

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 2012-FY 2013 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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Ohio Public Defender Commission

- Continuing shift to non-GRF funding sources
- County reimbursement rate expected to be about 35%
- Civil Legal Aid revenues increase

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 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-appellate 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).

Transition to Non-GRF Revenue Sources

Between FYs 2001 through 2009, the Commission's enacted GRF appropriations were cut by a total of approximately \$22.6 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.

The enacted FY 2010-FY 2011 biennial budget marked the beginning of a more noticeable transition away from GRF moneys and toward non-GRF generated revenue streams.

In previous years, the Commission's reliance on GRF funding to pay for indigent defense legal services was quite clear, and stood at nearly 90% of its annual criminal legal services budget.¹ As the Commission has faced, in recent years, several rounds of reductions in their GRF funding for indigent defense services, they began to seek

¹ This percentage does 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.

various non-GRF sources of funding as a way of replacing reductions in its GRF appropriations.

In the executive recommended budget for the FY 2012-FY 2013 biennium, GRF funding accounts for only about 10% of the Commission's criminal legal services budget. The deep cuts in key GRF line items used by the Commission have been predicated on significant offsetting increases in non-GRF funding, which now accounts for approximately 90% of their 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 generates revenue from a nonrefundable \$25 indigent defense application fee. The purpose of this revenue stream is 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 2010, this fee was generating about \$450,000 annually for use by the Office of the Public Defender. This suggests that statewide counties are retaining an estimated \$1.8 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 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 money 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. The remainder of the money collected (96%) is deposited in the state treasury to the credit of the Legal Aid Fund (Fund 5740). As of FY 2010, this fee is generating about \$600,000 annually for use by the Office of the Ohio Public Defender.

Indigent Defense Support Fund (Fund 5DY0)

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. Several funding sources, involving various increases in fines and court costs, have been enacted over the previous several years to provide revenues for this new fund.

The initial revenues for Fund 5DY0 stem from Sub. S.B. 209, which 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. The Act 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 below displays the range of the mandatory OVI fines, 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	Current Law Fine Range	Amount Deposited to Fund 5DY0
1st offense in 6 years	\$325-\$1,075	\$75
2nd offense in 6 years	\$475-\$1,625	\$125
3rd offense in 6 years	\$800-\$2,750	\$250
4th or 5th offense in 6 years or 6th in 20 years	\$1,300-\$10,500	\$500
2nd or more OVI felonies in lifetime	\$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 to be used to support indigent defense services.

A number of additional revenue generating provisions were enacted into law in Am. Sub. H.B. 1, the main operating budget for the FY 2010-FY 2011 biennium. These additional non-GRF revenue-generating mechanisms further enabled the Public Defender Commission to offset reductions in GRF appropriations, and improve the reimbursement of counties for the provision of indigent defense services. These additional revenues, as with the others, are to be deposited in the state treasury to the credit of Fund 5DY0. Specifically, H.B. 1:

- Increased, 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.

- Imposed a \$10 additional court cost for a traffic offense that is neither a moving violation nor a parking violation.
- Increased the general driver license reinstatement fee (from \$30 to \$40).
- Increased 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.
- Increased, 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.
- Established a surcharge of \$25 paid when a person posts bail and retained for deposit in the state treasury if the person is convicted of, pleads guilty to, or forfeits bail.

Table 2 immediately below provides an estimate of the total non-GRF revenues to be generated pursuant to all of these recently enacted fees, court costs, and surcharge increases.

Fiscal Year*	Revenues	State Share	County Share
2010	\$26,403,606	\$2,640,361	\$23,763,245
2011	\$45,600,000	\$4,560,000	\$41,040,000
2012	\$47,000,000	\$4,700,000	\$42,300,000
2013	\$48,000,000	\$4,800,000	\$43,200,000

*FY 2010 represents actual revenues; FY 2011-FY 2103 represents estimated revenues.

The Office of the Ohio Public Defender must disburse at least 90% of the money in the fund to reimburse counties for the costs of public defender systems. The remaining 10% of the money in the fund is to be used to support the operations of the Office.

Appropriation Overview

The Commission's estimated FY 2011 expenditures are compared with the executive recommendations for FY 2012 and FY 2013, by fund group, in Table 3 below. To support the Commission's services and activities, the executive budget recommends FY 2012 appropriations totaling \$85.0 million, an increase of \$2.4 million, or 2.9%, from the total estimated FY 2011 expenditures of \$82.6 million. For FY 2013, the executive budget recommends appropriations totaling \$89.4 million, or 5.1%, above the FY 2012 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 2012-FY 2013

Fund Group	FY 2011*	FY 2012	% change, FY 2011-FY 2012	FY 2013	% change, FY 2012-FY 2013
General Revenue	\$16,770,040	\$5,663,922	-66.2%	\$6,674,425	17.8%
General Services	\$1,713,931	\$1,992,649	16.3%	\$1,890,959	-5.1%
State Special Revenue	\$63,932,057	\$77,049,801	20.5%	\$80,566,385	4.6%
Federal Special Revenue	\$212,303	\$341,733	61.0%	\$263,431	-22.9%
TOTALS	\$82,628,331	\$85,048,105	2.9%	\$89,395,200	5.1%

*FY 2011 figures represent estimated expenditures.

