

# PUBLIC DEFENDER COMMISSION

*With Governor's  
Recommendations*



**Missouri State Public Defender System  
Budget Request  
Fiscal Year 2012**



# **PUBLIC DEFENDER COMMISSION**

## **Budget Request Fiscal Year 2012**

**J. Marty Robinson**  
**State Public Defender, Director**  
Retiring February 28, 2011  
**573-526-5210**

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**State Public Defender, Director**  
Effective March 1, 2011  
**314-749-5480**





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September 28, 2010

Dear Governor Nixon,

Missouri's Public Defender System, and with it the entire criminal justice system, continues to struggle. Although creative efforts are making minimal impact, the crisis remains. There are simply too many cases and not enough public defender resources.

For years, the State Public Defender has sought the resources needed to meet the state's constitutional obligations. Continually, the state has given priority to other requests for its resources. In tough economic times, we were told to 'think outside the box', looking for alternatives to simply increasing resources. We've tried, and our efforts continue to this day:

- In 2005, the Missouri Bar formed a Task Force to study the State Public Defender.
- In 2006, the Missouri Senate assigned an Interim Committee to study the State Public Defender.
- Both studies found the public defender was in crisis, requiring either a reduction in caseload or an increase in resources or some combination thereof to correct the dramatic imbalance between defender staffing and the caseload those defenders were expected to handle.

- In 2007, the Missouri Supreme Court formed a Committee to study and propose a Court Rule, limiting public defender caseloads, only to have that effort rejected by the trial judiciary.
- In 2008, the State Public Defender Commission passed a State Rule (CSR) to limit the caseload its defenders were expected to carry. That effort was struck down by the Missouri Court of Appeals and appealed to the Missouri Supreme Court.
- In 2009, the legislature passed SB 37 which, among other things, would have provided a process by which individual public defender caseloads could be limited to a level they could handle effectively. Your veto message, with which we do not disagree, indicated SB37 was not a 'solution' to ensure the state's compliance with its constitutional obligations and that what was required was more resources.
- In December of 2009, the Missouri Supreme Court ruled that the Public Defender Commission did have the authority to turn away cases when the lawyers are too overloaded to effectively handle more, but did not have the statutory authority to triage the defender caseload by turning away 'categories' of cases. Instead, when an office's capacity is reached, the only option is to turn away all cases, regardless of severity or confinement status of the accused.



- Now, in 2010, we are in fact closing offices to new cases in accordance with the December, 2009 MO Supreme Court opinion. Some courts are making plans to dispose of juvenile cases, probation revocations, and certain misdemeanor cases without any counsel at all. Others are forming committees to explore involuntary appointments of the private bar. Still others dispute our interpretation of the Supreme Court opinion authorizing office closure and that matter is once again being litigated in the MO Supreme Court.
- Two defender offices have already begun turning away cases. Fourteen more are in the pipeline to begin doing so in the next few months. In all, those sixteen offices provide indigent defense services in 56 of Missouri's 114 counties. What is to happen to the cases MSPD cannot handle remains an unsettled question.

For well over five years now we have danced to this tune. But, the music is the same. We have too many cases and not enough resources to handle them effectively. Innocent people are at risk of going to jail because the state of Missouri cannot provide them with lawyers who have the time and resources to adequately investigate, research, or litigate their case.

Just this week, legislation was filed in the U.S. Congress by the Chair of the Senate Judiciary Committee that would authorize the U.S. Department of Justice to sue state and local governments and indigent defense providers with a pattern or practice of failing to meet their Sixth Amendment obligations. U.S. Attorney General Eric Holder has specifically and publicly named Missouri as one example of a broken indigent defense system, in a speech he made in New York City last year. The time to address this problem is now, before a federal court does it for us.

This budget request for FY2012 seeks the resources we need. It is presented to you in relatively few new decision items. Each is critical.

First, we need additional attorneys, both in our trial and appellate divisions. Our trial division, which handles everything from misdemeanors to first degree murder cases in every trial jurisdiction in the state, already has multiple offices on limited availability and pending certification. Once these certified offices reach their capacity, all cases, misdemeanor to murder, must be turned away. It is not what this Department wants, yet, we must exercise a 'first-come first-served' policy each month if we are to be competent and professional to all we do serve. Those at the back of the line go without public defender services. In all, Missouri is needs 106 more lawyers in its trial division to handle all cases needed public defender services. The same issue exists in our appellate division, where lawyers are seeking three, four, and five time extensions from the appellate courts because they have too many briefs to prepare in the hours available to them. That division needs 19.5 additional lawyers just to meet the current demands of our appeals and post-conviction relief cases.

Second, sufficient non-lawyer staff is critical if attorneys are to be effective and efficient in the use of their precious time. Use of lawyer time for functions that non-lawyers can perform is poor law office management that we cannot afford. Presently, the State Public Defender has 1 paralegal for every 56.5 lawyers; 1 secretary/clerk for every 5; 1 investigator for every 6; and 1 legal assistant for every 8.67 lawyers. It is little wonder that repeated studies cite attorneys performing non-lawyer tasks as a major inefficiency. But, with insufficient support staff, someone has to answer the phone and make the copies. That is, far too often, the attorney.

Finally, we must have a place for all attorneys and staff to work. The majority of MSPD offices are bursting at the seams, inadequate to handle even the existing staff, much less to absorb the desperately needed increase in staff. This budget request joins with the Missouri Association of Counties in requesting the long overdue elimination of the county funding system of



public defender office space embodied in RS Mo. 600.040.1 and seeks the funding to allow the State Public Defender to secure its own office space as needed, without the ongoing state/county conflicts – a conflict sure to reach new levels of litigation if the counties were asked to provide office space for the kind of influx of staffing we need.

The recent economic downturn has hit county governments hard and most are struggling to pay for their own government needs, much less subsidizing what most county officials see as a state responsibility. As a result, public defenders routinely work in inadequate office space – ranging from offices with a dirt floor file room that turns to mud every time it rains, to facilities with severe leakage and/or toxic mold issues, to ‘simple’ overcrowding where support staff are housed in the break room and telephone closets become attorney offices.

Missouri statute (RSMo. 600.101) provides for disagreements between the Office of State Public Defender and local counties to be litigated before the Judicial Finance Commission and, ultimately, the Missouri Supreme Court. However, MSPD’s attempts to use this resource in the past have caused significant county/state hostility with angry county officials pressuring their local legislators and legislative leadership to intervene on the county’s behalf. The current system feeds confrontation, severely and unnecessarily straining county/state relations, placing an unfair burden on overstretched county budgets and leaving most public defenders working in office conditions well below the basic standard for any other state government department.

The State Public Defender Commission continues to recommend an appropriate amendment to RSMo. 600.040.1, and the requested funding, which would relieve Missouri’s counties of this obligation and allow this Department to control its own office facilities in the same efficient and productive manner available to every other department of state government.

We didn’t get into this situation yesterday. But, if we’re going to fix this situation, today is the day to start. We are aware that times are tough and the state is unlikely to have enough resources to meet all needs of all state departments. Ironically, we have in the past been told that one of the reasons so little money is available for ‘discretionary’ items like public defense is that the state is struggling under large amounts of ‘mandated’ expenditures, such as funding the Department of Corrections costs to house its growing population of inmates. In truth, of course, incarceration is *not* mandatory, but effective assistance of counsel *before* incarceration is. It’s long past time that constitutional reality was both recognized and acted upon.

We appreciate the recognition by both your administration and the General Assembly that it is time to do more than talk about the constitutional crisis in Missouri’s public defense. We ask for your leadership and support with this budget request, in particular the four-year phase-in plan to address the caseload crisis. The cost is high, but the risk to Missouri’s criminal justice system – and to Missouri itself -- is greater.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. Marty Robinson".

J. Marty Robinson, Director  
Missouri State Public Defender System



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## PROGRAM DESCRIPTION

**Department:** Office of the State Public Defender

**Program Name:** Public Defender

**Program is found in the following core budget(s):**

**Legal Services, Federal & Grants, Legal Defense & Defender Fund**

**1. What does this program do?**

In response to the guarantee of effective assistance of counsel contained in both the United States and Missouri Constitutions, the Missouri State Public Defender System was established on April 1, 1982 as a "system for providing defense services to every jurisdiction within the state by means of a centrally administered organization having a full-time staff." Through this Department of State Government, constitutionally required defense services are provided to eligible persons. This was accomplished through an organized program able to respond to the needs of all judicial jurisdictions within the state. As the caseloads have increased with no corresponding increase in resources, the Public Defender is no longer capable to respond to all of these needs.

**2. What is the authorization for this program, i.e., federal or state statute, etc.? (Include the federal program number, if applicable.)**

The Missouri State Public Defender System is created by authority of Chapter 600 RSMo. and in recognition of the United States Constitutional guarantees of equal protection and due process of law. The system was established in 1972.

**3. Are there federal matching requirements? If yes, please explain.**

No

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Legal Services, Federal & Grants, Legal Defense & Defender Fund

**4. Is this a federally mandated program? If yes, please explain.**

### THE CONSTITUTIONAL MANDATE FOR PUBLIC DEFENSE

The United States Supreme Court has interpreted the Sixth Amendment of the U.S. Constitution to require the appointment of counsel in any state or federal criminal prosecution that may lead to imprisonment for any period of time.

See generally, *Alabama v Shelton*, 535 US 654, 662 (2002); *Strickland v Washington*, 466 U.S. 688, 684-86 (1984); *Scott v Illinois*, 440 U.S. 367, 373-74 (1979); *Argersinger v. Hamlin*, 407 U.S. 25, 30-31 (1972); *Gideon v. Wainwright*, 372 U.S. 335, 342-45 (1963).

### CONSTITUTION OF THE UNITED STATES OF AMERICA BILL OF RIGHTS, AMENDMENT VI

In all criminal wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

### CONSTITUTION OF THE STATE OF MISSOURI ARTICLE I, SECTION 18(A)

That in criminal prosecutions the accused shall have the right to appear and defend, in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial by an impartial jury of the county.

## PROGRAM DESCRIPTION

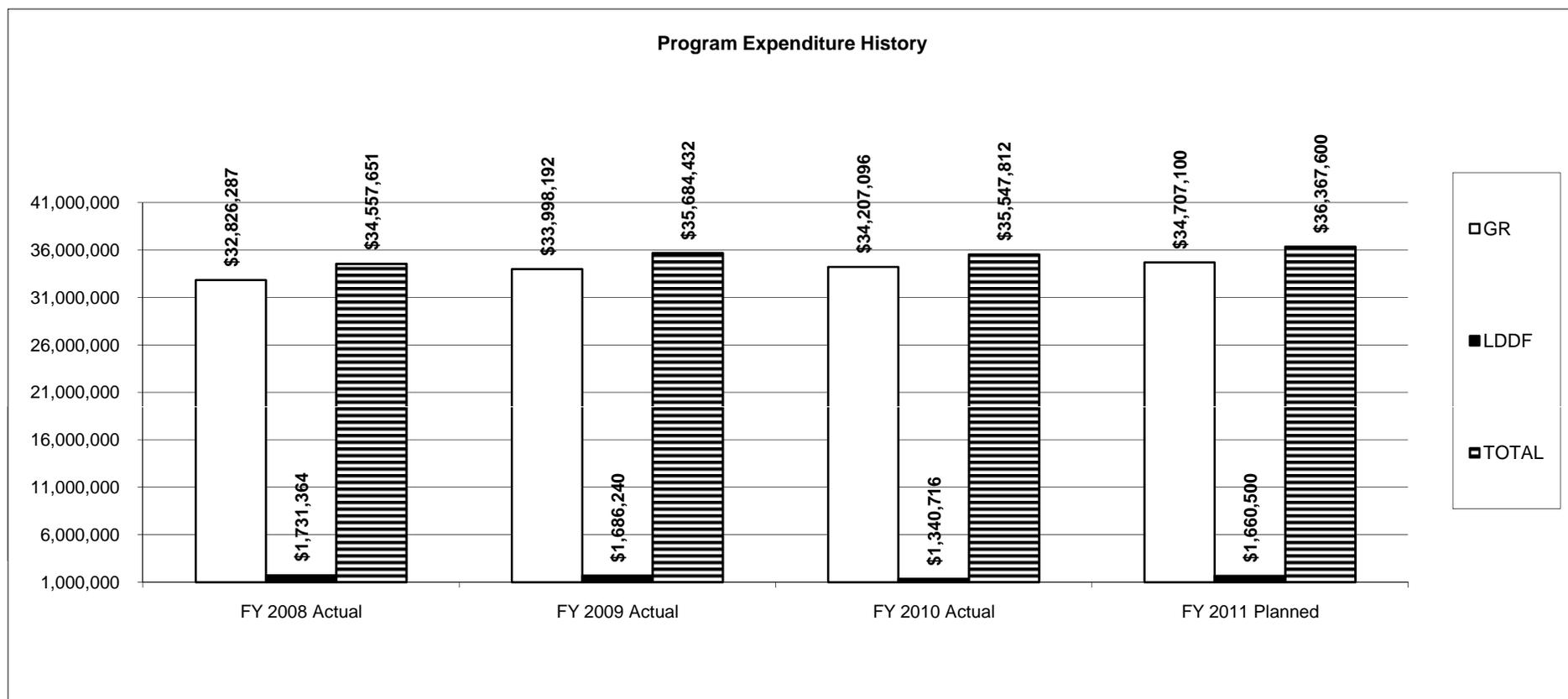
**Department:** Office of the State Public Defender

**Program Name:** Public Defender

**Program is found in the following core budget(s):**

Legal Services, Federal & Grants, Legal Defense & Defender Fund

**5. Provide actual expenditures for the prior three fiscal years and planned expenditures for the current fiscal year.**



**6. What are the sources of the "Other " funds?**

Legal Defense & Defender Funds - Payments collected from clients of the Missouri State Public Defender System

## PROGRAM DESCRIPTION

Department: Office of the State Public Defender

Program Name: Public Defender

Program is found in the following core budget(s):

Legal Services, Federal & Grants, Legal Defense & Defender Fund

### 7a. Provide an effectiveness measure.

Unlike every other state agency, MSPD only does one thing and it is constitutionally mandated. **MSPD has no mechanism with which to control or reduce its workload to correspond with its staffing levels, short of refusing cases and throwing the state of Missouri into federal court for constitutionally violating the right of indigent clients to effective assistance of counsel.**

An American Bar Association Opinion issued on May 13, 2006 reiterates that Public Defenders are as obligated as any other attorney under their ethical and professional obligations to refuse cases when caseloads become too high for them to adequately handle the workload and to provide adequate representation. In Missouri, there is currently no back-up plan in place for provision of counsel, should the public defenders have to refuse cases in accordance with their ethical and professional obligations not to take on more cases than they can effectively handle.

In Fiscal Year 2010, the Missouri State Public Defender System opened 84,616 new cases.

## PROGRAM DESCRIPTION

**Department:** Office of the State Public Defender

**Program Name:** Public Defender

**Program is found in the following core budget(s):**

**Legal Services, Federal & Grants, Legal Defense & Defender Fund**

**7b. Provide an efficiency measure.**

In December of 2000, the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, published the “Compendium of Standards for Indigent Defense Systems”, “A Resource Guide for Practitioners and Policymakers”. The Compendium of Standards for Indigent Defense Systems brings together standards from a wide variety of sources. It shows the different ways in which practice and procedures are addressed. It also addresses: administration of defense systems, attorney performance, capital case representation, appellate services, and juvenile justice defense. The report of the Task Force on the Courts of National Advisory Commission on Criminal Justice Standards and Goals is included in the Compendium.

### **NAC Standard 13.12. Workload of Public Defenders**

**The caseload of a public defender office should not exceed the following:**

**Caseload of attorneys per year:**

**Felonies—Not more than 150**

**Misdemeanors—Not more than 400**

**juvenile Cases—not more than 200**

**Mental Health Cases— not more than 200;**

For purposes of this standard, the term case means a single charge or set of charges concerning a defendant (or other client) in one court in one proceeding. An appeal or other action for postjudgment review is a separate case. If the public defender determines that because of excessive workload, the assumption of additional cases or continued representation in previously accepted cases by his office might reasonably be expected to lead to inadequate representation in cases handled by him, he should bring this to the attention of the court. If the court accepts such assertions, the court should direct the public defender to refuse to accept or retain additional cases for representation by his

**PROGRAM DESCRIPTION**

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**7c. Provide the number of clients/individuals served, if applicable.**

| <i>Missouri State Public Defender System</i> |            |                |        |                          |             |          |       |       |                     |         |              |              |                      |
|--|------------|----------------|--------|--------------------------|-------------|----------|-------|-------|---------------------|---------|--------------|--------------|----------------------|
| <i>Cases Assigned by Case Type</i>           |            |                |        |                          |             |          |       |       |                     |         |              |              |                      |
|  | Murder 1st | Other Homicide | Felony | Murder + Felony Caseload | Misdemeanor | Juvenile | PCR   | Other | Probation Violation | Appeals | Total Opened | Total Closed | Closed to Open Ratio |
| FY10 ACTUAL                                  | 161        | 164            | 34,781 | 35,106                   | 24,768      | 2,393    | 1,141 | 131   | 20,147              | 930     | 84,616       | 81,346       | 0.9614               |
| FY09 ACTUAL                                  | 121        | 180            | 33,226 | 33,527                   | 25,181      | 2,513    | 1,264 | 181   | 19,518              | 898     | 83,082       | 81,704       | 0.9834               |
| FY08 ACTUAL                                  | 158        | 154            | 34,766 | 35,078                   | 26,098      | 2,715    | 1,061 | 182   | 19,555              | 716     | 85,405       | 85,116       | 0.9966               |
| FY07 ACTUAL                                  | 174        | 161            | 35,109 | 35,444                   | 27,816      | 3,380    | 828   | 129   | 19,157              | 743     | 87,497       | 85,133       | 0.9730               |
| FY06 ACTUAL                                  | 138        | 146            | 35,339 | 35,623                   | 28,227      | 3,676    | 838   | 46    | 19,412              | 710     | 88,532       | 83,260       | 0.9405               |
| FY05 ACTUAL                                  | 156        | 124            | 33,282 | 33,562                   | 28,931      | 3,881    | 937   | 120   | 20,012              | 688     | 88,131       | 87,180       | 0.9892               |
| FY04 ACTUAL                                  | 154        | 140            | 34,422 | 34,716                   | 28,018      | 4,258    | 807   | 98    | 20,263              | 756     | 88,916       | 86,356       | 0.9712               |
| FY03 ACTUAL                                  | 195        | 114            | 35,425 | 35,734                   | 25,807      | 4,147    | 806   | 103   | 18,479              | 832     | 85,908       | 81,059       | 0.9436               |
| FY02 ACTUAL                                  | 163        | 132            | 33,183 | 33,478                   | 25,147      | 3,918    | 802   | 64    | 18,047              | 750     | 82,206       | 77,165       | 0.9387               |
| FY01 ACTUAL                                  | 182        | 125            | 29,934 | 30,241                   | 22,903      | 4,488    | 711   | 82    | 17,663              | 698     | 76,786       | 73,438       | 0.9564               |
| FY00 ACTUAL                                  | 147        | 109            | 28,019 | 28,275                   | 24,119      | 4,998    | 763   | 76    | 16,768              | 739     | 75,738       | 69,591       | 0.9188               |
| FY99 ACTUAL                                  | 182        | 108            | 28,892 | 29,182                   | 23,721      | 4,629    | 797   | 112   | 14,488              | 809     | 73,738       | 74,570       | 1.0113               |
| FY98 ACTUAL                                  | 196        | 87             | 31,591 | 31,874                   | 24,676      | 4,270    | 674   | 138   | 14,141              | 689     | 76,462       | 74,495       | 0.9743               |
| FY97 ACTUAL                                  | 169        | 79             | 29,663 | 29,911                   | 21,912      | 4,075    | 513   | 156   | 13,437              | 839     | 70,843       | 67,870       | 0.9580               |
| FY96 ACTUAL                                  | 175        | 88             | 30,198 | 30,461                   | 23,069      | 3,612    | 707   | 178   | 11,444              | 1,038   | 70,509       | 70,664       | 1.0022               |
| FY95 ACTUAL                                  | 256        | 109            | 27,688 | 28,053                   | 17,696      | 3,916    | 719   | 165   | 9,362               | 1,138   | 61,049       | 61,710       | 1.0108               |
| FY94 ACTUAL                                  | 255        | 152            | 25,338 | 25,745                   | 17,852      | 3,374    | 682   | 201   | 8,225               | 1,017   | 57,096       | 52,453       | 0.9187               |
| FY93 ACTUAL                                  | 301        | 136            | 24,402 | 24,839                   | 15,883      | 3,146    | 766   | 249   | 7,301               | 872     | 53,056       | 52,363       | 0.9869               |
| FY92 ACTUAL                                  | 282        | 37             | 25,458 | 25,777                   | 19,974      | 3,372    | 1,129 | 167   | 5,321               | 569     | 56,309       | 55,651       | 0.9883               |
| FY91 ACTUAL                                  | 193        | 63             | 21,304 | 21,560                   | 13,941      | 2,713    | 588   | 169   | 5,051               | 820     | 44,842       | 49,038       | 1.0936               |
| FY90 ACTUAL                                  | 227        | 109            | 23,336 | 23,672                   | 14,627      | 3,300    | 732   | 369   | 5,834               | 1,094   | 49,628       | 46,425       | 0.9355               |
| FY89 ACTUAL                                  | 193        | 149            | 20,838 | 21,180                   | 12,902      | 3,298    | 1,342 | 418   | 5,074               | 1,243   | 45,457       | 42,532       | 0.9357               |
| FY88 ACTUAL                                  | 202        | 161            | 20,640 | 21,003                   | 12,427      | 3,455    | 1,006 | 470   | 4,475               | 920     | 43,756       | 40,117       | 0.9168               |
| FY87 ACTUAL                                  | 199        | 145            | 19,254 | 19,598                   | 11,736      | 3,564    | 755   | 443   | 4,308               | 728     | 41,132       | 37,081       | 0.9015               |
| FY86 ACTUAL                                  | 166        | 175            | 17,042 | 17,383                   | 10,602      | 3,328    | 612   | 611   | 3,815               | 608     | 36,959       | 34,491       | 0.9332               |
| FY85 ACTUAL                                  | 152        | 172            | 15,397 | 15,721                   | 9,126       | 3,500    | 543   | 522   | 3,293               | 632     | 33,337       | 32,410       | 0.9722               |
| FY84 ACTUAL                                  | 176        | 175            | 15,048 | 15,399                   | 9,256       | 3,058    | 534   | 499   | 2,878               | 506     | 32,130       | 31,730       | 0.9876               |

State Auditor's Reports, Oversight Evaluations and Missouri Sunset Act Reports

| <b>Program or Division Name</b> | <b>Type of Report</b> | <b>Date Issued</b> | <b>Website</b>  |
|---------------------------------|-----------------------|--------------------|---|
| Public Defender Commission      | Audit                 | 12/7/2004          | <a href="http://auditor.mo.gov/press/2004-94.pdf">http://auditor.mo.gov/press/2004-94.pdf</a> |

**State Public Defender**

**DECISION ITEM RANKING**

| Budgeting Unit                           | Rank | FY 2012<br>DEPT REQ<br>DOLLAR | FY 2012<br>DEPT REQ<br>FTE | FY 2012<br>GOV REC<br>DOLLAR | FY 2012<br>GOV REC<br>FTE | CUMULATIVE TOTAL |        |
|--|------|-------------------------------|----------------------------|------------------------------|---------------------------|------------------|--------|
| Decision Item<br>Fund                    |      |                               |                            |                              |                           | DOLLARS          | FTE    |
| <b>OFFICE OF THE DIRECTOR</b>            |      |                               |                            |                              |                           |                  |        |
| CORE                                     | 001  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                          |      | 32,149,041                    | 585.13                     | 32,149,041                   | 585.13                    | 32,149,041       | 585.13 |
| TOTAL                                    |      | 32,149,041                    | 585.13                     | 32,149,041                   | 585.13                    |                  |        |
| <b>GRANTS</b>                            |      |                               |                            |                              |                           |                  |        |
| CORE                                     | 001  |                               |                            |                              |                           |                  |        |
| PUBLIC DEFENDER-FEDERAL & OTHR           |      | 125,000                       | 0.00                       | 125,000                      | 0.00                      | 32,274,041       | 585.13 |
| TOTAL                                    |      | 125,000                       | 0.00                       | 125,000                      | 0.00                      |                  |        |
| <b>LEGAL DEFENSE &amp; DEFENDER FUND</b> |      |                               |                            |                              |                           |                  |        |
| CORE                                     | 001  |                               |                            |                              |                           |                  |        |
| LEGAL DEFENSE AND DEFENDER               |      | 2,980,263                     | 2.00                       | 2,980,263                    | 2.00                      | 35,254,304       | 587.13 |
| TOTAL                                    |      | 2,980,263                     | 2.00                       | 2,980,263                    | 2.00                      |                  |        |
| <b>EXTRAORDINARY EXPENSE/CONFLIC</b>     |      |                               |                            |                              |                           |                  |        |
| CORE                                     | 001  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                          |      | 2,558,059                     | 0.00                       | 2,558,059                    | 0.00                      | 37,812,363       | 587.13 |
| TOTAL                                    |      | 2,558,059                     | 0.00                       | 2,558,059                    | 0.00                      |                  |        |
| <b>DEBT OFFSET ESCROW FUND</b>           |      |                               |                            |                              |                           |                  |        |
| CORE                                     | 001  |                               |                            |                              |                           |                  |        |
| DEBT OFFSET ESCROW                       |      | 350,000                       | 0.00                       | 350,000                      | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                    |      | 350,000                       | 0.00                       | 350,000                      | 0.00                      |                  |        |
| <b>OFFICE OF THE DIRECTOR</b>            |      |                               |                            |                              |                           |                  |        |
| Cost to Continue Trial - 1151001         | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                          |      | 2,281,876                     | 50.00                      | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                    |      | 2,281,876                     | 50.00                      | 0                            | 0.00                      |                  |        |
| Cost to Continue Appellate/PCR - 1151002 | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                          |      | 453,021                       | 9.50                       | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                    |      | 453,021                       | 9.50                       | 0                            | 0.00                      |                  |        |
| FY12 Trial Caseload Crisis - 1151003     | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                          |      | 2,477,416                     | 50.00                      | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                    |      | 2,477,416                     | 50.00                      | 0                            | 0.00                      |                  |        |
| FY12 Appellate/PCR Caseload - 1151004    | 005  |                               |                            |                              |                           |                  |        |

**State Public Defender**

**DECISION ITEM RANKING**

| Budgeting Unit<br>Decision Item<br>Fund | Rank | FY 2012<br>DEPT REQ<br>DOLLAR | FY 2012<br>DEPT REQ<br>FTE | FY 2012<br>GOV REC<br>DOLLAR | FY 2012<br>GOV REC<br>FTE | CUMULATIVE TOTAL |        |
|---|------|-------------------------------|----------------------------|------------------------------|---------------------------|------------------|--------|
|   |      |                               |                            |                              |                           | DOLLARS          | FTE    |
| <b>OFFICE OF THE DIRECTOR</b>           |      |                               |                            |                              |                           |                  |        |
| FY12 Appellate/PCR Caseload - 1151004   | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                         |      | 497,481                       | 9.50                       | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                   |      | 497,481                       | 9.50                       | 0                            | 0.00                      |                  |        |
| Non-Lawyer Staff - PD Offices - 1151005 | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                         |      | 7,348,833                     | 192.25                     | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                   |      | 7,348,833                     | 192.25                     | 0                            | 0.00                      |                  |        |
| Office Space Requirements - 1151006     | 005  |                               |                            |                              |                           |                  |        |
| GENERAL REVENUE                         |      | 2,196,118                     | 0.00                       | 0                            | 0.00                      | 38,162,363       | 587.13 |
| TOTAL                                   |      | 2,196,118                     | 0.00                       | 0                            | 0.00                      |                  |        |
| <b>GRAND TOTAL</b>                      |      | <b>\$53,417,108</b>           | <b>898.38</b>              | <b>\$38,162,363</b>          | <b>587.13</b>             |                  |        |

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**State Public Defender**

**DECISION ITEM SUMMARY**

| <b>Budget Unit</b>                              |                   |                |                   |                |                   |                 |                   |                |
|---|-------------------|----------------|-------------------|----------------|-------------------|-----------------|-------------------|----------------|
| <b>Decision Item</b>                            | <b>FY 2010</b>    | <b>FY 2010</b> | <b>FY 2011</b>    | <b>FY 2011</b> | <b>FY 2012</b>    | <b>FY 2012</b>  | <b>FY 2012</b>    | <b>FY 2012</b> |
| <b>Budget Object Summary</b>                    | <b>ACTUAL</b>     | <b>ACTUAL</b>  | <b>BUDGET</b>     | <b>BUDGET</b>  | <b>DEPT REQ</b>   | <b>DEPT REQ</b> | <b>GOV REC</b>    | <b>GOV REC</b> |
| <b>Fund</b>                                     | <b>DOLLAR</b>     | <b>FTE</b>     | <b>DOLLAR</b>     | <b>FTE</b>     | <b>DOLLAR</b>     | <b>FTE</b>      | <b>DOLLAR</b>     | <b>FTE</b>     |
| <b>OFFICE OF THE DIRECTOR</b>                   |                   |                |                   |                |                   |                 |                   |                |
| <b>CORE</b>                                     |                   |                |                   |                |                   |                 |                   |                |
| PERSONAL SERVICES                               |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 26,712,726        | 561.51         | 27,343,779        | 570.13         | 27,729,933        | 585.13          | 27,729,933        | 585.13         |
| TOTAL - PS                                      | 26,712,726        | 561.51         | 27,343,779        | 570.13         | 27,729,933        | 585.13          | 27,729,933        | 585.13         |
| EXPENSE & EQUIPMENT                             |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 4,936,313         | 0.00           | 4,805,262         | 0.00           | 4,419,108         | 0.00            | 4,419,108         | 0.00           |
| TOTAL - EE                                      | 4,936,313         | 0.00           | 4,805,262         | 0.00           | 4,419,108         | 0.00            | 4,419,108         | 0.00           |
| <b>TOTAL</b>                                    | <b>31,649,039</b> | <b>561.51</b>  | <b>32,149,041</b> | <b>570.13</b>  | <b>32,149,041</b> | <b>585.13</b>   | <b>32,149,041</b> | <b>585.13</b>  |
| <b>Cost to Continue Trial - 1151001</b>         |                   |                |                   |                |                   |                 |                   |                |
| PERSONAL SERVICES                               |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 0                 | 0.00           | 0                 | 0.00           | 1,951,776         | 50.00           | 0                 | 0.00           |
| TOTAL - PS                                      | 0                 | 0.00           | 0                 | 0.00           | 1,951,776         | 50.00           | 0                 | 0.00           |
| EXPENSE & EQUIPMENT                             |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 0                 | 0.00           | 0                 | 0.00           | 330,100           | 0.00            | 0                 | 0.00           |
| TOTAL - EE                                      | 0                 | 0.00           | 0                 | 0.00           | 330,100           | 0.00            | 0                 | 0.00           |
| <b>TOTAL</b>                                    | <b>0</b>          | <b>0.00</b>    | <b>0</b>          | <b>0.00</b>    | <b>2,281,876</b>  | <b>50.00</b>    | <b>0</b>          | <b>0.00</b>    |
| <b>Cost to Continue Appellate/PCR - 1151002</b> |                   |                |                   |                |                   |                 |                   |                |
| PERSONAL SERVICES                               |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 0                 | 0.00           | 0                 | 0.00           | 372,096           | 9.50            | 0                 | 0.00           |
| TOTAL - PS                                      | 0                 | 0.00           | 0                 | 0.00           | 372,096           | 9.50            | 0                 | 0.00           |
| EXPENSE & EQUIPMENT                             |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 0                 | 0.00           | 0                 | 0.00           | 80,925            | 0.00            | 0                 | 0.00           |
| TOTAL - EE                                      | 0                 | 0.00           | 0                 | 0.00           | 80,925            | 0.00            | 0                 | 0.00           |
| <b>TOTAL</b>                                    | <b>0</b>          | <b>0.00</b>    | <b>0</b>          | <b>0.00</b>    | <b>453,021</b>    | <b>9.50</b>     | <b>0</b>          | <b>0.00</b>    |
| <b>FY12 Trial Caseload Crisis - 1151003</b>     |                   |                |                   |                |                   |                 |                   |                |
| PERSONAL SERVICES                               |                   |                |                   |                |                   |                 |                   |                |
| GENERAL REVENUE                                 | 0                 | 0.00           | 0                 | 0.00           | 1,951,776         | 50.00           | 0                 | 0.00           |
| TOTAL - PS                                      | 0                 | 0.00           | 0                 | 0.00           | 1,951,776         | 50.00           | 0                 | 0.00           |

