpose of conducting programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons. As virtually no revenues have been generated for this purpose in the last few years, there has been no expenditure activity. In light of the absence of any cash flow activity, the executive proposes no appropriations for the FY 2010-FY 2011 biennium.

4070 019604 County Representation

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$167,176	\$207,794	\$196,448	\$217,980	\$196,650	\$207,143
	24.3%	-5.5%	11.0%	-9.8%	5.3%

Source: GSF: (1) Moneys a county is required to pay the State Public Defender for legal representation when the State Public Defender is designated by the court or requested by a county public defender or joint county public defender to provide legal representation for an indigent person in any case other than certain cases the State Public Defender defends because of a contract with a county public defender commission or a joint county public defender commission as follows: (a) 100% of the amount identified as legal fees, less the state reimbursement rate, as calculated by the State Public Defender for the month the case terminated, and (b) 100% of the amount identified as expenses, and (2) moneys a county is required to pay the State Public Defender for 100% of the cost of investigation or mitigation services provided by the State Public Defender to private appointed counsel or to a county or joint county public defender, other than in certain cases when the State Public Defender has a contract with a county public defender commission or a joint county public defender commission pursuant to ORC 120.04(C)(7); upon payment of the bill, the county is permitted to submit the cost of the expenses (excluding legal fees) and the cost of the investigation and mitigation services to the State Public Defender for reimbursement pursuant to ORC 120.33; prior to FY 2006, revenue stream consisted solely of 50% of the actual cost of providing legal representation in the circumstances described in (1) above

Legal Basis: ORC 120.06(D); Section 365.10 of Am. Sub. H.B.119 of the 127th G.A. (originally established by Am. Sub. H.B. 291 of the 115th G.A., the main operating appropriations act covering FYs 1984 and 1985)

Purpose: Moneys deposited to the credit of the fund are statutorily restricted to be used by the State Public Defender to: (1) provide legal representation for indigent persons when designated by the court or requested by a county or joint county public defender, or (2) provide investigation or mitigation services, including investigation or mitigation services to private appointed counsel or a county or joint county public defender, as approved by the court. Prior to FY 2006, moneys deposited to the credit of the fund could only be used for the purpose noted in (1) in the immediately preceding sentence.

4080 019605 Client Payments

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$197,701	\$713,998	\$586,827	\$547,769	\$865,798	\$886,500
	261.1%	-17.8%	-6.7%	58.1%	2.4%

Source: GSF: (1) all moneys collected by the state from defendants who were provided appointed counsel or a public defender and ordered to pay all or a portion of the costs of their defense through a recoupment, reimbursement, contribution, or partial payment plan, and (2) starting with FY 2006, 20%, or \$5, of a non-refundable \$25 application fee, unless waived or reduced by the court, assessed a defendant in a criminal case or a party in a juvenile court case when requesting or provided a state public defender, county or joint county defender, or court-appointed counsel, collected by the clerk of court, and forwarded to the state by the county auditor (80%, or \$20, of the \$25 non-refundable application fee is retained by the county to offset the costs of providing legal representation to indigent persons)

Legal Basis: ORC 120.04(B)(5); Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. H.B. 291 of the 115th G.A., the main operating appropriations act covering FYs 1984 and 1985)

Purpose: Moneys deposited to the credit of the fund are statutorily restricted to be used to: (1) appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the operation of the Office of the State Public Defender, (2) reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems pursuant to ORC 120.18, 120.28, and 120.33, and (3) provide assistance to counties in the operation of county indigent defense systems.

5CX0 019617 Civil Case Filing Fee

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$10,830	\$547,232	\$619,343	\$727,659	\$743,076	\$772,121
	4952.9%	13.2%	17.5%	2.1%	3.9%

Source: GSF: 4% of filing fees collected by municipal courts, county courts, and courts of common pleas in each new civil action or proceeding, subject to exceptions on certain matters filed in the probate division of a court of common pleas, and forwarded to the state; remainder of the filing fee amounts collected, or 96%, credited to the state's Legal Aid Fund (Fund 5740)

Legal Basis: ORC 120.07; Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 66 of the 126th G.A., the main operating appropriations act covering FYs 2006 and 2007)

Purpose: All moneys credited to the fund are statutorily restricted to be used by the State Public Defender for the purpose of appointing assistant state public defenders and for providing other personnel, equipment, and facilities necessary for the operation of the Office of the State Public Defender.