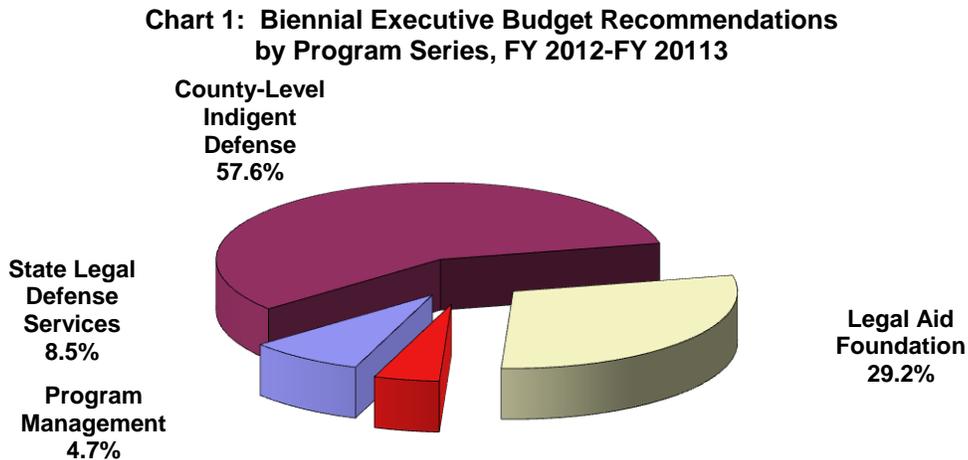
Expense by Program Series Summary

Chart 1 below shows the total recommended appropriations (FY 2012 and FY 2013) by program series.² The Commission's services and activities can be grouped into four distinct program series as follows:

1. 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.
2. Legal Aid Foundation, the purpose of which is to administer and fund the state's civil legal services program.
3. 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.
4. Program Management, the purpose of which is to provide the necessary services common to most state agencies, including fiscal and accounting, personnel and training, computer information systems, purchasing, fleet management, as well as collecting and processing indigent defense reimbursement payments and producing educational seminars and conferences.

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.

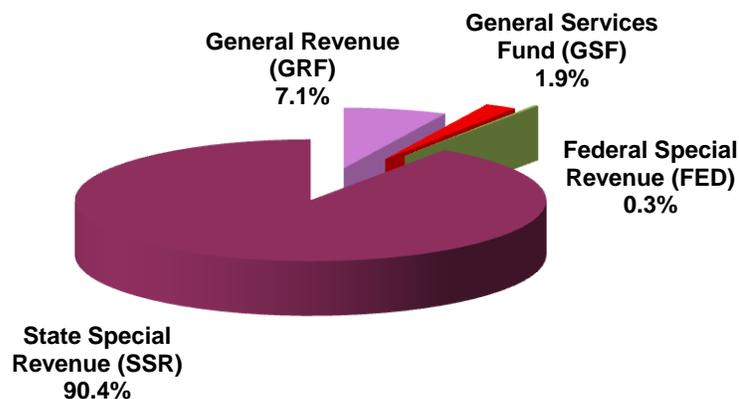
Based on the biennial executive budget recommendations, the largest portions of the Commission's budget for the two-year span will be allocated for county-level indigent defense (57.7%) and the Legal Aid Foundation (29.2%).



Expense by Fund Group Summary

As Chart 2 below shows, of the Commission's two-year executive recommended budget, money appropriated from accounts in the State Special Revenue (SSR) Fund Group comprise around 90.4%, and GRF appropriations will pay for 7.1%. The remainder, or 2.5%, of budgetary funding will be drawn from money appropriated from other revenue sources in the state treasury, including, in order of magnitude, the General Services Fund (GSF) Group (2.2%) and the Federal Special Revenue (FED) Fund Group (0.3%).

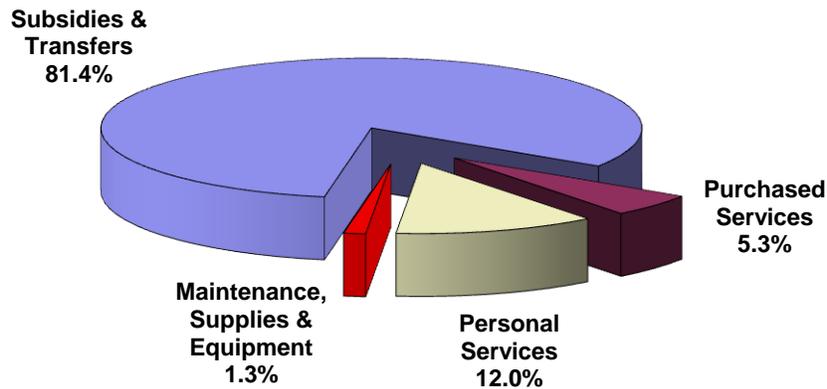
Chart 2: Biennial Executive Budget Recommendations by Fund Group, FY 2012-FY 2013



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 money for the two-year period (FY 2012 and FY 2013). Around 81% 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 (12.0%), essentially the payroll-related expenses for approximately 126.0 full-time equivalent (FTE) staff positions. Smaller amounts will be allocated for purchased services (5.3%) and maintenance, supplies and equipment (1.3%).

Chart 3: Biennial Executive Budget Recommendations by Expense Category, FY 2012-FY 2013



Staffing Levels

Table 4 below summarizes the number of staff that the Commission paid, or will pay, on the last pay period of FY 2006 through FY 2013. Two facets of this data can be highlighted. First, its total number of staff has been relatively stable running between 120 and 125. Second, the appropriations in the executive proposed budget appear sufficient for the Commission to retain its existing payroll of 126 FTEs in both of FY 2012 and FY 2013.

Table 4. Commission Staffing Levels,* FY 2006-FY2013**								
Activity	2006	2007	2008	2009	2010	2011	2012	2013
State Legal Defense	71.5	77.0	74.5	70.0	74.0	72.0	72.0	72.0
County Indigent Defense	27.5	29.0	28.0	28.0	28.0	28.0	28.0	28.0
Program Management	22.0	20.5	23.5	21.5	21.0	26.0	26.0	26.0
TOTALS	121.0	126.5	126.0	119.5	123.0	126.0	126.0	126.0

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

**FY 2011 numbers are actual FTEs as of this date, while FY 2012 and FY 2013 are estimates.

Structured Promotion System for Attorneys

The Commission is implementing a new merit-based promotion 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 pay raises for personnel in this category. The result has been a large attrition problem, especially with respect to mid-career attorneys with 10 to 20 years of experience. These experienced attorneys are leaving the Commission for higher paying jobs.

