

# **LSC Greenbook**

**Analysis of the Enacted Budget**

**Ohio Public Defender Commission**

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## **ATTACHMENT:**

Budget Spreadsheet By Line Item

# Ohio Public Defender Commission

- County reimbursement rate expected to rise from 40% to 50%
- Legal aid society revenue enhanced
- Slight reduction in administrative staff likely

## OVERVIEW

### Duties and Responsibilities

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

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

### Appropriation Overview

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

Table 1. Commission Appropriations by Fund Group, FY 2016-FY 2017 (Am. Sub. H.B. 64)					
Fund Group	FY 2015*	FY 2016	% change, FY 2016-FY 2017	FY 2017	% change, FY 2016-FY 2017
General Revenue	\$14,544,345	\$28,205,244	93.9%	\$28,228,785	0.1%
Dedicated Purpose	\$64,060,484	\$65,939,495	2.9%	\$67,331,296	2.1%
Federal	\$305,980	\$242,900	-20.6%	\$242,900	0.0%
<b>TOTAL</b>	<b>\$78,910,809</b>	<b>\$94,387,639</b>	<b>19.6%</b>	<b>\$95,802,981</b>	<b>1.5%</b>

\*FY 2015 figures represent actual expenditures.

<sup>1</sup> The Commission was created effective January 13, 1976 pursuant to H.B. 164 of the 111th General Assembly.

To support the Commission's services and activities, the budget provides FY 2016 appropriations totaling \$94.4 million, an increase of \$15.5 million, or 19.6%, from FY 2015 expenditures totaling \$78.9 million. For FY 2017, the budget appropriates a total of \$95.8 million, an increase of \$1.4 million, or 1.5%, from the FY 2016 total appropriation. Money appropriated from line items in the Dedicated Purpose Fund (DPF) Group comprises 70%; GRF line items will pay for 30%.

Of note is that the Commission budget for the FY 2016-FY 2017 biennium contains GRF appropriations that are nearly double the amount of GRF expended in FY 2015, from \$14.5 million in FY 2015 to \$28-plus million in both FY 2016 and FY 2017. Virtually all of that increase in GRF funding will be used for the purpose of increasing the rate at which the state reimburses counties for the provision of criminal indigent defense services, from 40% in FY 2015 to around 50% in both FY 2016 and FY 2017.

For budgeting purposes, the Commission's services and activities are grouped into four distinct program series as follows: State Legal Defense Services, County-Level Indigent Defense, Ohio Legal Aid Foundation, and Program Management. The largest portions of the Commission's budget for the two-year span will be allocated for county-level indigent defense (65% to 70%) and the Legal Aid Foundation (20%).

About 80% 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 (around 12%), essentially payroll-related expenses. Smaller amounts will be allocated for purchased personal services, supplies and maintenance, and equipment.

### **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; or
- 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 defender system (28), contract with the state's Office of the Ohio Public Defender (11), or contract with a nonprofit corporation (9).

## Staffing Levels

Table 2 below summarizes the number of staff that the Commission paid, or will pay, on the last pay period of FY 2010 through FY 2017. The appropriations for the FY 2016 to FY 2017 biennium do not appear to be sufficient for the Commission to retain its FY 2015 payroll of 137.5 full-time equivalent (FTE) staff positions. They will likely eliminate six FTEs due to revenue shortages in several non-GRF funds.

<b>Activity</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
State Legal Defense	74.0	72.0	72.0	70.5	74.0	73.0	73.0	73.0
County Indigent Defense	28.0	28.0	28.0	30.0	32.5	33.5	33.5	33.5
Program Management	21.0	26.0	26.0	27.8	30.5	31.0	25.0	25.0
<b>TOTAL</b>	<b>123.0</b>	<b>126.0</b>	<b>126.0</b>	<b>128.3</b>	<b>137.0</b>	<b>137.5</b>	<b>131.5</b>	<b>131.5</b>

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

\*\*FY 2016 and FY 2017 are estimates.