Federal Special Revenue Fund Group

3S80 019608 Federal Representation

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$305,784	\$297,290	\$260,076	\$305,419	\$202,347	\$212,303
	-2.8%	-12.5%	17.4%	-33.7%	4.9%

Source: FED: Payments collected from a federal court that offset some of the costs incurred by the Office of the State Public Defender when that court has appointed the State Public Defender to provide legal representation to an indigent defendant in federal habeas corpus proceedings, primarily matters involving the death penalty

Legal Basis: Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Controlling Board on March 2, 1998)

Purpose: Moneys credited to the fund are used by the Commission's Death Penalty Division to provide, coordinate, and supervise 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. 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 postconviction remedies. In this instance, a defendant combines all of the prior claims raised on direct appeal and state postconviction 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.

State Special Revenue Fund Group

4C70 019601 Multi-County: County Share

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$1,962,234	\$1,981,265	\$2,159,712	\$2,284,840	\$2,227,056	\$2,384,210
	1.0%	9.0%	5.8%	-2.5%	7.1%

Source: SSR: Payments from ten counties in south and southeastern Ohio for their portion of the costs of operating the Commission's Multi-County Branch Office

Legal Basis: Statutory authority for contractual relationship resides in ORC 120.04(C)(7); Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Controlling Board on December 17, 1990)

Purpose: Moneys deposited to the credit of the fund represent the local share of operating the Multi-County Branch Office Program. The program, which began operation on January 1, 1991, provides indigent defense services as an alternative to traditional appointed counsel or county public defender offices to ten counties in south and southeastern Ohio: Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington. These ten participating counties have essentially each entered into a contract with the Commission under which the state provides indigent defense services in their respective counties. Branch offices are located in Athens, Ross, and Washington counties. In addition to employing state public defenders, the Commission contracts with private attorneys in all ten counties.

Each county's contribution to the program is deposited in the state treasury to the credit of Fund 4C70 (line item 019601, Multi-County: County Share). The state's contribution is drawn from the Commission's GRF line item 019403, Multi-County: State Share. The funding split between the state and county shares is the same as it is for the Commission's much larger statewide County Reimbursement Program under which the state is responsible for up to 50% of a county's indigent defense costs.

4X70 019610 Trumbull County - County Share

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$624,033	\$633,310	\$686,447	\$731,000	\$732,393	\$765,467
	1.5%	8.4%	6.5%	0.2%	4.5%

Source: SSR: Payments from Trumbull County for its portion of the costs of operating the Commission's Trumbull County Branch Office

Legal Basis: Statutory authority for contractual relationship resides in ORC 120.04(C)(7); Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FYs 1998 and 1999)

Purpose: Moneys deposited to the credit of the fund are used as the local share of the Trumbull County Branch Office's annual operating expenses. The branch office, which has been in operation since 1984, provides indigent criminal defense representation throughout the courts of Trumbull County. A contract is negotiated annually with Trumbull County that designates the duties of the branch office and determines the percentage of financial contribution paid by both parties to fund the office. The percentage paid by each mirrors the reimbursement rate applicable to all counties under either the assigned counsel or county public defender systems. Approximately 10% of the Trumbull County contract obligation is contributed by participating municipalities.

Prior to Am. Sub. H.B. 215 of 122nd G.A., the main operating appropriations act covering FYs 1998 and 1999, this revenue stream and its purpose resided in the County Representation Fund (Fund 4070). Starting with FY 1998, Fund 4X70 was created along with associated line item 019610, Trumbull County-County Share. This accounting change was made in order to separate the Trumbull County Branch Office's finances from the other revenue streams that the Commission was collecting under its County Representation Program. The state's share of those office costs was, and still is, drawn from the Commission's GRF line item 019404.

5740 019606 Civil Legal Aid

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$22,421,963	\$49,654,424	\$34,778,871	\$40,000,000	\$30,000,000	\$30,000,000
	121.5%	-30.0%	15.0%	-25.0%	0.0%

Source: SSR: (1) Interest generated on trust accounts established and maintained by attorneys, law firms, or legal professional associations (IOLTAs) pursuant to ORC 4705.09 and 4705.10, (2) interest generated on trust accounts established and maintained by title insurance agents or title insurance companies (IOTAs) pursuant to ORC 3953.231, (3) additional filing fees collected by municipal, county, and common pleas courts on each new civil action or proceeding pursuant to ORC 1901.26, 1907.24, and 2303.201, and (4) income from investments

Legal Basis: ORC 120.52; Section 365.10 of Am. Sub. H.B. 119 of the 127th G.A. (originally established by Am. Sub. S.B. 219 of the 115th G.A.)