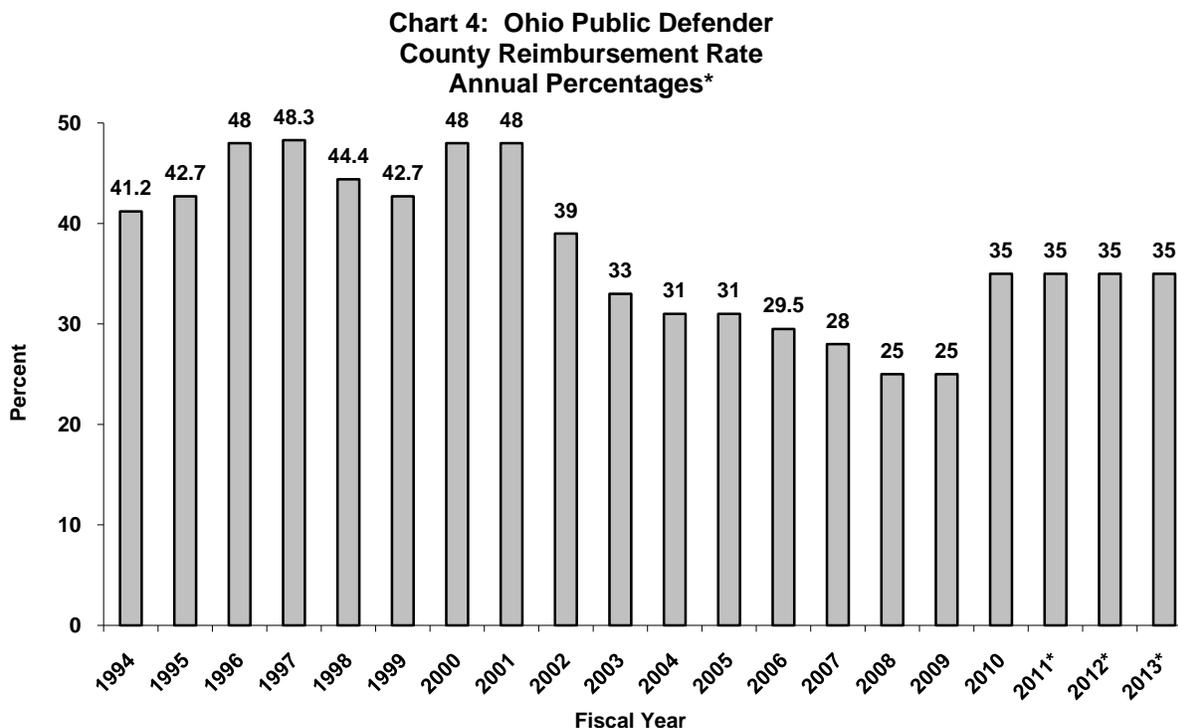
In this new merit-based promotion system, attorneys will be evaluated annually, and if they meet established performance standards they will be promoted. The promotions are expected to result in an average pay increase of about 8%-10%, and will likely be supported with money appropriated to the State Legal Defense Services program area.

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 below captures the Commission's annual county indigent defense reimbursement rate for FY 1994 through projected through FY 2013. In the eight-year period covering FY 1994 through FY 2001, that rate ranged between 41% and 48%. Since that time, the Commission's annual county reimbursement rate declined to a low of 25% in FY 2008 and FY 2009. As the result of recently enacted non-GRF funding revenue-generating mechanisms, the reimbursement rate has been pushed up to 35% in FY 2010 and FY 2011. The executive recommended funding for indigent defense services will likely keep the reimbursement rate at 35% in FY 2010 and FY 2013.



*The FY 2011 through FY 2013 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 below displays a breakdown of the total number of indigent defense cases that were closed annually from FY 1994 through FY 2010, along with the estimated total number of indigent cases to be closed annually from FY 2011 through FY 2013. 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 table below) 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 table below).

Table 5. County-Level Indigent Defense Closed Cases Subject to State Reimbursement & Branch Office Caseloads						
Fiscal Year	Appointed Counsel	Public Defender	Death Penalty	Multi-County	Trumbull County	Total Cases
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	132,197	253,869	85	16,659	5,970	408,780
2010	127,089	256,939	128	14,243	6,270	404,669
2011*	133,440	269,790	130	14,960	6,580	424,900
2012*	140,110	283,280	140	15,710	6,910	446,150
2013*	147,120	297,440	150	16,500	7,260	468,470

*The data associated with FY 2011 through FY 2013 are estimates.

Relative to Table 5 above, the caseload data for the period covering FY 1994 through FY 2010 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 234,345 to 404,669, an increase of 72.7%.
- The number of indigent defense cases closed annually by counties (appointed counsel + public defender + death penalty) increased by 70.5%, from 225,369 to 384,156.
- The number of indigent defense cases closed annually by the Office of the Ohio Public Defender Commission (Multi-County + Trumbull County) increased by 128.5%, from 8,976 to 20,513 cases.

Cost of County-Level Indigent Defense Services

Table 6 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 table below) 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 table below).

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 Cost
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
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	\$2,913,037	\$919,975	\$112,940,154
2009	\$111,713,156	\$1,521,189	\$2,973,003	\$967,405	\$117,174,752
2010	\$109,176,535	\$2,567,330	\$3,020,552	\$962,746	\$115,727,163
2011*	\$116,564,400	\$2,500,000	\$3,362,800	\$1,013,300	\$123,440,500
2012*	\$121,865,000	\$2,500,000	\$3,700,000	\$1,074,000	\$129,139,000
2013*	\$126,165,000	\$2,500,000	\$3,750,000	\$1,095,200	\$133,510,200

*The data associated with FY 2011 through FY 2013 are estimates.

Relative to Table 6 above, the cost data for the period covering FY 1994 through FY 2010 include the following highlights:

- The annual cost to counties of providing indigent defense services (Non-Capital Cases + Capital Cases) increased by 137.0%, from \$47.1 million to \$111.7 million, an increase of \$64.6 million.

- The annual cost to the Office of the Ohio Public Defender Commission of providing trial-level indigent defense services increased by 100%, from \$2.0 million to \$4.0 million.