The Commission has noted some long-term solvency concerns over declining revenues in several non-GRF funds. The combined annual revenue credited to these funds is approximately \$405,000-\$455,000 below estimates based on historical patterns of revenue generation. The funds in question are as follows:

- The Civil Case Filing Fee Fund (Fund 5CX0) is approximately \$150,000 below the historical annual average.
- The Federal Representation Fund (Fund 3S80) is about \$50,000 below its historic annual average.
- The County Representation Fund (Fund 4070) has been variable, generating between \$50,000 and \$100,000 less than its historic annual average.
- The Client Payments Fund (Fund 4080) is generating about \$30,000 less per year than expectations based on its historic annual average.
- The Wrongful Conviction Program Fund (Fund 3FX0) has received about \$125,000 per year as part of a federal grant which is not being renewed. The Commission plans to retain the attorney and investigator hired for this program, but the revenue to pay them is gone.

The Commission plans to adjust to these declining non-GRF revenues, as previously noted, by eliminating six FTE positions. These employees currently process county indigent defense reimbursement payments, and are paid from the Client Payments Fund. The Commission is currently developing an online system to process reimbursement claims, thus eliminating the need for these positions. However, this system it is not scheduled to replace the current system until later in the FY 2016-FY 2017 biennium.

## ANALYSIS OF ENACTED BUDGET

### Introduction

This section provides an analysis of the funding for each appropriated line item in the Ohio Public Defender Commission's FY 2016-FY 2017 biennial budget. In this analysis, the Commission's line items are grouped into four major categories reflecting the focus of its services and activities. 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.

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

## Category 1: State Legal Defense Services

This category of appropriations consists of line items that the Commission uses to pay for the provision of legal representation to indigent adults, juveniles, and incarcerated individuals in all courts when the U.S. Constitution requires representation, or when it is requested by the court, the county or joint county public defender, or an inmate. Most legal matters in which the state provides direct representation involve appeals or death penalty cases. Indigent defense for most other cases is provided locally by public defenders or assigned counsel. The table below shows the line items that are used to fund this category of services and activities, as well as the enacted 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 the purpose of each appropriated line item, and how its appropriation will be allocated in FY 2016 and FY 2017.

<b>Appropriations for State Legal Defense Services</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2016</b>	<b>FY 2017</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019401	State Legal Defense Services*	\$2,609,495	\$2,692,117
<b>General Revenue Fund Subtotal</b>			<b>\$2,609,495</b>	<b>\$2,692,117</b>
<b>Dedicated Purpose Fund (DPF) Group</b>				
1010	019607	Juvenile Legal Assistance	\$200,000	\$200,000
4070	019604	County Representation	\$225,800	\$228,456
4080	019605	Client Payments*	\$449,086	\$455,418
5CX0	019617	Civil Case Filing Fee	\$446,820	\$453,580
5DY0	019619	Indigent Defense Support – State Office*	\$3,251,056	\$3,307,340
<b>Dedicated Purpose Fund Group Subtotal</b>			<b>\$4,572,762</b>	<b>\$4,644,794</b>
<b>Federal (FED) Fund Group</b>				
3S80	019608	Federal Representation	\$202,942	\$202,942
<b>Federal Fund Group Subtotal</b>			<b>\$202,942</b>	<b>\$202,942</b>
<b>Total Funding: State Legal Defense Services</b>			<b>\$7,385,199</b>	<b>\$7,539,853</b>

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

### Services and Activities

The specific types of services and activities grouped under the State Legal Defense Services category can be summarized as follows:

- **Appeals and Post-conviction Representation.** This program provides legal representation in state and federal courts to indigent persons who have been tried, found guilty, and claim they are unlawfully incarcerated.

- **Death Penalty Representation.** This program provides competent legal counsel to indigent persons under the sentence of death, as well as legal assistance, criminal investigation and mitigation, and trial services to private appointed attorneys in such cases.
- **Intake and Prison Services.** This program provides legal information and advice to inmates in Ohio's prison system.
- **Juvenile Legal Assistance.** This program provides legal assistance and representation to juveniles who have been committed to the Department of Youth Services on appeal, and in other post-disposition issues.
- **Legal Resource Center.** This program supports the Commission's Law Library.
- **Trial Services.** This program provides direct representation and assistance to local counsel in trial level cases to indigent defendants throughout Ohio.
- **Investigation Services.** This program provides both criminal and mitigation investigation services for Commission staff attorneys, county public defender attorneys, and court-appointed attorneys in death penalty and nondeath penalty cases.