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**State Public Defender**

**DECISION ITEM SUMMARY**

| Budget Unit                                    |                     |               |                     |               |                     |               |                     |               |  |
|--|---------------------|---------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|--|
| Decision Item                                  | FY 2010             | FY 2010       | FY 2011             | FY 2011       | FY 2012             | FY 2012       | FY 2012             | FY 2012       |  |
| Budget Object Summary                          | ACTUAL              | ACTUAL        | BUDGET              | BUDGET        | DEPT REQ            | DEPT REQ      | GOV REC             | GOV REC       |  |
| Fund   | DOLLAR              | FTE           | DOLLAR              | FTE           | DOLLAR              | FTE           | DOLLAR              | FTE           |  |
| <b>OFFICE OF THE DIRECTOR</b>                  |                     |               |                     |               |                     |               |                     |               |  |
| <b>FY12 Trial Caseload Crisis - 1151003</b>    |                     |               |                     |               |                     |               |                     |               |  |
| EXPENSE & EQUIPMENT                            |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 525,640             | 0.00          | 0                   | 0.00          |  |
| TOTAL - EE                                     | 0                   | 0.00          | 0                   | 0.00          | 525,640             | 0.00          | 0                   | 0.00          |  |
| <b>TOTAL</b>                                   | <b>0</b>            | <b>0.00</b>   | <b>0</b>            | <b>0.00</b>   | <b>2,477,416</b>    | <b>50.00</b>  | <b>0</b>            | <b>0.00</b>   |  |
| <b>FY12 Appellate/PCR Caseload - 1151004</b>   |                     |               |                     |               |                     |               |                     |               |  |
| PERSONAL SERVICES                              |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 372,096             | 9.50          | 0                   | 0.00          |  |
| TOTAL - PS                                     | 0                   | 0.00          | 0                   | 0.00          | 372,096             | 9.50          | 0                   | 0.00          |  |
| EXPENSE & EQUIPMENT                            |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 125,385             | 0.00          | 0                   | 0.00          |  |
| TOTAL - EE                                     | 0                   | 0.00          | 0                   | 0.00          | 125,385             | 0.00          | 0                   | 0.00          |  |
| <b>TOTAL</b>                                   | <b>0</b>            | <b>0.00</b>   | <b>0</b>            | <b>0.00</b>   | <b>497,481</b>      | <b>9.50</b>   | <b>0</b>            | <b>0.00</b>   |  |
| <b>Non-Lawyer Staff - PD Offices - 1151005</b> |                     |               |                     |               |                     |               |                     |               |  |
| PERSONAL SERVICES                              |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 5,428,407           | 192.25        | 0                   | 0.00          |  |
| TOTAL - PS                                     | 0                   | 0.00          | 0                   | 0.00          | 5,428,407           | 192.25        | 0                   | 0.00          |  |
| EXPENSE & EQUIPMENT                            |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 1,920,426           | 0.00          | 0                   | 0.00          |  |
| TOTAL - EE                                     | 0                   | 0.00          | 0                   | 0.00          | 1,920,426           | 0.00          | 0                   | 0.00          |  |
| <b>TOTAL</b>                                   | <b>0</b>            | <b>0.00</b>   | <b>0</b>            | <b>0.00</b>   | <b>7,348,833</b>    | <b>192.25</b> | <b>0</b>            | <b>0.00</b>   |  |
| <b>Office Space Requirements - 1151006</b>     |                     |               |                     |               |                     |               |                     |               |  |
| EXPENSE & EQUIPMENT                            |                     |               |                     |               |                     |               |                     |               |  |
| GENERAL REVENUE                                | 0                   | 0.00          | 0                   | 0.00          | 2,196,118           | 0.00          | 0                   | 0.00          |  |
| TOTAL - EE                                     | 0                   | 0.00          | 0                   | 0.00          | 2,196,118           | 0.00          | 0                   | 0.00          |  |
| <b>TOTAL</b>                                   | <b>0</b>            | <b>0.00</b>   | <b>0</b>            | <b>0.00</b>   | <b>2,196,118</b>    | <b>0.00</b>   | <b>0</b>            | <b>0.00</b>   |  |
| <b>GRAND TOTAL</b>                             | <b>\$31,649,039</b> | <b>561.51</b> | <b>\$32,149,041</b> | <b>570.13</b> | <b>\$47,403,786</b> | <b>896.38</b> | <b>\$32,149,041</b> | <b>585.13</b> |  |

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**CORE DECISION ITEM**

|  |                            |
|--|----------------------------|
| <b>Department:</b> State Public Defender | <b>Budget Unit</b> 115151C |
| <b>Division:</b> Public Defender         |                            |
| <b>Core:</b> Legal Service Core Request  |                            |

**1. CORE FINANCIAL SUMMARY**

|  | FY 2012 Budget Request |             |             |                   |  | FY 2012 Governor's Recommendation |             |             |                   |
|--|------------------------|-------------|-------------|-------------------|--|-----------------------------------|-------------|-------------|-------------------|
|  | GR                     | Federal     | Other       | Total             |  | GR                                | Federal     | Other       | Total             |
| <b>PS</b>  | 27,729,933             | 0           | 0           | 27,729,933        | <b>PS</b>  | 27,729,933                        | 0           | 0           | 27,729,933        |
| <b>EE</b>  | 4,419,108              | 0           | 0           | 4,419,108         | <b>EE</b>  | 4,419,108                         | 0           | 0           | 4,419,108         |
| <b>PSD</b>   | 0                      | 0           | 0           | 0                 | <b>PSD</b>   | 0                                 | 0           | 0           | 0                 |
| <b>TRF</b>   | 0                      | 0           | 0           | 0                 | <b>TRF</b>   | 0                                 | 0           | 0           | 0                 |
| <b>Total</b>   | <b>32,149,041</b>      | <b>0</b>    | <b>0</b>    | <b>32,149,041</b> | <b>Total</b>   | <b>32,149,041</b>                 | <b>0</b>    | <b>0</b>    | <b>32,149,041</b> |
| <b>FTE</b>   | <b>585.13</b>          | <b>0.00</b> | <b>0.00</b> | <b>585.13</b>     | <b>FTE</b>   | <b>585.13</b>                     | <b>0.00</b> | <b>0.00</b> | <b>585.13</b>     |
| <b>Est. Fringe</b>   | 15,431,708             | 0           | 0           | 15,431,708        | <b>Est. Fringe</b>   | 15,431,708                        | 0           | 0           | 15,431,708        |
| <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |                        |             |             |                   | <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |                                   |             |             |                   |

Other Funds:

Other Funds:

**2. CORE DESCRIPTION**

The Missouri State Public Defender System [MSPD] is a statewide system, providing direct representation to over 98% of the indigent defendants accused of state crimes in Missouri's trial, appellate, and Supreme courts. It is an independent department of state government, located within, but not supervised by, the judicial branch. Instead, it is governed by a seven-member Public Defender Commission, each of whom is appointed by the governor. This decision item includes funding for the the assistant public defenders and their support staff throughout the state and central administrative staff.

**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department: State Public Defender</b>               | <b>Budget Unit</b> <u>15141C</u> |
| <b>Division: Public Defender</b>                       |                                  |
| <b>Core: Legal Defense &amp; Defender Core Request</b> |                                  |

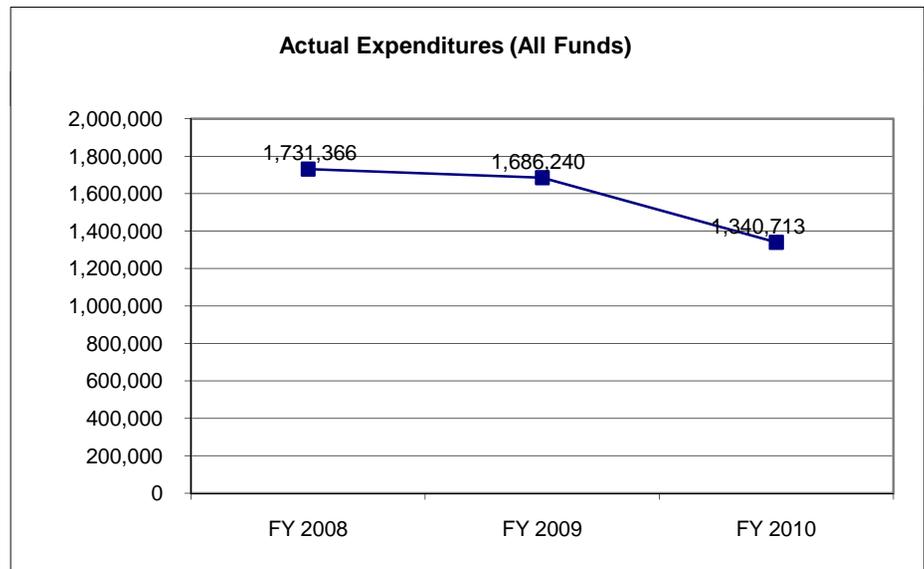
**3. PROGRAM LISTING (list programs included in this core funding)**

Training of all employees within the State Public Defender System is an important part of the day to day operation. Examples of system training provided would include:

|  |  |
|--|--|
| Trial Skills Workshop<br>Advanced Trial Skills Training<br>New Attorney Training<br>New Employee Training<br>New Defender Workshop<br>Missouri Association of Criminal Defense Lawyers | Appellate Record Preservation<br>National Association of Criminal Defense Attorneys<br>Life in the Balance (Death Penalty)<br>Computer Training<br>Defender Management |
|--|--|

**4. FINANCIAL HISTORY**

|                                 | <u>FY 2008<br/>Actual</u> | <u>FY 2009<br/>Actual</u> | <u>FY 2010<br/>Actual</u> | <u>FY 2011<br/>Current Yr.</u> |
|---------------------------------|---------------------------|---------------------------|---------------------------|--------------------------------|
| Appropriation (All Funds)       | 2,976,491                 | 2,980,263                 | 2,980,263                 | 2,980,263                      |
| Less Reverted (All Funds)       | 0                         | 0                         | 0                         | N/A                            |
| Budget Authority (All Funds)    | 2,976,491                 | 2,980,263                 | 2,980,263                 | N/A                            |
| Actual Expenditures (All Funds) | <u>1,731,366</u>          | <u>1,686,240</u>          | <u>1,340,713</u>          | N/A                            |
| Unexpended (All Funds)          | <u>1,245,125</u>          | <u>1,294,023</u>          | <u>1,639,550</u>          | N/A                            |
| Unexpended, by Fund:            |                           |                           |                           |                                |
| General Revenue                 | 0                         | 0                         | 0                         | N/A                            |
| Federal                         | 0                         | 0                         | 0                         | N/A                            |
| Other                           | 0                         | 0                         | 0                         | N/A                            |



**FLEXIBILITY REQUEST FORM**

|   |  |
|---|--|
| <b>BUDGET UNIT NUMBER:</b> 1151000                      | <b>DEPARTMENT:</b> Office of the State Public Defender |
| <b>BUDGET UNIT NAME:</b> Public Defender Legal Services | <b>DIVISION:</b> Legal Services                        |

**1. Provide the amount by fund of personal service flexibility and the amount by fund of expense and equipment flexibility you are requesting in dollar and percentage terms and explain why the flexibility is needed. If flexibility is being requested among divisions, provide the amount by fund of flexibility you are requesting in dollar and percentage terms and explain why the flexibility is needed.**

**DEPARTMENT REQUEST**

The Office of the State Public Defender is requesting full flexibility in our legal services appropriations. (Appropriations 0911 and 0912). Due to high turnover of attorney positions, it is frequently necessary to transfer cases from state employees (Appropriation 0911) to private counsel who can be compensated from appropriation 0912.

It is also necessary to transfer dollars from the Personal Service Appropriation to the Expense and Equipment Appropriation to cover routine office expenses such as travel, postage and equipment maintenance.

**2. Estimate how much flexibility will be used for the budget year. How much flexibility was used in the Prior Year Budget and the Current Year Budget? Please specify the amount.**

| PRIOR YEAR<br>ACTUAL AMOUNT OF FLEXIBILITY USED | CURRENT YEAR<br>ESTIMATED AMOUNT OF<br>FLEXIBILITY THAT WILL BE USED | BUDGET REQUEST<br>ESTIMATED AMOUNT OF<br>FLEXIBILITY THAT WILL BE USED |
|---|--|--|
| \$631,053                                       | \$750,000  | \$750,000  |

**3. Please explain how flexibility was used in the prior and/or current years.**

| PRIOR YEAR<br>EXPLAIN ACTUAL USE  | CURRENT YEAR<br>EXPLAIN PLANNED USE  |
|---|--|
| <div style="border: 1px solid black; padding: 5px; min-height: 60px;">                     Transferred from Personal Service to Expense &amp; Equipment to meet operating costs.                 </div> | <div style="border: 1px solid black; padding: 5px; min-height: 60px;">                     Transferred from Personal Service to Expense &amp; Equipment to meet operating costs and to hire private counsel to provide representation due to excessive caseloads.                 </div> |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                    | FY 2010             | FY 2010       | FY 2011             | FY 2011       | FY 2012             | FY 2012       | FY 2012             | FY 2012       |
|--------------------------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|---------------------|---------------|
| Decision Item                  | ACTUAL              | ACTUAL        | BUDGET              | BUDGET        | DEPT REQ            | DEPT REQ      | GOV REC             | GOV REC       |
| Budget Object Class            | DOLLAR              | FTE           | DOLLAR              | FTE           | DOLLAR              | FTE           | DOLLAR              | FTE           |
| <b>OFFICE OF THE DIRECTOR</b>  |                     |               |                     |               |                     |               |                     |               |
| <b>CORE</b>                    |                     |               |                     |               |                     |               |                     |               |
| TEMPORARY EMPLOYEE             | 28,063              | 1.10          | 0                   | 0.00          | 0                   | 0.00          | 0                   | 0.00          |
| SECRETARY                      | 2,761,733           | 107.18        | 2,894,486           | 111.25        | 3,071,481           | 119.75        | 3,071,481           | 119.75        |
| COMPUTER INFO. SPECIALIST      | 304,371             | 6.25          | 297,595             | 6.25          | 268,824             | 5.25          | 268,824             | 5.25          |
| INVESTIGATOR                   | 1,919,783           | 55.07         | 1,954,738           | 54.63         | 2,082,281           | 60.13         | 2,082,281           | 60.13         |
| PARALEGAL                      | 193,993             | 6.04          | 183,609             | 5.50          | 204,932             | 6.50          | 204,932             | 6.50          |
| MITIGATION SPECIALIST          | 257,736             | 6.81          | 266,941             | 7.00          | 267,345             | 7.00          | 267,345             | 7.00          |
| LAW CLERK                      | 858                 | 0.03          | 0                   | 0.00          | 0                   | 0.00          | 0                   | 0.00          |
| ASSISTANT PUBLIC DEFENDER      | 16,983,589          | 320.13        | 17,284,696          | 324.50        | 17,443,454          | 325.50        | 17,443,454          | 325.50        |
| DISTRICT DEFENDER              | 2,994,595           | 41.78         | 3,183,756           | 44.00         | 3,086,988           | 43.00         | 3,086,988           | 43.00         |
| DIVISION DIRECTOR              | 631,752             | 6.00          | 638,019             | 6.00          | 631,752             | 6.00          | 631,752             | 6.00          |
| PROGRAM TECHNICIAN             | 178,570             | 5.14          | 176,805             | 5.00          | 213,108             | 6.00          | 213,108             | 6.00          |
| PROGRAM MANAGER                | 339,288             | 5.00          | 342,654             | 5.00          | 339,288             | 5.00          | 339,288             | 5.00          |
| DIRECTOR                       | 118,395             | 0.98          | 120,480             | 1.00          | 120,480             | 1.00          | 120,480             | 1.00          |
| <b>TOTAL - PS</b>              | <b>26,712,726</b>   | <b>561.51</b> | <b>27,343,779</b>   | <b>570.13</b> | <b>27,729,933</b>   | <b>585.13</b> | <b>27,729,933</b>   | <b>585.13</b> |
| TRAVEL, IN-STATE               | 1,002,464           | 0.00          | 1,000,000           | 0.00          | 978,900             | 0.00          | 978,900             | 0.00          |
| TRAVEL, OUT-OF-STATE           | 4,341               | 0.00          | 6,500               | 0.00          | 3,500               | 0.00          | 3,500               | 0.00          |
| FUEL & UTILITIES               | 55,500              | 0.00          | 40,000              | 0.00          | 50,000              | 0.00          | 50,000              | 0.00          |
| SUPPLIES                       | 332,643             | 0.00          | 295,000             | 0.00          | 315,000             | 0.00          | 315,000             | 0.00          |
| PROFESSIONAL DEVELOPMENT       | 113,339             | 0.00          | 110,000             | 0.00          | 115,000             | 0.00          | 115,000             | 0.00          |
| COMMUNICATION SERV & SUPP      | 153,880             | 0.00          | 175,000             | 0.00          | 150,000             | 0.00          | 150,000             | 0.00          |
| PROFESSIONAL SERVICES          | 1,991,422           | 0.00          | 2,228,262           | 0.00          | 1,680,938           | 0.00          | 1,680,938           | 0.00          |
| HOUSEKEEPING & JANITORIAL SERV | 92,994              | 0.00          | 85,000              | 0.00          | 90,000              | 0.00          | 90,000              | 0.00          |
| M&R SERVICES                   | 283,270             | 0.00          | 180,000             | 0.00          | 280,000             | 0.00          | 280,000             | 0.00          |
| COMPUTER EQUIPMENT             | 0                   | 0.00          | 500                 | 0.00          | 770                 | 0.00          | 770                 | 0.00          |
| OFFICE EQUIPMENT               | 126,159             | 0.00          | 4,500               | 0.00          | 4,500               | 0.00          | 4,500               | 0.00          |
| OTHER EQUIPMENT                | 0                   | 0.00          | 500                 | 0.00          | 500                 | 0.00          | 500                 | 0.00          |
| BUILDING LEASE PAYMENTS        | 745,414             | 0.00          | 645,000             | 0.00          | 715,000             | 0.00          | 715,000             | 0.00          |
| EQUIPMENT RENTALS & LEASES     | 11,558              | 0.00          | 10,000              | 0.00          | 10,000              | 0.00          | 10,000              | 0.00          |
| MISCELLANEOUS EXPENSES         | 23,329              | 0.00          | 25,000              | 0.00          | 25,000              | 0.00          | 25,000              | 0.00          |
| <b>TOTAL - EE</b>              | <b>4,936,313</b>    | <b>0.00</b>   | <b>4,805,262</b>    | <b>0.00</b>   | <b>4,419,108</b>    | <b>0.00</b>   | <b>4,419,108</b>    | <b>0.00</b>   |
| <b>GRAND TOTAL</b>             | <b>\$31,649,039</b> | <b>561.51</b> | <b>\$32,149,041</b> | <b>570.13</b> | <b>\$32,149,041</b> | <b>585.13</b> | <b>\$32,149,041</b> | <b>585.13</b> |
| <b>GENERAL REVENUE</b>         | <b>\$31,649,039</b> | <b>561.51</b> | <b>\$32,149,041</b> | <b>570.13</b> | <b>\$32,149,041</b> | <b>585.13</b> | <b>\$32,149,041</b> | <b>585.13</b> |
| <b>FEDERAL FUNDS</b>           | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   |
| <b>OTHER FUNDS</b>             | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   | <b>\$0</b>          | <b>0.00</b>   |

**NEW DECISION ITEM**

RANK: 5 OF 5

|  |                            |
|--|----------------------------|
| <b>Department:</b> State Public Defender           | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services  |                            |
| <b>DI Name:</b> Cost to Continue 2011 Supplemental | <b>DI#:</b> 1151001        |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |          |          |                  |              | FY 2012 Governor's Recommendation |          |          |          |
|--------------|------------------------|----------|----------|------------------|--------------|-----------------------------------|----------|----------|----------|
|              | GR                     | Federal  | Other    | Total            |              | GR                                | Federal  | Other    | Total    |
| PS           | 1,951,776              | 0        | 0        | 1,951,776        | PS           | 0                                 | 0        | 0        | 0        |
| EE           | 330,100                | 0        | 0        | 330,100          | EE           | 0                                 | 0        | 0        | 0        |
| PSD          | 0                      | 0        | 0        | 0                | PSD          | 0                                 | 0        | 0        | 0        |
| TRF          | 0                      | 0        | 0        | 0                | TRF          | 0                                 | 0        | 0        | 0        |
| <b>Total</b> | <b>2,281,876</b>       | <b>0</b> | <b>0</b> | <b>2,281,876</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>0</b> | <b>0</b> |
| <br>         |                        |          |          |                  |              |                                   |          |          |          |
| FTE          | 50.00                  | 0.00     | 0.00     | 50.00            | FTE          | 0.00                              | 0.00     | 0.00     | 0.00     |

|                    |           |   |   |           |
|--------------------|-----------|---|---|-----------|
| <b>Est. Fringe</b> | 1,086,163 | 0 | 0 | 1,086,163 |
|--------------------|-----------|---|---|-----------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program  | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input type="checkbox"/> Program Expansion                                  | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input type="checkbox"/> Space Request                                      | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input checked="" type="checkbox"/> Other: <b>CONSTITUTIONALLY MANDATED</b> |  |

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|             |                                    |             |         |
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**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

In the current economic situation, there is no question that all of government must tighten its belt and trim the 'extras'. However, unlike most other departments of state government, Missouri's Public Defenders perform only one function and the level of performance is constitutionally mandated by both the U.S. and Missouri Constitutions. When that constitutional mandate is ignored, innocent people go to jail, guilty ones go free, and justice becomes anything but.

In the last five years, four separate studies have been done of the Missouri State Public Defender System and all have reached the same conclusion: Missouri's Public Defender System "is operating in crisis mode" and "the probability that public defenders are failing to provide effective assistance of counsel and are violating their ethical obligations to their clients increases every day." The last three Chief Justices have warned of this crisis in their State of the Judiciary speeches to the legislature and the U.S. Attorney General, Eric Holder, specifically named Missouri in a speech given in New York last year as an example of a broken indigent defense system. Something has to give.

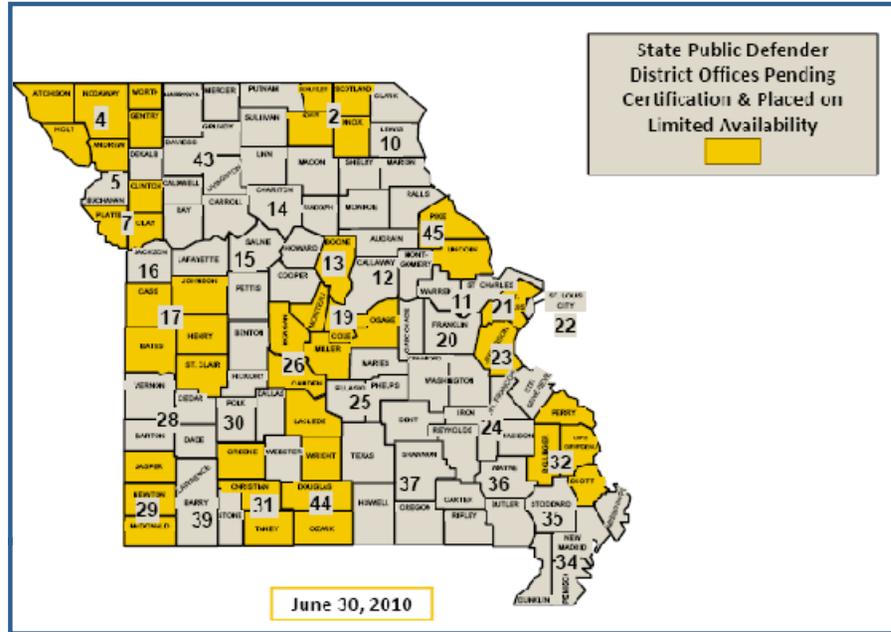
When there are not sufficient resources to adequately staff the public defender system to handle all the eligible cases, public defenders have no choice but to limit the cases they accept. Anything else forces them to violate their ethical and professional responsibilities, exposing them to malpractice liability and professional discipline against their licenses to practice law.

As a result, in accordance with Public Defender Commission rules and the Missouri Supreme Court opinion issued in December, 2009, both described further below, two public defender offices began turning away cases above their maximum capacity in July, 2010. Fourteen other offices have given formal notice that they are at risk of having to do the same if the courts in their jurisdictions are unable to divert some of the less serious cases before they reaches the public defender office. In all, 22 judicial circuits and 53 counties are impacted, with more expected to follow.

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|                    |   |                    |               |
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| <b>Department:</b> | <b>State Public Defender</b>              | <b>Budget Unit</b> | <b>15111C</b> |
| <b>Division:</b>   | <b>Public Defender - Legal Services</b>   |                    |               |
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The current statutory scheme requires Missouri's public defenders to defend not only those charged with serious offenses such as rape, murder, assault, and robbery but also a host of nonviolent, minor offenses such as driving while revoked, truancy, and possession of drug paraphernalia; and a variety of debt collection offenses such as criminal nonsupport, bad checks, and failure to return rental property. In this economic climate, adequately staffing the public defender system to defend all of these cases is as far beyond the state's ability to fund as the caseload itself is above the public defender system's ability to handle. As a result, while the enclosed budget request shows the full cost of fixing the problem of indigent defense in Missouri, it also proposes a four-year phase-in of that cost. This will not solve the crisis in Missouri's public defender system. If it is not possible to staff the public defender to handle all the cases coming its way, it only makes sense to prioritize public defender resources to handle the most serious criminal offenses and take the minor matters off the list of responsibilities. We strongly encourage a serious exploration of ways to do that. Tight budget times call for creative approaches and a different way of thinking by all.

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4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)

**Missouri Public Defender Commission Caseload Crisis Protocol:  
NATIONAL CASELOAD STANDARDS**

In May of 2006, the American Bar Association issued an ethical advisory opinion warning against ethical violations caused by excessive defender caseloads and highlighting the professional responsibility of both defenders and courts to take steps to avoid such ethical violations. That opinion cited the National Advisory Counsel caseload standards as guidance for defenders and courts in determining when public defenders are carrying excessive caseloads. See, *ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseload Interfere with Competent and Diligent Representation*, May 13, 2006.

In November, 2007, the Missouri Public Defender Commission adopted a new agency rule and caseload crisis protocol (18 CSR 10-4.010). The two together establish a procedure for determining the maximum caseload each public defender office can reasonably and ethically be expected to handle. When the total workload hours of the cases assigned to the office have exceeded the maximum allowable workloads for that office for three consecutive months, the Rule authorizes the MSPD Director to place a district on 'limited availability status' and begin turning away excess cases. The rule, as originally adopted, indicated that the offices would do this by identifying certain category of cases -- minor misdemeanors, probation revocation cases, etc -- that would no longer be eligible for defender services in order to triage attorney time toward the more serious offenses. The rule went into effect in August, 2008 and not long thereafter, the Commission's authority to set maximum caseloads was challenged.. (This litigation was pending at the time Senator Jack Goodman sponsored SB 37 during the 2009 legislative session, clarifying the statutory language to leave no doubt that the legislature did in fact intend to give the Commission such authority. Although that bill was vetoed by the Governor, the Missouri Supreme Court wound up ruling that the Commission did in fact already have that authority under the current statutory language without the changes proposed by SB 37.)

The issue went to the Missouri Supreme Court and in December, 2009, the Court issued its opinion in State ex. rel. *Missouri Public Defender Commission v. Pratt*, 298 S.W.3d 870, 877 (Mo. banc 2009). In that ruling, the Court acknowledged the Commission's authority to set maximum caseloads but ruled that it did not have the authority to unilaterally triage the caseload by excluding particular categories of cases. Under the opinion, the only way in which a public defender office can refuse excess cases is to simply close the doors to all new cases, regardless of case type or confinement status of the accused. That revised rule is the one under which MSPD is now operating.

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| <b>Division:</b>   | <b>Public Defender - Legal Services</b>   |                    |                |
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In developing the maximum allowable caseload standard for each office, the Public Defender Commission looked to national caseload standards. The National Advisory Counsel of the U.S. Department of Justice Task Force on the Courts developed maximum recommended caseload standards for public defenders in 1972. Those standards have formed the basis for most public defender caseload standards presently in existence around the country. (See, Compendium of Standards for Indigent Defense System compiled by the Institute for Law and Justice under a contract with the Bureau of Justice Assistance, December, 2000.) The NAC caseload standards are set out below, rounded to the nearest whole number:

| <b>NAC CASELOAD STANDARDS</b> |  |
|-------------------------------|--|
| Non-Capital Homicides         | 12 cases per year or 1 new case per month      |
| Felonies                      | 150 cases per year or 12.5 new cases per month |
| Misdemeanors                  | 400 cases per year or 33 new cases per month   |
| Juvenile                      | 200 cases per year or 17 new cases per month   |
| Appeals                       | 25 cases per year or 2 new cases per month     |

The NAC standards did not address post-conviction matters, sexually-violent predator commitment cases, or capital cases. They also did not allot any attorney time for supervisory, administrative, or training tasks, account for travel time in rural vs. urban jurisdictions, or consider the availability or lack of support staff as factors in determining the time lawyers would have available to spend preparing their cases.