ANALYSIS OF EXECUTIVE PROPOSAL

Introduction

This section provides an analysis of the executive recommended funding for each appropriated line item in the Ohio Public Defender Commission's FY 2012-FY 2013 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 in the executive proposed budget. 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 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		
4070 109604	County Representation	1: State Legal Defense Services
4080 019605	Client Payments	4: Program Management
5CX0 019617	Civil Case Filing Fee	1: State Legal Defense Services
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
4N90 019613	Gifts and Grants	1: State Legal Defense Services
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	1: State Legal Defense Services

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 total FY 2012 and FY 2013 GRF appropriation for the State Legal Defense Services category is about 26.1% less in FY 2012 and 22.8% less in FY 2013 than the estimated FY 2011 GRF expenditures. 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 total executive recommended appropriation for the State Legal Defense Services category is about 6.2% more in FY 2012 and 6.4% more in FY 2013 than the total estimated FY 2011 expenditures. The total appropriation should be sufficient to maintain the current level of State Legal Defense Services, and support a new promotion system for the attorneys working for the Commission, assuming the non-GRF revenue projections are reasonably accurate. It is also important to note that, even though the overall appropriation increases in FY 2012 and FY 2013, it does not necessarily enable the Commission to effectively handle ever increasing caseloads, as the cost of processing cases continually rises. Given public defenders already carry large caseloads, the Commission is imposing a temporary moratorium on accepting new cases until the ratio per attorney can be reduced to acceptable levels.

Table 8 below shows the line items that are used to fund this category of services and activities, as well as the executive 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 2012 and FY 2013 appropriation will be allocated.

Table 8. Executive Recommended Amounts for State Legal Defense Services				
Fund	ALI and Name		FY 2012	FY 2013
General Revenue Fund (GRF)				
GRF	019401	State Legal Defense Services*	\$2,289,162	\$2,393,821
General Revenue Fund Subtotal			\$2,289,162	\$2,393,821
General Services Fund (GSF) Group				
4070	019604	County Representation	\$231,076	\$231,754
4080	019605	Client Payments*	\$0	\$82,034
5CX0	019617	Civil Case Filing Fee*	\$538,654	\$535,713
General Services Fund Group Subtotal			\$769,730	\$849,501
Federal Special Revenue Fund (FED) Group				
3S80	019608	Federal Representation	\$341,733	\$263,431
Federal Special Revenue Fund Group Subtotal			\$341,733	\$263,431
State Special Revenue Fund (SSR) Group				
4N90	019613	Gifts and Grants	\$35,000	\$35,000
5DY0	019619	Indigent Defense Support – State Office*	\$3,826,532	\$3,735,570
State Special Revenue Fund Group Subtotal			\$3,861,532	\$3,770,570
Total Funding: State Legal Defense Services			\$7,262,157	\$7,277,323

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

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. This program

- has 15 attorneys, of which three are supervisors. The remaining 12 are available to work on capital appeals, postconviction, and habeas corpus cases. The three supervising attorneys also provide representation, but carry a smaller caseload. 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 corpus 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 2010, the Commission provided representation in 336 parole board cases; a similar annual caseload is expected in FY 2012 and FY 2013.
 - **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 DYS correctional facility, juveniles receive an orientation from staff attorneys and have an opportunity to have their case reviewed. The number of juveniles currently in the care and custody of DYS is around 790. 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 five 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 R.C. 120.04(B)(1) 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 nondeath 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 nondeath penalty cases on behalf of indigent defendants.

The following narrative discusses the purpose of each appropriated line item for State Legal Defense Services and how its recommended FY 2012 and FY 2013 appropriation will be allocated.

State Legal Defense Services (GRF line item 019401)

This GRF line item contains about 32.2% of the money appropriated for the purpose of funding the payroll, maintenance, and equipment costs associated with State Legal Defense Services. For the portion of the line item supporting this program, the executive proposed budget provides:

- \$2,289,162 in FY 2012, which is \$809,659, or 26.1%, less than the estimated amount allocated for this purpose in FY 2011.
- \$2,393,821 in FY 2013, which is \$104,659, or 4.6%, more than the recommended allocation for FY 2013.

This reduction in GRF funding will not, however, compromise the current level of State Legal Defense Services. Instead, as noted, the reduction in GRF funding is part of the transition away from GRF funding and toward greater reliance on non-GRF revenue sources. The proposed GRF reductions 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.

Over 80% of the line item's total appropriation is likely to be allocated for personal services, which will be the payroll expenses of 23.0 full-time equivalent (FTE) staff positions. Some of these FTEs perform work in other agency areas, specifically in what's termed Program Management.

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 FY 2012 and FY 2013: \$231,076 and \$231,754, respectively. The recommended appropriation for FY 2012 is \$23,933, or 11.6%, more than the FY 2011 estimated expenditure of \$207,143. The FY 2013 recommended appropriation is 0.3% more than FY 2012 recommended appropriation. The appropriated amount in each fiscal year will be more or less roughly allocated in terms of payroll-related expenses, purchased personal services, and maintenance and supplies. It is expected that the appropriation will support 2.0 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 total appropriation for this line item in each of FY 2012 and FY 2013: \$708,654 and \$705,713, respectively. This appropriation will support approximately 6.0 full-time equivalent (FTE) staff positions. Of the total appropriation, \$538,654, or about 76.0%, in FY 2012, and \$535,713, or 75.9%, in FY 2013 is allocated to the State Legal Defense Services program area. The remaining 25% of the appropriation will be utilized in the Program Management area to cover expenses related the agencywide operations.

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.³ 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 FY 2012 and FY 2013: \$341,733 and \$263,431, respectively. The FY 2012 appropriation represents a \$129,430, or 61.0%, increase from the estimated expenditure of \$212,303 in FY 2011. The FY 2013 appropriation represents a \$78,302, or 22.9%, decrease from the recommended FY 2012 appropriation.

The appropriated amount in each fiscal year will be more or less roughly allocated in terms of payroll-related expenses, purchased personal services, and for maintenance and supplies. It is expected that the appropriation will support 3.5 full-time equivalent (FTE) staff positions in each fiscal year.