Purpose: Moneys deposited to the credit of the fund are statutorily apportioned as follows:

(1) 4.5% of the moneys in the fund are reserved for the actual, reasonable costs of administering laws governing legal aid society funding and related programs.

(2) Moneys reserved as described in (1) above, but that are not used for that purpose, are set aside for distributing financial assistance to legal aid societies that provide civil legal services to indigents.

(3) After deduction of the amount described in (1) above for actual, reasonable administrative costs: (a) 5% of the moneys remaining in the fund are reserved for distribution to legal aid societies that provide assistance to special population groups of their eligible clients, engage in special projects that have a substantial impact on their local service area or on significant segments of the state's poverty population, or provide legal training or support to other legal aid societies in the state, (b) after deduction of the amount described in (a) above, 1.75% of the moneys remaining in the fund are apportioned among entities that received financial assistance from the fund prior to June 30, 1995, but that, on and after that date, no longer qualify as a legal aid society eligible for financial assistance, and (c) after deduction of the amounts described in (a) and (b) above, 15% of the moneys remaining in the fund are placed in the Legal Assistance Foundation Fund for use in the manner described in the law governing the Legal Assistance Foundation Fund.

(4) After deduction of the actual, reasonable administrative costs described

in (1) above, and after deduction of the amounts identified in (3)(a), (b), and (c) above, the remaining moneys are apportioned for the charitable purpose of distributing financial assistance to legal aid societies that provide civil legal services to indigents.

5DY0 019618 Indigent Defense Support - County Share

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$0	\$0	\$0	\$3,700,000	\$27,783,000	\$37,044,000
			N/A	650.9%	33.3%

Source: SSR: (1) beginning in FY 2008, between \$75 and \$500 of the mandatory fines for operating a vehicle while under the influence (OVI) violations depending on the nature of the offense and (2) beginning in FY 2009, \$5 of the revenue from the collection of an additional \$10 in court costs for moving violations; executive budget in H.B. 1 of the 128th G.A. proposes additional sources of revenue from: (1) locally collected state court costs in the amount of \$30 for a felony offense and \$20 for a misdemeanor offense other than a traffic offense that is not a moving violation, (2) \$10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation, (3) \$10 increase the general driver's license reinstatement fee, (4) \$25, \$50, or \$100 of the reinstatement fee collected for a financial responsibility violation depending on number of prior offenses, (5) \$10, the license reinstatement fee for a person who commits a specified traffic offense, motor vehicle equipment offense, or motor vehicle crime that is a misdemeanor, other than a minor misdemeanor, and whose license is forfeited for failing to appear in court to answer the charge or pay the fine, and (6) \$25 surcharge to be paid when a person posts bail and retained for deposit in the state treasury if the person is convicted, pleads guilty, or forfeits bail.

Legal Basis: ORC 120.08 (originally established by Sub. S.B. 209 of the 127th G.A.; executive budget as proposed in H.B. 1 of the 128th G.A. expands revenue sources and purposes)

Purpose: As proposed by the executive budget contained in H.B. 1, the State Public Defender will be: (1) statutorily required to use at least 90% of the money in Fund 5DY0 for the purpose of reimbursing county governments for expenses incurred in the provision of legal services to indigent persons in criminal cases, and (2) permitted to use not more than 10% of the money in Fund 5DY0 for the purposes of appointing assistant state public defenders or for providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender Office. The money appropriated to this line item (019618, Indigent Defense Support – County Share) is for the purpose described in (1) above.

5DY0 019619 Indigent Defense Support - State Office

2006	2007	2008	2009	2010 Executive Proposal	2011 Executive Proposal
\$0	\$0	\$0	\$0	\$3,087,000	\$4,116,000
					33.3%

Source: SSR: (1) beginning in FY 2008, between \$75 and \$500 of the mandatory fines for operating a vehicle while under the influence (OVI) violations depending on the nature of the offense and (2) beginning in FY 2009, \$5 of the revenue from the collection of an additional \$10 in court costs for moving violations; executive budget in H.B. 1 of the 128th G.A. proposes additional sources of revenue from: (1) locally collected state court costs in the amount of \$30 for a felony offense and \$20 for a misdemeanor offense other than a traffic offense that is not a moving violation, (2) \$10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation, (3) \$10 increase the general driver's license reinstatement fee, (4) \$25, \$50, or \$100 of the reinstatement fee collected for a financial responsibility violation depending on number of prior offenses, (5) \$10, the license reinstatement fee for a person who commits a specified traffic offense, motor vehicle equipment offense, or motor vehicle crime that is a misdemeanor, other than a minor misdemeanor, and whose license is forfeited for failing to appear in court to answer the charge or pay the fine, and (6) \$25 surcharge to be paid when a person posts bail and retained for deposit in the state treasury if the person is convicted, pleads guilty, or forfeits bail.