The following describes the purpose of each appropriated line item for State Legal Defense Services.

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

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

For the line item, in both FY 2016 and FY 2017, the budget appropriates \$3,020,855, which is \$8,614, or 0.3%, less than the \$3,029,469 expended from the line item in FY 2015. Of the total appropriation, around \$2.6 million will be allocated annually for State Legal Defense Services. This allocation should be sufficient to maintain FY 2015 service levels, with roughly 90% to be expended on payroll expenses. The remainder of the appropriation in each fiscal year (\$300,000 to \$400,000) is likely to be allocated for Program Management.



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

This line item supports the provision of certain legal services to children committed to the Department of Youth Services.<sup>2</sup> For this purpose, the budget provides \$200,000 in FY 2016 and FY 2017, which is \$7,073, or 3.7%, more than FY 2015 actual expenditures of \$192,927. The appropriations will be supported by cash transferred from the Department of Youth Services' budget. Over 95% of the appropriations are likely to be allocated for payroll-related expenses.

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

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

The budget provides an FY 2016 appropriation of \$225,800, which is \$104,639, or 31.7%, less than FY 2015 expenditures of \$330,439. The FY 2017 appropriation of \$228,456 is \$2,656, or 1.2%, more than the FY 2016 appropriation. The appropriated amount in each fiscal year will be allocated primarily for payroll-related expenses, and secondarily for supplies and maintenance.

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

This line item draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee.<sup>3</sup> The budget provides the line item with appropriations of \$969,964 and \$834,277 for FY 2016 and FY 2017, respectively. The FY 2016 appropriation is \$276,218, or 39.8%, more than the \$693,746 expended from the line item in FY 2015. The FY 2017 appropriation is \$135,687, or 14.0%, less than the FY 2016 appropriation. Of the total amount appropriated in each fiscal year, roughly 46% in FY 2016 and 55% in FY 2017 will be allocated to support a mix of operating expenses (primarily payroll) associated with State Legal Defense Services. The remainder is likely to be allocated to Program Management.

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

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

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

This 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 budget provides a total appropriation for this line item in FY 2016 and FY 2017 of \$446,820 and \$453,580, respectively. The FY 2016 appropriation is \$40,314, or 8.3%, less than the \$487,134 total expenditure in FY 2015. The FY 2017 appropriation is \$6,760, or 1.5%, more than the FY 2016 appropriation. The appropriated amount in each fiscal year will be allocated primarily for payroll-related expenses.

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

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

The line item's FY 2016 appropriation is \$5,772,000, which is \$696,790, or 13.7%, more than the \$5,075,210 expended from the line item in FY 2015. The FY 2017 appropriation is \$5,850,000, which is \$78,000, or 1.4%, more than the FY 2016 appropriation. Of the total appropriation in each fiscal year, around 60% will be allocated to support a mix of operating expenses associated with State Legal Defense Services, primarily payroll. These amounts should be sufficient to continue FY 2015 service levels. The remainder is likely to be allocated to Program Management.

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

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

The budget provides an appropriation of \$202,942 in both FY 2016 and FY 2017, an amount that is \$9,492, or 4.9%, more than FY 2015 actual expenditures of \$193,450. The appropriated amount in each fiscal year will be allocated primarily for payroll-related expenses.

## Category 2: County-Level Indigent Defense

This category of appropriations consists of line items that the Commission uses to provide, facilitate, and improve the delivery of criminal defense services to indigent persons accused of crimes handled by common pleas, municipal, and county courts. With this portion of its budget, the Commission partially subsidizes counties for the cost of providing counsel to indigent persons in criminal and juvenile matters.<sup>4</sup> State law stipulates that the Commission reimburse counties 50% of the costs of operating their local indigent defense systems, unless the legislature appropriates less funding than needed to reimburse at 50%, in which case each county receives a reduced, but equal share.