Gifts and Grants (SSR line item 019613)

This SSR line item is used to receive, disburse, and account for gifts, grants, and awards for the operation of programs for the defense of indigent persons. The Commission requested and the executive budget proposes an appropriation of \$35,000 in each fiscal year. The appropriations will be used as the state share of a post-graduate Public Defender Commission fellowship awarded by the Moritz College of Law at The Ohio State University to a recent graduate. Under this program, the College and the Commission each pay half of the award.

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

Of this SSR line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), approximately 59.9% of the total executive recommended appropriation will be utilized to support the functions of the State Legal Defense

³ 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.

Services program. The remaining 41.1% of the appropriation will be utilized in the Program Management area to cover expenses related to the agencywide operations.

For the portion of the line item supporting State Legal Defense Services program, the executive proposed budget provides:

- \$3,826,532 in FY 2012, which is \$1,325,837, or 53.0%, more than the estimated amount allocated for this purpose in FY 2011.
- \$3,735,570 in FY 2013, which is \$90,962, or 2.4%, less than the recommended allocation for FY 2012.

The recommended amounts, which are noticeable increases over the estimated FY 2011 amount to be allocated for this purpose, are indicative of the overall shifting toward non-GRF funding sources. The appropriated amount in each fiscal year will be more or less roughly allocated to support payroll-related expenses, purchased personal services, and maintenance and supplies. It is expected that the overall appropriation will support a total of 53.5 full-time equivalent (FTE) staff positions. Some of these FTEs perform work in other agency areas, specifically in what's termed Program Management.

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 R.C. 120.18, 120.28, and 120.33 to 120.35. The R.C. 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 appropriation for County-Level Indigent Defense (about \$6.7 million over the FY 2012-FY 2103 biennium) reflects continuing 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 FY 2010-FY 2011 biennium is estimated at \$28.2 million, which means \$21.5 million less in GRF funding will be appropriated for FY 2012 and FY 2013 combined. That GRF biennial funding reduction will be offset by the Commission's enhanced non-GRF funding mechanisms. This trade-off between GRF and non-GRF, will permit the Commission to maintain the current county

reimbursement rate of about 35% in FY 2012 and FY 2013. Taking the reimbursement rate up to 50% would require additional funding of approximately \$19.3 million in FY 2012 and \$20.0 million in FY 2013.

Table 9 below shows the line items that are used to fund this category of services and activities, as well as the executive recommended funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its recommended FY 2012 and FY 2013 appropriations will be allocated.

Table 9. Executive Recommended Amounts for County-Level Indigent Defense				
Fund	ALI and Name		FY 2012	FY 2013
General Revenue Fund (GRF)				
GRF	019403	Multi-County: State Share*	\$338,931	\$406,626
GRF	019404	Trumbull County – State Share*	\$99,321	\$119,158
GRF	019405	Training Account	\$50,000	\$50,000
GRF	019501	County Reimbursement	\$2,565,398	\$3,077,786
General Revenue Fund Subtotal			\$3,053,650	\$3,653,570
State Special Revenue (SSR) Fund Group				
4C70	019601	Multi-County: County Share	\$3,324,009	\$3,333,014
4X70	019610	Trumbull County – County Share	\$974,069	\$976,612
5DY0	019618	Indigent Defense Support – County Share	\$42,195,000	\$43,125,000
State Special Revenue Fund Group Subtotal			\$46,493,078	\$47,434,626
Total Funding: County-Level Indigent Defense			\$49,546,728	\$51,088,196

*It is likely that the appropriation in each fiscal year for these two denoted GRF line items will need to be increased so as to insure that the reimbursement is 35% state share/65% county share.

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 FY 2012 and FY 2013 is the same funding level as the estimated FY 2011 expenditure. In previous years, the appropriation in this line item has been cut, and the Commission, in response, was forced to reduce training opportunities. In FY 2010 and FY 2011, the Commission began to reestablish 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 noncapital and capital cases. If the available appropriations are insufficient to reimburse 50% of the indigent defense expenditures for noncapital 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 2012 is \$2,565,398 and \$3,077,786 in FY 2013. Relative to the estimated FY 2011 expenditure of \$11,109,340, the recommended appropriation in each of FY 2012 and FY 2013 is in the range of \$8.0 - \$8.5 million, or 72% - 77%, lower. As noted, these GRF 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 R.C. 120.04(C)(7).

For FY 2011, the branch office system is projected to handle 21,540 cases at a cost of about \$4.4 million. The branch office system is projected to handle 22,620 and 23,760 cases in FY 2012 and FY 2013, 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 reduced by about \$1.1 million, or 71%, in FY 2012. The FY 2013 recommended appropriation is an increase of \$87,532, or 20% from the FY 2012 recommendation. Despite these GRF reductions, increased appropriation recommendations in the non-GRF line items will offset the reductions.

These GRF and non-GRF appropriations for the branch offices are generally structured to keep the reimbursement rates for the branch offices equal to the reimbursement rates expected for the other counties that are reimbursed from line items 019501, County Reimbursement, and 019618, Indigent Defense Support – County Share. These counties are expected to receive about the same reimbursement rate, 35%, over the next two fiscal years. Since the branch offices are funded with different line items, adjustments are often made during any given fiscal year to 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 plus SSR line item 019610) totals around \$1.1 million annually. The appropriated amount in each fiscal year will largely be allocated to cover payroll-related expenses of 6.5 full-time equivalent (FTE) staff positions, and perhaps secondary expenses like supplies and maintenance.

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 plus SSR line item 019601) totals in the range of about \$3.7 million annually. The appropriated amount in each fiscal year will largely be allocated to cover payroll-related expenses of 22.5 full-time equivalent (FTE) staff positions, and perhaps secondary expenses like supplies and maintenance

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 appropriations are \$42,195,000 in FY 2012, and \$43,125,000 in FY 2013, and will be backed by Commission staff non-GRF revenues collected from the mix of fines, fees, and court costs deposited in the Fund 5DY0.