Legal Basis: ORC 120.08 (originally established by Sub. S.B. 209 of the 127th G.A.; executive budget as proposed in H.B. 1 of the 128th G.A. expands revenue sources and purposes)

Purpose: As proposed by the executive budget contained in H.B. 1, the State Public Defender will be: (1) statutorily required to use at least 90% of the money in Fund 5DY0 for the purpose of reimbursing county governments for expenses incurred in the provision of legal services to indigent persons in criminal cases, and (2) permitted to use not more than 10% of the money in Fund 5DY0 for the purposes of appointing assistant state public defenders or for providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender Office. The money appropriated to this line item (019619, Indigent Defense Support – State Share) is for the purpose described in (2) above.

LSC Budget Spreadsheet by Line Item, FY 2010 - FY 2011

Fund	ALI	ALI Title	2008	2009	As Introduced 2010	% Change 2009 to 2010	As Introduced 2011	% Change 2010 to 2011
PUB Ohio Public Defender Commission								
GRF	019321	Public Defender Administration	\$ 1,252,281	\$ 1,227,509	\$ 772,500	-37.1%	\$ 612,600	-20.7%
GRF	019401	State Legal Defense Services	\$ 5,838,191	\$ 5,714,832	\$ 4,377,500	-23.4%	\$ 3,471,400	-20.7%
GRF	019403	Multi-County: State Share	\$ 750,209	\$ 712,239	\$ 1,308,201	83.7%	\$ 1,456,835	11.4%
GRF	019404	Trumbull County - State Share	\$ 236,929	\$ 227,522	\$ 430,217	89.1%	\$ 467,727	8.7%
GRF	019405	Training Account	\$ 25,031	\$ 30,450	\$ 50,000	64.2%	\$ 50,000	0.0%
GRF	019501	County Reimbursement	\$ 29,812,630	\$ 25,971,394	\$ 22,767,720	-12.3%	\$ 17,898,638	-21.4%
General Revenue Fund Total			\$ 37,915,269	\$ 33,883,946	\$ 29,706,138	-12.3%	\$ 23,957,200	-19.4%
1010	019602	Inmate Legal Assistance	\$ 114	\$ 17,557	\$ 0	-100.0%	\$ 0	N/A
4070	019604	County Representation	\$ 196,448	\$ 217,980	\$ 196,650	-9.8%	\$ 207,143	5.3%
4080	019605	Client Payments	\$ 586,827	\$ 547,769	\$ 865,798	58.1%	\$ 886,500	2.4%
5CX0	019617	Civil Case Filing Fee	\$ 619,343	\$ 727,659	\$ 743,076	2.1%	\$ 772,121	3.9%
General Services Fund Group Total			\$ 1,402,731	\$ 1,510,965	\$ 1,805,524	19.5%	\$ 1,865,764	3.3%
3S80	019608	Federal Representation	\$ 260,076	\$ 305,419	\$ 202,347	-33.7%	\$ 212,303	4.9%
Federal Special Revenue Fund Group Total			\$ 260,076	\$ 305,419	\$ 202,347	-33.7%	\$ 212,303	4.9%
4C70	019601	Multi-County: County Share	\$ 2,159,712	\$ 2,284,840	\$ 2,227,056	-2.5%	\$ 2,384,210	7.1%
4X70	019610	Trumbull County - County Share	\$ 686,447	\$ 731,000	\$ 732,393	0.2%	\$ 765,467	4.5%
5740	019606	Civil Legal Aid	\$ 34,778,871	\$ 40,000,000	\$ 30,000,000	-25.0%	\$ 30,000,000	0.0%
5DY0	019618	Indigent Defense Support - County Share	\$0	\$ 3,700,000	\$ 27,783,000	650.9%	\$ 37,044,000	33.3%
5DY0	019619	Indigent Defense Support - State Office	\$0	\$ 0	\$ 3,087,000	N/A	\$ 4,116,000	33.3%
State Special Revenue Fund Group Total			\$ 37,625,030	\$ 46,715,840	\$ 63,829,449	36.6%	\$ 74,309,677	16.4%
Total All Budget Fund Groups			\$ 77,203,106	\$ 82,416,170	\$ 95,543,458	15.9%	\$ 100,344,944	5.0%