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.

For the previous FY 2014-FY 2015 biennium, the GRF provided a total of \$22.8 million as the state share of providing county-level indigent defense. The GRF appropriated for this purpose for the FY 2016-FY 2017 biennium totals \$50.3 million, which when combined with non-GRF funding, is expected to increase the county reimbursement rate from 40% in FY 2015 to 50% in FY 2016 and FY 2017. The budgeted amounts for county-level indigent defense will continue to support about 33.5 FTE staff positions.

The table below shows the line items that are used to fund this category of services and activities, as well as the funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its appropriations will be allocated in FY 2016 and FY 2017.

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<sup>4</sup> Pursuant to R.C. 120.18, 120.28, and 120.33 to 120.35.

<b>Appropriations for County-Level Indigent Defense</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2016</b>	<b>FY 2017</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019403	Multi-County: State Share	\$1,960,463	\$1,977,235
GRF	019404	Trumbull County – State Share	\$545,658	\$552,337
GRF	019405	Training Account	\$50,000	\$50,000
GRF	019501	County Reimbursement	\$22,628,268	\$22,628,268
<b>General Revenue Fund Subtotal</b>			<b>\$25,184,389</b>	<b>\$25,207,840</b>
<b>Dedicated Purpose Fund (DPF) Group</b>				
4C70	019601	Multi-County: County Share	\$2,364,693	\$2,389,985
4X70	019610	Trumbull County – County Share	\$654,790	\$664,809
5DY0	019618	Indigent Defense Support – County Share	\$38,005,178	\$39,409,939
<b>Dedicated Purpose Fund Group Subtotal</b>			<b>\$41,024,661</b>	<b>\$42,464,733</b>
<b>Federal (FED) Fund Group</b>				
3GJ0	019622	Byrne Memorial Grant	\$39,958	\$39,958
<b>Federal Fund Group Subtotal</b>			<b>\$39,958</b>	<b>\$39,958</b>
<b>Total Funding: County-Level Indigent Defense</b>			<b>\$66,249,008</b>	<b>\$67,712,531</b>

### **Training Account (GRF line item 019405)**

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

The budget provides an appropriation of \$50,000 in both FY 2016 and FY 2017, which is \$4,000, or 8.7%, more than FY 2015 actual expenditures of \$46,000. The appropriation should enable the Commission to provide training seminars to about 328 attorneys that are appointed to criminal cases. All of the amounts appropriated in each fiscal year will be used to pay companies to deliver pro bono training.

### **County Reimbursement (GRF line item 019501)**

This line item is used to reimburse counties for up to 50% of their indigent defense expenditures on both noncapital and capital cases. 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 appropriation for both FY 2016 and FY 2017 is \$22,628,268, an amount that is \$13,027,208, or 135.7%, more than FY 2015 expenditures of \$9,601,060. This appropriation, when combined with non-GRF funding, is expected to increase the rate

of county reimbursement for indigent criminal defense services from 40% in the previous biennium to 50% in FY 2016 and FY 2017. The budget also contains a provision requiring \$1,500,000 in each fiscal year to be used to reimburse counties for indigent defense services in capital cases.

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

This set of line items pays for the expenses associated with operating branch offices. Under the Branch Offices Program, the State Public Defender provides local indigent defense services as an alternative to traditional appointed counsel or county public defender offices. The Commission currently operates two such offices, referred to as the Trumbull County Branch Office and the Multi-County Branch Office.<sup>5</sup>

Although the branch office systems operate as an alternative to traditional public defender offices and appointed counsel systems, these operations are still affected by changes in state funding just like the direct reimbursement systems. The total FY 2016 appropriation for the GRF state share of the branch office system (line item 019403 plus 019404) is \$2,506,121, which is \$638,305, or 34.2%, more than FY 2015 expenditures totaling \$1,867,816. The total FY 2017 GRF appropriation is \$2,529,662, which is \$23,541, or 0.9%, more than the total FY 2016 appropriation.