The recommended biennial appropriation for this line item, when combined with the nearly \$5.6 million in biennial funding for indigent defense reimbursement appropriated to GRF line item 019501, County Reimbursement, will allow for the continuation of roughly the same level of support for County-Level Indigent Defense in the FY 2012-FY 2013 biennium. The combined amount of recommended GRF and non-GRF appropriations for county indigent defense reimbursement totals about \$44.8 million in FY 2012, and about \$46.2 million in FY 2013 (GRF line item 019501 + SSR

line item 019618). At this level of funding, the county reimbursement rate for indigent defense services will remain at about 35% through FY 2013.

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 below shows the lone line item that is used for civil legal aid purposes, as well as the executive 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 executive recommended funding levels.

Table 10. Executive Recommended Amounts for the Ohio Legal Assistance Foundation				
Fund	ALI and Name		FY 2012	FY 2013
State Special Revenue (SSR) Fund Group				
5740	019606	Civil Legal Aid	\$24,000,000	\$27,000,000
Total Funding: Ohio Legal Assistance Foundation			\$24,000,000	\$27,000,000

Civil Legal Aid (SSR line item 019606)

The executive recommended budget fully funds the Commission's requested annual appropriation of \$24 million in FY 2012 and \$27 million in FY 2013, amounts that are used to support the state's legal aid societies. The revenue received from certain interest bearing trust and real estate escrow accounts is very sensitive to fluctuations in interest rates. The requested appropriations generally are based on the expected returns from these accounts.

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 R.C. 120.53(D)(1)(c) and 120.521(A), 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 FY 2010 and FY 2011, approximately \$4.8 million and \$5.4 million, respectively, 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 FY 2012 and FY 2013 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 R.C. Chapter 120., 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 appropriations generally continue the larger overall transition that is moving the Commission away from their support by the GRF and toward a greater reliance on non-GRF revenue sources. Losses of GRF appropriations are 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 overall or total recommended funding for this program area in FY 2012 is 31.4% greater than the FY 2011 estimated expenditure, and then drops by 4.9% in FY 2013. The moneys appropriated from Fund 5DY0, along with the recommended GRF funding, should be sufficient to maintain the current level of program management services and activities, which will cost more in the next biennium.

Table 11 below shows the line items that are used to fund this category of services and activities, as well as the executive recommended funding levels. It is

followed by a narrative describing the purpose of each appropriated line item and how its recommended FY 2012 and FY 2013 appropriations will be allocated.

Table 11. Executive Recommended Amounts for Program Management				
Fund	ALI and Name		FY 2012	FY 2013
General Revenue Fund (GRF)				
GRF	019401	State Legal Defense Services	\$321,110	\$627,034
General Revenue Fund Subtotal			\$321,110	\$627,034
General Services Fund (GSF) Group				
4080	019605	Client Payments	\$1,052,919	\$871,458
5CX0	019617	Civil Case Filing Fee	\$170,000	\$170,000
General Services Fund Group Subtotal			\$1,222,919	\$1,041,458
State Special Revenue (SSR) Fund Group				
5DY0	019619	Indigent Defense Support – State Share	\$2,695,191	\$2,361,189
State Special Revenue Fund Group Subtotal			\$2,695,191	\$2,361,189
Total Funding: Program Management			\$4,239,220	\$4,029,681

GSF line item 019605, Client Payments, draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee. This money 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.

Of the total amount recommended for this GSF line item, the executive budget proposes to allocate the entire FY 2012 appropriation (\$1,052,919) and a large portion of the FY 2013 appropriation (953,492) for operating expenses of the Commission's Administrative Division, including the payroll-related expenses seven full-time equivalent (FTE) staff positions.

As Table 12 below demonstrates, GSF line item 019605, Client Payments, is the only line item in the Commission's budget that is used almost exclusively to support the operating expenses of its Administrative Division. The remainder of the Division's expenses are paid for with money allocated from other Commission line items, whose purpose is generally to support the State Legal Defense Services program. This includes GRF line item 019401, State Legal Defense Services, GSF line item 019617, Civil Case Filing Fee, and SSR line item 019619, Indigent Defense Support – State Office.

Table 12. Executive Proposed Program Management Allocations, FY 2012-FY 2013			
Fund Group/Line Item	Line Name	Total Biennial Appropriation	Program Management Allocation
GRF/019401	State Legal Defense Services	\$5,631,127	\$948,144
GSF/019605	Client Payments	\$2,006,411	\$1,942,377
GSF/019617	Civil Case Filing Fee	\$1,414,367	\$340,000
SSR/019619	Indigent Defense Support – State Office	\$12,618,482	\$5,056,380
Totals		\$19,663,976	\$6,344,524

Ohio Public Defender Commission

General Revenue Fund

GRF 019321 Public Defender Administration

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$1,252,281	\$1,224,340	\$723,798	\$612,600	\$0	\$0
	-2.2%	-40.9%	-15.4%	-100%	N/A

Source: General Revenue Fund

Legal Basis: Section 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FY 1998 and FY 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.

In the executive proposed budget for the FY 2012-FY 2103 biennium, money for this purpose will be appropriated from various other non-GRF funds used by the Public Defender Commission.

GRF 019401 State Legal Defense Services

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$5,838,191	\$5,696,513	\$4,147,222	\$3,471,400	\$2,610,272	\$3,020,855
	-2.4%	-27.2%	-16.3%	-24.8%	15.7%

Source: General Revenue Fund

Legal Basis: Section 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FY 1998 and FY 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.

Ohio Public Defender Commission

GRF 019403 Multi-County: State Share

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$750,209	\$748,458	\$1,025,382	\$1,180,000	\$338,931	\$406,626
	-0.2%	37.0%	15.1%	-71.3%	20.0%

Source: General Revenue Fund

Legal Basis: Statutory authority for contractual arrangement resides in various ORC sections, including 120.04, 120.06, and 120.33; Section 361.10 of Am. Sub. H.B. 1 of the 128th 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.

Ohio Public Defender Commission

GRF 019404 Trumbull County - State Share

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$236,929	\$241,934	\$328,601	\$346,700	\$99,321	\$119,158
	2.1%	35.8%	5.5%	-71.4%	20.0%

Source: General Revenue Fund

Legal Basis: Statutory authority for contractual arrangement resides in various ORC sections, including 120.04, 120.06, and 120.33; Section 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 291 of the 115th G.A., the main operating appropriations act covering FY 1984 and FY 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).