The ABA recognized this deficiency in its May, 2006 ethical advisory opinion, pointing out, **“Although [national] standards may be considered, they are not the sole factor in determining if a workload is excessive. Such a determination depends not only on the number of cases, but also on such factors as case complexity, the availability of support services, the lawyer’s experience and ability, and the lawyer’s nonrepresentational duties.”** ABA Formal Opinion 06-441, p 4. [Emphasis added.]

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**MSPD MODIFICATION OF NAC STANDARDS:**

The MSPD caseload crisis protocol follows the ABA opinion in using the NAC standard as its foundation, but builds upon it in order to address the omissions described above and the particular circumstances of Missouri Public Defender Offices. These modifications, which are set out below, will be subject to annual review and adjustment as necessary.

**Case Weights = Hours per Case**

01) Measuring case hours, rather than case numbers, allows us to both assign weights to cases and more easily add into the equation attorney hours spent in essential, but non-case-related tasks. The caseload numbers of the NAC standard were therefore converted to hours per case type. The NAC standard assumed a standard 40 hour work week or 2080 attorney hours available over the course of a year. Dividing the total available hours by the maximum number of allowable cases per year, the NAC standard results in the following hours per case type (rounded to the nearest whole number):

| NAC HOURS PER CASE TYPE |                    |
|-------------------------|--------------------|
| Non-Capital Homicides   | 173 hours per case |
| Felonies                | 14 hours per case  |
| Misdemeanors            | 5 hours per case   |
| Juvenile                | 10 hours per case  |
| Appeals                 | 83 hours per case  |
|                         |                    |

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02) The NAC standards do not distinguish between types of felony offenses. However, MSPD's internal workload study did make that distinction. (See Appendix B re MSPD Internal Workload Study) Not surprisingly, the results of that study indicated that sex offense cases take significantly more time to prepare and defend than drug and other felony cases under current Missouri law. For that reason, this standard modifies the NAC broad "Felony" offense category by dividing it into subcategories of Sex Offenses and Other Felony Offenses. The MSPD internal workload study showed that MSPD attorneys are currently -- even with existing case overloads -- spending an average of 31 hours per case on sex offense cases, so that number was used in lieu of the 14 hours per case for general felony cases.

| <b>MSPD MODIFIED<br/>NAC HOURS PER CASE TYPE</b> |                    |
|--|--------------------|
| Non-Capital Homicides                            | 173 hours per case |
| Sex Offenses - A & B                             | 31 hours per case  |
| Other Felonies Offenses                          | 14 hours per case  |
| Misdemeanors                                     | 5 hours per case   |
| Juvenile   | 10 hours per case  |
| Appeals  | 83 hours per case  |
| 29.15 Cases                                      | 62 hours per case  |
| 24.035 Cases                                     | 21 hours per case  |
| Probation Violations                             | 5 hours per case   |

03) The NAC standards do not address probation violation cases. MSPD deems each of those cases the same as a misdemeanor case for purposes of the protocol, regardless of whether the underlying case was a felony or a misdemeanor.

04) The NAC standards do not address post-conviction cases. MSPD currently weighs post-trial 29.15 motions and appeals as equal to three-fourths of a direct appeal and post-plea 24.035 motions and appeals as equal to one-fourth of a direct appeal for purposes

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05) The NAC standards do not address capital or sexually violent predator cases. MSPD limits each of its capital attorneys to no more than six open capital cases. This is based upon a Florida study in which attorneys defending death penalty cases in the manner set forth by the ABA death penalty standards tracked their hours per case and determined that an attorney could effectively handle no more than 3 capital cases per year per attorney. Since each of MSPD's capital cases is assigned two attorneys who divide the work on the case between them, MSPD has raised that caseload standard to 6 open capital cases per attorney. Because of the stricter time standards in post conviction, the caseloads of capital PCR attorneys are kept at around 5 open cases per attorney. Sexually violent predator caseloads are currently capped at 8 open cases per attorney at a time. MSPD usually contracts cases in excess of these limits to private counsel.

**Non-Case-Related Work Hours:**

As the ABA Ethical Advisory Opinion recognized, every attorney has non-case-related responsibilities that have to be considered when determining whether an attorney's workload has become untenable. MSPD has adjusted for these by adding each of the following categories into the total workload calculation when determining case overload under this protocol.

**1) ANNUAL AND HOLIDAY LEAVE:** MSPD is a state agency and required by state law to permit its employees a set amount of annual and holiday leave each year. While a number of its attorneys work those days of their own volition, MSPD cannot require its attorneys to give up these days and therefore must build them into any determination of how many attorney hours are available to handle the caseload. While hours of annual leave increase with seniority, this protocol utilizes the minimum annual leave accrual of ten hours per month or 120 hours per year. In addition, the State of Missouri recognizes 12 state holidays, which translate into 96 holiday hours per year for a total of 216 hours annual and holiday leave, which must be deducted from the total number of available attorney hours.

**2) SICK LEAVE:** MSPD is required to allocate to its employees a set amount of sick leave each month, although this leave may not be used without good cause. When sick leave is used by employees – particularly for extended periods of FMLA leave – it reduces the number of attorney hours available to handle cases. To account for this leave without overestimating its impact, this protocol draws upon the experience of the preceding year in anticipating how much sick leave is likely to be utilized. In 2010, 2.68% of total attorney hours was used for sick leave. That percentage is therefore subtracted from the available attorney hours for handling caseload.

**3) NON-CASE-RELATED TASKS:** The practice of law in MSPD inevitably includes significant amounts of time taken up with non-case-related matters, some inherent in the practice of law such as continuing legal education and time spent waiting in court for cases to be called or at the jail waiting for clients to be produced. Of greater significance is the time MSPD attorneys spend doing primarily administrative tasks such as copying discovery, updating court dates, etc. because of the critical shortage of support staff within our offices. The average amount of time spent by MSPD attorneys on these tasks was determined through the MSPD workload study in which employees were required to track their time, by category of task, in fifteen-minute increments. That study revealed that 13.7% of total available attorney hours were spent on such

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non-case-related tasks. Those hours must be deducted from the hours available for handling cases. If the number of support staff were to be increased, the number of attorney hours available for case work and the overall numbers of cases the office could handle before reaching critical proportions would likewise increase. For the meantime, however, the weighted workload caps used in the caseload crisis protocol must continue to account for the shortage of support staff and count those hours as part of the attorney workloads.

**4) TRAVEL TIME:** The average amount of attorney time spent in travel varies with the location and coverage area of the office. This is estimated by taking the total number of miles traveled by each office during the preceding year and translating that into travel time using an average of 45 miles per hour -- an average of highway, two-lane and busy, urban roadway travel times.

**5) MANAGEMENT / SUPERVISORY TIME:** The amount of time needed for management duties within a district office varies with the size of the office and the number of people supervised. MSPD's experience has shown that effective management and supervision within a district office require an average of 1.5 hours per week of supervisor time per employee supervised. E.g., in an office of 3 attorneys and 2 support staff, the District Defender should expect to spend an average of 7.5 hours per week [5 employees x 1.5 hours] on management and supervisory responsibilities. Because most of MSPD's District and Deputy District Defenders also carry caseloads and are included in the "available attorney hours" equation, the time they devote to their management / supervisory tasks is deducted from the total attorney hours available within that district office to handle caseload.

**CALCULATION OF DISTRICT OFFICE WORKLOAD:**

**Attorney Hours Available for Case Work:**

For purposes of the protocol and putting offices on "limited availability", caseloads are reviewed on a rolling 3 months. For the purposes of budgeting, the caseloads and staffing are reviewed using fiscal year numbers.

The annual available attorney hours used is 2340 hours or 45 hours per week per attorney. To determine the number of those hours available for actually handling cases, we must deduct the hours used up in non-case-related matters as set out above. Averages (rounded to the nearest half hour) that apply statewide can be deducted up front, as follows:

|                 |  |
|-----------------|--|
| 2,340.00        | ANNUAL AVAILABLE HOURS PER ATTORNEY                  |
| 320.50          | AVERAGE NON-CASE-RELATED TASKS [13.7% of 2340]       |
| <u>278.62</u>   | AVERAGE HOLIDAYS, ANNUAL LEAVE AND SICK LEAVE        |
| <b>1,740.88</b> | <b>AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR</b> |

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Management and travel time still have to be deducted, but because these vary with the number of employees and geographic size of each district, they must be calculated at the local district level, as follows:

*Management / Supervisory Hours:* To determine the average management / supervisory hours within a given office over a fiscal year, multiply the number of employees to be supervised by 78 (1.5 hours x 52 weeks). For example, a District Defender who supervised 15 lawyers and 8 support staff, for a total of 23 employees should anticipate 1,794 hours of management time in that year. Because all supervision is provided by one or more attorneys serving as the District and/or Deputy District Defender, these hours reduce the available attorney hours to handle cases within that District, as shown in the example below.

*Travel Time:* The average number of attorney miles traveled over a fiscal year is based upon the number of attorney miles traveled in that district during the previous fiscal year. Miles are converted to hours using an average of 45 miles per hour. Assume our sample district traveled 5000 attorney miles last fiscal year. That translates into 111 attorney hours spent in travel within that district. Those hours are not available for the handling of cases and must be deducted from the district's available attorney hours, as shown in the example.

EXAMPLE:

|               |   |
|---------------|---|
| 26,113.20     | Total available attorney hours per year (1,752 x 15 lawyers)<br>(District Defender + 15 Assistant Public Defenders) |
| 1,794.00      | Management hours required<br>(15 lawyers + 8 staff = 23 x 78 hours per yr)  |
| <u>111.00</u> | Average attorney travel hours for district over the fiscal year   |
| 24,208.20     | DISTRICT OFFICE MAXIMUM ALLOWABLE CASELOAD STANDARD   |

The maximum allowable caseload standard number is the maximum number of attorney hours available to handle cases within that district office over the fiscal year. To determine if an office is exceeding that standard, we must then compare this number to the hours required to handle the caseload that office has been assigned during the fiscal year under examination.

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**Hours Required to Handle Office Caseload**

We determine the number of cases assigned to that office in each category of case type – e.g. how many murders, how many sex cases, how many felony drug cases, etc. during the preceding fiscal year. The number of cases in each category is then multiplied by the number of hours set forth in the Missouri State Public Defender Modified NAC table shown previously, and then totaled to determine the total number of attorney hours *needed* to handle the caseload assigned to that district for the three-month interval examined.

Note: This protocol calculates attorney hours based upon new cases assigned. It does not count hours being spent now on cases that were assigned four or five months ago that remain open. This is balanced out by counting the total number of hours required to handle each new case assigned as falling entirely within the fiscal year interval under examination even though, in reality, those hours – like the current open cases -- will be spread over several months, perhaps years, to come. The one balances out the other and the result is a reasonably accurate assessment of average actual workload. Cases disposed via Withdrawal, Conflict, or Assignment are subtracted from the protocol as minimal work is done on these disposition types.

**TRIAL DIVISION FOUR YEAR PHASE IN**

Due to the severe nature of this decision item and the costs involved to resolve this crisis, the Missouri State Public Defender is requesting that the funding to alleviate the crisis be phased in. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. An additional one-fourth of the costs will be requested in FY2012. Additional funding of the Missouri State Public Defender Protocol will be requested in future years and will be based on future caseloads.

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**5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.**

| <b>Budget Object Class/Job Class</b>     | <b>Dept Req<br/>GR<br/>DOLLARS</b> | <b>Dept Req<br/>GR<br/>FTE</b> | <b>Dept Req<br/>FED<br/>DOLLARS</b> | <b>Dept Req<br/>FED<br/>FTE</b> | <b>Dept Req<br/>OTHER<br/>DOLLARS</b> | <b>Dept Req<br/>OTHER<br/>FTE</b> | <b>Dept Req<br/>TOTAL<br/>DOLLARS</b> | <b>Dept Req<br/>TOTAL<br/>FTE</b> | <b>Dept Req<br/>One-Time<br/>DOLLARS</b> |
|--|------------------------------------|--------------------------------|-------------------------------------|---------------------------------|---------------------------------------|-----------------------------------|---------------------------------------|-----------------------------------|--|
| Assistant Public Defender III - Range 30 | 1,276,704                          | 26.0                           |                                     |                                 |                                       |                                   | 1,276,704                             | 26.0                              |  |
| Investigator - Range 23                  | 277,152                            | 8.0                            |                                     |                                 |                                       |                                   | 277,152                               | 8.0                               |  |
| Secretary - Range 12                     | 190,368                            | 8.0                            |                                     |                                 |                                       |                                   | 190,368                               | 8.0                               |  |
| Legal Assistant - Range 15               | 207,552                            | 8.0                            |                                     |                                 |                                       |                                   | 207,552                               | 8.0                               |  |
| <b>Total PS</b>                          | <b>1,951,776</b>                   | <b>50.0</b>                    | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>1,951,776</b>                      | <b>50.0</b>                       | <b>0</b>                                 |
| Travel 140                               | 245,100                            |                                |                                     |                                 |                                       |                                   | 245,100                               |                                   |  |
| Supplies 190                             | 25,000                             |                                |                                     |                                 |                                       |                                   | 25,000                                |                                   |  |
| Communications 340                       | 60,000                             |                                |                                     |                                 |                                       |                                   | 60,000                                |                                   |  |
| <b>Total EE</b>                          | <b>330,100</b>                     |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>330,100</b>                        |                                   | <b>0</b>                                 |
| Program Distributions                    |                                    |                                |                                     |                                 |                                       |                                   | 0                                     |                                   |  |
| <b>Total PSD</b>                         | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| Transfers                                |                                    |                                |                                     |                                 |                                       |                                   |                                       |                                   |  |
| <b>Total TRF</b>                         | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| <b>Grand Total</b>                       | <b>2,281,876</b>                   | <b>50.0</b>                    | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>2,281,876</b>                      | <b>50.0</b>                       | <b>0</b>                                 |

| FY2010 ASSIGNED CASES - Trial Division & Contract Counsel |                                       |                           |                                    |  |                                  |
|---|---------------------------------------|---------------------------|------------------------------------|--|----------------------------------|
| Case Type   |                                       | FY10 Trial Division Cases | FY10 Case Overload Contract Relief | Hours Required for Case Type             | FY10 NAC Modified Required Hours |
| 15  | Murder 1st Degree                     | 132                       | 5                                  | 173                                      | 23,701                           |
| 20  | Other Homicide                        | 153                       | 3                                  | 173                                      | 26,988                           |
| 30D   | AB Felony Drug                        | 3,260                     | 76                                 | 14                                       | 46,704                           |
| 30F   | AB Felony Other                       | 3,618                     | 87                                 | 14                                       | 51,870                           |
| 30X   | AB Felony Sex                         | 689                       | 7                                  | 31                                       | 21,576                           |
| 35D   | CD Felony Drug                        | 5,324                     | 91                                 | 14                                       | 75,810                           |
| 35F   | CD Felony Other                       | 20,353                    | 323                                | 14                                       | 289,464                          |
| 35X   | CD Felony Sex                         | 364                       | 4                                  | 31                                       | 11,408                           |
| 45M   | Misdemeanor                           | 17,688                    | 119                                | 5  | 89,035                           |
| 45T   | Misdemeanor - Traffic                 | 6,841                     | 21                                 | 5  | 34,310                           |
| 50N   | Juvenile - Non Violent                | 1,339                     | 1                                  | 10                                       | 13,400                           |
| 50S   | Juvenile - Status                     | 258                       |                                    | 10                                       | 2,580                            |
| 50V   | Juvenile - Violent                    | 753                       | 6                                  | 10                                       | 7,590                            |
| 60  | 552 Release Petitions                 | 33                        |                                    | 14                                       | 462                              |
| 65F   | Probation Violation - Felony          | 14,171                    | 39                                 | 5  | 71,050                           |
| 65M   | Probation Violation - Misd            | 5,877                     | 14                                 | 5  | 29,455                           |
| 75  | Special Writ                          | 4                         |                                    | 83                                       | 332                              |
| 80  | Appeal - Misdemeanor                  | 2                         |                                    | 83                                       | 166                              |
| 82  | Appeal - Other                        | 34                        |                                    | 83                                       | 2,822                            |
|   | <b>Totals</b>                         | <b>80,893</b>             | <b>796</b>                         |  |                                  |
|   |                                       |                           |                                    |  |                                  |
| 2340.00   | Standard Work Hours (45 hrs. *52 wks) |                           |                                    |  |                                  |
| -62.62  | Attorney Sick Leave                   |                           |                                    | Case Hours                               | 798,723                          |
| -216.00   | Holidays and Annual Leave             |                           |                                    | Adjusted for Withdrawn & Conflicts       | -138,506                         |
| <u>-320.50</u>  | Non Case Related Hours (13.7%)        |                           |                                    | Travel Hours                             | 32,343                           |
| 1740.88   | Available Attorney Case Hours         |                           |                                    | Management Hours                         | 32,916                           |
|   |                                       |                           |                                    | Total Hours                              | 725,476                          |
|   |                                       |                           |                                    |  |                                  |
|   |                                       |                           |                                    | Attorneys Required (Total Hours/1740.88) | 417                              |
|   |                                       |                           |                                    | Number of Current TD Attorneys           | 311                              |
|   |                                       |                           |                                    | Number of TD Attorneys Needed*           | 106                              |
|   |                                       |                           |                                    |  |                                  |

\* Does not include CDU

| <b>Trial Division Protocol</b>                       |                           |  |  |                                |
|--|---------------------------|--|--|--------------------------------|
|  | Protocol                  | FY2011<br>Supplemental<br>Start Date=<br>April 1, 2011 | FY2012 Cost to<br>Continue<br>FY2011<br>Supplemental | FY2012<br>New Decision<br>Item |
| <b>Cost Breakdown</b>                                |                           |  |  |                                |
| <b>Personal Service</b>                              |                           |  |  |                                |
| Assistant Public Defender III - Range 30<br>\$49,104 | 106.00<br>\$5,205,024     | 26.00<br>\$319,176                                     | 26.00<br>\$1,276,704                                 | 26.00<br>\$1,276,704           |
| Investigators - Range 23<br>\$34,644                 | 35.00<br>\$1,212,540      | 8.00<br>\$69,288                                       | 8.00<br>\$277,152                                    | 8.00<br>\$277,152              |
| Secretaries - Range 12<br>\$23,796                   | 35.00<br>\$832,860        | 8.00<br>\$47,592                                       | 8.00<br>\$190,368                                    | 8.00<br>\$190,368              |
| Legal Assistants - Range 15<br>\$25,944              | 35.00<br><u>\$908,040</u> | 8.00<br><u>\$51,888</u>                                | 8.00<br><u>\$207,552</u>                             | 8.00<br><u>\$207,552</u>       |
| <b>Total Personal Service</b>                        | <b>\$8,158,464</b>        | <b>\$487,944</b>                                       | <b>\$1,951,776</b>                                   | <b>\$1,951,776</b>             |
| <b>Expense &amp; Equipment</b>                       |                           |  |  |                                |
| <b>One-time Purchases</b>                            |                           |  |  |                                |
| Attorney Package<br>\$2,950                          | 106.00<br>\$312,700       | 26.00<br>\$76,700                                      |  | 26.00<br>\$76,700              |
| Investigator Package<br>\$2,875                      | 35.00<br>\$100,625        | 8.00<br>\$23,000                                       |  | 8.00<br>\$23,000               |
| Legal Assistant Package<br>\$2,875                   | 35.00<br>\$100,625        | 8.00<br>\$23,000                                       |  | 8.00<br>\$23,000               |
| Secretary Package<br>\$9,105                         | 35.00<br><u>\$318,675</u> | 8.00<br><u>\$72,840</u>                                |  | 8.00<br><u>\$72,840</u>        |
| <b>Total One-Time Purchases</b>                      | <b>\$832,625</b>          | <b>\$195,540</b>                                       |  | <b>\$195,540</b>               |
| <b>On-Going Costs</b>                                |                           |  |  |                                |
| Attorneys<br>\$7,850                                 | 106.00<br>\$832,100       | 26.00<br>\$51,025                                      | 26.00<br>\$204,100                                   | 26.00<br>\$204,100             |
| Investigator<br>\$7,525                              | 35.00<br>\$263,375        | 8.00<br>\$15,050                                       | 8.00<br>\$60,200                                     | 8.00<br>\$60,200               |
| Legal Assistant<br>\$5,875                           | 35.00<br>\$205,625        | 8.00<br>\$11,750                                       | 8.00<br>\$47,000                                     | 8.00<br>\$47,000               |
| Secretary<br>\$2,350                                 | 35.00<br><u>\$82,250</u>  | 8.00<br><u>\$4,700</u>                                 | 8.00<br><u>\$18,800</u>                              | 8.00<br><u>\$18,800</u>        |
| <b>Total Personnel Related On-Going Costs</b>        | <b>\$1,383,350</b>        | <b>\$82,525</b>  | <b>\$330,100</b>                                     | <b>\$330,100</b>               |
| <b>Total Expense and Equipment</b>                   | <b>\$2,215,975</b>        | <b>\$278,065</b>                                       | <b>\$330,100</b>                                     | <b>\$525,640</b>               |
| <b>Total Decision Item Request</b>                   | <b>\$10,374,439</b>       | <b>\$766,009</b>                                       | <b>\$2,281,876</b>                                   | <b>\$2,477,416</b>             |

One Time Equipment Purchase

**Attorney**

|                         |              |
|-------------------------|--------------|
| Desk                    | \$540        |
| Chair                   | \$175        |
| Side Chair (2)          | \$250        |
| Bookcase                | \$215        |
| Portable Dictation Unit | \$105        |
| File Cabinet (2)        | \$225        |
| Telephone               | \$275        |
| Personal Computer       | \$950        |
| PC Software             | <u>\$215</u> |
|                         | \$2,950      |

**Secretary**

|                       |                |
|-----------------------|----------------|
| Desk                  | \$540          |
| Chair                 | \$175          |
| Side Chair (1)        | \$125          |
| File Cabinet (2)      | \$225          |
| Telephone             | \$325          |
| Personal Computer     | \$950          |
| PC Software           | \$215          |
| Printer/Copier/Fax    | <u>\$6,550</u> |
| For Every 5 Employees | \$9,105        |

**Investigator/Legal Assistant**

|                         |              |
|-------------------------|--------------|
| Desk                    | \$540        |
| Chair                   | \$175        |
| Side Chair (2)          | \$250        |
| Camera                  | \$190        |
| Portable Dictation Unit | \$105        |
| File Cabinet (2)        | \$225        |
| Telephone               | \$225        |
| Personal Computer       | \$950        |
| PC Software             | <u>\$215</u> |
|                         | \$2,875      |

Detail for Projections

On-Going Costs - Trial Division

**Attorney**

|                                |                |
|--------------------------------|----------------|
| Travel @ \$512.50 per month    | \$6,150        |
| Office                         | \$500          |
| Phone & Network Communications | <u>\$1,200</u> |
|                                | \$7,850        |

**Secretary**

|                                |                |
|--------------------------------|----------------|
| Office                         | \$1,150        |
| Phone & Network Communications | <u>\$1,200</u> |
|                                | \$2,350        |

**Investigator**

|                                |                |
|--------------------------------|----------------|
| Travel @ \$512.50 per month    | \$6,150        |
| Office                         | \$175          |
| Phone & Network Communications | <u>\$1,200</u> |
|                                | \$7,525        |

**Legal Assistant**

|                                |                |
|--------------------------------|----------------|
| Travel @ \$375.00 per month    | \$4,500        |
| Office                         | \$175          |
| Phone & Network Communications | <u>\$1,200</u> |
|                                | \$5,875        |

Staffing Ratios:

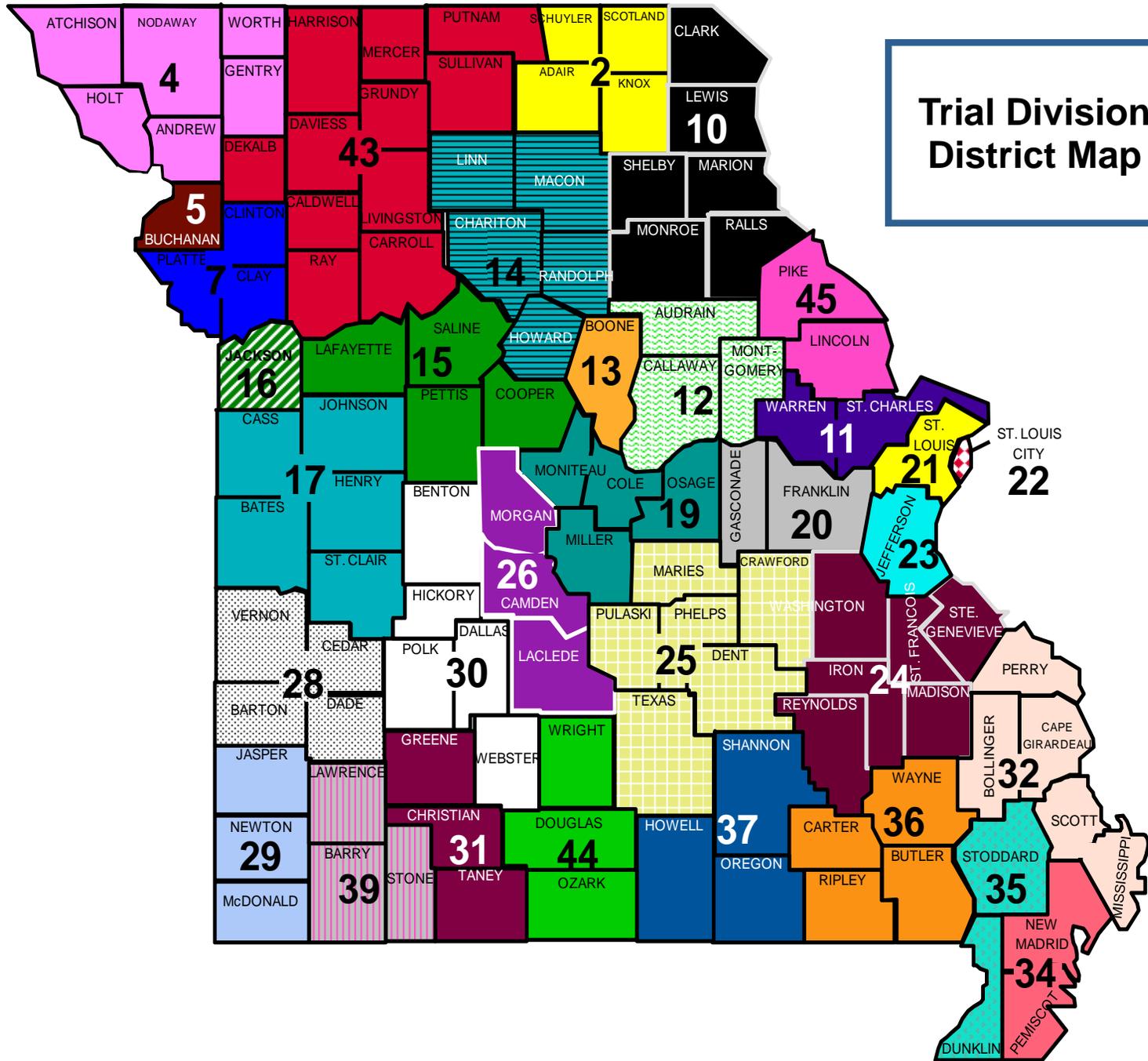
**Requirements**

|                  |                   |
|------------------|-------------------|
| Investigators    | 1 : 3.0 Attorneys |
| Secretaries      | 1 : 3.0 Attorneys |
| Legal Assistants | 1 : 3.0 Attorneys |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                             | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012            | FY 2012      | FY 2012    | FY 2012     |
|---|------------|-------------|------------|-------------|--------------------|--------------|------------|-------------|
| Decision Item                           | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ           | DEPT REQ     | GOV REC    | GOV REC     |
| Budget Object Class                     | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR             | FTE          | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>           |            |             |            |             |                    |              |            |             |
| <b>Cost to Continue Trial - 1151001</b> |            |             |            |             |                    |              |            |             |
| SECRETARY                               | 0          | 0.00        | 0          | 0.00        | 397,920            | 16.00        | 0          | 0.00        |
| INVESTIGATOR                            | 0          | 0.00        | 0          | 0.00        | 277,152            | 8.00         | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER               | 0          | 0.00        | 0          | 0.00        | 1,276,704          | 26.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                       | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>1,951,776</b>   | <b>50.00</b> | <b>0</b>   | <b>0.00</b> |
| TRAVEL, IN-STATE                        | 0          | 0.00        | 0          | 0.00        | 245,100            | 0.00         | 0          | 0.00        |
| SUPPLIES                                | 0          | 0.00        | 0          | 0.00        | 25,000             | 0.00         | 0          | 0.00        |
| COMMUNICATION SERV & SUPP               | 0          | 0.00        | 0          | 0.00        | 60,000             | 0.00         | 0          | 0.00        |
| <b>TOTAL - EE</b>                       | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>330,100</b>     | <b>0.00</b>  | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                      | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,281,876</b> | <b>50.00</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                  | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,281,876</b> | <b>50.00</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                    | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>  |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                      | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>  |            | <b>0.00</b> |



**Trial Division District Map**

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**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                            |
|---|----------------------------|
| <b>Department:</b> State Public Defender              | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services     |                            |
| <b>DI Name:</b> FY2012 Trial Division Caseload Crisis | <b>DI#</b> 1151003         |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |             |             |                  |              | FY 2012 Governor's Recommendation |             |             |             |
|--------------|------------------------|-------------|-------------|------------------|--------------|-----------------------------------|-------------|-------------|-------------|
|              | GR                     | Federal     | Other       | Total            |              | GR                                | Federal     | Other       | Total       |
| PS           | 1,951,776              | 0           | 0           | 1,951,776        | PS           | 0                                 | 0           | 0           | 0           |
| EE           | 525,640                | 0           | 0           | 525,640          | EE           | 0                                 | 0           | 0           | 0           |
| PSD          | 0                      | 0           | 0           | 0                | PSD          | 0                                 | 0           | 0           | 0           |
| TRF          | 0                      | 0           | 0           | 0                | TRF          | 0                                 | 0           | 0           | 0           |
| <b>Total</b> | <b>2,477,416</b>       | <b>0</b>    | <b>0</b>    | <b>2,477,416</b> | <b>Total</b> | <b>0</b>                          | <b>0</b>    | <b>0</b>    | <b>0</b>    |
| <br>         |                        |             |             |                  |              |                                   |             |             |             |
| <b>FTE</b>   | <b>50.00</b>           | <b>0.00</b> | <b>0.00</b> | <b>50.00</b>     | <b>FTE</b>   | <b>0.00</b>                       | <b>0.00</b> | <b>0.00</b> | <b>0.00</b> |

|                    |           |   |   |           |
|--------------------|-----------|---|---|-----------|
| <b>Est. Fringe</b> | 1,086,163 | 0 | 0 | 1,086,163 |
|--------------------|-----------|---|---|-----------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program  | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input type="checkbox"/> Program Expansion                                  | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input type="checkbox"/> Space Request                                      | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input checked="" type="checkbox"/> Other: <b>CONSTITUTIONALLY MANDATED</b> |  |

**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

**TRIAL DIVISION FOUR YEAR PHASE IN -**

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Cost to Continue" narrative.