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

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

**Multi-County Branch Office.** This office provides local indigent defense services to ten counties in the southern and southeastern part of Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington, with public defender offices located in Athens, Ross, and Washington counties. The Multi-County Branch Office was established in January 1991. The appropriation for this branch office (GRF line item 019403 plus DPF line item 019601) totals in the range of about \$4.3 million annually.

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<sup>5</sup> These state public defender-operated offices are authorized under R.C. 120.04(C)(7).

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

This 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 appropriations are \$38,005,178 in FY 2016, and \$39,409,939 in FY 2017, and will be backed by non-GRF revenues collected from the mix of fines, fees, and court costs deposited in Fund 5DY0.

The combined amount of GRF and non-GRF appropriations for county indigent defense reimbursement totals about \$60.6 million in FY 2016 and about \$62.0 million in FY 2017 (GRF line item 019501 plus DPF line item 019618). At this level of funding, the county reimbursement rate for indigent defense services is expected to increase from 40% in the previous biennium to 50% in FY 2016 and FY 2017.

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

This line item is used to expend a \$39,958 federal grant awarded by the state's Office of Criminal Justice Services for the purpose of reducing offender recidivism in Athens, Pike, and Meigs counties. The grant funds are paying for a social worker in the Athens County Branch Office who works with and assists clients in obtaining appropriate community services designed to reduce the client's likelihood of re-offending.

The budget provides the Commission's requested appropriation of \$39,958 in FY 2016 and FY 2017, an amount that is \$19,754, or 97.8%, more than FY 2015 expenditures of \$20,204. This funding level assumes that the Commission will be successful in its application for a renewal of this grant.

### Category 3: Ohio Legal Assistance Foundation

This category of appropriations is exclusively used 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.<sup>6</sup> The single line item serving this purpose is described in more detail below.

Appropriations for the Ohio Legal Assistance Foundation				
Fund	ALI and Name		FY 2016	FY 2017
<b>Dedicated Purpose Fund (DPF) Group</b>				
5740	019606	Civil Legal Aid	\$17,250,000	\$17,250,000
<b>Total Funding: Ohio Legal Assistance Foundation</b>			<b>\$17,250,000</b>	<b>\$17,250,000</b>

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

The budget appropriates \$17,250,000 in FYs 2016 and 2017 from the Legal Aid Fund (Fund 5740) to support the state's legal aid societies, an amount that is \$4,007,566, or 30.3%, more than FY 2015 expenditures of \$13,242,434.

Money from dedicated funding sources, including the interest earned on certain trust and real estate escrow accounts, is deposited in Fund 5740 and then passed through the Commission to the Foundation. The Foundation then administers payments to nonprofit legal aid societies that provide legal representation to indigent persons in civil cases. These payments are distributed pursuant to a statutory formula based on poverty population. Every county is served by one or more legal aid societies.

The budget also contains a provision requiring: (1) the Director of Budget and Management, in each of FYs 2016 and 2017, to transfer \$750,000 cash from the GRF to Fund 5740, and (2) OLAF to distribute that amount in each fiscal year to Ohio's civil legal aid societies for the sole purpose of providing legal services for economically disadvantaged veterans.

Effective March 23, 2015, Fund 5740 will begin receiving money from a new revenue stream: additional filing fees applied to certain civil actions. This fee may generate as much as \$1.5 million annually. The fee was enacted by Am. Sub. S.B. 177 of the 130th General Assembly.

<sup>6</sup> 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.

## Category 4: Program Management

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

The total amount to be allocated from the budget for the Program Management category in FY 2016 and FY 2017 is expected to be \$3,503,432 and \$3,300,507, respectively. These amounts are not likely to be sufficient to maintain the FY 2015 level of program management services, including payroll-related expenses for 31.0 FTE staff positions. The Commission expects it will have to eliminate six positions that involve the processing of county reimbursement payments due to revenue shortages in several key non-GRF funds. These six employees are currently paid from the Client Payments Fund.

The table below shows the line items that are used to fund this category of services and activities, as well as the enacted funding levels. It is followed by a narrative describing the purpose of each appropriated line item and how its appropriation will be allocated in FY 2016 and FY 2017.