Ohio Public Defender Commission

GRF 019405 Training Account

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$25,031	\$34,909	\$45,490	\$50,000	\$50,000	\$50,000
	39.5%	30.3%	9.9%	0.0%	0.0%

Source: General Revenue Fund

Legal Basis: Statutory authority for the program resides in ORC 120.03(D)(2); Section 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 171 of the 117th G.A., the main operating appropriations act covering FY 1988 and FY 1989)

Purpose: Pursuant to temporary law, 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.

Ohio Public Defender Commission

GRF 019501 County Reimbursement

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$29,812,630	\$25,656,916	\$14,131,314	\$11,109,340	\$2,565,398	\$3,077,786
	-13.9%	-44.9%	-21.4%	-76.9%	20.0%

Source: General Revenue Fund

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 361.10 of Am. Sub. H.B. 1 of the 128th 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.

In the executive proposed budget for the FY 2012-FY 2103 biennium, a larger percentage of the money for this purpose will be appropriated from the Indigent Defense Support Fund (Fund 5DY0).

Ohio Public Defender Commission

General Services Fund Group

1010 019602 Inmate Legal Assistance

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$114	\$17,557	\$0	\$0	\$0	\$0
	15355.2%	-100%	N/A	N/A	N/A

Source: General Services Fund Group: 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: Discontinued line item (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. There are no appropriations for this purpose in either of FY 2010 or FY 2011, 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. In 1991, an attorney took over the running of the correctional institution's law library and also provided representation to inmates at parole revocation hearings.

Ohio Public Defender Commission

4070 019604 County Representation

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$196,448	\$200,113	\$147,669	\$207,143	\$231,076	\$231,754
	1.9%	-26.2%	40.3%	11.6%	0.3%

Source: General Services Fund Group: (1) Money 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) money 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 361.10 of Am. Sub. H.B.1 of the 128th G.A. (originally established by Am. Sub. H.B. 291 of the 115th G.A., the main operating appropriations act covering FY 1984 and FY 1985)

Purpose: Money deposited to the credit of the fund is 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, money deposited to the credit of the fund could only be used for the purpose noted in (1) in the immediately preceding sentence.

Ohio Public Defender Commission

4080 019605 Client Payments

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$586,827	\$533,363	\$778,176	\$748,022	\$1,052,919	\$953,492
	-9.1%	45.9%	-3.9%	40.8%	-9.4%

Source: General Services Fund Group: (1) All money 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) and 120.36(D); Section 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. H.B. 291 of the 115th G.A., the main operating appropriations act covering FY 1984 and FY 1985)

Purpose: Money deposited to the credit of the fund is 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.

Ohio Public Defender Commission

5CX0 019617 Civil Case Filing Fee

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$619,343	\$719,624	\$683,797	\$758,766	\$708,654	\$705,713
	16.2%	-5.0%	11.0%	-6.6%	-0.4%

Source: General Services Fund Group: 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 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 66 of the 126th G.A., the main operating appropriations act covering FY 2006 and FY 2007)

Purpose: All money credited to the fund is 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.

Ohio Public Defender Commission

Federal Special Revenue Fund Group

3S80 019608 Federal Representation

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$260,076	\$326,580	\$194,964	\$212,303	\$341,733	\$263,431
	25.6%	-40.3%	8.9%	61.0%	-22.9%

Source: Federal Special Revenue Fund Group: 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 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Controlling Board on March 2, 1998)

Purpose: Money credited to the fund is 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.

Ohio Public Defender Commission

State Special Revenue Fund Group

4C70 019601 Multi-County: County Share

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$2,159,712	\$2,220,329	\$1,976,394	\$2,191,500	\$3,324,009	\$3,333,014
	2.8%	-11.0%	10.9%	51.7%	0.3%

Source: State Special Revenue Fund Group: 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 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Controlling Board on December 17, 1990)

Purpose: Money deposited to the credit of the fund represents 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.

Ohio Public Defender Commission

4N90 019613 Gifts and Grants

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$0	\$12,300	\$0	\$17,500	\$35,000	\$35,000
	N/A	-100%	N/A	100.0%	0.0%

Source: State Special Revenue Fund Group: Donations, grants, awards, and similar funds from any lawful source

Legal Basis: As needed line item: ORC 120.04 (C)(2) (originally established by Controlling Board on June 1, 1994)

Purpose: The line item is used to receive, disburse, and account for gifts, grants, and awards for the operation of programs for the defense of indigent persons.

4X70 019610 Trumbull County - County Share

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$686,447	\$719,340	\$635,872	\$644,000	\$974,069	\$976,612
	4.8%	-11.6%	1.3%	51.3%	0.3%

Source: State Special Revenue Fund Group: 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 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main operating appropriations act covering FY 1998 and FY 1999)

Purpose: Money deposited to the credit of the fund is 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.

The state's contribution is drawn from the Commission's GRF line item 019404, Trumbull 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.

Ohio Public Defender Commission

5740 019606 Civil Legal Aid

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$34,778,871	\$23,139,351	\$19,937,193	\$20,000,000	\$24,000,000	\$27,000,000
	-33.5%	-13.8%	0.3%	20.0%	12.5%

Source: State Special Revenue Fund Group: (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 361.10 of Am. Sub. H.B. 1 of the 128th G.A. (originally established by Am. Sub. S.B. 219 of the 115th G.A.)

Purpose: Money deposited to the credit of the fund is statutorily apportioned as follows:

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

(2) Money reserved as described in (1) above, but that are not used for that purpose, is 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 money 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 money 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 money 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

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(c) above, the remaining money is apportioned for the charitable purpose of distributing financial assistance to legal aid societies that provide civil legal services to indigents.