**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                           |
|---|---------------------------|
| Department: <u>State Public Defender</u>              | Budget Unit <u>15111C</u> |
| Division: <u>Public Defender - Legal Services</u>     |                           |
| DI Name: <u>FY2012 Trial Division Caseload Crisis</u> | DI# <u>1151003</u>        |

**5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.**

| Budget Object Class/Job Class            | Dept Req<br>GR<br>DOLLARS | Dept Req<br>GR<br>FTE | Dept Req<br>FED<br>DOLLARS | Dept Req<br>FED<br>FTE | Dept Req<br>OTHER<br>DOLLARS | Dept Req<br>OTHER<br>FTE | Dept Req<br>TOTAL<br>DOLLARS | Dept Req<br>TOTAL<br>FTE | Dept Req<br>One-Time<br>DOLLARS |
|--|---------------------------|-----------------------|----------------------------|------------------------|------------------------------|--------------------------|------------------------------|--------------------------|---------------------------------|
| Assistant Public Defender III - Range 30 | 1,276,704                 | 26.0                  |                            |                        |                              |                          | 1,276,704                    | 26.0                     |                                 |
| Investigator - Range 23                  | 277,152                   | 8.0                   |                            |                        |                              |                          | 277,152                      | 8.0                      |                                 |
| Secretary - Range 12                     | 190,368                   | 8.0                   |                            |                        |                              |                          | 190,368                      | 8.0                      |                                 |
| Legal Assistant - Range 15               | 207,552                   | 8.0                   |                            |                        |                              |                          | 207,552                      | 8.0                      |                                 |
|  |                           |                       |                            |                        |                              |                          | 0                            | 0.0                      |                                 |
| <b>Total PS</b>                          | <b>1,951,776</b>          | <b>50.0</b>           | <b>0</b>                   | <b>0.0</b>             | <b>0</b>                     | <b>0.0</b>               | <b>1,951,776</b>             | <b>50.0</b>              | <b>0</b>                        |
| Travel - 140                             | 245,100                   |                       |                            |                        |                              |                          | 245,100                      |                          |                                 |
| Supplies - 190                           | 25,000                    |                       |                            |                        |                              |                          | 25,000                       |                          |                                 |
| Communications - 340                     | 60,000                    |                       |                            |                        |                              |                          | 60,000                       |                          |                                 |
| Computer Equipment - 480                 | 110,650                   |                       |                            |                        |                              |                          | 110,650                      |                          |                                 |
| Office Equipment - 590                   | 64,090                    |                       |                            |                        |                              |                          | 64,090                       |                          |                                 |
| Other Equipment - 580                    | 20,800                    |                       |                            |                        |                              |                          | 20,800                       |                          |                                 |
| <b>Total EE</b>                          | <b>525,640</b>            |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>525,640</b>               |                          | <b>0</b>                        |
| Program Distributions                    |                           |                       |                            |                        |                              |                          | 0                            |                          |                                 |
| <b>Total PSD</b>                         | <b>0</b>                  |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>0</b>                     |                          | <b>0</b>                        |
| Transfers                                |                           |                       |                            |                        |                              |                          |                              |                          |                                 |
| <b>Total TRF</b>                         | <b>0</b>                  |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>0</b>                     |                          | <b>0</b>                        |
| <b>Grand Total</b>                       | <b>2,477,416</b>          | <b>50.0</b>           | <b>0</b>                   | <b>0.0</b>             | <b>0</b>                     | <b>0.0</b>               | <b>2,477,416</b>             | <b>50.0</b>              | <b>0</b>                        |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                 | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012            | FY 2012      | FY 2012    | FY 2012     |
|---|------------|-------------|------------|-------------|--------------------|--------------|------------|-------------|
| Decision Item                               | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ           | DEPT REQ     | GOV REC    | GOV REC     |
| Budget Object Class                         | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR             | FTE          | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>               |            |             |            |             |                    |              |            |             |
| <b>FY12 Trial Caseload Crisis - 1151003</b> |            |             |            |             |                    |              |            |             |
| SECRETARY                                   | 0          | 0.00        | 0          | 0.00        | 397,920            | 16.00        | 0          | 0.00        |
| INVESTIGATOR                                | 0          | 0.00        | 0          | 0.00        | 277,152            | 8.00         | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER                   | 0          | 0.00        | 0          | 0.00        | 1,276,704          | 26.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                           | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>1,951,776</b>   | <b>50.00</b> | <b>0</b>   | <b>0.00</b> |
| TRAVEL, IN-STATE                            | 0          | 0.00        | 0          | 0.00        | 245,100            | 0.00         | 0          | 0.00        |
| SUPPLIES                                    | 0          | 0.00        | 0          | 0.00        | 25,000             | 0.00         | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                   | 0          | 0.00        | 0          | 0.00        | 60,000             | 0.00         | 0          | 0.00        |
| COMPUTER EQUIPMENT                          | 0          | 0.00        | 0          | 0.00        | 110,650            | 0.00         | 0          | 0.00        |
| OFFICE EQUIPMENT                            | 0          | 0.00        | 0          | 0.00        | 64,090             | 0.00         | 0          | 0.00        |
| OTHER EQUIPMENT                             | 0          | 0.00        | 0          | 0.00        | 20,800             | 0.00         | 0          | 0.00        |
| <b>TOTAL - EE</b>                           | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>525,640</b>     | <b>0.00</b>  | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                          | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,477,416</b> | <b>50.00</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                      | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,477,416</b> | <b>50.00</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                        | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>  |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                          | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>  |            | <b>0.00</b> |

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**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                            |
|---|----------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services |                            |
| <b>DI Name:</b> Cost to Continue Appellate/PCR    | <b>DI#</b> 1151002         |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |          |          |                |              | FY 2012 Governor's Recommendation |          |          |          |
|--------------|------------------------|----------|----------|----------------|--------------|-----------------------------------|----------|----------|----------|
|              | GR                     | Federal  | Other    | Total          |              | GR                                | Federal  | Other    | Total    |
| PS           | 372,096                | 0        | 0        | 372,096        | PS           | 0                                 | 0        | 0        | 0        |
| EE           | 80,925                 | 0        | 0        | 80,925         | EE           | 0                                 | 0        | 0        | 0        |
| PSD          | 0                      | 0        | 0        | 0              | PSD          | 0                                 | 0        | 0        | 0        |
| TRF          | 0                      | 0        | 0        | 0              | TRF          | 0                                 | 0        | 0        | 0        |
| <b>Total</b> | <b>453,021</b>         | <b>0</b> | <b>0</b> | <b>453,021</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>0</b> | <b>0</b> |
| <br>         |                        |          |          |                |              |                                   |          |          |          |
| FTE          | 9.50                   | 0.00     | 0.00     | 9.50           | FTE          | 0.00                              | 0.00     | 0.00     | 0.00     |

|                    |         |   |   |         |
|--------------------|---------|---|---|---------|
| <b>Est. Fringe</b> | 207,071 | 0 | 0 | 207,071 |
|--------------------|---------|---|---|---------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program  | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input type="checkbox"/> Program Expansion                                  | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input type="checkbox"/> Space Request                                      | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input checked="" type="checkbox"/> Other: <b>CONSTITUTIONALLY MANDATED</b> |  |

**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

**APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -**

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Cost to Continue" narrative.

**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                           |
|---|---------------------------|
| Department: <u>State Public Defender</u>                          | Budget Unit <u>15111C</u> |
| Division: <u>Public Defender - Legal Services</u>                 |                           |
| DI Name: <u>Cost to Continue Appellate/PCR</u> DI# <u>1151002</u> |                           |

| <b>5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.</b> |                |                |                 |                 |                   |                   |                   |                   |                      |
|---|----------------|----------------|-----------------|-----------------|-------------------|-------------------|-------------------|-------------------|----------------------|
| Budget Object Class/Job Class   | Dept Req<br>GR | Dept Req<br>GR | Dept Req<br>FED | Dept Req<br>FED | Dept Req<br>OTHER | Dept Req<br>OTHER | Dept Req<br>TOTAL | Dept Req<br>TOTAL | Dept Req<br>One-Time |
|   | DOLLARS        | FTE            | DOLLARS         | FTE             | DOLLARS           | FTE               | DOLLARS           | FTE               | DOLLARS              |
| Assistant Public Defender III - Range 30  | 245,520        | 5.0            |                 |                 |                   |                   | 245,520           | 5.0               |                      |
| Investigator - Range 23   | 51,966         | 1.5            |                 |                 |                   |                   | 51,966            | 1.5               |                      |
| Secretary - Range 12  | 35,694         | 1.5            |                 |                 |                   |                   | 35,694            | 1.5               |                      |
| Legal Assistant - Range 15  | 38,916         | 1.5            |                 |                 |                   |                   | 38,916            | 1.5               |                      |
|   |                |                |                 |                 |                   |                   | 0                 | 0.0               |                      |
| <b>Total PS</b>   | <b>372,096</b> | <b>9.5</b>     | <b>0</b>        | <b>0.0</b>      | <b>0</b>          | <b>0.0</b>        | <b>372,096</b>    | <b>9.5</b>        | <b>0</b>             |
| Travel - 140  | 46,725         |                |                 |                 |                   |                   | 46,725            |                   |                      |
| Supplies - 190  | 4,750          |                |                 |                 |                   |                   | 4,750             |                   |                      |
| Communications - 340  | 11,400         |                |                 |                 |                   |                   | 11,400            |                   |                      |
| Building Lease Payments - 680   | 18,050         |                |                 |                 |                   |                   | 18,050            |                   |                      |
| Computer Equipment - 480  | 0              |                |                 |                 |                   |                   | 0                 |                   |                      |
| Office Equipment - 590  | 0              |                |                 |                 |                   |                   | 0                 |                   |                      |
| Other Equipment - 580   | 0              |                |                 |                 |                   |                   | 0                 |                   |                      |
| <b>Total EE</b>   | <b>80,925</b>  |                | <b>0</b>        |                 | <b>0</b>          |                   | <b>80,925</b>     |                   | <b>0</b>             |
| Program Distributions   |                |                |                 |                 |                   |                   | 0                 |                   |                      |
| <b>Total PSD</b>  | <b>0</b>       |                | <b>0</b>        |                 | <b>0</b>          |                   | <b>0</b>          |                   | <b>0</b>             |
| Transfers   |                |                |                 |                 |                   |                   |                   |                   |                      |
| <b>Total TRF</b>  | <b>0</b>       |                | <b>0</b>        |                 | <b>0</b>          |                   | <b>0</b>          |                   | <b>0</b>             |
| <b>Grand Total</b>  | <b>453,021</b> | <b>9.5</b>     | <b>0</b>        | <b>0.0</b>      | <b>0</b>          | <b>0.0</b>        | <b>453,021</b>    | <b>9.5</b>        | <b>0</b>             |

**Caseload Increase—Appellate Division**

**FY 2011 Supplemental Request—\$157,715**  
**Cost to Continue FY2011 Supplemental Decision Item—\$418,896**  
**FY2012 New Decision Item—\$463,356**

As previously stated there is a critical need for more staffing in the trial division. The same holds true in the Appellate Division. In fact, the Appellate Division had been reduced to meet the increasing critical needs in the Trial Division. In Fiscal Year 2009, the appellate caseload increased an 17.47% from Fiscal Year 2008. In Fiscal Year 2010, the Appellate Division opened 22 fewer cases than 2009, but still 267 more cases than Fiscal Year 2008 .

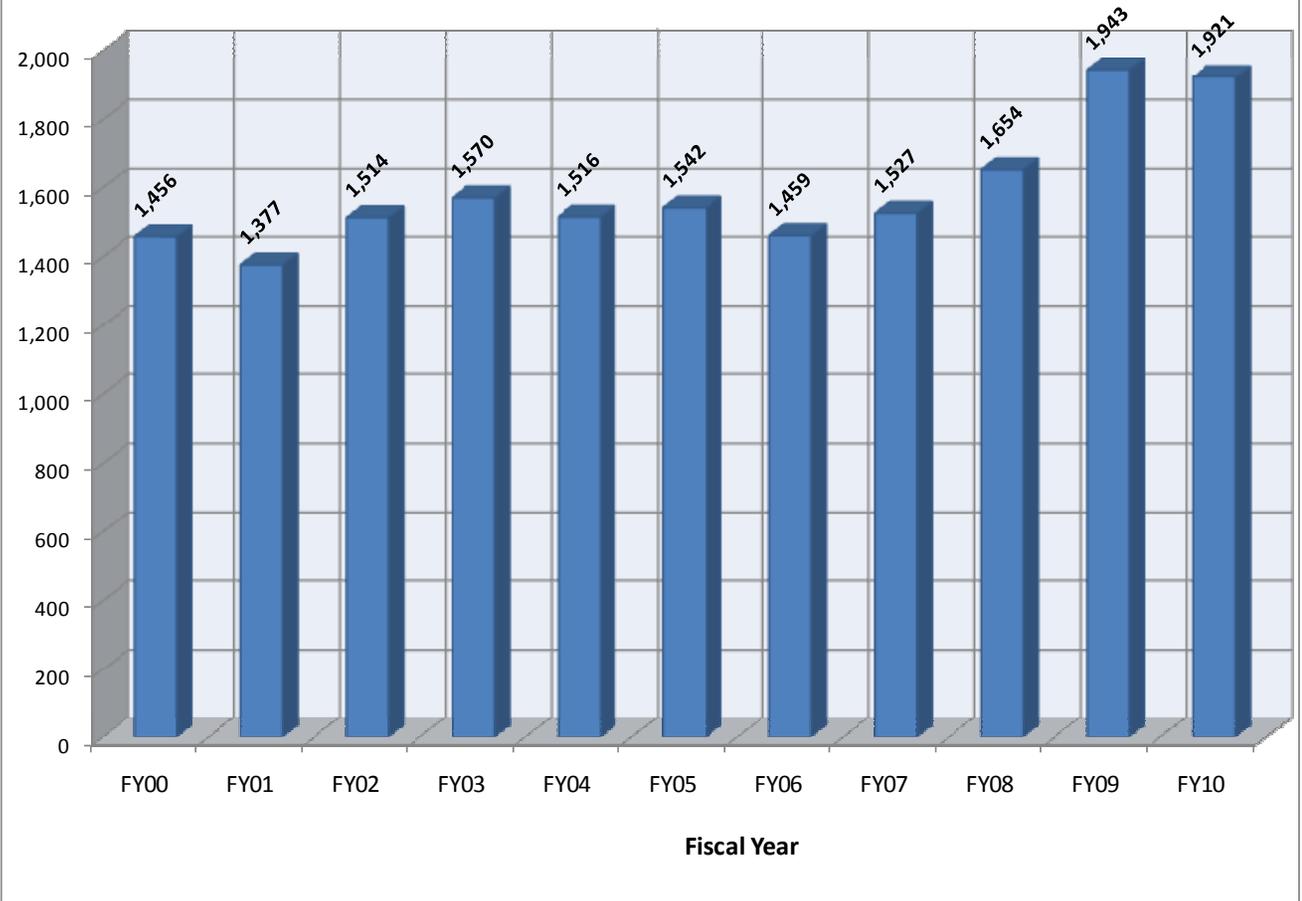
This decision item will only provide funding at the FY2010 caseload level. The purpose of this budget request, is to request funding to allow MSPD to provide representation in those cases we already have.

| Appellate Division Protocol  |  |                                    |                                       |                              |
|------------------------------|--|------------------------------------|---------------------------------------|------------------------------|
| Description                  | FY10 Cases Opened  | FY10 Case Overload Contract Relief | Protocol Hours Required for Case Type | Hours Required for Case Type |
| Death Penalty PCR            | 5  | 0                                  | NA                                    | 0                            |
| Civil Commitment Cases       | 16   | 0                                  | NA                                    | 0                            |
| Felony Appeals               | 396  | 20                                 | 83                                    | 34,528                       |
| Misdemeanor Appeals          | 31   | 0                                  | 83                                    | 2,573                        |
| Juvenile Appeals             | 8  | 3                                  | 83                                    | 913                          |
| PCR Appeals                  | 468  | 1                                  | 62                                    | 29,078                       |
| PCR 24.035 Trials            | 699  | 178                                | 21                                    | 18,417                       |
| PCR 29.15 Trials             | 278  | 8                                  | 62                                    | 17,732                       |
| Other                        | <u>20</u>  | <u>1</u>                           | 21                                    | <u>441</u>                   |
| <b>Total Number of Cases</b> | <b>1,921</b>   | <b>211</b>                         |                                       |                              |
|                              | Case Hours   |                                    |                                       | 103,682.00                   |
|                              | Adjusted for Withdrawn & Conflicts                       |                                    |                                       | -11,617.00                   |
|                              | Travel Hours   |                                    |                                       | 1,392.84                     |
|                              | Management Hours   |                                    |                                       | <u>3,822.00</u>              |
|                              | Total Hours  |                                    |                                       | 97,279.84                    |
|                              | Attorneys Required (102,671/1740.88)                     |                                    |                                       | 55.88                        |
|                              | FY2010 - Public Defender Appellate Division Attorneys    |                                    |                                       | <u>36.50</u>                 |
|                              | Number of Additional Attorneys Required to meet Standard |                                    |                                       | 19.38                        |

## Appellate Division Protocol

|  | Protocol                     | FY2011 Supplemental Start Date= April 1, 2011 | FY2012 Cost to Continue FY2011 Supplemental | FY2012 New Decision Item  |
|--|------------------------------|---|---|---------------------------|
| <b>Cost Breakdown</b>                                |                              |   |   |                           |
| <b>Personal Service</b>                              |                              |   |   |                           |
| Assistant Public Defender III - Range 30<br>\$49,104 | 19.50<br>\$957,528           | 5.00<br>\$61,380                              | 5.00<br>\$245,520                           | 5.00<br>\$245,520         |
| Investigators - Range 23<br>\$34,644                 | 6.50<br>\$225,186            | 1.50<br>\$12,992                              | 1.50<br>\$51,966                            | 1.50<br>\$51,966          |
| Secretaries - Range 12<br>\$23,796                   | 6.50<br>\$154,674            | 1.50<br>\$8,924                               | 1.50<br>\$35,694                            | 1.50<br>\$35,694          |
| Legal Assistants - Range 15<br>\$25,944              | 6.50<br><u>\$168,636</u>     | 1.50<br><u>\$9,729</u>                        | 1.50<br><u>\$38,916</u>                     | 1.50<br><u>\$38,916</u>   |
| <b>Total Personal Service</b>                        | <b>39.00<br/>\$1,506,024</b> | <b>9.50<br/>\$93,024</b>                      | <b>9.50<br/>\$372,096</b>                   | <b>9.50<br/>\$372,096</b> |
| <b>Expense &amp; Equipment</b>                       |                              |   |   |                           |
| <b>One-time Purchases</b>                            |                              |   |   |                           |
| Attorney Package<br>\$2,950                          | 20.00<br>\$59,000            | 5.00<br>\$14,750                              |   | 5.00<br>\$14,750          |
| Investigator Package<br>\$2,875                      | 7.00<br>\$20,125             | 2.00<br>\$5,750                               |   | 2.00<br>\$5,750           |
| Legal Assistant Package<br>\$2,875                   | 7.00<br>\$20,125             | 2.00<br>\$5,750                               |   | 2.00<br>\$5,750           |
| Secretary Package<br>\$9,105                         | 7.00<br><u>\$63,735</u>      | 2.00<br><u>\$18,210</u>                       |   | 2.00<br><u>\$18,210</u>   |
| <b>Total One-Time Purchases</b>                      | <b>\$162,985</b>             | <b>\$44,460</b>                               |   | <b>\$44,460</b>           |
| <b>On-Going Costs</b>                                |                              |   |   |                           |
| Attorneys<br>\$9,750                                 | 19.50<br>\$190,125           | 5.00<br>\$12,188                              | 5.00<br>\$48,750                            | 5.00<br>\$48,750          |
| Investigator<br>\$9,425                              | 6.50<br>\$61,263             | 1.50<br>\$3,534                               | 1.50<br>\$14,138                            | 1.50<br>\$14,138          |
| Legal Assistant<br>\$7,775                           | 6.50<br>\$50,538             | 1.50<br>\$2,916                               | 1.50<br>\$11,663                            | 1.50<br>\$11,663          |
| Secretary<br>\$4,250                                 | 6.50<br><u>\$27,625</u>      | 1.50<br><u>\$1,594</u>                        | 1.50<br><u>\$6,375</u>                      | 1.50<br><u>\$6,375</u>    |
| <b>Total Personnel Related On-Going Costs</b>        | <b>\$329,550</b>             | <b>\$20,231</b>                               | <b>\$80,925</b>                             | <b>\$80,925</b>           |
| <b>Total Expense and Equipment</b>                   | <b>\$492,535</b>             | <b>\$64,691</b>                               | <b>\$80,925</b>                             | <b>\$125,385</b>          |
| <b>Total Decision Item Request</b>                   | <b>\$1,998,559</b>           | <b>\$157,715</b>                              | <b>\$453,021</b>                            | <b>\$497,481</b>          |

### Appellate & Post Conviction Relief Cases - Opened Fiscal Year 2010



**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                     | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012          | FY 2012     | FY 2012    | FY 2012     |
|---|------------|-------------|------------|-------------|------------------|-------------|------------|-------------|
| Decision Item                                   | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC    | GOV REC     |
| Budget Object Class                             | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR           | FTE         | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>                   |            |             |            |             |                  |             |            |             |
| <b>Cost to Continue Appellate/PCR - 1151002</b> |            |             |            |             |                  |             |            |             |
| SECRETARY                                       | 0          | 0.00        | 0          | 0.00        | 74,610           | 3.00        | 0          | 0.00        |
| INVESTIGATOR                                    | 0          | 0.00        | 0          | 0.00        | 51,966           | 1.50        | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER                       | 0          | 0.00        | 0          | 0.00        | 245,520          | 5.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                               | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>372,096</b>   | <b>9.50</b> | <b>0</b>   | <b>0.00</b> |
| TRAVEL, IN-STATE                                | 0          | 0.00        | 0          | 0.00        | 46,725           | 0.00        | 0          | 0.00        |
| SUPPLIES  | 0          | 0.00        | 0          | 0.00        | 4,750            | 0.00        | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                       | 0          | 0.00        | 0          | 0.00        | 11,400           | 0.00        | 0          | 0.00        |
| BUILDING LEASE PAYMENTS                         | 0          | 0.00        | 0          | 0.00        | 18,050           | 0.00        | 0          | 0.00        |
| <b>TOTAL - EE</b>                               | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>80,925</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                              | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$453,021</b> | <b>9.50</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                          | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$453,021</b> | <b>9.50</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                            | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>       | <b>0.00</b> |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                              | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>       | <b>0.00</b> |            | <b>0.00</b> |

**NEW DECISION ITEM**

RANK: 5 OF 5

|  |                            |
|--|----------------------------|
| <b>Department:</b> State Public Defender             | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services    |                            |
| <b>DI Name:</b> FY2012 Appellate/PCR Caseload Crisis | <b>DI#</b> 1151004         |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |          |          |                |
|--------------|------------------------|----------|----------|----------------|
|              | GR                     | Federal  | Other    | Total          |
| PS           | 372,096                | 0        | 0        | 372,096        |
| EE           | 125,385                | 0        | 0        | 125,385        |
| PSD          | 0                      | 0        | 0        | 0              |
| TRF          | 0                      | 0        | 0        | 0              |
| <b>Total</b> | <b>497,481</b>         | <b>0</b> | <b>0</b> | <b>497,481</b> |

FTE 9.50 0.00 0.00 9.50

|                    |         |   |   |         |
|--------------------|---------|---|---|---------|
| <b>Est. Fringe</b> | 207,071 | 0 | 0 | 207,071 |
|--------------------|---------|---|---|---------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|              | FY 2012 Governor's Recommendation |          |          |          |
|--------------|-----------------------------------|----------|----------|----------|
|              | GR                                | Federal  | Other    | Total    |
| PS           | 0                                 | 0        | 0        | 0        |
| EE           | 0                                 | 0        | 0        | 0        |
| PSD          | 0                                 | 0        | 0        | 0        |
| TRF          | 0                                 | 0        | 0        | 0        |
| <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>0</b> | <b>0</b> |

FTE 0.00 0.00 0.00 0.00

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program  | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input type="checkbox"/> Program Expansion                                  | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input type="checkbox"/> Space Request                                      | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input checked="" type="checkbox"/> Other: <b>CONSTITUTIONALLY MANDATED</b> |  |

**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

**APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -**

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Cost to Continue" narrative.

**NEW DECISION ITEM**

RANK: 5 OF 5

|  |                           |
|--|---------------------------|
| Department: <u>State Public Defender</u>             | Budget Unit <u>15111C</u> |
| Division: <u>Public Defender - Legal Services</u>    |                           |
| DI Name: <u>FY2012 Appellate/PCR Caseload Crisis</u> | DI# <u>1151004</u>        |

| <b>5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.</b> |                           |                       |                            |                        |                              |                          |                              |                          |                                 |
|---|---------------------------|-----------------------|----------------------------|------------------------|------------------------------|--------------------------|------------------------------|--------------------------|---------------------------------|
| Budget Object Class/Job Class   | Dept Req<br>GR<br>DOLLARS | Dept Req<br>GR<br>FTE | Dept Req<br>FED<br>DOLLARS | Dept Req<br>FED<br>FTE | Dept Req<br>OTHER<br>DOLLARS | Dept Req<br>OTHER<br>FTE | Dept Req<br>TOTAL<br>DOLLARS | Dept Req<br>TOTAL<br>FTE | Dept Req<br>One-Time<br>DOLLARS |
| Assistant Public Defender III - Range 30  | 245,520                   | 5.0                   |                            |                        |                              |                          | 245,520                      | 5.0                      |                                 |
| Investigator - Range 23   | 51,966                    | 1.5                   |                            |                        |                              |                          | 51,966                       | 1.5                      |                                 |
| Secretary - Range 12  | 35,694                    | 1.5                   |                            |                        |                              |                          | 35,694                       | 1.5                      |                                 |
| Legal Assistant - Range 15  | 38,916                    | 1.5                   |                            |                        |                              |                          | 38,916                       | 1.5                      |                                 |
|   |                           |                       |                            |                        |                              |                          | 0                            | 0.0                      |                                 |
| <b>Total PS</b>   | <b>372,096</b>            | <b>9.5</b>            | <b>0</b>                   | <b>0.0</b>             | <b>0</b>                     | <b>0.0</b>               | <b>372,096</b>               | <b>9.5</b>               | <b>0</b>                        |
| Travel - 140  | 46,725                    |                       |                            |                        |                              |                          | 46,725                       |                          |                                 |
| Supplies - 190  | 4,750                     |                       |                            |                        |                              |                          | 4,750                        |                          |                                 |
| Communications - 340  | 11,400                    |                       |                            |                        |                              |                          | 11,400                       |                          |                                 |
| Building Lease Payments - 680   | 18,050                    |                       |                            |                        |                              |                          | 18,050                       |                          |                                 |
| Computer Equipment - 480  | 25,915                    |                       |                            |                        |                              |                          | 25,915                       |                          |                                 |
| Office Equipment - 590  | 13,915                    |                       |                            |                        |                              |                          | 13,915                       |                          |                                 |
| Other Equipment - 580   | 4,630                     |                       |                            |                        |                              |                          | 4,630                        |                          |                                 |
| <b>Total EE</b>   | <b>125,385</b>            |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>125,385</b>               |                          | <b>0</b>                        |
| Program Distributions   |                           |                       |                            |                        |                              |                          | 0                            |                          |                                 |
| <b>Total PSD</b>  | <b>0</b>                  |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>0</b>                     |                          | <b>0</b>                        |
| Transfers   |                           |                       |                            |                        |                              |                          |                              |                          |                                 |
| <b>Total TRF</b>  | <b>0</b>                  |                       | <b>0</b>                   |                        | <b>0</b>                     |                          | <b>0</b>                     |                          | <b>0</b>                        |
| <b>Grand Total</b>  | <b>497,481</b>            | <b>9.5</b>            | <b>0</b>                   | <b>0.0</b>             | <b>0</b>                     | <b>0.0</b>               | <b>497,481</b>               | <b>9.5</b>               | <b>0</b>                        |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                  | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012          | FY 2012     | FY 2012    | FY 2012     |
|--|------------|-------------|------------|-------------|------------------|-------------|------------|-------------|
| Decision Item                                | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC    | GOV REC     |
| Budget Object Class                          | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR           | FTE         | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>                |            |             |            |             |                  |             |            |             |
| <b>FY12 Appellate/PCR Caseload - 1151004</b> |            |             |            |             |                  |             |            |             |
| SECRETARY                                    | 0          | 0.00        | 0          | 0.00        | 74,610           | 3.00        | 0          | 0.00        |
| INVESTIGATOR                                 | 0          | 0.00        | 0          | 0.00        | 51,966           | 1.50        | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER                    | 0          | 0.00        | 0          | 0.00        | 245,520          | 5.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                            | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>372,096</b>   | <b>9.50</b> | <b>0</b>   | <b>0.00</b> |
| TRAVEL, IN-STATE                             | 0          | 0.00        | 0          | 0.00        | 46,725           | 0.00        | 0          | 0.00        |
| SUPPLIES                                     | 0          | 0.00        | 0          | 0.00        | 4,750            | 0.00        | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                    | 0          | 0.00        | 0          | 0.00        | 11,400           | 0.00        | 0          | 0.00        |
| COMPUTER EQUIPMENT                           | 0          | 0.00        | 0          | 0.00        | 25,915           | 0.00        | 0          | 0.00        |
| OFFICE EQUIPMENT                             | 0          | 0.00        | 0          | 0.00        | 13,915           | 0.00        | 0          | 0.00        |
| OTHER EQUIPMENT                              | 0          | 0.00        | 0          | 0.00        | 4,630            | 0.00        | 0          | 0.00        |
| BUILDING LEASE PAYMENTS                      | 0          | 0.00        | 0          | 0.00        | 18,050           | 0.00        | 0          | 0.00        |
| <b>TOTAL - EE</b>                            | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>125,385</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                           | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$497,481</b> | <b>9.50</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                       | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$497,481</b> | <b>9.50</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                         | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>       | <b>0.00</b> |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                           | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>       | <b>0.00</b> |            | <b>0.00</b> |

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**NEW DECISION ITEM**  
**RANK: 5 OF 5**

|   |                            |
|---|----------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services |                            |
| <b>DI Name:</b> Non-Lawyer Staff - PD Offices     | <b>DI#:</b> 1151005        |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |             |             |                  |              | FY 2012 Governor's Recommendation |             |             |             |
|--------------|------------------------|-------------|-------------|------------------|--------------|-----------------------------------|-------------|-------------|-------------|
|              | GR                     | Federal     | Other       | Total            |              | GR                                | Federal     | Other       | Total       |
| <b>PS</b>    | 5,428,407              | 0           | 0           | 5,428,407        | <b>PS</b>    | 0                                 | 0           | 0           | 0           |
| <b>EE</b>    | 2,173,911              | 0           | 0           | 1,920,427        | <b>EE</b>    | 0                                 | 0           | 0           | 0           |
| <b>PSD</b>   | 0                      | 0           | 0           | 0                | <b>PSD</b>   | 0                                 | 0           | 0           | 0           |
| <b>TRF</b>   | 0                      | 0           | 0           | 0                | <b>TRF</b>   | 0                                 | 0           | 0           | 0           |
| <b>Total</b> | <b>7,602,318</b>       | <b>0</b>    | <b>0</b>    | <b>7,348,834</b> | <b>Total</b> | <b>0</b>                          | <b>0</b>    | <b>0</b>    | <b>0</b>    |
| <b>FTE</b>   | <b>0.00</b>            | <b>0.00</b> | <b>0.00</b> | <b>192.25</b>    | <b>FTE</b>   | <b>0.00</b>                       | <b>0.00</b> | <b>0.00</b> | <b>0.00</b> |

|                    |           |   |   |           |
|--------------------|-----------|---|---|-----------|
| <b>Est. Fringe</b> | 3,020,908 | 0 | 0 | 3,020,908 |
|--------------------|-----------|---|---|-----------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program                  | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input checked="" type="checkbox"/> Program Expansion | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input type="checkbox"/> Space Request                | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input type="checkbox"/> Other: _____                 |  |

**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

MSPD attorneys are routinely performing non-attorney tasks. In order to most effectively utilize precious lawyer time, a substantial increase in support staff resources must be provided. The Senate Interim Committee on the Public Defender System and the Spangenberg Project in conjunction with George Mason University agree that there is a tremendous lack of support staff available to assist attorneys in their daily practice. Therefore attorneys are spending time on activities that should be performed by support staff.