<b>Appropriations for Program Management</b>				
<b>Fund</b>	<b>ALI and Name</b>		<b>FY 2016</b>	<b>FY 2017</b>
<b>General Revenue Fund (GRF)</b>				
GRF	019401	State Legal Defense Services*	\$411,360	\$328,738
<b>General Revenue Fund Subtotal</b>			<b>\$411,360</b>	<b>\$328,738</b>
<b>Dedicated Purpose Fund (DPF) Group</b>				
4080	019605	Client Payments*	\$520,878	\$378,859
4N90	019613	Gifts and Grants	\$50,250	\$50,250
5DY0	019619	Indigent Defense Support – State Office*	\$2,520,944	\$2,542,660
<b>Dedicated Purpose Fund Group Subtotal</b>			<b>\$3,092,072</b>	<b>\$2,971,769</b>
<b>Total Funding: Program Management</b>			<b>\$3,503,432</b>	<b>\$3,300,507</b>

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



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

This line item is used for the purpose of funding the operating expenses (payroll, purchased personal services, supplies and maintenance, and equipment) associated primarily with the Commission's State Legal Defense Services, and secondarily Program Management. Most of the amounts for Program Management in each year will be allocated for a mix of payroll and purchased personal services.

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

This line item draws its appropriation from payments collected from certain defendants, and 20%, or \$5, of a nonrefundable \$25 indigent defense application fee. Between 45% and 55% of the line item's appropriation in each fiscal year will be allocated for Program Management, with the remainder being allocated for State Legal Defense Services. Over the biennium, approximately 50% will be allocated for payroll-related expenses and close to 40% for supplies and maintenance.

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

This line item is supported by the Gifts and Grants Fund (Fund 4N90), which is used to disburse grants, donations, and awards from public and private sources that the Commission has received for specific purposes. The line item's appropriation for FY 2016 and FY 2017 is \$50,250, an increase of \$3,277, or 7.0%, from FY 2015 expenditures totaling \$46,973. This funding will be allocated between payroll-related expenses and purchased personal services.

Presently, the Commission has two sources of money being deposited in Fund 4N90 for the projects described below.

**Civil Impacts of Criminal Convictions**

Six state agencies have entered into interdepartmental agreements with the Commission to contribute \$5,000 each annually (total of \$30,000) for the costs of operating the Civil Impacts of Criminal Convictions (CIVICC) website under Ohio Law.<sup>7</sup> CIVICC collects in one place all of the civil impacts of criminal convictions that exist in Ohio statutes. These are legal restrictions, also called "collateral consequences" or "collateral sanctions," that apply outside of the criminal justice system to a person with a criminal record, including laws that can limit access to jobs, licenses, civic rights, housing, and education. The website is intended for use by anyone, free of charge.

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<sup>7</sup> The six contributing state agencies include: the Department of Job and Family Services, the Department of Mental Health and Drug Addiction Services, the Development Services Agency, the Department of Rehabilitation and Correction, the Department of Youth Services, and the Department of Aging.

**Wrongful Conviction Project**

The Ohio State University Moritz College of Law makes an annual gift of \$25,250 to fund two law students that work on the Commission's Wrongful Conviction Project. This project addresses claims of innocence where biological evidence (DNA) was not available. It was launched in the fall of 2009 with the help of a grant from the U.S. Department of Justice's Wrongful Conviction Review Program.

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

Of this line item, which draws its appropriation from the Indigent Defense Support Fund (Fund 5DY0), around 44% of the total appropriation is expected to be allocated to support Program Management. The remaining 56% will be allocated for State Legal Defense Services. The appropriated amount in each fiscal year will primarily support payroll-related expenses, and secondarily, in rough order of magnitude, purchased personal services, supplies and maintenance, and equipment.