Ohio Public Defender Commission

5DY0 019618 Indigent Defense Support - County Share

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$0	\$3,700,000	\$21,847,763	\$37,044,000	\$42,195,000	\$43,125,000
	N/A	490.5%	69.6%	13.9%	2.2%

Source: State Special Revenue Fund Group: (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; Am. Sub. H.B. 1 of the 128th G.A. enacted 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 in the general driver's license reinstatement fee, (4) \$25, \$50, or \$100 of the reinstatement fee collected for a financial responsibility violation depending on the number of prior offenses, (5) \$10 increase in 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, 2937.22, 2949.091, 2949.111, 4507.45, 4509.101, and 4510.22 (originally established by Sub. S.B. 209 of the 127th G.A.)

Purpose: Prior law required the State Public Defender Office to make disbursements from Fund 5DY0 in each state fiscal year to reimburse counties for a portion of the costs of their county or joint county public defender systems or county appointed counsel systems. Current law: (1) requires the Office to use at least 90% of the money in the fund to reimburse counties for their public defender systems, requires that disbursements be made at least once per year, and allows disbursements to be used to support contracted public defender services and selected and appointed counsel, and (2) authorizes the Office to use not more than 10% of the money in the fund 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.

Ohio Public Defender Commission

5DY0 019619 Indigent Defense Support - State Office

FY 2008	FY 2009	FY 2010	Estimate FY 2011	Introduced FY 2012	Introduced FY 2013
\$0	\$0	\$1,599,010	\$4,035,057	\$6,521,723	\$6,096,759
	N/A	N/A	152.3%	61.6%	-6.5%

Source: State Special Revenue Fund Group: (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; Am. Sub. H.B. 1 of the 128th G.A. enacted 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 in the general driver's license reinstatement fee, (4) \$25, \$50, or \$100 of the reinstatement fee collected for a financial responsibility violation depending on the number of prior offenses, (5) \$10 increase in 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, 2937.22, 2949.091, 2949.111, 4507.45, 4509.101, and 4510.22 (originally established by Sub. S.B. 209 of the 127th G.A.)

Purpose: Prior law required the State Public Defender Office to make disbursements from Fund 5DY0 in each state fiscal year to reimburse counties for a portion of the costs of their county or joint county public defender systems or county appointed counsel systems. Current law: (1) requires the Office to use at least 90% of the money in the fund to reimburse counties for their public defender systems, requires that disbursements be made at least once per year, and allows disbursements to be used to support contracted public defender services and selected and appointed counsel, and (2) authorizes the Office to use not more than 10% of the money in the fund 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.

FY 2012 - FY 2013 Introduced Appropriation Amounts

All Fund Groups

Line Item Detail by Agency			Estimate FY 2010	Estimate FY 2011	Introduced FY 2012	FY 2011 to FY 2012 % Change	Introduced FY 2013	FY 2012 to FY 2013 % Change
Report For Main Operating Appropriations Bill								
Version: As Introduced								
PUB Ohio Public Defender Commission								
GRF	019321	Public Defender Administration	\$ 723,798	\$ 612,600	\$ 0	-100.00%	\$ 0	N/A
GRF	019401	State Legal Defense Services	\$ 4,147,222	\$ 3,471,400	\$ 2,610,272	-24.81%	\$ 3,020,855	15.73%
GRF	019403	Multi-County: State Share	\$ 1,025,382	\$ 1,180,000	\$ 338,931	-71.28%	\$ 406,626	19.97%
GRF	019404	Trumbull County - State Share	\$ 328,601	\$ 346,700	\$ 99,321	-71.35%	\$ 119,158	19.97%
GRF	019405	Training Account	\$ 45,490	\$ 50,000	\$ 50,000	0.00%	\$ 50,000	0.00%
GRF	019501	County Reimbursement	\$ 14,131,314	\$ 11,109,340	\$ 2,565,398	-76.91%	\$ 3,077,786	19.97%
General Revenue Fund Total			\$ 20,401,806	\$ 16,770,040	\$ 5,663,922	-66.23%	\$ 6,674,425	17.84%
4070	019604	County Representation	\$ 147,669	\$ 207,143	\$ 231,076	11.55%	\$ 231,754	0.29%
4080	019605	Client Payments	\$ 778,176	\$ 748,022	\$ 1,052,919	40.76%	\$ 953,492	-9.44%
5CX0	019617	Civil Case Filing Fee	\$ 683,797	\$ 758,766	\$ 708,654	-6.60%	\$ 705,713	-0.42%
General Services Fund Group Total			\$ 1,609,642	\$ 1,713,931	\$ 1,992,649	16.26%	\$ 1,890,959	-5.10%
3S80	019608	Federal Representation	\$ 194,964	\$ 212,303	\$ 341,733	60.96%	\$ 263,431	-22.91%
Federal Special Revenue Fund Group Total			\$ 194,964	\$ 212,303	\$ 341,733	60.96%	\$ 263,431	-22.91%
4C70	019601	Multi-County: County Share	\$ 1,976,394	\$ 2,191,500	\$ 3,324,009	51.68%	\$ 3,333,014	0.27%
4N90	019613	Gifts and Grants	\$ 0	\$ 17,500	\$ 35,000	100.00%	\$ 35,000	0.00%
4X70	019610	Trumbull County - County Share	\$ 635,872	\$ 644,000	\$ 974,069	51.25%	\$ 976,612	0.26%
5740	019606	Civil Legal Aid	\$ 19,937,193	\$ 20,000,000	\$ 24,000,000	20.00%	\$ 27,000,000	12.50%
5DY0	019618	Indigent Defense Support - County Share	\$ 21,847,763	\$ 37,044,000	\$ 42,195,000	13.91%	\$ 43,125,000	2.20%
5DY0	019619	Indigent Defense Support - State Office	\$ 1,599,010	\$ 4,035,057	\$ 6,521,723	61.63%	\$ 6,096,759	-6.52%
State Special Revenue Fund Group Total			\$ 45,996,232	\$ 63,932,057	\$ 77,049,801	20.52%	\$ 80,566,385	4.56%
Ohio Public Defender Commission Total			\$ 68,202,645	\$ 82,628,331	\$ 85,048,105	2.93%	\$ 89,395,200	5.11%