In addition, only one-third of the hours spent on each case are from support staff. Currently, each attorney is supported by less than .50 FTE support staff.

**NEW DECISION ITEM**

RANK: 5 OF 5

|             |                                  |             |         |
|-------------|----------------------------------|-------------|---------|
| Department: | State Public Defender            | Budget Unit | 15111C  |
| Division:   | Public Defender - Legal Services |             |         |
| DI Name:    | Non-Lawyer Staff - PD Offices    | DI#         | 1151005 |

| Current Ratios of Support Staff to Attorney Positions |                                     |                                  |                                     |   |  | 8/10/2010                                    |
|---|-------------------------------------|----------------------------------|-------------------------------------|---|--|--|
|   | Paralegals                          | Secretary                        | Investigators                       | Legal Assistants                          | Mitigation Specialists                           |  |
| Trial   | 63.00                               | 5.25                             | 6.18                                | 7.41                                      | NA   |  |
| Appellate   | 24.33                               | 3.84                             | 6.64                                | 0.00                                      | 12.17  |  |
| Capital   | 0.00                                | 4.25                             | 4.25                                | 0.00                                      | 4.25   |  |
| Totals  | 56.69                               | 5.00                             | 6.09                                | 8.67                                      | 52.64  | 1.93   |
| Attorneys   | 368.50                              |                                  |                                     |   |  |  |
|   | 1 Paralegal to Every 56.5 Attorneys | 1 Secretary to Every 5 Attorneys | 1 Investigator to Every 6 Attorneys | 1 Legal Assistant to Every 8.67 Attorneys | 1 Mitigation Specialist to Every 52.64 Attorneys | <b>1.93 Attorneys to Every Support Staff</b> |

This decision item will bring a turnaround to our staffing ratios. Rather than having attorneys doing support staff tasks, there will be support staff to assist attorneys in preparing their cases. The positions sought would provide each hypothetical team of 3 attorneys with one investigator, one secretary and one legal assistant. Of course, staffing is seldom divided evenly and staffing would be placed where the needs are greatest.

**NEW DECISION ITEM**

RANK: 5 OF 5

|             |                                  |             |         |
|-------------|----------------------------------|-------------|---------|
| Department: | State Public Defender            | Budget Unit | 15111C  |
| Division:   | Public Defender - Legal Services |             |         |
| DI Name:    | Non-Lawyer Staff - PD Offices    | DI#         | 1151005 |

4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)

| Division       | Para-legal | Secretary | Investigator | Legal Assist. | Mitigation Specialist | Total Non Attorney   | Attorneys | Total  |
|----------------|------------|-----------|--------------|---------------|-----------------------|----------------------|-----------|--------|
| Trial          | 5.00       | 60.25     | 51.00        | 42.25         | 0.00                  | 158.50               | 315.00    | 473.50 |
| Appellate      | 1.50       | 9.50      | 5.50         | 0.00          | 3.00                  | 19.50                | 36.50     | 56.00  |
| Capital        | 0.00       | 4.00      | 4.00         | 0.00          | 4.00                  | 12.00                | 17.00     | 29.00  |
|                | 6.50       | 73.75     | 60.50        | 42.25         | 7.00                  | 190.00               | 368.50    | 558.5  |
| Administration |            |           |              |               |                       | 26.75                |           | 26.75  |
|                |            |           |              |               |                       | Total Authorized FTE |           | 585.25 |

The Missouri State Public Defender System currently has 368.50 attorneys. If we provide support at a ratio of 1 to 3 for each class of support functions, then the support staff requirements are easy to determine. 368.50 attorneys divided by 3 = 123 of each class of support staff.

|          | Secretary | Investigator | Legal Assistant |
|----------|-----------|--------------|-----------------|
| Required | 123.00    | 123.00       | 123.00          |
| Current  | 73.75     | 60.25        | 42.50           |
| Need     | 49.25     | 62.75        | 80.50           |

**NEW DECISION ITEM**

RANK: 5 OF 5

|                    |   |                    |                |
|--------------------|---|--------------------|----------------|
| <b>Department:</b> | <b>State Public Defender</b>            | <b>Budget Unit</b> | <b>15111C</b>  |
| <b>Division:</b>   | <b>Public Defender - Legal Services</b> |                    |                |
| <b>DI Name:</b>    | <b>Non-Lawyer Staff - PD Offices</b>    | <b>DI#</b>         | <b>1151005</b> |

**5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.**

| <b>Budget Object Class/Job Class</b> | <b>Dept Req<br/>GR<br/>DOLLARS</b> | <b>Dept Req<br/>GR<br/>FTE</b> | <b>Dept Req<br/>FED<br/>DOLLARS</b> | <b>Dept Req<br/>FED<br/>FTE</b> | <b>Dept Req<br/>OTHER<br/>DOLLARS</b> | <b>Dept Req<br/>OTHER<br/>FTE</b> | <b>Dept Req<br/>TOTAL<br/>DOLLARS</b> | <b>Dept Req<br/>TOTAL<br/>FTE</b> | <b>Dept Req<br/>One-Time<br/>DOLLARS</b> |
|--------------------------------------|------------------------------------|--------------------------------|-------------------------------------|---------------------------------|---------------------------------------|-----------------------------------|---------------------------------------|-----------------------------------|--|
| Secretary - Range 12                 | 1,166,004                          |                                |                                     |                                 |                                       |                                   | 1,166,004                             | 49.0                              |  |
| Investigator - Range 23              | 2,173,911                          |                                |                                     |                                 |                                       |                                   | 2,173,911                             | 62.8                              |  |
| Legal Assistants - Range 15          | 2,088,492                          |                                |                                     |                                 |                                       |                                   | 2,088,492                             | 80.5                              |  |
|                                      |                                    |                                |                                     |                                 |                                       |                                   | 0                                     | 0.0                               |  |
| <b>Total PS</b>                      | <b>5,428,407</b>                   | <b>0.0</b>                     | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>5,428,407</b>                      | <b>192.3</b>                      | <b>0</b>                                 |
| Travel - 140                         | 748,163                            |                                |                                     |                                 |                                       |                                   | 748,163                               |                                   |  |
| Supplies - 190                       | 81,419                             |                                |                                     |                                 |                                       |                                   | 81,419                                |                                   |  |
| Communications - 340                 | 230,700                            |                                |                                     |                                 |                                       |                                   | 230,700                               |                                   |  |
| Other Equipment - 580                | 223,545                            |                                |                                     |                                 |                                       |                                   | 223,545                               |                                   |  |
| Office Equipment - 590               | 90,805                             |                                |                                     |                                 |                                       |                                   | 90,805                                |                                   |  |
| Computer Equipment - 480             | 545,795                            |                                |                                     |                                 |                                       |                                   | 545,795                               |                                   |  |
|                                      |                                    |                                |                                     |                                 |                                       |                                   | 0                                     |                                   |  |
| <b>Total EE</b>                      | <b>1,920,427</b>                   |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>1,920,427</b>                      |                                   | <b>0</b>                                 |
| Program Distributions                |                                    |                                |                                     |                                 |                                       |                                   | 0                                     |                                   |  |
| <b>Total PSD</b>                     | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| Transfers                            |                                    |                                |                                     |                                 |                                       |                                   |                                       |                                   |  |
| <b>Total TRF</b>                     | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| <b>Grand Total</b>                   | <b>7,348,834</b>                   | <b>0.0</b>                     | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>7,348,834</b>                      | <b>192.3</b>                      | <b>0</b>                                 |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                    | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012            | FY 2012       | FY 2012    | FY 2012     |
|--|------------|-------------|------------|-------------|--------------------|---------------|------------|-------------|
| Decision Item                                  | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ           | DEPT REQ      | GOV REC    | GOV REC     |
| Budget Object Class                            | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR             | FTE           | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>                  |            |             |            |             |                    |               |            |             |
| <b>Non-Lawyer Staff - PD Offices - 1151005</b> |            |             |            |             |                    |               |            |             |
| SECRETARY                                      | 0          | 0.00        | 0          | 0.00        | 3,254,496          | 129.50        | 0          | 0.00        |
| INVESTIGATOR                                   | 0          | 0.00        | 0          | 0.00        | 2,173,911          | 62.75         | 0          | 0.00        |
| <b>TOTAL - PS</b>                              | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>5,428,407</b>   | <b>192.25</b> | <b>0</b>   | <b>0.00</b> |
| TRAVEL, IN-STATE                               | 0          | 0.00        | 0          | 0.00        | 748,162            | 0.00          | 0          | 0.00        |
| SUPPLIES                                       | 0          | 0.00        | 0          | 0.00        | 81,419             | 0.00          | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                      | 0          | 0.00        | 0          | 0.00        | 230,700            | 0.00          | 0          | 0.00        |
| COMPUTER EQUIPMENT                             | 0          | 0.00        | 0          | 0.00        | 545,795            | 0.00          | 0          | 0.00        |
| OFFICE EQUIPMENT                               | 0          | 0.00        | 0          | 0.00        | 223,545            | 0.00          | 0          | 0.00        |
| OTHER EQUIPMENT                                | 0          | 0.00        | 0          | 0.00        | 90,805             | 0.00          | 0          | 0.00        |
| <b>TOTAL - EE</b>                              | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>1,920,426</b>   | <b>0.00</b>   | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                             | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$7,348,833</b> | <b>192.25</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                         | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$7,348,833</b> | <b>192.25</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                           | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>   |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                             | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b>   |            | <b>0.00</b> |

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**NEW DECISION ITEM**  
**RANK: 5 OF 5**

|   |                            |
|---|----------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit:</b> 15111C |
| <b>Division:</b> Public Defender - Legal Services |                            |
| <b>DI Name:</b> Office Space Requirements         | <b>DI#</b> 1151006         |

**1. AMOUNT OF REQUEST**

|              | FY 2012 Budget Request |          |          |                  |              | FY 2012 Governor's Recommendation |          |          |          |
|--------------|------------------------|----------|----------|------------------|--------------|-----------------------------------|----------|----------|----------|
|              | GR                     | Federal  | Other    | Total            |              | GR                                | Federal  | Other    | Total    |
| PS           | 0                      | 0        | 0        | 0                | PS           | 0                                 | 0        | 0        | 0        |
| EE           | 2,196,118              | 0        | 0        | 2,196,118        | EE           | 0                                 | 0        | 0        | 0        |
| PSD          | 0                      | 0        | 0        | 0                | PSD          | 0                                 | 0        | 0        | 0        |
| TRF          | 0                      | 0        | 0        | 0                | TRF          | 0                                 | 0        | 0        | 0        |
| <b>Total</b> | <b>2,196,118</b>       | <b>0</b> | <b>0</b> | <b>2,196,118</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>0</b> | <b>0</b> |
| <br>         |                        |          |          |                  |              |                                   |          |          |          |
| FTE          | 0.00                   | 0.00     | 0.00     | 0.00             | FTE          | 0.00                              | 0.00     | 0.00     | 0.00     |

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. THIS REQUEST CAN BE CATEGORIZED AS:**

|  |   |  |
|--|---|--|
| <input type="checkbox"/> New Legislation | <input type="checkbox"/> New Program              | <input type="checkbox"/> Fund Switch           |
| <input type="checkbox"/> Federal Mandate | <input type="checkbox"/> Program Expansion        | <input type="checkbox"/> Cost to Continue      |
| <input type="checkbox"/> GR Pick-Up      | <input checked="" type="checkbox"/> Space Request | <input type="checkbox"/> Equipment Replacement |
| <input type="checkbox"/> Pay Plan        | <input type="checkbox"/> Other: _____             |  |

**3. WHY IS THIS FUNDING NEEDED? PROVIDE AN EXPLANATION FOR ITEMS CHECKED IN #2. INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

**NEW DECISION ITEM**

**RANK:** 5 **OF** 5

|                    |   |                    |                |
|--------------------|---|--------------------|----------------|
| <b>Department:</b> | <b>State Public Defender</b>            | <b>Budget Unit</b> | <b>15111C</b>  |
| <b>Division:</b>   | <b>Public Defender - Legal Services</b> |                    |                |
| <b>DI Name:</b>    | <b>Office Space Requirements</b>        | <b>DI#</b>         | <b>1151006</b> |

When the Missouri State Public Defender System was established, the burden and expense of office space and utility services for local public defender offices was placed on the counties served by that office. That burden remains today in the form of RSMo. 600.040.1 which reads:

The city or county shall provide office space and utility services, other than telephone service, for the circuit or regional public defender and his personnel. If there is more than one county in a circuit or region, each county shall contribute, on the basis of population, its pro rata share of the costs of office space and utility services, other than telephone service. The state shall pay, within the limits of the appropriation therefore, all other expenses and costs of the state public defender system authorized under this chapter.

Some county governments object to and resent being required to pay for office space for a Department of State Government.

When the Missouri State Public Defender System was first established and RSMo. 600.040.1 was first enacted, public defender services in most areas of the state were provided through private attorneys who had contracted with Missouri's Public Defender System to provide such services. Since these private contract counsel provided services from their private offices, county governments did not have to provide office space and utilities. In reality the State paid, through the established contract rate.

In 1997, the legislature responded to the refusal of some counties to provide or pay for Public Defender office space. Language was added to House Bill 5, allowing for the interception of prisoner per diem payments to counties failing to meet their obligations under 600.040. The state has intercepted some money intended for counties that scoffed at their obligation, however, the interceptions and threat of interceptions have put great strain on state-county relations.

In 1999, the legislature once again addressed the problem of providing Public Defender office space. A new section, (RSMo. 600.101), was added which allows disputes between counties and the State Public Defender to be submitted to the Judicial Finance Commission (RSMo. 477.600). Section 600.101 also calls for a study and report from the Judicial Resources Commission to be prepared for the chairs of the House and Senate Judiciary Committees, Senate Appropriations Committee, and House Budget Committee. This year, the Missouri State Public Defender System and the counties of Public Defender Area 36, Butler, Carter, Ripley and Wayne found it necessary to take a dispute to this commission.

Today, some county governments provide public defender office space in county courthouses or other county owned facilities, some counties rent office space and pay their pro rata share of that rent as required by statute. Some counties, strapped for office space for their own county officials, provide woefully inadequate space in county facilities. Some county governments provide no office space at all and refuse to provide rented office space outside county facilities.

**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                                  |
|---|----------------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> <u>15111C</u> |
| <b>Division:</b> Public Defender - Legal Services |                                  |
| <b>DI Name:</b> Office Space Requirements         | <b>DI#</b> 1151006               |

Disputes have not only concerned whether or not office space will be provided at all, they have included where and what space will be provided. Either because of economic necessity or in passive resistance to their obligation, some counties house the Public Defender in inadequate facilities. Public Defenders have endured the indignities of insect infestation, lack of privacy, leaky roofs, cramped quarters, and black mold to name a few.

Counties simply have no interest in the adequacy of the Public Defender facilities, especially when they don't want to provide space at all. Most of our offices serve multiple counties. It is a logistical nightmare to get multiple commissioners in multiple counties to sign off on every change to a lease involving one of our offices. (including no less than 33 commissioners in our Chillicothe office, which covers 11 counties!) A number of counties refuse to provide or pay for additional space to accommodate growing defender staff, a problem that will multiply if additional staffing is forthcoming in this legislative session. While MSPD has not recently received significant additional staffing, we do move positions among offices based upon growing / dropping caseload.

Some of the results:

- Attorneys doubled up in offices, making a confidential client meeting impossible;
- Attorneys literally setting up an office in the telephone / computer server closet, as well as taking over all public space in the office – break room, conference room, library – so that these generally standard areas in a law office are no longer available anywhere within in the office;
- Having to install locks on all filing cabinets and moving them into a public hallway to free up space for staff to squeeze in another desk;
- MSPD picking up the difference in the rent for additional essential space in a few situations despite a lack of funding for that purpose.
- Counties fighting with MSPD and among themselves when more than one county covered by an office has available 'free' county space and doesn't want to contribute cash to another county instead. These disputes have escalated to lawsuits between counties on at least one occasion. The State Public Defender Commission is interested in locating offices in multi-county Districts where they will be the most effective and efficient use of state resources. Counties do not share that interest, preferring the office to be located where it will cost the least and have the most positive economic impact on their local economy, efficiency and the desires of other counties and the State Public Defender notwithstanding.
- Some counties flatly refusing to pay any rent for an office not located in their county, with the result that MSPD must pick up their portion of the lease cost, despite a lack of funding for this purpose. There is a provision for the state to intercept prisoner per diem reimbursement costs to cover unpaid

**NEW DECISION ITEM**

RANK: 5 OF 5

|   |                                  |
|---|----------------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> <u>15111C</u> |
| <b>Division:</b> Public Defender - Legal Services |                                  |
| <b>DI Name:</b> Office Space Requirements         | <b>DI#</b> 1151006               |

- Some counties providing space that is in very poor shape and unfit for a law office. We have been placed in office space where the ceiling tiles were crumbling onto the attorneys' desks, where the "closed file room" is a basement with a dirt floor that turns to mud with every rain, in offices with asbestos, cockroaches, and termite infestations. Such unsuitable and difficult working conditions undoubtedly contribute to our turnover, as well as to reduced productivity, yet MSPD's hands are tied.

The State Public Defender is not interested in securing fancy, luxurious offices. Its interest is to have facilities adequate to ensure efficient, effective use of personnel and other resources appropriated to the Department.

In summary, the current statutory scheme requires counties to cooperate with each other, and with this Department, to provide office space for a Department of State Government. They do so under the threat of prisoner per diem interceptions. It is a formula for conflict between the State Public Defender and counties, as well as between counties of multi-county districts. The problem is sure to get worse in the future. Under the current statute, Missouri's Public Defender Commission is unable to establish and/or expand offices as needed or where needed as caseload varies from year to year.

The physical plant of local public defender offices varies greatly, depending upon the ability and/or willingness of local county governments to provide office space. Some public defender offices have adequate space, which greatly enhances their efficiency. Other offices have completely inadequate space and their ability to effectively and efficiently accomplish their mission is greatly reduced. Under the current statute, the administration can do little to ensure the adequacy and uniformity of office space in local public defender offices.

A change in the legislation, specifically repealing portions of RSMo. 600.040.1, is recommended. Although probably adequate at the time the public defender system was first organized, this Department has grown far beyond its humble beginnings and the original intent of RSMo. 600.040.1.

The legislature, judiciary and public demand a swift, efficient administration of justice. In order to meet that demand, the Missouri Public Defender System needs adequate, efficient physical plants in all its offices. This need is simply not being met under the current statutory scheme.

**NEW DECISION ITEM**

RANK: 5 OF 5

|             |                                  |             |         |
|-------------|----------------------------------|-------------|---------|
| Department: | State Public Defender            | Budget Unit | 15111C  |
| Division:   | Public Defender - Legal Services |             |         |
| DI Name:    | Office Space Requirements        | DI#         | 1151006 |

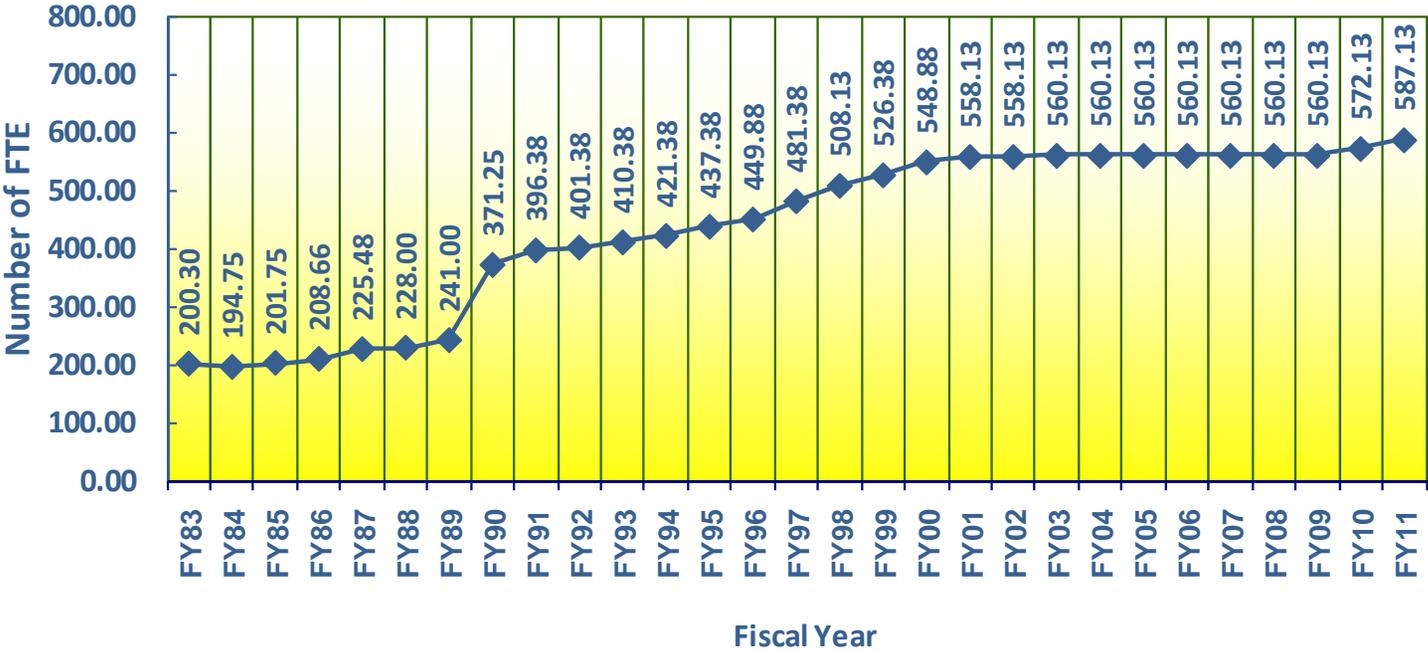
**4. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why. Detail which portions of the request are one-times and how those amounts were calculated.)**

See included spreadsheet.

**5. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.**

| Budget Object Class/Job Class | Dept Req         | Dept Req   | Dept Req | Dept Req   | Dept Req | Dept Req   | Dept Req         | Dept Req   | Dept Req |
|-------------------------------|------------------|------------|----------|------------|----------|------------|------------------|------------|----------|
|                               | GR               | GR         | FED      | FED        | OTHER    | OTHER      | TOTAL            | TOTAL      | One-Time |
|                               | DOLLARS          | FTE        | DOLLARS  | FTE        | DOLLARS  | FTE        | DOLLARS          | FTE        | DOLLARS  |
|                               |                  |            |          |            |          |            | 0                | 0.0        |          |
|                               |                  |            |          |            |          |            | 0                | 0.0        |          |
| <b>Total PS</b>               | <b>0</b>         | <b>0.0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0.0</b> | <b>0</b>         | <b>0.0</b> | <b>0</b> |
| Fuel & Utilities - 180        | 88,338           |            |          |            |          |            | 88,338           |            |          |
| Housekeeping & Janitorial     | 95,560           |            |          |            |          |            | 95,560           |            |          |
| Building Lease Payments       | 2,012,220        |            |          |            |          |            | 2,012,220        |            |          |
| <b>Total EE</b>               | <b>2,196,118</b> |            | <b>0</b> |            | <b>0</b> |            | <b>2,196,118</b> |            | <b>0</b> |
| Program Distributions         |                  |            |          |            |          |            | 0                |            |          |
| <b>Total PSD</b>              | <b>0</b>         |            | <b>0</b> |            | <b>0</b> |            | <b>0</b>         |            | <b>0</b> |
| Transfers                     |                  |            |          |            |          |            |                  |            |          |
| <b>Total TRF</b>              | <b>0</b>         |            | <b>0</b> |            | <b>0</b> |            | <b>0</b>         |            | <b>0</b> |
| <b>Grand Total</b>            | <b>2,196,118</b> | <b>0.0</b> | <b>0</b> | <b>0.0</b> | <b>0</b> | <b>0.0</b> | <b>2,196,118</b> | <b>0.0</b> | <b>0</b> |

**- State Public Defender -  
FTE Growth**





**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                | FY 2010    | FY 2010     | FY 2011    | FY 2011     | FY 2012            | FY 2012     | FY 2012    | FY 2012     |
|--|------------|-------------|------------|-------------|--------------------|-------------|------------|-------------|
| Decision Item                              | ACTUAL     | ACTUAL      | BUDGET     | BUDGET      | DEPT REQ           | DEPT REQ    | GOV REC    | GOV REC     |
| Budget Object Class                        | DOLLAR     | FTE         | DOLLAR     | FTE         | DOLLAR             | FTE         | DOLLAR     | FTE         |
| <b>OFFICE OF THE DIRECTOR</b>              |            |             |            |             |                    |             |            |             |
| <b>Office Space Requirements - 1151006</b> |            |             |            |             |                    |             |            |             |
| FUEL & UTILITIES                           | 0          | 0.00        | 0          | 0.00        | 88,338             | 0.00        | 0          | 0.00        |
| HOUSEKEEPING & JANITORIAL SERV             | 0          | 0.00        | 0          | 0.00        | 95,560             | 0.00        | 0          | 0.00        |
| BUILDING LEASE PAYMENTS                    | 0          | 0.00        | 0          | 0.00        | 2,012,220          | 0.00        | 0          | 0.00        |
| <b>TOTAL - EE</b>                          | <b>0</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> | <b>2,196,118</b>   | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                         | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,196,118</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>                     | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$2,196,118</b> | <b>0.00</b> |            | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                       | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |            | <b>0.00</b> |
| <b>OTHER FUNDS</b>                         | <b>\$0</b> | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |            | <b>0.00</b> |

**State Public Defender**

**DECISION ITEM SUMMARY**

| Budget Unit                    |            |             |                  |             |                  |             |                  |             |
|--------------------------------|------------|-------------|------------------|-------------|------------------|-------------|------------------|-------------|
| Decision Item                  | FY 2010    | FY 2010     | FY 2011          | FY 2011     | FY 2012          | FY 2012     | FY 2012          | FY 2012     |
| Budget Object Summary          | ACTUAL     | ACTUAL      | BUDGET           | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC          | GOV REC     |
| Fund                           | DOLLAR     | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         |
| <b>GRANTS</b>                  |            |             |                  |             |                  |             |                  |             |
| <b>CORE</b>                    |            |             |                  |             |                  |             |                  |             |
| PROGRAM-SPECIFIC               |            |             |                  |             |                  |             |                  |             |
| PUBLIC DEFENDER-FEDERAL & OTHR | 0          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        |
| TOTAL - PD                     | 0          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        |
| <b>TOTAL</b>                   | <b>0</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>             | <b>\$0</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> |

**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department: State Public Defender</b>               | <b>Budget Unit</b> <u>15131C</u> |
| <b>Division: Public Defender - Federal &amp; Other</b> |                                  |
| <b>Core: Core Request</b>                              |                                  |

**1. CORE FINANCIAL SUMMARY**

|              | FY 2012 Budget Request |          |                |                |              | FY 2012 Governor's Recommendation |          |                |                |
|--------------|------------------------|----------|----------------|----------------|--------------|-----------------------------------|----------|----------------|----------------|
|              | GR                     | Federal  | Other          | Total          |              | GR                                | Federal  | Other          | Total          |
| PS           | 0                      | 0        | 0              | 0              | PS           | 0                                 | 0        | 0              | 0              |
| EE           | 0                      | 0        | 0              | 0              | EE           | 0                                 | 0        | 0              | 0              |
| PSD          | 0                      | 0        | 125,000        | 125,000        | PSD          | 0                                 | 0        | 125,000        | 125,000        |
| TRF          | 0                      | 0        | 0              | 0              | TRF          | 0                                 | 0        | 0              | 0              |
| <b>Total</b> | <b>0</b>               | <b>0</b> | <b>125,000</b> | <b>125,000</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>125,000</b> | <b>125,000</b> |
| <br>         |                        |          |                |                |              |                                   |          |                |                |
| FTE          | 0.00                   | 0.00     | 0.00           | 0.00           | FTE          | 0.00                              | 0.00     | 0.00           | 0.00           |

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

Other Funds:

**2. CORE DESCRIPTION**

Appropriation is requested to have spending authority should Federal or Other Funds become available during Fiscal Year 2012 to assist in funding the State Public Defender System.