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# FY 2016 - FY 2017 Final Appropriation Amounts

# All Fund Groups

## Line Item Detail by Agency

			FY 2014	FY 2015	Appropriation FY 2016	FY 2015 to FY 2016 % Change	Appropriation FY 2017	FY 2016 to FY 2017 % Change
<b>Report For Main Operating Appropriations Bill</b>			<b>Version: As Enacted</b>					
<b>PUB Ohio Public Defender Commission</b>								
GRF	019401	State Legal Defense Services	\$ 3,025,527	\$ 3,029,469	\$ 3,020,855	-0.28%	\$ 3,020,855	0.00%
GRF	019403	Multi-County: State Share	\$ 1,410,287	\$ 1,451,668	\$ 1,960,463	35.05%	\$ 1,977,325	0.86%
GRF	019404	Trumbull County - State Share	\$ 406,370	\$ 416,148	\$ 545,658	31.12%	\$ 552,337	1.22%
GRF	019405	Training Account	\$ 51,175	\$ 46,000	\$ 50,000	8.70%	\$ 50,000	0.00%
GRF	019501	County Reimbursement	\$ 9,505,557	\$ 9,601,060	\$ 22,628,268	135.69%	\$ 22,628,268	0.00%
<b>General Revenue Fund Total</b>			<b>\$ 14,398,916</b>	<b>\$ 14,544,345</b>	<b>\$ 28,205,244</b>	<b>93.93%</b>	<b>\$ 28,228,785</b>	<b>0.08%</b>
1010	019607	Juvenile Legal Assistance	\$ 186,403	\$ 192,927	\$ 200,000	3.67%	\$ 200,000	0.00%
4060	019603	Training and Publications	\$ 4,475	\$ 0	\$ 0	N/A	\$ 0	N/A
4070	019604	County Representation	\$ 347,476	\$ 330,439	\$ 225,800	-31.67%	\$ 228,456	1.18%
4080	019605	Client Payments	\$ 701,409	\$ 693,746	\$ 969,964	39.82%	\$ 834,277	-13.99%
4C70	019601	Multi-County: County Share	\$ 2,133,860	\$ 2,177,520	\$ 2,364,693	8.60%	\$ 2,389,985	1.07%
4N90	019613	Gifts and Grants	\$ 27,633	\$ 46,973	\$ 50,250	6.98%	\$ 50,250	0.00%
4X70	019610	Trumbull County - County Share	\$ 619,891	\$ 622,814	\$ 654,790	5.13%	\$ 664,809	1.53%
5740	019606	Civil Legal Aid	\$ 13,828,837	\$ 13,242,434	\$ 17,250,000	30.26%	\$ 17,250,000	0.00%
5CX0	019617	Civil Case Filing Fee	\$ 461,240	\$ 487,134	\$ 446,820	-8.28%	\$ 453,580	1.51%
5DY0	019618	Indigent Defense Support - County Share	\$ 39,709,776	\$ 41,191,285	\$ 38,005,178	-7.73%	\$ 39,409,939	3.70%
5DY0	019619	Indigent Defense Support - State Office	\$ 4,965,916	\$ 5,075,210	\$ 5,772,000	13.73%	\$ 5,850,000	1.35%
<b>Dedicated Purpose Fund Group Total</b>			<b>\$ 62,986,916</b>	<b>\$ 64,060,484</b>	<b>\$ 65,939,495</b>	<b>2.93%</b>	<b>\$ 67,331,296</b>	<b>2.11%</b>
3FX0	019621	Wrongful Conviction Program	\$ 126,284	\$ 92,326	\$ 0	-100.00%	\$ 0	N/A
3GJ0	019622	Byrne Memorial Grant	\$ 0	\$ 20,204	\$ 39,958	97.77%	\$ 39,958	0.00%
3S80	019608	Federal Representation	\$ 190,520	\$ 193,450	\$ 202,942	4.91%	\$ 202,942	0.00%
<b>Federal Fund Group Total</b>			<b>\$ 316,804</b>	<b>\$ 305,980</b>	<b>\$ 242,900</b>	<b>-20.62%</b>	<b>\$ 242,900</b>	<b>0.00%</b>
<b>Ohio Public Defender Commission Total</b>			<b>\$ 77,702,635</b>	<b>\$ 78,910,809</b>	<b>\$ 94,387,639</b>	<b>19.61%</b>	<b>\$ 95,802,981</b>	<b>1.50%</b>