**3. PROGRAM LISTING (list programs included in this core funding)**

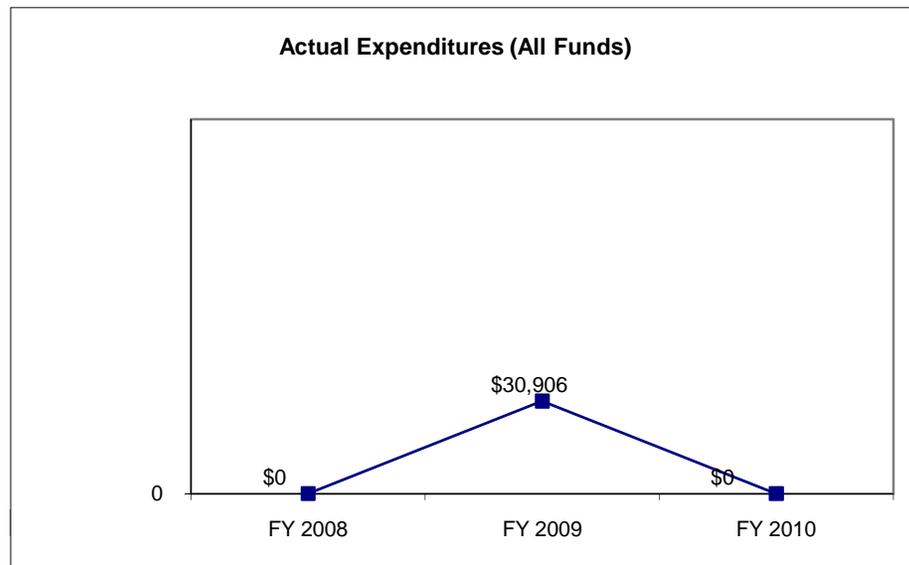
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**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department: State Public Defender</b>               | <b>Budget Unit</b> <u>15131C</u> |
| <b>Division: Public Defender - Federal &amp; Other</b> |                                  |
| <b>Core: Core Request</b>                              |                                  |

**4. FINANCIAL HISTORY**

|                                 | <u>FY 2008</u><br>Actual | <u>FY 2009</u><br>Actual | <u>FY 2010</u><br>Actual | <u>FY 2011</u><br>Current Yr. |
|---------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------|
| Appropriation (All Funds)       | 125,000                  | 125,000                  | 125,000                  | 125,000                       |
| Less Reverted (All Funds)       | 0                        | 0                        | 0                        | N/A                           |
| Budget Authority (All Funds)    | 125,000                  | 125,000                  | 125,000                  | N/A                           |
| Actual Expenditures (All Funds) | 0                        | 30,906                   | 0                        | N/A                           |
| Unexpended (All Funds)          | 125,000                  | 94,094                   | 125,000                  | N/A                           |
| Unexpended, by Fund:            |                          |                          |                          |                               |
| General Revenue                 | 0                        | 0                        | 0                        | N/A                           |
| Federal                         | 0                        | 0                        | 0                        | N/A                           |
| Other                           | 0                        | 0                        | 0                        | N/A                           |



Reverted includes Governor's standard 3 percent reserve (when applicable) and any extraordinary expenditure restrictions.

**NOTES:**

**STATE OF MISSOURI  
FUND FINANCIAL SUMMARY**

DEPARTMENT: State Public Defender  
 FUND NAME: Federal & Other  
 FUND NUMBER: 0912

Statute \_\_\_\_\_  
 Constitution \_\_\_\_\_

Administratively Created  
 Interest Deposited To Fund

Subject To Biennial Sweep  
 Subject to Other Sweeps (see notes)

|  | FY 2010<br>ADJUSTED<br>APPROP | FY 2010<br>ACTUAL<br>SPENDING | FY 2011<br>ADJUSTED<br>APPROP | FY 2012<br>REQUESTED | FY 2012<br>GOVERNOR<br>RECOMMEND |
|--|-------------------------------|-------------------------------|-------------------------------|----------------------|----------------------------------|
| <b>FUND OPERATIONS</b>                 |                               |                               |                               |                      |                                  |
| BEGINNING CASH BALANCE                 | 0                             | 0                             | 0                             | 0                    | 0                                |
| RECEIPTS:                              |                               |                               |                               |                      |                                  |
| REVENUE (Cash Basis: July 1 - June 30) | 0                             | 0                             | 0                             | 0                    | 0                                |
| TRANSFERS IN                           | 0                             | 0                             | 0                             | 0                    | 0                                |
| TOTAL RECEIPTS                         | <u>0</u>                      | <u>0</u>                      | <u>0</u>                      | <u>0</u>             | <u>0</u>                         |
| TOTAL RESOURCES AVAILABLE              | 0                             | 0                             | 0                             | 0                    | 0                                |
| APPROPRIATIONS (INCLUDES REAPPROPS):   |                               |                               |                               |                      |                                  |
| OPERATING APPROPS                      | 0                             | 0                             | 0                             | 0                    | 0                                |
| TRANSFER APPROPS                       | 0                             | 0                             | 0                             | 0                    | 0                                |
| CAPITAL IMPROVEMENTS APPROPS           | 0                             | 0                             | 0                             | 0                    | 0                                |
| TOTAL APPROPRIATIONS                   | <u>0</u>                      | <u>0</u>                      | <u>0</u>                      | <u>0</u>             | <u>0</u>                         |
| <b>BUDGET BALANCE</b>                  | 0                             | 0                             | 0                             | 0                    | 0                                |
| UNEXPENDED APPROPRIATION *             | 0                             | 0                             | 0                             | 0                    | 0                                |
| OTHER ADJUSTMENTS                      | 0                             | 0                             | 0                             | 0                    | 0                                |
| <b>ENDING CASH BALANCE</b>             | 0                             | 0                             | 0                             | 0                    | 0                                |
| <b>FUND OBLIGATIONS</b>                |                               |                               |                               |                      |                                  |
| <b>ENDING CASH BALANCE</b>             | 0                             | 0                             | 0                             | 0                    | 0                                |
| OTHER OBLIGATIONS                      |                               |                               |                               |                      |                                  |
| OUTSTANDING PROJECTS                   | 0                             | 0                             | 0                             | 0                    | 0                                |
| CASH FLOW NEEDS                        | 0                             | 0                             | 0                             | 0                    | 0                                |
| TOTAL OTHER OBLIGATIONS                | <u>0</u>                      | <u>0</u>                      | <u>0</u>                      | <u>0</u>             | <u>0</u>                         |
| <b>UNOBLIGATED CASH BALANCE</b>        | <b>0</b>                      | <b>0</b>                      | <b>0</b>                      | <b>0</b>             | <b>0</b>                         |

**FUND PURPOSE:** Appropriation is requested have spending authority should Federal or Other Funds become available during Fiscal Year 2012 to assist in funding the State Public Defender System

**NOTES:** There is no cash in this fund at the current time - September 29, 2010.

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit           | FY 2010    | FY 2010     | FY 2011          | FY 2011     | FY 2012          | FY 2012     | FY 2012          | FY 2012     |
|-----------------------|------------|-------------|------------------|-------------|------------------|-------------|------------------|-------------|
| Decision Item         | ACTUAL     | ACTUAL      | BUDGET           | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC          | GOV REC     |
| Budget Object Class   | DOLLAR     | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         |
| <b>GRANTS</b>         |            |             |                  |             |                  |             |                  |             |
| <b>CORE</b>           |            |             |                  |             |                  |             |                  |             |
| PROGRAM DISTRIBUTIONS | 0          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        | 125,000          | 0.00        |
| <b>TOTAL - PD</b>     | <b>0</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> | <b>125,000</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>    | <b>\$0</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> | <b>\$125,000</b> | <b>0.00</b> |
| GENERAL REVENUE       | \$0        | 0.00        | \$0              | 0.00        | \$0              | 0.00        | \$0              | 0.00        |
| FEDERAL FUNDS         | \$0        | 0.00        | \$125,000        | 0.00        | \$125,000        | 0.00        | \$125,000        | 0.00        |
| OTHER FUNDS           | \$0        | 0.00        | \$0              | 0.00        | \$0              | 0.00        | \$0              | 0.00        |

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**State Public Defender**

**DECISION ITEM SUMMARY**

| <b>Budget Unit</b>                       |                    |                |                    |                |                    |                 |                    |                |
|--|--------------------|----------------|--------------------|----------------|--------------------|-----------------|--------------------|----------------|
| <b>Decision Item</b>                     | <b>FY 2010</b>     | <b>FY 2010</b> | <b>FY 2011</b>     | <b>FY 2011</b> | <b>FY 2012</b>     | <b>FY 2012</b>  | <b>FY 2012</b>     | <b>FY 2012</b> |
| <b>Budget Object Summary</b>             | <b>ACTUAL</b>      | <b>ACTUAL</b>  | <b>BUDGET</b>      | <b>BUDGET</b>  | <b>DEPT REQ</b>    | <b>DEPT REQ</b> | <b>GOV REC</b>     | <b>GOV REC</b> |
| <b>Fund</b>                              | <b>DOLLAR</b>      | <b>FTE</b>     | <b>DOLLAR</b>      | <b>FTE</b>     | <b>DOLLAR</b>      | <b>FTE</b>      | <b>DOLLAR</b>      | <b>FTE</b>     |
| <b>LEGAL DEFENSE &amp; DEFENDER FUND</b> |                    |                |                    |                |                    |                 |                    |                |
| <b>CORE</b>                              |                    |                |                    |                |                    |                 |                    |                |
| PERSONAL SERVICES                        |                    |                |                    |                |                    |                 |                    |                |
| LEGAL DEFENSE AND DEFENDER               | 112,872            | 2.00           | 129,507            | 2.00           | 129,507            | 2.00            | 129,507            | 2.00           |
| TOTAL - PS                               | 112,872            | 2.00           | 129,507            | 2.00           | 129,507            | 2.00            | 129,507            | 2.00           |
| EXPENSE & EQUIPMENT                      |                    |                |                    |                |                    |                 |                    |                |
| LEGAL DEFENSE AND DEFENDER               | 1,158,993          | 0.00           | 2,795,756          | 0.00           | 2,795,756          | 0.00            | 2,795,756          | 0.00           |
| TOTAL - EE                               | 1,158,993          | 0.00           | 2,795,756          | 0.00           | 2,795,756          | 0.00            | 2,795,756          | 0.00           |
| PROGRAM-SPECIFIC                         |                    |                |                    |                |                    |                 |                    |                |
| LEGAL DEFENSE AND DEFENDER               | 68,851             | 0.00           | 55,000             | 0.00           | 55,000             | 0.00            | 55,000             | 0.00           |
| TOTAL - PD                               | 68,851             | 0.00           | 55,000             | 0.00           | 55,000             | 0.00            | 55,000             | 0.00           |
| <b>TOTAL</b>                             | <b>1,340,716</b>   | <b>2.00</b>    | <b>2,980,263</b>   | <b>2.00</b>    | <b>2,980,263</b>   | <b>2.00</b>     | <b>2,980,263</b>   | <b>2.00</b>    |
| <b>GRAND TOTAL</b>                       | <b>\$1,340,716</b> | <b>2.00</b>    | <b>\$2,980,263</b> | <b>2.00</b>    | <b>\$2,980,263</b> | <b>2.00</b>     | <b>\$2,980,263</b> | <b>2.00</b>    |

**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department: State Public Defender</b>               | <b>Budget Unit</b> <u>15141C</u> |
| <b>Division: Public Defender</b>                       |                                  |
| <b>Core: Legal Defense &amp; Defender Core Request</b> |                                  |

**1. CORE FINANCIAL SUMMARY**

|              | FY 2012 Budget Request |          |                  |                  |              | FY 2012 Governor's Recommendation |          |                  |                  |
|--------------|------------------------|----------|------------------|------------------|--------------|-----------------------------------|----------|------------------|------------------|
|              | GR                     | Federal  | Other            | Total            |              | GR                                | Federal  | Other            | Total            |
| PS           | 0                      | 0        | 129,507          | 129,507          | PS           | 0                                 | 0        | 129,507          | 129,507          |
| EE           | 0                      | 0        | 2,850,756        | 2,850,756        | EE           | 0                                 | 0        | 2,850,756        | 2,850,756        |
| PSD          | 0                      | 0        | 0                | 0                | PSD          | 0                                 | 0        | 0                | 0                |
| TRF          | 0                      | 0        | 0                | 0                | TRF          | 0                                 | 0        | 0                | 0                |
| <b>Total</b> | <b>0</b>               | <b>0</b> | <b>2,980,263</b> | <b>2,980,263</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>2,980,263</b> | <b>2,980,263</b> |
| <br>         |                        |          |                  |                  |              |                                   |          |                  |                  |
| FTE          | 0.00                   | 0.00     | 2.00             | 2.00             | FTE          | 0.00                              | 0.00     | 2.00             | 2.00             |

|  |   |   |        |        |
|--|---|---|--------|--------|
| <b>Est. Fringe</b>   | 0 | 0 | 72,071 | 72,071 |
| <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |   |   |        |        |

|  |   |   |        |        |
|--|---|---|--------|--------|
| <b>Est. Fringe</b>   | 0 | 0 | 72,071 | 72,071 |
| <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |   |   |        |        |

Other Funds:

Other Funds:

**2. CORE DESCRIPTION**

As the laws continue to change and staffing continues to change, training of public defenders and their staff becomes more critical. The funds in this appropriation are collected form the indigent accused and by statute are used at the discretion of the Director of the State Public Defender System for the operation of the department, including training.

**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department: State Public Defender</b>               | <b>Budget Unit</b> <u>15141C</u> |
| <b>Division: Public Defender</b>                       |                                  |
| <b>Core: Legal Defense &amp; Defender Core Request</b> |                                  |

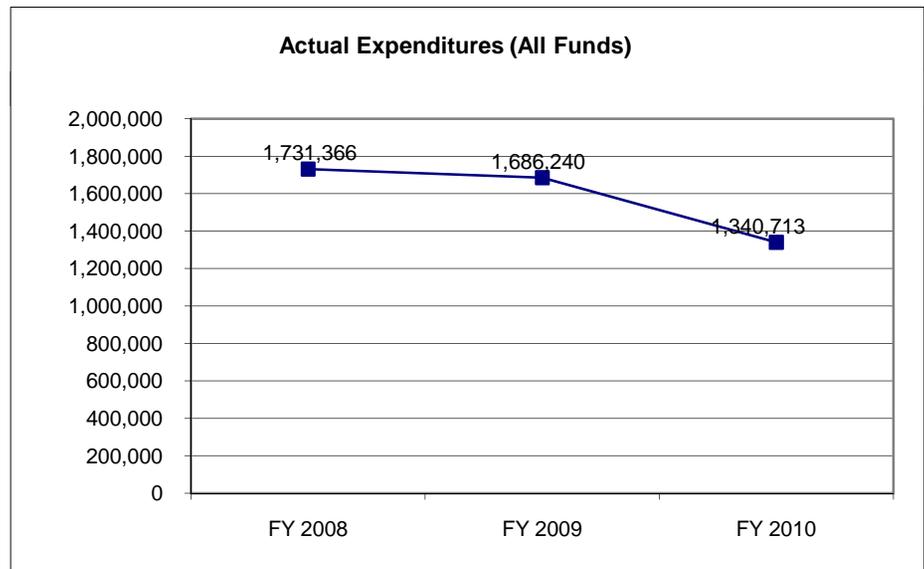
**3. PROGRAM LISTING (list programs included in this core funding)**

Training of all employees within the State Public Defender System is an important part of the day to day operation. Examples of system training provided would include:

|  |  |
|--|--|
| Trial Skills Workshop<br>Advanced Trial Skills Training<br>New Attorney Training<br>New Employee Training<br>New Defender Workshop<br>Missouri Association of Criminal Defense Lawyers | Appellate Record Preservation<br>National Association of Criminal Defense Attorneys<br>Life in the Balance (Death Penalty)<br>Computer Training<br>Defender Management |
|--|--|

**4. FINANCIAL HISTORY**

|                                 | <u>FY 2008<br/>Actual</u> | <u>FY 2009<br/>Actual</u> | <u>FY 2010<br/>Actual</u> | <u>FY 2011<br/>Current Yr.</u> |
|---------------------------------|---------------------------|---------------------------|---------------------------|--------------------------------|
| Appropriation (All Funds)       | 2,976,491                 | 2,980,263                 | 2,980,263                 | 2,980,263                      |
| Less Reverted (All Funds)       | 0                         | 0                         | 0                         | N/A                            |
| Budget Authority (All Funds)    | 2,976,491                 | 2,980,263                 | 2,980,263                 | N/A                            |
| Actual Expenditures (All Funds) | <u>1,731,366</u>          | <u>1,686,240</u>          | <u>1,340,713</u>          | N/A                            |
| Unexpended (All Funds)          | <u>1,245,125</u>          | <u>1,294,023</u>          | <u>1,639,550</u>          | N/A                            |
| Unexpended, by Fund:            |                           |                           |                           |                                |
| General Revenue                 | 0                         | 0                         | 0                         | N/A                            |
| Federal                         | 0                         | 0                         | 0                         | N/A                            |
| Other                           | 0                         | 0                         | 0                         | N/A                            |



**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                              | FY 2010            | FY 2010     | FY 2011            | FY 2011     | FY 2012            | FY 2012     | FY 2012            | FY 2012     |
|--|--------------------|-------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| Decision Item                            | ACTUAL             | ACTUAL      | BUDGET             | BUDGET      | DEPT REQ           | DEPT REQ    | GOV REC            | GOV REC     |
| Budget Object Class                      | DOLLAR             | FTE         | DOLLAR             | FTE         | DOLLAR             | FTE         | DOLLAR             | FTE         |
| <b>LEGAL DEFENSE &amp; DEFENDER FUND</b> |                    |             |                    |             |                    |             |                    |             |
| <b>CORE</b>                              |                    |             |                    |             |                    |             |                    |             |
| DISTRICT DEFENDER                        | 38,753             | 0.54        | 0                  | 0.00        | 0                  | 0.00        | 0                  | 0.00        |
| DIVISION DIRECTOR                        | 38,132             | 0.46        | 0                  | 0.00        | 83,196             | 1.00        | 83,196             | 1.00        |
| PROGRAM TECHNICIAN                       | 35,987             | 1.00        | 67,318             | 2.00        | 35,952             | 1.00        | 35,952             | 1.00        |
| OTHER                                    | 0                  | 0.00        | 62,189             | 0.00        | 10,359             | 0.00        | 10,359             | 0.00        |
| <b>TOTAL - PS</b>                        | <b>112,872</b>     | <b>2.00</b> | <b>129,507</b>     | <b>2.00</b> | <b>129,507</b>     | <b>2.00</b> | <b>129,507</b>     | <b>2.00</b> |
| TRAVEL, IN-STATE                         | 307,643            | 0.00        | 485,025            | 0.00        | 375,000            | 0.00        | 375,000            | 0.00        |
| TRAVEL, OUT-OF-STATE                     | 15,064             | 0.00        | 50,000             | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        |
| FUEL & UTILITIES                         | 0                  | 0.00        | 2,000              | 0.00        | 500                | 0.00        | 500                | 0.00        |
| SUPPLIES                                 | 84,226             | 0.00        | 115,000            | 0.00        | 115,000            | 0.00        | 115,000            | 0.00        |
| PROFESSIONAL DEVELOPMENT                 | 39,564             | 0.00        | 180,000            | 0.00        | 75,000             | 0.00        | 75,000             | 0.00        |
| COMMUNICATION SERV & SUPP                | 252,074            | 0.00        | 325,000            | 0.00        | 350,000            | 0.00        | 350,000            | 0.00        |
| PROFESSIONAL SERVICES                    | 18,129             | 0.00        | 321,500            | 0.00        | 321,500            | 0.00        | 321,500            | 0.00        |
| HOUSEKEEPING & JANITORIAL SERV           | 870                | 0.00        | 10,000             | 0.00        | 10,000             | 0.00        | 10,000             | 0.00        |
| M&R SERVICES                             | 199,109            | 0.00        | 350,000            | 0.00        | 350,000            | 0.00        | 350,000            | 0.00        |
| COMPUTER EQUIPMENT                       | 65,334             | 0.00        | 434,231            | 0.00        | 510,493            | 0.00        | 510,493            | 0.00        |
| OFFICE EQUIPMENT                         | 105,487            | 0.00        | 375,000            | 0.00        | 450,000            | 0.00        | 450,000            | 0.00        |
| OTHER EQUIPMENT                          | 0                  | 0.00        | 3,000              | 0.00        | 3,000              | 0.00        | 3,000              | 0.00        |
| BUILDING LEASE PAYMENTS                  | 0                  | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        |
| EQUIPMENT RENTALS & LEASES               | 7,235              | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        |
| MISCELLANEOUS EXPENSES                   | 64,258             | 0.00        | 105,000            | 0.00        | 175,263            | 0.00        | 175,263            | 0.00        |
| <b>TOTAL - EE</b>                        | <b>1,158,993</b>   | <b>0.00</b> | <b>2,795,756</b>   | <b>0.00</b> | <b>2,795,756</b>   | <b>0.00</b> | <b>2,795,756</b>   | <b>0.00</b> |
| REFUNDS                                  | 68,851             | 0.00        | 55,000             | 0.00        | 55,000             | 0.00        | 55,000             | 0.00        |
| <b>TOTAL - PD</b>                        | <b>68,851</b>      | <b>0.00</b> | <b>55,000</b>      | <b>0.00</b> | <b>55,000</b>      | <b>0.00</b> | <b>55,000</b>      | <b>0.00</b> |
| <b>GRAND TOTAL</b>                       | <b>\$1,340,716</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> |
| <b>GENERAL REVENUE</b>                   | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                     | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |
| <b>OTHER FUNDS</b>                       | <b>\$1,340,716</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> | <b>\$2,980,263</b> | <b>2.00</b> |

**STATE OF MISSOURI  
FUND FINANCIAL SUMMARY**

DEPARTMENT: Office of the State Public Defender  
 FUND NAME: Legal Defense & Defender Fund  
 FUND NUMBER: 0670

Statute RSMo 600.090  
 Constitution \_\_\_\_\_

Administratively Created  
 Interest Deposited To Fund

Subject To Biennial Sweep  
 Subject to Other Sweeps (see notes)

|  | <b>FY 2010<br/>ADJUSTED<br/>APPROP</b> | <b>FY 2010<br/>ACTUAL<br/>SPENDING</b> | <b>FY 2011<br/>ADJUSTED<br/>APPROP</b> | <b>FY 2012<br/>REQUESTED</b> | <b>FY 2012<br/>GOVERNOR<br/>RECOMMEND</b> |
|--|--|--|--|------------------------------|---|
| <b>FUND OPERATIONS</b>                 |  |  |  |                              |   |
| BEGINNING CASH BALANCE                 | 0                                      | 147,484                                | 394,025                                | 393,575                      | 393,575                                   |
| RECEIPTS:                              | 0                                      |  |  |                              |   |
| REVENUE (Cash Basis: July 1 - June 30) | 0                                      | 1,660,502                              | 3,054,813                              | 2,661,688                    | 2,661,688                                 |
| TRANSFERS IN                           | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| TOTAL RECEIPTS                         | <u>0</u>                               | <u>1,660,502</u>                       | <u>3,054,813</u>                       | <u>2,661,688</u>             | <u>2,661,688</u>                          |
| TOTAL RESOURCES AVAILABLE              | 0                                      | 1,807,986                              | 3,448,838                              | 3,055,263                    | 3,055,263                                 |
| APPROPRIATIONS (INCLUDES REAPPROPS):   |  |  |  |                              |   |
| OPERATING APPROPS                      | 0                                      | 1,340,713                              | 2,980,263                              | 0                            | 0   |
| TRANSFER APPROPS                       | 0                                      | 73,248                                 | 75,000                                 | 75,000                       | 75,000                                    |
| CAPITAL IMPROVEMENTS APPROPS           | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| TOTAL APPROPRIATIONS                   | <u>0</u>                               | <u>1,413,961</u>                       | <u>3,055,263</u>                       | <u>75,000</u>                | <u>75,000</u>                             |
| <b>BUDGET BALANCE</b>                  | 0                                      | 394,025                                | 393,575                                | 2,980,263                    | 2,980,263                                 |
| UNEXPENDED APPROPRIATION *             | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| OTHER ADJUSTMENTS                      | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| <b>ENDING CASH BALANCE</b>             | 0                                      | 394,025                                | 393,575                                | 2,980,263                    | 2,980,263                                 |
| <b>FUND OBLIGATIONS</b>                |  |  |  |                              |   |
| <b>ENDING CASH BALANCE</b>             | 0                                      | 394,025                                | 393,575                                | 2,980,263                    | 2,980,263                                 |
| OTHER OBLIGATIONS                      |  |  |  |                              |   |
| OUTSTANDING PROJECTS                   | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| CASH FLOW NEEDS                        | 0                                      | 0                                      | 0                                      | 0                            | 0   |
| TOTAL OTHER OBLIGATIONS                | <u>0</u>                               | <u>0</u>                               | <u>0</u>                               | <u>0</u>                     | <u>0</u>                                  |
| <b>UNOBLIGATED CASH BALANCE</b>        | <b>0</b>                               | <b>394,025</b>                         | <b>393,575</b>                         | <b>2,980,263</b>             | <b>2,980,263</b>                          |

**FUND PURPOSE:** The funds in this appropriation are collected from the indigent accused and by statute are used at the discretion of the Director of the State Public Defender System for the operation of the department, including training of employees.

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**State Public Defender**

**DECISION ITEM SUMMARY**

| <b>Budget Unit</b>                   |                    |                |                    |                |                    |                 |                    |                |
|--------------------------------------|--------------------|----------------|--------------------|----------------|--------------------|-----------------|--------------------|----------------|
| <b>Decision Item</b>                 | <b>FY 2010</b>     | <b>FY 2010</b> | <b>FY 2011</b>     | <b>FY 2011</b> | <b>FY 2012</b>     | <b>FY 2012</b>  | <b>FY 2012</b>     | <b>FY 2012</b> |
| <b>Budget Object Summary</b>         | <b>ACTUAL</b>      | <b>ACTUAL</b>  | <b>BUDGET</b>      | <b>BUDGET</b>  | <b>DEPT REQ</b>    | <b>DEPT REQ</b> | <b>GOV REC</b>     | <b>GOV REC</b> |
| <b>Fund</b>                          | <b>DOLLAR</b>      | <b>FTE</b>     | <b>DOLLAR</b>      | <b>FTE</b>     | <b>DOLLAR</b>      | <b>FTE</b>      | <b>DOLLAR</b>      | <b>FTE</b>     |
| <b>EXTRAORDINARY EXPENSE/CONFLIC</b> |                    |                |                    |                |                    |                 |                    |                |
| <b>CORE</b>                          |                    |                |                    |                |                    |                 |                    |                |
| EXPENSE & EQUIPMENT                  |                    |                |                    |                |                    |                 |                    |                |
| GENERAL REVENUE                      | 2,558,057          | 0.00           | 2,558,059          | 0.00           | 2,558,059          | 0.00            | 2,558,059          | 0.00           |
| TOTAL - EE                           | 2,558,057          | 0.00           | 2,558,059          | 0.00           | 2,558,059          | 0.00            | 2,558,059          | 0.00           |
| <b>TOTAL</b>                         | <b>2,558,057</b>   | <b>0.00</b>    | <b>2,558,059</b>   | <b>0.00</b>    | <b>2,558,059</b>   | <b>0.00</b>     | <b>2,558,059</b>   | <b>0.00</b>    |
| <b>GRAND TOTAL</b>                   | <b>\$2,558,057</b> | <b>0.00</b>    | <b>\$2,558,059</b> | <b>0.00</b>    | <b>\$2,558,059</b> | <b>0.00</b>     | <b>\$2,558,059</b> | <b>0.00</b>    |

**CORE DECISION ITEM**

|  |                            |
|--|----------------------------|
| <b>Department:</b> State Public Defender                               | <b>Budget Unit:</b> 15151C |
| <b>Division:</b> Public Defender                                       |                            |
| <b>Core - Extraordinary Expenses &amp; Conflict Costs Core Request</b> |                            |

**1. CORE FINANCIAL SUMMARY**

|              | FY 2012 Budget Request |          |          |                  |              | FY 2012 Governor's Recommendation |          |          |                  |
|--------------|------------------------|----------|----------|------------------|--------------|-----------------------------------|----------|----------|------------------|
|              | GR                     | Federal  | Other    | Total            |              | GR                                | Federal  | Other    | Total            |
| PS           | 0                      | 0        | 0        | 0                | PS           | 0                                 | 0        | 0        | 0                |
| EE           | 2,558,059              | 0        | 0        | 2,558,059        | EE           | 2,558,059                         | 0        | 0        | 2,558,059        |
| PSD          | 0                      | 0        | 0        | 0                | PSD          | 0                                 | 0        | 0        | 0                |
| TRF          | 0                      | 0        | 0        | 0                | TRF          | 0                                 | 0        | 0        | 0                |
| <b>Total</b> | <b>2,558,059</b>       | <b>0</b> | <b>0</b> | <b>2,558,059</b> | <b>Total</b> | <b>2,558,059</b>                  | <b>0</b> | <b>0</b> | <b>2,558,059</b> |
| <br>         |                        |          |          |                  |              |                                   |          |          |                  |
| FTE          | 0.00                   | 0.00     | 0.00     | 0.00             | FTE          | 0.00                              | 0.00     | 0.00     | 0.00             |

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds: \_\_\_\_\_

**2. CORE DESCRIPTION**

In Fiscal Year 1989, the Governor and Legislature established a separate appropriation for costs associated with conflict case re-assignments and extraordinary expenses related to providing representation in criminal cases. The appropriation is also used for funding the Capital Division Expenses.

**3. PROGRAM LISTING (list programs included in this core funding)**

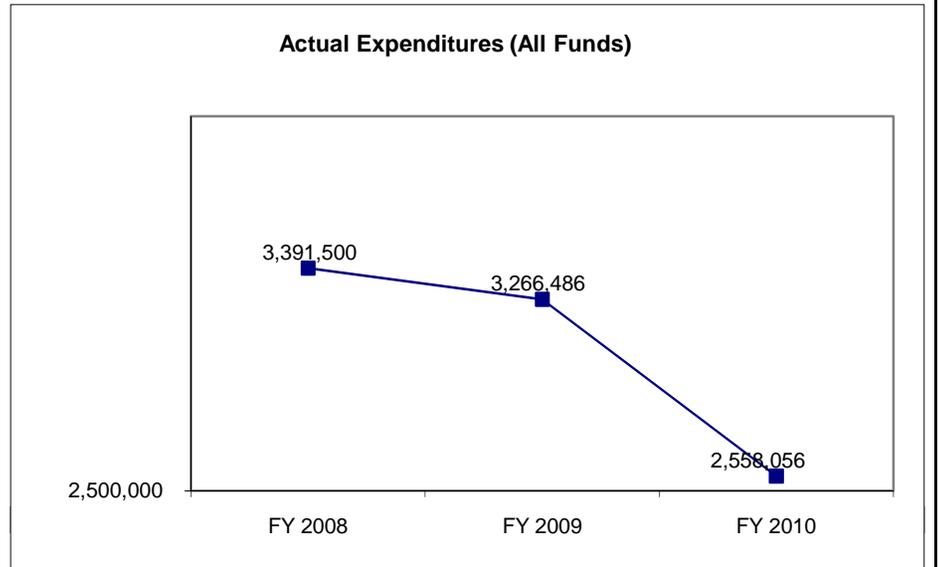
To assist with the cost of legal representation of indigent persons accused of crimes within the State of Missouri.

**CORE DECISION ITEM**

|  |                                  |
|--|----------------------------------|
| <b>Department:</b> <u>State Public Defender</u>                        | <b>Budget Unit</b> <u>15151C</u> |
| <b>Division:</b> <u>Public Defender</u>                                |                                  |
| <b>Core - Extraordinary Expenses &amp; Conflict Costs Core Request</b> |                                  |

**4. FINANCIAL HISTORY**

|                                 | <u>FY 2008</u><br>Actual | <u>FY 2009</u><br>Actual | <u>FY 2010</u><br>Actual | <u>FY 2011</u><br>Current Yr. |
|---------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------|
| Appropriation (All Funds)       | 3,391,502                | 3,391,502                | 2,558,059                | 2,558,059                     |
| Less Reverted (All Funds)       | 0                        | 0                        | 0                        | N/A                           |
| Budget Authority (All Funds)    | 3,391,502                | 3,391,502                | 2,558,059                | N/A                           |
| Actual Expenditures (All Funds) | <u>3,391,500</u>         | <u>3,266,486</u>         | <u>2,558,056</u>         | N/A                           |
| Unexpended (All Funds)          | <u>2</u>                 | <u>125,016</u>           | <u>3</u>                 | N/A                           |
| Unexpended, by Fund:            |                          |                          |                          |                               |
| General Revenue                 | 0                        | 0                        | 0                        | N/A                           |
| Federal                         | 0                        | 0                        | 0                        | N/A                           |
| Other                           | 0                        | 0                        | 0                        | N/A                           |



**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                          | FY 2010            | FY 2010     | FY 2011            | FY 2011     | FY 2012            | FY 2012     | FY 2012            | FY 2012     |
|--------------------------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| Decision Item                        | ACTUAL             | ACTUAL      | BUDGET             | BUDGET      | DEPT REQ           | DEPT REQ    | GOV REC            | GOV REC     |
| Budget Object Class                  | DOLLAR             | FTE         | DOLLAR             | FTE         | DOLLAR             | FTE         | DOLLAR             | FTE         |
| <b>EXTRAORDINARY EXPENSE/CONFLIC</b> |                    |             |                    |             |                    |             |                    |             |
| <b>CORE</b>                          |                    |             |                    |             |                    |             |                    |             |
| TRAVEL, IN-STATE                     | 256,431            | 0.00        | 225,000            | 0.00        | 265,000            | 0.00        | 265,000            | 0.00        |
| TRAVEL, OUT-OF-STATE                 | 16,070             | 0.00        | 40,000             | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        |
| FUEL & UTILITIES                     | 5,571              | 0.00        | 7,500              | 0.00        | 7,500              | 0.00        | 7,500              | 0.00        |
| SUPPLIES                             | 34,786             | 0.00        | 32,500             | 0.00        | 37,500             | 0.00        | 37,500             | 0.00        |
| COMMUNICATION SERV & SUPP            | 14,523             | 0.00        | 15,000             | 0.00        | 20,000             | 0.00        | 20,000             | 0.00        |
| PROFESSIONAL SERVICES                | 2,034,782          | 0.00        | 1,989,559          | 0.00        | 1,989,559          | 0.00        | 1,989,559          | 0.00        |
| M&R SERVICES                         | 9,234              | 0.00        | 12,000             | 0.00        | 12,000             | 0.00        | 12,000             | 0.00        |
| BUILDING LEASE PAYMENTS              | 180,771            | 0.00        | 228,000            | 0.00        | 198,000            | 0.00        | 198,000            | 0.00        |
| EQUIPMENT RENTALS & LEASES           | 557                | 0.00        | 1,500              | 0.00        | 1,500              | 0.00        | 1,500              | 0.00        |
| MISCELLANEOUS EXPENSES               | 5,332              | 0.00        | 7,000              | 0.00        | 7,000              | 0.00        | 7,000              | 0.00        |
| <b>TOTAL - EE</b>                    | <b>2,558,057</b>   | <b>0.00</b> | <b>2,558,059</b>   | <b>0.00</b> | <b>2,558,059</b>   | <b>0.00</b> | <b>2,558,059</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                   | <b>\$2,558,057</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> |
| <b>GENERAL REVENUE</b>               | <b>\$2,558,057</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> | <b>\$2,558,059</b> | <b>0.00</b> |
| <b>FEDERAL FUNDS</b>                 | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |
| <b>OTHER FUNDS</b>                   | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> | <b>\$0</b>         | <b>0.00</b> |

**State Public Defender**

**DECISION ITEM SUMMARY**

| Budget Unit                    |                    |             |                  |             |                  |             |                  |             |
|--------------------------------|--------------------|-------------|------------------|-------------|------------------|-------------|------------------|-------------|
| Decision Item                  | FY 2010            | FY 2010     | FY 2011          | FY 2011     | FY 2012          | FY 2012     | FY 2012          | FY 2012     |
| Budget Object Summary          | ACTUAL             | ACTUAL      | BUDGET           | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC          | GOV REC     |
| Fund                           | DOLLAR             | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         |
| <b>DEBT OFFSET ESCROW FUND</b> |                    |             |                  |             |                  |             |                  |             |
| <b>CORE</b>                    |                    |             |                  |             |                  |             |                  |             |
| PROGRAM-SPECIFIC               |                    |             |                  |             |                  |             |                  |             |
| DEBT OFFSET ESCROW             | 1,110,660          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        |
| TOTAL - PD                     | 1,110,660          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        |
| <b>TOTAL</b>                   | <b>1,110,660</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>             | <b>\$1,110,660</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> |

**CORE DECISION ITEM**

|   |                           |
|---|---------------------------|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15161C |
| <b>Division:</b> Public Defender                  |                           |
| <b>Core:</b> Debt Offset Escrow Fund Core Request |                           |

**1. CORE FINANCIAL SUMMARY**

|              | FY 2012 Budget Request |          |                |                |              | FY 2012 Governor's Recommendation |          |                |                |
|--------------|------------------------|----------|----------------|----------------|--------------|-----------------------------------|----------|----------------|----------------|
|              | GR                     | Federal  | Other          | Total          |              | GR                                | Federal  | Other          | Total          |
| PS           | 0                      | 0        | 0              | 0              | PS           | 0                                 | 0        | 0              | 0              |
| EE           | 0                      | 0        | 0              | 0              | EE           | 0                                 | 0        | 0              | 0              |
| PSD          | 0                      | 0        | 350,000        | 350,000        | PSD          | 0                                 | 0        | 350,000        | 350,000        |
| TRF          | 0                      | 0        | 0              | 0              | TRF          | 0                                 | 0        | 0              | 0              |
| <b>Total</b> | <b>0</b>               | <b>0</b> | <b>350,000</b> | <b>350,000</b> | <b>Total</b> | <b>0</b>                          | <b>0</b> | <b>350,000</b> | <b>350,000</b> |
| <br>         |                        |          |                |                |              |                                   |          |                |                |
| FTE          | 0.00                   | 0.00     | 0.00           | 0.00           | FTE          | 0.00                              | 0.00     | 0.00           | 0.00           |

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds: \_\_\_\_\_

**2. CORE DESCRIPTION**

874 was passed which effectively removed the Treasurer's Office as the intermediary agency in processing releases from the Debt Offset Escrow Fund. Beginning with the Fiscal Year 1995 Budget, the Treasurer's Office no longer requests an appropriation from the fund, but rather each individual participating agency has an appropriation within the fund.

**3. PROGRAM LISTING (list programs included in this core funding)**

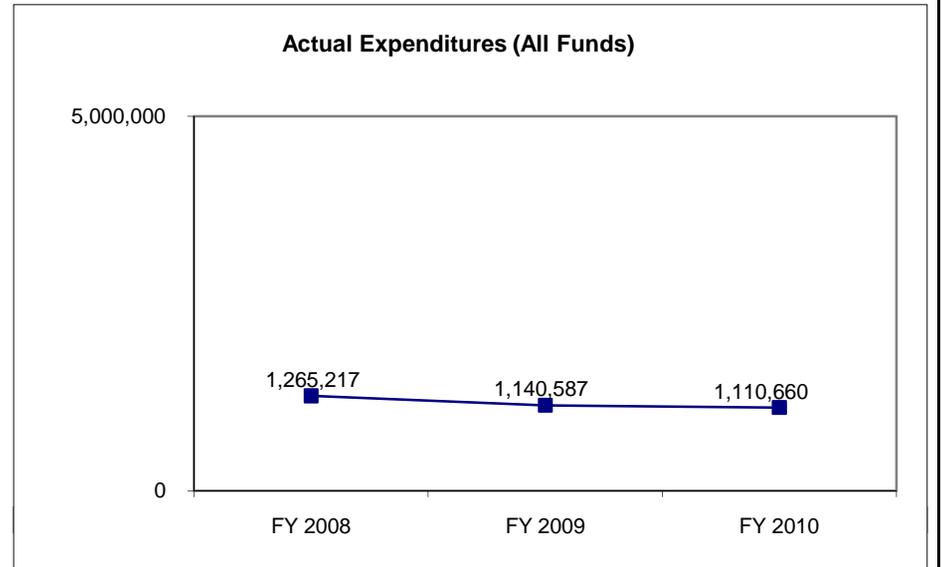
In Fiscal 2010, the State Public Defender System intercepted approximately \$1,140,000 of Missouri State Income Tax refunds from the Department of Revenue going to past clients who have or had outstanding debts to the State Public Defender System.

**CORE DECISION ITEM**

|   |                                  |
|---|----------------------------------|
| <b>Department: State Public Defender</b>          | <b>Budget Unit</b> <u>15161C</u> |
| <b>Division: Public Defender</b>                  |                                  |
| <b>Core: Debt Offset Escrow Fund Core Request</b> |                                  |

**4. FINANCIAL HISTORY**

|                                 | <u>FY 2008</u><br>Actual | <u>FY 2009</u><br>Actual | <u>FY 2010</u><br>Actual | <u>FY 2011</u><br>Current Yr. |
|---------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------|
| Appropriation (All Funds)       | 350,000                  | 350,000                  | 350,000                  | 350,000                       |
| Less Reverted (All Funds)       | 0                        | 0                        | 0                        | N/A                           |
| Budget Authority (All Funds)    | 350,000                  | 350,000                  | 350,000                  | N/A                           |
| Actual Expenditures (All Funds) | 1,265,217                | 1,140,587                | 1,110,660                | N/A                           |
| Unexpended (All Funds)          | <u>(915,217)</u>         | <u>(790,587)</u>         | <u>(760,660)</u>         | N/A                           |
| Unexpended, by Fund:            |                          |                          |                          |                               |
| General Revenue                 | 0                        | 0                        | 0                        | N/A                           |
| Federal                         | 0                        | 0                        | 0                        | N/A                           |
| Other                           | 0                        | 0                        | 0                        | N/A                           |



**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                    | FY 2010            | FY 2010     | FY 2011          | FY 2011     | FY 2012          | FY 2012     | FY 2012          | FY 2012     |
|--------------------------------|--------------------|-------------|------------------|-------------|------------------|-------------|------------------|-------------|
| Decision Item                  | ACTUAL             | ACTUAL      | BUDGET           | BUDGET      | DEPT REQ         | DEPT REQ    | GOV REC          | GOV REC     |
| Budget Object Class            | DOLLAR             | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         | DOLLAR           | FTE         |
| <b>DEBT OFFSET ESCROW FUND</b> |                    |             |                  |             |                  |             |                  |             |
| <b>CORE</b>                    |                    |             |                  |             |                  |             |                  |             |
| REFUNDS                        | 1,110,660          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        | 350,000          | 0.00        |
| <b>TOTAL - PD</b>              | <b>1,110,660</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> | <b>350,000</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>             | <b>\$1,110,660</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> | <b>\$350,000</b> | <b>0.00</b> |
| GENERAL REVENUE                | \$0                | 0.00        | \$0              | 0.00        | \$0              | 0.00        | \$0              | 0.00        |
| FEDERAL FUNDS                  | \$0                | 0.00        | \$0              | 0.00        | \$0              | 0.00        | \$0              | 0.00        |
| OTHER FUNDS                    | \$1,110,660        | 0.00        | \$350,000        | 0.00        | \$350,000        | 0.00        | \$350,000        | 0.00        |

**State Public Defender**

**DECISION ITEM SUMMARY**

| Budget Unit                                     |                  |              |             |             |             |             |            |             |
|---|------------------|--------------|-------------|-------------|-------------|-------------|------------|-------------|
| Decision Item                                   | SUPPL DEPT       | SUPPL DEPT   | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL      | SUPPL       |
| Budget Object Summary                           | REQUEST          | REQUEST      | RECOMMENDED | RECOMMENDED | REL RESERVE | REL RESERVE | MONTHS FOR | POSITION    |
| Fund  | DOLLAR           | FTE          | DOLLAR      | FTE         | DOLLAR      | FTE         |            |             |
| <b>OFFICE OF THE DIRECTOR</b>                   |                  |              |             |             |             |             |            |             |
| <b>Caseload Crisis-Trial Division - 2151001</b> |                  |              |             |             |             |             |            |             |
| PERSONAL SERVICES                               |                  |              |             |             |             |             |            |             |
| GENERAL REVENUE                                 | 487,944          | 12.50        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| TOTAL - PS                                      | 487,944          | 12.50        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| EXPENSE & EQUIPMENT                             |                  |              |             |             |             |             |            |             |
| GENERAL REVENUE                                 | 278,065          | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| TOTAL - EE                                      | 278,065          | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL</b>                                    | <b>766,009</b>   | <b>12.50</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>Caseload Crisis-Appellate/PCR - 2151002</b>  |                  |              |             |             |             |             |            |             |
| PERSONAL SERVICES                               |                  |              |             |             |             |             |            |             |
| GENERAL REVENUE                                 | 93,025           | 2.37         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| TOTAL - PS                                      | 93,025           | 2.37         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| EXPENSE & EQUIPMENT                             |                  |              |             |             |             |             |            |             |
| GENERAL REVENUE                                 | 64,691           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| TOTAL - EE                                      | 64,691           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL</b>                                    | <b>157,716</b>   | <b>2.37</b>  | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                              | <b>\$923,725</b> | <b>14.87</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |

**SUPPLEMENTAL NEW DECISION ITEM**

|  |  |
|--|--|
| <b>Department:</b> State Public Defender   | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services  |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division <span style="float:right">DI#2151001</span> | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

**1. AMOUNT OF REQUEST**

|              | FY 2011 Supplemental Budget Request |          |          |                |
|--------------|-------------------------------------|----------|----------|----------------|
|              | GR                                  | Federal  | Other    | Total          |
| PS           | 487,944                             | 0        | 0        | 487,944        |
| EE           | 278,065                             | 0        | 0        | 278,065        |
| PSD          | 0                                   | 0        | 0        | 0              |
| TRF          | 0                                   | 0        | 0        | 0              |
| <b>Total</b> | <b>766,009</b>                      | <b>0</b> | <b>0</b> | <b>766,009</b> |

|   |       |      |      |          |
|---|-------|------|------|----------|
| FTE   | 50.00 | 0.00 | 0.00 | 12.50    |
| POSITIONS                                     | 50    | 0    | 0    | 50       |
| <b>NUMBER OF MONTHS POSITIONS ARE NEEDED:</b> |       |      |      | <b>4</b> |

|                    |         |   |   |         |
|--------------------|---------|---|---|---------|
| <b>Est. Fringe</b> | 252,023 | 0 | 0 | 252,023 |
|--------------------|---------|---|---|---------|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

|              | FY 2011 Supplemental Governor's Recommendation |          |          |          |
|--------------|--|----------|----------|----------|
|              | GR   | Federal  | Other    | Total    |
| PS           | 0  | 0        | 0        | 0        |
| EE           | 0  | 0        | 0        | 0        |
| PSD          | 0  | 0        | 0        | 0        |
| TRF          | 0  | 0        | 0        | 0        |
| <b>Total</b> | <b>0</b>                                       | <b>0</b> | <b>0</b> | <b>0</b> |

|   |      |      |      |      |
|---|------|------|------|------|
| FTE   | 0.00 | 0.00 | 0.00 | 0.00 |
| POSITIONS                                     | 0    | 0    | 0    | 0    |
| <b>NUMBER OF MONTHS POSITIONS ARE NEEDED:</b> |      |      |      |      |

|                    |   |   |   |   |
|--------------------|---|---|---|---|
| <b>Est. Fringe</b> | 0 | 0 | 0 | 0 |
|--------------------|---|---|---|---|

*Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.*

Other Funds:

**2. WHY IS THIS SUPPLEMENTAL FUNDING NEEDED? INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

In the current economic situation, there is no question that all of government must tighten its belt and trim the 'extras'. However, unlike most other departments of state government, Missouri's Public Defenders perform only one function and the level of performance is constitutionally mandated by both the U.S. and Missouri Constitutions. When that constitutional mandate is ignored, innocent people go to jail, guilty ones go free, and justice becomes anything but.

**SUPPLEMENTAL NEW DECISION ITEM**

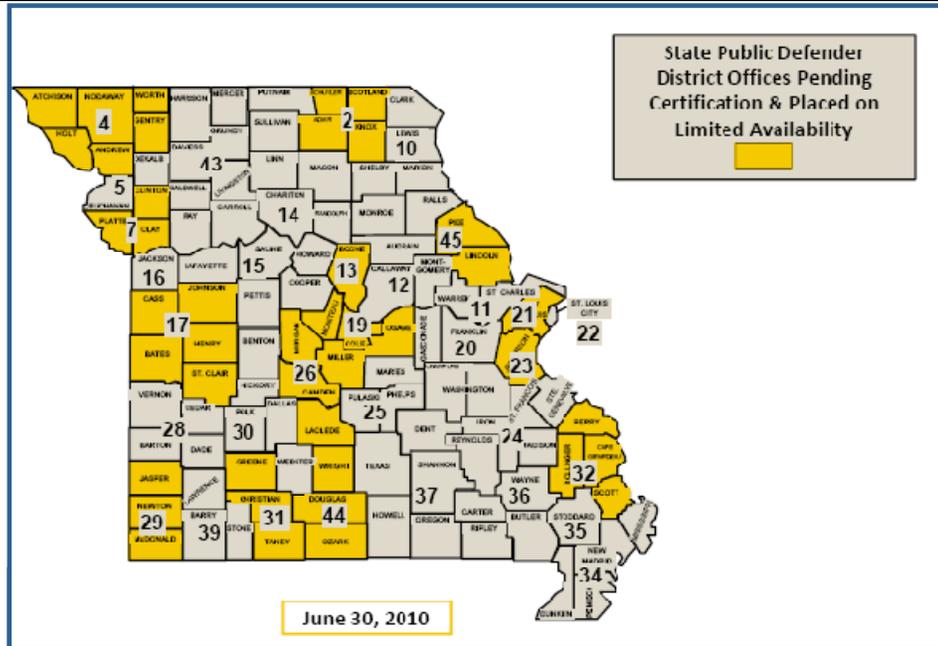
**Department:** State Public Defender  
**Division:** Public Defender - Legal Services  
**DI Name:** Caseload Crisis - Trial Division **DI#** 2151001

**Budget Unit** 15111C

**Original FY 2011 House Bill Section, if applicable** 12.400

In the last five years, four separate studies have been done of the Missouri State Public Defender System and all have reached the same conclusion: Missouri's Public Defender System "is operating in crisis mode" and "the probability that public defenders are failing to provide effective assistance of counsel and are violating their ethical obligations to their clients increases every day." The last three Chief Justices have warned of this crisis in their State of the Judiciary speeches to the legislature and the U.S. Attorney General, Eric Holder, specifically named Missouri in a speech given in New York last year as an example of a broken indigent defense system. Something has to give.

When there are not sufficient resources to adequately staff the public defender system to handle all the eligible cases, public defenders have no choice but to limit the cases they accept. Anything else forces them to violate their ethical and professional responsibilities, exposing them to malpractice liability and professional discipline against their licenses to practice law.



As a result, in accordance with Public Defender Commission rules and the Missouri Supreme Court opinion issued in December, 2009, both described further below, two public defender offices began turning away cases above their maximum capacity in July, 2010. Fourteen other offices have given formal notice that they are at risk of having to do the same if the courts in their jurisdictions are unable to divert some of the less serious cases before they reaches the public defender office. In all, 22 judicial circuits and 53 counties are impacted, with more expected to follow.

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender                    | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services           |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division DI#2151001 | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

The current statutory scheme requires Missouri's public defenders to defend not only those charged with serious offenses such as rape, murder, assault, and robbery but also a host of nonviolent, minor offenses such as driving while revoked, truancy, and possession of drug paraphernalia; and a variety of debt collection offenses such as criminal nonsupport, bad checks, and failure to return rental property. In this economic climate, adequately staffing the public defender system to defend all of these cases is as far beyond the state's ability to fund as the caseload itself is above the public defender system's ability to handle. As a result, while the enclosed budget request shows the full cost of fixing the problem of indigent defense in Missouri, it also proposes a four-year phase-in of that cost. This will not solve the crisis in Missouri's public defender system. If it is not possible to staff the public defender to handle all the cases coming its way, it only makes sense to prioritize public defender resources to handle the most serious criminal offenses and take the minor matters off the list of responsibilities. We strongly encourage a serious exploration of ways to do that. Tight budget times call for creative approaches and a different way of thinking by all.

**3. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? How many positions do the requested FTE equal and for how many months do you need the supplemental funding? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why.)**

**SUPPLEMENTAL NEW DECISION ITEM**

|   |   |
|---|---|
| <b>Department:</b> <u>State Public Defender</u>                           | <b>Budget Unit</b> <u>15111C</u>  |
| <b>Division:</b> <u>Public Defender - Legal Services</u>                  |   |
| <b>DI Name:</b> <u>Caseload Crisis - Trial Division</u> <u>DI#2151001</u> | <b>Original FY 2011 House Bill Section, if applicable</b> <u>12.400</u> |

**Missouri Public Defender Commission Caseload Crisis Protocol:  
NATIONAL CASELOAD STANDARDS**

In May of 2006, the American Bar Association issued an ethical advisory opinion warning against ethical violations caused by excessive defender caseloads and highlighting the professional responsibility of both defenders and courts to take steps to avoid such ethical violations. That opinion cited the National Advisory Counsel caseload standards as guidance for defenders and courts in determining when public defenders are carrying excessive caseloads. See, *ABA Formal Opinion 06-441: Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseload Interfere with Competent and Diligent Representation*, May 13, 2006.

In November, 2007, the Missouri Public Defender Commission adopted a new agency rule and caseload crisis protocol (18 CSR 10-4.010). The two together establish a procedure for determining the maximum caseload each public defender office can reasonably and ethically be expected to handle. When the total workload hours of the cases assigned to the office have exceeded the maximum allowable workloads for that office for three consecutive months, the Rule authorizes the MSPD Director to place a district on 'limited availability status' and begin turning away excess cases. The rule, as originally adopted, indicated that the offices would do this by identifying certain category of cases -- minor misdemeanors, probation revocation cases, etc -- that would no longer be eligible for defender services in order to triage attorney time toward the more serious offenses. The rule went into effect in August, 2008 and not long thereafter, the Commission's authority to set maximum caseloads was challenged.. (This litigation was pending at the time Senator Jack Goodman sponsored SB 37 during the 2009 legislative session, clarifying the statutory language to leave no doubt that the legislature did in fact intend to give the Commission such authority. Although that bill was vetoed by the Governor, the Missouri Supreme Court wound up ruling that the Commission did in fact already have that authority under the current statutory language without the changes proposed by SB 37.)

The issue went to the Missouri Supreme Court and in December, 2009, the Court issued its opinion in State ex. rel. **Missouri Public Defender Commission v. Pratt**, 298 S.W.3d 870, 877 (Mo. banc 2009). In that ruling, the Court acknowledged the Commission's authority to set maximum caseloads but ruled that it did not have the authority to unilaterally triage the caseload by excluding particular categories of cases. Under the opinion, the only way in which a public defender office can refuse excess cases is to simply close the doors to all new cases, regardless of case type or confinement status of the accused. That revised rule is the one under which MSPD is now operating.

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>DI#2151001</b>  |
|   | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

In developing the maximum allowable caseload standard for each office, the Public Defender Commission looked to national caseload standards. The National Advisory Counsel of the U.S. Department of Justice Task Force on the Courts developed maximum recommended caseload standards for public defenders in 1972. Those standards have formed the basis for most public defender caseload standards presently in existence around the country. (See, Compendium of Standards for Indigent Defense System compiled by the Institute for Law and Justice under a contract with the Bureau of Justice Assistance, December, 2000.) The NAC caseload standards are set out below, rounded to the nearest whole number:

| <b>NAC CASELOAD STANDARDS</b> |  |
|-------------------------------|--|
| Non-Capital Homicides         | 12 cases per year or 1 new case per month      |
| Felonies                      | 150 cases per year or 12.5 new cases per month |
| Misdemeanors                  | 400 cases per year or 33 new cases per month   |
| Juvenile                      | 200 cases per year or 17 new cases per month   |
| Appeals                       | 25 cases per year or 2 new cases per month     |

The NAC standards did not address post-conviction matters, sexually-violent predator commitment cases, or capital cases. They also did not allot any attorney time for supervisory, administrative, or training tasks, account for travel time in rural vs. urban jurisdictions, or consider the availability or lack of support staff as factors in determining the time lawyers would have available to spend preparing their cases.

The ABA recognized this deficiency in its May, 2006 ethical advisory opinion, pointing out, **“Although [national] standards may be considered, they are not the sole factor in determining if a workload is excessive. Such a determination depends not only on the number of cases, but also on such factors as case complexity, the availability of support services, the lawyer’s experience and ability, and the lawyer’s nonrepresentational duties.”** ABA Formal Opinion 06-441, p 4. [Emphasis added.]

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>DI#2151001</b>  |
|   | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

**MSPD MODIFICATION OF NAC STANDARDS:**

The MSPD caseload crisis protocol follows the ABA opinion in using the NAC standard as its foundation, but builds upon it in order to address the omissions described above and the particular circumstances of Missouri Public Defender Offices. These modifications, which are set out below, will be subject to annual review and adjustment as necessary.

**Case Weights = Hours per Case**

01) Measuring case hours, rather than case numbers, allows us to both assign weights to cases and more easily add into the equation attorney hours spent in essential, but non-case-related tasks. The caseload numbers of the NAC standard were therefore converted to hours per case type. The NAC standard assumed a standard 40 hour work week or 2080 attorney hours available over the course of a year. Dividing the total available hours by the maximum number of allowable cases per year, the NAC standard results in the following hours per case type (rounded to the nearest whole number):

| <b>NAC HOURS PER CASE TYPE</b> |                    |
|--------------------------------|--------------------|
| Non-Capital Homicides          | 173 hours per case |
| Felonies                       | 14 hours per case  |
| Misdemeanors                   | 5 hours per case   |
| Juvenile                       | 10 hours per case  |
| Appeals                        | 83 hours per case  |
|                                |                    |

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |
| <b>DI#</b> 2151001                                |  |

02) The NAC standards do not distinguish between types of felony offenses. However, MSPD's internal workload study did make that distinction. (See Appendix B re MSPD Internal Workload Study) Not surprisingly, the results of that study indicated that sex offense cases take significantly more time to prepare and defend than drug and other felony cases under current Missouri law. For that reason, this standard modifies the NAC broad "Felony" offense category by dividing it into subcategories of Sex Offenses and Other Felony Offenses. The MSPD internal workload study showed that MSPD attorneys are currently -- even with existing case overloads -- spending an average of 31 hours per case on sex offense cases, so that number was used in lieu of the 14 hours per case for general felony cases.

| <b>MSPD MODIFIED<br/>NAC HOURS PER CASE TYPE</b> |                    |
|--|--------------------|
| Non-Capital Homicides                            | 173 hours per case |
| Sex Offenses - A & B                             | 31 hours per case  |
| Other Felonies Offenses                          | 14 hours per case  |
| Misdemeanors                                     | 5 hours per case   |
| Juvenile   | 10 hours per case  |
| Appeals  | 83 hours per case  |
| 29.15 Cases                                      | 62 hours per case  |
| 24.035 Cases                                     | 21 hours per case  |
| Probation Violations                             | 5 hours per case   |

03) The NAC standards do not address probation violation cases. MSPD deems each of those cases the same as a misdemeanor case for purposes of the protocol, regardless of whether the underlying case was a felony or a misdemeanor.

04) The NAC standards do not address post-conviction cases. MSPD currently weighs post-trial 29.15 motions and appeals as equal to three-fourths of a direct appeal and post-plea 24.035 motions and appeals as equal to one-fourth of a direct appeal for purposes of this

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |
| <b>DI#2151001</b>                                 |  |

05) The NAC standards do not address capital or sexually violent predator cases. MSPD limits each of its capital attorneys to no more than six open capital cases. This is based upon a Florida study in which attorneys defending death penalty cases in the manner set forth by the ABA death penalty standards tracked their hours per case and determined that an attorney could effectively handle no more than 3 capital cases per year per attorney. Since each of MSPD's capital cases is assigned two attorneys who divide the work on the case between them, MSPD has raised that caseload standard to 6 open capital cases per attorney. Because of the stricter time standards in post conviction, the caseloads of capital PCR attorneys are kept at around 5 open cases per attorney. Sexually violent predator caseloads are currently capped at 8 open cases per attorney at a time. MSPD usually contracts cases in excess of these limits to private counsel.

**Non-Case-Related Work Hours:**

As the ABA Ethical Advisory Opinion recognized, every attorney has non-case-related responsibilities that have to be considered when determining whether an attorney's workload has become untenable. MSPD has adjusted for these by adding each of the following categories into the total workload calculation when determining case overload under this protocol.

**1) ANNUAL AND HOLIDAY LEAVE:** MSPD is a state agency and required by state law to permit its employees a set amount of annual and holiday leave each year. While a number of its attorneys work those days of their own volition, MSPD cannot require its attorneys to give up these days and therefore must build them into any determination of how many attorney hours are available to handle the caseload. While hours of annual leave increase with seniority, this protocol utilizes the minimum annual leave accrual of ten hours per month or 120 hours per year. In addition, the State of Missouri recognizes 12 state holidays, which translate into 96 holiday hours per year for a total of 216 hours annual and holiday leave, which must be deducted from the total number of available attorney hours.

**2) SICK LEAVE:** MSPD is required to allocate to its employees a set amount of sick leave each month, although this leave may not be used without good cause. When sick leave is used by employees – particularly for extended periods of FMLA leave – it reduces the number of attorney hours available to handle cases. To account for this leave without overestimating its impact, this protocol draws upon the experience of the preceding year in anticipating how much sick leave is likely to be utilized. In 2010, 2.68% of total attorney hours was used for sick leave. That percentage is therefore subtracted from the available attorney hours for handling caseload.

**3) NON-CASE-RELATED TASKS:** The practice of law in MSPD inevitably includes significant amounts of time taken up with non-case-related matters, some inherent in the practice of law such as continuing legal education and time spent waiting in court for cases to be called or at the jail waiting for clients to be produced. Of greater significance is the time MSPD attorneys spend doing primarily administrative tasks such as copying discovery, updating court dates, etc. because of the critical shortage of support staff within our offices. The average amount of time spent by MSPD attorneys on these tasks was determined through the MSPD workload study in which employees were required to track their time, by category of task, in fifteen-

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |
| <b>DI#2151001</b>                                 |  |

non-case-related tasks. Those hours must be deducted from the hours available for handling cases. If the number of support staff were to be increased, the number of attorney hours available for case work and the overall numbers of cases the office could handle before reaching critical proportions would likewise increase. For the meantime, however, the weighted workload caps used in the caseload crisis protocol must continue to account for the shortage of support staff and count those hours as part of the attorney workloads.

**4) TRAVEL TIME:** The average amount of attorney time spent in travel varies with the location and coverage area of the office. This is estimated by taking the total number of miles traveled by each office during the preceding year and translating that into travel time using an average of 45 miles per hour -- an average of highway, two-lane and busy, urban roadway travel times.

**5) MANAGEMENT / SUPERVISORY TIME:** The amount of time needed for management duties within a district office varies with the size of the office and the number of people supervised. MSPD's experience has shown that effective management and supervision within a district office require an average of 1.5 hours per week of supervisor time per employee supervised. E.g., in an office of 3 attorneys and 2 support staff, the District Defender should expect to spend an average of 7.5 hours per week [5 employees x 1.5 hours] on management and supervisory responsibilities. Because most of MSPD's District and Deputy District Defenders also carry caseloads and are included in the "available attorney hours" equation, the time they devote to their management / supervisory tasks is deducted from the total attorney hours available within that district office to handle caseload.

**CALCULATION OF DISTRICT OFFICE WORKLOAD:**

**Attorney Hours Available for Case Work:**

For purposes of the protocol and putting offices on "limited availability", caseloads are reviewed on a rolling 3 months. For the purposes of budgeting, the caseloads and staffing are reviewed using fiscal year numbers.

The annual available attorney hours used is 2340 hours or 45 hours per week per attorney. To determine the number of those hours available for actually handling cases, we must deduct the hours used up in non-case-related matters as set out above. Averages (rounded to the nearest half hour) that apply statewide can be deducted up front, as follows:

|                 |  |
|-----------------|--|
| 2,340.00        | ANNUAL AVAILABLE HOURS PER ATTORNEY                  |
| 320.50          | AVERAGE NON-CASE-RELATED TASKS [13.7% of 2340]       |
| <u>278.62</u>   | AVERAGE HOLIDAYS, ANNUAL LEAVE AND SICK LEAVE        |
| <b>1,740.88</b> | <b>AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR</b> |

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |
| <b>DI#2151001</b>                                 |  |

Management and travel time still have to be deducted, but because these vary with the number of employees and geographic size of each district, they must be calculated at the local district level, as follows:

*Management / Supervisory Hours:* To determine the average management / supervisory hours within a given office over a fiscal year, multiply the number of employees to be supervised by 78 (1.5 hours x 52 weeks). For example, a District Defender who supervised 15 lawyers and 8 support staff, for a total of 23 employees should anticipate 1,794 hours of management time in that year. Because all supervision is provided by one or more attorneys serving as the District and/or Deputy District Defender, these hours reduce the available attorney hours to handle cases within that District, as shown in the example below.

*Travel Time:* The average number of attorney miles traveled over a fiscal year is based upon the number of attorney miles traveled in that district during the previous fiscal year. Miles are converted to hours using an average of 45 miles per hour. Assume our sample district traveled 5000 attorney miles last fiscal year. That translates into 111 attorney hours spent in travel within that district. Those hours are not available for the handling of cases and must be deducted from the district's available attorney hours, as shown in the example.

EXAMPLE:

|               |   |
|---------------|---|
| 26,113.20     | Total available attorney hours per year (1,752 x 15 lawyers)<br>(District Defender + 15 Assistant Public Defenders) |
| 1,794.00      | Management hours required<br>(15 lawyers + 8 staff = 23 x 78 hours per yr)  |
| <u>111.00</u> | Average attorney travel hours for district over the fiscal year   |
| 24,208.20     | DISTRICT OFFICE MAXIMUM ALLOWABLE CASELOAD STANDARD   |

The maximum allowable caseload standard number is the maximum number of attorney hours available to handle cases within that district office over the fiscal year. To determine if an office is exceeding that standard, we must then compare this number to the hours required to handle the caseload that office has been assigned during the fiscal year under examination.

**SUPPLEMENTAL NEW DECISION ITEM**

|   |   |
|---|---|
| <b>Department:</b> <u>State Public Defender</u>                           | <b>Budget Unit</b> <u>15111C</u>  |
| <b>Division:</b> <u>Public Defender - Legal Services</u>                  |   |
| <b>DI Name:</b> <u>Caseload Crisis - Trial Division</u> <u>DI#2151001</u> | <b>Original FY 2011 House Bill Section, if applicable</b> <u>12.400</u> |

**Hours Required to Handle Office Caseload**

We determine the number of cases assigned to that office in each category of case type – e.g. how many murders, how many sex cases, how many felony drug cases, etc. during the preceding fiscal year. The number of cases in each category is then multiplied by the number of hours set forth in the Missouri State Public Defender Modified NAC table shown previously, and then totaled to determine the total number of attorney hours *needed* to handle the caseload assigned to that district for the three-month interval examined.

Note: This protocol calculates attorney hours based upon new cases assigned. It does not count hours being spent now on cases that were assigned four or five months ago that remain open. This is balanced out by counting the total number of hours required to handle each new case assigned as falling entirely within the fiscal year interval under examination even though, in reality, those hours – like the current open cases -- will be spread over several months, perhaps years, to come. The one balances out the other and the result is a reasonably accurate assessment of average actual workload. Cases disposed via Withdrawal, Conflict, or Assignment are subtracted from the protocol as minimal work is done on these disposition types.

**TRIAL DIVISION FOUR YEAR PHASE IN**

Due to the severe nature of this decision item and the costs involved to resolve this crisis, the Missouri State Public Defender is requesting that the funding to alleviate the crisis be phased in. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. An additional one-fourth of the costs will be requested in FY2012. Additional funding of the Missouri State Public Defender Protocol will be requested in future years and will be based on future caseloads.

**SUPPLEMENTAL NEW DECISION ITEM**

|   |  |
|---|--|
| <b>Department:</b> State Public Defender          | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services |  |
| <b>DI Name:</b> Caseload Crisis - Trial Division  | <b>DI#</b> 2151001   |
|   | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

**4. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.**

| <b>Budget Object Class/Job Class</b>            | <b>Dept Req<br/>GR<br/>DOLLARS</b> | <b>Dept Req<br/>GR<br/>FTE</b> | <b>Dept Req<br/>FED<br/>DOLLARS</b> | <b>Dept Req<br/>FED<br/>FTE</b> | <b>Dept Req<br/>OTHER<br/>DOLLARS</b> | <b>Dept Req<br/>OTHER<br/>FTE</b> | <b>Dept Req<br/>TOTAL<br/>DOLLARS</b> | <b>Dept Req<br/>TOTAL<br/>FTE</b> | <b>Dept Req<br/>One-Time<br/>DOLLARS</b> |
|---|------------------------------------|--------------------------------|-------------------------------------|---------------------------------|---------------------------------------|-----------------------------------|---------------------------------------|-----------------------------------|--|
| <b>Assistant Public Defender III - Range 30</b> | 319,176                            | 6.5                            |                                     |                                 |                                       |                                   | 319,176                               | 6.5                               |  |
| <b>Investigator - Range 23</b>                  | 69,288                             | 2.0                            |                                     |                                 |                                       |                                   | 69,288                                | 2.0                               |  |
| <b>Secretary - Range 12</b>                     | 47,592                             | 2.0                            |                                     |                                 |                                       |                                   | 47,592                                | 2.0                               |  |
| <b>Legal Assistant - Range 15</b>               | 51,888                             | 2.0                            |                                     |                                 |                                       |                                   | 51,888                                | 2.0                               |  |
| <b>Total PS</b>                                 | <b>487,944</b>                     | <b>12.5</b>                    | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>487,944</b>                        | <b>12.5</b>                       | <b>0</b>                                 |
| <b>Travel - 140</b>                             | 61,275                             |                                |                                     |                                 |                                       |                                   | 61,275                                |                                   |  |
| <b>Supplies - 190</b>                           | 6,250                              |                                |                                     |                                 |                                       |                                   | 6,250                                 |                                   |  |
| <b>Communications - 340</b>                     | 15,000                             |                                |                                     |                                 |                                       |                                   | 15,000                                |                                   |  |
| <b>Computer Equipment - 480</b>                 | 110,650                            |                                |                                     |                                 |                                       |                                   | 110,650                               |                                   | 110,650                                  |
| <b>Office Equipment - 590</b>                   | 20,800                             |                                |                                     |                                 |                                       |                                   | 20,800                                |                                   | 20,800                                   |
| <b>Other Equipment - 580</b>                    | 64,090                             |                                |                                     |                                 |                                       |                                   | 64,090                                |                                   | 64,090                                   |
| <b>Total EE</b>                                 | <b>278,065</b>                     |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>278,065</b>                        |                                   | <b>195,540</b>                           |
| <b>Program Distributions</b>                    |                                    |                                |                                     |                                 |                                       |                                   | 0                                     |                                   | 0  |
| <b>Total PSD</b>                                | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| <b>Transfers</b>                                |                                    |                                |                                     |                                 |                                       |                                   | 0                                     |                                   | 0  |
| <b>Total TRF</b>                                | <b>0</b>                           |                                | <b>0</b>                            |                                 | <b>0</b>                              |                                   | <b>0</b>                              |                                   | <b>0</b>                                 |
| <b>Grand Total</b>                              | <b>766,009</b>                     | <b>12.5</b>                    | <b>0</b>                            | <b>0.0</b>                      | <b>0</b>                              | <b>0.0</b>                        | <b>766,009</b>                        | <b>12.5</b>                       | <b>195,540</b>                           |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                     | SUPPL DEPT       | SUPPL DEPT   | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL      | SUPPL       |
|---|------------------|--------------|-------------|-------------|-------------|-------------|------------|-------------|
| Decision Item                                   | REQUEST          | REQUEST      | RECOMMENDED | RECOMMENDED | REL RESERVE | REL RESERVE | MONTHS FOR | POSITION    |
| Budget Object Class                             | DOLLAR           | FTE          | DOLLAR      | FTE         | DOLLAR      | FTE         |            |             |
| <b>PUBLIC DEFENDER SVS PS-0101</b>              |                  |              |             |             |             |             |            |             |
| <b>Caseload Crisis-Trial Division - 2151001</b> |                  |              |             |             |             |             |            |             |
| SECRETARY                                       | 99,480           | 4.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| INVESTIGATOR                                    | 69,288           | 2.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER                       | 319,176          | 6.50         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                               | <b>487,944</b>   | <b>12.50</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                              | <b>\$487,944</b> | <b>12.50</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| GENERAL REVENUE                                 | \$487,944        | 12.50        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| FEDERAL FUNDS                                   | \$0              | 0.00         | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| OTHER FUNDS                                     | \$0              | 0.00         | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| <b>PUBLIC DEFENDER SVS E&amp;E-0101</b>         |                  |              |             |             |             |             |            |             |
| <b>Caseload Crisis Trial Division 2151001</b>   |                  |              |             |             |             |             |            |             |
| TRAVEL, IN-STATE                                | 61,275           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| SUPPLIES  | 6,250            | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                       | 15,000           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| COMPUTER EQUIPMENT                              | 110,650          | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| OFFICE EQUIPMENT                                | 64,090           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| OTHER EQUIPMENT                                 | 20,800           | 0.00         | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL - CC</b>                               | <b>278,065</b>   | <b>0.00</b>  | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                              | <b>\$278,065</b> | <b>0.00</b>  | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GRAND TOTAL</b>                              | <b>\$766,009</b> | <b>12.50</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| GENERAL REVENUE                                 | \$766,009        | 12.50        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| FEDERAL FUNDS                                   | \$0              | 0.00         | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| OTHER FUNDS                                     | \$0              | 0.00         | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |

| FY2010 ASSIGNED CASES - Trial Division & Contract Counsel |                                       |                           |                                    |  |                                  |
|---|---------------------------------------|---------------------------|------------------------------------|--|----------------------------------|
| Case Type   |                                       | FY10 Trial Division Cases | FY10 Case Overload Contract Relief | Hours Required for Case Type             | FY10 NAC Modified Required Hours |
| 15  | Murder 1st Degree                     | 132                       | 5                                  | 173                                      | 23,701                           |
| 20  | Other Homicide                        | 153                       | 3                                  | 173                                      | 26,988                           |
| 30D   | AB Felony Drug                        | 3,260                     | 76                                 | 14                                       | 46,704                           |
| 30F   | AB Felony Other                       | 3,618                     | 87                                 | 14                                       | 51,870                           |
| 30X   | AB Felony Sex                         | 689                       | 7                                  | 31                                       | 21,576                           |
| 35D   | CD Felony Drug                        | 5,324                     | 91                                 | 14                                       | 75,810                           |
| 35F   | CD Felony Other                       | 20,353                    | 323                                | 14                                       | 289,464                          |
| 35X   | CD Felony Sex                         | 364                       | 4                                  | 31                                       | 11,408                           |
| 45M   | Misdemeanor                           | 17,688                    | 119                                | 5  | 89,035                           |
| 45T   | Misdemeanor - Traffic                 | 6,841                     | 21                                 | 5  | 34,310                           |
| 50N   | Juvenile - Non Violent                | 1,339                     | 1                                  | 10                                       | 13,400                           |
| 50S   | Juvenile - Status                     | 258                       |                                    | 10                                       | 2,580                            |
| 50V   | Juvenile - Violent                    | 753                       | 6                                  | 10                                       | 7,590                            |
| 60  | 552 Release Petitions                 | 33                        |                                    | 14                                       | 462                              |
| 65F   | Probation Violation - Felony          | 14,171                    | 39                                 | 5  | 71,050                           |
| 65M   | Probation Violation - Misd            | 5,877                     | 14                                 | 5  | 29,455                           |
| 75  | Special Writ                          | 4                         |                                    | 83                                       | 332                              |
| 80  | Appeal - Misdemeanor                  | 2                         |                                    | 83                                       | 166                              |
| 82  | Appeal - Other                        | 34                        |                                    | 83                                       | 2,822                            |
|   | Totals                                | 80,893                    | 796                                |  |                                  |
|   |                                       |                           |                                    |  |                                  |
| 2340.00   | Standard Work Hours (45 hrs. *52 wks) |                           |                                    |  |                                  |
| -62.62  | Attorney Sick Leave                   |                           |                                    | Case Hours                               | 798,723                          |
| -216.00   | Holidays and Annual Leave             |                           |                                    | Adjusted for Withdrawn & Conflicts       | -138,506                         |
| <u>-320.50</u>  | Non Case Related Hours (13.7%)        |                           |                                    | Travel Hours                             | 32,343                           |
| 1740.88   | Available Attorney Case Hours         |                           |                                    | Management Hours                         | 32,916                           |
|   |                                       |                           |                                    | Total Hours                              | 725,476                          |
|   |                                       |                           |                                    |  |                                  |
|   |                                       |                           |                                    | Attorneys Required (Total Hours/1740.88) | 417                              |
|   |                                       |                           |                                    | Number of Current TD Attorneys           | 311                              |
|   |                                       |                           |                                    | Number of TD Attorneys Needed*           | 106                              |
|   |                                       |                           |                                    |  |                                  |

\* Does not include CDU

**SUPPLEMENTAL NEW DECISION ITEM**

|  |  |
|--|--|
| <b>Department:</b> State Public Defender                         | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services                |  |
| <b>DI Name:</b> Appellate/PCR Caseload Crisis <b>DI#</b> 2151002 | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

**1. AMOUNT OF REQUEST**

|              | FY 2011 Supplemental Budget Request |          |          |                |
|--------------|-------------------------------------|----------|----------|----------------|
|              | GR                                  | Federal  | Other    | Total          |
| PS           | 93,024                              | 0        | 0        | 93,025         |
| EE           | 64,691                              | 0        | 0        | 64,691         |
| PSD          | 0                                   | 0        | 0        | 0              |
| TRF          | 0                                   | 0        | 0        | 0              |
| <b>Total</b> | <b>157,715</b>                      | <b>0</b> | <b>0</b> | <b>157,716</b> |

|   |      |      |      |      |
|---|------|------|------|------|
| FTE   | 9.50 | 0.00 | 0.00 | 3.00 |
| POSITIONS   | 10   | 0    | 0    | 10   |
| <b>NUMBER OF MONTHS POSITIONS ARE NEEDED:</b> _____ |      |      |      |      |

|  |        |   |   |        |
|--|--------|---|---|--------|
| <b>Est. Fringe</b>   | 48,047 | 0 | 0 | 48,047 |
| <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |        |   |   |        |

Other Funds:

|              | FY 2011 Supplemental Governor's Recommendation |          |          |          |
|--------------|--|----------|----------|----------|
|              | GR   | Federal  | Other    | Total    |
| PS           | 0  | 0        | 0        | 0        |
| EE           | 0  | 0        | 0        | 0        |
| PSD          | 0  | 0        | 0        | 0        |
| TRF          | 0  | 0        | 0        | 0        |
| <b>Total</b> | <b>0</b>                                       | <b>0</b> | <b>0</b> | <b>0</b> |

|   |      |      |      |      |
|---|------|------|------|------|
| FTE   | 0.00 | 0.00 | 0.00 | 0.00 |
| POSITIONS   | 0    | 0    | 0    | 0    |
| <b>NUMBER OF MONTHS POSITIONS ARE NEEDED:</b> _____ |      |      |      |      |

|  |   |   |   |   |
|--|---|---|---|---|
| <b>Est. Fringe</b>   | 0 | 0 | 0 | 0 |
| <i>Note: Fringes budgeted in House Bill 5 except for certain fringes budgeted directly to MoDOT, Highway Patrol, and Conservation.</i> |   |   |   |   |

Other Funds:

**2. WHY IS THIS SUPPLEMENTAL FUNDING NEEDED? INCLUDE THE FEDERAL OR STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS PROGRAM.**

**APPELLATE/PCR DIVISION FOUR YEAR PHASE IN -**

Due to the severe nature of this issue and the costs involved to resolve Public Defender caseload crisis - the funding to alleviate the crisis has been requested in phases. MSPD is requesting a FY2011 supplemental decision item to begin the funding of this relief. The cost to continue the 2011 funding is this first priority in the 2012 Request. The second phase or the next twenty-five percent of the solution is requested as a new decision item in Fiscal Year 2012. The justification and explanation of decision items can be found in the "Trial Division - Supplemental Caseload Crisis" narrative.

**SUPPLEMENTAL NEW DECISION ITEM**

|  |  |
|--|--|
| <b>Department:</b> State Public Defender                         | <b>Budget Unit</b> 15111C  |
| <b>Division:</b> Public Defender - Legal Services                |  |
| <b>DI Name:</b> Appellate/PCR Caseload Crisis <b>DI#</b> 2151002 | <b>Original FY 2011 House Bill Section, if applicable</b> 12.400 |

**3. DESCRIBE THE DETAILED ASSUMPTIONS USED TO DERIVE THE SPECIFIC REQUESTED AMOUNT. (How did you determine that the requested number of FTE were appropriate? How many positions do the requested FTE equal and for how many months do you need the supplemental funding? From what source or standard did you derive the requested levels of funding? Were alternatives such as outsourcing or automation considered? If based on new legislation, does request tie to TAFP fiscal note? If not, explain why.)**

| <b>Appellate Division Protocol</b> |  |                                    |                                       |                              |
|------------------------------------|--|------------------------------------|---------------------------------------|------------------------------|
| Description                        | FY10 Cases Opened  | FY10 Case Overload Contract Relief | Protocol Hours Required for Case Type | Hours Required for Case Type |
| Death Penalty PCR                  | 5  | 0                                  | NA                                    | 0                            |
| Civil Commitment Cases             | 16   | 0                                  | NA                                    | 0                            |
| Felony Appeals                     | 396  | 20                                 | 83                                    | 34,528                       |
| Misdemeanor Appeals                | 31   | 0                                  | 83                                    | 2,573                        |
| Juvenile Appeals                   | 8  | 3                                  | 83                                    | 913                          |
| PCR Appeals                        | 468  | 1                                  | 62                                    | 29,078                       |
| <b>PCR 24.035 Trials</b>           | <b>699</b>   | <b>178</b>                         | <b>21</b>                             | <b>18,417</b>                |
| <b>PCR 29.15 Trials</b>            | <b>278</b>   | <b>8</b>                           | <b>62</b>                             | <b>17,732</b>                |
| <b>Other</b>                       | <b><u>20</u></b>   | <b><u>1</u></b>                    | <b>21</b>                             | <b><u>441</u></b>            |
| <b>Total Number of Cases</b>       | <b>1,921</b>   | <b>211</b>                         |                                       |                              |
|                                    | Case Hours   |                                    |                                       | 103,682.00                   |
|                                    | Adjusted for Withdrawn & Conflicts                       |                                    |                                       | -11,617.00                   |
|                                    | Travel Hours   |                                    |                                       | 1,392.84                     |
|                                    | Management Hours   |                                    |                                       | <u>3,822.00</u>              |
|                                    | Total Hours  |                                    |                                       | 97,279.84                    |
|                                    | Attorneys Required (102,671/1740.88)                     |                                    |                                       | 55.88                        |
|                                    | FY2010 - Public Defender Appellate Division Attorneys    |                                    |                                       | <u>36.50</u>                 |
|                                    | Number of Additional Attorneys Required to meet Standard |                                    |                                       | 19.38                        |

**SUPPLEMENTAL NEW DECISION ITEM**

|   |                                  |                 |                 |                    |                 |   |                 |                 |                 |
|---|----------------------------------|-----------------|-----------------|--------------------|-----------------|---|-----------------|-----------------|-----------------|
| <b>Department:</b>  | State Public Defender            |                 |                 | <b>Budget Unit</b> | 15111C          |   |                 |                 |                 |
| <b>Division:</b>  | Public Defender - Legal Services |                 |                 |                    |                 |   |                 |                 |                 |
| <b>DI Name:</b>   | Appellate/PCR Caseload Crisis    |                 | <b>DI#</b>      | 2151002            |                 | <b>Original FY 2011 House Bill Section, if applicable</b> | 12.400          |                 |                 |
| <b>4. BREAK DOWN THE REQUEST BY BUDGET OBJECT CLASS, JOB CLASS, AND FUND SOURCE. IDENTIFY ONE-TIME COSTS.</b> |                                  |                 |                 |                    |                 |   |                 |                 |                 |
|   | <b>Dept Req</b>                  | <b>Dept Req</b> | <b>Dept Req</b> | <b>Dept Req</b>    | <b>Dept Req</b> | <b>Dept Req</b>   | <b>Dept Req</b> | <b>Dept Req</b> | <b>Dept Req</b> |
|   | <b>GR</b>                        | <b>GR</b>       | <b>FED</b>      | <b>FED</b>         | <b>OTHER</b>    | <b>OTHER</b>  | <b>TOTAL</b>    | <b>TOTAL</b>    | <b>One-Time</b> |
| <b>Budget Object Class/Job Class</b>  | <b>DOLLARS</b>                   | <b>FTE</b>      | <b>DOLLARS</b>  | <b>FTE</b>         | <b>DOLLARS</b>  | <b>FTE</b>  | <b>DOLLARS</b>  | <b>FTE</b>      | <b>DOLLARS</b>  |
| Assistant Public Defender III - Range 30  | 61,380                           | 5.0             |                 |                    |                 |   | 61,380          | 5.0             |                 |
| Investigator - Range 23   | 12,992                           | 1.5             |                 |                    |                 |   | 12,992          | 1.5             |                 |
| Secretary - Range 12  | 8,924                            | 1.5             |                 |                    |                 |   | 8,924           | 1.5             |                 |
| Legal Assistant - Range 15  | 9,729                            | 1.5             |                 |                    |                 |   | 9,729           | 1.5             |                 |
|   |                                  |                 |                 |                    |                 |   | 0               | 0.0             | 0               |
| <b>Total PS</b>   | <b>93,025</b>                    | <b>9.5</b>      | <b>0</b>        | <b>0.0</b>         | <b>0</b>        | <b>0.0</b>  | <b>93,025</b>   | <b>9.5</b>      | <b>0</b>        |
| Travel - 140  | 11,681                           |                 |                 |                    |                 |   | 11,681          |                 |                 |
| Supplies - 190  | 1,188                            |                 |                 |                    |                 |   | 1,188           |                 |                 |
| Communications - 340  | 2,850                            |                 |                 |                    |                 |   | 2,850           |                 |                 |
| Building Leases 680   | 4,512                            |                 |                 |                    |                 |   | 4,512           |                 |                 |
| Computer Equipment - 480  | 25,915                           |                 |                 |                    |                 |   | 25,915          |                 | 25,915          |
| Office Equipment - 590  | 4,630                            |                 |                 |                    |                 |   | 4,630           |                 | 4,630           |
| Other Equipment - 580   | 13,915                           |                 |                 |                    |                 |   | 13,915          |                 | 13,915          |
| <b>Total EE</b>   | <b>64,691</b>                    |                 | <b>0</b>        |                    | <b>0</b>        |   | <b>64,691</b>   |                 | <b>44,460</b>   |
| Program Distributions   |                                  |                 |                 |                    |                 |   | 0               |                 | 0               |
| <b>Total PSD</b>  | <b>0</b>                         |                 | <b>0</b>        |                    | <b>0</b>        |   | <b>0</b>        |                 | <b>0</b>        |
| Transfers   |                                  |                 |                 |                    |                 |   | 0               |                 | 0               |
| <b>Total TRF</b>  | <b>0</b>                         |                 | <b>0</b>        |                    | <b>0</b>        |   | <b>0</b>        |                 | <b>0</b>        |
| <b>Grand Total</b>  | <b>157,716</b>                   | <b>9.5</b>      | <b>0</b>        | <b>0.0</b>         | <b>0</b>        | <b>0.0</b>  | <b>157,716</b>  | <b>9.5</b>      | <b>44,460</b>   |

**State Public Defender**

**DECISION ITEM DETAIL**

| Budget Unit                                    | SUPPL DEPT       | SUPPL DEPT  | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL GOV   | SUPPL      | SUPPL       |
|--|------------------|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Decision Item                                  | REQUEST          | REQUEST     | RECOMMENDED | RECOMMENDED | REL RESERVE | REL RESERVE | MONTHS FOR | POSITION    |
| Budget Object Class                            | DOLLAR           | FTE         | DOLLAR      | FTE         | DOLLAR      | FTE         |            |             |
| <b>PUBLIC DEFENDER SVS PS-0101</b>             |                  |             |             |             |             |             |            |             |
| <b>Caseload Crisis-Appellate/PCR - 2151002</b> |                  |             |             |             |             |             |            |             |
| SECRETARY                                      | 18,653           | 0.75        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| INVESTIGATOR                                   | 12,992           | 0.37        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| ASSISTANT PUBLIC DEFENDER                      | 61,380           | 1.25        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL - PS</b>                              | <b>93,025</b>    | <b>2.37</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                             | <b>\$93,025</b>  | <b>2.37</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| GENERAL REVENUE                                | \$93,025         | 2.37        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| FEDERAL FUNDS                                  | \$0              | 0.00        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| OTHER FUNDS                                    | \$0              | 0.00        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| <br>   |                  |             |             |             |             |             |            |             |
| <b>Caseload Crisis-Appellate/PCR - 2151002</b> |                  |             |             |             |             |             |            |             |
| TRAVEL, IN-STATE                               | 11,681           | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| SUPPLIES                                       | 1,188            | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| COMMUNICATION SERV & SUPP                      | 2,850            | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| COMPUTER EQUIPMENT                             | 25,915           | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| OFFICE EQUIPMENT                               | 13,915           | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| OTHER EQUIPMENT                                | 4,630            | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| BUILDING LEASE PAYMENTS                        | 4,512            | 0.00        | 0           | 0.00        | 0           | 0.00        | 0          | 0.00        |
| <b>TOTAL - EE</b>                              | <b>64,691</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>    | <b>0.00</b> | <b>0</b>   | <b>0.00</b> |
| <b>GRAND TOTAL</b>                             | <b>\$64,691</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| <b>GRAND TOTAL</b>                             | <b>\$157,716</b> | <b>2.75</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b>  | <b>0.00</b> | <b>\$0</b> | <b>0.00</b> |
| GENERAL REVENUE                                | \$157,716        | 2.75        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| FEDERAL FUNDS                                  | \$0              | 0.00        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |
| OTHER FUNDS                                    | \$0              | 0.00        | \$0         | 0.00        | \$0         | 0.00        |            | 0.00        |